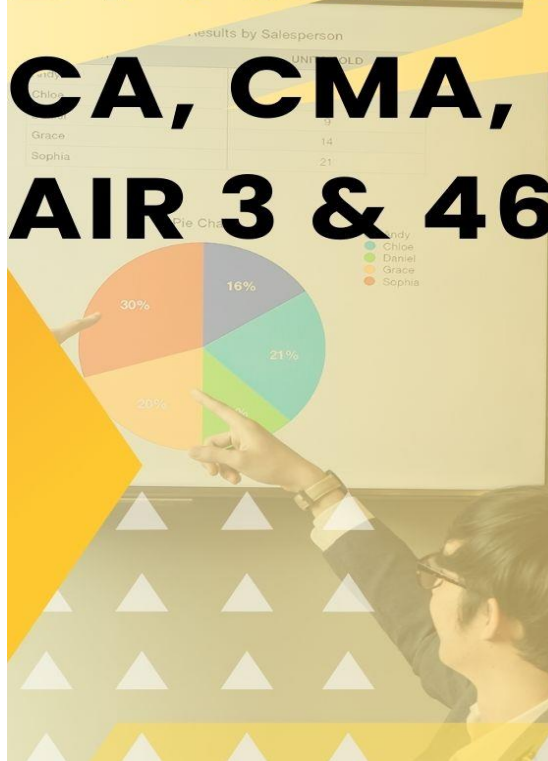


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Question 1

A dual GST has been implemented in India. Elaborate.

Answer

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

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

Question 2

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

Answer

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

For **example**, if A in Delhi produces the goods and sells the goods to B in Haryana. In this case, the tax would accrue to the State of Haryana and not to the State of Delhi. On the other hand, under pre-GT regime, origin-based taxation was prevailing in such cases. Under origin-based taxation, the tax used to accrue to the State from where the transaction originated. In the given case, under origin-based taxation, the central sales tax would have been levied by Centre and collected by the State of Delhi and not by the State of Haryana.

Question 3

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

Answer

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

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

Basics of Supply

Question 1

Vikramaditya is a salaried employee and is planning to invest in stocks. He has opened a trading account with Vaydaa Brokers. During the month, Vikramaditya undertook future contracts (without a physical delivery option, but are cash settled on the expiry of the contract date), amounting to Rs. 35,00,000. Vikramaditya needs your advice whether such future contracts undertaken by him amount to supply and are liable to GST.

Answer

For a transaction to fall within the purview of supply, it must be a supply of either goods or services or both. The definitions of the terms "**goods**" and "**services**" specifically exclude "**securities**" from their purview. Further, '**derivatives**' are included in the definition of '**securities**'. As '**derivatives**' fall in the definition of securities, they are **neither goods nor services and hence, are not liable to GST**.

Future contracts are in the nature of financial derivatives, the price of which is dependent on the value of underlying stocks or index of stocks or certain approved currencies and the settlement happens normally by way of net settlement with no actual delivery.

Since future contracts are in the nature of derivatives, these qualify as '**securities**' and thus, are not **subject to GST**.

In view of the above discussion, it can be inferred that since the future contracts undertaken by Vikramaditya are in the nature of derivatives, these qualify as '**securities**' and do not qualify as supply and thus, are not subject to GST.

Question 2

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

Answer

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

However, **SLS doesn't treat lending of securities as disposal of securities and therefore is not excluded from the definition of services**. The lending fee charged from the borrowers of securities has the

character of consideration and is **taxable under GST**. Apart from above, the **activities of the intermediaries facilitating lending and borrowing of securities for commission or fee are also taxable** separately [Circular No. 119/38/2019].

Question 3

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

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

Answer

Circular No. 116/35/2019 has clarified that in case of donations received by a charitable institution, when the name of the donor is displayed in recipient institution's premises, in such a manner, which can be said to be an **expression of gratitude** and public recognition of donor's act of philanthropy and is **not aimed at giving publicity to the donor** in such manner that it would be an advertising or promotion of his business, then it can be said that there is **no supply of service** for a consideration (in the form of donation). Donations received by the charitable organisations are treated as consideration only if there exists, quid pro quo, i.e., there is an obligation on part of recipient of the donation or gift to do anything (supply a service).

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

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

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

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

(b) In the given case, since the name of Rudraksh Publishing House has been displayed on the door of the room constructed in the school run by Divyaprakash Charitable Trust, it might be **aimed at**

advertising or promoting his business. There is a **direct mention of his publishing house** which is being **advertised**. In such a case, it is a **supply of service by Divyaprakash Charitable Trust for a consideration received in the form of donation**.

Question 4

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

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

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

Answer

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

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

Consequently, the cost petroleum received by Mr. Kanjilal Adani is not taxable under GST.

Schedule I, II, III

Question 5

Answer the following questions:

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

Examine whether the disposal of computers by Sudama Associates qualifies as deemed supply under Schedule 1 of the CGST Act.

(b) Prithvi Enterprises appoints Champak to procure certain goods from the market. Champak identifies various suppliers who can provide the goods as desired by Prithvi Enterprises, and ask a supplier-Satya Manufacturers to send the goods and issue invoice directly to Prithvi Enterprises. You are required to determine whether Champak can be considered as an agent of Prithvi Enterprises in terms of Schedule I of the CGST Act.

Answer

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

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

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

Question 6

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

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

Answer

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

Circular No. 57/31/2018 GST provides that where the invoice for further supply of goods is being issued by the agent in his name then, any provision of goods from the principal to the agent would fall within the fold of Para 3 of Schedule I. In the given case, Dhruv Kumar is not merely providing auctioneering services to Chandragupta Maurya, but is also supplying the painting on behalf of Chandragupta Maurya to the successful bidder and has the authority to transfer the title of the painting on behalf of Chandragupta Maurya. Dhruv Kumar issued the invoice in his own name for supply of the painting on

the behalf of Chandragupta Maurya. Thus, Dhruv Kumar can be considered as an agent of Chandragupta Maurya under Para 3 of Schedule I.

Question 7

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

Answer

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

Question 8

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

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

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

Answer

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

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

Question 9

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

- a) Sulekha Manufacturers have a factory in Delhi and a depot in Mumbai. Both these establishments are registered in respective States. Finished goods are sent from factory in Delhi to the Mumbai depot without consideration so that the same can be sold.
- b) Raman is an architect in Chennai. His brother who is settled in London is a well-known lawyer. Raman has taken legal advice from him free of cost with regard to his family dispute.

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

Answer

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

In view of the same, **factory and depot** of Sulekha Manufacturers **are distinct persons**. Therefore, supply of goods from Delhi factory of Sulekha Manufacturers to Mumbai Depot without consideration, but in course/furtherance of business, is supply u/s 7 read with Schedule 1.

- b) **Schedule I** of CGST Act, inter alia, stipulates that **import of services by a taxable person from a related person located outside India, without consideration is treated as supply** if its is provided **in the course of business**. Explanation to section 15, inter alia, provides as that persons shall be deemed to be "**related persons**" if **they are members of the same family**. Further, as per section 2(49) of the CGST Act, **family means**,
 - I. the **spouse and children** of the person, and
 - II. the **parents, grand-parents, brothers and sisters** of the person if they are **wholly or mainly dependent** on the said person.

In the given case. Raman has received free of cost legal services from his brother. However, in view of section 2(49)[1] above, **Raman and his brother cannot be considered to be related a Raman's brother is a well-known lawyer and is not wholly/mainly dependent on Raman**. Further, Raman has **taken legal advice from him in personal matter** and not in course e furtherance of business. Consequently, services provided by Raman's brother to him would **not be treated as supply** under section 7 of the CGST Act read with Schedule.

In the above case, if Raman has taken advice with regard to his business unit, services provided by Raman's brother to him would **still not be treated as supply** under section 7 of the CGST Act read with

Schedule I, as although the same are provided in course of business, such services have **not been received from a related person**.

Question 10

State whether the following supplies would be treated as supply of goods or supply of services as per Schedule II of the CGST Act

- a) Renting of immovable property.
- b) Goods forming part of business assets are transferred or disposed of by/under directions of person carrying on the business, whether or not for consideration.
- c) Transfer of right in goods without transfer of title in goods.
- d) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date.

Answer

- a) Supply of **services**
- b) Supply of **goods**
- c) Supply of **services**
- d) Supply of **goods**

Question 11

Nandeeshwar Manufacturers sends certain category of yarn for processing to the job worker. The job worker undertakes the processing work on the yarn as per the requirement of Nandeeshwar Manufacturers. During the process, the job worker uses his own material also. The processed yarn is sold by Nandeeshwar Manufacturers directly from the job worker premises. Balance quantity of yarn and waste material is sent back by the job worker to Nandeeshwar Manufacturers. The job worker is of the opinion that he is using his own material also in the processing and hence the supply to Nandeeshwar Manufacturers is in the nature of supply of goods as well as services. Do you agree with the opinion of job worker?

Answer

No, the opinion of the job worker is **not fully correct**. Section 7(1A) provides that when certain activities or transactions constitute a supply in accordance with the provisions of section 7(1), they shall be treated either as a supply of goods or supply of services as referred to in **Schedule II** of the CGST Act. Any **processing activity carried on any other person's goods is treated as supply** of service in terms of Schedule 1.

Thes, activity undertaken by job worker, in the given case, squarely falls within the purview of Schedule II and shall be **considered as supply of service by job worker** to Nandeeshwar Manufacturers.

Question 12

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

Answer

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

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

Question 13

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

Answer

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

Question 14

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

Answer

As per **Schedule III** of the CGST Act, **high seas sale transactions** i.e. supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but **before clearance for home consumption**

shall **not be considered as supply** under GST. Thus, the sale of goods by Mohandas International to Radhakrishnan Export House in high seas shall **not be liable to GST**.

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

Question 15

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

Answer

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

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

Question 16

Mr. Happy has a huge residential property located at a prime location in Mumbai, Maharashtra. He has let out the 1st and 2nd floor to Mr. Peace for residential purposes in April. Mr. Peace surrenders his tenancy rights to Mr. Serene for a tenancy premium of Rs. 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 Rs. 1,00,000 to Mr. Happy (unregistered under GST) from June.

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

Answer

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

Although stamp duty and registration charges have been levied on such transfer of tenancy rights, it shall be **still subject to GST**. 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 **Rs. 10,00,000** received by Mr. Peace for surrendering his tenancy rights to Mr. Serene is **liable to GST**.

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

Question 17

Ajatasatru Industries enter into a contract with an actor - Chandragupta to act as a brand ambassador of products manufactured by Ajatastru Industries. The duration of the contract is 5 years and the contract fee payable to Chandragupta for being a brand ambassador is Rs. 30 lakh per annum. As per the terms of the contract, in case the Contract is terminated by Chandragupta before the end of the contract period, Chandragupta will have to repay to Ajatasatru industries, 50% of the contract fees received by him till the time of termination of contract.

At the end of 3rd year, Chandragupta terminates the contract with Ajatasatru Industries. Chandragupta has received the contact fee for 3 years at the time of termination of contract. He abides by the terms of the contract.

You are required to determine whether the given transaction(s) qualifies(y) as supply (ies) services or both made or agreed to

Answer

As per section 7(1)(a), **supply includes all forms of supply of goods or be made for a consideration by a person in the course of business**. In the given case, **Chadragupta** has **agreed to provide his services** as brand ambassador of the products manufactured by Ajatasatru Industries at an agreed annual consideration. **Thus, his services fall within the purview of the term "Supply"** under GST where the consideration charged for such supply is Rs. 50 lakh per annum.

Further, as per Circular No. 178/10/2022, **liquidated damages** paid for termination of the contract **is not a consideration** for any supply at all. It's merely flow of money. Therefore, tolerating termination of the contact before the expiry of its contract period is not supply at all.

In the given case, since Ajatasatru Industries is tolerating the act of Chandragupta of terminating the contract before the expiry of its contract period, 50% of contract fee for 3 years amounting to Rs. 75 lakh [50% of (Rs. 50 Lakh × 3 years)] is being received by it as a penalty for the same. **The act of tolerating the non-performance of a contract by Chandragupta by Ajatasatru Industries is not supply at all. So, it will not be chargeable to GST.** Hence, no GST should be charged on Rs. 75 lakhs received by Ajatasatru Industries.

Composite & Mixed Supply

Question 18

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

Answer

Composite supply means a supply made by a taxable person to a recipient consisting of **two or more taxable supplies** of goods or services or both, or any combination thereof, which are **naturally bundled** and supplied in conjunction with each other in the ordinary course of business, **one of which is a principal supply** [Section 2(30)].

Mixed supply means **two or more individual supplies** of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price **where such supply does not constitute a composite supply** [Section 2(74)].

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

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

Question 19

Determine whether the following supplies amount to composite supplies

- a) A hotel provides 4 days-3 nights package wherein the facility of breakfast and dinner is provided along with the room accommodation.

- b) A toothpaste company has offered the scheme of free toothbrush along with the toothpaste.

Answer

Under composite supply, two or more taxable supplies of goods or services or both, or any combination thereof, are naturally bundled and supplied in conjunction with each other, in the ordinary course of business, one of which is a principal supply [Section 2(30) of the CGST Act]. In view of the same,

(a) since, supply of breakfast and dinner with the accommodation in the hotel are **naturally bundled**, said supplies qualify as '**composite supply**'.

(b) since supply of toothbrush along with the toothpaste are **not naturally bundled**, said supplies do **not qualify as 'composite supply'**.

Question 20

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

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

Answer

Section 2(30) provides that a **composite supply means** a supply made by a taxable person to a recipient consisting of **two or more taxable supplies** of goods or services or both, or any combination thereof, which are **naturally bundled** and supplied in conjunction with each other in the ordinary course of business, **one of which is a principal supply**.

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

Further, section 8(a) stipulates that a composite supply comprising two or more supplies, one of which is a principal supply, is treated as a supply of such principal supply. Hence, one needs to ascertain what constitutes the principal supply in this supply. As per section 2(90), principal supply is the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

The above circular further clarifies that in the composite supply of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for

printing belong to the printer, **supply of printing** [of the content supplied by the recipient of supply] is **the principal supply and therefore such supplies would constitute supply of service.**

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

Question 21

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

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

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

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

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

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

Hiring out of excavators -12%

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

Answer

Computation of GST payable by Shivaji Pvt. Ltd.

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

Notes:

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

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

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

Question 22

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

- i. Supply of a laptop along with the laptop bag to a customer of Mumbai for 55,000 (exclusive of GST)
- ii. Supply of 10,000 kits (at ₹ 50 each) amounting to ₹ 5,00,000 (exclusive of GST) to Ram Fancy Store in Kota (Rajasthan). Each kit consists of 1 hair oil, 1 beauty soap and 1 hair comb.
- iii. 100 kits are given as free gift to Jaipur customers (all unrelated) on the occasion of Mrs. Kajal's birthday. Each kit consists of 1 hair oil and 1 beauty soap. Cost of each kit is ₹ 35. ITC has not been taken on the goods contained in the kit.
- iv. Event management services provided free of cost to her brother (wholly dependent on her) for his son's marriage function in Indore (Madhya Pradesh). Cost of providing said services is ₹ 80,000.
- v. 1,400 chairs and 100 coolers hired out to Function Garden, Ajmer (Rajasthan) for ₹ 3,30,000 (exclusive of GST) including cost of transporting the chairs and coolers from Mrs. Kajal's godown at Jaipur to Function Garden, Ajmer.

Assume rates of GST to be as under:

S. No.	Particulars	Rate of GST
1.	Laptop	18%
2.	Laptop bag	28%
3.	Hair oil	18%
4.	Beauty soap	28%
5.	Hair comb	12%
6.	Event management service	5%
7.	Service of renting of chairs and coolers	12%
8.	Transportation service	5%

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

Answer

SR .No	Particulars	Rate of GST
i	Supply of laptop bag along with laptop to Mumbai customer [Being naturally handled, supply of laptop bag along with the laptop is a compos supply which is treated as the supply of the principal supply [viz. laptop] is terms of section 8(a). Accordingly, rate of principal supply i.e. laptop will be	18%

	charged].	
ii	Supply of kits to Ram Fancy Store It is a mixed supply and is treated as supply of that particular supply which attracts highest tax rate [viz. beauty soap] in terms of section 8b	28%
iii	Free gifts to customers [Cannot be considered as supply under section 7 read with Schedule I as the gift given to unrelated customers without consideration.]	Nil
iv	Event management services provided free of cost to her brother for his son's marriage shall be considered as supply as the services are being provided to a related person. Since it is an individual supply, it will be taxed at the rate applicable on said service.	5%
iv	Chairs and coolers hired out to Function Garden [Transportation services provided by Mrs. Kajal are exempt. However, since chairs and coolers are hired out along with their transportation, it is a case of composite supply wherein the principal supply is hiring out of chairs and coolers. Accordingly, transportation service will also be taxed at the rate applicable for renting of chairs and coolers*]	12%

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

Question 23

XYZ Consultancy, registered in Bangalore, supplies technical consultancy services to its clients. It has been providing technical services to BA Ltd., Mumbai since past two years. Consideration is settled by BA Ltd. assignment wise. BA Ltd. paid ₹ 37 lakh to XYZ Consultancy on 10 Jan., 20XX for XYZ Consultancy agreeing not to provide similar technical services to any other business entity in India or abroad for a period of 8 years. XYZ Consultancy is of the view that ₹ 37 lakh is not chargeable to GST. You are required to examine whether the view taken by XYZ Consultancy is valid in law. Calculate GST liability of XYZ Consultancy, in case you feel that GST is chargeable. Round off the tax amount if due in accordance with law. The technical services provided by XYZ Consultancy is otherwise chargeable to GST at the rate of 18% and XYZ have been discharging the GST liability on consultancy charges. It may be noted that BA Ltd. is not ready to pay any further amount to XYZ Consultancy in addition to the amount already agreed.

Answer

In the given case, XYZ Consultancy is providing the service of agreeing to the obligation to refrain from an act to BA Ltd. against a consideration of ₹ 37 lakh. Therefore, the same is liable to tax. Thus, view taken by XYZ Consultancy is incorrect.

Since the **POS** of said services is the **location of the recipient, viz. Mumbai and supplier is located in Bangalore, said services are inter-State supplies** liable to tax @ 18% .

GST liability (IGST) of XYZ Consultancy is:

₹ 37,00,000* 18/118

= ₹ **5,64,407** (rounded off)

Note: Since GST has not been separately collected for the supply, consideration has been assumed to be inclusive of tax

RCM (RCM)

Question 1

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

Answer

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

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

Question 2

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

Answer

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

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

Services provided by Tapasya & Associates - Tapasya & Associates have rendered certain professional services to Narayan Limited. The fact that Arpan Singhania is a partner in Tapasya & Associates and a director in Narayan Limited does not have any impact on the taxability of the professional services supplied by Tapasya & Associates to Narayan Limited. The professional services provided by Tapasya & Associates to Narayan Limited are liable to GST under forward charge and thus, **supplier - Tapasya & Associates - is liable to pay GST** on the same.

Question 3

State person liable to pay GST in the following independent cases provided recipient is located in the taxable territory:

- Services provided by an arbitral tribunal to any business entity.
- Sponsorship services provided by a company to an individual.
- Renting of immovable property service provided by the Central Govt. to a registered business entity.

Answer

a) Since GST on services provided or agreed to be provided by an arbitral tribunal to any business entity located in the taxable territory is payable under RCM, in the given case, **GST is payable by the recipient - business entity.**

b) GST on sponsorship services provided by any person to anybody corporate or partnership firm located in the taxable territory is payable under RCM. Since in the given case, services have been provided to an individual, RCM provisions will not be attracted. GST is **payable under forward charge by the supplier - company.**

c) GST on services supplied by Central Govt., State Govt., UT/local authority by way of renting of immovable property to a person registered under CGST Act is payable under RCM. Therefore, in the given case, **GST is payable under RCM by the recipient-registered business entity.**

Question 4

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

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

	value included cost of fuel	
(vi)	Availed representational service from PB and Co., a law firm towards a Consumer Court case	70,000

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

Answer

GST liability of M/s All-in-One

	Particulars	Value [₹]	CGST Payable [₹]	SGST payable [₹]
A	GST liability on outward supply			
(i)	Direct selling agent service to Y Bank Ltd. [Tax is payable under forward charge since the supplier of such service is a partnership firm and not an individual.]	4,00,000	36,000	36,000
(ii)	Security services to ABC P. Ltd., a registered person*[Tax is payable under RCM by the recipient since security services are provided by a non-body corporate to a registered person.] *It is assumed that security services are the services provided by way of supply of security personnel. And it is also assumed that ABC Pvt. Ltd. pays tax under section 9 of the CGST Act.			
(iii)	Security services to PSR Trust, an unregistered person [Tax is payable under forward charge since security services are provided by a non-body corporate to an unregistered person.]	1,00,000	9,000 [1,00,000 X 9%]	9,000 [1,00,000 X 9%]
(iv)	Renting of motor vehicle to Amaze Tours Ltd. where value included cost of fuel [Tax is payable under RCM by recipient since such services are provided by a non-body corporate to a body corporate and GST is payable @ 5%]			
(v)	Renting of motor vehicle to Priti & Co., CA firm, where supply value included cost of fuel [Tax is payable under forward charge since such services are provided by a non-body corporate to a non-body corporate.]	40,000	1,000 [40,000 X 2.5 %]	1,000 [40,000 X 2.5 %]
	Total GST Liability on outward supplies		46,000	46,000
B	GST liability on inward supplies under RCM			

(vi)	Availed representational service from PB and Co, a law firm [Legal services provided by a partnership firm of advocates/individual advocate other than a senior advocate to a business entity with an aggregate turnover up to such amount in the preceding FY as makes it eligible for exemption from registration, are exempt from GST. Since M/s All-in-One started its business in Feb 20XX, its turnover in the preceding FY is zero making it eligible for exemption from registration in the preceding FY and hence, the legal services provided to it are exempt from GST.]	70,000		
	GST liability on inward supplies under RCM		-	-

Composition Levy

Question 5

Determine whether the supplier in the following cases are eligible for composition levy provided their turnover in preceding year does not exceed Rs. 1.5 Crore:

- Mohan Enterprises is engaged in trading of pan masala in Rajasthan and is registered in the same State
- Sugam Manufacturers has registered offices in Punjab and Haryana and supplies goods in neighbouring States.

Answer

a) A supplier engaged in **the manufacture of goods as notified** under section 10(2)(e), during the preceding FY is **not eligible for composition scheme**. Ice cream and other edible ice, whether or not containing cocoa, Pan masala and Tobacco and manufactured tobacco substitutes are hereby notified. However, in the given case, since Mohan Enterprises is **engaged in trading of pan masala and not manufacture** and his turnover does not exceed Rs. 1.5 crore, he is **eligible** for composition scheme subject to fulfilment of specified conditions.

b) Since **supplier of inter-State outward supplies of goods is not eligible for composition levy**, Sugam Manufacturers is not eligible for composition levy.

Question 6

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

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

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

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

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

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

Answer

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

(i) **Manufacturer**

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

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

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

Furthermore, **section 10(2A) provides an option to a registered person, who is not eligible to pay tax under section 10(1) and 10(2), of paying tax @ 6% (CGST-3% and SGST/UTGST 3%) provided his aggregate turnover in the preceding FY is up-to ₹ 50 lakh.** Said person can pay tax @ 6% of the turnover in State or turnover in UT up to an aggregate turnover of ₹ 50 lakh, subject to specified conditions. One

of such conditions is that the registered person **should not be engaged in making any inter-State outward supplies of goods or services.**

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

(a) The turnover limit for being eligible for composition scheme under sub-sections (1) and (2) of section 10 for Jalandhar (Punjab) is ₹ 1.5 crore in the preceding FY. Thus, Technology Enterprises **can opt for said composition scheme** as its aggregate turnover is less than ₹1.5 crore in the preceding FY and it is making intra-State supplies. Further, since the registered person opting for composition scheme can also supply services (other than restaurant services) for a value up to 10% of the turnover in the preceding year or ₹5 lakh, whichever is higher. Thus, Technology Enterprises **can supply repair services up to a value of ₹ 12.5 lakh** [10% of ₹ 125 lakh] in the current FY.

(b) In the given case:

(i) the turnover in the preceding year is less than the eligible turnover limit under composition scheme under sub-sections (1) and (2) of section 10 for Delhi, i.e. ₹ 1.5 crore.

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

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

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

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

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

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

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

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

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

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

Question 7

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

Answer

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

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

Question 8

A person availing composition scheme in Haryana during a FY crosses the turnover of Rs. 1.5 crore during the course of the year i.e. he crosses the turnover of Rs. 1.5 crore in Dec.? Will he be allowed to pay tax under composition scheme for the remainder of the year, i.e. till 31st March?

Answer

No. The **option to pay tax under composition scheme lapses from the day on which the aggregate turnover** of the person availing composition scheme during the FY exceeds the specified limit (₹ 1.5

crore) Once he crosses the threshold, **he is required to file an intimation for withdrawal from the scheme** in prescribed form within 7 days of the occurrence of such event.

Question 9

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

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

Examine the validity of the action taken by proper officer.

Answer

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

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

In the given case, **since Ranveer Industries is engaged in making inter-State supplies of ready garments, it is not eligible to opt for composition scheme** in current year irrespective of its turnover not exceeding the threshold limit of ₹ 75 lakh in the preceding FY.

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

Question 10

Mr. Rajbeer, a registered person at Delhi, is in the business of selling goods relating to interior decoration, under the firm name M/s. Rajbeer & Sons. He has opted for composition scheme for the FY (FY) 2022-23.

His turnover for FY 2022-23 is ₹ 80 lakh and is expected to achieve ₹ 130 lakh in FY 2023-24. Discuss whether M/s Rajbeer & Sons can still enjoy the benefits of composition scheme in FY 2023-24.

His son Karan wants to start business of providing services relating to interior decoration, after completing post-graduation course in interior decoration under same firm name M/s Rajbeer & Sons

with effect from 01.04.2023 and wants to enjoy the benefits of composition scheme under GST. Advise Mr. Rajbeer and his son Karan.

Answer

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

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

In the given case, M/s. Rajbeer & Sons, engaged in business of selling goods relating to interior decoration, **is eligible for composition scheme** in FY 2023-24 since its aggregate turnover in preceding FY (viz ₹ 80 lakh) does not exceed ₹ 1.5 crore.

If Karan wishes to start the business of providing services relating to interior decoration under the same firm name M/s Rajbeer & Sons, In such a case, **the firm can provide services relating to interior decoration up to a value of ₹ 8 lakh** (10% of ₹ 80 lakh or ₹ 5 lakh, whichever is higher) to continue enjoying the benefit of composition scheme in FY 2023-24.

Question 11

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

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

Answer

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

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

In the present case, since the aggregate turnover of Mr. Prem was ₹ 120 lakh in preceding FY (i.e. it did not exceed ₹ 1.5 crore), **he is eligible for composition scheme** in the current FY. Further, in the current

FY, **he can also supply services** other than restaurant services **for a value upto ₹ 12 lakh** (10% of ₹120 lakh) or ₹ 5 lakh, whichever is higher. Thus, till the time his turnover from food delivery services does not exceed ₹ 12 lakh, he is eligible for the scheme.

Question 12

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

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

Answer

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

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

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

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

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

Further, **tax payable @5%** ($2\frac{1}{2}\%$ CGST + $2\frac{1}{2}\%$ SGST) **of the turnover** in the State by Shubhlaxmi Food in the current FY is as follows:

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

=(₹7,00,000 (CGST = 3,50,000 and SGST = ₹ 3,50,000)

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

Question 13

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

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

April, 20XX - June, 20XX - ₹ 20 lakh

July, 20XX - Sep, 20XX - ₹100 lakh

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

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

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

(i) If he is a manufacturer

(ii) If he is a trader

Answer

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

Manufacturers, other than manufacturer of notified goods	1% ($\frac{1}{2}\%$ CGST + $\frac{1}{2}\%$ SGST/UTGST) of the turnover in State/UT.
Trader	1% ($\frac{1}{2}\%$ CGST + $\frac{1}{2}\%$ SGST/UTGST) of turnover of taxable supplies of goods & services in the State/UT.

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

(i) If Mr. Yash is a manufacturer

CGST = ₹ 100 lakh X 0.5% = ₹ 50,000

SGST = ₹ 100 lakh X 0.5% = ₹ 50,000

(ii) If Mr. Yash is a trader

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

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

Question 14

Bansal and Chandiok is a partnership firm of Chartered Accountants in Jaipur (Rajasthan). The firm specialises in bank audits providing services to banks across India. It has an annual turnover of Rs. 60 lakh in the preceding FY.

With reference to the provisions of the CGST Act, examine whether the firm can opt for the composition scheme. Will your answer change, if-

- (a) the turnover of the firm is Rs. 40 lakhs?
- (b) Bansal and Chandiok is not a partnership firm of Chartered Accountants but a partnership firm providing support services to restaurants like booking tables, advertisement etc. and having turnover of 60 lacs?

Answer

Sec 10(2A) of the CGST Act 2017 provides for Composition Scheme for Supplier of Services, which a supplies services can opt, subject to *inter-alia* the following conditions:

Supplies are made by a registered person.-

(i) whose aggregate turnover in the preceding FY was fifty lakh rupees or below;

(ii) who is not eligible to pay tax under sub-section (1) of section 10 of the said Act,

(iii) who is not engaged in making any inter-State outward supply;

On the basis of the above provisions, Bansal and Chandiok, firm of Chartered Accountants, is not eligible for the composition scheme because of the following both the reasons:

(a) Its turnover in the preceding FY was more than Rs. 50 lakhs;

(b) It is engaged in making inter-State outward supply (given that it provides services to banks across India

Therefore, it has to discharge its tax liability under regular provisions at the applicable rates

(a) The answer will not change even if the turnover of the firm had been Rs. 40 lakh. Because, it is also engaged in making inter State outward supply (given that it provides services to banks **across India**).

(b) The answer will not change even if the firm is providing support services to restaurants. Because, only the supplier providing restaurant services is eligible for composition scheme u/s 10(1) enjoying turnover limit of 1.5 Crores. Support services to restaurants can seek composition scheme u/s 10(2A) subject to compliance of given conditions viz. turnover limit is 50 Lacs. As this

case turnover is 60 lacs is preceding FY hence not eligible to opt for composition scheme under section 10(2A) also.

Question 15

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

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

The firm has obtained the registration under section 22 and pays tax under composition scheme. Determine the tax liability of Varun & Arun Associates for the quarters: Apr-Jun, Jul-Sept and Oct-Dec. Note: The rates of tax on architectural services are CGST-9% and SGST-9%.

Answer

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

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

For determining its turnover of the State for payment of tax under composition scheme under section 10(2A), **turnover of April-June quarter [₹ 20 lakh] shall be excluded** as the value of supplies from the first day of April of a FY up to the date when such person becomes liable for registration under this Act are to be excluded for this purpose.

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

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

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

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

Question 16

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

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

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

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

Bill No	Date	Value of product (exclusive of tax) 'P' (₹)	Value of product (exclusive of tax) 'Q' (₹)	Value of product (exclusive of tax) Total (₹)
2306	1 st Oct.	2,00,000	3,000	2,03,000
2307	1 st Oct.	1,36,000	2,250	1,38,250
2308	2 nd Oct.	67,000	39,250	1,06,250
2309	3 rd Oct.	58,750	33,750	95,500
2310	5 th Oct.	1,00,000	-	1,00,000
2311	6 th Oct.	94,000	6,000	1,00,000
2312	6 th Oct.		17,000	17,000
2313	8 th Oct.	50,000	6,000	56,000
2314	9 th Oct.	60,000	9,000	69,000
2315	-----	-----	-----	-----
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Further, B & D Company paid freight of ₹1,40,000 to Goods Transport Agency during the period April to Oct.. Assume equal amount of freight is paid each month on the 10th day of each month. Also, assume

that the goods for which the freight is paid on 10th day of the month are transported between 11th to 20th day of the month. Also, assume that GTA has not opted to pay tax under forward charge.

All the above amounts are exclusive of taxes, wherever applicable

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

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

Answer

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

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

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

The inward supplies of goods transportation services in respect of which the firm has to pay tax under RCM have not been included in the aggregate turnover in terms of section 2(6). The tax is payable under RCM on such services as the GTA has not opted to pay tax under forward charge. Thus, the firm will have to pay tax under regular scheme (Section 9) from 3rd Oct..

Output tax liability of B & D Company under composition scheme

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

The tax liability for the quarters ended June, Sep and Dec. under composition scheme will be computed as under

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

Total CGST liability for the period from 1 April to 2 nd Oct.	60,015 [31,500+ 26,500+ 2015)
Total SGST liability for the period from 1 April to 2 nd Oct.	60,015 [31,500 + 26,500+ 2015)

POS for Goods

Question 1

Answer the following Questions in the light of POS provisions contained in the IGST Act

(A) Where customer is Registered in GST

(B) Where customer is Un-registered

(i) In case of a domestic supply, what is the POS where goods are removed?

(ii) What will be the POS if the goods are delivered by the supplier to a person on the direction of a third person?

(iii) What is the POS where the goods or services are supplied on board a conveyance, such as a vessel, an aircraft, a train or a motor vehicle?

(iv) Quick deal Enterprises (Ahmednagar, Gujarat) opens a new branch office at Hissar, Haryana. It purchases a building for office from Ruhani Builders Hissar along with pre-installed office furniture and fixtures. Determine POS of the pre-installed office furniture and fixtures.

Answer

(i) **If customer is Reg.** : As per section 10(1)(a), the POS of goods is the **location** of the goods at the time at which the **movement of goods terminates** for delivery to the recipient.

If customer is Unreg. : If address/State of customer mentioned on Invoice, POS will be the address mentioned on invoice. If address and state not mentioned on invoice, POS will be the location of supplier.

(ii) Same for Reg. and Unreg. Customer : As per section 10(1)(b), it would be **deemed that the third person has received the goods** and the POS of such goods will be the **principal place of business of such person**.

(iii) Same for Reg. and Unreg. Customer : As per section 10(1)(e), in respect of **goods**, the POS is the **location at which such goods are taken on board**.

However, in respect of **services**, the POS is the **location of the first scheduled point of departure** of that conveyance for the journey in terms of sections 12(10) and 13(11).

(iv) If customer is Reg. : Section 10(1)(c) of the IGST Act stipulates that **if the supply does not involve movement of goods**, the **POS is the location of goods at the time of delivery to the recipient**. Since there is no movement of office furniture and fixtures in the given case, the POS of such goods is their location at the time of delivery to recipient (Quick deal Enterprises) i.e, **Hissar, Haryana**.

If Qwik deal is Unreg. : If address/State of customer mentioned on Invoice, POS will be the address mentioned on invoice. If address and state not mentioned on invoice, POS will be the location of supplier.

Question 2

Priyank Sales of Pune, Maharashtra enters into an agreement to sell goods to Bisht Enterprises of Bareilly, Uttar Pradesh. While the goods were being packed in Pune godown of Priyank Sales, Bisht got an order from Sahil Pvt. Ltd. of Shimoga, Karnataka for the said goods. Bisht Enterprises agreed to supply the said goods to Sahil Pvt. Ltd. and asked Priyank Sales to deliver the goods to Sahil Pvt. Ltd. at Shimoga. You are required to determine the POS(ies) in the above situation.

Answer

The supply between Priyank Sales (Pune) and Bisht Enterprises (Bareilly) is a **bill to ship to supply** where the goods are delivered by the supplier (Priyank Sales) to a recipient [Sahil Pvt. Ltd. (Shimoga)] or any other person on the direction of a third person (Bisht Enterprises). The POS in case of domestic bill to ship to supply of goods is determined in terms of section 10(1)(b). As per section 10(1)(b), where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person whether acting as an agent or otherwise, before or during movement either by way of transfer of documents of title to the goods or otherwise, it shall be **deemed and third person has received the goods and the POS of such goods shall be the principal place of business of such person.**

Thus, in the given case, it is deemed that the Bisht Enterprises has received the goods and the POS of such goods is the principal place of business of Bisht Enterprises. Accordingly, the **POS** between Priyank Sales (Pune) and Bisht Enterprises (Bareilly) will be **Bareilly, Uttar Pradesh.**

This situation **involves another supply between Bisht Enterprises (Bareilly) and Sahil Pvt. Ltd. (Shimoga).** The POS in this case will be determined in terms of section 10(1)(a).

Section 10(1)(a) stipulates that where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the POS of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient.

Thus, the **POS in second case is the location** of the goods at the time **when the movement of goods terminates** for delivery to the recipient (Sahil Pvt. Ltd.). i.e. **Shimoga, Karnataka.**

Question 3

Asha Enterprises, supplier of sewing machines, is located in Kota (Rajasthan) and registered for purpose of GST in the said State. It receives an order from Deep Traders, located in Jalandhar (Punjab) and registered for the purpose of GST in the said State. The order is for the supply of 100 sewing machines with an instruction to ship the sewing machines to Jyoti Sons, located in Patiala (Punjab) and registered in the said State for purpose of GST. Jyoti Sons is a customer of Deep Traders. Sewing machines are being shipped in a lorry by Asha Enterprises.

Briefly explain the following:

(a) the POS:

(b) the nature of supply:- whether inter-State or intra-State and

(c) whether CGST/SGST or IGST would be applicable in this case.

Answer

The **supply between Asha Enterprises (Kota, Rajasthan) and Deep Traders (Jalandhar, Punjab) is a bill to ship to supply where the goods are delivered** by the supplier [Asha Enterprises] to a recipient [Jyoti Sons (Patiala, Punjab)] on the **direction of a third person** [Deep Traders].

In case of such supply, it is **deemed that** the said **third person has received the goods and the POS** of such goods is **principal place of business of such person** [Section 10(1)(b)]. **Thus, POS** between Asha Enterprises (Rajasthan) and Deep Traders (Punjab) **will be Jalandhar, Punjab**. Since the location of supplier and the POS are in two different States, the supply is an **inter-State** supply in terms of section 7, liable to **IGST**.

This situation **involves another supply between Deep Traders (Jalandhar, Punjab) and Jyoti Sons (Patiala, Punjab)**. In this case, since the supply involves movement of goods, **POS will be the location** of the goods at the time **at which the movement of goods terminates** for delivery to the recipient, i.e. **Patiala, Punjab** [Section 10(1)(a)].

Since the location of supplier and the POS are in the same State, the supply is an **intra-State** supply in terms of section 8 liable to **CGST and SGST**.

Question 4

Raman Row, a registered supplier under GST in Mumbai, Maharashtra is directed by Nero Enterprises, Kolkata, West Bengal to deliver goods valued at ₹12,00,000 to Fabricana of Aurangabad in Maharashtra. Raman Row makes out an invoice at 9% tax rate under CGST and SGST respectively (scheduled rate) and delivers it locally in Maharashtra

Discuss and comment on above levy of tax and determine tax liability of goods in above circumstances.

Answer

The supply between Raman Row (Mumbai, Maharashtra) and Nero Enterprises (Kolkata, West Bengal) is a bill to ship to supply where goods are delivered by supplier [Raman Row] to a recipient [Fabricana (Aurangabad, Maharashtra)] or any other person **on the direction of a third person** [Nero Enterprises]. In such a case, it is **deemed that** the said **third person has received the goods** and the **POS** of such goods is the **principal place of business of such person** [Section 10(1)(b) of IGST Act].

Accordingly, the **POS** between Raman Row (Mumbai, Maharashtra) and Nero Enterprises (Kolkata, West Bengal) **will be Kolkata** and thus, it will be an inter-State supply **liable to IGST**. Hence, Raman Row should charge 18% IGST on ₹12,00,000, which comes out to ₹ 2,16,000.

This situation **Involves another supply between Nero Enterprises (Kolkata, West Bengal) and Fabricana (Aurangabad, Maharashtra)**. The **POS** in this case **will be the location** of the goods at the time **when the movement of goods terminates** for delivery to the recipient i.e.. **Aurangabad, Maharashtra** in terms of section 10(1)(a) of IGST Act. Thus, being an inter-State supply, the same will also be chargeable to IGST.

Question 4A

Sitaram Industries Limited, a registered entity under GST, in the State of Karnataka, Supplied 30 laptops over the counter to Mr. Sudhakar, an unregistered buyer, who took it to his residence in Haryana.

[Invoice issued to him mentions only his name and State. However, his complete address of Haryana is missing in the invoice.]

Answer :

POS here is the location as per the address of the unregistered recipient (name of the State) recorded in the invoice issued in respect of the supply, viz. Haryana, in terms of section 10(1)(ca) of the IGST Act.

POS for Services

Question 5

The POS in relation to immovable property is the location of immovable property. Suppose a road is constructed from Delhi to Mumbai covering multiple states. What will be the POS of construction services?

Answer

(i) Where the immovable property is located in more than one State, the supply of service is treated as made **in each of the States in proportion** to the value for services separately collected or determined, in terms of the **contract or agreement** entered into in this regard or, in the absence of such contract or agreement, on such other **reasonable basis** as may be prescribed in this behalf [Explanation to section 12(3) for domestic supplies].

In the absence of a contract or agreement between the supplier and recipient of services in this regard, the proportionate value of services supplied in different States/Union territories (where the immovable property is located) is computed **on the basis of the area of the immovable property** lying in each State/Union territories (Rule 4 of the IGST Rules].

Question 6

Whether services of short-term accommodation, conferencing, banqueting etc. provided to a SEZ unit/developer by a supplier located in the same State as that of the SEZ unit/developer should

be treated as an inter-State supply under section 7(5)(b) or an intra-State supply in terms of section 8(2) read with section 12(3)(c)? Examine

Answer

Circular No. 48/22/2018 GST has clarified on this issue as under:

As per section 7(5)(b), the **supply** of goods and/or services **to a SEZ unit/developer is treated** as a supply of goods and/or services in the course of **inter-State** trade or commerce. Whereas, as per section 12(3)(c), **the POS** of services by way of **accommodation in any immovable property** for organising any functions shall be the **location at which the immovable property is located**. Thus, in such cases, if the location of the supplier and the POS are in the same State/UT, it would be **treated as an intra-State supply**.

It is an established principle of interpretation of statutes that in case of an **apparent conflict between two provisions, the specific provision shall prevail** over the general provision. In the instant case, section 7(5)(b) is a specific provision relating to **supplies** of goods and/or services made to a **SEZ unit/developer**, which states that such supplies shall be **treated as inter-State supplies**.

Further, proviso to section 8(2) also lays down that **intra-State supply do not include supply of services to a SEZ unit/developer**. It is, therefore, clarified that services of short-term accommodation, conferencing, banqueting etc, provided to a SEZ unit/developer shall be treated as an inter-State supply.

Question 7

Dobriyal Technocrats Ltd, registered in Gurgaon, Haryana, is engaged in manufacturing heavy steel machinery. It enters into an agreement with Mindsharp Associates, registered in Delhi, for imparting motivational training to the top management of Dobriyal Technocrats Ltd. in a 5-day residential motivational training programme at an agreed consideration of ₹ 20,00,000.

Mindsharp Associates books the conference hall along with the rooms of Hotel Chumchum, Neemrana (registered in Rajasthan) for the training programme, for a lump sum consideration of ₹ 12,00,000.

You are required to determine the POS in respect of supply(ies) involved in the given scenario.

Answer

In the given situation, two supplies are involved:

- (i) Services provided by Mindsharp Associates to Dobriyal Technocrats Ltd. by way of providing motivational training to its top management.
- (ii) Services provided by Hotel Chumchum to Mindsharp Associates by way of accommodation in said hotel for organizing the training programme.

The POS in respect of each of the above supplies is determined as under:

(i) As per the provisions of section 12(5)(a) of the IGST Act, the **POS** of services provided in relation to **training and performance** appraisal to a **registered person**, shall be the **location of such person**.

(ii) Therefore, the POS of services supplied by Mindsharp Associates to the registered recipient-Dobriyal Technocrats Ltd. by way of providing motivational training to its top management is the location of Dobriyal Technocrats Ltd, i.e. **Gurgaon, Haryana**.

(iii) As per the provisions of section 12(3)(c) of the IGST Act, the **POS** of services, by way of **accommodation in any immovable property** for organizing, inter alia, any official/ business function including services provided in relation to such function at such property, shall be the **location at which the Immovable property is located**.

(iv) Therefore, the POS of services supplied by Hotel Chumchum to Mindsharp Associates by way of accommodation of conference hall alongwith the rooms of Hotel Chumchum for the training programme shall be the location of the **Hotel Chumchum, i.e. Neemrana, Rajasthan**.

Question 8

Mr. Murthy, an unregistered person and a resident of Pune, Maharashtra hires the services of Sun Ltd. an event management company registered in Delhi, for organising of the new product launch in Bengaluru, Karnataka

(i) Determine the POS of services provided by Sun Ltd.

(ii) What would be your answer if the product launch takes place in Bangkok?

(iii) What would be your answer if Mr. Murthy is registered person and product launch takes place in-

(a) Bengaluru

(b) Bangkok

Answer

(i) As per section 12(7)(a)(i), when service by way of **organization of an event** is provided to an **unregistered person**, the POS is the location **where the event is actually held** and if the event is **held outside India**, the POS is the **location of recipient**.

Since, in the given case, the service **recipient** [Mr. Murthy] is **unregistered** and event is held in India POS is the **location where the event is actually held, i.e. Bengaluru, Karnataka**. The location of the supplier and the location of the recipient is irrelevant in this case.

(ii) However, **if** product **launch** takes place **outside India** (Bangkok), the POS will be **the location of recipient, i.e. Pune, Maharashtra**

(iii) When service by way of organization of an event is provided to a registered person, POS is the location of recipient vide section 12(7)(a)(i).

Therefore, if Mr. Murthy is a registered person, then in both the cases, i.e, either when product launch takes place in Bengaluru or Bangkok, the POS will be the **location of recipient. i.e. Pune, Maharashtra.**

Question 9

What would be the POS of services provided by an event management company for organizing a sporting event for a Sports Federation which is held in multiple States?

Answer

In case of an event, **if the recipient** of service is **registered**, the POS of services for organizing the event is the **location of such person**. However, **if the recipient is not registered**, the POS is the **place where event is held**.

Since event is being **held in multiple states** and consolidated amount is charged for such services POS will be deemed to be **in each State in proportion to value** for services determined **in terms of the contract or agreement** entered into in this regard [Explanation to section 12(7)]

In the absence of a contract or agreement between the supplier and recipient of services, the proportionate **value** of services made **in each State** (where the event is held) will be **computed** in accordance with rule 5 of IGST Rules **by** application of **generally accepted accounting principles**.

Question 10

Musicera Pvt. Ltd. owned by Nitish Daani - a famous classical singer - wishes to organise a 'Nitish Daani Music Concert in Gurugram (Haryana). Musicera Pvt. Ltd. (registered in Ludhiana, Punjab) enters into a contract with an event management company, Supriya (P) Ltd. (registered in Delhi) for organising the said music concert at an agreed consideration of ₹10,00,000. Supriya (P) Ltd. books the lawns of Hotel Dumdum, Gurugram (registered in Haryana) for holding the music concert, for a lump sum consideration of ₹ 400,000. Musicera Pvt. Ltd. fixes the entry fee to the music concert at ₹ 5,000, 400 tickets for 'Nitish Dani Music Concert' are sold.

You are required to determine the CGST and SGST or IGST liability, as the case may be, in respect of the supply(ies) involved in the given scenario.

Will your answer be different if the price per ticket is fixed at ₹ 450?

Note: Rate of CGST and SGST is 9% each and IGST is 18%. All the amounts given above are exclusive of taxes, wherever applicable.

Answer

In the given situation, three supplies are involved:

- (i) Services provided by Musicera Pvt. Ltd. to audiences by way of admission to music concert.
- (ii) Services provided by Supriya (P) Ltd. to Musicera Pvt. Ltd. by way of organising the music concert.
- (iii) Services provided by Hotel Dumdum to Supriya (P) Ltd. by way of accommodation in the Hotel lawns for organising the music concert.

The CGST and SGST or IGST liability in respect of each of the above supplies is determined as under:

- (i) As per the provisions of section 12(6), the POS of services provided by way of admission to, inter alia, a cultural **event** shall be the **place where the event** is actually held.

Therefore, the POS of services supplied by Musicera Pvt. Ltd. (Ludhiana, Punjab) to audiences by way of admission to the music concert is the **location of the Hotel Dumdum, i.e. Gurugram, Haryana**.

Since the location of **supplier** (Ludhiana, Punjab) and the **POS** (Gurugram, Haryana) are in **different States**, **IGST** will be **leviable**. Therefore, IGST leviable will be computed as follow.

Consideration for supply (400 tickets @ ₹ 5,000 per ticket) = ₹ 20,00,000

IGST @ 18% on value of supply ₹ 20,00,000 x 18% = ₹ **3,60,000**.

- (ii) Section 12(7)(a)(1) stipulates that the POS of services provided by way of **organization of**, inter alia, a **cultural event to a registered person is the location of such person**.

Therefore, the POS of services supplied by Supriya (P) Ltd. (Delhi) to Musicera Pvt. Lt (Ludhiana, Punjab) by way of organising the music concert is the **location of the recipient, i.e Ludhiana (Punjab)**.

Since the location of the supplier (Delhi) and the POS (Ludhiana, Punjab) are in different States, **IGST** will be **leviable**. Therefore, IGST leviable will be computed as follows:

Consideration for supply = ₹ 10,00,000

IGST 18% on value of supply 10,00,000 x 18% = ₹ **1,80,000**

- (iii) As per the provisions of section 12(3)(c) of the IGST Act, the POS of services, by way of **accommodation in any immovable property** for organizing, inter alia, any cultural function shall be the **location at which the immovable property is located**.

Therefore, the POS of services supplied by Hotel Dumdum (Gurugram, Haryana) to Supriya (P) Ltd. (Delhi) by way of accommodation in Hotel lawns for organising the music concert shall be the location of the **Hotel Dumdum, i.e. Gurugram, Haryana**.

Since the location of the supplier (Gurugram, Haryana) and the POS (Gurugram, Haryana) are in the same State, **CGST and SGST** will be **leviable**. Therefore, CGST and SGST leviable will be computed as follows:

Consideration for supply = ₹ 4,00,000

CGST @9% on value of supply 4,00,000 x 9% = ₹ **36,000**

SGST @9% on value of supply 4,00,000 x 9% = ₹ **36,000**

If the price for the entry **ticket is fixed at ₹ 450**, answer will change in respect of supply of service provided by way of admission to music concert, as mentioned in point (i) above. There will be no

IGST liability if the consideration for the ticket is ₹ 450 as the inter-State services by way of right to **admission** to, inter alia, **musical performance are exempt from IGST** vide Notification No. 9/2017 IT (R), if the **consideration** for right to admission to the event **is not more than ₹ 500 per person**. However, there will be no change in answer in respect of supplies mentioned in point (ii) and (iii) above.

Question 11

Answer the following Questions in the light of POS provisions contained in the IGST Act:

- i. Mr. A, a businessman from Delhi dines in a restaurant at Mumbai while on a business trip.
- ii. Mr. Timmy Ferreira, a makeup artist at Kolkata, goes to Jaipur, Rajasthan for doing the makeup of Ms. Simran Kapoor, a Bollywood actress Registered in GST at Mumbai.
- iii. What is the POS of services by way of transportation of goods, including mail or courier when the both the supplier and the recipient of the services are located in India?
- iv. What will be the POS of passenger transportation service, if Mr. A (Unregistered) travels from Mumbai to Delhi and back to Mumbai? Will your answer change if Mr. A is working in Infosys Ltd. Registered at Karnataka and provides GST Number of said company.
- v. Mr. C from Varanasi, Uttar Pradesh, visits a bank registered in New Delhi for getting a demand draft made? C does not have any account with the said bank.
- vi. An unregistered person from Gurugram travels by Air India flight from Mumbai to Delhi and gets his travel insurance done in Mumbai. What is the POS of insurance services?

Answer

- i. The POS of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery is the location where such services are actually performed **in both cases of registered and unregistered recipient**. The POS of **restaurant service** is the **location where such service is performed, i.e. Mumbai**.
- ii. As explained above, the POS is for Beauty treatment services is the location **where such service is performed, i.e. Jaipur (Rajasthan)**.
- iii. **If the recipient is registered, the location of such person** is the POS. However, **if the recipient is not registered, the POS is the place where the goods are handed over** for transportation.
- iv. If the person is **registered**, the POS will be the **location of recipient**. If the person is **not registered**, the **POS** for the forward journey from Mumbai to Delhi will be **Mumbai, the place where he embarks** [Section 12(9)].
However, for the **return journey**, the **POS** will be **Delhi** as the **return journey** has to be **treated as separate journey** [Explanation to section 12(9)].

Where GST Number of **Infosys Ltd.** is provided, POS being **registered** recipient will be location of recipient entity i.e. **Karnataka**

- v. The POS in case of banking services to any person shall be the **location of the recipient** of services on the records of the supplier of services. However, **if the location of recipient** of services is **not on the records** of the supplier, the POS shall be **the location of the supplier** of services. Therefore, since the location of recipient is not available in the records of the supplier, the POS is the location of the supplier of services, i.e. New Delhi [Section 12(12)].
- vi. When **insurance service** is provided to an unregistered person, the **location of the recipient** of services on the records of the supplier of insurance services is the POS. So Gurugram is the POS [Section 12(13)].

Question 12

M/s Kingsize Airlines has issued a ticket/pass to Mr. Saxena, the winner of annual lucky draw, for travelling to anywhere in India. Determine the POS in this case.

Answer

As per section 12(9) of the IGST Act, the POS of passenger transportation service to a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey.

In the above case, the place of embarkation will not be available at the time of issue of invoice as the right to passage is for future use.

Accordingly, POS cannot be the place of embarkation.

The proviso to section 12(9) provides that **where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage**, the POS of such service shall be determined in accordance with the provisions of 12(2).

Thus, in such cases, **the default rule shall apply** i.e., the POS of services made to any person other than a registered person shall be the **location of the recipient where the address on record exists and the location of the supplier of services in other cases**.

Question 13

What is the POS for mobile connection? Can it be the location of supplier?

Answer

The location of supplier of mobile services cannot be the POS as the mobile companies are providing services in multiple states and many of these services are inter-state. The consumption principle will be broken if the location of supplier is taken as POS and all the revenue may go to a few states where the suppliers are located.

POS for mobile connection would depend on whether the connection is on postpaid or prepaid basis. In case of **postpaid connections**, POS is **location of billing address of recipient** of services on the record of supplier of services. In case of **pre-paid connections**, if the service is supplied:

- i. **through a selling agent or a re-seller or a distributor** of SIM card or re-charge voucher, the POS is the **address of the selling agent or re-seller or distributor** as per the record of the supplier at the time of supply; or
- ii. **by any person to the final subscriber**, the POS is the location where such **prepayment is received** or such vouchers are sold;
- iii. in **other cases**, POS is the **address of recipient** as per the records of supplier of services and **where** such address is **not available**, POS shall be **location of supplier** of services.

However, if the recharge is done through **internet/e-payment**, the **location of recipient** of service **on record of the supplier** will be taken as the POS [Section 12(11)].

Question 14

'PQ' statutory body deals with the all the advertisement and publicity of the Govt.. It has issued a release order to Moon Plus channel (registered in State 'A') for telecasting an advertisement relating to one of the schemes of the Govt. in the month of Sep 20XX. The advertisement will be telecasted in the States of 'A', 'B', 'C', 'D' and 'E'. The total value of the service contract entered into between Moon Plus and 'PQ' is ₹10,00,000 (exclusive of GST).

You are required to determine the POS of the services in the instant case as also the value of supply attributable to the States of 'A', 'B', 'C', 'D' and 'E'.

Further, compute the GST liability [CGST & SGST or IGST, as the case may be] of 'Moon Plus' as also advised it as to whether it should issue one invoice for the entire contract value or separate State-wise invoices The other relevant information is given hereunder:

Table 1

States	Viewership figures of 'Moon Plus' channel in the last week of June 20XX as provided by the Broadcast Audience Research Council
A	50,000
B+C	1,00,000
D+E	50,000

Table 2

States	Population as per latest census (in crores)
A	50
B	180
C	20
D	100
E	25

The applicable rate of tax is as under:

CGST	SGCT	IGST
9%	9%	18%

Answer

As per section 12(14) of the IGST Act, **the POS** of advertisement services to the Central Govt., a State Govt., a statutory body or a local authority meant for the States or Union territories identified in the contract or agreement is taken as being **in each of such States or Union territories (where the advertisement is broadcasted/run/played/disseminated)**.

Therefore, in given case, POS of advertisement service is in the States of "A", "B", "C", 'D' and 'E.

The **value** of the supply of such advertisement services specific **to each State/UT** is in **proportion to the amount attributable** to services provided by way of dissemination in the respective States/Union territories determined **in terms of the contract** or agreement entered into in this regard.

In absence of such a **contract** or agreement between supplier and recipient of services, proportionate value of advertisement services attributable to different States/Union territories (where advertisement is broadcasted/run/played/ disseminated) is computed in accordance with rule 3 of IGST Rules, 2017.

As per rule 3 of IGST Rules, 2017, in case of advertisement on television channels, amount attributable to the value of advertisement service disseminated in a State shall be **calculated on the basis of the viewership** of such channel in such State, which in turn, shall be calculated in following manner, namely.

- i. the **channel viewership figures** for that channel for a State or UT shall be taken from the figures **published** in this regard by the **Broadcast Audience Research Council**.
- ii. the **figures published for the last week of a given quarter** shall be **used** for calculating viewership for the succeeding quarter.
- iii. **where** such channel **viewership** figures **relate** to a region comprising of **more than one State or UT**, the viewership **figures** for a State or UT of that region, shall be calculated by applying the **ratio of the populations of that State or UT**, as determined in the latest Census, to such viewership figures;
- iv. the **ratio** of the viewership **figures for each State** or UT as so calculated, when applied to the amount payable for that service, shall **represent the portion of the value attributable** to the dissemination in **that State** or UT.

Therefore, value of supply attributable to 'A', 'B', 'C', 'D' and 'E. will be computed as under:

States	Viewership figures of 'Moon Plus' channel as provided by the Broadcast Audience Research Council in the last week of June 20XX	Viewership ratio of 'Moon Plus' channel in the States 'A', ('B' + 'C') and ('D' + 'E')	Proportionate value of advertisement services for States A. ('B' + 'C') and ('D' + 'E')
A	50,000	50,000:1,00,000:	₹ 10,00,000 X 1/4= ₹ 2,50,000

B+C	1,00,000	50,000 = 1:2:1	₹ 10,00,000 X 2/4= ₹ 5,00,000
D+E	50,000		₹ 10,00,000 X 1/4= ₹ 2,50,000

States	Population as per latest census (in crores)	Population ratio in the States 'B' & C and 'D' & 'E'	Proportionate value of advertisement services in the states 'A', 'B', 'C', 'D', 'E'
A	50	B:C = 180:20 = 9:1	₹ 2,50,000
B	180		₹ 5,00,000 X 9/10= ₹ 4,50,000
C	20	D:E = 100:25 = 4:1	₹ 5,00,000 X 9/10= ₹ 50,000
D	100		₹ 2,50,000 X 4/5= ₹ 2,00,000
E	25		₹ 2,50,000 X 1/5= ₹ 50,000

Since, there are **five different places of supply** in the given case, '**Moon Plus**' channel will **have to issue five separate invoices** for each of the States namely, 'A', 'B', 'C', 'D' & 'E' indicating the value pertaining to that State. The GST liability of '**Moon Plus**' channel will, therefore, be worked out as under:

Computation of GST liability of 'Moon Plus'

States	Proportionate value of advertisement services (₹)	CGST @9% (₹)	SGST @9% (₹)	IGST 18% (₹)
A	2,50,000	22,500	22,500	
B	4,50,000			81,000
C	50,000			9,000
D	2,00,000			36,000
E	50,000			9,000

Only **in case of** supply of services in **State 'A'**, the **location of supplier** (State 'A') **and the POS** are **in the same State**, hence the same is an **intra-State** supply in terms of section 8(1) of the 1GST Act and is **thus, liable to CGST and SGST**. In **all the remaining cases** of supply of services, the location of the supplier (State 'A') and the places of supply (States 'B', 'C', 'D' & 'E') are in two different States, hence the same are inter-State supplies **liable to IGST** [Section 7(1)(a) of the IGST Act read with section 5(1) of that Act].

Question 15

M/s Joinder Drills of Australia exports rough rock cutting diamonds to M/s Ankit Enterprises of India, a registered supplier in the State of Haryana. M/s Ankit Enterprises is expected to process

them into tools and export the same to the supplier in Australia. The process does not involve any sophisticated process other than cutting, polishing and finishing. M/s Ankit Enterprises requests M/s Joinder Drills for use of such tools for his business in India for 3 months, which is agreed to by the supplier. It then exports it to the Australian supplier, invoicing it for ₹ 12,00,000 (inclusive of GST, if any) for processing it into the required tool.

M/s Ankit Enterprises is of the assumption that it is an export transaction and therefore, it is entitled to treat it as a zero-rated supply and decides that no tax is payable under LUT although the rate applicable to such services for domestic supplies is CGST -9%, SGST-9% and IGST - 18%.

State the provisions relating to above supply of service and explain whether the stand taken by M/s Ankit Enterprises is correct and also determine the tax, if applicable, as goods are now moving out of Haryana.

Answer

One of the conditions for a supply of service to qualify as export of service is that the POS of said service must be outside India.

The **POS of services** supplied in respect of the goods which are **temporarily imported into India** for any other treatment/process **and are exported after** such **treatment/process without being** put to any **use in India**, other than that which is required for such treatment/process, is the location of **recipient** of such service (Second proviso to section 13(3)(a) of the IGST Act].

In view of the above, in the given case, **the POS** of the services provided by M/s Ankit Enterprises **is the place where the services are actually performed**, i.e., in India **as the tools to be exported have been used in India for 3 months before their export**. Resultantly, the supply of services by M/s Ankit Enterprises **do not qualify as export of service**.

In case where the POS (determined under section 13 of the IGST Act) and the location of supplier are in the same State, such supplies will be treated as **Intra-State supply**.

Thus the same is **liable to CGST ₹ 91525 and SGST of ₹ 91,525** (₹ 12,00,000/118 X 9).

Question 16

Mr. Mahendra Goyal, an interior decorator provides professional services to Mr. Harish Jain in relation to two of his immovable properties. Determine the POS in the transactions below as per provisions of GST law in the following independent situations:

Case	Location of Mr. Mahendra Goyal	Location of Mr. Harish Jain	Property situated at
I	Delhi	Maharashtra	New York (USA)
II	Delhi	New York	Paris (France)

Explain the relevant provisions of law to support your conclusions.

Answer

Case 1

As per section 12(3), **where** both the **service provider** and the service **recipient** are located in **India**, the **POS** of services directly in **relation** to an **immovable property**, including services provided by interior decorators is the location of the immovable property. However, if the immovable property is located outside India, the POS is the location of the recipient.

Since in the given case, both the service provider (Mr. Mahendra Goyal) and the service recipient (Mr. Harish Jain) are located in India and the **immovable property is located outside India** (New York), the POS will be the **location of recipient, i.e. Maharashtra**.

Case II

As per section 13(4), **where** either the **service provider** or the service **recipient** is located **outside** India the POS of services directly in **relation to an immovable property** including services of interior decorators is the **location of the immovable property**.

Since in the given case, service provider (Mr. Mahendra Goyal) is located in India and service recipient (Mr. Harish Jain) is located outside India (New York), the POS will be the location of immovable property, **ie. Paris (France)**.

Question 17

XYZ Ltd. has obtained a loan from a foreign bank. The company does not have an account with the foreign bank from whom it has taken the loan. Whether RCM liability under GST laws should be discharged in this regard for import of services received in relation to the loan?

Provide relevant legal provisions in support of your answer.

Answer

Yes. RCM liability needs to be discharged on such services.

The **POS** of services supplied by a **banking company** in case **where** either **supplier or recipient is located outside India is location of supplier**, if said services are supplied to an **account holder**, **otherwise** the POS is the **location of the recipient**. Accordingly, in the given case, the POS is the **location of recipient - XYZ Ltd., i.e. India**.

Since the **supplier is outside India and recipient and POS are in India**, said service **qualifies as import of services** which in turn, is **considered as inter-State supply**.

Question 18

Alpha is a manufacturer and supplier of a machine in India. Gamma of USA helps Alpha in selling the machine by identifying client in USA, viz, Beta who wants to purchase this machine and helps in finalizing the contract of supply of machine by Alpha to Beta. Gamma charges Alpha for his services of locating Beta and helping in finalizing the sale of machine between Alpha and Beta, for which Gamma invoices Alpha and is paid by Alpha for the same. Determine the POS of services provided by Gamma to Alpha.

Answer

As per section 13(8)(b) of the IGST Act, the POS of the intermediary services shall be the location of the supplier of services. 'Intermediary' has been defined in of section 2(13) of the IGST Act, as a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account.

Further, the concept of intermediary services has been clarified vide Circular No. 159/15/2021 as follows:

- i. **Minimum of three parties and two distinct supplies:** There must be minimum of three parties, two principals transacting in the supply of goods or services or securities (the main supply) and one intermediary arranging or facilitating (the ancillary supply) the said main supply.
- ii. **Intermediary service provider to have the character of an agent, broker or any other similar person:** Intermediary only arranges or facilitates the main supply and does not himself provide the main supply. Thus, the role of intermediary is only supportive.
- iii. **Does not include a person who supplies such goods or services or both or securities on his own account:** It implies that in cases wherein the person supplies the main supply, either fully or partly, on principal-to-principal basis, the said supply cannot be covered under the scope of "Intermediary"
- iv. **Sub-contracting for a service is not an intermediary service:** Sub-contractor provides the main supply, either fully or a part thereof, and does not merely arrange or facilitate the main supply between the principal supplier and his customers, and therefore, clearly is not an intermediary.

In the backdrop of the above discussion, while Alpha and Beta are the two principals involved in the main supply of the machinery, Gamma, is facilitating the supply of machine between Alpha and Beta. In this arrangement, Gamma is providing the ancillary supply of arranging or facilitating the 'main supply' of machine between Alpha and Beta and therefore, **Gamma is an intermediary and is providing intermediary service to Alpha.**

Resultantly, in terms of section 13(8)(b) of the IGST Act, **the POS of the intermediary services provided by Gamma shall be the location of supplier of services, i.e. outside India (USA).**

Question 19

ABC Pvt Ltd, New Delhi, provides support services to foreign customers in relation to procuring goods from India. The company identifies the prospective vendor, reviews product quality and pricing and then shares the vendor details with the foreign customer.

The foreign customer then directly places purchase order on the Indian vendor for purchase of specified goods. ABC Pvt. Ltd. charges its foreign customer cost plus 10% mark up for services provided by it.

The company has charged US \$ 1,00,000 (exclusive of GST) to its foreign customer for the services provided by it. With reference to the provisions of GST law, examine whether the said supply will amount to export of service?

Answer

Section 2(13) defines **Intermediary** to mean a **broker, an agent** or any other person, by whatever name called, **who arranges or facilitates** the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account.

In this case, **since ABC Pvt. Ltd. is arranging or facilitating** supply of goods between the foreign customer and the Indian vendor, the said services can be **classified as intermediary services**.

If the location of the supplier of services or the location of the recipient of service is outside India, POS is determined in terms of section 13. **Since**, in the given case, the **recipient** of supply is located **outside India**, provisions of supply of intermediary services will be determined in terms of **section 13**.

As per section 13(8)(b), **the POS** in case of intermediary services **is the location of the supplier**, i.e. the location of ABC Pvt. Ltd. which is **New Delhi**.

As per section 2(6) of the IGST Act, **export of services means** the supply of any service when:

- (a) the **supplier** of service is located in **India**;
- (b) the **recipient** of service is located **outside India**;
- (c) the **POS** of service is **outside India**;
- (d) the **payment** for such service has been received by the supplier of service in **convertible foreign exchange** or in Indian rupees wherever permitted by the RBI; and
- (e) the supplier of service and the recipient of service are **not merely establishments of a distinct person** in accordance with Explanation 1 in section 8.

Since, in the given case, **POS is in India**, this transaction does **not tantamount to export** of service.

Question 20

RST Inc., a corn chips manufacturing company based in USA, intends to launch its products in India. However, the company wishes to know the taste and sensibilities of Indians before launching its products in India. For this purpose, RST Inc. has approached ABC Consultants, Mumbai, (Maharashtra) to carry out a survey in India to enable it to make changes, if any, in its products to suit Indian taste.

The survey is to be solely based on the oral replies of the surveyees; they will not be provided any sample by RST Inc. to taste. ABC Consultants will be paid in convertible foreign exchange for the assignment.

With reference to the provisions of GST law, determine the POS of the service. Also, explain whether the said supply will amount to export of service?

Answer

As per section 13(2), in case **where the location of the supplier** of services **or** the location of the **recipient** of services is **outside India**, the **POS** of services except the services specified in sub-sections (3) to (13) shall be the **location of the recipient** of services. Sub-sections (3) to (13) provide the mechanism to determine the POS in certain specific situations.

The given case does not fall under any of such specific situations and thus, the POS in this case will be determined under sub-section (2) of section 13. Thus, the POS of services in this as the location of recipient of services, i.e. USA.

As per section 2(6), **export of services means** the supply of any service when,-

- (a) the **supplier** of service is located in **India**;
- (b) the **recipient** of service is located **outside India**;
- (c) the **POS** of service is outside India;
- (d) the **payment** for such service has been received by the supplier of service **in convertible foreign exchange** or in Indian rupees wherever permitted by the RBI; and
- (e) the supplier of service and the recipient of service are **not** merely **establishments of a distinct person** in accordance with Explanation 1 in section 8.

Since all above five conditions are fulfilled in given case, same will be **considered as an export** of service

Question 21

XY Ltd. (registered in Rajasthan) received legal services from an attorney in UK (unrelated person) in relation to registration of a trademark in UK. A consideration of £8,000 was paid by the company to the attorney in UK.

Determine the POS for the service and suggest if XY Ltd. is required to pay tax under RCM on this transaction.

Answer

In the given case, the **service provider is outside India**, and the service **recipient is in India**. Thus, the POS will be determined on the basis of the provisions of **section 13**. Since the given service does **not** get **covered under** any of the **specific provisions of section 13**, the POS thereof will be **governed by the general rule**, i.e. POS of services will be the **location of the recipient** of service, which in this case is **Rajasthan (India)**.

Further, the given case is import of service in terms of section 2(11) as the supplier of service is located outside India, the recipient of service is located in India and the POS of service is in India.

Since the services are imported for a consideration from an unrelated person, the same tantamount to supply in terms of section 7(1)(b) of CGST Act and are liable to GST.

As per RCM Notification No. 10/2017 IT(R), if a service is supplied by a person located in a non-taxable territory to a person located in the taxable territory, other than non-taxable online recipient, the **tax is payable by the recipient of service under RCM**.

Therefore, XY Ltd. will pay GST under RCM on £ 8000 paid by it to the attorney in UK.

Miscellaneous

Question 22

Determine the POS in the following independent cases

- i. Mr. Sahukaar (New Delhi) boards the New Delhi-Kota train at New Delhi. Mr. Sahokaar sells the goods taken on board by him (at New Delhi), in the train, at Jaipur during the journey.
- ii. Vidhyut Pvt. Ltd. imports electric food processors from China for its Kitchen Store in Noida, Uttar Pradesh. Vidhyut Pvt. Ltd. is registered in Uttar Pradesh.
- iii. Mr. Aatmaram, a manager in a Bank, is transferred from Bareilly, Uttar Pradesh to Bhopal, Madhya Pradesh. Mr. Aatmaram's family is stationed in Kanpur, Uttar Pradesh. He hires Gokul Carriers of Lucknow, Uttar Pradesh (registered in Uttar Pradesh), to transport his household goods from Kanpur to Bhopal.
- iv. Bholunath, a resident person, opens his saving account in New Delhi branch of Best Bank after undergoing the KYC process. He goes to Amritsar for some official work and withdraws money from Best Bank's ATM in Amritsar thereby crossing his limit of free ATM withdrawals.
- v. Mr. Chakmak, an architect (New Delhi), enters into a contract with Mr. Zeeshan of New York to provide professional services in respect of immovable properties of Mr. Zeeshaan located in Pune and New York.

Answer

- i. Section 10(1)(e) of the IGST Act lays down that **POS** of goods supplied on board a conveyance like aircraft, train, vessel, or a motor vehicle, **is the location where such goods have been taken on board**. Thus, in the given case, the POS of the goods sold by Mr. Sahukar is the location at which the goods are taken on board, i.e. **New Delhi** and not Jaipur where they have been sold.

ii. As per section 11(a) of the IGST Act 2017, if the goods have been **imported in India**, the POS of goods is **the place where the importer is located**. Thus, in the present case, the POS of the goods imported by Vidhyut Pvt. Ltd. is **Noida, Uttar Pradesh**.

iii. As per section 12(8) of the IGST Act, the POS of services by way of **transportation of goods**, including by mail or courier provided to **an unregistered person**, is the **location at which such goods are handed over** for their transportation.

Since in the given case, the recipient - Aatmaram - is an unregistered person, the POS is the location where goods are handed to Gokul Carriers over for their transportation, i.e. **Kanpur**.

iv. As per section 12(12) of the IGST Act, the **POS of banking and other financial services, including stock broking services** to any person **is the location of the recipient** of services in **the records of the supplier** of services. Thus, in the given case, the POS is the location of the recipient of services in the records of the supplier bank, i.e. **New Delhi**.

v. As per section 13(4) read with section 13(6) of the IGST Act, **where** services supplied directly in relation to an **immovable property** are supplied **at more than one location, including a location in the taxable territory**, the **POS** is the **location in the taxable territory**.

Since in the given case, the immovable properties are located in more than one location including a location in the taxable territory, the POS of architect service is the location in the taxable territory, i.e. **Pune**.

Question 23

Determine POS along with reasons in the following cases:

- (i) Mr. X, an architect (Kolkata), provides interior decorator services to Mr. Y of New York (USA) in relation to his immovable property located in New Delhi.
- (ii) Mr. A (a Chartered Accountant registered in Kolkata) supplies services to his client in Bhubaneswar (registered in Bhubaneswar, Odisha).
- (iii) ABC Ltd. of Patna imported certain goods from XYZ Inc. of USA. The goods were imported through vessel and delivery of goods was taken at Kolkata, whereafter the movement terminates and the goods are stored.
- (iv) Mr.X. registered in Guwahati, has availed land-line services from BSNL. The telephone is installed in residential premises in Kolkata and the billing address is office of Mr. X in Guwahati.
- (v) Mr. X, residing in Chennai, is travelling with an Indian Airline aircraft and is provided with movie- on-demand service for ₹ 100 as on-board entertainment during Delhi-Chennai leg of a Bangkok Delhi-Chennai flight.
- (vi) Mr.X of Kolkata purchased online tickets for Aquatica water park in Mumbai.

- (vii) Mr. Z. an unregistered person of Kolkata, sends a courier from New Delhi to his friend in Chennai, Tamil Nadu while he was on trip to New Delhi.
- (viii) Mr. X a registered person in Ranchi, Jharkhand, buys shares from a broker in Patna on NSE Mumbai. Determine the POS of brokerage service.
- (ix) XYZ Ltd, New Delhi entered into contract with an Indian airline for the supply of biscuit packets for further supply by airline to the passengers in Kolkata-Guwahati route. The biscuits were loaded on board in Lucknow.

Answer

- i. **New Delhi.** In a case where location of the supplier or location of recipient of service is outside India, the POS of services supplied directly in relation to an immovable property including that of interior decorators is the **place where the immovable property is located.**
- ii. **Bhubaneshwar, Odisha .** The POS of services except, the specified services made to a registered person, is the **location of such person.**
- iii. **Patna.** The POS of goods imported into India is the **location of the importer.**
- iv. **Kolkata.** The POS of services by way of fixed telecommunication line is the location **where the telecommunication line is installed** for receipt of services.
- v. **Bangkok.** The POS of services on board an aircraft is the location of the **first scheduled point of departure** of that aircraft or flight for the journey.
- vi. **Mumbai.** The POS of services provided by way of admission to an amusement park is the place **where the park is located.**
- vii. **New Delhi.** The POS of services by way of transportation of goods by courier to a person other than a registered person is the **location at which such goods are handed over** for their transportation.
- viii. **Ranchi, (Jharkhand).** The POS of stock broking services to any person shall be the location of the recipient of services **on the records of the supplier** of services. [It has been assumed that the location of recipient of service is available in the records of supplier of service.]
- ix. Where the **supply involves movement of goods**, the POS of such goods is the **location** of the goods **at the time at which the movement of goods terminates** for delivery to the recipient. **Therefore**, the **POS** of biscuit packets sold by XYZ Ltd. to Indian Airlines is Lucknow. [It has been assumed that in the given case, the movement of goods (biscuit packets) terminates at Lucknow.]

Further, **where** the goods are supplied on **board an aircraft**, the POS shall be the **location at which such goods are taken on board**. Thus, the POS of biscuit packets sold by Indian Airlines to the passengers in Kolkata-Guwahati route is **Lucknow**.

Question 24

Determine the POS in respect of the following independent instances under the provisions of IGST Act

- i. Miss Poorva, an interior design consultant, having office at Chennai (Tamil Nadu), provided professional services to Mr. Nihil who resides in Dubai, for his two immovable properties under single contract, one property is outside India at Singapore and another at Surat (Gujarat).
- ii. United Traders, having a registered place of business at Bengaluru (Karnataka), imported Instruments used in COVID treatment from London (UK) through Vizag (Andhra Pradesh) Port.
- iii. M/s Aerospace Airlines, having registered place of business in Mumbai under GST, issued a ticket from London to Delhi to Mr. Ajit Khanna, a resident of Agra, UP, who is not registered under GST

Answer

- i. In a case **where** location of **supplier or recipient** of service is **outside India**, the **POS** of services of interior decorators provided directly in **relation** to an **immovable property** is the **location of immovable property**. Further, **where** such services are supplied at **more than one location, including a location in the taxable territory**, the **POS** of said services is the location of immovable property in the **taxable territory**.

In view of the above provisions, POS of Miss. Poorva's (interior design consultant located in India) services provided to Mr. Nihil (recipient located outside India in Dubai) in respect of immovable properties, located in Surat (Gujarat) and in Singapore, is the location in taxable territory, i.e. **Surat (Gujarat)**.

- ii. The **POS of goods imported into India is the location of the importer**. Thus, in the given case, POS of instruments imported by United Traders is **Bengaluru (Karnataka)**.
- iii. The **POS of passenger transportation service** to Mr. Ajit Khanna -an **unregistered person**- is **London**. i.e place **where he embarked on the conveyance for a continuous journey**.

Charitable and Religious

Question 1

Sarva Sugam Charitable Trust, a trust registered under section 12AB of Income-tax Act, 1961, provides the following information relating to supply of its services for the month of Aug:

	Amount (₹)
Renting of residential dwelling for use as a residence to an unregistered person	18,00,000
Renting of rooms for devotees (Charges per day 750)	6,00,000
Renting of kalyanamandapam (Charges per day 15,000)	12,00,000
Renting of halls and open space (Charges per day 7,500)	10,75,000
Renting of shops for business (Charges per month 9,500)	4,75,000
Renting of shops for business (Charges per month 12,000)	7,50,000

Compute the GST liability of Sarva Sugam Charitable Trust for the month of Aug assuming that the above amounts are exclusive of GST and rate of GST, wherever applicable, is 18%.

Note: The rooms/Kalyanamandapam/halls/open space/shops owned by the trust are located within the precincts of a religious place, meant for general public, owned by the trust.

Answer

Renting of precincts of a religious place meant for general public, owned/managed by, inter alia, an entity registered as a charitable trust under section 12AB of the Income-tax Act are exempt from GST vide exemption notification. However, said exemption is not available if:

- (i) charges for rented rooms are ₹1,000 per day or more;
- (ii) charges for rented community halls, Kalyan mandapam, open area are ₹10,000 per day or more;
- (iii) charges for rented shops are ₹10,000 per month or more.

Further, services by way of renting of residential dwelling for use as residence to an unregistered person are also exempt vide exemption notification.

Computation of GST liability of Sarva Sugam Charitable Trust for Aug

Particulars	Value (₹)	GST @ 18% (₹)
Renting of residential dwelling for use as residence to an unregistered person [Exempt vide exemption notification]	18,00,000	Nil
Renting of rooms for devotees [Exempt since charges per day are below 1,000]	6,00,000	Nil

Renting of Kalyanamandapam Taxable since charges per day exceed 10,000]	12,00,000	2,16,000
Renting of halls and open spaces [Exempt since charges per day are below 10,000]	10,75,000	Nil
Renting of shops for business [Exempt since charges per month are below 10,000]	4,75,000	Nil
Renting of shops for business [Taxable since charges per month exceed 10,000]	7,50,000	1,35,000
Total		3,51,000

Agriculture

Question 2

Rahul Agri Millers Ltd, located in Haryana, is engaged in customs milling of paddy into rice. It does not pay GST on the same as it is of the view that the process of milling of paddy into rice is exempt under GST since it is an Intermediate production process in relation to cultivation of plants. However, Department demands tax on said activity contending that it is not eligible for said exemption. You are required determine the veracity of the Department's contention.

Answer

Yes, the contention of the **Department is correct**. As per Notification No. 12/2017 CT (R) dated 28.06.2017, **carrying out an intermediate production process as job work in relation to cultivation of plants** and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce **is exempt** under GST.

Milling of paddy is not an intermediate production process in relation to cultivation of plants. It is a process carried out after the process of cultivation is over and paddy has been harvested. Further, processing of paddy into rice is not usually carried out by cultivators, but by rice millers. Milling of paddy into rice also changes its essential characteristics.

Therefore, milling of paddy into rice cannot be considered as an intermediate production process in relation to cultivation of plants for food, fibre or other similar products or agricultural produce. In view of the above, it is clarified by CBIC that **milling of paddy into rice is not eligible for exemption** under said notification. Thus, GST is payable on the said activity.

Education

Question 3

Indian Institutes of Management (IIM), Indore organizes a placement drive for the students studying in the campus. Many multinational companies register for the placement program and pay the

registration fee of ₹ 1,00,000. IIM, Indore is of the view that such consideration received from multinational companies for participating in the placement program is exempt from GST. Explain whether the view taken by IIM, Indore is correct.

Answer

Indian Institutes of Management Act (IIM Act) empowers IIMs to (1) grant degrees, diplomas and other academic distinctions or titles, (ii) specify the criteria and process for admission to courses or programmes of study, and (iii) specify the academic content of programmes. Resultantly, all the **IIMs fall under** purview of "**educational institutions**" as they provide education as a part of a curriculum for obtaining a qualification recognized by law for the time being in force.

Further, the **services provided by an educational institution to its students, faculty and staff are exempt** from GST vide exemption notification.

However, in the given case, services have been **provided by the educational Institution (viz. IIM Indore), to the multinational companies**. Therefore, the same is **not exempt** from GST.

Question 4

Determine whether GST is payable in respect of each of the following independent services provided by the registered persons:

- (1) Fees charged from office staff for in-house personality development course conducted by Mungerilal College providing education as part of a curriculum for obtaining a qualification recognised by Indian law- ₹ 10,000,
- (2) Bus fees collected from students by Rosemary College providing education as part of a curriculum for obtaining a qualification recognised by Indian law - ₹ 2,500 per month.
- (3) Housekeeping service provided by M/s. Clean Well to Himavarsha Montessori school, a play school, for cleaning its playground and classrooms- ₹ 25,000 per month.
- (4) Info link supplied "Tracing Alphabets", an online educational journal, to students of UKG class of Sydney Montessori School - ₹ 2,000.

Answer

(1) **Services provided by an educational institution to its students, faculty and staff are exempt** from GST vide exemption notification. Educational Institution has been defined to mean, inter alia, an institution providing services by way of education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force.

Since Mungerilal College provides education as part of a curriculum for obtaining a qualification recognised by Indian law, the services provided by it to its staff by way of conducting personality development course would be **exempt** from GST.

(2) Since Rosemary College provides education as a part of a curriculum for obtaining a qualification recognised by Indian law, the **transport services provided by Rosemary College to its students are exempt** from GST.

(3) Services provided to an educational institution, by way of, inter alia, **house-keeping services performed are exempt** from GST vide exemption notification where such services are performed in such educational institution. However, such exemption is available only when the said services are **provided to a pre-school education and a higher secondary school** or equivalent.

In view of the above discussion, house-keeping services provided to Himavarsha Montessori Play School are **exempt** from GST since housekeeping services have been performed in such play school itself.

(4) **Services provided to an educational institution by way of supply of online educational journals or periodicals is exempt** from GST vide exemption notification. However, such exemption is **available only** when the said services are provided to an educational institution **providing education as a part of a curriculum for obtaining a qualification recognised by any law** for the time being in force.

Therefore, supply of online journal to students of UKG class of Sydney Montessori School is **not exempt** from GST.

QUESTION 5

A2X Services Limit registered under GST, is engaged in providing various services to various educational institutions. The company provides the following information in respect of services provided during the month of April 20XX.

S.NO	Description of services provided
(i)	Transportation of students & staff of "Love All", a deemed University
(ii)	Catering services provided to 'Rank CBSE School'
(iii)	Security services provided to 'Win CBSE School', for its annual sports day held at SAI Sports Complex owned by Govt. of India
(iv)	Supply of online periodical science journal to 'Merit CBSE School' for its higher secondary students.
(v)	Services, in relation to placement of students, to 'SKILL', a Govt. recognized vocation training college

Comment on the taxability or otherwise of the above transactions under GST law. Also state the correct legal provisions for the same.

Answer

S.N	Particulars	Taxability
(i)	Transportation of students and staff of deemed University [Taxable since transportation services provided to an educational institution are exempt only if such institution provides pre-school education or education up to higher secondary school or equivalent]	Taxable
(ii)	Catering services provided to "Rank CBSE School" [Catering services provided to an educational institution providing pre-school education or education up to higher secondary school or equivalent are exempt]	Exempt
(iii)	Security services to "Win CBSE School" for its annual sports day held at SAI Sports complex [Security services provided to an educational institution providing pre-school education or education up to higher secondary school are exempt provided such services are performed in the premises of such institution. However, in this case, security services are being provided outside the school campus, and hence the same are taxable.]	Taxable
(iv)	Supply of online periodical science journal to school for its higher secondary students [Taxable since educational institutions providing service by way of pre-school education and education up to higher secondary school or equivalent are not eligible for exemption in respect of supply of online educational journals.]	Taxable
(v)	Services in relation to placement of students, to Govt. recognized vocational training college [Taxable since only services related to admission and conducting exams are exempt for vocational educational institutions]	Taxable

Question 6

BODMAS Ltd. providing educational services, furnishes you with the following information for the various services provided by it for the month of March. 20XX:

Particulars	₹
Receipts from running a Boarding School (including receipts for providing residential dwelling service of ₹14,00,000)	30,00,000
Receipts of 'Gyan Uday - an Industrial Training Institute (ITI) affiliated to the National Council for Vocational Training (NCVT)	2,00,000
Receipts of 'Lakshya', an institute, registered with Directorate General of Employment and Training (DGET), Union Ministry of Labour and Employment, running a Modular Employable Skill Course (MESC) approved by the National Council for Vocational Training (NCVT)	1,00,000
Receipts of "Wizard", a Commercial Coaching Institute providing commercial coaching in the field of arts and science (no certificate was issued on completion of the training)	80,000
Fees from prospective employers for campus interview	4,00,000
Renting of furnished flats for temporary stay to different persons	5,00,000

Receipts of "Concepts", a Commercial coaching institute providing coaching in the field of commerce (a certificate was awarded to each trainee after completion of the training)	1,40,000
Receipts of Gurukul School providing education up-to higher secondary	5,00,000

Compute the value of taxable supply assuming that all the above receipts are exclusive of GST.

Answer

Services provided by an educational institution to its students, faculty and staff are exempt vide Notification No. 12/2017 CGST (Rate). Further, an educational institution means, inter alia, an institution providing services by way of-

- (i) education up to higher secondary school or equivalent;
- (ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;
- (i) education as a part of an approved vocational education course.

In view of the aforesaid provisions, value of taxable supply of BODMAS Ltd. for the month of March, 20XX has been computed as follows:

Particulars	Amount (₹)
Receipts from Boarding School including receipts for residential dwelling service Educational institution providing education up to higher secondary school or equivalent)	Exempt
Receipts of Gyan Uday Educational institution running approved vocational education course (assuming that such courses are run in designated trades)]	Exempt
Receipts of Lakshya running Modular Employable Skill Course [Educational institution running approved vocational education course]	Exempt
Receipts of Wizard a coaching institute [Taxable since coaching institute is not an educational institution]	80,000
Fees from prospective employers for campus interview [Taxable since such services are not specifically exempt]	4,00,000
Renting of furnished flats for temporary stay to different persons [Taxable]	5,00,000
Receipts of Concepts-a coaching institute [Taxable since coaching institute is not an educational institution]	1,40,000
Receipts of Gurukul School providing education up to higher secondary	Exempt
Value of taxable supply	11,20,000

Question 7

"Chanakya Academy" is registered under GST in the State of Uttar Pradesh. The Academy runs the following educational institutions:

(i) "Keshav Institute of Technology (KIT), a private engineering college in Ghaziabad. KIT also runs distance learning post graduate engineering programmes. Exams for such programmes are conducted in select cities at centres appointed by the KIT. All the engineering courses including the distance learning post graduate engineering programme run by KIT are recognised by the law [The All India Council for Technical Education (AICTE)].

(ii) "Little Millennium", a pre-school in Lucknow.

(i) 'Bright Minds', a coaching institute in Kanpur. The Institute provides coaching for Institute Banking Personnel Selection (IBPS) Probationary Officers Exam.

(iv) 'Spring Model' a higher secondary school affiliated to CBSE Board.

The Academy provides the following details relating to the expenses incurred by the various institution run by it during the period April 20XX to Sep 20XX:

Table 1

S.NO	Particulars	KIT (₹)	Little Millennium (₹)	Bright Minds (₹)	Spring Model (₹)
(i)	Printing services for printing the Question papers (paper and content are provided by the Institutions)	2,50,000		1,50,000	2,00,000
(ii)	Paper procured for printing the Question Papers	4,30,000		2,58,000	3,44,000
(iii)	Honorarium to paper setters and Examiners (not on the rolls of Institution)	5,00,000			
(iv)	Rent for exam centres taken on rent like schools etc., for conducting examination	8,00,000		1,00,000	
(v)	Subscription for online educational journals (Little Millennium has taken the subscription for online periodicals on child development and experiential learning]	4,00,000	80,000	2,20,000	2,40,000
(vi)	Hire charges for buses used to transport students and faculty from their residence to the institutions and back.	4,80,000	5,50,000	1,30,000	7,50,000
(vii)	Catering services for running a canteen in the campus for students (Catering services for KIT include a sum of ₹60,000 for catering at a	3,20,000	2,60,000	1,80,000	5,00,000

	student event organised in banquet hall outside campus)				
(viii)	Security and housekeeping services for the institution(s) (Security and housekeeping services for Spring Model include a sum of ₹80,000 payable for security and housekeeping at student event organised in a banquet hall outside the campus)	6,00,000	4,00,000	3,75,000	4,65,000

The academy further provides the following details relating to the receipts of the various institutions run by it during the period April 20XX to Sep 20XX:

Table 2

Sr.No	Particulars	KIT (₹)	Little Millennium (₹)	Bright Minds (₹)	Spring Model (₹)
(i)	Tuition fee	35,00,000	15,00,000	20,00,000	25,00,000
(ii)	Transport fee charged from Students	5,00,000	6,00,000	1,30,000	8,50,000

With the help of the above details -

(i) Determine the amount of GST payable, if any, on goods and services received during April 20XX to Sep 20XX by the various educational institutions run by the 'Chanakya Academy':

(ii) Compute net GST liability of the 'Chanakya Academy' payable from the E-cash Ledger, for the period April 20XX to Sep 20XX.

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

Notes:

(a) Rate of GST on goods is 12%, catering service is 5% and on other services is 18%.

(b) Wherever relevant, all the conditions necessary for availing the ITC have been complied with.

Answer

(i) Notification No. 12/2017 CT(R) (hereinafter referred to as exemption notification) which exempts various services from GST leviable thereon exempts select services provided to an educational institution.

Here, the "educational institution" means an institution providing services by way of, -

(i) pre-school education and education up to higher secondary school or equivalent;

- (ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;
- (iii) education as a part of an approved vocational education course;

The select services which are exempt when provided to an educational institution are-

- (i) **transportation** of students, faculty and staff;
- (ii) **catering**, including any mid-day meals scheme sponsored by the Central Govt., State Govt. or UT;
- (iii) **security or cleaning or house-keeping** services performed in such educational institution;
- (iv) services relating to **admission** to, or conduct of examination by, such institution;
- (v) **supply of online educational journals** or periodicals

However, the services mentioned in points (i), (ii) and (iii) are exempt only when the same are provided to an educational institution providing services by way of pre-school education and education up to higher secondary school or equivalent.

Also, the supply of online educational journals or periodicals is not exempt from GST when provided to-

- (i) pre-school education and education up to higher secondary school or equivalent; or
- (ii) education as a part of an approved vocational education course.

Further, as per S. No. 22 of Notification No. 12/2017 CT (R) services by way of giving on hire motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent is exempt.

In the given case, all the engineering courses including the distance learning post graduate engineering programme run by KIT are recognised by the law [The All India Council for Technical Education (AICTE)]. Therefore, **since KIT imparts education as a part of a curriculum for obtaining a qualification recognised by the Indian law, the same is an educational institution** in terms of the exemption notification.

Similarly, Little Millennium and Spring Model, being a pre-school and a higher secondary school respectively are also educational institutions in terms of the exemption notification.

However, Bright Minds, being a coaching centre, training candidates to secure a banking job, is not an educational institution in terms of the exemption notification. Hence, none of the select services (mentioned above) will be exempt when provided to Bright Minds.

In the light of the foregoing provisions, the amount of GST payable on goods and services received by these educational institutions during April 20XX to Sep 20XX is computed as under:

Particulars	KIT (₹)	Little Millennium (₹)	Bright Minds (₹)	Spring Model (₹)
Printing services for printing the Question papers (paper & content are provided by the Institutions]	Exempt [Services provided to educational institution. In relation to conduct of examination]		27,000 [1,50,000 x 18%]	Exempt
Paper procured for printing Question papers [Supply of select services to educational institutions is exempt and not supply of goods to such educational institutions]	51,600 (4,30,000 X 12%)		30,960 [2,58,000 x 12%]	41,280 [3,44,000 x 12%]
Honorarium to paper setters and examiners (not on the rolls of the educational institution)	Exempt [Services provided to educational institution in relation to conduct of examination]			
Rent for exam centres taken on rent like schools etc. for conducting examination	Exempt [Services provided to educational institution in relation to conduct of examination]		18,000 [1,00,000 x 18%]	
Subscription for online educational journals [Little Millennium has taken the subscription for online periodical on child development and experiential learning]	Exempt	14,400 [80,000 x 18%]	39,600 [2,20,000 x 18%]	43,200 [2,40,000 x 18%]
Hire charges for buses used to transport students and faculty from their residence to the institutions and back	86,400 [4,80,000 X 18%]	Exempt	23,400 [1,30,000 x 18%]	Exempt
Catering services for running a canteen in campus for students [Catering service provided to pre-school and the higher secondary school is exempt irrespective of whether the same is provided within or outside premises of pre-school and higher secondary school]	16,000 [3,20,000 X 5%]	Exempt	9,000 [1,80,000 x 5%]	Exempt
Security housekeeping services for institution(s) Security A housekeeping service	1,08,000 [6,00,000 X 18%]	Exempt	67,500 [3,75,000	14,000 [80,000

provided to pre-school and the higher secondary school, for the student event organised in a banquet hall will be taxable as only the security & housekeeping service provided within the premises of pre- school and the higher secondary school are exempt.)			x 18%]	x 18%]
Total payable GST on the goods and Services received by educational institutions	2,62,000	14,400	2,15,460	98,880

(ii) (1) Sl. No. 66 of Notification No. 12/2017 CT(R) also exempts services provided by an educational institution to its students, faculty and staff. All the educational institutions run by the Chanakya Academy except Bright Minds are educational institutions in terms of the exemption notification (as explained under point (i) above). Therefore, the education services and the transport services provided by KIT, Little Millennium, and Spring Model to its students will be exempt from GST under Sl. No. 66 of the exemption notification. Thus, only the educational services provided by Bright Minds will be liable to GST @ 18%.

(2) No ITC (ITC) will be availed on inputs and input services used in providing exempt education services, i.e. education services by KIT, Little Millennium, and Spring Model. **Only Bright Minds will be entitled to avail ITC on inputs and input services used in providing taxable education services.** However, **ITC on outdoor catering services will be blocked** in terms of section 17(5)(b)(i) of the CGST Act.

(3) Since there are no **common inputs and input services** being used for providing taxable and exempt services, **need for reversal of ITC attributable to exempt supplies will not arise.**

In the light of the foregoing provisions, the net GST liability of Chanakya Academy, which will comprise of only the tax liability of Bright Minds, is computed as under:

Particulars	Bright Minds (₹)
Tuition fee	20,00,000
Transport fee charged from students	<u>1,30,000</u>
Value of output supply taxable @ 18%	21,30,000
GST liability @ 18%	3,83,400
Less: ITC [Total tax payable by Bright Minds on the service received by it as computed in point (i) above less the tax payable on catering charges (2,15,460-9,000)]	<u>2,06,460</u>
Net GST payable from E-cash Ledger	1,76,940

Healthcare

Question 8

Swasthya Nursing Home, a clinical establishment, offers the following services:

- (i) Rooms provided to the in-patients where the room charges per day are ₹ 6,500.
- (ii) Plastic surgery conducted to repair cleft lip of a new born baby.
- (iii) Air ambulance services to transport critically ill patients from distant locations to Swasthya Nursing Home.
- (iv) Supply of food to the in-patients as per the advice of the doctor/nutritionist from its restaurant - Annapurna Bhawan-located in the basement of Swasthya Nursing Home. The food is prepared by its employees and nothing is outsourced to any third-party vendors.
- (v) Supply of food to other patients (who are not admitted) or their attendants.
- (vi) Homeopathic medical treatment.

Swasthya Nursing Home also operates a cord blood bank which provides services in relation to preservation of stem cells.

Determine whether GST is payable in respect of each of the above services provided by Swasthya Nursing Home.

Answer

Health care services provided by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST . In light of the same, eligibility to exemption in respect of each service offered by Swasthya Nursing Home is examined below:

(i) **Not Exempt.** Exemption available to health care services provided by a clinical establishment shall not apply to the services provided by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neo natal Intensive Care Unit (NICU)] having room charges exceeding ₹ 5000 per day to a person receiving health care services.

(ii) **Exempt.** Health care service does not include, inter alia, cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.

Therefore, plastic surgeries will not be entitled to the said exemption, but the plastic surgery conducted to repair a cleft lip will be eligible for exemption as it reconstructs anatomy or functions of body affected due to congenital defects (cleft lip).

(iii) **Exempt.** Health care service includes services by way of transportation of the patient to and from a clinical establishment. Thus, air ambulance service to transport critically ill patients to Swasthya Nursing Home would be eligible for exemption under the said notification.

(iv) **Exempt.** Circular No. 32/06/2018 GST has clarified that food supplied by the hospital canteen to the in-patients as advised by the doctor/nutritionists is a part of composite supply of health care services and is not separately taxable. Thus, it is exempt from GST.

(v) **Taxable.** As per Circular 32/06/2018, This supply will not fall under composite supply of health-care services hence liable to GST.

(vi) **Exempt.** Since Homeopathy is a recognized system of medicine in terms of section 2(h) of Clinical Establishments Act, 2010, the same would be eligible for exemption under the said notification.

Further, exemption available to **services provided by cord blood banks** by way of preservation of stem cells or any other service in relation to such preservation has been withdrawn. Therefore, services provided in relation to preservation of stem cells by the cord blood bank operated by Swasthya Nursing Home **will be liable to GST.**

Question 9

Shiva Medical Centre, a Multi speciality hospital, is a registered supplier in Mumbai. It hires senior doctors and consultants independently, without entering into any employer-employee agreement with them. These doctors and consultants provide consultancy to the in-patients-patients who are admitted to the hospital for treatment - without there being any contract with such patients, in return, they are paid the consultancy charges by Shiva Medical Centre.

However, money actually charged by Shiva Medical Centre from in-patients is higher than consultancy charges paid to the hired doctors and consultants. The difference amount retained by the hospital, i.e retention money, includes charges for providing ancillary services like nursing care, infrastructure facilities, paramedic care, emergency services, checking of temperature, weight, blood pressure etc.

The Department took a stand that senior doctors and consultants are providing services to Shiva Medical Centre and not to patients. Hence, their services are not health care services and must be subject to GST.

Further, GST is applicable on the retention money kept by Shiva Medical Centre.

You are required to examine whether the stand taken by the Department is correct.

Answer

No, the stand taken by the **Department is not correct.**

Services by way of **health care services by a clinical establishment, an authorised medical practitioner or para-medics are exempt** from GST vide exemption notification.

Health care services have been defined to mean any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.

Circular No. 32/06/2018 GST has clarified that the entire amount charged by the hospitals from the patients including the retention money and the fee/payments made to the doctors etc. is towards the healthcare services provided by the hospitals to the patients and is exempt from GST. In view of the same, **GST is not applicable on the retention money kept by Shiva Medical Centre.**

The circular also clarifies that **services provided by senior doctors/ consultants/technicians hired by the hospitals, whether employees or not, are also healthcare services exempt** from GST. Hence, services provided by the senior doctors and consultants hired by Shiva Medical Centre, being healthcare services, are also exempt from GST.

Question 10

Vedanta Hospital, Gurgaon has its own restaurant-Annapurna Bhawan - in the basement which supplies food to its in-patients (patients admitted in the hospital) as per the advice of the doctor/nutritionist. Annapurna Bhawan also supplies food to other patients (who are not admitted) or their attendants or visitors. The food is prepared by the employees of the hospital and nothing is outsourced to any third-party vendors. Vedanta Hospital is of the view that all services provided by a clinical establishment are exempt from GST and thus, it is not liable to pay any tax. You are required to test the correctness of the view taken by Vedanta Hospital.

Answer

Services by way of **health care services by a clinical establishment, an authorised medical practitioner or para-medics are exempt** from GST vide exemption notification. Circular No 32/06/2018 GST has clarified that **food supplied by the hospital canteen to the in- patients** as advised by the doctor/nutritionists is a **part of composite supply of healthcare services** and is not separately taxable. Thus, it is **exempt** from GST. However, other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable.

In view of the same, **GST is not applicable on the food supplied by Annapurna Bhawan to in-patients** as advised by doctors/nutritionists while **other supplies of food by it to patients (not admitted) or their attendants/visitors are taxable.**

Govt.

Question 11

India Corporations Ltd., a Public Sector Undertaking (PSU), has taken loan from a banking company - Wellness Bank. The loan was guaranteed by the Central Govt.. India Corporations Ltd. defaulted in the repayment of such loan. Examine whether the services of guaranteeing of loan by the Central Govt., in the given case, is liable to GST.

Answer

Services supplied by Central Govt., State Govt., UT to their undertakings or Public Sector Undertakings (PSUs) **by way of guaranteeing loans** taken by such undertakings or PSUs from banking companies and financial institutions are **exempt** from GST vide exemption notification.

In the present case, Central Govt. has guaranteed the loan taken by India Corporations Ltd. [a PSU], from Wellness Bank, [a banking company]. Consequently, services provided by the Central Govt., in the form of guarantee of loan, are **exempt** from tax.

Goods Transportation

Question 12

XYZ Ltd., New Delhi, manufactures biscuits under the brand name "Tastypicks". Biscuits are supplied to wholesalers and distributors located across India on FOR basis from the warehouse of the company located at New Delhi. The company uses multiple modes of transport for supplying the biscuits to its customers spread across the country. The transportation cost is shown as a line item in the invoice and is billed to the customers with a mark-up of 2% on total amount of freight paid (inclusive of taxes).

Flour used for the production process is procured from vendors located in Madhya Pradesh on ex-factory basis. The company engages goods transport agencies (GTA) to transport the flour from the factories of the vendors to its factory located in New Delhi.

The company has provided the following data relating to transportation of biscuits and flour in the month of April 20XX:

For sales within the NCR region (₹ 20,00,000), the company arranged a local mini-van belonging to an individual and paid him ₹ 54,000.

For sales to locations in distant States (₹ 1,78,00,000), the company booked the goods by Indian Railways and paid rail freight of ₹ 3,17,000.

For sales to locations in neighbouring States (₹ 55,00,000), the company booked the goods by road carriers (GTAs) and paid road freight of ₹ 3,73,000. Out of the total sales to neighbouring States goods worth ₹ 10,00,000 were booked through a registered GTA who opted to pay GST @ 12% under forward charge. Freight of ₹ 73,000 was paid to such GTA. Rest of the transportation was done by unregistered GTA.

For purchase of flour from Madhya Pradesh (₹ 25,00,000), the company booked the goods by a GTA and paid road freight of ₹ 55,000.

For purchase of butter from Punjab (15,00,000), the company booked the goods by an unregistered GTA and paid road freight of 35,000.

For local purchase of baking powder, the company booked the goods by an unregistered GTA in a single carriage and paid road freight of ₹ 1,500.

For transferring the biscuits (open market value ₹ 4,00,000) to one of its sister concern in Rajasthan, the company booked the goods by an unregistered GTA & paid road freight of ₹ 40,000

(i) Based on the particulars given above, compute the GST payable (Total burden) on the amount paid for transportation by XYZ Ltd. when it avails the services of different transporters.

(ii) Compute the GST charged on transportation cost billed by the company to its customers.

Note: Assume the rate of GST on transportation of goods to be 5% [except where any other rate is specified in the Question] and GST on supply of biscuits to be 12%. There is no mark-up on transportation cost billed to sister concern (non-customer)

Answer

(i) **Computation of GST payable on amount paid for transportation by XYZ Ltd. when it avails the services of different transporters**

Particulars	Freight [₹]	GST [₹]
Transportation of biscuits in a local mini van belonging to an individual [Only the transportation of goods by road by a GTA is liable to GST. Therefore, transportation of goods by road otherwise than by a GTA is exempt from GST-Notification No. 12/2017 CT(R) & 9/2017 IT (R)]	54,000	Nil
Transportation of biscuits by Indian Railways	3,17,000	15,850
Transportation of biscuits by an unregistered GTA [GST is payable by XYZ Ltd. under RCM in terms of section 5(3) of the IGST Act read with Notification No. 10/2017 IT (R)]	3,00,000	15,000
Transportation of biscuits by registered GTA 12% [When the registered GTA opts to pay GST 12% under forward charge, recipient is not required to pay GST under RCM]	73,000	8,760
Transportation of flour by GTA [Services provided by GTA by way of transport (in a goods carriage) of inter alia, flour are exempt from GST]	55,000	Nil
Transportation of butter by an unregistered GTA [Though services provided by GTA by way of transport (in a goods carriage) of, inter alia, milk is exempt from GST, road transport of butter will not be exempted as butter is milk product and not milk. GST is payable by XYZ. Ltd. under RCM]	35,000	1,750
Transportation of baking powder by an unregistered GTA [GST is payable by XYZ Ltd. under RCM]	1,500	75
Transportation of biscuits by an unregistered GTA to sister	40,000	2,000

concern [GST is payable by XYZ Ltd. under RCM)		
Total tax payable by XYZ Ltd. on availing services of different transporters		43,435

(ii) Computation of GST charged on transportation cost billed by XYZ Ltd. to its customers.

Since XYZ Ltd. is supplying biscuits on FOR basis, the service of transportation of biscuits gets bundled with the supply of biscuits. Thus, the supply of biscuits and transportation service is a composite supply, chargeable to tax at the rate applicable to the principal supply (biscuits) i.e., 12% [Section 8(a) of the CGST Act read with the definition of 'composite supply' under section 2(30) of the CGST Act and 'principal supply' under section 2(90) of the CGST Act].

Particulars	Freight paid [₹]	GST paid on freight [₹] [B]	Freight billed (with mark-up @ 2% on [A] + [B]) [₹]	GST charged @ 12% [₹]
Transportation of biscuits in a local minivan belonging to an individual	54,000	-	55,080	6,610
Transportation of biscuits by Indian Railways	3,17,000	15,850	3,39,507	40,741
Transportation of biscuits by GTA @5%	3,00,000	15,000	3,21,300	38,556
Transportation of biscuits by GTA @12%	73,000	8,760	83,395	10,007
Total tax charged by XYZ Ltd. on Transportation cost billed to the customers*				95,914

Legal, Banking and Financial

Question 13

Examine whether the following independent intra-State services are exempt from GST:

- Legal services provided by BMC & Partners, Delhi, a partnership firm of advocates, to Vastukaar Enterprises, registered in Delhi, providing architect services (with preceding FY's aggregate turnover as ₹ 21 lakh).
- Minimum balance charges collected by Dhanvarsha Bank from current account and saving account holders.

Answer

- Taxable** : Services provided by a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of **legal services to a business entity with an aggregate turnover up to**

such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, **are exempt** from GST . (hereinafter referred to as exemption notification).

Since in the given case, services are being provided by the partnership firm of advocates - BMC & Partners to a business entity - Vastukaar Enterprises whose **aggregate turnover in the preceding FY exceeded ₹ 20 lakh** i.e. the threshold limit for registration applicable to a service provider in Delhi, **said services are not exempt from GST.**

(b) **Taxable** : Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of **interest or discount** (other than interest involved in credit card services) are **exempt** from GST vide exemption notification.

However, service charges/fees, documentation fees, broking charges, administrative charges, entry charges or such like fees or charges **collected over and above interest** on loan, advance or a deposit are **not exempt and liable to GST.**

In view of the above, **minimum balance charges** collected by Dhanvarsha Bank from current account and saving account holders are **not exempt and are liable to GST.**

Question 14

In the case of transactions at (i) and (ii) below, determine whether the amounts received are liable to GST. Briefly explain the applicable statutory provisions in support of your conclusions.

(i) ABC Ltd., a registered bank, recovered cheque discounting charges of ₹ 5,250 from a customer, C & Co.

(ii) T Ltd., a dealer in air-conditioners, supplies each unit at a list price of ₹ 30,000 per unit. He also has an EMI scheme where the customer can take delivery of air conditioner on a monthly EMI of ₹ 10,500 payable in three installments. T Ltd. charges ₹ 600 extra for any delay in payment of monthly instalments and this amount was recovered from customer Venkat for delay in payment of his 2nd instalment.

Answer

(i) Cheque **discounting is exempt** from GST only to the extent consideration is represented by way of discount. Any charges other than discount is not exempt from GST. Thus, **charges recovered on cheque discounting** by ABC Ltd. are **liable to GST.**

Note: In the above answer, it has been assumed that the cheque discounting charges are the service charges collected over and above discount. However, it is also possible to assume that the said charges represent the discount amount. In that case, said charges will be exempt from GST.

(ii) Service of extending deposits, loans or advances in so far as the consideration is represented by way of **interest is exempt.** However, that applies only **in case where loan/advance is provided without any**

supply of underlying goods/services by the same entity. As per the provisions of sub-clause (d) of sub-section (2) of section 15 of the CGST Act, **interest** or late fee or penalty for delayed payment of any consideration **for any supply is includible in consideration.** Accordingly, the extra charges of Rs. 600/- would be **taxable** as it would be included in the value of supply of air conditioner. Also, at the time of supply tax will be payable on EMI value of air-conditioner i.e. 31500/-.

Sports and Entertainment

Question 15

An individual acts as a referee in a football match organized by Sports Authority of India. He has also acted as a referee in another charity football match organized by a local sports club, in lieu of a lump sum payment. Discuss whether he is required to pay any GST?

Answer

Services provided to a recognized sports body **by** an individual inter alia as a **referee** in a sporting event **organized by a recognized sports body is exempt from GST.**

Since in the first case, the football match is **organized by Sports Authority of India, which is a recognized sports body**, services provided by the individual as a referee in such football match will be **exempt**

However, when he acts as a referee in a charity football match **organized by a local sports club**, he would not be entitled to afore-mentioned exemption as a local sports club is **not a recognized sports body** and thus, **GST will be payable** in this case.

Question 16

RXL Pvt. Ltd. manufactures beauty soap with the brand name "Forever Young". RXL Pvt. Ltd. has organized a concert to promote its brand. Ms. Ahana Kapoor, its brand ambassador, who is a leading film actress, has given a classical dance performance in the said concert. The proceeds of the concert worth Rs. ₹ 1,20,000 will be donated to a charitable organization Whether Ms. Ahana Kapoor will be required to pay any GST?

Answer

Services by an artist by way of a performance **in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre are exempt** from GST, if the consideration charged for such performance is **not more than Rs. ₹ 1,50,000. However**, such **exemption is not available** in respect of service provided by such artist **as a brand ambassador.**

Since Ms. Ahana Kapoor is the brand ambassador of 'Forever Young' soap manufactured by RXL Pvt. Ltd., the services rendered by her by way of a classical dance performance in the concert organized by RXL Pvt. Ltd. to promote its brand will not be eligible for the above-mentioned exemption and thus, be

liable to GST. The fact that the **proceeds** of the concert will be **donated to a charitable organization** **will not have any bearing** on the eligibility or otherwise to the above-mentioned exemption.

Miscellaneous

Question : 17

Explain in brief whether the below mentioned independent cases of supply of services provided are exempt or taxable under GST law, providing very brief reasoning:

(i) Himalayan Wanderers Campsite, a registered entity under GST, has fixed up various tents in Shimla, for lodging purposes being offered to tourists and trekkers.

(ii) Fables Infotech LLP, a having registered place of business in Hyderabad under GST, entered into a contract with Neeta Services for providing air-conditioned mini vans for 1 year for transportation of its female employees working in night shifts to be picked up from designated spots every day at 9.00 p.m. except weekends and dropped to the office. The same female employees were again picked up from office at 6.30 a.m. every morning except weekends and dropped back at the same spots from where they were picked up.

(iii) HumTum Services Limited, registered under GST, provided catering services to Baljatan Anganwadi, an educational institute providing pre- school education amounting to 2,50,000 in the month of Feb.

(iv) 50 women from different cities pursuing diploma in management courses, participated in the 'Leadership Program' designed especially for women for a duration of 9 months by IIM, Bangalore (a certificate as to their participation was awarded to each one of them after the completion of the programme).

(v) Mr. Ashok rented his residential flat to his friend Dr. Kishore, who is not registered under GST for use as his medical clinic at a monthly rent of 15000.

Answer

(i) Taxable: Since there is no specific exemption with respect to services provided by a campsite for lodging purposes, services provided by Himalayan Wanderers Campsite are liable to GST.

(ii) Taxable: Service of transport of passengers provided by Neeta Services are liable to GST since such services are being provided in a contract carriage which is air-conditioned.

(iii) Exempt: Since catering services provided to an educational institution providing pre-school education are exempt from GST, HumTum Services Limited is not liable to pay GST.

(iv) Taxable: Since short duration programs provided by IIMs are not any qualification recognized by law, GST is payable in the given case.

(v) Taxable: Since residential dwelling is rented for use other than residence, GST is payable on the same.

Question 18

British High Commission, chief diplomatic mission of the United Kingdom in India, is providing advisory services to the students willing to travel to UK for further studies. The mission has organized a seminar for such students and a registration fee of ₹ 5,000 per student has been charged from the students for the same. You are required to determine whether the advisory services provided by British High Commission are liable to GST.

Answer

Services by a foreign diplomatic mission located in India are **exempt from GST** vide exemption notification. **Hence**, in the given case, advisory services by British High Commission located in Delhi to the students are **exempt** from GST.

Question 19

Mr. Nagarjun, a registered supplier of Chennai, has received the following amounts in respect of the activities undertaken by him during the month of Sep:

S.N.	Particulars	Amount (₹)
(i)	Amount charged for service provided to recognized sports body as selector of national team.	50,000
(ii)	Commission received as an insurance agent from insurance co.	65,000
(iii)	Amount charged as business correspondent for the services provided to the urban branch of a nationalized bank with respect to savings bank accounts.	15,000
(iv)	Service to foreign diplomatic mission located in India	28,000
(v)	Funeral services.	30,000

He received the services from unregistered goods transport agency for his business activities and paid freight of ₹ 45,000 (his aggregate turnover of previous year was ₹ 9,90,000).

Note: All the transactions stated above are intra-State transactions and also are exclusive of GST.

You are required to calculate gross GST liability (ignoring ITC provisions) of Mr. Nagarjun for the month of Sep assuming that the rate of GST, wherever applicable, is 18% except the GTA services where the rate of GST is 5%. Working notes should form part of your answer.

Answer

Computation of gross GST liability of Mr. Nagarjun

Particulars	Value (₹)	GST (₹)
Supplies on which Mr. Nagarjun is liable to pay GST under forward charge		

Amount charged for service provided to recognized sport body as selector of national team [Note 1]	50,000	9,000
Commission received as an insurance agent from insurance company [Note 2]		Nil
Amount charged as business correspondent for services provided to the urban branch of a nationalised bank with respect to savings bank accounts [Note 3]	15,000	2,700
Services provided to foreign diplomatic mission located in India [Note 4]	28,000	5,040
Funeral services [Note 5]	Nil	Nil
Supplies on which Mr. Nagarjun is liable to pay GST under RCM		
Services received from GTA [Note 6]	45,000	<u>2,250</u>
GST payable		18,990

Notes:

(1) Services provided to a recognized sports body by an individual only as a player, referee, umpire coach or team manager for participation in a sporting event organized by a recognized sports body are exempt from GST vide exemption notification. Thus, service provided as **selector of team liable to GST**.

(2) Commission for providing insurance agent's services is liable to GST. However, the tax payable thereon is to be paid by the recipient of service i.e., insurance company, under **RCM** in terms of Notification No. 13/2017 CT (R). Thus, **Mr. Nagarjun will not be liable to pay GST on such commission**.

3) Services provided by business correspondent to a banking company with respect to accounts in the rural area branch are exempt from GST vide exemption notification. Thus, such services provide in respect of **urban area branch will be taxable**.

(4) While services provided **by** a foreign diplomatic mission located in India are **exempt** from GST vide exemption notification, services provided **to** such mission are **taxable**.

(5) Funeral services being covered in Schedule III of CGST Act are **not a supply** and thus, are outside the ambit of GST.

(6) GST on services provided by a GTA (unregistered) to a registered person is payable by the recipient of service i.e., the registered person, under **RCM** in terms of Notification No. 13/2017 CT (R). The turnover of previous year is irrelevant in this case.

Question 20

Vividh Pvt. Ltd. is a supplier of goods and services at Bangalore, registered in the State of Karnataka having turnover of ₹ 200 lakh in the last FY. It has furnished the following information for the month of June.

Particulars	Amount (₹) excluding GST
Services provided by way of a labour contract for repairing a single residential unit otherwise than as a part of residential complex	13,00,000
Fee received from students of a competitive exam training academy run by Vividh Pvt. Ltd.	5,40,000
4 buses each with a seating capacity of 72 passengers given on hire to State Transport Undertaking	6,00,000
Rent paid to Local Municipal Corporation for premises taken on rent for competitive exam training academy	2,50,000
Goods transport services received from GTA, tax is payable on such services @ 12% as opted by GTA	1,80,000

Compute gross GST liability (ignoring ITC provisions) of Vividh Pvt. Ltd. for the month of June assuming that the above amounts are exclusive of GST and rate of GST, wherever applicable, is 18% unless otherwise mentioned

Answer

Computation of gross GST liability of Vividh Pvt. Ltd.

Particulars	Value of supply (₹)	GST @ 18% (₹)
Services provided by way of labour contracts for repairing a single residential unit otherwise than as a part of residential complex [Services by way of pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex are exempt vide exemption notification. Labour contracts for repairing, are thus, taxable .]	13,00,000	2,34,000
Fee received from students of competitive exam training academy [Fee received from students of competitive exam training academy is taxable as it is not an educational institution since competitive exam training does not lead to grant of a recognized qualification]	5,40,000	97,200
Buses each with seating capacity of 72 passengers given on hire to State Transport Undertaking [Services by way of giving on hire to a state transport undertaking (STU), a motor vehicle meant to carry more than 12 passengers, are exempt from GST vide exemption notification.]	6,00,000	Nil
Services on which tax is payable under RCM:		
Rent paid to Local Municipal Corporation [IGST is payable under RCM in case of renting of immovable property services supplied by a local authority to a registered person.]	2,50,000	45,000
GTA services availed [Since GTA is paying tax @ 12%, tax is payable under forward charge by GTA only and not by Vividh Pvt. Ltd.]	1,80,000	Nil
Gross GST payable		3,76,200

Question 21

M/s A2Z, a proprietary firm registered under GST, is engaged in providing various services under one roof. The firm provides the following information pertaining to supplies made/input services availed (exclusive of GST) by it during the month of March, 20XX:

S.N.	Particulars	Amount
1.	Amount collected for loading, unloading, packing and warehousing of potato chips	15,000
2.	Fees paid for yoga camp conducted by a charitable trust registered under section 12AB of the Income-tax Act, 1961 for employees of the firm	20,000
3.	Interest received on fixed deposits with APNA Bank by the firm	30,000
4.	Professional services provided to foreign diplomatic mission located in India	50,000
5.	Recovery agent services provided to ABC Finance Ltd. - an NBFC located in Delhi	1,00,000
6.	Security services provided to XYZ Ltd. - a registered person under GST	80,000
7.	Receipts from running an educational institution (including receipts for providing residential dwelling service of ₹18,20,000 by the institution to the students)	35,00,000
8.	Supply value including cost of fuel for provision of renting of motor vehicle service to NPS Ltd.	88,000

Determine the GST liability (inclusive of liability for the supplies received also) of M/s A2Z for the month of March 2022 with necessary explanation for treatment of each item. Rate of tax for both inward and outward supply is CGST and SGST @ 9% each except for the service of renting a vehicle for which CGST and SGST @2.5% each is applicable. All the supplies are intra-State only.

Answer

Computation of GST liability of M/s A2Z for the month of March 20XX

S.N	Particulars	CGST (₹)	SGST (₹)
1.	Loading, unloading, packing and warehousing of potato chips [Loading, unloading, packing and warehousing of agricultural produce is exempt. However, potato chips is not an agricultural produce.]	1,350 [15,000 x 9%]	1,350 [15,000 x 9%]

2.	Fees paid for yoga camp [Services provided by a charitable trust registered under section 12AB of the Income- tax Act by way of advancement of yoga are exempt.]	–	–
3.	Interest received on fixed deposits [Services of extending fixed deposits in so far as the consideration is represented by way of interest are exempt.]	–	–
4.	Professional services provided to foreign diplomatic mission located in India [Not exempt.]	4,500 [50,000 x 9%]	4,500 [50,000 x 9%]
5.	Recovery agent services provided to ABC Finance Ltd, an NBFC [Since such services are being provided to an NBFC, tax on the same is payable by recipient - ABC Finance Ltd. under RCM].	–	–
6.	Security services provided to XYZ Ltd., a registered person [Since such services are being provided by a non-body corporate to a registered person, tax on the same is payable by recipient - XYZ Ltd- under RCM]	–	–
7.	Receipts from running an educational institution (including receipts for residential dwelling service) [Services provided by an educational institution and services by way of renting of residential dwelling for use as residence are exempt.]	–	–
8.	<u>Alternative-I: It is assumed that motor vehicle is designed to carry passengers</u> Renting of motor vehicle service [Since services of renting of motor vehicle including cost of fuel with tax payable @ 2.5% CGST/SGST is being provided by a non-body corporate to a body corporate, tax on the same is payable by recipient-NPS Ltd.-under RCM [RCM].]	–	–
	OR		
	<u>Alternative-II: It is assumed that motor vehicle is designed to carry goods</u> Renting of motor vehicle service [Not exempt.]	2,200 [88,000 x2.5%]	2,200 [88,000 x 2.5%]
	<u>Alternative-I: It is assumed that motor vehicle is designed to carry passengers</u> Total GST liability	5,850	5,850

	OR		
	Alternative-II: It is assumed that motor vehicle is designed to carry Goods Total GST liability	8,050	8,050

Question 22

Gupta and Gupta Brothers is a partnership concern registered under GST in the State of Gujarat. It provides the following information pertaining to supplies made/received by it during the month of May;

	Particulars	₹
(i)	Loading, unloading, packing and warehousing of tomato ketchup bottles	4,00,000
(ii)	Provided security services (services provided by way of supply of security personnel) to Sudarshan Ltd., a registered person under GST	3,35,000
(iii)	Provided security services (services provided by way of supply of security personnel) to Divyajyoti Trust, an unregistered person under GST	1,00,000
(iv)	Provided renting of motor vehicle service for carrying passengers to Bharat Travels Ltd. and supply value included cost of fuel	2,35,000
(v)	Provided renting of motor vehicle service for carrying passengers to Suvidha & Co., a partnership firm and supply value included cost of fuel	40,000
(vi)	Recovery agent services provided to Manimani Finance Ltd., an NBFC	4,20,000
(vii)	Received legal consultancy service from Dhruv and Co., a law firm, for business purposes	70,000
(viii)	Services provided to Gujarat Govt. administration under a Health Training programme (90% of the total expenditure for said programme is borne by Gujarat Govt.)	80,000

Determine the GST liability (inclusive of GST liability for the supplies received, if any) of Gupta and Gupta Brothers for the month of May by giving necessary explanations for treatment of various items. Rate of tax for both inward and outward supply is CGST @9% and SGST @9% except services of renting a motor vehicle for transportation of passengers, on which CGST @ 2.5% and SGST @ 2.5% is applicable. Gupta and Gupta Brothers commenced its business from April in the current FY. All the above supplies are intra-State supplies.

Answer

GST liability of Gupta & Gupta Brothers

	Particular	Value(₹)	CGST(₹)	SGST(₹)
A.	GST liability on outward supply			
(i)	Loading unloading, packing and warehousing of tomato ketchup [Loading, unloading, packing and warehousing of agricultural produce is exempt. However, tomato ketchup is not an agricultural produce.]	4,00,000	36,000 [4,00,000 x 9%]	36,000 [4,00,000 x 9%]
(ii)	Security services to Sudarshan Ltd., a registered person [Tax is payable under RCM by the recipient since security services are being provided by a non-body corporate to a registered person.]			
(iii)	Security services to Divyajyoti Trust, an unregistered person [Tax is payable under forward charge since Security services are being provided by a non-body corporate to an unregistered person.]	1,00,000	9,000 [1,00,000 x 9%]	9,000 [1,00,000 x 9%]
(iv)	Renting of motor vehicle for carrying passengers to Bharat Travels Ltd. where value included cost of fuel [Tax is payable under RCM by recipient since such services are provided by a non-body corporate to a body corporate and GST is payable @ 5%.]			
(v)	Renting of motor vehicle for carrying passengers to Suvidha & Co, a partnership firm, where supply value included cost of fuel [Tax is payable under forward charge since such services are provided by a non-body corporate to a non-body corporate]	40,000	1,000 [40,000 x 2.5%]	1,000 [40,000 x 2.5%]
(vi)	Recovery agent services provided to Manimani Finance Ltd, an NBFC [Since such services are being provided to an NBFC, tax on the same is payable by recipient – Manimani Finance Ltd.-under RCM]			
(viii)	Services provided to Gujarat Govt. administration under Health Training programme [Exempt since the total expenditure borne by the Gujarat Govt. is more than 75%.]			
Total GST liability on outward supplies			46,000	46,000

B.	GST liability on inward supplies under RCM			
(vii)	Availed legal consultancy service from Dhruv and Co., a law firm, for business purposes [Legal services provided by a partnership firm of advocates/individual advocate other than a senior advocate to a business entity with an aggregate turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration, are exempt from GST. Since Gupta and Gupta Brothers started its business in April in the current financial year, its turnover in the preceding FY is nil making it eligible for exemption from registration in the preceding FY and hence, the legal services provided to it are exempt from GST.]	70,000		
GST liability on inward supplies under RCM				

Question 23

Pethalal has obtained registration in the current FY in Uttar Pradesh. His turnover in the preceding FY was ₹ 19,90,000. He has received the following amounts in respect of the activities undertaken by him in the month of Sep:

S.N.	Particulars	Amount (₹)
(i)	Funeral services	8,80,000
(ii)	Services of warehousing of Jaggery	50,000
(iii)	Electrically operated buses given on hire to Municipal Corporation	5,00,000
(iv)	Service provided to recognized sports body as commentator	2,00,000
(v)	Commission received as an insurance agent from insurance company	65,000
(vi)	Commission received as business facilitator for the services provided to the urban branch of a nationalized bank with respect to savings bank accounts	15,000
(vii)	Security services (supply of security personnel) provided to Damodar Engineering College (DEC)* [registered under GST] for security of college premises *All the engineering courses run by DEC are recognised by the law [The All India Council for Technical Education (AICTE)]	28,000

Further, he has received following services in the month of Sep:

S.N.	Particulars	Amount (₹)
(a)	Freight paid to unregistered goods transport agency for his business activities relating to serial number (i) above	1,00,000
(b)	Legal advice received from M/s Kanoon Associates, a partnership firm, seeking advice in relation to a tax dispute of the business	50,000

All the transactions stated above are intra-State transactions and amounts given are exclusive of GST, wherever applicable.

You are required to calculate net GST payable by Pethalal for the month of Sep. There was no opening balance of ITC. Rate of CGST and SGST is 9% each for all the outward supplies made by Pethalal

Answer

Computation of net GST payable by Pethalal

Particulars	Amount(₹)	CGST(₹)	SGST(₹)

<u>Supplies on which Pethalal is liable to pay GST under forward Charge</u>			
Funeral services [Note 1]	8,80,000		
Services of warehousing of jaggery taxable @ 9% CGST & 9% SGST [Note 2]	50,000	4,500	4,500
Services by way of giving on hire electrically operated buses to Municipality [Note 3]	5,00,000		
Service provided to recognized sports body as commentator taxable @ 9% CGST & 9% SGST [Note 4]	2,00,000	18,000	18,000
Commission received as an insurance agent from insurance company [Note 5]	65,000		
Commission received as business facilitator for the services provided to the urban branch of a nationalised bank with respect to savings bank accounts [Note 6]	15,000		
Security services (supply of security personnel) provided to DEC for the security of the college premises [Note 7]	28,000		
Total tax liability on outward supplies (A)		22,500	22,500
<u>Supplies on which Pethalal is liable to pay GST under RCM</u>			
Services received from GTA taxable at 2.5% CGST & 2.5% SGST [Note 8]	1,00,000	2500	2500
Legal services received [Note 9]	50,000		
Total tax liability on inward supplies under RCM (B)-payable in cash [Note 10]		2,500	2,500
ITC available on input services [Note 8]		Nil	Nil
Net GST payable (A) + (B)		25,000	25,000

Notes:

(1) Funeral services being covered in entry 4 of Schedule III to the CGST Act are not a supply and thus, are outside the ambit of GST.

(2) The exemption in respect of services by way of storage/warehousing of, inter alia, Jaggery is withdrawn. Thus, services of warehousing of Jaggery are taxable.

(3) Services by way of giving on hire to a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers are exempt vide exemption notification. Buses are EOVs meant to carry more than 12 passengers. Hence, services of giving electrically operated buses on hire to Municipal Corporation are exempt from GST.

(4) Services provided to a recognized sports body by an individual only as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body are exempt from GST vide exemption notification. Thus, service provided as commentator is liable to GST.

(5) Though commission for providing insurance agent's services to any person carrying on insurance business is liable to GST, the tax payable thereon is to be paid by the recipient of service i.e insurance company, under RCM in terms of Notification No. 13/2017 CT(R) (hereinafter referred to as RCM notification). Thus, Pethalal will not be liable to pay GST on such commission.

(6) Services provided by a business facilitator to a banking company with respect to accounts in its rural area branch are exempt from GST vide exemption notification. Thus, services provided by him in respect of urban area branch of the bank will be taxable. However, the tax payable thereon is to be paid by the recipient of service i.e, banking company, under RCM in terms of RCM notification. Hence, Pethalal will not be liable to pay GST on commission received for said services.

(7) Services provided to an educational institution, by way of security services performed in such educational institutions are exempt from GST only when said services are provided to an institution providing services by way of pre-school education and education up to higher secondary school or equivalent, vide exemption notification. Thus, in the given case, security services provided to DEC are not exempt. Further, the tax on security services (supply of security personnel) provided by any person other than a body corporate to a registered person is payable by the recipient of service under RCM in terms of RCM notification. Hence, Pethalal will not be liable to pay GST in the given case.

(8) GST on services provided by a GTA (unregistered) to, inter alia, a registered person is payable by the recipient of service i.e., the registered person, under RCM in terms of RCM notification. Since in the given case, GTA is unregistered, Pethalal is liable to pay tax under RCM @5% (CGST @ 2.5% and SGST @ 2.5%). Further, since said input services are being exclusively used for effecting non-taxable supplies [funeral services], ITC of the GST paid on the same will not be available.

(9) Legal services provided by a partnership firm of advocates to a business entity (with an aggregate turnover up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act) are exempt from GST vide exemption notification. Since the aggregate turnover of Pethalal did not exceed ₹ 20 lakh [the applicable threshold limit for registration for Pethalal being a supplier of services] in the preceding FY, legal services received by him are exempt from GST.

(10) As per section 49(4) of the CGST Act, amount available in the E-credit ledger may be used for making payment towards output tax. However, tax payable under RCM is not an output tax in terms of section 2(82) of the CGST Act. Therefore, tax payable under RCM cannot be set off against the ITC and thus, will have to be paid in cash.

(11) Since all the transactions given hereunder are intra-State, CGST and SGST are payable in terms of section 9(1) of the CGST Act.

Time of Supply of Goods

Question 1

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

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

What will be your answer if invoice has been issued on 27th April 20XX.

Answer

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

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

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

If Invoice been issued on 27th April, time of supply of goods is 25th April being the last date on which invoice ought to have been issued.

Question 2

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

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

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

Answer

As per Notification No. 66/2017 CT, a registered person (excluding composition supplier) has to pay GST on outward supply of goods at the time of supply as specified in section

12(2)(a) i.e, date of issue of invoice or last date on which invoice ought to have been issued in terms of section 31

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

Question 3

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

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

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

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

The details of the various events are

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

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

Answer

As per Notification No. 66/2017 CT, a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a), i.e. date of issue of invoice or the last date on which invoice ought to have been issued in term of section 31. As per section 31{4}, **in case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice is issued before or at the time of each such statement is issued or, as the case may be, each such payment is received.**

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

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

Question 4

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

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

Answer

SN	Date of receipt of goods (1)	Date of payment by the recipient of goods (2)	Date of issue of invoice by the supplier of goods (3)	Date immediately following 30 days from the date of invoice (4)	Time of supply of goods [Earlier of (1), (2) & (4)] (5)
(i)	July 1	Aug 10	June 29	July 30	July 1
(ii)	July 1	June 25	June 29	July 30	July 1
(iii)	July 1	Part payment made on June 30 and balance amount paid	June 29	July 30	June 30 for part payment made and

(iv)	July 5	on July 20 Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1	July 2	July 1 for balance amount June 28 (i.e., when payment is entered in the books of account of the recipient)
(v)	July 1	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29	July 30	June 26 (i.e., when payment is debited in the recipient's bank account)
(vi)	Aug 1	Aug 10	June 29	July 30	July 30 (i.e., 31st day from issuance of invoice)

Question 5

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

S.No	Date	Event
I	10 TH Feb	Payment of ₹1,00,000 made by buyer for supply of 'A' to be delivered in the month of March
II	13 TH Feb	Receipt of ₹1,00,000 [as mentioned in point (i) above]
III	17 TH Feb	Payment of ₹2,00,000 made by buyer for supply of 'B' to be delivered in the month of March
IV	20 th Feb	Receipt of ₹2,00,000 [as mentioned in point (iii) above]
V	05 th March	Product 'A' manufactured and removed
VI	06 th March	Receipt of product 'A' [as mentioned in point (v) above] by the buyer
VII	10 th March	Product 'B' manufactured and removed
VIII	23 rd March	Receipt of product 'B' [as mentioned in point (vii) above] by the buyer
IX	04 th March	Invoice for ₹ 2,00,000 issued for supply of 'A'
X	11 th March	Invoice for ₹ 4,00,000 issued for supply of 'B'
XI	25 th March	Payment made by the buyer of 'A'

XII	31 th March	Payment [as mentioned in point (xi) above] received
XIII	1 st April	Payment made by the buyer of "B"
XIV	4 th April	Payment [as mentioned in point (xiii) above] received

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

Answer

In terms of section 12(2), the time of supply of goods is the earlier of, the date of issue of invoice/last date on which the invoice is required to be issued or date of receipt of payment. However, Notification No. 66/2017 CT specifies that a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a), i.e. date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31. Also the is important to note that the **relief of not paying GST at the time of receipt of advance is available** only in case of supply of goods, the tax on which is payable **under forward charge**. In case of RCM, GST is payable at the time of payment, if payment is recorded/made before receipt of goods (advance payment) [Section [12(3)]

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

Question 6

Meal coupons are sold to a company on 9th Aug for being distributed to the employees of the said company. The coupons are valid for 6 months and can be used against purchase of food items or restaurant services. The employees use them in various stores for purchases of various edible items on different dates throughout the 6 months.

What is the time of supply of the coupons?

Answer

As the coupons can be used for a variety of food items/restaurant services, which are taxed at different rates, the supply cannot be identified at the time of purchase of the coupons.

Therefore, the **time of supply** of the coupons is the **date of their redemption** in terms of section 12(4)/13(4).

Question 7

A Ltd. sold goods to B Ltd. on 6th June with a condition that interest @ 2% per month will be charged if B Ltd. failed to make payment within 15 days of the delivery of the goods. Goods were

delivered as also the invoice was issued on 6th June. B Ltd. paid the consideration for the goods on 6th July along with applicable interest. Determine the time of supply(ies).

Answer

Time of supply for the goods sold is the date of issue of invoice, i.e. 6th June and the time of supply for addition in value by way of interest is the date when such addition in value is received by A Ltd., i.e. 6th July.

Time of Supply of Services

Question 8

Determine the time of supply from the following particulars:

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

Answer

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

(i) date of provision of service

or

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

or

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

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

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

Question 9

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

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

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

Answer

Time of supply in case of supply of fabric:

Supply of fabric is supply of goods. The time of supply of goods for the purpose of payment of tax is the date of issue of invoice or the last date when the invoice ought to have been issued viz. before/at the time of removal of goods for supply to the recipient, where supply involves movement of goods. Thus, the **time supply for advance of ₹ 1,00,000 as well as for the balance payment of ₹ 50,000 received for the supply of fabric is 10 08.20XX**

Time of supply in case of job work:

Job work is treated as supply of services. The time of supply of services in case where the Invoice is issued within 30 days of provision of service is the earlier of date of invoice or date of recording the payment in the books of account of the supplier or the date on which the payment is credited to supplier's bank account (to the extent the invoice or payment covers supply services). Thus, the **time of supply for advance of ₹ 1,00,000 received for the supply of job work services is 12 09.20XX and for balance amount of ₹ 50,000 is date of issue of invoice i.e. 20.09.20XX**

Question 10

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

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

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

Answer

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

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

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

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

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

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

(A) Date of invoice or date of receipt of payment (to the extent the invoice or payment covers supply services) whichever is earlier, if invoice is issued within time prescribed under section 31 i.e. within 30 days of completion of service.

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

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

Question 11

Renduhoot Ltd. enters into a contract with XYZ Ltd. on 2nd July 2022 for a period of 2 years for construction of a new building- to be used for commercial purposes for a total consideration of 50 lakh. As per the terms of contract, Renduhoot Ltd. is required to make payment at different stages of completion of the building namely, 50% 75% and 100%

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

Stage	Date of various stages	Date of issuance of invoice	Date of payment	Amount (₹)
Initial booking	02.07.2022	02.07.2022	02.07.2022	15 lakh
50% completion of building	15.03.2023	22.03.2023	29.03.2023	60 lakh
75% completion of building	20.06.2023	24.07.2023	23.07.2023	35 lakh
100% completion of building	30.09.2023	30.09.2023	20.09.2023	40 lakh

Answer

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

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

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

Since in the present case, the **construction services are provided under a contract for a period exceeding 3 months with periodic payment obligations**, such services would fall within the ambit of term "**continuous supply of services**" as defined under section 2(33).

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

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

Stages of completion	Time of Supply
Initial booking	Since invoice is issued within the prescribed time limit, earlier of the date of issue of invoice or date of receipt of payment is the time of

	supply. However, date of issuance of invoice (02.07.2022) and date of receipt of payment (02.07.2022) are the same Therefore, time of supply is 02.07.2022 .
50%	Since invoice has not been issued on or before the date of 50% completion, earlier of date of provision of service (15.03.2023) or date of receipt of payment (29.03.2023) i.e 15.03.2023 is the time of supply,
75%	Since invoice has not been issued on or before the date of 75% completion, earlier of date of provision of service (20.06.2023) or date of receipt of payment (23.07.2023). i.e 20.06.2023 is the time of supply.
100%	Since invoice is issued within the prescribed time limit, earlier of the date of issue of Invoice (30.09.2023) or date of receipt of payment (20.09.2023), i.e. 20.09.2023 is the time of supply.

Question 12

Investigation shows that ABC & Co carried out service of cleaning and repairs of tanks in an apartment complex, for which the Apartment Owners' Association showed a payment in cash on 4th April to them against work of this description. The dates of the work are not clear from the records of ABC & Co. ABC & Co have not issued invoice or entered the payment in their books of account.

Answer

The time of supply cannot be determined vide the provisions of clauses (a) and (b) of section 13(2) as neither the invoice has been issued nor the date of provision of service is available as also the date of receipt of payment in the books of the supplier is also not available.

Therefore, the time of supply will be determined vide clause (c) of section 13(2) i.e., the **date on which the recipient of service shows receipt of the service in his books of account.**

Thus, time of supply will be **4th April**, the date on which the Apartment Owners' Association records the receipt of service in its books of account.

Question 13

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

SN	Date of payment by the recipient for supply of services (1)	Date of issue of invoice by the supplier of services (2)
(i)	Aug 10	June 29
(ii)	Aug 10	June 1
(iii)	Part payment made on June 30 and balance amount paid on Sep 1	June 29

(iv)	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1
(v)	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29

Answer

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

Question 14

A firm of lawyers issues invoice for services to ABC Ltd. on 17th Feb. The payment is contested by ABC Ltd. on the ground that on account of negligence of the firm, the company's case was dismissed by the Court. The dispute drags on and finally payment is made on 3rd Nov..

Identify the time of supply of the legal services.

Answer

Time of supply of services that are taxable under RCM is earliest of the following two dates in terms of section 13(3):

Date of payment [3rd Nov.]

61st day from the date of issue of invoice [19th April]

Therefore, 19th April will be the time of supply.

Question 15

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

Case I	22 nd Sep
Case II	27 th Dec.

Determine time of supply in each of the aforesaid cases.

Answer

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

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

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

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

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

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

Question 16

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

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

Answer

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

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

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

Question 17

Determine the time of supply from the given information.

On May 4, A German company issues email informing its associated company ABC Ltd. of the cost of technical services provided to it. On July 2, ABC Ltd transfers the amount to the account of the German company.

Answer

As there is no prior entry of the amount in the books of account of ABC Ltd., July 2 will be the time of supply, being the date of payment in terms of second proviso to section 13(3).

Question 18

Mangesh Enterprises, Goa, a registered supplier, has made the following supplies in the month of Feb

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

(2) Supplied monthly air-conditioner maintenance services (intra-State) to a software company under a contract effective 1st Feb, 20XX for 6 months. According to the terms of service in the

contract, the software company is liable to pay service charges of ₹ 12,000 for the entire period plus cost of spares and replacements at actuals. Taxes are separate and payable in accordance with statute. Mangesh Enterprises is yet to raise an invoice, though service was provided for Feb, 20XX. During the month, the company has not provided any spares or replacements as part of maintenance service. Further, the concern has not received any amount towards above services.

Assume rates of GST as under:

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

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

Answer

(i) Determination of rate and amount of GST

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

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

Change in Rate of Tax

Question 19

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

Answer

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

Question 20

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

Answer

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

Question 21

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

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

Answer

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

Question 22

Basis the following information, determine the time of supply:

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

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

Answer

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

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

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

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

Question 23

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

S. No.	Particulars	Date	Amount in ₹
(1)	Advance paid at the time of booking the hall for a function from 1 st to 3 rd Nov.	16.07.20XX	1,00,000
(2)	Additional deposit paid	18.08.20XX	2,00,000
(3)	Function is held as scheduled	1 st Nov. to 3 rd Nov. 20XX	
(4)	Invoice is issued (Taxable value)	25.11.20XX	2,50,000

Consider that there is a change in the rate of tax on 15th Oct., 20XX from (CGST 2.5% and SGST 2.5%) to (CGST 9% and SGST 9%). What would be the amount of refund payable to the client?

Answer

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

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

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

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

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

Transaction Value (Section 15)

Question 1

Crunch Bakery Products Ltd sells biscuits and cakes through its dealers, to whom it charges the list price minus standard discount and pays GST accordingly. When goods remain unsold with the dealers, it offered additional discounts on the stock as an incentive to push the sales.

Can this additional discount be reduced from the price at which the goods were sold and concomitant tax adjustments made?

Answer

The discounts were not known or agreed for at the time of supply of goods to the dealers. Therefore, in terms of section 15(3), such discounts cannot be reduced from the price on which tax had been paid.

Question 2

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

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

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

Note: All the amounts given above are exclusive of GST

Answer

Computation of Value of Supply and GST liability:

Particulars	Amount (₹)
Rent of the commercial building	18,00,000
Maintenance charges collected by the local society from the owner and reimbursed by the tenant [Being reimbursed by the tenant, such charges ultimately form part of the rent paid by the tenant to the owner and thus, will form part of the value]	2,50,000
Refundable advance [Being refundable, the advance is in the nature of security deposit which does not constitute consideration in terms of section 2(31) of the CGST Act and thus, is not includible in the value]	Nil

Municipal taxes paid by the owner [Being an expenditure incurred by supplier, same is not includible in value, assuming that such taxes are not charged to the recipient.]	Nil
Value of supply	20,50,000
CGST @ 9%	1,84,500
SGST @ 9%	1,84,500

Question 3

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

Price of the goods (exclusive of all taxes/duties and discounts)

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

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

Determine the value of taxable supply made by BW Ltd.

Answer

Computation of value of taxable supply

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

Notes:

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

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

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

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

Question 4

Samriddhi Advertisers conceptualized and designed the advertising campaign for a new product Launched by New Moon Pvt Ltd. for a consideration of ₹ 5,00,000. Samriddhi Advertisers owed ₹ 20,000 to one of its vendors in relation to the advertising service provided by it to New Moon Pvt Ltd. Such liability of Samriddhi Advertisers was discharged by New Moon Pvt Ltd. New Moon Pvt Ltd. delayed the payment of consideration and thus, paid ₹ 15,000 as interest. Assume the rate of GST to be 18%.

Determine the value of taxable supply made by Samriddhi Advertisers.

Answer

Computation of value of taxable supply

Particulars	₹
Service charges	5,00,000
Payment made by New Moon Pvt. Ltd to vendor of Samriddhi Advertisers [Liability of the supplies being discharged by the recipient, is includible in the value in terms of section 15 (2)(b)]	20,000
Interest for delay in payment of consideration (Includible in the value in terms of section 15(2)(d)-Note below) (rounded off)	12,712
Value of taxable supply	5,32,712

Note: The interest for delay in payment of consideration will be includible in the value of supply but the time of supply of such interest will be the date when such interest is received in terms of section 13(6). Such interest has been assumed to be inclusive of GST and thus, the value has been computed by making back calculations $[(\text{Interest} \times 100)/(100 + \text{tax rate})]$

Question 5

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

Particulars	Amount (₹)
List price of the goods (exclusive of taxes/duties and discounts)	76,000

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

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

Determine the value of taxable supplies made by Vayu Ltd.

Answer

Computation of value of taxable supplies by Vayu Ltd.

Particulars	₹
List price of the goods	76,000
Add: Special packing [Note 1]	5,000
Duty levied by local authority on sale of goods [Note 2]	4,000
CGST and SGST charged [Note 2]	-
Subsidy received from an NGO [Note 31]	5,000
Less Discount offered = 3% of List price = ₹ 76,000 × 3% [Note-4]	(2,280)
Value of taxable supplies	87,720

Notes

1. Being incidental expenses charged by the supplier to the recipient of supply, packing charges are includible in the value as per section 15(2)(c).

2 Taxes, duties, etc. levied under any law for the time being in force other than CGST, SGST/UTGST, IGST are includible in the value as per section 15(2)(e).

3 Subsidy directly linked to the price received from a non-Govt. body is includible in the value in terms of section 15(2)(e).

4 Since discount is known at the time of supply, it is deductible from value in terms of section 15(3)(a).

Question 6

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

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

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

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

Answer

Computation of invoice value of supply

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

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

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

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

Note: The above answer is based on the view that part (ii) of the Question is an independent case and thus, the information provided in the first paragraph of the Question regarding payment of freight and transit insurance by Surya Agencies does not apply to it. Moreover, when the contract is ex-factory, it implies that the freight and insurance will be the buyer's responsibility and seller will have no role, whatsoever, in delivering the goods to the customer's premises.

Question 7

Shankar Pvt. Ltd. was awarded a contract in July 2023 for providing flooring and wall tiling services in respect of a building located in Delhi by Padmapriya Ltd. As per the terms of

contract, Shankar Pvt. Ltd. was to provide all the required material for execution of the contract. However, Padmapriya Ltd. also provided a portion of the material.

Determine the value of supply of Shankar Pvt. Ltd. from the following particulars:

Particulars	Rs.
(i) Gross amount charged by the Shankar Pvt. Ltd.	6,00,000
(ii) Fair market value of the material supplied by Padmapriya Ltd.	1,00,000
(iii) Amount charged by Padmapriya Ltd. for the material [included in (i) above]	60,000

Answer

Value of supply of services

	Rs.
Gross amount charged by the Shankar Pvt. Ltd.	6,00,000
Add: Fair market value of the material supplied by Padmapriya Ltd.	1,00,000
Less : Amount charged by Padmapriya Ltd. for the material	(60,000)
Total value subject to GST	6,40,000

Question 8

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

- (i) Company offering 20% discount for purchases above ₹ 10,000
- (ii) Company offering additional discount of 1% on purchase of ₹ 10,000 pieces in a year
- (iii) After selling a product, the company re-values the product at a lower value and issues credit note to the buyer for the differential amount

Answer

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

(ii) The given case is a case of volume discount which are offered by the suppliers to their stockists, etc. Such discounts are established in terms of agreement entered into at or before the time of supply though not shown on the invoice as the actual quantum of such discounts gets determined after the supply has been effected and generally at the year end. Such type of volume discounts are excluded to determine the value of supply provided they satisfy the

parameters laid down in section 15(3) including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document (s) issued by the supplier.

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

Question 9

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

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

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

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

While Shah Electronics reverses the ITC availed for the quarter July-Sep, it has failed to reverse the ITC availed for the quarter April-June.

Examine the scenario with reference to section 15 and compute the taxable value of televisions supplied by BEL to Shah Electronics during the quarters April-June and July-Sep assuming the rate of tax applicable on the televisions as 18%.

Answer

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

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

- (i) such discount is **established in terms of an agreement** entered into at or before the time of such supply and specifically linked to relevant invoices; and
- (ii) **ITC** as is attributable to the discount on the basis of document issued by the supplier has been **reversed by the recipient** of the supply.

In the given case, Shah Electronics is entitled for 10% discount on televisions supplied by BEL for the quarters April June well as July Sep as it has sold more than 500 televisions in each of these quarters. However, since the sales targets are achieved after the entire stock for the

respective quarter of April - June and July Sep has been dispatched, the discounts on the televisions supplied to Shah Electronics for the quarters of April-June and July-Sep is a post-supply discount.

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

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

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

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

Notes

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

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

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

Computation of value of supply for quarter-July-Sep

Particulars	Amount (₹)
Price at which the televisions are supplied to Shah Electronics [Note 1]	8,400
Add: Packing expenses [Note 2]	1,200
Less: Discount [Note 3]	<u>(840)</u>
Value of taxable supply of one unit of television	8,760
Value of taxable supply of televisions for the quarter April-June [₹ 8,760 x 1000]	87,60,000

Notes:

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

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

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

Question 10

Aviant Ltd, registered in Noida (Uttar Pradesh), is a supplier of machinery used for making bottle caps.

The supply of machinery is effected as under:

The wholesale price of the machinery (excluding all taxes and other expenses) at which it is supplied in the ordinary course of the business to various customers is ₹ 42,00,000. However, the actual price at which the machinery is supplied to an individual customer varies within a range of $\pm 10\%$ depending upon the terms of contract of supply with the particular customer.

Apart from price of machinery, Aviant Ltd. charges from customer the following incidental expenses:

- associated handling and loading charges of ₹ 10,000
- installation and commissioning charges of ₹ 1,00,000

The machinery can be dismantled and erected at another site, if required. The above charges are compulsorily levied in every case of supply of machinery.

Transportation of machinery to the customer's premises is arranged by Aviant Ltd. through a third- party service provider [Goods Transport Agency (GTA)]. The customer enters into a separate service contract with the GTA and pays the freight directly to it.

A cash discount of 2% on the price of the machinery is offered at the time of supply, if the customer agrees to make the payment within 15 days of the receipt of the machinery at his premises. In the event of failure to make the payment within the stipulated time, the company-

recovers the discount (no separate amount of GST is recovered) given; and

charges simple interest @ 1% per month or part of the month (no separate amount of GST is recovered) on total amount due from customer (towards the machinery supplied) from the date of making the supply till the date of payment. However, no interest is charged on the tax dues.

For every machinery supplied, Aviant Ltd. receives a price linked subsidy of ₹ 2,00,000 from its holding company Diligent Ltd.

Aviant Ltd. has supplied a machinery to an unrelated party, Daffodil Pvt. Ltd. on 1st Aug at a price of ₹ 40,00,000 (excluding all taxes). Invoice was issued on 1st Aug by Aviant Ltd. The corporate office of Daffodil Ltd, which is at New Delhi, has entered into contract with Aviant Ltd. for supply of machinery. However, the machinery has been installed at Daffodil Pvt. Ltd's registered manufacturing unit located in Gurugram (Haryana). Daffodil Pvt. Ltd. has paid the

freight directly to the GTA. Discount @2% on the price of machinery excluding taxes was given to Daffodil Pvt. Ltd. as it agreed to make the payment within 15 days. However, Daffodil Pvt. Ltd. paid the consideration on 31st Oct..

Assume the rates of taxes to be as under:

Bottle cap making machine		
CGST – 6%	SGST 6%	IGST-12%
Service of transportation of goods		
CGST – 2.5%	SGST-2.5%	IGST-5%
Other services involved in the above supply		
CGST – 9%	SGST-9%	IGST-18%

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

Answer

Computation of GST liability of Avlant Ltd.

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

Total IGST payable on the machinery [A]+[B]	5,29,382

Notes:

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

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

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

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

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

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

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

(7) In the given case, the location of the supplier is in Noida (UP) and the POS of machinery is the place of installation of the machinery i.e., Gurugram (Haryana) in terms of section 10(1)(d) of the IGST Act.

Therefore, the given supply is an inter-State supply. Thus, the supply will be leviable to IGST in terms of section 5(1) of the IGST Act.

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

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

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

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

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

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

Question 11

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

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

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

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

E.	Invoices raised for repair work carried out in Karnataka [including the invoice for repair work done in 'C']	12,00,000

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

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

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

Answer

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

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

Total GST liability	15,12,000

Notes:

(1) Movement of goods without any consideration to a 'distinct person' as specified in section 25(4) of the CGST Act is deemed to be a supply in terms of section 7 read with Schedule I of the said Act. The purchase value is taken as taxable value, being the open market value in terms of rule 28(a) of the CGST Rules 2017.

Supply of items is an inter-State supply as the location of the supplier and the POS are in two different States. Thus, the supply is leviable to IGST in terms of section 5(1) of the IGST Act.

Since the activity is a supply, a tax invoice is to be issued by Power Engineering Pvt. Ltd. for sending the items to its own location in Tamil Nadu.

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

Schedule I to the CGST Act specifies situations where activities are to be treated as supply even if made without consideration. Supply of goods and/or services between 'distinct persons', when made in the course of business is included in Schedule 1.

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

Since the activity is not a supply, tax invoice is not required to be issued by Power Engineering Pvt. Ltd. However, a **delivery challan** is to be issued by the company for sending the truck to its own location in Tamil Nadu.

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

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

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

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

The composite supply of works contract is **treated as supply of service** in terms of para 6(a) of Schedule II to the CGST Act.

Value of the items actually used in the repairs will be included in the invoice raised for the service and will be charged to tax at that point of time.

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

(5) The activity is a composite supply of works contract, which is treated as supply of service.

Since the activity is a supply of service, a **tax invoice** is to be issued by Power Engineering Pvt. Ltd.

(6) The given supply is an inter-State supply as the location of the supplier and the POS of services are in two different States. Thus, the supply will be leviable to IGST.

7) In the given case, the location of the supplier and the POS of works contract services are within the same State. Therefore, the given supply is an intra-State supply, chargeable to CGST and SGST.

Question 12

Mezda Banners, an advertising firm, gives an interest-free credit period of 30 days for payment by the customer. Its customer ABC paid for the supply 32 days after the supply of service. Mezda Banners waived the interest payable for delay of two days.

The Department wants to add interest for two days as per contract. Should notional interest be added to the taxable value?

Answer

This is a supply that is valued as per transaction value under section 15(1) as the price is the sole consideration for the supply and the supply is made to unrelated person.

The concept of transaction value has been expanded to include certain elements like interest which are actually payable.

Once waived, the interest is not payable and is therefore, not to be added to transaction value.

Rule 27 to 31

Question 13

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

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

Answer

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

Question 14

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

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

You are required to:

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

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

Answer

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

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

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

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

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

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

Question 15

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

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

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

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

Answer

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

As per rule 28, the value of the supply of goods between distinct persons, other than where the supply made through an agent, shall-

- (a) be the **open market value** of such supply;
- (b) if open market value is not available, be the **value of supply of goods of like kind and quality**;
- (c) if value cannot be determined under the above methods, be **cost of the supply plus 10% mark - up** or be determined by other reasonable means, in that sequence.

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

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

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

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

Question 16

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

Answer

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

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

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

Question 17

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

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

Answer

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

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

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

Question 18

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

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

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

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

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

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

Answer

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

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

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

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

- (a) the **open market value** of such supply;
- (b) if open market value is not available, **the value of supply of goods or services of like kind and quality;**
- (c) if value cannot be determined under the above methods, it must be worked out based on the **cost of the supply plus 10% mark-up** or by other reasonable means, in that sequence.

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

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

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

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

or

- (ii) 90% of the price charged for the supply of goods of like kind and quality by M/s. Equilibrium Sales to its unrelated customer, i.e. ₹ 6,88,500 [₹ 7,65,000 x 90%].

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

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

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

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

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

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

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

Question 19

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

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

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

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

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

1. Consignments of bulk drugs were sent to Cardinal Pharma Pvt. Ltd. and Rochester Medicos - agents of Allfit Laboratories Ltd. in Punjab and Haryana respectively. Cardinal Pharma Pvt. Ltd. and Rochester Medicos supplied these drugs under their invoices to the Medical Stores located in their respective States for ₹ 60,00,000 and ₹ 50,00,000 respectively.

2. Bulk drugs have been supplied to Ronn Medicos a wholesale dealer of bulk drugs in Gurgaon, Haryana for consideration of ₹ 15,00,000. Allfit Laboratories Ltd owns 72% shares of Ronn Medicos Pvt. Ltd. Open market value of the bulk drugs supplied to Ronn Medicos Pvt. Ltd. is ₹ 30,00,000. Further, Roan Medicos Pvt. Ltd. is not eligible for full ITC.

Note:

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

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

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

You are required to make suitable assumption, wherever necessary.

Answer

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

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Advance received for drug development services supplied to Orochem Ltd., a drug manufacturer, located in Delhi [Note-1]	45,000 [5,00,000 × 9%]	45,000 [5,00,000 × 9%]	
Advance received for bulk drugs to be supplied to Novick Pharmaceuticals, a wholesale dealer of drugs in Gurgaon, Haryana [Note-2]			Nil
Supply of bulk drugs to wholesale dealers of drugs in Delhi [Note-3]	1,50,000 [60,00,000 × 2.5%]	1,50,000 [60,00,000 × 2.5%]	
Bulk drugs supplied to Anchor Pharmaceutical Inc., USA under LUT [Note -4]			Nil
Supply of drug development services to Uni pharma Ltd, a drug manufacturer, located in Delhi [Note-5]	54,000 , [6,00,000 × 9%]	54,000 , [6,00,000 × 9%]	
Supply of bulk drugs to consignment agents - Cardinal Pharma Pvt. Ltd. and Rochester Medicos of Punjab and Haryana [Note-6]			4,95,000 [99,00,000 × 5%]
Supply of bulk drugs to Ronn Medicos of Gurgaon, Haryana [Note-7]			1,50,000 [30,00,000 × 5%]

Total GST liability	2,49,000	2,49,000	6,45,000

Notes:

1. Further, in terms of section 13(2) of the CGST Act, the time of supply of services is the earlier of the date of invoice or date of receipt of payment, if the invoice is issued within 30 days of the supply of service. In the given case, invoice is issued within 30 days of the supply of service. Therefore, **time of supply of services will be date of receipt of advance** and hence, GST is payable on the advance received in Jan., 20XX.

2. Further, in terms of section 12(2) of the CGST Act, the time of supply of goods is the earlier of the date of issue of invoice/last date on which the invoice is required to be issued or date of receipt of payment.

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

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

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

4. Supply of the bulk drugs to Anchor Pharmaceuticals Inc. of USA under LUT is export of goods. Export of goods is a zero-rated supply. A zero-rated supply under LUT is made without payment of IGST.

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

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

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

8. If any person directly or indirectly controls another person, such persons are deemed as **related persons**. In the given case, since Allfit Laboratories Ltd. owns 72% shares of Ronn Medicos, both are related persons.

9. Value of supply of goods between related persons (other than through an agent) is determined per rule 28 of the CGST Rules. Accordingly, the value of supply of goods between related persons in the open market value of such goods and not the invoice value. Furthermore, since Ronn Medicos is not eligible for full ITC, value declared in the invoice cannot be deemed to be the open market value of the goods. Thus, open market value of the bulk drugs supplied to Ronn Medicos, i.e., 30,00,000 is the value of supply of such goods.

Question 20

Jupiter Chemicals Ltd. (JC) is a manufacturer of industrial chemicals. It has its factory at Haridwar, Uttarakhand and is registered under GST. It has its subsidiary company, Angel Traders Pvt. Ltd. (AT). with holding of 75% of its share capital. AT is engaged in trading of chemicals manufactured by JC in North India and is registered under GST in Delhi at warehouse address. JC has also appointed a consignment agent - Popular Distributors (PD) in Chennai which is catering the Southern India market. JC has also setup a state of art research and development center along with laboratory near the Haridwar factory and undertakes testing and development services for chemicals from outside customers across the country. Following information is available for the month of April 20XX of JC Haridwar.

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

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

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

Answer

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

S. N.	Particulars	Taxable value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
(i)	Inter-State supply of chemicals to consignment agent-PD, Chennai [Value, at the option of supplier, is:	54,00,000 [Note 1]			6,48,000 (54,00,000 x 12%)

	(i) Open market value (OMV) [55.00.000] or (ii) 90% of price charged for goods of like kind and quality to unrelated customers who further supply such goods (90% of ₹ 60,00,000)] [Note 2]				
(ii)	Inter-State supply of chemicals to related person-AT [Value of supply of goods to a related person who further supplies such goods as such, at the option of supplier, is (i) OMV, if OMV is available [₹ 38,00,000] or (ii) 90% of price charged for goods of like kind and quality to unrelated customers (90% of ₹ 42,00,000)] [Note 3]	37,80,000 [Note 1]			4,53,600 [37,80,000 x 12%]
(ii)	Export of chemicals to South Africa	28,00,000			3,36,000 [28,00,000 x 12%]
(i)	Inter-State supply of testing services	8,50,000			1,53,000 [8,50,000 x 18%]
(v)	Inter-State supply of chemical to customer in Mumbai [Any amount charged for anything done by supplier in respect of supply of goods at the time of/before delivery of goods is includible in the value of supply.]	7,00,000			84,000 [7,00,000 x 12%]
(v)	Intra-State supply of chemical to an unrelated charitable association in Haridwar (In case of supply made to unrelated recipient where price is the sole consideration for supply, value of the supply is the transaction value which is price actually paid for the supply.)	5,00,000	30,000 [5,00,000 x 6%]	30,000 [5,00,000 x 6%]	
	Total	1,40,30,000	30,000	30,000	16,74,600

Note:

1 Since the Question requires to compute the most beneficial taxable value of supply, lower of the two values has been taken as value of supply.

2 It has been assumed that the expression "above said goods" in the Question means goods of like kind and quality.

3 It has been assumed that the expression "said chemicals" in the Question means goods of like kind and quality.

Rule 31, 32 and 33

Question 21

The Govt. of a State runs a lottery where face value of a lottery ticket is Rs. 250, calculate the value of lottery services in following situations

- (i) Price notified by the State Govt. in the Official Gazette is Rs. 240.
- (ii) Price notified by the State Govt. in the Official Gazette is Rs. 240.

Answer

The value of supply of lottery shall be deemed to be 100/128 of the face value of ticket or of the price as notified in the Official Gazette by the Organising State, whichever is higher.

- (i) Here, the value of lottery is ₹ 195.313, i.e. higher of ₹ 195.313 (250 x 100/128) or ₹ 187.50 (240 x 100/128).
- (ii) Here, the value of lottery is ₹ 203.13, i.e. higher of ₹ 195.313 (250 x 100/128) or ₹ 203.13 (260 x 100/128)

Question 22

A better/gamer deposits Rs. 1 Lakh before starting a betting/gaming session for playing Rummy in Gameszon app. Thereafter he utilizes only Rs. 50,000 worth of his deposit, but wins Rs.5,00,000. He withdrawn all amount available in his app after this winning.

- (i) What is the value of supply chargeable to GST.
- (ii) What will be the value of supply, if before withdrawal he utilises 2,00,000 out of winning proceed to play the further games and lost that money.

Answer

As per Rule 31B, 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.

Any amount **returned or refunded** by the supplier to the player for any reasons whatsoever, including player not using the amount paid or deposited with the supplier for participating in any event, **shall not be deductible** from the value of supply of online money gaming.

Further, any amount received by the player by winning any event, including game, scheme, competition or any other activity or process, which is used for playing by the said player in a further event without withdrawing, shall not be considered as the amount paid to or deposited with the supplier by or on behalf of the said player.

- (i) Based on the given provision value of supply will be amount deposited by the player i.e **Rs. 78,125** (1,00,000/128*100) (It is assumed that no separate GST amount has been deposited hence amount of Rs. 1,00,000 is inclusive of applicable GST i.e. 28%)

- (ii) Value of Supply will still be Rs. 78,125 i.e., amount initially deposited by the player.

Question 23

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

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

Answer

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

- (i) 1% of the gross amount of currency exchanged for an amount up to ₹ 1,00,000, subject to a minimum amount of ₹ 250;
- (ii) ₹ 1,000 and 0.5% of the gross amount of currency exchanged for an amount exceeding ₹ 1,00,000 and up to ₹10,00,000.

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

Particulars	₹	₹
Value of currency exchanged in Indian rupees [₹ 74 x US \$ 10,000]	7,40,000	
Upto ₹ 1,00,000		1,000
For ₹ 6,40,000 [0.50% x ₹ 6,40,000]		<u>3,200</u>
Value of supply		4,200

Answer

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

- (i) 1,000 US\$ are purchased from Nandi Enterprises at the rate of ₹ 74 per US\$. RBI reference rate for US\$ on that day is ₹ 74.60.
- (ii) 2,000 US\$ are sold to Menavati at the rate of ₹ 74.50 per US\$. RBI reference rate for US\$ for that day is not available.

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

Answer

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

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

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

$$= (\text{RBI reference for US\$} - \text{Buying rate of US\$}) \times \text{Total number of units of US\$ bought}$$

$$= (74.6 - 74) \times 1,000 = \text{₹ } 600$$

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

$$= 1\% \text{ of the gross amount of Indian Rupees received}$$

$$= 1\% \text{ of } (74.50 \times 2,000) = \text{₹ } 1,490$$

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

Rule 32(2)(b) provides that value in relation to the supply of foreign currency, including money changing shall be deemed to be-

S.N.	Currency exchanged	Value of supply
1.	Upto ₹ 1,00,000	1% of the gross amount of currency exchanged OR ₹ 250 whichever is higher
2.	Exceeding ₹ 1,00,000 and upto ₹ 10,00,000	₹ 1,000+ 0.50% of the (gross amount of currency exchanged - 1,00,000)
3.	Exceeding ₹ 10,00,000	₹ 5,500+ 0.1% of the (gross amount of currency exchanged - 10,00,000) OR ₹ 60,000 whichever is lower

Thus, the value of supply in the given cases would be computed as under:

(i) Gross amount of currency exchanged = ₹ 74 x 1,000 = ₹ 74,000.

Since the gross amount of currency exchanged is less than ₹ 1,00,000, value of supply is 1% of the gross amount of currency exchanged i.e. 1% of ₹ 74,000 or ₹ 250, whichever is higher, i.e. = ₹ 740

(ii) Gross amount of currency exchanged = ₹ 74.50 x 2,000 = ₹ 1,49,000.

Since the gross amount of currency exchanged exceeds ₹ 1,00,000 but is less than ₹ 10,00,000 value of supply is ₹ 1,000+ 0.50% of (₹ 1,49,000 - ₹ 1,00,000), i.e. = ₹ 1,245

Question 24

M/s Global Travels is providing money changer and air travel agent services to various clients. From the information provided below, you are required to calculate the value of taxable supply for the month of March 20XX:

(i) It had converted US\$ 6,000 into Singapore dollar 9,000. RBI reference rate at that time was ₹ 72 per US\$ and for Singapore dollar, it was ₹ 52.

(ii) It had booked domestic ticket value of ₹ 7,00,000 and International ticket value of ₹ 15,00,000.

Additional information:

The concern has not opted to value the money change under rule 32(2)(b) of the CGST Rules. Basic air fare component under both domestic and international ticket value is 70% and 60% respectively.

Answer

(i) Since in the given case, neither of the currencies exchanged is Indian Rupees, value of taxable supply, in terms of rule 32(2)(a) of the CGST Rules, is 1% of lower of the following:

(A) US dollar converted into Indian rupees at RBI reference rate

= US\$ 6,000 x ₹ 72 = ₹ 4,32,000

(B) Singapore dollar converted into Indian rupees at RBI reference rate

= Singapore dollar 9,000 x ₹ 52 = ₹ 4,68,000

Value of taxable service for the month of March 20XX = 1% of ₹ 4,32,000 = ₹ 4,320

(ii) Computation of value of taxable supply

Particulars	₹	₹
Basic fare in case of domestic bookings [₹ 7,00,000 x 70%]	4,90,000	
Value of taxable supply @ 5% [A] [Rule 32(3) of the CGST Rules]		24,500
Basic fare in case of international bookings [₹ 15,00,000 x 60%]	9,00,000	
Value of taxable supply @ 10% [B]		90,000
[Rule 32(3) of the CGST Rules]		
Value of taxable supply [A] + [B]		1,14,500

Question 25

UB & Sons is an air travel agent. Compute the value of supply of service made by the firm during a month with the help of following particulars furnished by it:

Particulars	Basic fare (₹)	Other charges and fee (₹)	Taxes (₹)	Total value of tickets (₹)
Domestic Bookings	1,00,900	9,510	4,990	1,15,400
International Bookings	3,16,880	20,930	15,670	3,53,480

Answer**Computation of value of supply of services made by UB & Sons in a month**

Particulars	₹	₹
Basic fare in case of domestic bookings	1,00,900	
Value of supply 5% [A] Note below		5,045
Basic fare in case of international bookings	3,16,880	
Value of supply @ 10% [B] Note below		31,688
Value of supply (A) + [B] (rounded off)		36,733

Notes:

As per rule 32(3) of CGST Rules, the value of the supply of services in relation to booking of tickets for travel by air provided by an air travel agent is 5% of the basic fare in the case of domestic bookings, and 10% of the basic fare in the case of international bookings.

Question 25A

Compute the GST liability of Mr. Zed, an air travel agent, for the quarter ended March 2024 using the following details:

Particulars	Amount
Basic air fare collected for domestic booking of tickets	50,00,000
Basic air fare collected for international booking of tickets	80,00,000

Commission received from the airlines on the sale of domestic and international tickets	4,50,000
Year ending bonus received from airlines	50,000

In the above case, would the GST liability of Mr. Zed be reduced if he opts for the special provision for payment of GST as per Rule 32(3) of the CGST Rules. The applicable rate of GST 18%.

Answer

Statement Showing GST liability of Mr. Zed - As per normal valuation rules:

	Rs.
Commission received from the airlines on the sale of domestic and international tickets	4,50,000
Year ending bonus or incentive	50,000
Taxable supply of services	5,00,000
GST @18% on ₹ 5 lakh	90,000

Statement Showing GST liability of Mr. Zed – As per special valuation Rule 32(3)

	Rs.
Value of supply : Basic air fare (domestic booking) [50,00,000 x 5%]	2,50,000
Value of supply : Basic air fare (international booking) [80,00,000 x 10%]	8,00,000
Total taxable supply of service	10,50,000
GST 18% on ₹ 10,50,000	1,89,000

In view of the above, GST liability will get increased if valuation been done as per Rule 32(3). As Rule 32(3) is optional, Mr. Zed should value the supply as per general valuation rule.

Question 26

Arihant Life Insurance Company Ltd. (ALICL) has charged gross premium of ₹ 180 lakh from policy holders with respect to life insurance policies in the 2023-24; out of which ₹ 100 lakh have been allocated for investment on behalf of the policy holders.

Compute the value of supply of life insurance services provided by ALICL

- if the amount allocated for investment has been intimated by ALICL to policy holders at the time of supply of service.
- if the amount allocated for investment has not been intimated by ALICL to policy holders at the time of providing of service.
- if the gross premium charged by ALICL. from policy holders is only towards risk cover.

Note: ALICL has started its operations in the year 2023-24. Thus, the entire gross premium of ₹180 lakh is the premium for the first year of all the policies. ALICL has not issued any single premium annuity policy.

Answer

As per rule 32(4), of the CGST Rules, value of supply of services in relation to life insurance services is

- the gross premium reduced by the amount allocated for investment on behalf of the policy holder, if such an amount is intimated to the policy holder at the time of supply of service;

(b) in all other cases, 25% of the premium in the 1st year and 12.5% of the premium in subsequent years

However, where the entire premium paid by the policy holder is only towards risk cover, such gross premium is the value of supply of life insurance services.

In the light of the aforesaid provisions, value of supply of life insurance services provided by ALICL in FY 2023-24 will be computed as follows:

(i) Amount allocated for investment intimated to policy holder at the time of supply of service

Value of service = ₹ (180-100) lakh = ₹ 80,00,000

(ii) Amount allocated for investment not intimated to policyholders at the time of supply of service Value of service = 25% of ₹ 180 lakh = ₹ 45,00,000

(iii) Gross premium received is only towards risk cover : Value of service = ₹ 180 lakh

Question 27

Chirayu Life Insurance Company Limited (CLICL) has collected premium from policy subscribers. It does not intimate the amount allocated for investment to subscribers of the policy at the time of collection of premium. The company has provided the following details in relation to its receipts:

S.N.	Particulars	Amount
1.	Premium for only risk cover	25,00,000
2.	Premium from new policy subscribers	40,00,000
3.	Renewal premium	80,00,000
4.	Single premium on annuity policy	1,00,00,000

All amounts are exclusive of tax. You are required to compute the value of supply by CLICL in terms of rule 32(4)

Answer

As per rule 32(4), the value of supply of services in relation to life insurance business, when the amount allocated for investment/ savings on behalf of the policy holder is not intimated to the policy holder at the time of supply of service, is-

(i) in case of single premium annuity policies, 10% of single premium charged from the policy holder;

(ii) in all other cases, 25% of the premium charged from the policy holder in the first year and 12.5% of the premium charged from the policy holder in subsequent years;

(iii) in case the entire premium paid by the policy holder is only towards the risk cover in life insurance the premium so paid.

Therefore, in the given case, the value of the services provided by CLICL will be computed as under:

Computation of value of supply for CLICL

Particulars	Amount(₹)
Premium for only risk cover	25,00,000

Premium from new policy subscribers 25% of ₹ 40,00,000	10,00,000
Renewal premium 12.5% of ₹ 80,00,000	10,00,000
Single premium on annuity policy 10% of ₹ 1,00,00,000	10,00,000
Total value of supply	55,00,000

Question 28

A company X Ltd., which deals in buying and selling of second hand cars, purchases a second hand Maruti Alto Car of March, 2015 make (Original price ₹ 5 lakh) for ₹ 3 lakh from an unregistered person. It incurs ₹ 30,000 on minor furbishing and sells the car for ₹ 3,50,000. The company does not avail any ITC.

- (i) Compute the value of taxable supply.
- (ii) What will be your answer if the company has sold this car for ₹ 2,95,000.

Answer

As per Rule 32(5), Where a taxable supply is provided by a person dealing in buying and selling of second hand goods i.e., used goods as such or after such minor processing which does not change the nature of the goods and where no ITC has been availed on the purchase of such goods, the value of supply shall be the difference between the selling price and the purchase price and where the value of such supply is negative, it shall be ignored.

- (i) The value for GST purpose shall be **₹ 50,000, i.e. the difference between the selling and the purchase price** of the company.
- (ii) The value for GST purpose shall be **NIL, as selling price is less than the purchase price** of the company.

Question 29

Easy Coupons Ltd. sells coupons that are redeemable against specified luxury food products at retail outlets. Each coupon is sold for value of ₹ 900 but is redeemable for supplies worth ₹ 1000.

What is the value of supply of such coupon under GST law?

Answer

In terms of rule 32(6) relating to valuation, the **value of a coupon is the money value of the goods redeemable against it**. Therefore, though the coupon is sold for ₹ 900, its **value is ₹ 1000**.

Question 30

Singla Manufacturers Ltd. registered in Mumbai (Maharashtra), is a manufacturer of footwear. It imports a footwear making machine from USA. Singla Manufacturers Ltd. enters into a contract with Bhaskar Logistics, a licensed customs broker with its office at Ahmedabad (Gujarat), to meet all the legal formalities in getting the said machine cleared from the customs station.

Apart from this, Singla Manufacturers Ltd. authorises Bhaskar Logistics to incur, on its behalf, the expenses in relation to clearance of the imported machine from the customs station and

bringing the same to the warehouse of Singla Manufacturers Ltd, which shall be reimbursed by Singla Manufacturers Ltd. to Bhaskar Logistics on the actual basis in addition to agency charges.

Bhaskar Logistics provided following details:

S.N.	Particulars	Amount (₹)
(i)	Agency charges	5,00,000
(ii)	Unloading of machine at Kandla port, Gujarat	50,000
(iii)	Charges for transport of machine from Kandla port, Gujarat to its Bhaskar Logistics godown in Ahmedabad, Gujarat	25,000
(iv)	Charges for transport of machine from Bhaskar Logistics' Ahmedabad godown to the warehouse of Singla Export Import House in Mumbai, Maharashtra	28,000
(v)	Prepared and submitted of Bill of Entry and paid customs duty	5,00,000
(vi)	Dock dues paid	50,000
(vii)	Port charges paid	50,000
(viii)	Hotel expenses	45,000
(ix)	Travelling expenses	50,000
(x)	Telephone expenses	2,000

Compute the value of supply made by Bhaskar Logistics with the help of given information.

Would your answer be different if Bhaskar Logistics has charged ₹ 13,00,000 as a lump sum consideration for getting the imported machine cleared from the customs station and bringing the same to the warehouse of Singla Manufacturers Ltd.?

Answer

As per explanation to rule 33, a "pure agent" means a person who-

- (a) enters into a **contractual agreement** with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;
- (b) neither intends to hold **nor holds any title** to the goods or services or both so procured or supplied as pure agent of the recipient of supply;
- (c) does **not use for his own interest** such goods or services so procured; and
- (d) **receives only the actual amount incurred** to procure such goods or services in addition to the amount received for supply he provides on his own account.

The supplier needs to fulfil all the above conditions in order to qualify as a pure agent.

In the given case, Bhaskar Logistics has entered into a contractual agreement with recipient of supply, Singla Manufacturers Ltd, to incur, on behalf of such recipient, the expenses mentioned in S. No. (ii) to (vii) incurred in relation to clearance of the imported machine from the customs station and bringing the same to the warehouse of the recipient. Further,

Bhaskar Logistics does not hold any title to said services and does not use them for his own interest

Lastly, Rudra Logistics receives only the actual amount incurred to procure such services in addition to agency charges. **Thus, Bhaskar Logistics qualifies as a pure agent.**

Further, rule 33 stipulates that notwithstanding anything contained in the provisions of Chapter IV- Determination of Value of supply, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely

(I) the supplier acts as a pure agent or the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;

(II) the payment made by the pure agent on behalf of the recipient of supply has been **separately Indicated in the invoice** issued by the pure agent to the recipient of service; and

(III) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

Since conditions (I) to (III) mentioned above are satisfied in the given case, **expenses (ii) to (vii) incurred by Bhaskar Logistics as a pure agent of Singla Manufacturers Ltd. shall be excluded from the value of supply.**

Accordingly, value of supply made by Bhaskar Logistics is as follows:

Particulars	Amount
Agency charges	5,00,000
Add: Unloading of machine at Kandla port, Gujarat	Nil
Charges for transport of machine from Kandla port, Gujarat to its godown in Ahmedabad, Gujarat	Nil
Charges for transport of machine from Bhaskar Logistics' Ahmedabad godown to the warehouse of Singla Export Import House in Mumbai, Maharashtra	Nil
Custom duty	Nil
Dock charge	Nil
Port charges	Nil
Hotel expenses	45,000
Travelling expenses	50,000
Telephone expenses	2,000
Value of supply	5,97,000

Yes, the answer would be different. **If lump sum amount of ₹13,00,000 is paid then the value of supply shall be ₹13,00,000** and tax shall be charged on value of supply since individual cost are not given.

Conditions for availing ITC and Blocked Credit

Question 1

A registered supplier of taxable goods supplied goods valued at ₹2,24,000 (inclusive of CGST ₹12,000 and SGST ₹12,000) to Mohan Ltd, under forward charge on 15th Aug for which tax invoice was also issued on the same date. The inputs were received by Mohan Ltd. on 15th Aug. Mohan Ltd. availed credit of ₹ 24,000 on 20th Sep by filing Form GSTR-3B for Aug month. However, Mohan Ltd. did not make any payment towards such supply along with tax thereon to the supplier, Is Mohan Ltd. eligible to avail ITC on such supply?

Discuss ITC provisions if Mohan Ltd. makes the payment of ₹ 2,24,000 to the supplier on 18th March of new calendar year.

Answer

As per section 16, Mohan Ltd. is eligible to avail ITC of the tax paid on inputs received by it on the basis of the invoice issued by the supplier provided other conditions for availing ITC are fulfilled.

Payment of value of the goods along with the tax to the supplier **is not a pre-requisite at the time of availing credit, but Mohan Ltd. has to pay** the said amount **within 180 days from the date of issue of Invoice**. If Mohan Ltd, **fails** to do so the ITC of ₹24,000 will be **paid by him along** with interest u/s 50. Such **interest will be paid @ 18% p.a.** from the date of utilising credit till the date when the amount added to the output tax liability is paid [Second proviso to section 16(2) read with rule 37].

If Mohan Ltd. makes the payment of ₹ 2,24,000 (Value + tax) to the supplier on 18th March of next calendar year, i.e, after the expiry of 180 days from date of issue of invoice, Mohan Ltd. **can re-avail the earlier reversed credit** of ₹ 24,000 while filing form GSTR-3B **for the month of March**.

Question 2

XYZ Ltd., registered under GST, is engaged in manufacture of taxable goods. Compute the ITC available with XYZ Ltd. for the month of Oct., 20XX from the following particulars:

S.N	Inward Supplies	GST (₹)	Remarks
(i)	Input 'A'	1,00,000	One invoice on which GST payable was 10,000 is missing
(ii)	Input 'B'	50,000	Inputs are to be received in two instalments. First instalment has been received in Oct., 20XX.
(iii)	Capital goods	1,20,000	XYZ Ltd has capitalized the capital goods at full invoice value inclusive of GST as it will avail depreciation on the full invoice value.
(iv)	Input Services	2,25,000	One invoice dated 20.01.20XX on which GST payable was ₹ 50,000 has been received in Oct., 20XX.

Note:

- i. All the conditions necessary for availing the ITC have been fulfilled.
- ii. The annual return for the FY ending 31st March 20XX was filed on 15th Sep, 20XX.

Answer

Computation of ITC available with XYZ Ltd. for the month of Oct., 20xx supplies

S.N	Inward supplies	ITC (₹)
(i)	Input 'A' [ITC cannot be taken on missing invoice. The registered person should have the invoice in its possession to claim ITC-Section 16(2)(a)]	90,000
(ii)	Input 'B' When inputs are received in installments, ITC can be availed only on receipt of last installment-First proviso to section 16(2)]	Nil
(iii)	Capital goods Input tax paid on capital goods cannot be availed as ITC, if depreciation has been claimed on such tax component - Section 16(3)]	Nil
(iv)	Input services As per section 16(4), ITC on an invoice cannot be availed after 30 th Nov. following the end of FY to which such invoice pertains or the date of filing annual return, whichever is earlier. Since the annual return for the FY ending 31 st March, 20XX has been filed on 15 th Sep, 20XX (prior to 30 th Nov., 20XX), ITC on the invoice pertaining to FY ending 31 st March, 20XX cannot be availed after 15 th Sep, 20XX.]	1,75,000
	Total	2,65,000

Question 3

A taxable person is in the business of information technology. He buys a car (maximum seating capacity -5 persons) for use of his Executive Directors. Can he avail the ITC in respect of GST paid on purchase of such car?

Answer

No. As per section 17(5)(a), **ITC on motor vehicles** for transportation of persons **with seating capacity of up to 13 persons (including driver)**, can be availed only if the taxable person is in the business of transport of passengers or is providing the services of imparting training on driving such motor vehicles or is in the business of supply of such motor vehicles.

Question 4

A company has entered to an agreement with a customer for the manufacture and supply of cement pipes for their exclusive use. A company manufactured the product but before receiving the inspection certificate, their customer rejected some quantity of goods on the grounds of quality. As per agreement, the rejected quantity will be destroyed in front of the customer and shall not be sold. Examine the issue in the light of statutory provisions and suggest future course of action to the assessee as to whether any liability arises as per the provisions of GST law.

Answer

Section 17 of the CGST Act **blocks ITC in respect of destroyed goods.**

Accordingly, since in the given case the cement pipes have been destroyed, ITC attributable to such pipes will not be allowed (Section 17(5)(h) of the CGST Act]

Thus, in the given case, **if the credit has already been availed, the same will need to be reversed.**

Question 5

Flamingo Ltd. is an airline providing passenger transportation services by air. The company offers meals of premium quality to passengers on board the aircraft. The value of such meals is compulsorily included in the price of the air ticket. The company avails outdoor catering services of Dhaniaram Pvt. Ltd. providing such meals to its customers.

Examine whether Flamingo Ltd, can avail ITC on such outdoor catering service availed by it.

Answer

As per section 17(5)(1)(b), **ITC on supply of inter alia food and beverages and outdoor catering blocked. However, ITC in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply.**

In the given case, Flamingo Ltd. is availing outdoor catering service to provide outdoor catering (meals to the passengers on board the aircraft. Since ITC in respect of outdoor catering is available if the same is used for making an outward taxable supply as an element of a taxable composite or mixed supply. Flamingo Ltd. **can avail ITC** on outdoor catering service procured by it.

Question 6

Xenon Pvt. Ltd. Agra, is a registered supplier engaged in the manufacture of taxable goods. Goods valued at ₹10,50,000 were supplied by the company to Freshbite Pvt. Ltd., a registered supplier located at Ferozabad, without the cover of an invoice with a fraudulent intent. Since the company evaded tax by not issuing the invoice for the supply, a show cause notice was issued by the proper officer under section 74 requiring the company to pay tax @ 12% [₹1,26,000] and applicable interest and penalty. The company paid the tax, interest and penalty after the order was passed by the proper officer.

Examine the ITC entitlement of Freshbite Pvt. Ltd. in respect of tax of ₹1,26,000 paid by Xenon Pvt. Ltd

Answer

As per section 17(5), **tax paid under sections 74,129 and 130 is not available as ITC**. Further, rule 36(3) also lays down that tax paid in pursuance of any order where any demand has been confirmed on account of any fraud, willful misstatement or suppression of facts cannot be availed as ITC by a registered person.

In the given case, Xenon Pvt. Ltd. has paid tax in pursuance of an order issued under section 74. Therefore Freshbite Pvt. Ltd. **cannot avail ITC of such tax**.

Question 7

With reference to the provisions of section 17, examine availability of ITC in following independent cases:

- i. MBF Ltd., an automobile company, has availed works contract service for construction of a foundation on which a machinery (to be used in the production process) is to be mounted permanently.
- ii. Shah & Constructions procured cement, paint, iron rods and services of architects and interior designer for construction of a commercial complex for one of its clients.
- iii. ABC Ltd. availed maintenance & repair services from "Jaggi Motors" for a truck used for designers transporting its finished goods.

Answer

- i. Section 17(5)(c) **blocks ITC** in respect of **works contract services** when supplied for **construction of an immovable property** (other than plant and machinery) except where it is an input service for further supply of works contract service.

Further, the term "**plant and machinery**" means **apparatus, equipment and machinery fixed to earth** by foundation or structural support that are used for making outward supply of goods and/or services and **includes such foundation or structural support** but excludes land, building or other civil structures, telecommunication towers, and pipelines laid outside factory premises.

Thus, in view of the above-mentioned provisions, **ITC is available** in respect of works contract service availed by MBF Ltd. **as the same is used for construction of plant and machinery which is not blocked under section 17(5)(c)**. It is assumed that the expenditure incurred towards works contract service is capitalised in the books of MBF Ltd. and no depreciation has been claimed on the tax component.

- ii. (Section 17(5)(d) blocks ITC on goods and/or services received by a taxable person for construction of an immovable property (other than plant and machinery) on his own account even though such goods and/or services are used in the course of business. Thus, **ITC on goods and/or services used in the construction of an immovable property is blocked only** in those cases **where** the taxable person **constructs** the immovable property **for his own use** even if the immovable property being constructed is used in the course of his business.

In the given case, Shah & Constructions has used the goods and services for **construction of immovable property for some other person and not on its own account**. Hence, ITC in this case will be **allowed**.

- iii. On a conjoint reading of section 17(5) (a) and 17(5)(ab), it can be concluded that **ITC is allowed on repair and maintenance services relating to motor vehicles, which are eligible for ITC**. Further, as per section 17(5) (a) ITC is allowed on motor vehicles which are used for transportation of goods.

Thus, **ITC on maintenance & repair services** availed from "Jaggi Motors" for a truck **used for transporting its finished goods is allowed to ABC Ltd.**

Question 8

Krishna Motors is a car dealer selling cars of an international car company. It also provides maintenance and repair services of the cars sold by it as also of other cars. It seeks your advice on availability of ITC in respect of the following expenses incurred by it during the course of its business operations

- i. Cars purchased from the manufacturer for making further supply of such cars. Two of such cars destroyed in accidents while being used for test drive by potential customers.
- ii. Works contract services availed for constructing a car parking shed in its premises.

Answer

As per section 16(1), every registered person can take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in course of his business. However, section 17(5) specifies certain goods and services on which the ITC is not available.

In the light of the foregoing provisions, the availability of ITC in respect of the various expenses incurred by Krishna Motors is discussed below:

- i. Section 17(5)(a) specifically **blocks ITC on motor vehicles for transportation of passenger having approved seating capacity of not more than thirteen persons**. However, the same **allowed** when the motor vehicles are used, inter alia, for **further supply of such vehicles**. The ITC on cars purchased from manufacturer for making further supply of such cars will be allowed. However, **ITC on the cars destroyed in accident will not be allowed** as the ITC on goods destroyed for whichever reason is specifically blocked under section 17(5)(h).
- ii. Section 17(5)(c) specifically **blocks ITC on works contract services** when supplied **for construction of an immovable property (other than plant and machinery) except** where it is an input service for **further supply of works contract service**. Since, in this case the car parking shed is not a plant and machinery and the works contract service is not used for further supply of works contract service, **ITC thereon will not be allowed**.

Question 9

Jumbo Sales Pvt. Ltd, a supplier of readymade garments, announced 'Buy One get Two free' offer on Men's T-Shirts on Diwali to boost its sales.

You are required to advise the company on the availability of ITC in respect of inward supplies used in relation to such supply.

Answer

It may appear at first glance that in case of offers like "Buy One, Get One Free", one item is being "supplied free of cost" without any consideration.

As per clause (a) of section 7(1) read with clause (c) thereof, goods or services which are supplied free of cost (without any consideration) shall not be treated as supply except in case of activities mentioned in Schedule I.

Circular No. 92/11/2019 GST has clarified the entitlement of ITC in the hands of supplier in respect of **sales promotional scheme like 'buy one get one free'**. Such promotional offers are **not individual supplies of free goods, but a case of two or more individual supplies where a single price is being charged** for the entire supply. It can at best be **treated as supplying two goods for the price of one**.

Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8.

ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to Supply of goods or services or both as part of such offers.

Therefore, the given case is not the case of individual supplies of free goods, but a case of **three individual supplies where a single price is being charged for the entire supply**. Thus, Jumbo Sales Pvt Ltd. will be entitled to **avail ITC on inputs, input services and capital goods** used in relation to ply of T-Shirts as part of such offer.

Question 10

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

S.N.	Items	GST Paid (₹)
(i)	Electrical transformers to be used in the manufacturing process	5,20,000
(ii)	Trucks used for the transport of raw material	1,00,000
(iii)	Raw material	2,00,000
(iv)	Confectionery items. These items were supplied free of cost to the customers in a customer meet organized by the company	25,000

Determine amount of ITC available with ABC Co. Ltd., for month of July by giving necessary explanations for treatment of various items. Assume all conditions necessary for availing the ITC have been fulfilled.

Answer

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

S.N.	Items	GST Paid (₹)

(i)	Electrical transformers [Being goods used in the course of business, ITC thereon is available in terms of section 16(1)]	5,20,000
(ii)	Trucks used for the transport of raw material [ITC on motor vehicles used for transportation of goods is not blocked under section 17(5)(a)]	1,00,000
(iii)	Raw material [Being goods used in the course of business, ITC thereon is available in terms of section 16(1)]	2,00,000
(iv)	Confectionery items for consumption of customers at customers meet [ITC on food or beverages is specifically disallowed unless the same is used for making outward taxable supply of the same category or as an element of the taxable composite or mixed supply-Section 17(5)(b)(i)]	Nil
	Total	8,20,000

Question 11

ABC Ltd, a registered supplier, is engaged in the manufacture of dyeing machines. The company provides the following information pertaining to GST paid on the purchases made/input services availed by it during the month of Sep:

	Particulars	GST Paid (₹)
(i)	Purchase of 10 apple i-pads which were given as gift to employees	1,85,000
(ii)	Payment for club membership availed by employees as per terms of employment	90,000
(iii)	Purchase of maxi cab for transport of its employees to and from home to office	70,000
(iv)	Purchase of calendars and diaries for distribution as new year compliments to customers and distributors	25,000
(v)	Works contract services availed for erection and installation of RO treatment	35,000

Determine the amount of ITC available to ABC Ltd. for the month of Sep by giving necessary explanations for treatment of various items. None of expenses incurred for staff was under statutory obligation and seating capacity of the maxi cab was 13 excluding driver. Subject to Information given above, all the conditions necessary for availing the ITC have been fulfilled.

Answer

Computation of ITC available with ABC Ltd. for the month of Sep

Particulars	GST Paid (₹)
Apple i - pads given as gifts to the employees [ITC in respect of goods that are disposed of by way of gifts is blocked.]	Nil
Club membership availed by employees	Nil

[ITC on membership of a club is blocked as ABC Ltd. is not under any statutory obligation to provide the same to its employees.]	
Maxi cab for transport of employees [ITC on motor vehicles for transportation of persons with seating capacity of more than (or exceeding) 13 persons (including the driver) used for any purpose, is allowed.]	70,000
Calendars and diaries for distribution as compliments to customers and distributors [ITC in respect of goods that are disposed of by way of gifts is blocked.]	Nil
Works contract services for erection and installation of RO treatment plant in factory [ITC on works contract service used for construction of a plant and machinery fixed to earth by foundation or structural support is allowed.]	35,000
Total ITC available	1,05,000

Question 12

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

S.N.	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 Jan. but goods 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
4	Goods used for setting up telecommunication towers	50,000
5	Truck purchased for delivery of finished products	80,000

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

Answer

Computation of ITC available with Siddhi Ltd. for the month of Jan.

Particulars	GST (₹)
Capital goods [Note 1]	Nil
Goods purchased from Ravi Traders [Note 2]	Nil
Cars purchased for making further supply [Note 3]	Nil
Goods used for setting telecommunication towers [Note 4]	Nil
Tracks 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 Notes 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 month of March, ITC thereon can be availed in month of March** and not in month of Jan. even though the invoice for the same has been received in the month of Jan.,

(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) ITC on goods used by a taxable person for construction of immovable property (other than plant and machinery) on his own account is blocked even when such goods are used in the course of business [Section 17(5)(d)].

However, explanation to section 17 excludes telecommunication towers from the purview of plant and machinery. Therefore, ITC thereon will not be allowed.

(5) 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.

Question 13

POR Company Ltd, a registered supplier of Bengaluru (Karnataka), is a manufacturer of goods. The company provides the following information pertaining to GST paid on inward supplies during the month of April (current FY)

S.N	Particulars	GST paid (₹)
(i)	Life Insurance premium paid by the company for the life insurance of factory employees as per the policy of the company. There is no legal obligation for such Insurance for employees.	1,50,000
(ii)	Raw materials purchased for which invoice is missing but delivery challan is available	38,000
(iii)	Raw materials purchased which are used for zero rated supply	50,000
(iv)	Works contractor's service used for repair of factory building which is debited in the profit and loss account of company	30,000
(v)	Company purchased the capital goods for ₹ 4,00,000 and claimed depreciation of ₹ 44,800 (@10%) on full amount of ₹ 4,48,000 under Income Tax Act, 1961	48,000

Other information:

(1) In the month of Sep of previous FY, PQR Company Ltd. availed ITC of ₹ 2,40,000 on purchase of raw material which was directly sent to job worker's premises under a challan on 25th Sep (previous FY). The said raw material has not been received back from the job worker up to 30th April (current FY).

(2) All the above inward supplies except at S.N. (iii) above have been used in manufacture of taxable goods. Inward supplies at S.N. (iii) above have been used in the manufacture of exempt goods.

Compute the amount of net ITC available with PQR Company Ltd. for the month of April with necessary explanations for the treatment of various items as per the provisions of the CGST Act. Subject to the information given above, assume that all other conditions necessary for availing ITC have been fulfilled.

Answer

Computation of ITC available with PQR Company Ltd. for the month of April

Particulars	ITC (₹)
Life Insurance premium paid by the company on the life of factory employees [Note 1]	Nil
Raw materials purchased [Note 2]	Nil
Raw materials used for zero rated supply [Note 3]	50,000
Work contractor's service [Note 4]	30,000
Capital goods purchased in respect of which depreciation is claimed on the tax component [Note 5]	Nil
Goods sent to job worker's premises [Note 6]	-
Total ITC available	80,000

Notes

(1) ITC on life insurance service is available only when it is obligatory for an employer to provide said services to its employees under any law for the time being in force. Since it is not obligatory for the employer in instant case and thus, ITC thereon is **blocked** [Second proviso to section 17(5)(b)].

(2) **ITC cannot be taken** since invoice is missing and delivery challan is not a valid document to avail ITC [Section 16(2)(a)].

(3) ITC can be availed for making zero-rated supplies, notwithstanding that such supply may be a exempt supply [Section 16(2) of the IGST Act].

(4) ITC is blocked on works contract services when supplied for construction of an immovable property. However, "**construction**" **includes only that repairs which are capitalized** along with the said immovable property.

In this case, since repairs of building is debited to P&L Account, the same does not amount to 'construction' and hence **ITC thereon is available** [Section 17(5)(c)].

(5) **ITC is not available** when depreciation has been claimed on the tax component of the cost of Capital goods under the Income-tax Act [Section 16(3)].

(6) The principal is entitled to take ITC of inputs sent for job work even if the said inputs are directly sent to job worker. However, where said inputs are not received back by the principal within a period of 1 year of the date of receipt of inputs by the job worker, it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were received by the job worker [Sub-sections (2) and (3) of section 19].

Hence, the ITC taken by PQR Company Ltd. in the month of Sep last year is valid and since one year period has yet not lapsed in April, there will be **no tax liability on such inputs**

Question 14

Mr. Vijay, a registered supplier, receives 100 invoices (for inward supply of goods/services) involving GST of ₹10 lakh, from various suppliers during the month of Oct..

Compute the ITC that can be claimed by Mr. Vijay in his GSTR-3B for month of Oct. to be filed by 20th Nov. in following independent cases assuming that GST of ₹ 10 lakh is otherwise eligible for ITC.

Case I: Out of 100 invoices. 80 invoices involving GST of ₹ 6 lakh have been uploaded by the suppliers their respective GSTR-1s filed on the prescribed due date therefor.

Case II : Out of 100 invoices, 95 invoices involving GST of ₹ 9.8 lakh have been uploaded by the suppliers In their respective GSTR-1s filed on the prescribed due date therefor.

Answer

Section 16(2) of the CGST Act 2017 provides certain conditions for availing ITC wherein one of the conditions is that the details of the invoice or debit note has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37. Rule 36 of the CGST Rules lays down the documents and other conditions basis which the registered person can claim ITC. Sub-rule (4) of rule 36 of the CGST Rules 2017 stipulates that **No ITC shall be availed by a registered person in respect of invoices or debit notes** the details of which are required to be furnished under section 37(1) **unless**

- (a) the **details of such invoices** or debit notes have been **furnished by the supplier** in the statemen of outward supplies **in Form GSTR-1 or using the invoice furnishing facility (IFF); and**
- (b) the **details** of such invoices or debit notes have been **communicated to the registered person Form GSTR-2B** under rule 60(7).

Thus, **ITC can now be taken only for those invoices whose details are reflected in GSTR-2B** i.e. the respective suppliers (vendors) have filed the details of such invoices their GSTR-1.

In accordance with the aforesaid provisions, given two cases have been analysed as under:

Case 1 : ITC to be claimed by Mr. Vijay in his GSTR-3B for the month of Oct. to be filed by 20th Nov. is Rs. 6 lakhs.

Case II : ITC to be claimed by Mr. Vijay in his GSTR-3B for the month of Oct. to be filed by 20th Nov. will be Rs. 9.8 lakhs.

Question 15

Sunshine Pvt. Ltd. manufactures taxable goods. The company registered under GST In the State of West Bengal. The company has provided following information in relation to inward supplies received by it in the month of Oct..

S.No.	Invoices received for inward supplies	IGST (₹)

1	Raw material – X	2,00,000
2	Rent of the factory building	1,50,000
3	Raw material-Y	1,30,000
4	Car purchased for the use of the director	1,20,000
5	Consumables	80,000
6	Machinery for being used in the manufacturing process	1,50,000
7	Raw material-Z	1,10,000
8	Technical consultancy for improvement in the manufacturing process	60,000
9	Raw material-W (imported from China)	50,000
	Total	10,50,000

S.No	Particulars	IGST (₹)
(i)	Balance in Form GSTR-2A on 28 th Oct. (Invoices at S. Nos. 1, 2 and 3 uploaded by the respective suppliers in their Form GSTR-1s)	4,80,000
(ii)	Balance in Form GSTR-2A on 11 th Nov. (Invoices at S. Nos. 1, 2, 3 and 4 uploaded by the respective suppliers in their Form GSTR-1s)	6,00,000
(iii)	(Balance in Form GSTR-2A on 25 th Nov. (Invoices at S. Nos. 1, 2, 3, 4 and 5 uploaded by the respective suppliers in their Form GSTR-1s)	6,80,000

Compute the ITC that can be claimed by Sunshine Pvt. Ltd. in its Form GSTR-3B for the month of Oct. to be filed by 20th Nov..

Note: The due date of filing of Form GSTR-1 and Form GSTR-3B for the month of Oct. are 11th Nov. and 20th Nov. respectively.

Answer

ITC to be claimed by Sunshine Pvt. Ltd. in its GSTR-3B for the month of Oct. to be filed by 20th Nov. will be computed as under-

Invoices	Amount of input tax involved in the invoices (₹)	Amount of ITC that can be availed (₹)
Balance in GSTR-2A on 11 th Nov. [Note 1] (Invoices at S. Nos, 1, 2, 3 and 4 uploaded by the respective suppliers in their GSTR-1s)	6,00,000	4,80,000 [Note 1 & 2]
Invoices at S. Nos. 5, 6, 7 and 8 not uploaded in GSTR-1	4,00,000	Nil [Note 1]
Invoice at S. No. 9	50,000	50,000 [Note 3]
Total	10,50,000	5,30,000

Notes:

(1) No ITC shall be availed by a registered person in respect of invoices or debit notes the details of which are required to be furnished under section 37(1) unless-

(a) the details of such invoices or debit notes have been furnished by the supplier in the statement of outward supplies in Form GSTR-1 or using the invoice furnishing facility (IFF) and

(b) the details of such invoices or debit notes have been communicated to the registered persons in Form GSTR-2B under rule 60(7).

Thus, ITC can now be taken only for those invoices whose details are reflected in GSTR-2B i.e the respective suppliers (vendors) have filed the details of such invoices in their GSTR-1.

(2) Section 17(5) of the CGST Act blocks ITC on motor vehicles for transportation of persons having approved seating capacity of not more than 13 persons if they are not used for making the following taxable supplies, namely:

(A) further supply of such motor vehicles; or

(B) transportation of passengers; or

(C) imparting training on driving such motor vehicles

Since Sunshine Pvt. Ltd. is not using the car for any of the aforesaid mentioned purpose, ITC thereon will not be available.

Thus, 100% ITC will be available in respect of invoices at S. Nos. 1, 2 & 3.

(3) The restriction of availment of ITC is imposed only in respect of those invoices, details of which required to be uploaded by the suppliers under section 37(1) of the CGST Act and which have not been uploaded. Therefore, full ITC can be availed in respect of IGST paid on imports which is outside the ambit of section 37(1) [Circular No. 123/42/2019].

Rule 42, Rule 43 and Special Cases

Question 16

A technical testing agency tests and certifies each batch of machine tools before dispatch by BMT Ltd. Some of these tools are dispatched to a unit in a SEZ without payment of GST as these supplies are not taxable. The finance personnel of BMT Ltd. want to know whether they need to carry out reversal of on the testing agency's services to the extent attributable to the SEZ supplies. Give your comments.

Answer

Under section 16(2) of the IGST Act, **credit of input tax is allowed** to be taken **for inward supplies used to make zero rated supplies**. Under section 17 of the CGST Act also, **ITC is disallowed** only to extent it pertains to supplies used **for non-business purposes or supplies other than taxable and** zero-rated supplies. Supplies to SEZ units are zero rated supplies in terms of section 16(1) of IGST Act Thus, full ITC is allowed on inward supplies of BMT Ltd used for effecting supplies to the unit in SEZ

Question 17

Mr. A, a registered person was paying tax under Composition Scheme up to 30th July. However, w.e.f 31st July, Mr. A becomes liable to pay tax under regular scheme. Is he eligible for any ITC?

Answer

Mr. A is **eligible for ITC on inputs held in stock and inputs contained in semi-finished or finished goods** held in stock and capital goods as on 30th July. **ITC on capital goods will be reduced by 5% per quarter or part thereof** from the date of invoice (Section 18(1)(c)).

Question 18

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

The company has provided the following details of the activities/transactions undertaken in a tax period:

SN	Particulars	Mumbai unit(₹)	Nagpur unit(₹)
(i)	Sale of taxable goods	12,50,000	13,50,00
(ii)	Interest received on fixed deposits with a nationalised bank		1,08,000
(iii)	Sale of securities [Such securities were purchased for 2,75,000]	4,50,000	
(iv)	Sale of agricultural land in vicinity of the manufacturing plant Stamp duty was paid on [1,85,00,000]		1,85,00,000
(v)	Sale of old factory building which was not used any more (Stamp duty was paid on 75,00,000]	90,00,000	
(vi)	Transfer of actionable claims (other than lottery, betting and gambling)		2,00,000

With the help of above information, you are required to determine the value of exempt supply under GST law as provided by Nagpur unit and Mumbai unit. Will your answer be different if the value of exempt supply provided by Nagpur unit and Mumbai unit is to be determined, for the purpose of apportionment of ITC under section 17(3)?

Answer

As per section 2(47), exempt supply means supply of any goods or services or both which attracts nil rate of GST or which may be wholly exempt from GST and includes non-taxable supply. An activity or transaction which is not a supply per se is not an exempt supply.

In view of same, value of exempt supply by Nagpur unit and Mumbai unit has been computed as under:

Particulars	Mumbai unit (₹)	Nagpur unit (₹)
Sale of taxable goods	-	-
Interest received on fixed deposits Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest are exempt	-	1,08,000
Sale of securities [Securities are neither goods nor services in terms of sections 2(52) and 2(102). Hence, sale of securities is neither supply of goods nor supply of service. Thus, same is not an exempt supply]	-	-
Sale of agricultural land [Sale of land is neither a supply of goods nor a supply of services in terms of para 5 of Schedule III to the CGST Act. Hence, the same is not an exempt supply.]	-	-
Sale of old factory building [Sale of building is neither a supply of goods nor a supply of services in terms of para 5 of Schedule III to the CGST Act, provided the entire consideration has been received after issue of completion certificate by the competent authority or after its occupation, whichever is earlier. Hence, the same is not an exempt supply.]	-	-
Transfer of actionable claims (other than lottery, betting and gambling) [Transfer of actionable claims (other than lottery, betting and gambling) is neither a supply of goods nor a supply of services in terms of para 6 of Schedule III to the CGST Act. Hence, the same is not an exempt supply.]	-	-
Total value of exempt supply	Nil	1,08,000

However, value of exempt supply by Nagpur unit and Mumbai unit for the purpose of apportionment of ITC under section 17(3) is not same and is determined as follows:

As per section 17(3), value of exempt supply includes supplies on which the recipient is liable to pay tax on RCM basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building. As per explanation to section 17(3), the expression "value of exempt supply **shall not include** the value of activities or transactions specified in **Schedule III**, except sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building. Further, as per CGST Rules, for determining the value of an exempt supply, the **value of exempt supply in respect of land and building is the value adopted for paying stamp duty and for security is 1% of the sale value of such security.**

Further, as per explanation 1 to rule 43, the aggregate value of **exempt supplies** for the purpose of rules 42 and 43, inter alia, **excludes** the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of **interest or discount, except** in case of a **banking company or a financial institution** including a NBFC, engaged in supplying services by way of accepting deposits, extending loans or advances.

In view of the aforesaid provisions, value of exempt supply by Nagpur unit and Mumbai unit for the purpose of apportionment under section 17(3) is as follows:

Particulars	Mumbai unit (₹)	Nagpur unit (₹)

Sale of taxable goods	-	-
Interest received on fixed deposits [Excluded from value of exempt supply by virtue of explanation 1 to rule 43]	-	-
Sale of securities [1% of ₹ 4,50,000] [Includible as per section 17(3). Value of exempt supply in respect for security is 1% of the sale value of such security]	4,500	-
Sale of agricultural land [Includible as per section 17(3). Value of exempt supply in respect of building is the value adopted for paying stamp duty.]	-	1,85,00,000
Sale of old factory building [Includible as per section 17(3). Value of exempt supply in respect of land is the value adopted for paying stamp duty.]	75,00,000	-
Transfer of actionable claims (other than lottery, betting and gambling) Excluded from value of exempt supply by virtue of explanation to section 17(3)]	-	-
Total value of exempt supply	75,04,500	1,85,00,000

Question 19

X, a manufacturer of roofing sheets, has total ITC of ₹1,60,000 available with him on 1st June. He provides the following information pertaining to the goods and services procured during the month of June:

- (1) Input tax on raw materials is ₹ 40,000. Raw material is used for both taxable and exempt activity.
- (2) Input tax on catering services procured from 'Harvest Caterers' in connection with his housewarming ceremony is ₹ 10,000.
- (3) Input tax on raw materials used in manufacture of exempt supplies of 2 lakh is ₹ 20,000.
- (4) Input tax on cosmetic and plastic surgery of manager of the factory is ₹ 30,000.

Total taxable turnover for the month of June is ₹ 60 lakh exclusive of tax.

Compute the ITC available for the month of June and net GST payable from E-cash Ledger by X for the month of June. Rate of GST is 18%.

Answer

Computation of ITC available and net GST payable from E-cash Ledger for the month of June

Particulars		Amount
GST on taxable turnover for the month of June [60,00,000 × 18%]		10,80,000
ITC available as on 30 June		
ITC available in the E-credit Ledger on 1 st June	1,60,000	
Add: Total ITC credited to the E-credit Ledger in the month of June (Refer working note below)	40,000	
Less: ITC out of common credit attributable to exempt supply [Refer working note below]	1,290	1,98,710
Net GST payable from E-cash ledger		8,81,290

Working Note**Computation of ITC (out of common credit) attributable to exempt supplies**

Particulars	Amount (₹)
Input tax on raw materials (Note 1)	40,000
Input tax on catering for housewarming [Note 2]	Nil
Input tax on inputs contained in exempt supplies [Note 3]	Nil
Input tax on cosmetic and plastic surgery of CEO of company [Note 4]	Nil
Total ITC credited to E-credit Ledger in terms of rule 42 in the month of June	40,000
Common credit [Note 5]	40,000
IT attributable towards exempt supplies [Note 6]	1,290

Notes

(1) Being used in the course of business, input tax on raw materials is available as ITC

(2) ITC on outdoor catering is blocked in terms of section 17(5) if the same is not used for making outward supply of outdoor catering or as an element of a taxable composite/mixed supply.

(3) Input tax on inputs used for making exempt supplies is not available as ITC.

(4) ITC on cosmetic and plastic surgery is blocked in terms of section 17(5) if the same are not used for making the same category of outward supply or as an element of a taxable composite/mixed supply.

(5) Since there are no inputs and input services which are used exclusively for effecting taxable supplies the entire ITC available and credited to E-credit Ledger, i.e. ₹ 40,000 will be the common credit

(6) ITC attributable towards exempt supplies $\text{Common credit} \times (\text{Aggregate value of exempt supplies during the tax period} / \text{Total turnover during the tax period}) = ₹ 40,000 \times ₹ 2,00,000 / ₹ 62,00,000 - (\text{rounded off})$

$= ₹ (1,290)$

Question 20

With the help of information given below in respect of a manufacturer for the month of Sep, compute the ITC credited to the E-credit Ledger, for the month. Also, compute the amount of ITC to be added to the output tax liability for the month of Sep.

Particulars	Amount (₹)
Outward supply of taxable goods (exclusive of taxes)	70,000
Outward supply of exempt goods	40,000
Total turnover	1,10,000
Inward supplies	GST paid (₹)
Capital goods used exclusively for taxable outward supply	2,000
Capital goods used exclusively for exempt outward supply	1,800
Capital goods used for both taxable and exempt outward supply	4,200

Answer**Computation of ITC credited to E-credit Ledger and amount of ITC to be added to the output tax liability for the month of Sep**

Particulars	ITC (₹)
Capital goods used exclusively for taxable supply [Since used exclusively for taxable supply, full ITC is available under rule 43(1) (b)]	2,000
Capital goods used exclusively for exempt supply [Since used exclusively for exempt supply, ITC is not available under rule 43(1)(a)]	Nil
Capital goods used for both taxable and exempt supply-Common credit (Tc) (Commonly used for taxable and exempt supplies-Rule 43(1)(c))	4200
Total ITC credited to E-credit Ledger for the month of Sep	6200
Common credit for the month of Sep (Tm) $T_c \div 60 = 4,200 \div 60$ [Rule 43(1)(e)]	70
Common credit attributable to exempt supplies in a month (Te) = $(E \div F) \times T_m$ where, 'E' is the aggregate value of exempt supplies, made, during the tax period, and 'F' is the total turnover in the State of registered person during tax period [Rule 43(1)(g)] $(40,000/1,10,000) \times ₹70$ (rounded off)	25.45
Amount to be added to the output tax liability for the month of Sep [Rule 43(1)(b)]	25.45

Question 21

Soren Enterprises is in possession of certain capital goods and purchases more of them as per the following particulars:

Particulars	Input tax on capital goods (₹)	Status of its use
Capital Goods A	12,000	Exclusively used for non-business purpose.
Capital Goods B	24,000	Exclusively used for zero-rated supplies.
Capital Goods C	60,000	Used both for taxable and exempt supplies
Capital goods D (has been exclusively used for 2 years for exempted supplies)	1,20,000	Now there is change in use, both for taxable and exempt supplies
Capital goods E has been exclusively used for 3 years for taxable supplies)	1,80,000	Now there is change in use, both for taxable and exempt supplies.

Useful life of all the above capital goods is considered as 5 years.

Compute the ITC to be reversed for each tax period (monthly) on account of common credit attributable to exempted use of such machines, while being informed that aggregate value of exempt supplies during tax period being ₹ 6,00,000 and total turnover during tax period being ₹12,00,000,

Answer**Apportionment of common credit pertaining to capital goods:**

Particulars	ITC (₹)
Capital goods 'A' Since exclusively used for non-business purposes, ITC is not available under rule 43(1)(a) of CGST Rules	Nil
Capital goods 'B' For ITC purposes, taxable supplies include zero-rated supplies under rule 43(1)(b) of CGST Rules. Hence, full ITC of ₹ 24,000 is available]	-
Capital goods 'C' Commonly used for taxable and exempt supplies]	60,000
Capital goods 'D' (Owing to change in use from exclusively exempt to both taxable and exempt, full amount of credit to be added to common ITC during the month as per proviso to rule 43(1)(c) of CGST Rules) Further, 5% per quarter or part thereof of credit relating to Capital goods D shall be added to the output tax liability for the month in terms of first proviso to rule 43(1)(c) of CGST Rules)= ₹ 48,000 (₹ 1,20,000 x 5% x 8 quarters)	1,20,000
Capital goods 'E' Owing to change in use from exclusively taxable to both taxable and exempt, full amount of credit to be added to common ITC as per proviso to rule 43(1)(d) of CGST Rules]	<u>1,80,000</u>
Total common credit	3,60,000
Common credit for the tax period under rule 43(1)(e) of CGST Rules =3,60,000 ÷ 60	6,000
Common credit attributable to exempt supplies in a tax period in terms of rule 43(1)(g) of CGST Rules = (Turnover of exempt supplies/Total turnover) x Common credit = (6,00,000/12,00,000) x ₹ 6,000	3,000

Question 22

XYZ is a manufacturing company registered under GST in the State of Uttar Pradesh. It manufactures two taxable products 'Alpha' and 'Beta' and one exempt product 'Gama', On 1st Oct., product 'Beta' got exempted through an exemption notification exemption available on 'Gama' got withdrawn on the same date. The turnover (exclusive of taxes) of 'Alpha', 'Beta' and 'Gama' in the the, month of Oct. was ₹ 9,00,000, ₹ 10,00,000 and 6,00,000. XYZ Pvt. Ltd. has furnished the following detail:

S.N	Particulars	Price (₹)	GST (₹)
(a)	Machinery 'U' purchased on 1 st Oct. for being used in manufacturing all the three products	2,00,000	36,000
(b)	Machinery 'V' purchased on 1 st Oct. for being used in manufacturing product 'Alpha' and 'Gama'	1,00,000	18,000
(c)	Machinery 'W' purchased on 1 st Oct. for being exclusively used in manufacturing product 'Beta'	3,00,000	54,000
(d)	Machinery 'Y' purchased on 1 st Oct. four years ago for being exclusively used in manufacturing product 'Beta'. From 1 st Oct., such machinery will also be used for manufacturing product 'Gama'	4,00,000	72,000

(e)	Machinery 'Z' purchased on 1 st Oct. two years ago for being used in manufacturing all the three products	3,00,000	54,000
(f)	Raw Material used for manufacturing 'Alpha' purchased on 5 th Oct.	1,50,000	27,000
(g)	Raw Material used for manufacturing 'Beta' purchased on 10 th Oct.	2,00,000	36,000
(h)	Raw Material used for manufacturing 'Gama' purchased on 15 th Oct.	1,00,000	18,000

Compute the following

- Amount of ITC credited to E-credit Ledger, for the month of Oct.
- Amount of aggregate value of common credit (Tc)
- Common credit attributable to exempt supplies, for the month of Oct.
- GST liability of the company payable through E-cash Ledger, for the month of Oct.

Note: Assume that all the procurements made by the company are from States other than Uttar Pradesh. Similarly, the company sells all its products in States other than Uttar Pradesh. Rate of IGST is 18%, Make suitable assumptions wherever required.

Answer

S.N	Particulars	ITC (₹)
(i)	Amount of ITC credited to E-credit Ledger, for the month of Oct.	
	Machinery 'U'- 'A' [Note 1]	36,000
	Machinery 'V' [Note 2]	18,000
	Machinery 'W' [Note 3]	-
	Machinery "Y" [Note 4]	-
	Machinery "Z" [Note 5]	-
	Raw Material used for manufacturing Alpha [Note of 6]	27,000
	Raw Material used for manufacturing 'Beta' [Note of 6]	-
	Raw Material used for manufacturing 'Gama' [Note 6]	<u>18,000</u>
	Amount of ITC credited to E-credit Ledger, for the month of Oct.	99,000
(ii)	Aggregate value of common credit (Tc) - Note 7	
	Value of 'A' for Machinery 'U' purchased on 1 st Oct.	36,000
	Value of 'A' for Machinery 'Z' purchased on 1 st Oct. 2 years ago for effecting both taxable and exempt supplies	54,000
	Input tax claimed on Machinery 'Y' purchased on 1 st Oct. 4 years ago for effecting taxable supplies but used for effecting both taxable and exempt supplies from 1 st Oct. in the current year [Note 8]	<u>72,000</u>
	Aggregate value of common credit (Tc)	1,62,000
(iii)	Common credit attributable to exempt supplies, for the month of Oct.	
	Common credit for the month of Oct. (Tm) – [Note 9]	2,700
	Common credit attributable to exempt supplies, for the month of Oct. (Te) [Note 10]	1,080
(iv)	Computation of GST liability of the company for Oct. payable through E-cash Ledger	
	IGST payable on 'Alpha' [₹ 9,00,000 x 18%]	1,62,000
	IGST payable on 'Beta' [Exempt]	Nil
	IGST payable on 'Gama' [₹ 6,00,000 x 18%]	<u>1,08,000</u>
	Total IGST payable on outward supply	2,70,000

	Common credit attributable to exempt supplies for the month of Oct. [Note 11]	<u>1,080</u>
	Total output tax liability of Oct.	2,71,080
	Less: ITC available in the E-credit Ledger	<u>99,000</u>
	IGST payable from E-cash Ledger	1,72,080

Notes:

(1) ITC in respect of capital goods used commonly for effecting taxable supplies and exempt supplies denoted as 'A' shall be credited to the E-credit ledger [Rule 43(1)(c)].

(2) ITC in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies but including zero rated supplies shall be credited to the electronic credit ledger [Rule 43(1)(b)].

(3) ITC in respect of capital goods used or intended to be used exclusively for effecting exempt supplies shall not be credited to E-credit ledger [Rule 43(1)(a)].

(4) Machinery 'Y' is being used for effecting both taxable and exempt supplies from 1st Oct.. Prior to that it was exclusively used for effecting taxable supplies. Therefore, ITC in respect of such machinery would have already been credited to the E-credit ledger.

(5) Machinery 'Z' is being used for effecting both taxable and exempt supplies from 1st Oct. t years ago. Therefore, ITC in respect of such machinery would have already been credited to the E-credit ledger.

(6) ITC in respect of inputs used for effecting taxable supplies will be credited in E-credit Ledger ITC in respect of inputs used for effecting exempt supplies will not be credited in the E-credit ledger [Rule 42]

(7) The aggregate of the amounts of 'A' credited to the E-credit ledger in respect of common capital goods whose useful life remains during the tax period, to be denoted as "Tc", shall be the common credit in respect of such capital goods [Rule 43(1)(d)]

(8) Where any capital goods which were used exclusively for effecting taxable supplies are subsequently also used for effecting exempt supplies, the ITC claimed in respect of such capital goods shall be added to arrive at aggregate value of common credit 'Tc' [Proviso to rule 43(1)(d)]

(9) ITC attributable to a month on common capital goods during their useful life (Tm) shall be computed in accordance with rule 43(1)(e) as under:

$$\begin{aligned}
 &= Tc \div 60 \\
 &= ₹ 1,62,000 \div 60 \\
 &= ₹ 2,700
 \end{aligned}$$

The useful life of any capital goods shall be considered as five years from the date of invoice and the said formula shall be applicable during the useful life of the said capital goods

(10) The amount of common credit attributable towards exempted supplies, be denoted as "Te", and shall be calculated as:

$T_e = (E \div F) \times T_m$ where,

'E' is the aggregate value of exempt supplies, made, during the tax period, and

'F' is the total turnover in the State of the registered person during the tax period [Rule 43(1)(g)]-

$$= T_r \times \frac{\text{Turnover of exempt supplies during the month of Oct.}}{\text{Total turnover of XYZ Pvt.Ltd.during the month of Oct.}}$$

$$= ₹ 2,700 \times \frac{₹ 10,00,000}{₹ 25,00,000} = ₹ 1,080$$

(11) Common credit attributable to the exempt supplies (T_e) along with the applicable interest (which is to be ignored in this case) shall, during every tax period of the useful life of the concerned capital goods, be added to the output tax liability of the person making such claim of credit (Rule 43(1)(h)).

Question 23

KPI Ltd, registered in the State of Himachal Pradesh (HP), has a manufacturing unit at Baddi (HP). The company manufactures two products: 'Xt' and 'St'. While 'Xt' is taxable, 'St' is exempt from GST. KPI Ltd. has furnished the following details:

S.N	Particulars	IGST (₹)
(a)	Machinery 1 purchased on 1 st July for being used in manufacturing Xt and St	72,000
(b)	Machinery 2 purchased on 1 st July for being exclusively used in manufacturing product Xt	36,000
(c)	Machinery 3 purchased on 1 st July for being exclusively used in manufacturing product St	1,08,000
(d)	Machinery 4 purchased on 1 st Oct. last year for being exclusively used in manufacturing product St. From 1 st July, such machinery will also be used for manufacturing product Xt.	1,44,000
(e)	Machinery 5 purchased on 1 st Jan. for being exclusively used in manufacturing Product Xt. From 1 st July, such machinery will also be used for manufacturing product St.	18,000
(f)	Machinery 6 purchased on 1 st July two years ago for being used in manufacturing Xt And St	1,08,000

Compute the following:

(i) Amount of ITC (ITC) credited to E-credit Ledger for the month of July

(ii) Amount of ineligible credit (Tie) for the month of July

(iii) Amount of aggregate value of common credit (TC)

(iv) Common credit for the month of July (T_m)

Note: All the conditions necessary for availing the ITC have been complied with. Make suitable assumptions wherever required

Answer

S.N.	Particulars	ITC (₹)
(i)	Amount of ITC credited to E-credit Ledger, for the month of July	
	Machinery 1-'A' (Note 1)	72,000
	Machinery 2 [Note 2]	36,000
	Machinery 3 [Note 3]	-
	Machinery 4-'A' [Note 4]	1,44,000
	Machinery 5 (Note 5)	-
	Machinery 6-'A' [Note 6]	-
	ITC credited to E-credit Ledger, for the month of July	<u>2,52,000</u>
(ii)	Amount of ineligible credit (Tie) for the month of July [Note 7]	21,600
(iii)	Aggregate value of common credit (Tc) [Note 8]	
	Value of 'A' for Machinery 1 purchased on 1 st July and used for effecting both taxable and exempt supplies	72,000
	Value of 'A' for Machinery 4 purchased on 1 st Oct. last year for being used for effecting exclusively exempt supplies and used for effecting both taxable and exempt supplies from 1 st July	1,44,000
	Value of 'A' for Machinery 6 purchased on 1 st July two years ago and used for effecting both taxable and exempt supplies	1,08,000
	Input tax claimed on Machinery 5 purchased on 1 st Jan. for being used for effecting exclusively taxable supplies and used for effecting both taxable and exempt supplies from 1 st July [Note 9]	<u>18,000</u>
	Aggregate value of common credit (Tc) for the month of July - Tc [Note 9]	<u>3,42,000</u>
(iv)	Common credit for the month of July (Tm) [Note 10]	5,700

Notes :

(1) ITC in respect of capital goods used commonly for effecting taxable supplies and exempt supplies denoted as 'A' shall be credited to the E-credit ledger (Rule 43(1)(c) of CGST Rules)

(2)] ITC in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies but including zero rated supplies shall be credited to the E-credit ledger [Rule 43(1)(b) of the CGST Rules)

(3) ITC in respect of capital goods used or intended to be used exclusively for effecting exempt supplies shall not be credited to E-credit ledger (Rule 43(1)(a) of the CGST Rules)

(4) When capital goods which were initially used exclusively for exempt supplies are subsequently used commonly for exempt supplies as well as taxable supplies, input tax in respect of the same denoted as 'A' shall be credited to the E-credit ledger [Rule 43(1)(c) of CGST Rules)

(5) Machinery 5 is used for effecting both taxable and exempt supplies since 1st July. Prior to that, it was exclusively used for effecting taxable supplies. Therefore, ITC in respect of such machinery would have already been credited to the E-credit ledger.

(6) Machinery 6 is being used for effecting both taxable and exempt supplies from 1st July two years ago. Therefore, ITC in respect of such machinery would have already been credited to the E-credit ledger.

(7) When capital goods which were used exclusively for exempt supplies are subsequently used commonly for exempt supplies as well as taxable supplies, input tax in respect of the same is credited in the E-credit ledger. The ineligible credit 'Tie' attributable to the period during which such capital goods were used for making exempt supplies is computed @ 5% per quarter or part thereof and added to the output tax liability of the tax period in which such credit is claimed

[Rule 43(1)(c) of the CGST Rules].

Thus, 'Tie' shall be computed as under-

$$= ₹ 1,44,000 \times 5\% \times 3 \text{ quarters}$$

$$= ₹ 21,600$$

(8) The aggregate of the amounts of 'A' credited to the E-credit ledger in respect of common capital goods whose useful life remains during the tax period, to be denoted as 'Tc', shall be the common credit in respect of such capital goods [Rule 43(1)(d) of the CGST Rules].

(9) Where any capital goods which were used exclusively for effecting taxable supplies are subsequently also used for effecting exempt supplies, the ITC claimed in respect of such capital goods shall be added to arrive at the aggregate value of common credit 'Tc' [Proviso to rule 43(1)(d) of the CGST Rules].

(10) ITC attributable to a month on common capital goods during their useful life (Tm) shall be computed in accordance with rule 43(1)(e) of CGST Rules as under:

$$= Tc \div 60$$

$$= ₹ 3,42,000 \div 60$$

$$= ₹ 5,700$$

The useful life of any capital goods shall be considered as five years from the date of invoice and the said formula shall be applicable during the useful life of the said capital goods.

Question 24

Oberoi Industries is a manufacturing company registered under GST. It manufactures two taxable products X and Y and one exempt product Z. The turnover of X Y and Z in the month of April, 20XX was ₹ 2,00,000, ₹ 10,00,000 and ₹ 12,00,000. Oberoi Industries is in possession of certain machines and purchases more of them. Useful life of all the machines is considered as 5 years.

From the following particulars furnished by it, compute the amount to be credited to the E-credit ledger of Oberoi Industries and amount of common credit attributable towards exempted supplies, if any for the month of April, 20XX.

Particulars	GST paid (₹)
Machine 'A' purchased on 01.04.20XX for being exclusively used for non-business purposes	19,200
Machine 'B' purchased on 01.04.20XX for being exclusively used in manufacturing zero-rated supplies	38,400
Machine 'C' purchased on 01.04.20XX for being used in manufacturing all the three products-X, Y and Z.	96,000
Machine 'D' purchased on April 1, 2 years before 01.04.20XX for being exclusively used in manufacturing product Z. From 01.04.20XX, such machine will also be used for manufacturing products X and Y.	1,92,000
Machine 'E' purchased on April 1, 3 years before 01.04.20XX for being exclusively used in manufacturing products X and Y. From 01.04.20XX, such machine will also be used for manufacturing product Z.	2,88,000

Answer

Particulars	Common credit (₹)	Ineligible credit (₹)	Amount to be credited to ECrL (₹)
Machine 'A' Since exclusively used for non-business purposes, ITC is not available under rule 43(1)(a) of CGST Rules]		19,200	
Machine 'B' For ITC purposes, taxable supplies include zero-rated supplies under rule 43(1)(b) of CGST Rules. Hence, full ITC is available]			38,400
Machine 'C' [Commonly used for taxable and exempt supplies - Rule 43(1)(c) of the CGST Rules]	96,000		96,000
Machine 'D' [Owing to change in use from exclusively exempt to both taxable and exempt, full amount of credit to be added to common ITC during the month as per proviso to rule 43(1)(c) of CGST Rules] Further, 5% per quarter or part thereof of credit relating to Machine D shall be added to output tax liability for the month in terms of first proviso to rule 43(1)(c) of CGST Rules = ₹ 76,800 (₹ 1,92,000 x 5% x 8 quarters)	1,92,000		1,92,000
Machine 'E' Owing to change in use from exclusively taxable to both taxable and exempt, full amount of credit to be added to ITC per proviso to rule 43(1)(d) of CGST Rules] Further the credit relating to Machine E would have been credited to E-credit ledger 3 years back when machine was used exclusively for taxable supplies. Therefore, no amount will be credited to the E-credit ledger again on change of in use of machine.	<u>2,88,000</u>		

Total common credit	5,76,000		
Common credit for tax period (in the given case, a month) under rule 43(1)(e) of CGST Rules = ₹ 5,76,000 ÷ 60	9,600		
Common credit attributable to exempt supplies in April 20XX under rule 43(1)(g) of CGST Rules = (Turnover of exempt supplies/Total turnover) x Common credit = (12,00,000/24,00,000) x ₹ 9,600 Such credit, along with the applicable interest, shall be added to output tax liability of Oberoi Industries]		4,800	
Amount to be credited to E-credit ledger of Oberoi Industries for the month of April, 20XX			3,26,400

Question 25

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

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

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

Particulars	Stock as on 30 th June (₹)	Stock as on 30 th Sep (₹)	Stock as on 31 st Oct. (₹)
'P'	25,00,000	10,00,000	3,60,000
'Q'	10,00,000	2,00,000	1,20,000

The entire stock of the products 'P' and 'Q' available with the firm as on 30th Sep is purchased during the said half year except a consignment of product 'P' valuing ₹3,00,000, which was purchased in the April month of the preceding FY. The said stock could not be sold during the month of Oct.. In the current final year, the month of Oct., no purchases were made, and the products were sold with a profit margin of 20% on sales [exclusive of taxes]

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

Bill No	Date	Value of products (exclusive of taxes)		
		'P' (₹)	'Q' (₹)	Total (₹)
2306	1 st Oct.	2,00,000	3,000	2,03,000
2307	1 st Oct.	1,33,000	5,250	1,38,250

2308	2 nd Oct.	67,000	39,250	1,06,250
2309	3 rd Oct.	58,750	33,750	92,500
2310	5 th Oct.	1,00,000	-	1,00,000
2311	6 th Oct.	94,000	6,000	1,00,000
2312	6 th Oct.	-	17,000	17,000
2313	8 th Oct.	50,000	6,000	56,000
2314	9 th Oct.	60,000	9,000	69,000
2315	-	-	-	-
-	-	-	-	-

Compute the ITC credited to the E-credit Ledger of the B & D Company, when it exits composition and becomes liable to pay tax under regular scheme, in accordance with the provisions of section 18(1)(c). Assume CGST and SGST rates to be 9 % each.

Note: All the above amounts are exclusive of taxes, wherever applicable. Stock is valued at cost price.

Answer

As per section 10(3) read with Notification No.14/2019 CT as amended, the option availed of by a registered person to pay tax under **composition scheme shall lapse with effect from the day** on which his **aggregate turnover during a FY exceeds 1.5 crore** [₹ 75 lakh in case of Special Category States except Assam, Himachal Pradesh and Jammu and Kashmir]

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

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

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

As per section 18(1)(c) read with rule 40, where any registered person ceases to pay tax under section 10, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax under section 9.

Further, ITC on supplies of inputs and capital goods shall not be available after the expiry of one year from the date of issue of tax invoice [Section 18(2)].

In the light of the above-mentioned provisions, the ITC credited to the E-credit Ledger of the B & D Company on inputs held in on 2nd Oct. will be computed as under:

Particulars	Amount (₹)
Stock of taxable inputs as on 30 th Sep Since no tax is paid on exempt purchases, there does not arise any Question of availing ITC on the same. Hence, stock of only taxable inputs is considered]	10,00,000
Add : Purchases (No purchases are made in Oct.)]	Nil
Less: Cost of taxable goods sold from 1 st Oct. to 2 nd Oct. [(2,00,000 + 1,33,000 ÷ 67,000) x 80%]	<u>3,20,000</u>
Stock of taxable inputs as on 2 nd Oct. [Since the bill numbers are in continuation, it can be concluded that no sales are missing from the extract]	6,80,000
Less : More than one year old stock	<u>3,00,000</u>
Stock of inputs on which ITC can be claimed	3,80,000
ITC of CGST @9%	34,200
ITC of SGST @9%	34,200
[Since all purchases are intra-State and from suppliers registered under regular scheme]	

Question 26

On **25th Aug**, M/s Agarwal & Agarwal, a registered supplier of taxable goods located in Bengaluru (Karnataka), purchased one machine for ₹12,39,000 (including IGST) from one supplier of Maharashtra who issued the invoice on the same date. M/s Agarwal & Agarwal put the machinery to use on the same day and availed ITC for the eligible amount.

M/s Agarwal & Agarwal used the machine in the process of manufacture of taxable goods. However, M/s Agarwal & Agarwal sold this machine to Mr. Suresh Kumar of Andhra Pradesh on **20th Aug of next year** for 7,50,000 (excluding IGST).

With reference to section 18(6), determine the amount payable, if any, by M/s Agarwal & Agarwal at the time of sale of the machine.

Note: The applicable rate of IGST is 18%.

Answer

As per section 18(6), if capital goods/plant and machinery on which ITC has been taken are supplied [outward) by a registered person, he must pay an amount that is higher of the following

(a) ITC taken on such goods reduced by 5% per quarter of a year or part thereof from the date of issue of invoice for such goods or

(b) tax on transaction value of such outward supply determined under section 15.

Accordingly, the amount payable in supply of machinery by M/s Agarwal & Agarwal shall be computed as follows

Particulars	₹
ITC taken on the machinery (₹ 12,39,000 X 18/118)	1,89,000
Less: ITC to be reversed @5 % per quarter or part of quarter for the period of use of machine	

For the previous year = (₹ 1,89,000 x 3 quarters)	28,350
For the current year = (₹ 1,89,000 x 2 quarters)	<u>18,900</u>
Amount required to be paid (A)	1,41,750
Duty leviable on transaction value (Rs. 7,50,000*18%) (B)	1,35,000
Amount payable towards disposal of machine is higher of (A) and (B)	1,41,750
Thus M/s Agarwal & Agarwal required to pay an amount of ₹ 1,41,750 at the time of sale of machinery	

Author Note: Quarter has been defined in CGST Act as a period comprising three consecutive calendar months, ending on the last day of March, June, Sep and Dec. of a calendar year. Hence in this case one Quarter is 25th Aug to 30th Sep, second quarter is 1st Oct to 31st Dec, third quarter is 1st Jan to 31st March, forth quarter is 1st April to 30th Jun and fifth quarter is 1st July to 20th Aug.

Input Service Distributor (ISD)

Question 27

State the conditions that need to be followed by an input service distributor for distribution of credit.

Answer

The following conditions need to be followed by input service distributor (ISD) for distribution of credit:

- i. The ISD is required to **obtain a separate registration** for distribution of credit.
- ii. The credit can be **distributed** to the recipients of credit against **an ISD invoice** containing, prescribed details
- iii. The amount of the **credit distributed shall not exceed the amount of credit available** for distribution.
- iv. The credit related to an input service must be distributed **only to the particular recipient to whom that input service is attributable.**
- v. If the input service is attributable to more than one recipient, the relevant ITC is distributed pro-rata to such recipients **in the ratio of turnover** of the recipient in a State/UT to the aggregate turnover of all the recipients to whom the input service is attributable and which are operational during the current year.
- vi. ITC pertaining to input services which are **common for all units, is distributed to all the recipients in the ratio of turnover** in the prescribed manner.
- vii. ITC available for **distribution in a month** shall be **distributed in the same month** and the details thereof shall be furnished in the prescribed form.
- viii. **Both ineligible and eligible ITC** are to be **distributed separately.**
- ix. ITC of CGST, SGST/UTGST and IGST are to be distributed separately.
- x. ITC of **CGST, SGST/UTGST** in respect of **recipient located in the same State/UT** is **distributed as CGST and SGST/UTGST respectively.**
- xi. ITC of **CGST and SGST/UTGST**, in respect of a recipient **located in a different State/UT, is distributed as IGST** (total of ITC of CGST and SGST/UTGST which were to be distributed to such recipient).

xii. ITC on account of IGST is distributed as IGST.

Question 28

Ceramity Ltd. has following units:

- A. Factory in Tumkur, Karnataka; turnover of 27 crores in 2022-23;
- B. Service centre in Hyderabad, Telangana; turnover of 1 crore in 2022-23;
- C. Service centre in Chennai, Tamil Nadu, turnover of 2 crores in 2022-23;

Ceramity Ltd's corporate office functions as ISD. It has to distribute ITC of 9 lakh for May, 2023. Of this, an invoice involving tax of 3 lakh pertains to technical consultancy for Tumkur unit.

Explain in brief how should the ITC be distributed?

Answer

As per rule 39(d) relating to ITC,-

- ₹ 3 lakh is attributable to Tumkur unit, and will be **transferred to Tumkur unit only.**
- **₹ 6 lakh have to be distributed** among Tumkur unit and the service centres in Hyderabad and **Chennai in proportion of their turnover** in the previous FY, that is, in 2022-23.
- Tumkur unit will get $(27 \text{ crore}/30 \text{ crore}) \times 6 \text{ lakh} = \text{₹ } 5.4 \text{ lakh};$
- Hyderabad service centre will get $(1 \text{ crore}/30 \text{ crore}) \times 6 \text{ lakh} = \text{20,000};$ and
- Chennai service centre will get $(2 \text{ crore}/30 \text{ crore}) \times 6 \text{ Lakh} = \text{40,000}.$

Ceramity Ltd. should issue ISD invoices (from GSTN obtained separately for ISD) for distributing ITC (as calculated above) to its units. It should be clearly indicated in the invoices that the same are issued only for distribution of ITC

Question 29

Sarani Weavers at Pune, Maharashtra is a registered input service distributor and intends to distribute ITC for the month of March. The following are the details available for such distribution

Branch	Turnover of the last quarter (₹)	ITC specifically applicable to the branch (₹)
Ganganagar Branch (Rajasthan)	10,00,000	IGST - ₹12,000 CGST – ₹ 3,000 SGST - ₹ 3,000
Madhugiri Branch (Karnataka)	5,00,000	Nil
Kosala Branch (UP)	15,00,000	Nil
Mumbai Branch (Maharashtra)	20,00,000	IGST - ₹1,50,000 CGST – ₹ 15,000 SGST - ₹ 15,000

ITC available on input services used commonly by all branches is as under:

CGST - ₹ 60,000

SGST- ₹ 60,000

IGST- ₹ 1,20,000

ITC (IGST) of 10,000 pertaining to March (last year) was inadvertently not distributed. Whether the same can be considered for distribution in March this year?

Madhugiri, Karnataka branch uses input services to manufacture exempted products. Turnover excludes duties & taxes payable to Central and State Govt..

Determine the manner of input tax distribution

Answer

As per section 20 read with rule 39:

- i. Total GST credit (CGST + SGST + IGST) of ₹18,000 **specifically attributable to Ganganagar Branch** Rajasthan will be distributed as IGST credit of ₹18,000 only to Ganganagar Branch, Rajasthan (Since recipient and ISD are located in different states]
- ii. GST credit of ₹1,50,000, CGST credit of ₹15,000 and SGST credit of ₹ 15,000 **specifically attributable to Mumbai Branch**, Maharashtra will be distributed as IGST credit of ₹1,50,000, CGST credit of 15,000 and SGST credit of ₹15,000 respectively, only to Mumbai Branch, Maharashtra [Since recipient is located in the same State in which ISD is located.
- iii. CGST credit of ₹ 60,000, SGST credit of ₹ 60,000 and IGST credit of 1,20,000 have to be distributed among the three branches and Mumbai Branch, Maharashtra **in proportion of their turnover** of the last quarter.
 - Ganganagar Branch, Rajasthan will get:
 $\text{₹ } 48,000 [₹ 2,40,000 \times (10,00,000/50,00,000)]$ as IGST credit.
 - Madhugiri Branch, Karnataka will get:
 $\text{₹ } 24,000 (₹ 2,40,000 \times (5,00,000/50,00,000))$ as IGST credit.
 - The credit attributable to a recipient is distributed even if such recipient is making exempt supplies.
 - Kosala Branch, UP will get:
 $\text{₹ } 72,000 [₹ 2,40,000 \times (15,00,000/50,00,000)]$ as IGST credit.
 - Mumbai Branch, Maharashtra will get:
 $24,000 [60,000 \times (20,00,000/50,00,000)]$ as CGST credit,
 $24,000 [60,000 \times (20,00,000/50,00,000)]$ as SGST credit and
 $48,000 [1,20,000 \times (20,00,000/50,00,000)]$ as IGST credit.
- iv. **ITC of ₹10,000 of March (last year) cannot be distributed in March this year** as ITC available for distribution in a month is to be distributed in the same month.

Question 30

Arise India Pvt. Ltd., a company engaged in manufacturing of various goods, has its corporate office at Mumbai and manufacturing units in Pune and Chennai and service centres in Kolkata and Bengaluru. The manufacturing units at Pune and Chennai and service centres at Kolkata and Bengaluru are registered in Maharashtra, Tamil Nadu, West Bengal and Karnataka respectively. The corporate office is registered as an input service distributor. All the units and centres of Arise India Pvt. Ltd. are operational in the current year. The corporate office intends to distribute ITC (ITC) for the month of Oct. 20XX. The following details are available for such distribution:

Table 1

Unit/centre	Turnover for the quarter ending Sep 20XX (₹)	Eligible ITC on input services attributable to a specific unit/centre, for month of Oct. 20XX (₹)
Pune	20,00,000	IGST- ₹ 3,00,000; CGST - ₹ 30,000; SGST- ₹30,000
Chennai	30,00,000	IGST- ₹ 24,000, CGST- ₹ 6,000, SGST - ₹ 6,000
Kolkata	10,00,000	Nil
Bengaluru	40,00,000	Nil

Note: Turnover excludes all taxes and duties

Table 2

S.N.	Particulars	CGST	SGST	IGST
(i)	Input services used by all units and centres			
	(a) Eligible ITC under the provisions of the GST law	1,20,000	1,20,000	2,40,000
	(b) Ineligible ITC in terms of section 17(5) of the CGST Act	40,000	40,000	80,000
(ii)	Inputs used by Pune unit and Kolkata centre	60,000	60,000	
(iii)	Input services used by Chennai unit and Bengaluru centre (ITC pertaining to such invoices is eligible ITC under the provisions of the GST law)	30,000	30,000	10,000

Chennai unit manufactures exempted products.

Compute the amount of ITC to be distributed to each of the units and centres.

Answer

Computation of ITC to be distributed by ISD

S.N.	Particulars	Pune unit (₹)	Chennai unit (₹)	Kolkata centre (₹)	Bengaluru centre (₹)
(i)	IGST credit of ₹ 3,00,000, CGST credit of 30,000 & SGST credit	3,00,000(IGST) 30,000(CGST) 30,000(SGST)			

	of 30,000 specifically attributable to Pune unit [Note 1]				
(ii)	(IGST credit of ₹24,000, CGST credit of ₹ 6,000 and SGST credit of ₹ 6,000 specifically attributable to Chennai unit [Note 2])		36,000(IGST)		
(iii)	(Eligible ITC pertaining to input services used by all units and centres [Note 3])	24,000(IGST) 24,000(CGST) 48,000(SGST)	1,44,000(IGST)	48,000(IGST)	1,92,000(IGST)
(iv)	Ineligible ITC pertaining to input services used by all units and centres [Note 4]	8,000(IGST) 8,000(CGST) 16,000(SGST)	48,000(IGST)	16,000(IGST)	64,000(IGST)
(v)	Inputs used by Pune unit and Kolkata centre [Note 5]	Nil	Nil	Nil	Nil
(vi)	Input services used by Chennai unit and Bengaluru centre [Note 6]		30,000(IGST)		40,000(IGST)

Notes:

(1) GST credit of ₹3,00,000, CGST credit of ₹ 30,000 and SGST credit of ₹30,000 specifically attributable to Pune unit will be distributed as IGST credit of ₹3,00,000, CGST credit of ₹ 30,000 and SGST credit of ₹30,000 respectively, only to Pune unit, since recipient is located in the same State in which ISD is located (Section 20(2)(c) of the CGST Act read with clauses (e) & (f) (i) of sub-rule (1) of rule 39 of the CGST Rules].

(2) Total GST credit (CGST+ SGST +IGST) of ₹ 36,000 specifically attributable to Chennai unit will be distributed as **IGST credit** of ₹36,000, only to Chennai unit, since recipient and ISD are located in different States.

3) Eligible ITC of CGST [₹1,20,000], SGST [₹1,20,000] and IGST [₹2,40,000] will be distributed among the units and centres in the ratio of their turnover of the last quarter.

Ratio of the turnover of the units and centres in last quarter, previous to the month during which ITC is to be distributed:

= 20 lakh : 30 lakh : 10 lakh : 40 lakh

= 2:3:1:4

Therefore,

Pune unit will get = ₹ 24,000 [1,20,000 x (2/10)] as CGST credit, ₹ 24,000 (1,20,000 x (2/10)) as SGST credit and ₹ 48,000 [2,40,000 x (2/10)] as eligible IGST credit.

Chennai unit will get = ₹1,44,000 [₹ 4,80,000 x (3/10)] as IGST credit. The credit attributable to a recipient is distributed even if such recipient is making exempt supplies.

Kolkata centre will get = 48,000 [₹ 4,80,000 x (1/10)] as IGST credit.

Bengaluru will get = ₹1,92,000 [₹ 4,80,000 x (4/10)] as IGST credit.

(4) Ineligible ITC of CGST [₹40,000], SGST ₹40,000 and IGST [₹ 80,000] will also be distributed among the units and centres in the ratio of their turnover of the last quarter.

2:3:1:4

Therefore,

Pune unit will get = ₹8000 [40,000 x (2/10)] as CGST credit ₹ 8,000 [40,000 x 2/10) as SGST credit and ₹16,000 [80,000 x (2/10)] as eligible IGST credit IGST credit.

Chennai unit will get ₹48,000 [₹ 1,60,000 x (3/10)] as IGST credit.

Kolkata centre will get ₹16,000 [₹ 1,60,000 x (1/10)] as IGST credit.

Bengaluru will get ₹ 64,000 [₹ 1,60,000 x (4/10)] as IGST credit.

(5) ISD mechanism is meant only for distributing the credit on common invoices pertaining to input services only and not goods (inputs or capital goods).

(6) Eligible ITC of CGST [₹ 30,000], SGST [₹ 30,000] and IGST [₹10,000] will be distributed among the Chennai unit and Bengaluru centre in the ratio of their turnover of the last quarter.

Ratio of the turnover of the Chennai unit and Bengaluru centre in last quarter, previous to the month during which ITC is to be distributed:

= 30 lakh: 40 lakh

= 3:4

Therefore

Chennai unit will get = ₹30,000 [₹70,000 x (3/7)] as IGST credit.

Bengaluru unit will get = ₹40,000 [₹70,000 x (4/7)] as IGST credit.

Question 31

Input Service Distributor (ISD) of a company is registered separately in the State of Kerala and distributing ITC (ITC) to other units in the company. Following details are furnished for particular month, and you are required to help the ISD department in distributing the ITC to other that are carrying on manufacturing, supplying goods and services to customers.

S.N.	Particulars	Amount is lakh (₹)
	Turnover in the relevant month of each of the units:	
(1)	Mumbai (Maharashtra)	12.00
(2)	Bangalore (Karnataka)	60.00
(3)	Hyderabad (Andhra Pradesh)	36.00
(4)	Trivandrum (Kerala)	72.00

(5)	Total ITC available during the month with the ISD (includes CGST/SGST & IGST) on (account of supplies received during the month	48.00
(6)	From the above, ITC exclusive to Bangalore unit, available as IGST credit	12.00
(7)	From the above, ITC exclusive to Trivandrum and Hyderabad units (CGST and SGST of ₹3.00 lakh each)	6.00
(8)	Rest of the credit available is allocable as common credit to all the units and is received from local suppliers in Kerala.	
(9)	Basic value (exclusive of taxes) of a debit note received, during the month in respect of a previous supply, with rate of tax @ 12% IGST (pertains to all units) being charged and shown separately	50.00
(10)	Total value (inclusive of taxes) in the credit note received, during the month, applicable exclusively to Kerala unit, taxed at the rate of 9% CGST and 9% SGST which is charged and indicated separately	118.00

Also make your comments regarding the amount of ITC in credit notes, if exceeds the ITC from invoices and debit notes in a particular month for all or any of the units

Answer

Computation of the amount of credit distributed by the ISD to various units of the company.

(It has been logically assumed that credit to be distributed by 1SD is credit of input services.)

	Mu mbai	Banga lore	Hydr abad	Trivan drum	Triva ndru m	Triva ndru m
	IGST	IGST	IGST	CGST	SGST	IGST
ITC exclusive Bangalore unit available as IGST [ITC of IGST is distributed as IGST only]		12				
ITC to exclusive 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 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 x 12%)] due to debit note received from supplier to be distributed among all four units in proportion of their turnover of relevant month, ie, 1:5:3:6 [ITC of IGST is distributed as IGST only]	0.4	2	1.2			2.4

ITC to be reduced on account of credit note received from supplier, exclusive to Kerala unit 9% of (₹118 lakh x 100/118)				9	9	
Total ITC apportioned to each unit	2.4	24	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 amount reduced on account of credit note				1	1	

ITC Utilisation

Question 32

Determine the amount of tax payable through E-credit ledger/E-cash ledger from the even information.

Taxable turnover of ABC Ltd in the month of Feb = ₹1,25,00,000 (excluding zero-rated and exempt supply).

Taxable amount of ITC (as per books) for the month of Feb- ₹ 25,00,000

Total amount of ITC (as per GSTR-2B) for Feb - ₹ 22,00,000

Applicable tax rate: 18%

Answer

In the given case. ABC Ltd. would be liable to pay tax of ₹ 22,50,000 (i.e. ₹1,25,00,000 x 18%).

In terms of Rule 36(4) of CGST Rules, **No ITC** shall be availed by a registered person in **respect of invoices or debit notes** the details of which **are required to be furnished under section 37(1) unless -**

(a) the **details** of such invoices or debit notes have been **furnished by the supplier** in the statement of outward supplies **in Form GSTR-1 or using the invoice furnishing facility (IFF)**; and

(b) the details of such invoices or debit notes have been **communicated to the registered person in Form GSTR-2B** under rule 60(7).

Thus **ITC** can now be taken **only for those invoices whose details are reflected in GSTR-28** i.e. the respective suppliers (vendors) have filed the details of such invoices their GSTR -1

Hence, **ABC Ltd would be entitled to avail the ITC of ₹22,00,000** (matched ITC)

Therefore, liability of ₹22,50,000 would be paid in the following manner:

- (i) ₹22,00,000 (matched ITC)] to be paid via **E-credit ledger**; and
- (ii) ₹ 50,000 to be paid via **E-cash ledger**.

Question 33

Mr. X. a supplier of goods, pays GST under regular scheme. He has made the following outward taxable supplies in a tax period:

Particulars	₹

Intra-State supply of goods	8,00,000
Inter-State supply of goods	3,00,000

He has also furnished the following information in respect of purchases made by him in that tax period:

Particulars	₹
Intra-State supply of goods	2,00,000
Inter-State supply of goods	50,000

Mr. X has following ITCs with him at the beginning of the tax period:

Particulars	₹
CGST	57,000
SGST	Nil
IGST	70,000

Note:

- Rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively.
- Both inward and outward supplies are exclusive of taxes, wherever applicable.
- All the conditions necessary for availing the ITC have been fulfilled.

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

Answer

Computation of minimum GST payable in cash by Mr. X on outward supplies

Particulars	CGST	SGST	IGST
Intra-State supply of goods CGST & SGST @9% each on Rs. 8,00,000	72,000	72,000	
Inter-State supply of goods @ 18%			1,44,000

Computation of total ITC

Particulars	CGST (9% (₹)	SGST @9% (₹)	IGST @18% (₹)
Opening ITC	57,000	Nil	70,000
Add: ITC on Intra-State purchases of goods valuing 2,00,000	18,000	18,000	Nil
Add: ITC on Inter-State purchases of goods valuing 50,000	Nil	Nil	9,000
Total ITC	75,000	18,000	79,000

Computation of minimum GST payable in cash

Particulars	CGST (9% (₹)	SGST @9% (₹)	IGST @18% (₹)
GST Payable	72,000	72,000	54,000
Less : ITC	(Nil)-IGST	(25,000)-IGST	(54,000)-IGST

	(72,000)-CGST	(18,000)-SGST	
Minimum GST payable in cash	Nil	29,000	Nil

Note : Since sufficient balance of ITC of CGST is available for paying CGST liability and cross utilization of ITC of CGST and SGST is not allowed, ITC of IGST has been used to pay SGST (after paying IGST liability) to minimize cash outflow.

Question 34

Mr. NY, a supplier of goods pays GST under regular scheme. Mr. NY is not eligible for any threshold exemption. He has made the following outward taxable supplies during Sep 20XX.

Particulars	Rate of Tax			Amount (₹)
	CGST	SGST	IGST	
Intra State Supply of goods				
Product A	6%	6%	-	8,00,000
Product B	9%	9%	-	2,00,000
Inter State Supply of goods				
Product A	-	-	12%	3,00,000
Product B	-	-	18%	1,50,000

He has also furnished the following information in respect of supplies received by him during Sep 20XX.

Particulars	Rate of Tax			Amount (₹)
	CGST	SGST	IGST	
Intra State Supply of goods				
Product A	6%	6%	-	2,00,000
Product B	9%	9%	-	1,00,000
Inter State Supply of goods				
Product A	-	-	12%	1,50,000
Product B	-	-	18%	80,000

Mr. NY has following ITCs with him at the beginning of Sep 20XX:

Particulars	₹
CGST	40,000
SGST	28,000
IGST	44,600

Note:

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

Compute net GST payable by Mr. NY for the month of Sep 201XX.

Make suitable assumptions wherever required.

Answer

Computation of GST payable by Mr. NY for the month of Sep, 20XX:

S.NO	Particulars	CGST ₹	SGST ₹	IGST ₹

(i)	Intra State Supply of goods			
	Product A	48,000	48,000	
	Product B	18,000	18,000	
(ii)	Inter State Supply of goods			
	Product A			36,000
	Product B			27,000
	Total	66,000	66,000	63,000

Computation of total ITC available

S.NO	Particulars	CGST ₹	SGST ₹	IGST ₹
(i)	Opening balance	40,000	28,000	44,600
(i)	Intra State Supply of goods			
	Product A	12,000	12,000	
	Product B	9,000	9,000	
(iii)	Inter State Supply of goods			
	Product A			18,000
	Product B			14,400
	Total	61,000	49,000	77,000

Computation of net GST payable (from cash ledger).

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
GST Payable	66,000	66,000	63,000
Less : ITC	(61,000)-CGST	(14,000)-IGST (49,000)-SGST	(63,000)-IGST
Net GST payable	5,000	3,000	Nil

Note 1. ITC of IGST shall be first utilize fully to pay IGST, CGST and SGST in that order.

Note 2. IGST credit after setting it against IGST liability of Rs. 63,000 i.e. Rs. 14,000 to be adjusted first with SGST liability since CGST credit is almost sufficient to set off CGST liability.

Question 35

George Pvt. Ltd, a registered supplier of goods at Kerala who pays GST under regular scheme, has made the following transactions (exclusive of tax) during a tax period

Purchases (₹)	Sales (₹)	Tax Rate
5,00,000 [Purchases made from registered person in New Delhi]	10,00,000 [Sale made to registered person in New Delhi]	IGST - 18% CGST – 9% SGST - 9%
2,50,000 [Purchases made from Registered person in Trivandrum, Kerala]	8,00,000 [Sales made to registered person in Trivandrum]	

The company has complied with all the conditions for availing the ITC. The following further information regarding various balances available with it on the first day of the tax period, is provided by the company

Source	Taxes (₹)	Interest (₹)	Penalty (₹)
CGST	50,000	1500	500
SGST	30,000	1500	500
IGST	1,00,000	2000	500

Compute the minimum net CGST, SGST and IGST payable from the E-cash Ledger by George Pvt. Ltd for the tax period as also ITC to be carried forward to next tax period, if any

Answer

Computation of minimum net CGST, SGST and IGST payable from the E-cash ledger by George Pvt. Ltd. for the tax period

Particulars	Amount ₹	CGST @9%₹	SGST @9%₹	IGST @9%₹
Sales made outside Kerala (New Delhi) - [Being inter-State sale, the same is liable to GST	10,00,000			1,80,000
Sales made in Trivandrum [Being intra-State sale the same is liable to CGST & SGST	8,00,000	72,000	72,000	
Less ITC available during the tax period for set off [Refer Working Note Below]		(72,000) CGST	(10,000) IGST (52,500) SGST	(1,80,000)
Net tax liability payable in cash		Nil	9,500	Nil
ITC to be carried forward to next tax period		500 72,500 – 70,000)	Nil (52,500 – 52,500)	Nil 1,90,000 – 1,90,000

Working Note:

ITC available during the tax period is computed as under:

Opening balance of ITC		50,000	30,000	1,00,000
Purchases from New Delhi [Being inter- State purchase, IGST would have been paid on it.]	5,00,000			90,000
Purchases from Trivandrum	2,50,0000	22,500	22,500	
Total ITC		72,500	52,500	1,90,000

Note: Since sufficient balance of ITC of CGST is available for paying CGST liability and cross-utilization of ITC of CGST and SGST is not allowed, ITC of IGST has been used to pay SGST (after paying IGST liability) to minimize cash outflow. Interest and penalty paid are not available as

credit for payment of output tax liability under GST. It can be used only against corresponding interest/penalty under the GST law.

Question 36

BCD Ltd. decided to sell its own branded groceries at 20% of the cost to any organisation who is providing free food and groceries to the poor and needy as its contribution to the nation. The details of the transaction from April, 20XX to March, 20XX during which it had done this are given below:

S,N	Particulars	Amount in Rs.
i	Total turnover (excluding GST) of branded groceries and food grains during the period as per the invoices issued and accounted for GST purposes (Actual value of the goods is ₹20 crores)	4 crore
ii	Tax paid on the security and maintenance services during the period	CGST-1.35 lakh SGST-1.35 lakh
iii	Tax paid on the rent paid on the warehouse for storage of goods and for undertaking packing etc.	CGST-4.50 lakh SGST-4.50 Lakh
iv	Tax paid on packing materials and printing charges on packing materials	CGST-11.15 lakh SGST-11.15 lakh

What is the value to be adopted for the purpose of payment of GST?

Compute the admissible ITC and output tax liability and indicate whether any tax has to be paid in cash. Assume the rate of CGST and SGST as 2.50% each on the branded groceries and food grains at all sales are intra-State only.

Answer

Particulars		Amount (₹)
Value of supply adopted for payment of GST Transaction value, which is the price actually paid or payable for the supply, is adopted for purpose of payment of GST.]		4,00,00,000
Output tax liability	CGST @ 2.5% (₹)	SGST @ 2.5% (₹)
Output tax liability on 4 crores [A]	10,00,000	10,00,000
ITC	CGST (₹)	SGST (₹)
Security and maintenance	1,35,000	1,35,000
Warehousing rent	4,50,000	4,50,000
Packing and printing	<u>11,15,000</u>	<u>11,15,000</u>
Total ITC available [B]	17,00,000	17,00,000
Net tax payable in cash [A] - [B]	Nil	Nil

Question 37

M/s Fly-by-Night, tour operators, availed ITC in respect of certain transactions where no such supplier was existent or from a person not doing any business from the registered place of business.

Jurisdictional Deputy Commissioner of GST wants to restrict the utilization of the credit by M/s Fly-by- Night. You have been approached by M/s Fly-by-Night to give your advice on the following Questions raised by it:

- (i) Is it possible for the Department to restrict the utilization of credit which is already availed?
 (ii) If yes, under what circumstances this can be done by the Department?

Answer

(i) **Yes**, it is possible for the Department to restrict the utilization of credit which is already availed if there are reasons to believe that such ITC has been **fraudulently availed** or is ineligible.

(ii) The restrictions can be imposed under the **following circumstances**:

(a) ITC has been availed on the basis of tax invoices/valid documents -

- **issued by a non-existent supplier** or by a person not conducting any business from the registered place of business; or
- **without receipt of goods or services** or both; or
- the **tax** in relation to which has **not been paid** to the Govt.

(b) Registered **person availing ITC** has been **found non-existent** or not to be conducting, any business from the registered place of business; or

(c) Registered person availing ITC is **not in possession of tax invoice**.

Computation of GST liability

Question 38

M/s XYZ, a registered supplier, supplies the following goods and services for construction of buildings and complexes-

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

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

M/s XYZ receives the following services:

- Maintenance services for excavators:
- Scientific and technical consultancy for soil testing and seismic evaluation.
- Health insurance for operators of the excavators;

For a given month, the receipts (exclusive of GST) of M/s XYZ are as follows:

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

The GST paid during the said month on services received by M/s XYZ is as follows:

- Maintenance for excavators ₹ 1,00,000
- Health insurance (not obligatory) for excavator operators ₹11,000
- Scientific and technical consultancy for soil testing and seismic evaluation - ₹1,00,000

Compute the net GST payable by M/s XYZ from E-cash Ledger for the given month.

Assume the rates of GST to be as under:

Hiring out of excavators - 12%

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

Answer

Computation of net GST payable by M/s XYZ

Particulars	GST payable (₹)
Gross GST liability [Refer Working Note 1 below]	2,63,400
Less: ITC [Refer Working Note 2 below]	2,00,000
Net GST payable from E-cash Ledger	63,400

Working Notes

(1) Computation of gross GST liability

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

Notes:

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

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

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

(2) Computation of ITC available for set off

Particulars	GST paid (₹)	ITC available (₹)
Maintenance services for excavators [Note 1]	1,00,000	1,00,000
Health insurance for excavator operators [Note 2]	11,000	-

Scientific and technical consultancy [Note 1]	1,00,000	1,00,000
Total ITC available		2,00,000

Notes:

- (i) Section 17(5)(d) blocks credit on goods/services received by taxable person for construction of an immovable property on his own account. Here, though excavators are used for building projects, same are not used by M/s. XYZ on its own account for construction of immovable property instead they are used for outward taxable supply of hiring out of machinery. Further, excavators are special purpose vehicles whose credit is not restricted under section 17(5)(a), therefore, ITC on maintenance service for excavators shall be allowed.

Therefore, the maintenance service for the excavators does not get covered by the bar under section 17 and the credit thereon will be available. The same applies for scientific & technical consultancy for construction projects because in this case also, the service is used for providing the outward taxable supply of soil testing and seismic evaluation service and not for construction of immovable property.

- (ii) Section 17(5)(b)(i) allows ITC on health insurance only where an inward supply of such services is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply or where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.

Question 39

ABC Company Ltd. of Bengaluru is a manufacturer and registered supplier of machineries. It has provided the following details for a tax period:

Inward supplies	GST paid (₹)
Health insurance of factory employees as required by the Factories Act, 1948	20,000
Raw materials for which invoice has been received and GST has also been paid for full amount but only 50% of material has been received, remaining 50% will be received in next month	18,000
Work contractor's service used for installation of plant and machinery	12,000
Purchase of manufacturing machine sent directly to job worker's premises under delivery challan	50,000
Purchase of car used by director exclusively for the purpose of business meetings	25,000
Outdoor catering service availed for business meetings	8,000

ABC Company Ltd. also provides service of hiring of machines along with manpower for operation. As per trade practice, machines are always hired out along with operators and also operators are supplied only when machines are hired out.

Outward supply (exclusive of GST) for the tax period are as follows

Particulars	Value (₹)
Hiring receipts for machine	5,25,000

Service charges for supply of manpower operators	2,35,000

Assume the rates of GST to be as under:

- (i) Service of hiring of machine 12%
- (ii) Supply of manpower operator service 18%

Compute the amount of ITC available as also the net GST payable from the E-cash Ledger for the tax period by giving necessary explanations for treatment of various items.

Answer

Computation of net GST payable by ABC Company Ltd

Particulars	GST payable(₹)
Gross GST liability [Refer working note (2) below]	91,200
Less: ITC [Refer working note (1) below]	<u>82,000</u>
Net GST payable from E-cash Ledger	9,200

Working Notes:

(1) Computation of ITC available with ABC Company Ltd

Particulars	GST(₹)
Health insurance of factory employees [Note-1]	20,000
Raw material received in factory [Note-2]	Nil
Work's contractor's service used for Installation of plant and machinery [Note-3]	12,000
Manufacturing machinery directly sent to job worker's premises under challan [Note - 4]	50,000
Purchase of car used by director for business meetings only [Note -5]	Nil
Outdoor catering service availed for business meetings [Note-6]	<u>Nil</u>
Total ITC available	82,000

Notes:

- ITC of health insurance is available** in the given case in terms of proviso to section 17(5)(b) since it is **obligatory for employer** to provide health insurance to its employees under the Factories Act, 1948.
- Where the goods against an invoice are received in lots/instalments, **ITC is allowed upon receipt of the last lot/instalment**. Therefore, ABC Company Ltd will be entitled to ITC of raw materials on receipt of second instalment in next month
- Section 17(5)(c) provides that ITC on works contract services is blocked when supplied for construction of immovable property (other than plant and machinery) except when the same is used for further supply of works contract service.
In this case, ITC will be allowed since such services are being used for installation of plant and machinery.

4. ITC on capital goods directly sent to job worker's premises under challan is allowed .
5. Section 17(5)(a) provides that motor vehicle for transportation of persons having approved seating capacity of not more than 13 persons (including the driver), except when they are used for making taxable supply of –
 - (i) further supply of such vehicles,
 - (ii) transportation of passengers,
 - (iii) imparting training on driving, flying, navigating such vehicles

Since ABC Company Ltd is a supplier of machine and it does not use the car for transportation of passengers or any other use as specified, ITC thereon will not be available.

6. Section 17(5)(b)(i) provides that ITC on outdoor catering is blocked except where the same is used for making further supply of outdoor catering or as an element of a taxable composite or mixed supply. Since ABC Company Ltd is a supplier of machine, ITC thereon will not be available.

(2) Computation of gross GST liability

	Value received (₹)	Rate of GST	GST payable (₹)
Hiring receipts for machine	5,25,000	12%	63,000
Service charges for supply of manpower operators	2,35,000	12%	28,200
Gross liability			91,200

Note:

Since machine is always hired out along with operators and operators are supplied only when the machines are hired out, **it is a case of composite supply**, wherein the principal supply is the hiring out of machines [Section 2(30) read with section 2(90)]. Therefore, service of supply of manpower which also be taxed at the rate applicable for hiring out of machines (principal supply) which is 12% terms of section 8(a)

Question 40

Sabu Parivar, pumps manufacturer in Vadodara (Gujarat) has provided following details for the month of May:

1. As a staff welfare measure, Sahu Parivar has entered into an agreement with PNS Insurance Company to provide life insurance to its employees. PNS charged ₹35,00,000 for the same.
2. It has entered into an agreement with a travel company to provide home travel facility to its employees when they are on leave. Travel company charged ₹1,00,000 for such facility.
3. It has entered into an agreement with a fitness center to provide wellness services to its employees after office hours for a consideration amounting to ₹80,000.
4. It has availed services of the works contractor to erect foundation for fixing the machinery to earth in the factory. It paid ₹ 50,000 for the same.

5. It laid pipelines (from the water source outside the factory) upto the gate of the factory for the purpose of production facility. The cost incurred for the same is ₹ 4,00,000.

6. For the purpose of smooth and convenient mobile communication in its factory, it has installed telecommunication tower of a mobile company (with due permission) by incurring ₹ 2,00,000.

Note: All the above transactions are intra-State in nature.

Sahu Parivar has also entered into a contract with AP Refinery, Sambhra (Rajasthan) on 1st May to supply and install 16 pumps on FOR basis. The following information is provided in this regard:

List price per pump is ₹1,60,000, exclusive of taxes. One of the conditions of the contract is that Sahu Parivar should ensure a two stage third party inspection for the pumps during the manufacturing process. Cost of inspection of ₹24,000 (for 16 pumps) is directly paid by AP Refinery to testing agency. AP Refinery requires a special packing for the pumps and the cost of such special packing is ₹ 86,000 (for 16 pumps). Sahu Parivar arranges for erection and testing of the pumps supplied by it at AP Refinery's site Cost of erection etc. is ₹ 24,000 (for 16 pumps). Goods are dispatched with tax invoice on 20th May and they reach the destination at Sambhra on 21st May. Lorry freight (for 16 pumps) of ₹ 16,000 has been paid by AP Refinery directly to the lorry driver.

Assume CGST, SGST and IGST rates to be 9%, 9% and 18% respectively. For the relevant month, opening balance of ITC of IGST is Nil, CGST is ₹ 32,500 and SGST is ₹ 32,500. All the given amounts are exclusive of GST, wherever applicable.

You are required to work out the net GST [CGST and SGST or IGST, as the case may be] payable from E-cash Ledger of Sahu Parivar for the month of May after making suitable assumptions, if any

Answer

Computation of net GST payable by Sahu Parivar for the month of May

Particulars	CGST (₹)	SGST (₹)	IGST(₹)
Output tax liability [Working Note 1]			4,87,800
Less ITC of CGST (Working Note 2)			(37,000)
Less ITC of SGST has been utilized only after ITC of CGST has been utilized fully in terms of proviso to section 49(5)(c) [Working Note 2]			(37,000)
Net GST payable from E-cash Ledger			4,13,800

Working Note 1

Computation of output tax liability of Sahu Parivar for the month of May

Particulars	Amount (₹)
List price of 16 pumps (₹1,60,000 x 16)	25,60,000
Add: Amount paid by AP Refinery to testing agency [Note 1(i)]	24,000

Add: Special packing [Note 1(ii)]	86,000
Add Erection and testing at site [Note 1(ii)]	24,000
Add Freight [Note 1(iii)]	<u>16,000</u>
Value of taxable supply	27,10,000
IGST @ 18% [Note 2]	4,87,800

Notes :

(1) As per section 15(2) of the CGST Act:

- (i) Any amount that the supplier is liable to pay in relation to a supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods shall be included in the value of supply.

Since, in the given case, arranging inspection was the liability of the supplier, the same should be included in value of supply, charges for the same, however, have been paid directly to third party service provider by recipient. Therefore, value shall be included in taxable value

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

- (iii) Any amount that the supplier is liable to pay in relation to a supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods shall be included in the value of supply.

Since, in the given case, the supply contract is on FOR payment of freight is the liability of supplier but the same has been paid by the recipient and thus, should be included in the value of supply.

(2) As per section 10(1) of the IGST Act, where the supply involves movement of goods, the POS is the location of the goods at the time at which the movement of goods terminates for delivery to the recipient, which in the given case is Sambhra (Rajasthan). Since the location of the supplier (Gujarat) and the POS (Rajasthan) are in two different States, the supply is as inter-State supply liable to IGST.

Working Note 2**Computation of ITC available with Sahu Parivar for the month of May**

Particulars	CGST @ 2.5% (₹)	SGST @ 2.5% (₹)
Opening ITC	32,500	32,500
Services of PNS Insurance company to provide life insurance to employees [Note 1]	Nil	Nil
Services of travel company to provide home travel facility to employees [Note 1]	Nil	Nil
Services of fitness center to provide wellness services to employees [Note 1]	Nil	Nil
Wok contract services availed for erecting foundation for fixing the machinery to the earth in the factory [Note 2]	4,500	4,500

Laying of pipeline up to the gate of factory from water source located outside the factory [Note 3]	Nil	Nil
Installation of telecommunication towers [Note 3]	<u>Nil</u>	<u>Nil</u>
Total ITC	37,000	37,000

Notes:

As per section 17(5) of the CGST Act

(1) ITC on life insurance is blocked unless it is used in case of sub-contracting or the same is provided under any statutory obligation. ITC on travel benefits extended to employees on home travel concession and membership of health and fitness center is blocked unless it is obligatory for an employer to provide the same to its employees under any law for the time being in force.

(2) ITC on works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service, is blocked. Hence, ITC on works contract services for construction of plant and machinery is allowed. Further, plant and machinery includes foundation and structural supports used to fix the machinery to earth.

(3) ITC on goods and/or services received by a taxable person for construction of an immovable the property (other than plant or machinery) on his own account including when such and/or services are used in course/furtherance of business, is blocked, However, **plant and machinery excludes pipelines laid outside the factory premises and telecommunication towers**

Question 41

Quanto Enterprises is not required to register under CGST Act. However, it applied for voluntary registration on 17th Sep. Registration certificate has been granted to the firm on 25th Sep. The CGST and SGST liability of the firm for the month of Sep is ₹24,000 each. The firm is not engaged in making inter-State outward taxable supplies.

Particulars	Amount (₹)
Inputs procured on 2 nd Sep lying in stock	
-CGST@6%	4,500
-SGST@6%	4,500
Input received on 21 st July contained in semi-finished goods held in stock:	
-CGST@6%	7,500
-SGST@6%	7,500
Value of inputs contained in finished goods held in stock - 2,00,000 [Such inputs were procured on 19 th Sep last year. Invoice for goods was also dated the same day]	
-IGST @ 18%	36,000
Inputs valued at 50,000 procured on 13 th Sep lying in stock:	
-IGST @ 18%	9,000
Capital goods procured on 12 th Sep	
-CGST@6%	12,000
-SGST@6%	12,000

You are required to compute the net GST payable from E-cash Ledger by Quanto Enterprises for the month of Sep.

Answer

Computation of net GST payable from E-cash Ledger by Quanto Enterprises for the month of Sep

Particulars	CGST (₹)	SGST (₹)
Output tax liability for the month	24,000	24,000
Less: ITC [Notes 1 & 2]	9,000(IGST) 12,000(CGST)	12,000(SGST)
Net GST payable (from E-cash ledger)	3,000	12,000

Notes:

Credit of IGST is first utilized towards payment of IGST and thereafter for CGST and SGST in any order and in any proportion. Credit of CGST and SGST can be utilized only after IGST credit has been fully utilized (Rule 88A read with sections 49(5), 49A and 49B).

Since Quanto Enterprises does not make any inter-State supply, in the above answer, entire credit of IGST has been utilized towards payment of CGST. Credit of IGST can also be utilised against SGST liability or against both CGST and SGST liabilities in any proportion and thus, the final answer will change accordingly.

2. As per section 18(1)(b) a person who takes voluntary registration is entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished/finished goods held in stock **on the day immediately preceding the date of grant of registration**. However, he **cannot take ITC in respect of capital goods** held on the day immediately preceding the date of grant of registration.

ITC on inputs needs to be availed **within 1 year from** the date of issue of the **invoice** by the supplier [Section 18(2)].

In this case, since Quanto Enterprises has been granted voluntary registration on 25th Sep, it will be entitled to ITC on inputs held in stock and inputs contained in semi-finished/finished goods held in stock, on 24th Sep. In view of the said provisions, eligible ITC for Quanto Enterprises is computed as follows:

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Inputs held in stock since 2 nd Sep	4,500	4,500	
Inputs received on 21 st July contained in semi-finished goods held in stock	7,500	7,500	
Inputs contained in finished goods held in stock which were procured on 19 th Sep last year [Procured prior to one year, hence ITC cannot be availed]			Nil
Inputs held in stock procured on 13 th Sep			9,000
Capital goods procured on 12 th Sep	<u>Nil</u>	<u>Nil</u>	

Total ITC	12,000	12,000	9,000

Question 42

All-in-One Store' is a retail chain of departmental store having presence in almost all metro cities across India. Both exempted as well as taxable goods are sold in such Stores. The Stores operate in rented properties. All-in-One Stores pay GST under regular scheme.

In Mumbai, the Store operates in a rented complex, a part of which is used by the owner of the Store for personal residential purpose.

All-in-One Store, Mumbai furnishes following details for a month:

(i) Aggregate value of various items sold in the Store: Taxable items - 42,00,000, Items exempted vide a notification -12,00,000, Items not leviable to GST-3,00,000

(ii) Mumbai Store transfers to another All-in-One Store located in Goa certain taxable items for the purpose of distributing the same as free samples. The value declared in the invoice for such items is 5,00,000. Such items are sold in the Mumbai Store at 8,00,000.

(iii) Aggregate value of various items procured for being sold in the Store:

Taxable items - ₹ 55,00,000

Items exempted vide a notification - ₹ 15,00,000

Items not leviable to GST - ₹ 5,00,000

- (iv) Freight paid to goods transport agency (GTA) for inward transportation of taxable items –1,00,000.
- (v) Freight paid to GTA for inward transportation of exempted items –80,000
- (vi) Freight paid to GTA for inward transportation of non-taxable items –20,000
- (vii) Monthly rent payable for the complex - ₹5,50,000 (one third of total space available is used for personal residential purpose).
- (viii) Activity of packing the items and putting the label of the Store along with the sale price has been outsourced. Amount paid for packing of all the items - ₹2,50,000
- (ix) Salary paid to the regular staff at the Store –₹2,00,000
- (x) GST paid on inputs used for personal purpose –₹5,000
- (xi) GST paid on rent a cab services availed for transportation of employees, which is not obligatory under any law - ₹4,000
- (xii) GST paid on items given as free samples - ₹ 4,000

Given the above available facts, you are required to compute the following:

- A. ITC (ITC) credited to the E-credit Ledger
- B. Common Credit
- C. ITC attributable towards exempt supplies out of common credit
- D. Eligible ITC out of common credit
- E. Net GST payable from E-cash Ledger for the month

Note:

(1) GTA has not opted to pay tax under forward charge. Wherever applicable, GST under

RCM is payable @ 5% by All- in-One Stores. Rate of GST in all other cases is 18%.

(2) Wherever applicable, the amounts given are exclusive of taxes.

Answer

A. Computation of ITC credited to E-credit Ledger

As per rule 42, ITC in respect of inputs or input services being partly used for purposes of business and partly for other purposes, or partly used for effecting taxable supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies.

ITC credited to the E-credit ledger of registered person ['C₁'] is calculated as under:

$$C_1 = T - (T_1 + T_2 + T_3), \text{ where}$$

T	=	Total input tax involved on inputs and input services in a tax period.
T ₁	=	Input tax attributable to inputs and input services intended to be used exclusively for non-business purposes
T ₂	=	Input tax attributable to inputs and input services intended to be used exclusively for effecting exempt supplies
T ₃	=	Input tax in respect of inputs and input services on which credit is blocked under section 17(5)

Computation of total input tax involved [T]

Particulars	₹
GST paid on taxable items ₹55,00,000 x 18%]	9,90,000
Items exempted vide a notification [Since exempted, no GST is paid]	Nil
Items not leviable to tax [Since non-taxable, no GST is paid]	Nil
GST paid under RCM on freight paid to GTA for inward transportation of taxable items-[₹1,00,000 x 5%]	5,000
GST paid under RCM on freight paid to GTA for inward transportation of exempted items-[₹80,000 x 5%]	4,000
GST paid under RCM on freight paid to GTA for inward transportation of non-taxable items-[₹ 20,000 x 5%]	1,000
GST paid on monthly rent-[₹5,50,000 x 18%]	99,000
GST paid on packing charges [₹ 2,50,000 x 18 %]	45,000
Salary paid to staff at the Store [Services by an employee to the employer in the course of or in relation to his employment is not a supply in terms of para 1 of the Schedule III and hence, no GST is payable thereon].	Nil
GST paid on inputs used for personal purpose	5,000
GST paid on rent a cab services availed for business purpose	4,000
GST paid on items given as free samples	4,000
Total input tax involved during the month [T]	11,57,000

Computation of T₁, T₂, T₃

Particulars	₹

GST paid on monthly rent attributable to personal purposes [1/3 of ₹99,000]	33,000
GST paid on inputs used for personal purpose	<u>5,000</u>
Input tax exclusively attributable to non-business purposes [T₁]	<u>38,000</u>
GST paid under RCM on freight paid to GTA for inward transportation of exempted items [As per section 2(47), exempt supply means, inter alia, supply which may be wholly exempt from tax by way of a notification issued under section 11. Hence, input service of inward transportation of exempt items is exclusively used for effecting exempt supplies.]	4,000
GST paid under RCM on freight paid to GTA for inward transportation of non-taxable items Exempt supply includes non-taxable supply in terms of section 2(47) Hence, input service of inward transportation of non-taxable items is exclusively used for effecting exempt supplies]	<u>1,000</u>
Input tax exclusively attributable to exempt supplies [T₂]	<u>5,000</u>
GST paid on rent a cab services availed for business purpose ITC on rent a cab service is blocked under section 17(5)(b)(i) as the same is not used by All-in-One Store for providing the rent a cab service or as part of a taxable composite or mixed supply.	4000
GST paid on items given as free samples ITC on goods inter alia, disposed of by way of free samples is blocked under section 17(5)(h)].	<u>4000</u>
Input tax for which credit is blocked under section 17(5) [T₃] *	8000

*Since GST paid on inputs used for personal purposes has been considered while computing T₁ the same has not been considered again in computing T₃

ITC credited to the E-credit ledger

$$C_1 = T - (T_1 + T_2 + T_3)$$

$$= ₹ 11,57,000 - (₹ 38,000 + ₹ 5,000 + ₹ 8,000) = ₹ 11,06,000$$

B. Computation of Common Credit

$$C_2 = C_1 - T_4, \text{ where}$$

C₂ = Common Credit

T₄ = ITC attributable to inputs and input services intended to be used exclusively for effecting taxable supplies

Computation of T₄

Particulars	(₹)
GST paid on taxable items	9,90,000
GST paid under RCM on freight paid to GTA for inward transportation of taxable supplies	<u>5,000</u>
Input tax exclusively attributable to taxable supplies [T₄]	9,95,000

Common Credit

$$C_2 = C_1 - T_4$$

$$= ₹ 11,06,000 - ₹ 9,95,000$$

$$= ₹1,11,000$$

C. Computation of ITC attributable towards exempt supplies out of common credit

ITC attributable towards exempt supplies is denoted as 'D₁' and calculated as – 'D₁ and calculated as

$$D_1 = (E \div F) \times C_2, \text{ where}$$

'E' is the aggregate value of exempt supplies during the tax period, and

'F' is the total turnover in the State of the registered person during the tax period

Aggregate value of exempt supplies during the month

$$= ₹ 15,00,000 (₹ 12,00,000 + ₹3,00,000)$$

Total turnover in the State during the tax period

$$= ₹ 65,00,000 (₹ 42,00,000 + ₹ 12,00,000 + ₹ 3,00,000 + ₹ 8,00,000)$$

Note: Transfer of items to Store located in Goa is inter-State supply in terms of section 7 of the IGST Act and hence includible in the total turnover. Such supply is to be valued as per rule 28. However, the value declared in the invoice cannot be adopted as the value since the recipient Store at Goa is not entitled for fill credit because the goods are to be distributed as free samples, ITC on which is blocked. Therefore, open market value of such goods, which is the value of such goods sold in Mumbai Store, is taken as the value of items transferred to Goa Store.

$$D_1 = (15,00,000 \div 65,00,000) \times 1,11,000$$

$$= ₹ 25,615 \text{ (rounded off)}$$

D. Computation of Eligible ITC out of common credit

Eligible ITC attributed for effecting taxable supplies is denoted as 'C₃', where

$$C_3 = C_2 - D_1$$

$$= ₹ 1,11,000 - ₹ 25,615$$

$$= ₹ 85,385$$

E. Computation of Net GST liability for the month

Particulars	GST (₹)
GST liability under forward charge	
Taxable items sold in the store [₹ 42,00,000 x 18%]	7,56,000
Taxable items transferred to Goa Store (₹ 8,00,000 x 18%)	<u>1,44,000</u>
Total output tax liability under forward charge	9,00,000
Less: ITC credited to the electronic ledger (Note 1)	<u>10,80,385</u>
ITC carried forward to the next month	(1,80,385)
Net GST payable [A]	Nil
GST liability under RCM	
Freight paid to GTA for inward transportation of taxable items [₹ 1,00,000 x 5%]	5,000

Freight paid to GTA for inward transportation of exempted items [₹ 80,000 x 5%]	4,000
Freight paid to GTA for inward transportation of non-taxable items [₹ 20,000 x 5%]	<u>1,000</u>
Total tax liability under RCM [B]	10,000
Net GST liability to be paid in cash [A]+[B] As per section 49(4), amount available in the E-credit ledger may be used for making payment towards output tax. However, tax payable under RCM is not an output tax in terms of section 2(82). Therefore, tax payable under RCM cannot be set off against ITC and thus, will have to be paid in cash.	10,000

Note 1 :

Total ITC credited to the electronic ledger	11,06,000
Less: ITC reversal [ITC of common credit, attributable to exempt supplies]	(25,615)
Net ITC available for credit	10,80,385

Note:

While computing net GST liability, ITC credited to the electronic ledger can alternatively be computed as follows

Particulars	GST (₹)
GST paid on taxable items (₹ 55,00,000 x 18%)	9,90,000
Items exempted vide a notification [Since exempted, no GST is paid]	Nil
Items not leviable to tax [Since non-taxable, no GST is paid]	Nil
GST paid under RCM on freight paid to GTA for inward transportation of taxable items [₹1,00,000 x 5%]	5,000
GST paid under RCM on freight paid to GTA for inward transportation of exempted items (₹ 80,000 x 5%) [As per section 2(47), exempt supply means, supply which may be wholly exempt from tax by way of a notification issued under section 11. Hence, input service of inward transportation of exempt items is exclusively used for effecting exempt supplies. Input tax exclusively attributable to exempt supplies is to be excluded]	Nil
GST paid under RCM on freight paid to GTA for inward transportation of non-taxable items [₹ 20,000 x 5%] [Exempt supply includes non-taxable supply in terms of section 2(47). Hence, input service of inward transportation of non-taxable items is exclusively used for effecting exempt supplies. Input tax exclusively attributable to exempt supplies is to be excluded]	Nil
GST paid on monthly rent - for business purposes [(₹ 5,50,000 x 18%) - 1/3 of (₹ 5,50,000 x 18%)]	66,000
GST paid on packing charges (₹ 2,50,000 x 18%]	45,000
Salary paid to staff at the Store (Services by an employee to the employer in the course of or in relation to his employment is not a supply in terms of para 1 of the Schedule III to CGST Act and hence, no GST is payable thereon]	Nil
GST paid on inputs used for personal purpose	Nil

ITC on goods or services or both used for personal consumption is blocked under section 17(5)(g)]	
GST paid on rent a cab services availed for business purpose [ITC on rent a cab service is blocked under section 17(5)(b)(i) as the same is not used by All-in-One Store for providing the rent a cab service or as part of a taxable composite or mixed supply.]	Nil
GST paid on items given as free samples [ITC on goods inter alia, disposed of by way of free samples is blocked under section 17(5)(h)]	Nil
Total ITC credited to the electronic ledger	11,06,000
Less: ITC reversal [ITC of common credit, attributable to exempt supplies]	(25,615)
Net ITC available for credit	10,80,385

Question 43

Vansh Shoppe is a registered supplier of both taxable and exempted goods, registered under GST in the State of Rajasthan. Vansh Shoppe has furnished the following details for a month:

		₹
(1)	Details of sales	
	Supply of taxable goods	50,00,000
	Supply of goods not leviable to GST	10,00,000
(2)	Details of goods purchased for being sold in the shop :	
	Taxable goods	45,00,000
	Goods net leviable to GST	4,00,000
	Details of expenses	
(3)	Monthly rent payable for the shop	3,50,000
	Telephone expenses paid (₹ 30,000 for land line phone installed at the shop and ₹ 20,000 towards mobile phone bills of employees-Mobile phones are given to employees for official use)	50,000
	Audit fees paid to a Chartered Accountant (₹ 35,000 for filing of income tax return & the statutory audit of preceding FY and ₹ 25,000 for filing of GST return)	60,000
	Premium paid on health insurance policies taken for specified employees of the shop as per company policy.	10,000
	Freight paid to goods transport agency (GTA) for inward transportation of goods not leviable to GST	50,000
	Freight paid to goods transport agency (GTA) for inward transportation of taxable goods	1,50,000
	Goods given as free samples (Not included in Taxable goods value of 45,00,000)	5,000

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

All the purchases and sales made by Vansh Shoppe are within Rajasthan. All the other expenses incurred are also within Rajasthan.

Assume, wherever applicable, for purpose of RCM payable by Vansh Shoppe, the CGST, SGST and IGST rates as 25%, 2.5% and 5% respectively, CGST, SGST and IGST rates to be 6%, 9% and 12%, respectively in all other cases. GTA has not opted to pay tax under forward charge.

You are required to compute the following:

- (1) ITC (ITC) credited to E-credit Ledger
- (2) Common credit available for apportionment
- (3) ITC attributable towards exempt supplies out of common credit
- (4) Net GST payable from E-cash Ledger for the month

Answer

(1) Computation of ITC credited to E-credit Ledger

ITC of input tax attributable to inputs and input services intended to be used for business purposes is credited to the E-credit ledger. Input tax attributable to inputs and input services intended to be used exclusively for non-business purposes, for effecting exclusively exempt supplies and on which credit is blocked under section 17(5) is not credited to E-credit ledger [Sections 16 and 17].

In the light of the aforementioned provisions, the ITC credited to E-credit ledger of Vansh Shoppe is calculated as under

Particulars	Amount (₹)	CGST @ 6% (₹)	SGST @ 6% (₹)
GST paid on taxable goods	45,00,000	2,70,000	2,70,000
Goods not leviable to GST [Since non-taxable, no GST is paid]	4,00,000	Nil	Nil
GST paid on monthly rent for shop	3,50,000	21,000	21,000
GST paid on telephone expenses	50,000	3,000	3,000
GST paid on audit fees	60,000	3,600	3,600
GST paid on premium of health insurance policies as per company policy ITC on health insurance service is allowed only if it is obligatory for employers to provide such services to its employees under any law for the time being in force-Proviso to section 17(5)(b)].	10,000	Nil	Nil
Goods given as free samples [ITC on goods disposed of by way of free samples is blocked under section 17(5)(h)]	5,000	Nil	Nil
Particulars	Amount (₹)	CGST @ 2.5 % (₹)	SGST @ 2.5 % (₹)
Freight paid to GTA for inward transportation of non-taxable goods under RCM [Since definition of exempt supply under section 2(47) specifically includes non- taxable supply, the input service of inward transportation of on-taxable goods is being exclusively used for effecting exempt supplies.]	50,000	Nil	Nil
Freight paid to GTA for inward transportation of taxable goods under RCM	1,50,000	3,750	3,750
ITC credited to the electronic ledger		3,01,350	3,01,350
Less: ITC reversal [ITC out of common credit, attributable to exempt supplies] (Refer point no. 2 & 3 below)		(4,600)	(4,600)
Net ITC available		2,96,750	2,96,750

(2) Computation of common credit available for apportionment

Common Credit = ITC credited to E-credit Ledger - ITC attributable to inputs and input services intended to be used exclusively for effecting taxable supplies [Section 17 read with rule 42]

Particulars	CGST (₹)	SGST (₹)
ITC credited to E-credit Ledger	3,01,350	3,01,350
Less ITC on taxable goods	2,70,000	2,70,000
Less: ITC on freight paid to GTA for inward transportation of taxable goods	3,750	3,750
Common credit	27,600	27,600

(3) Computation of ITC attributable towards exempt supplies out of common credit

ITC attributable towards exempt supplies = Common credit x (Aggregate value of exempt supplies during the tax period/Total turnover during the tax period) [Section 17 read with rule 42]

Particulars	CGST (₹)	SGST (₹)
ITC attributable towards exempt supplies [₹ 27,600 x (₹ 10,00,000 / ₹ 60,00,000)]	4,600	4,600

(4) Computation of net GST liability for the month

Particulars	CGST (₹)	SGST (₹)
GST liability under forward charge		
Supply of taxable goods [₹ 50,00,000 x 6%]	3,00,000	3,00,000
Total output tax liability under forward charge	3,00,000	3,00,000
Less: ITC credited to the E-credit ledger	2,96,750	2,96,750
Net GST payable [A]	3,250	3,250
GST liability under RCM		
Freight paid to GTA for inward transportation of taxable goods [₹ 1,50,000 x 2.5%]	3,750	3,750
Freight paid to GTA for inward transportation of non-taxable goods [₹ 50,000 x 2.5%]	1,250	1,250
Total tax liability under RCM [B]	5,000	5,000
Net GST liability [A]+[B]	8,250	8,250
Note: Amount available in the E-credit ledger may be used for making payment towards output tax [Section 49]. However, tax payable under RCM is not an output tax in terms of definition of output tax provided under section 2(82). Therefore, tax payable under RCM cannot be set off against the ITC and thus, will have to be paid in cash.		

Question 44

Supermarket is a proprietary firm and a GST registered supplier in Ahmedabad, Gujarat. The details of supplies, purchases and expenses for the month of Dec. 20XX of Supermarket are as given below:

Particulars	Amount (₹)
Details of outward supplies:	
(i) Intra-State	45,00,000
(ii) Inter-State	15,00,000
(iii) Exempt supplies under GST	6,00,000
Details of inward supplies:	
(i) Intra-State	40,00,000
(ii) Inter-State	10,00,000
(iii) Exempt supplies under GST	5,00,000
Details of expenses:	
(i) Freight paid to GTA for intra-State transportation of goods [20% of the freight paid was towards transportation of goods not liable to GST.	60,000
(ii) Telephone expenses [Out of the above, ₹ 18,000 was spent on landline installed in the sales outlet and ₹ 12,000 was spent on phones provided to employees in relation to work of the firm.]	30,000
(iii) Premium paid on insurance taken on car used by proprietor of the firm in relation to the work of the firm (intra-State)	8,500
(iv) Outdoor catering service expenses incurred during Diwali celebrations in the sales outlet	40,000
(v) Monthly rent for the premises of sales outlet	60,000

It is further given that-

All the amounts given are exclusive of all taxes, wherever applicable.

All the inward and outward supplies are made by Supermarket from/to registered place of business in Gujarat. Inward supplies of ₹ 50 lakh were used only for making taxable supplies and exempt inward supplies of ₹ 5 lakh were used only for making exempt outward supplies.

GTA has not opted to pay tax under forward charge. Wherever applicable for the purposes of RCM payable by Supermarket, CGST, SGST and IGST rates are 2.5%, 2.5% and 5% respectively. In all other cases, CGST, SGST and IGST rates are 9%, 9% and 18% respectively.

You are required to compute the following-

- (1) ITC (ITC) credited to E-credit ledger;
- (2) Common ITC available for apportionment;
- (3) ITC attributable to exempt supplies out of common ITC;
- (4) You are required to examine the applicability of rule 86B of the CGST Rules relating to utilisation of ITC and if applicable, calculate the amount of ITC available for utilisation towards payment of GST. However, there is no need to explain exceptions to rule 86B,

Make suitable assumptions, wherever required and working notes as may be needed. Brief notes are required only to support the calculation and the numerical outputs required in the case of common ITC available for apportionment and applicability of rule 86B of the CGST

Rules. Ensure that every transaction in the Question is covered in the answer for the purpose of calculation of numerical outputs.

Answer

(1) Computation of ITC credited to E-credit Ledger

Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
GST paid on intra-State inward supplies/ taxable	40,00,000	3,60,000	3,60,000	
GST paid on inter-State inward supplies	10,00,000			1,80,000
Inward supplies exempt from GST [Since exempt no GST is paid.]	5,00,000	-	-	-
Freight paid to GTA for intra-State of taxable goods (Note 1) @ 2.5%. Since rate of GST on GTA services is 2.5% tax is payable under RCM	48,000[60,000 x 80%]	1,200	1,200	-
GST on freight paid to GTA for intra-State of exempt goods (Note 2) @ 2.5% under RCM (ITC on input services used exclusively in relation to exempt supplies is not available)	12,000 [60,000 x 20%]	-	-	
GST on telephone expenses (Note 3) @ 9% [ITC of services used in the course of business is available.]	30,000	2,700	2,700	
Premium paid on insurance taken on car used for firm's work [ITC is blocked u/s 17(5) on general insurance services relating to those motor vehicles which are ineligible for ITC]	8,500	-	-	
Outdoor catering services ITC on outdoor catering is blocked u/s 17(5) if the same is not used for making an outward supply of outdoor catering or as an element of composite/mixed supply.]	40,000	-	-	
GST on monthly rent for premises of sales outlet @ 9% (Note 4) [ITC of services used in the course of business is available.]	60,000	5,400	5,400	
ITC credited to the electronic ledger		3,69,300	3,69,300	1,80,000

(2) Computation of common ITC available for apportionment

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
ITC credited to E-credit Ledger	3,69,300	3,69,300	1,80,000
Less : ITC on taxable goods	3,60,000	3,60,000	1,80,000
Less: ITC on freight paid to GTA for transportation of taxable goods	1,200	1,200	-
Common credit for apportionment	8,100	8,100	-

3 Computation of ITC attributable towards exempt supplies

Particulars	CGST	SGST	IGST

	(₹)	(₹)	(₹)
ITC attributable towards exempt supplies = Common credit x (Aggregate value of exempt supplies during the tax period/ Total turnover during the tax period)			
[₹ 8,100 x (₹ 6,00,000/ ₹ 66,00,000)] (Note 5)	736	736	

4) Computation of ITC available for utilization towards payment of tax in terms of rule 86B

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Maximum amount of output tax liability that can be discharged from ECrL (99% of Output tax liability)	4,00,950 [45,00,000 X 9% X 99%]	4,00,950 [45,00,000 X 9% X 99%]	2,67,300 [15,00,000 X 18% X 99%]
Since the value of taxable supply other than exempt supply in Dec. 20XX (45 lakh+15 lakh) exceeds 50 lakh, amount from E-credit ledger which it can use to discharge its output tax liability of said month cannot exceed 99% of such tax liability in terms of rule 86B of the CGST Rules]			
Amount of ITC available for utilization towards payment of tax Since the ITC available in ECrL. after reversal thereof is lower than the aforesaid amount, entire ITC can be utilised towards payment of GST.]	3,68,564 [3,69,300 – 736]	3,68,564 [3,69,300 – 736]	1,80,000

Notes

1. It has been most logically presumed that remaining 80% of the freight has been paid exclusively on transportation of taxable outward supply of goods and GTA providing said services is registered in the State of Gujarat.
2. It has been most logically presumed that freight has been paid on transportation of outward supply of exempt goods. In case it is assumed that freight has been paid on transportation of inward supply of exempt goods, amount of ITC available with regard to the same will change accordingly.
3. Telephone expenses have been considered to be in the nature of input services. Further, it has been assumed that the supplier is registered in the State of Gujarat.
4. It has been assumed that supplier of services of renting of premises is registered in State of Gujarat.
5. Telephone expenses have been considered to be in the nature of input services.

Question 45

Mr. Rajesh Surana has a proprietorship firm in the name of Surana & Sons in Jaipur. The firm, registered under GST in the State of Rajasthan, manufactures three taxable products 'M', 'N' and 'O'. Tax on N is payable under RCM. The firm also provides taxable consultancy services.

The firm has provided the following details for a tax period:

Particulars	(₹)

Turnover of 'M' (excluding export sales)	14,00,000
Turnover of 'N'	6,00,000
Turnover of 'O' (excluding export sales)	10,00,000
Export of 'M' with payment of IGST (not eligible to avail benefit of merchant exports under Notification No. 41/2017)	2,50,000
Export of 'O' under letter of undertaking	10,00,000
Consultancy services provided to unrelated clients located in foreign countries under LUT. In all cases, the consideration has been received in convertible foreign exchange	20,00,000
Sale of building (excluding stamp duty of ₹ 2.50 lakh, being 2% of value) [Entire consideration is received post issuance of completion certificate; building was occupied thereafter]	1,20,00,000
Interest received on investment in fixed deposits with a bank	4,00,000
Sale of shares (Purchase price ₹ 2,40,00,000/-)	2,50,00,000
Legal services received from an advocate in relation to product "M"	3,50,000
Common inputs and input services used for supply of goods and services mentioned above (Inputs ₹ 35,00,000; Input services - ₹ 15,00,000)	50,00,000

With the help of above-mentioned information, compute the net GST liability of Surana & Sons, payable from E-credit Ledger and/or E-cash Ledger, as the case may be, for the tax period.

Note: Assume that rate of GST on goods and services are 12% and 18% respectively (Ignore CGST, SGST or IGST for the sake of simplicity). Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled. Turnover of Surana & Sons was 85,00,000 in the previous FY

Answer

Computation of net GST liability of Surana & Sons for the tax period

Particulars	(₹)
GST payable on outward supply [Refer Working Note 1]	3,18,000
Less: ITC (ITC) [Refer Working Note 3]	2,78,180
GST payable from E-cash Ledger [A]	39,820
Add: GST payable on legal services under RCM [₹ 3,50,000 X 18%] [B] [Tax on legal services provided by an advocate to a business entity, is payable under RCM by the business entity in terms of Notification No. 13/2017 CT (R). Further, such services are not eligible for exemption provided under Notification No. 12/2017 CT (R) as the turnover of the business entity (Surana & Sons) in the preceding FY exceeds ₹ 20 lakh.]	63,000
Total GST paid from E-cash Ledger [A]+[B] As per section 49(4) amount available in the E-credit ledger may be used for making payment towards output tax. However, tax payable under RCM is not an output tax in terms of section 2(82). Therefore, ITC cannot be used to pay tax payable under RCM and thus, tax payable under RCM will have to be paid in cash.	1,02,820

Working Note 1

Computation of GST payable on outward supply

Particulars	Value (₹)	GST (₹)

Turnover of 'M' (liable to GST @ 12%)	14,00,000	1,68,000
Turnover of 'N' [Tax on 'N' is payable under RCM by the recipient of such goods]	6,00,000	Nil
Turnover of 'O' [liable to GST @ 12%]	10,00,000	1,20,000
Export of M' with payment of IGST @ 12%	2,50,000	30,000
Export of 'O' under letter of undertaking (LUT) Export of goods is a zero rated supply . A zero rated supply can be supplied without payment of tax under a LUT in] terms of section 16(3)(a) of that Act	10,00,000	Nil
Consultancy services provided to independent clients located in foreign countries. The activity is an export of service in terms of section 2(6) of the IGST Act 2017 as the supplier of service is located in India; the recipient of service is located outside India; POS of service is outside India: payment for the service has been received in convertible foreign exchange or in Indian rupees wherever permitted by the RBI; and supplier of service and recipient of service are not merely establishments of distinct person.] [Export of services is a zero rated supply . A zero rated supply can be supplied without payment of tax under a LUT in terms of section 16(3)(a) of that Act.]	20,00,000	Nil
Sale of building Sale of building is neither a supply of goods nor a supply of services In terms of para 5 of Schedule III to the CGST Act, provided the entire consideration has been received after issue of completion certificate by the competent authority or after its occupation, whichever is earlier. Hence, the same is not liable to GST]	1,20,00,000	Nil
Interest received on investment in fixed deposits with a bank Exempt]	4,00,000	Nil
Sale of shares Shares are neither goods nor services in terms of section 2(52) and 2(102). Hence, sale of shares is neither a supply of goods nor a supply of services and hence, is not liable to any tax.]	2,50,00,000	Nil
Total GST payable on outward supply		3,18,000

Working Note 2

Computation of common credit attributable to exempt supplies during the tax period

Particulars	(₹)
Common credit on inputs and input services [Tax on inputs ₹ 4,20,000 (₹ 35,00,000 x 12%) Tax on input services- ₹ 2,70,000 (₹ 15,00,000 x 18%)]	6,90,000
Common credit attributable to exempt supplies (rounded off) Common credit on inputs and input services x (Exempt turnover during the period /Total turnover during the period) = ₹ 6,90,000 x ₹1,33,50,000 / ₹1,94,00,000 Exempt turnover = 1,33,50,000 and total turnover = 1,94,00,000 [Note below)	4,74,820

Note:

As per section 17(3), value of exempt supply includes supplies on which the recipient is liable to pay tax on RCM basis, transactions in securities, sale of land and, subject to clause (b) of paragraphs of Schedule 2, sale of building. The value of exempt supply in respect of land and building is the value adopted for paying stamp duty and for security is 1% of the sale value of such security.

Aggregate value of exempt supplies inter alia excludes the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a FI including a NBFC, engaged in supplying services by way of accepting deposits extending loans or advances.

Therefore, value of exempt supply in given case will be the sum of value of output supply on which tax payable under RCM (₹ 6,00,000), **value of sale of building (₹2,50,000/2 x 100 = ₹1,25,00,000)** and value of sale of shares (1% of ₹ 2,50,00,000 = ₹ 2,50,000), which comes out to be ₹ 1,33,50,000.

Total turnover = ₹ 1,94,00,000 (₹ 14,00,000+ ₹ 6,00,000 + ₹ 10,00,000 + ₹ 2,50,000 + ₹10,00,000 + ₹ 20,00,000 + ₹1,25,00,000 + ₹4,00,000 + ₹ 2,50,000)

Working Note 3

Computation of ITC available in the E-credit Ledger of the Surana & Sons for the tax period

Particulars	₹
Common credit on inputs and input services	6,90,000
Legal services used in the manufacture of taxable product 'M'	<u>63,000</u>
ITC available in the E-credit Ledger	7,53,000
Less: Common credit attributable to exempt supplies during the tax period [Refer Working Note 2]	4,74,820
Net ITC available	2,78,180

Question 46

Adityanath Private Limited is registered under GST in the State of Uttar Pradesh. It is engaged in supplying three products-Product Alpha, Product Beta and Product Gamma, from its factory located in Rampur, Uttar Pradesh. Product Alpha and Product Beta are taxable whereas Product Gamma is exempt from GST. Besides, it also supplies cigarettes from its factory located in Kanpur and owns a petrol pump in Lucknow. It is also engaged in supply of certain services.

It has furnished the following information with regard to the supplies made by it in the month of Aug:

Particulars	₹ (excl. GST)
Supply of Product Alpha	50,00,000
Supply of Product Gamma	1,00,00,000
Supply of management consultancy services	50,00,000
Renting of commercial complex to local traders of electronic goods	50,00,000
Export of Product Beta	1,00,00,000
Export of consultancy services	20,00,000

[including exports made to a Nepal based company of ₹ 5 lakh (payment is received in Indian currency in said case)]	
Sale of building (excluding stamp duty of ₹ 2.50 lakh being 2% of value adopted for paying stamp duty) (Entire consideration is received post issuance of completion certificate; building was occupied thereafter]	2,50,00,000
Interest received on investment in fixed deposits with Manimani bank	10,50,000
Sale of shares of a public company (Purchase price of such shares is ₹ 2,40,00,000)	2,50,00,000
Supply of cigarettes [GST being levied @ 28%.] (including excise duty of ₹ 12,50,000)	1,00,00,000
Supply of petrol and diesel (including VAT of ₹5,00,000 and excise duty of ₹12,50,000)	80,00,000
Amount received from Durga Das Private Limited of Lucknow, Uttar Pradesh. It has sponsored the business exhibition organized in Delhi by Adityanath Private Limited.	6,00,000

Adityanath Private Limited furnishes the following additional information with regard to payments made by it in the month of Aug:

Particulars	₹ (excl. GST)
Consideration paid for repair of machinery used for manufacturing Product Alpha by George Inc. of USA [Said machinery was sent to George Inc. in Aug for carrying out repair work on the same.]	5,20,000
Life insurance premium paid by the company for the life insurance of employees as per the policy of the company. There is no legal obligation for such insurance for employees.	48,50,000
Audit fees paid	6,50,000
Raw material purchased [including raw material of ₹1,50,000 imported from China. Basic customs duty of 15,000, social welfare surcharge of ₹ 1,500 and IGST of ₹ 29,970 are separately paid on the imported raw material]	10,00,000
Transportation charges paid for transporting the goods [₹ 4,00,000 is paid to Goods Transport Agency (GTA) registered in Uttar Pradesh and ₹ 1,00,000 is paid for transport of goods by horse pulled carts, GTA has not opted to pay tax under forward charge GST applicable on the services of GTA is 5%]	5,00,000
Telephone expenses paid Such expenses pertain to bills for landline phone installed at the factory and mobile phones given to employees for official use	4,25,000
Bank charges paid towards company's current account maintained with Manimani Bank	2,00,000
Legal services received from an advocate during the period only in relation to Product Beta	3,50,000

With the help of the above-mentioned information, compute the gross GST liability of Adityanath Pre Limited for the month of Aug on the outward supplies made by it during said period. Also comp the net GST payable from E-cash Ledger.

Note: Assume that rates of GST on all inward/outward supply of goods and services are 12% and 18% respectively unless otherwise specified. Exp made by Adityanath Private Limited, if any, have been made to persons other than distinct/related persons and are made by furnishing LUT without payment of IGST. Turnover Adityanath Private Limited was ₹ 40 crores in the preceding FY. The inputs and input services received during Aug are commonly used for making all the outward supplies unless otherwise specified.

Answer

Computation of gross GST liability on outward supply of Adityanath Private Limited for the month of Aug

Particulars	Value(₹)	GST (₹)
Supply of Product Alpha [Liable to GST @ 12%]	50,00,000	6,00,000
Supply of Product Gamma [Exempt from GST]	1,00,00,000	Nil
Supply of management consultancy services [Liable to GST @18%]	50,00,000	9,00,000
Renting of commercial complex to local traders of electronic goods [Services by way of renting of residential dwelling for use as residence to an unregistered person are exempt from GST. Thus, renting of commercial complex is taxable and GST is payable on the same @ 18%.]	50,00,000	9,00,000
Export of Product Beta [Export of goods is a zero-rated supply . A zero-rated supply can be made without payment of tax under a LUT in terms of section 16(3)(a) of that Act.]	1,00,00,000	Nil
Export of consultancy services [As per section 2(6) of the IGST Act, an activity is treated as export of service if, inter alia, payment for the service is received in convertible foreign exchange or in Indian rupees wherever permitted by the RBI. Since in case of exports to Nepal, RBI regulations allow receipt of payment in Indian rupees, exports of service to Nepal are treated as normal 'export' . Export of services is a zero-rated supply in terms of section 16(1)(a) of the GST Act. A zero-rated supply can be made without payment of tax under a LUT in terms of section 16(3)(a) of that Act]	20,00,000	Nil
Sale of building [Sale of building is neither a supply of goods nor a supply of services in terms of para 5 of Schedule 3 to the CGST Act, provided the entire consideration has been received after issue of completion certificate by the competent authority or after its occupation, whichever is earlier, Hence, the same is not liable to GST]	2,50,00,000	Nil
Interest received on investment in fixed deposits with Manimani Bank [Interest are exempt]	10,50,000	Nil
Sale of shares [Shares are neither goods nor services as per CGST Act. Hence, sale of shares is neither a supply of goods nor a supply of services and hence, is not liable to GST.]	2,50,00,000	Nil
Supply of cigarettes (Liable to GST @ 28 %]	1,00,00,000	28,00,000

[Excise duty is included in value since as per section 15(2)(a) of the CGST Act, value of supply includes all taxes, duties, cesses other than GST.]		
Supply of petrol and diesel [Supply of petrol and diesel is not leviable to GST as per section 9 of the CGST Act.]	80,00,000	Nil
Amount received from Durga Das Private Limited for sponsorship of the business exhibition Tax on services provided by any person by way of sponsorship to any body corporate located in taxable territory is payable by the recipient (Durga Das Private Limited) under RCM. Thus, tax on such services is not payable by Adityanath Private Limited.]	6,00,000	Nil
Total GST liability on outward supply		52,00,000

Computation of net GST payable by Adityanath Private Limited for the month of Aug

Particulars	(₹)
Gross GST liability on outward supply [as computed above]	52,00,000
Less: ITC (ITC) [Refer Working Note 2] [Since the value of taxable supply other than exempt supply and zero-rated supply of Adityanath Private Limited in Aug exceeds ₹ 50 lakh, amount available in E-credit ledger which it can use to discharge its output tax liability of said month cannot exceed 99% of such tax liability in terms of rule 86B of the CGST Rules.]	2,74,417
GST payable from E-cash Ledger [A]	49,25,583
Add: GST payable on inward supplies under RCM	
Legal services [₹ 3,50,000 × 18%] [Tax on legal services provided by advocate to business entity, is payable under reverse charge by business entity]	63,000
Services received from GTA [₹ 4,00,000 × 5 %] Tax on services provided by a GTA (who has not opted to pay tax under forward charge) to a body corporate, is payable under RCM by the body corporate)	20,000
Tax payable under RCM [B]	83,000
Total GST paid from E-cash Ledger [A] + [B] [Amount available in the E-credit ledger may be used for making payment towards output tax. However, tax payable under RCM is not an output tax. Therefore, ITC cannot be used to pay tax payable under RCM and thus tax payable under RCM will have to be paid in cash]	50,08,583

Working Note-1

Computation of common credit attributable to exempt supplies during Aug

Particulars	Amount (₹)	ITC (₹)
Repair of machinery by George Inc. of USA [In case where either supplier or recipient is located outside India, the POS of services supplied in respect of goods required to be made physically available by recipient to supplier is the location where the services are actually performed in terms of section 13(3)(a) of the IGST Act. Hence, POS of repair services received in the given case is outside India. Since the location of supplier and POS are outside India, said repair services are not liable to GST.]	5,20,000	Nil

Life insurance premium paid by company for life insurance of employees [ITC on life insurance service is available only when it is obligatory for an employer to provide said services to its employees under any law for time being in force. Since it is not obligatory for employer in instant case and thus, ITC thereon is blocked]	48,50,000	Nil
Audit fees [6,50,000 X 18%] [Credit of tax paid on input services used in the course of business is available in terms of section 16(1) of the CGST Act]	6,50,000	1,17,000
Raw material [₹ (10,00,000 - 1,50,000) x 12% +29,970] (Credit of tax paid on inputs used in the course of business is available in terms of section 16(1) of the CGST Act.] Further, IGST charged on raw material imported from China is also available because input tax, inter alia, includes IGST charged on import of goods	10,00,000	1,31,970
Transportation charges for transporting the goods ₹ 4,00,000 × 5%] [Services by way of transportation of goods by road are exempt from GST except the services of a GTA. Hence, GST is not payable on transportation charges paid for horse pulled carts.]	4,00,000	20,000
Telephone expenses (₹ 4,25,000 X 18%) [Credit of tax paid on input services used in the course of business is available]	4,25,000	76,500
Bank charges paid towards company's current account maintained with course of bank (₹ 2,00,000 X 18%) [Credit of tax paid on input services used in the course of business is available in terms of section 16(1) of the CGST Act.]	2,00,000	36,000
Common credit on inputs and inputs services		3,81,470
Common credit attributable to exempt supplies (rounded off) = Common credit on inputs and input services x (Exempt turnover during the period/Total turnover in State during the period) = ₹, 381,470 x 29,60,00,000/ ₹66,40,00,000 Exempt turnover = ₹ 29,60,00,000 and total turnover in State = 66,40,00,000 (Note below]		1,70,053
Legal services received from advocate [₹ 3,50,000 × 18%] Legal services are not eligible for exemption provided under Notification 10. 12/2017 CT (R) as the turnover of the business entity (Adityanath Private Limited) in the preceding FY exceeds ₹ 20 lakh. Further, credit of tax paid on input services used in the course of business is available in terms of section 16(1) of the CGST Act. Full credit is available as these services are exclusively used for effecting taxable supply.]	3,50,000	63,000

Note :

As per section 17(3) of the CGST Act, value of exempt supply includes supplies on which the recipient is liable to pay tax on RCM basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building. The value of exempt supply in respect of land and building is the value adopted for paying stamp duty and for security is 1% of the sale value of such security.

The aggregate value of exempt supplies, inter alia, excludes the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented

by way of interest or discount, except in case of a banking company or a financial institution including a NBFC, engaged in supplying services by way of accepting deposits, extending loans or advances. Aggregate value of exempt supplies and total turnover excludes the central excise duty, State excise duty, central sales tax and VAT.

Therefore, **value of exempt supply** in the given case will be the sum of value of output supply on which tax is payable under RCM (₹ 6,00,000), value of sale of building (₹ 2,50,000/2 x 100 = ₹ 1,25,00,000), value of sale of shares (1% of ₹ 2,50,00,000 = ₹ 2,50,000), supply of Product Gamma (₹1,00,00,000) and supply of petrol and diesel (₹ 80,00,000 - ₹ 5,00,000 - ₹ 12,50,000 = ₹ 62,50,000). which comes out to be **₹ 2,96,00,000**.

Total turnover in State = ₹ 6,64,00,000 [₹ 50,00,000 + ₹ 1,00,00,000 + ₹ 50,00,000 + ₹ 50,00,000 + ₹ 1,00,00,000 + ₹ 20,00,000 + (₹ 2,50,000/2 x 100 = ₹ 1,25,00,000) + ₹ 10,50,000 + (1% of ₹ 2,50,00,000 = ₹ 2,50,000) + (₹ 1,00,00,000 - 12,50,000 = ₹ 87,50,000) + (₹ 80,00,000 - ₹ 5,00,000 - ₹ 12,50,000 = ₹ 62,50,000) + ₹ 6,00,000]

Working Note 2

Computation of ITC available in the E-credit Ledger of Adityanath Private Limited for the month of Aug

Particulars	(₹)
Common credit on inputs and input services [Refer W.N. 1]	3,81,470
Legal services used in the manufacture of taxable Product Beta' [Refer W.N. 1]	63,000
ITC available in the E-credit Ledger	4,44,470
Less : Common credit attributable to exempt supplies during Aug [Refer W.N. 1]	1,70,053
Net ITC available.	2,74,417

Question 47

Jankinandan Associates, a proprietorship firm in Lucknow registered under GST, manufactures three taxable products 'Zeta', 'Sigma' and 'Omega'. The following information has been provided by Jankinandan Associates for a particular tax period.

- 'Omega' and Zeta' are sold in the domestic market as well as exported outside India. The domestic turnover (excluding export sales) of 'Zeta' and 'Omega' are ₹21 lakh and ₹15 lakh respectively. Export turnover of 'Zeta' with payment of IGST (not eligible to avail benefit of merchant export under Notification No. 41/2017) is ₹3.75 lakh. 'Omega' worth ₹15 lakh is exported.
- Tax on 'Sigma' is payable under RCM. 'Sigma' is being sold only domestically and the domestic turnover of 'Sigma' is ₹9 lakh.
- The firm is also engaged in providing taxable consultancy services. Consultancy services of ₹30 lakh have been provided to unrelated clients located in foreign countries. In all cases, consideration has been received in convertible foreign exchange.
- The firm sold shares held by it for ₹375 lakh which were earlier purchased at a price of ₹ 360 lak

- (v) Due to shortage of funds, it sold one of its factory buildings for ₹180 lakh (excluding stamp duty of ₹3.50 lakh, being 2% of value). The entire consideration is received post issuance of completion certificate; building was occupied thereafter.
- (vi) The firm earned an interest of ₹6 lakh on the money invested in fixed deposits with Gaba Bank

The details of the inputs/input services availed by the firm during the said tax period are as under.

- (i) The firm received legal services from an advocate in relation to product 'Zeta' for a consideration of ₹5.25 lakh.
- (ii) Remaining inputs and input services availed during the tax period worth ₹52.50 lakh and ₹22.50 lakh respectively have been commonly used for supply of goods and services mentioned above.

You are required to compute the net GST liability of Jankinandan Associates, payable from E-credit Ledger and/or E-cash Ledger, as the case may be, for the given tax period using the above mentioned information.

Note: All the above transactions are exclusive of GST, wherever applicable. Assume that rates of GST Inward and outward supply of goods and services are 12% and 18% respectively (Ignore bifurcation of CGST, SGST or IGST for the sake of simplicity). Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.

Particulars	Value(₹)	GST (₹)
Turnover of 'Zeta' [liable to GST @12%]	21,00,000	2,52,000
Turnover of 'Sigma' [Tax on 'Sigma' is payable under RCM by the recipient of such goods]	9,00,000	Nil
Turnover of 'Omega' [liable to GST @ 12%]	15,00,000	1,80,000
Export of 'Zeta' with payment of IGST 12%	3,75,000	45,000
Export of 'Omega' [Export of goods is a zero rated supply . A zero rated supply can be supplied without payment of tax under a LUT in terms of section 16(3)(a) of that Act.]	15,00,000	Nil
Consultancy services provided to independent clients located in foreign countries. The activity is an export of service in terms of section 2(6) of the IGST Act, countries 2017 as the supplier of service is located in India; the recipient of service is located outside India: POS of service is outside India: payment for the service has been received in convertible foreign exchange or in Indian rupees wherever permitted by the RBI; and supplier of service and recipient of service are not merely establishments of distinct person.] [Export of services is a zero rated supply. A zero rated supply can be supplied without payment of tax under a LUT in terms of section 16(3)(a) of that Act.]	30,00,000	Nil
Sale of shares [Shares are neither goods nor services. Hence, sale of shares is neither a supply of goods nor a supply of services hence, is not liable to any tax.]	3,75,00,000	Nil

Sale of building [Sale of building is neither a supply of goods nor a supply of services in terms of Schedule III to the CGST Act, provided entire consideration has been received after issue of completion certificate by competent authority or after its occupation, whichever is earlier. Hence, the same is not liable to GST]	1,80,00,000	Nil
Interest received on investment in FD with a bank Exempt	6,00,000	Nil
Total GST payable on outward supply		4,77,000

Computation of common credit attributable to exempt supplies during the tax period

Particulars	(₹)
Common credit on inputs and input services [Tax on inputs - ₹ 6,30,000 (₹ 52,50,000 x 12%) + Tax on input services - ₹ 4,05,000 (₹ 22,50,000 x 18%)]	10,35,000
Common credit attributable to exempt supplies (rounded off)	6,97,742
Common credit on inputs and input services x (Exempt turnover during the period/ Total turnover during the period) = ₹ 10,35,000 x ₹ 1,87,75,000 / ₹ 2,78,50,000 Exempt turnover = ₹ 1,87,75,000 and total turnover = ₹ 2,78,50,000 Note below]	

Note:

As per section 17(3) value of exempt supply includes supplies on which the recipient is liable to pay tax on RCM basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building. the value of exempt supply in respect of land and building is the value adopted for paying stamp duty and for security is 1% of the sale value of such security.

Aggregate value of exempt supplies inter alia excludes services loans or advances in so far as the considerations is represented by way of interest or discount, except in case of a banking company or a financial institution Including a NBFC.

Therefore, value of exempt supply in the given case will be sum of value of output supply on which tax is payable under RCM (₹ 9,00,000), value of sale of building (₹ 3,50,000/2 x 100 = ₹ 1,75,00,000] and value of sale of shares (1% of 3,75,00,000 = ₹ 3,75,000), which comes out to be ₹ 1,87,75,000.

Total Turnover = ₹ 2,78,50,000 (₹ 21,00,000 + 9,00,000 + ₹ 15,00,000 + ₹ 3,75,000 +15,00,00 + ₹ 30,00,000 + ₹ 1,75,00,000 + ₹ 6,00,000 + ₹ 3,75,000)

Computation of ITC available in the E-credit Ledger of the Jankinandan Associates for the tax period

Particulars	₹
Common credit on inputs and input services	10,35,000
Add: Legal services used in the manufacture of taxable product "Zeta"	<u>94,500</u>
ITC available in the E-credit Ledger	11,29,500
Less: Common credit attributable to exempt supplies during the tax period [As calculated in above table]	<u>6,97,742</u>
Net ITC available	4,31,758

Computation of net GST liability of Jankinandan Associates for the tax period

Particulars	₹
GST payable on outward supply (As computed earlier]	4,77,000
Less: ITC (ITC) (As computed earlier]	<u>4,31,758</u>
GST payable from E-cash Ledger [A]	45,242
Add: GST payable on legal services under RCM [₹5,25,000 X 18%] [B] [Tax on legal services provided by an advocate to a business entity, is payable under RCM by the business entity. Further, such services are not eligible for exemption as the turnover of the Jankinandan Associates in the preceding FY exceeds Rs. 20 lakh.]	<u>94,500</u>
Total GST paid from E-cash Ledger [A] + [B] [As per section 49(4) amount available in the E-credit ledger may be used for making payment towards output tax. However, tax payable under RCM is not an output tax Therefore, input tax credit cannot be used to pay tax payable under RCM and thus, tax payable under RCM will have to be paid in cash].	1,39,742

Question 48

Cash and Credit Ltd is registered with GST Department in State of Maharashtra. It has its registered office at Mumbai. It is engaged in the business of production, manufacture and supply of fresh fruits, vegetables fresh juices and fruit pulp etc. It has made the following intra-State supplies during the month of April:

S.No	Particular	Amount in lakh (₹)
1	Fresh fruits	1100
2	Vegetables	1100
3	Fresh juices	2000
4	Carbonated fruit drink	200

GST rate as applicable on above supplies is as follows:

S.No	Particulars	CGST (₹)	SGST(₹)	IGST
1	Fresh fruits	Nil	Nil	Nil
2	Vegetables	Nil	Nil	Nil
3	Fresh juices	6%	6%	12%
4	Carbonated fruit drink	14%	14%	28%

Further, for making the supplies of fruit juices, it has used the services of Goods Transport Agency ("GTA") based in Ahmedabad who have charged them ₹20 lakh as charges for their services. Such GTA have not charged any tax on their invoices. Rate of tax on GTA under RCM is 5%

In respect of the above supply, the company has received the following inward supplies:

S. No.	Particulars	Purchase (₹ lakh)	Amount of ITC thereon (₹ in lakh)		
			CGST	SGST	IGST

1	Fresh fruits for supply	800	Nil	Nil	Nil
2	Vegetables for supply	1200	Nil	Nil	Nil
3	Fruit pulp used for fruit juice and carbonated drink	200	20	20	Nil
4	Sugar used for fruit juice and carbonated drink	100	6	6	Nil
5	Preservatives for fruit juice and carbonated drink	100	Nil	Nil	12
6	Water for fruit juice and carbonated drink	20	Nil	Nil	Nil
7	Administrative expenses (common)	40	2	2	Nil
8	Marketing expenses (common)	50	Nil	Nil	10
9	Purchase of machinery (capital goods) for fruit drink manufacture	40	Nil	Nil	8
10	Motor vehicle for director official use	100	14	14	Nil

Compute the output GST liability, available ITC and payment to be made from Electronic Ledger for the month of April

Note: All the amounts given are exclusive of taxes wherever applicable

Answer

Computation of ITC available with Cash and Credit Ltd. for April

Particulars	ITC (₹ in lakh)		
	CGST	SGST	IGST
I. ITC on inputs, input services and capital goods			
Fruit pulp	20	20	
Sugar	6	6	
Preservatives			12
Administrative expenses	2	2	
Marketing expenses			10
Transportation charges for supply of fruit juices [Tax is payable by Cash and Credit Ltd. @5% under RCM.]			1
Machinery input tax paid on inputs, input services and capital goods used in the manufacture of taxable products viz, fresh juices & carbonated fruit drinks is available as ITC]			8
Motor vehicle [ITC on motor vehicle for transportation of persons with seating capacity of up to 13 persons is blocked for a supplier who is not engaged in further supply of such vehicles, transportation of passengers or imparting training on driving such vehicles.]	-	-	-
Total	28	28	31
II. ITC to be reversed on inputs and input services			
Common credit of CGST on administrative expenses being used commonly for taxable and exempt products = { ₹ 2 lakh Exempt turnover = ₹ 2200 lakh; Total turnover = 4400 lakh Common credit attributable to exempt supply in lakh $[2 \times 2200/4400] = ₹ 1$ lakh Similar reversal for SGST credit	(1)	(1)	

Common credit of IGST on marketing expenses being used commonly for taxable and exempt products = ₹ 10 lakh: Common credit attributable to exempt supply lakh ₹ in lakh (10 x 2200/4400) - ₹ 5 lakh			(5)
Total ITC available for set off	27	27	26

Computation of net GST payable for the month of April

Particulars	Value* ₹ [in lakh]	CGST ₹ [in lakh]	SGST ₹ [in lakh]	IGST ₹ [in lakh]
Intra-State sale of fresh fruits	1100	Nil	Nil	Nil
Intra -State sale of vegetables	1100	Nil	Nil	Nil
Intra- State sale of fresh juices	2000	120	120	
Intra-State sale of carbonated fruit drinks	200	28	28	
Total output tax liability		148	148	
Less: Payment from E-credit Ledger				
IGST credit being set off against SGST liability as it can be set off against CGST and SGST liability in any order and in any proportion			(26)	
CGST and SGST credit set off against CGST and SGST liability respectively		(27)	(27)	
Net GST payable from E-cash Ledger [A]]		121	95	
GST payable on inward supply of GTA services under RCM through E-cash Ledger [B] [Tax payable under RCM, being not an output tax, cannot be set off against ITC and thus, will have to be paid in cash.]				1
Net GST payable through E-cash Ledger		121	95	1
Total GST payable by cash			217	

Note:

In the above answer, tax payable from E-cash Ledger has been computed by setting off the IGST credit against SGST liability. However, since IGST credit can be set off against CGST and SGST liability in any order and in any proportion, the same can be set off against CGST and/or SGST liabilities in different ways as well. In all such cases, net CGST and net SGST payable from E-cash Ledger will differ though the total amount of net GST payable (₹ 217 lakh) in cash will remain the same.

Question 49

V-Supply Pvt. Ltd. is a registered manufacturer of auto parts in Kolkata, West Bengal. The company has a manufacturing facility registered under Factories Act, 1948 in Kolkata. It procures its inputs indigenously. from both registered and unregistered suppliers located within as well as outside West Bengal as also imports some raw material from China. The company reports the following details for a tax period:

Payments	₹ [in lakh]	Receipts	₹ [in lakh]
Raw material	3.5	Sales	15

Consumables	1.25		
Transportation charges for bringing the raw material to factory	0.70		
Salary paid to employees on rolls	5.0		
Premium paid on life insurance policies taken for specified	1.60		
Audit fee	0.50		
Telephone expenses	0.30		
Bank charges	0.10		

All the above amounts are exclusive of all kinds of taxes, wherever applicable. However, the applicable taxes have also been paid by the company.

Further, following additional details are furnished by the company in respect of the payments and receipts reported by it :

(i) Raw material amounting to ₹ 0.80 lakh is procured from Bihar and 1.5 lakh is imported from China Basic customs duty of ₹ 0.15 lakh, social welfare surcharge of ₹ 0.015 lakh and IGST of ₹ .02997 lakh are paid on the imported raw material.

Remaining raw material is procured from suppliers located in West Bengal. Out of such raw material, raw material worth ₹ 0.30 lakh is procured from unregistered suppliers; the remaining raw material is procured from registered suppliers.

Further, raw material worth ₹ 0.05 lakh purchased from registered supplier located in West Bengal has been destroyed due to seepage problem in the factory and thus, could not be used in the manufacturing process.

(ii). Consumables are procured from registered suppliers located in Kolkata and include diesel worth ₹ 0.25 lakh for running the generator in the factory.

(iii). Transportation charges comprise of 0.60 lakh paid to Goods Transport Agency (GTA) in Kolkata and 0.10 lakh paid to horse pulled carts. GST applicable on the services of GTA is 5%. GTA has not opted to pay tax under forward charge.

(iv) Life insurance policies for specified employees have been taken by the company to fulfill a statutory obligation in this regard. The life insurance service provider is registered in West Bengal.

(v) Audit fee is paid to M/s Goyal & Co., a firm of Chartered Accountants registered in West Bengal, for the statutory audit of the preceding FY.

(vi) Telephone expenses pertain to bills for landline phone installed at the factory and mobile phones given to employees for official use. The telecom service provider is registered in West Bengal.

(vii) Bank charges are towards company's current account maintained with a Private Sector Bank registered in West Bengal.

(vii) The breakup of sales is as under.

Sales in West Bengal - ₹ 7 lakh

Sales in States other than West Bengal - ₹ 3 lakh

Export under LUT - ₹ 15 lakh

(ix) The opening balance of ITC with the company for the tax period is:

CGST ₹ 0.15 lakh

SGST ₹ 0.00 lakh

IGST ₹ 0.09 lakh

Compute (i) TTC available with V-Supply Pvt. Ltd. for the tax period; and (ii) Net GST payable [CGST, SGST, IGST as the case may be] from E-cash Ledger by V-Supply Pvt. Ltd. for the tax period.

Note : CGST,SGST & IGST rates to be 9%, 9% and 10% respectively.

Answer

Computation of ITC available with V-Supply Pvt. Ltd. for the tax period

S.NO	Particulars	ITC			
		CGST	SGST	IGST	TOTAL
1	Opening balance of ITC	15,000	8,000	9,000	32,000
2	Raw material purchased from Bihar [Note 1(i)]			14,400	14,400
	Raw material imported from China [Note 1(ii)]			29,970	29,970
	Raw material purchased from unregistered suppliers within West Bengal [Note 1(iii)]	Nil	Nil		Nil
	Rane material destroyed due to seepage [Note 1(iv)]	Nil	Nil		Nil
	Remaining raw material Purchased from West Bengal (Note 1(ii)) ₹ 3.5 - ₹ 1.5 - ₹ 0.80 - ₹ 0.30 - ₹ 0.05] = ₹ 0.85]	7,650	7,650		15,300
	Total ITC for raw material	7,650	7,650	44,370	59,670
3.	Consumables [Note 2]	9,000	9,000		18,000
4.	Transportation charges for Bringing the raw material to factory [Note 3]	1,500	1,500		3,000
5	Salary paid to employees on rolls [Note 4]	Nil	Nil	Nil	Nil
6	Premium paid on life Insurance policies taken for specified employees [Note 5]	14,400	14,400		28,800
7	Audit fee [Note 6]	4,500	4,500		9,000
8	Telephone expenses [Note 6]	2,700	2,700		5,400
9	Bank charges (Note 6]	900	900		1,800
	Total ITC available for the tax period	55,650	48,650	55,650	1,57,670

Computation of net GST payable

Particulars	CGST ₹	SGST ₹	IGST ₹	TOTAL ₹
On Intra-state sales in West Bengal	63,000	63,000		1,26,000
On Inter-state sales other than West Bengal			54,000	54,000
On exports under LUT [Note 7]	Nil	Nil	Nil	Nil

Total output tax liability	63,000	63,000	54,000	1,80,000
Less: ITC available for being set off [Note 8 & Note 9]	(55,650)	(48,650)	(53,370)	(1,57,670)
Net GST payable from E-cash Ledger (A)	7,350	14,350	630	22,330
GST payable on inward supply of GTA services RCM through E-cash Ledger (Note 3 and 10) [B]	1,500	1,500		3,000
Net GST payable through E-cash Ledger [A] + [B]	8,850	15,850	630	25,330

Notes:

- 1 (i) Credit of input tax paid on raw materials used in the course of business is available
 - (ii) Therefore, credit of IGST paid on imported raw materials used in the course of business is available
 - (iii) Tax on Intra-State procurements made by a registered person from an unregistered supplier levied only on notified categories of goods and services. [Section 9(4)].
 - (iv) ITC is not available on destroyed inputs in terms of section 17(5)(h).
2. Consumables, being inputs used in the course of business, ITC is available on the same in terms of section 16(1). However, levy of CGST on diesel has been deferred till such date as may be notified by the Govt.. Hence, there being no levy of GST on diesel, there cannot be any ITC.
3. In respect of intra-State road transportation of goods undertaken by a GTA, who has not opted pay tax under forward charge, CGST is payable under RCM by the recipient of service. The person who pays or is liable to pay freight for the transportation of goods is treated as the person who receives the service. Thus, V-Supply Pvt. Ltd. will pay GST under RCM of transportation service received from GTA.
- Further, tax payable under section 9(3) of CGST/SGST Act qualifies as input tax in terms of clauses (b) and (d) of section 2(62). Thus, input tax paid under RCM on GTA service will be available as ITC in terms of section 16(1) as said service is used in course of business.
- Furthermore, Intra-State services by way of transportation of goods by road except services of a GTA and a courier agency are exempt from CGST Therefore, since no GST is paid on such services, there cannot be any ITC on such services.
4. Services by employees to employer in the course of or in relation to his employment is not a supply in terms of section 7 read with para 1 of Schedule III to the CGST Act. Therefore, since no GST is paid on such services, there cannot be any ITC on such services.
5. ITC on supply of life insurance service is not blocked if it is obligatory for an employer to provide such service to its employees under any law for the time being in force. [Proviso to section 17(5)(b)].

Therefore, GST paid on premium for life insurance policies will be available as ITC in terms of section 16(1) as the said service is used in the course of business.

6. Audit fee, telephone expenses and bank charges are all services used in the course of business and thus, credit of input tax paid on such service will be available in terms of section 16(1)

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

8. Since export of goods is a zero rated supply, there will be no apportionment of TTC and full credit will be available [Section 16 of the IGST Act read with section 17(2) of the CGST Act]

9. As per section 49(5) read with rule 88A, ITC of

(i) IGST is utilised towards payment of IGST first and then CGST and SGST in any proportion and in any order.

(ii) (CGST is utilised towards payment of CGST and IGST in that order. ITC of CGST shall be utilized only after ITC of IGST has been utilised fully.

(iii) (SGST is utilised towards payment of SGST and IGST in that order. ITC of SGST shall be utilized only after ITC of IGST has been utilised fully.

10. Tax payable under RCM cannot be set off against the ITC and thus, will have to be paid in cash.

11. CGST and SGST are chargeable on intra-State inward and outward supplies and IGST is chargeable on inter-State inward and outward supplies.

Question 50

Motopower Pvt. Ltd, registered under GST, is engaged in the manufacture of 5 seater luxury cars at its factories located in the States of Rajasthan, Uttar Pradesh and Gujarat. The company has obtained registration in each of these States. It also enters into contracts for providing these cars on rent to corporate clients wherein the cost of fuel is included in the value of supply. The company reports the following details for a tax period pertaining to its factory located in Gujarat:

Payments	(₹) (in lakh)	Receipts	(₹) (in lakh)
Raw material	4.50	Sales	30
Rent paid	1.00	Car rental income	0.50
Consumables	1.50	Income from services provided to Gujarat Govt. administration	2.50
Security services	0.70		
General insurance of cars manufactured	2.50		
Works contract services	1.60		
Audit fee	0.50		
Bank charges	0.10		
Membership of Automobile Association	0.10		

All the above amounts are exclusive of all kinds of taxes, wherever applicable. However, the applicable taxes have also been paid by the company.

Further, following additional details are furnished by the company in respect of the payments and receipts reported by it:

(i) Raw materials worth ₹ 0.50 lakh, purchased from a registered supplier located in Gujarat, were destroyed due to fire in the factory and thus, could not be used in the manufacturing process.

Remaining raw material has been procured from various vendors located in Maharashtra,

(ii) Rent has been paid for the factory building located in Gujarat to its owner registered in Gujarat.

(iii) Payment for security services (services provided by way of supply of security personnel) for the tax period has been made to Safe and Secure Solutions Pvt. Limited, a company located in Gujarat and not registered under GST.

(iv) General insurance services have been availed from Divided Insurance Company Ltd. registered in Gujarat.

(v) Works contract services availed from Chitra Builders, Gujarat, have been used by the company for construction of a foundation on which machinery to be used in the production process is to be mounted permanently

(vi) Audit fee is paid to a firm of Chartered Accountants- M/s Pandya & Associates (registered in West Bengal with an aggregate turnover of ₹ 30 crores in the preceding FY) - for conducting the statutory audit of the company in the preceding FY. The firm raises an e-invoice without IRN (Invoice Reference Number) for said services.

(vii) Bank charges are towards various services availed by the company during a month with regard to its current account maintained with Manimani Bank, registered in Gujarat. The bank issued a consolidated tax invoice for all such services at the end of the month containing the details of tax charged, description of services, total value, GSTIN of the bank and Motopower Pvt. Ltd.

(viii) Automobile Association is registered in the State of Gujarat.

(ix) The breakup of sales is as under: Sales in Gujarat - ₹ 14 lakh

Sales in States other than Gujarat - ₹ 6 lakh

Exports under Letter of Undertaking (LUT)- ₹ 10 lakh

(x) Car rental income pertains to renting of cars to Jamaze Travels Ltd., registered in Gujarat and cost of fuel is included in the value of said supply. Further, consumables, procured from registered suppliers located in Gujarat, include diesel (excise and VAT paid) worth ₹ 0.75 lakh used for running the cars so rented out to Jamaze Travels Ltd. Assume that except diesel, no other input/input services is used in providing car renting service.

(xi) Services provided to Gujarat Govt. administration are under a Health Training programme 51% of the total expenditure for said programme is borne by Gujarat Govt..

(xii) The opening balance of ITC with the company for the tax period is:

CGST - ₹ 0.50 lakh

SGST - ₹ 0.26 lakh

IGST - ₹ 0.35 lakh

Compute the total ITC available with Motopower Pvt. Ltd. for the given tax period and net GST payable [CGST, SGST or IGST, as the case may be] from E-cash Ledger by Motopower Pvt. Ltd. for the given tax period.

Notes

(A) CGST, SGST & IGST rates on all inward and outward supplies are 9%, 9% and 18% respectively. except on renting of cars wherein CGST, SGST & IGST rates are 2.5%, 2.5% and 5% respectively.

It is important to note that credit of input tax charged on goods and services used in supplying the service of transport of passengers by any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, is not available except the credit of the input service in the same line of business.

Answer

Computation of ITC available with Motopower Pvt. Ltd. for the given tax period

S.No	Particulars	Value of supply ₹	ITC			
			CGST ₹	SGST ₹	IGST ₹	TOTAL ₹
1	Opening balance of ITC		50,000	26,000	35,000	1,11,000
2	Raw Materials [₹ 4,50,000 - ₹ 50,000] [Note 1]	4,00,000	-	-	72,000	72,000
3	Rent paid for the factory building [Note 2]	1,00,000	9,000	9,000	-	18,000
4	Consumables procured from suppliers in Gujarat [₹ 1,50,000 - ₹ 75,000] [Note 3]	75,000	6,750	6,750	-	13,500
5	Security services [Note 4]	70,000	Nil	Nil	Nil	Nil
6	General insurance of cars manufactured [Note 5]	2,50,000	22,500	22,500	-	45,000
7	Works contract services [Note 6] Audit fee [Note 7]	1,60,000	14,400	14,400	-	28,800
8	Bank charges [Note 8]	50,000	Nil	Nil	Nil	Nil
9	Membership of Automobile Association [Note 9]	10,000	900	900	-	1,800
10		10,000	900	900	-	1,800
Total ITC available for the tax period			1,04,450	80,450	1,07,000	2,91,900

Particulars	Value of supply	CGST ₹	SGST ₹	IGST ₹	TOTAL ₹

Intra-State sales in Gujarat	14,00,000	1,26,000	1,26,000	-	2,52,000
Inter-State sales	6,00,000	-	-	1,08,000	1,08,000
Exports under LUT [Note 10]	10,00,000	Nil	Nil	Nil	Nil
Car rental income (Taxable @2.5% CGST and SGST each) [Note 11]	50,000	1,250	1,250	-	2,500
Income from services provided to Gujarat Govt. [Note 12]	2,50,000	22,500	22,500	-	45,000
Total output tax liability		1,49,750	1,49,750	1,08,000	4,07,500
Less: ITC available for being set off (Note 13, 14, 15)		(1,04,450)	(80,450)	(1,07,000)	(2,91,900)
Net GST payable from E-cash Ledger		45,300	69,300	1,000	1,15,600

Notes:

1. Credit of input tax paid on raw materials used in the course of business is avail in terms of section 16(1). However, ITC is not available on destroyed inputs in terms of section 17(5)(h).
2. ITC on rent paid is available as the said service is used in the course of business terms of section 16(1)
3. ITC on consumables, being Inputs used in the course 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 Govt. Hence, there being no levy of GST on diesel, there cannot be any ITC since VAT & excise paid are not covered in the definition of input tax under section 2(62). Moreover, credit of input tax charged on goods an services used in supplying the service of transport of passengers by any motor vehicle designed carry passengers where the cost of fuel is included in the consideration charged from the service recipient is not available except the credit of the input service in the same line of business. Thus, ITC on diesel will not be available.
4. Tax on security services (services provided by way of supply of security personnel) provided by a non-body corporate to a registered person is payable under RCM. Since in the given case security services have been provided by a body corporate-Safe and Secure Solutions Pvt. Limited to a registered person Motopower Pvt. Ltd, GST on the same is payable under forward charge However, since Safe and Secure Solutions Pvt. Limited is not registered under GST, it would not have charged GST on the said services and hence, no ITC is available.
5. ITC on motor vehicles for transportation of persons is allowed in terms of section 17(5)(a) provided such vehicles are further supplied by the supplier. ITC is allowed on general insurance services relating to motor vehicles, ITC on which is allowed [Section 17(5)(ab)).
6. Section 17(5)(c) blocks ITC in respect of works contract services when supplied for construction of an immovable property (other than plant and machinery) except

where it is an input service for further supply of works contract service. Further, the term "plant and machinery" means, inter alia machinery fixed to earth by foundation or structural support that are used for making outward supply and includes such foundation/structural support. Thus, in view of the above-mentioned provisions, ITC is available in respect of works contract service availed by Motopower Pvt. Ltd. as same is used for construction of plant and machinery which is not blocked under section 17(5)(c).

7. Audit fee are the services used in the course/ furtherance of business and thus, credit of input tax paid on such service will be available in terms of section 16(1). M/s Pandya & Associates is required to issue an e-invoice for audit services as e-invoicing is mandatory for the registered persons whose aggregate turnover in any of the preceding FYs exceed ₹10 crores. However, an e-invoice without IRN is not treated as an invoice as per rule 48(5) and hence, without a valid document, ITC cannot be claimed on such input services.
8. Bank charges are services used in the course/ furtherance of business and thus, credit of input tax paid on such service will be available in terms of section 16(1) However, ITC can be claimed only on the basis of valid documents. In case of a banking company, as per rule 54(2), a consolidated tax invoice issued for supply of services made during a month at the end of the month containing the details of tax charged, description of services, total value, GSTIN of the supplier and the recipient is deemed to be a Tax Invoice. Thus, ITC pertaining to the banking services received is allowed.
9. As per section 17(5)(b)(ii), ITC is blocked on membership of a club, health and fitness centre. The membership fee paid by a automobile company to Automobile Association is not covered under said section as it is distinct from membership of a club. Hence, ITC thereon is available.

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

11 Tax on services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient is payable under RCM only when said service is provided by a non-body corporate to a body corporate and & an invoice charging GST 12% is not issued to service recipient. Since in the given case, said services are provided by body corporate Motopower Pvt. Ltd. to another body corporate-Jamaze Travels Ltd, GST is payable under forward charge by Motopower Pvt. Ltd. on the same.

12. Services provided to the Central Govt., State Govt., UT administration under any training programme for which 75% or more of the total expenditure is borne by the Central Govt., State Govt., UT administration are exempt from GST. However, in the given case, since the total expenditure borne by the Gujarat Govt. is less than 75%, services provided to it by Motopower Pvt. Ltd. are liable to GST

13. Since export of goods is a zero-rated supply, apportionment of ITC is not required and instead, full credit will be available [Section 16 of the IGST Act read with section 17(2) of the CGST Act]

14. As per section 49(5) read with rule 88A, ITC of-

(i) IGST is utilised towards payment of IGST first and then CGST and SGST in any proportion and in any order.

(ii) CGST is utilised towards payment of CGST and IGST in that order. ITC of CGST shall be utilized only after ITC of IGST has been utilised fully.

(iii) SGST is utilised towards payment of SGST and IGST in that order. ITC of SGST shall be utilized only after ITC of IGST has been utilised fully.

15. Since the value of taxable supply other than zero-rated supply in the given tax period ₹14 lakh + ₹ 6 lakh + ₹ 0.50 lakh + ₹ 2.50 lakh) does not exceed ₹ 50 lakh, provisions of rule 86B are not applicable and Motopower Ltd. can discharge its entire output tax liability for said period from the E-credit ledger.

Question 51

Pari Ltd. of Jodhpur (Rajasthan) is a registered manufacturer of cosmetic products. Pari Ltd. has furnished following details for a tax period:

Particulars		(₹)
Details of Outward supplies,		
(i)	Supplies in Rajasthan	8,75,000
(ii)	Supplies in States other than Rajasthan	3,75,000
(iii)	Export under LUT	6,25,000
Details of Expenses		
(i)	Raw materials purchased from registered suppliers located in Rajasthan	1,06,250
(ii)	Raw materials purchased from unregistered suppliers located in Rajasthan	37,500
(iii)	Raw Materials purchased from Panjab from registered supplier	1,00,000
(iv)	Integrates tax paid on raw materials imported from USA	22,732
(v)	(Consumables purchased from registered suppliers located in Rajasthan Including high speed diesel (Excise and VAT paid) valuing ₹ 31,250 for running the machinery in the factory.	1,56,250
(vi)	[Monthly rent for the factory building to the owner in Rajasthan	1,00,000
(vii)	Salary paid to employees on rolls	6,25,000
(viii)	[Premium paid on life insurance policies taken for specified employees. Life insurance policies for specified employees have been taken by Pari Ltd. to fulfill a statutory obligation in this regard. The life Insurance service provider is registered in Rajasthan.	2,00,000
All the above amounts are exclusive of all kinds of taxes, wherever applicable. However, the applicable tars have also been paid by Pari Ltd.		
The opening balance of ITC with Pari Ltd. for the given tax period is-		
CGST 20,000		
SGST 15,000		
IGST 15,000		

Assume CGST, SGST and IGST rates to be 9%, 9% and 18% respectively.

Compute (i) ITC available with Pari Ltd. for the tax period; and (ii) Net GST payable [CGST, SGST or IGST, as the case may be] from E-cash Ledger by Pari Ltd. for the tax period

Answer

Computation of ITC available with Pari Ltd

S.N	Particulars	Eligible ITC		
		CGST ₹	SGST ₹	IGST ₹
1.	Raw Material			
	Purchased from local registered suppliers [Note 1(i)] (₹ 1,06,250 x 9%)	9,563	9,562	
	Purchased from local unregistered suppliers [Note 1(ii)]	Nil	Nil	
	Purchased from Punjab from registered supplier [Note 1(i)] (₹ 1,00,000 x 18%)			18,000
	Raw material imported from USA [Note 1(iii)]			22,732
2	Consumables [Note 2] (₹ 1,56,250 - ₹ 31,250) x 9%]	11,250	11,250	
3	Monthly rent for the factory building to the owner in Rajasthan [Note 3]	9,000	9,000	
4	Salary paid to employees on rolls [Note 4]	Nil	Nil	Nil
5	Premium paid on life insurance policies taken for specified employees [Note 5] (₹ 2,00,000 x 9%)	18,000	18,000	
Total		47,813	47,813	40,372
Add : Opening balance of ITC		<u>20,000</u>	<u>20,000</u>	<u>15,000</u>
Total ITC [Note 7]		67,813	67,813	55,372

Computation of net GST payable

Particulars	CGST ₹	SGST ₹	IGST ₹
Intra - State supply	78,750	78,750	
Inter - State supply			67,500
Exports under LUT [Note 6]	<u>Nil</u>	<u>Nil</u>	<u>Nil</u>
Total output tax liability	78,750	78,750	67,500
Less : ITC	67,813	67,812	55,732
Net GST payable	10,937	15,938	11,768

Notes:

1 (i).Credit of input tax (CGST & SGST/IGST) paid on raw materials used in the course of business is available in terms of section 16.

(ii) Tax on procurements made by a registered person from an unregistered supplier is levied only in case of notified goods and services in terms of section 9(4). Therefore, since no GST is

paid on such raw material purchased, there does not arise any Question of ITC on such raw material.

(iii) IGST paid on imported goods qualifies as input tax in terms of section 2(62). Therefore, credit of IGST paid on imported raw materials used in the course of business is available in terms of section 16.

2. ITC on consumables, being inputs used in the course of business, is available. However, since levy of GST on high speed diesel has been deferred till a date to be notified by Govt., there cannot be any ITC of the same.

3. ITC on monthly rent is available as the said service is used in the course of business.

4. Services by employees to employer in the course of or in relation to his employment is not a supply in terms of section 7 read with Schedule III to the CGST Act. Therefore, since no GST is paid on such services, there cannot be any ITC on such services.

5. ITC on life insurance service is available if the same is obligatory for an employer to provide to its employees under any law for the time being in force as per proviso to section 17(5)(b).

6. Export of goods is a zero rated supply. A zero rated supply under bond is made without payment of IGST in terms of section 16(3)(a).

7. Since export of goods is a zero rated supply, there will be no apportionment of ITC and full credit will be available as per section 17(2).

Question-51A

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

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

Particulars	Turnover for the quarter ended 30.06.20XX (₹)	Turnover for the quarter ended 30.09.20XX (₹)
'P'	60,00,000	50,00,000
'Q'	17,65,000	17,00,000

Particulars	Stock as on 30.06.20XX (₹)	Stock as on 30.09.20XX (₹)	Stock as on 31.10.20XX (₹)
'P'	25,00,000	10,00,000	3,60,000
'Q'	10,00,000	2,00,000	1,20,000

The entire stock of the products 'P' and 'Q' available with the firm as on 30.09.20XX is purchased during the said half year except a consignment of product 'P' valuing ₹ 3,00,000, which was purchased in the April month of the preceding FY. In the current FY, in the month

of Oct., no purchases were made, and products were sold with a profit margin of 20% on sales (exclusive of taxes).

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

Bill No.	Date	Value of products (exclusive of taxes)		
		'P' (₹)	'Q' (₹)	Total(₹)
2306	01.10.20XX	2,00,000	3,000	2,03,000
2307	01.10.20XX	1,33,000	5,250	1,38,250
2308	02.10.20XX	67,000	39,250	1,06,250
2309	03.10.20XX	58,750	33,750	92,500
2310	05.10.20XX	1,00,000	-	1,00,000
2311	06.10.20XX	94,000	6,000	1,00,000
2312	06.10.20XX	-	17,000	17,000
2313	08.10.20XX	50,000	6,000	56,000
2314	09.10.20XX	60,000	9,000	69,000
2315	-	-	-	-
-	-	-	-	-

The details of services availed by B & D Company is as follows:

S.N	Particulars	(₹)
(i)	(Freight paid to Goods Transport Agency during the period April 20XX to Oct. 20XX. Assume equal amount of freight is paid each month on the 10th day of each month. Also, assume that the goods for which the freight is paid on 10 th day of the month are transported between 11 th to 20 th day of the month.	1,40,000
(ii)	Special packing charges paid to a Packing Company, having expertise in such specialized packing, during the period Jan. 20XX to Oct. 20XX. The packing are paid for the goods which are transported between 11 th to 20 th of day of the month (as mentioned in point (i) above) The goods are packed on 10 th day and then transported from 11 th day onwards. Assume equal amount of packing charges are paid each month on the 9 th day of each month.	3,00,000

All the above amounts are exclusive of taxes, wherever applicable

(i) Compute the ITC credited to the E-credit Ledger of the B & D Company, when it exits All the composition scheme and becomes liable to pay tax under regular scheme, in accordance with the provisions of section 18(1)(c) of the CGST Act.

Following additional information is also available:

Particulars relating to capital goods owned by the firm	Date of purchase	Value (₹)	GST (₹)
Computers	01.02.20XX	2,00,000	36,000
Printers	Jan. 1, two years prior to 01.01.20XX	80,000	14,400

Motor cycle used by the staff for collecting payments from the debtors	23.09.20XX	85,000	15,300
Furniture & fixtures	12.06.20XX	4,00,000	72,000
Air conditioner used in the office	15.10.20XX	2,00,000	36,000
Exhaust fan used in the godown	10.03.20XX	50,000	9,000

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

Note: The Company has not claimed depreciation on the tax component of any of the capital goods (mentioned above) under the Income-tax Act, 1961. All the conditions necessary for availing the ITC have been complied with. Rate of CGST and SGST is 9% each.

(ii) .Compute the GST liability of B & D Company payable from E-credit Ledger and/or E-cash Ledger, as the case may be, for the period covered under regular scheme.

Answer

As per section 18(1)(c) of the CGST Act read with rule 40 of CGST Rules, where any registered person ceases to pay tax under section 10, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax under section 9. However, the credit on input services is not allowed and credit on capital goods shall be reduced by 5% per quarter of a year or part thereof from the date of invoice.

Further, ITC on supplies of inputs and capital goods shall not be available after the expiry of one year from the date of issue of tax invoice [Section 18(2) of the CGST Act].

In the light of the above-mentioned provisions, the ITC credited to the E-credit Ledger of the B & D Company on inputs held in stock and capital goods on 02.10.20XX will be computed as under:

ITC Inputs

Particulars	Amount (₹)
Stock of taxable inputs as on 30.09.20XX [Since no tax is paid on exempt purchases, there does not arise any Question of availing ITC on the same. Hence, stock of only taxable inputs are considered]	10,00,000
Add: Purchases No purchases are made in Oct., 20XX]	Nil
Less: Cost of Taxable goods sold from 01.10.20XX to 02.10.20XX [12,00,000 + 1,33,000 + 67,000] x 80%	<u>3,20,000</u>
Stock of taxable inputs as on 02.10.20XX Since the bill numbers are in continuation, it can be concluded that no sales are missing from the extract)	6,80,000
Less: More than one year old stock	<u>3,00,000</u>
Stock of inputs on which ITC can be claimed	3,80,000

ITC of CGST @9% [Since all purchases are intra-State and from the suppliers registered under regular scheme]	34,200
ITC of SGST @9% [Since all purchases are intra-State and from the suppliers registered under regular scheme]	34,200

ITC on capital goods

Particulars	CGST @9% (₹)	SGST @9% (₹)
Computers [₹ 36,000 – (5% x 4 quarters)] ÷ 2	14,400	14,400
Printers [Being more than one year old, no ITC is available]	-	-
Motor cycle (Section 17(5)(a) of CGST Act allows ITC on motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons only when they are used for making the following taxable supplies, namely: (A) further supply of such motor vehicles; or (B) transportation of passengers; or (C) imparting training on driving such motor vehicles] Since B & D Company is a trader and it does not use the motor cycle for transportation of goods, ITC thereon will not be available]	-	-
Furniture and Fixtures [₹ 72,000 - (5% x 3 quarters)] ÷ 2	30,600	30,600
Air conditioner used in the office (Since purchased after 03.10.20XX, full ITC will be available and will be computed separately]	-	-
Exhaust fan used in the godown (9,000 -15% x 4 quarters)] ÷ 2	<u>3,600</u>	<u>3,600</u>
ITC to be claimed on capital goods	48,600	48,600
Total ITC on inputs and capital goods credited to E-credit Ledger on 02.10.20XX	82,800 [34,200 + 48,600]	82,800 [34,200 + 48,600]

Output tax liability of B & D Company under regular scheme

From 03.10.20XX firm will pay tax under regular scheme on monthly basis in terms of sub-sections stock and capital goods as on 02.10.20XX in terms of section 18 of the CGST Act as also on (1) and (7) of section 39 of the CGST Act and will be eligible to avail ITC on inputs held in goods and services procured on or after 03.10.20XX and used in the course of business in accordance with section 16 of the CGST Act. However, since common input services and capital goods are used in effecting taxable supplies as well as exempt supplies, ITC attributable to the exempt supplies will need to be added to the output tax liability of the month of Oct., 20XX in terms of section 17(2) read with rules 42 and 43 of the CGST Rules respectively.

Further, since all the sales are made within the State (eastern part of Maharashtra).CGST and SGST @ 9% each will be payable on the outward supplies.

The tax liability for the month of Oct., 20XX under regular scheme will be computed as under:

Particulars	Value (₹)	CGST (₹)	SGST (₹)
Tax on outward supply of P' Taxable supplies from 03.10.20XX to 31.10.20XX chargeable to CGST and SGST 9% each [Refer Working Note 4]	4,00,000	36,000	36,000
ITC reversal on capital goods [Refer Working Note 2 below]		<u>129</u>	<u>129</u>
Total Output Tax liability		36,129	36,129
Less: ITC [Refer Working Note 3 below]		<u>(36,129)</u>	<u>(36,129)</u>
GST payable in cash		Nil	Nil
Tax on inward supplies attracting RCM GTA services availed chargeable to CGST and SGST @ 2.5% each (₹ 1,40,000 / 7)	20,000	<u>500</u>	<u>500</u>
Total GST payable in cash As per section 49(4) of the CGST Act amount available in the E-credit ledger may be used for making payment towards output tax. However, tax payable under RCM is not an output tax in terms of section 2(82) of CGST Act. Therefore, tax payable under RCM cannot be set off against the ITC and thus, will have to be paid in cash.		500	500

Working Note 1

Particulars	Value (₹)	CGST (₹)	SGST (₹)
CGST & SGST @2.5% each paid under RCM on freight paid to GTA on 10.10.20XX for the goods transported between 11.10.20XX & 20.10.20XX) will be available as ITC under regular scheme	20,000	500	500
CGST & SGST @ 9% each paid to Packing Agency on 09.10.200X (for specialized packing to be carried out on 10.10.20XX on goods to be transported between 11.10 20XX & 20.10 20XX) will be available as TTC under regular scheme.	30,000	2,700	2,700
Total common credit		3,200	3,200
Common credit on input services attributable to exempt supplies (rounded off) Common credit on input services availed during the period under regular scheme x (Exempt turnover made during the period under regular scheme / Total turnover during the period under regular scheme) = ₹ 3,200 x 52,500/4,52,500 Turnover of 'Q' (exempt turnover) from 03.10.20XX to 31.10.200X is ₹ 52,500 (Refer Working Note 4) Total turnover from 03.10.20XX to 31.10.20XX is ₹ 4,52,000 (Refer Working Note 4		371	371

Working Note 2

Particulars	CGST @9% (₹)	SGST @9% (₹)
ITC claimed on capital goods on 02.10.20XX [Refer (i)]	48,600	48,600
Air conditioner used in the office purchased on 15.10.20XX	<u>18,000</u>	<u>18,000</u>
Common ITC [Since all the capital goods are used for effecting both taxable and exempt supplies, the entire ITC on capital goods is common]	66,600	66,600
Common credit for a tax period (Common credit + 60] (rounded off)	1,110	1,110
Common credit on capital goods attributable to exempt supplies (rounded off) Common credit on capital goods during the period under regular scheme x (Exempt turnover made during the period under regular scheme/Total turnover during the period under regular scheme) = ₹ 1,110 x 52,500 / 4,52,500	129	129

Working Note 3

Particulars	CGST (₹)	SGST (₹)
ITC on inputs and capital goods claimed on 02.10.20XX [Refer (i)]	82,800	82,800
ITC on air conditioner used in the office purchased on 15.10.20XX	18,000	18,000
ITC on freight paid to GTA	500	500
ITC on packing charges	2,700	2,700
Less: ITC reversal on input services [Refer Working Note 1)	(371)	(371)
Total ITC available with the firm	1,03,629	1,03,629

Working Note 4

Particulars	Total turnover for the month of Oct., 20XX* (₹)	Turnover in month of Oct. under regular scheme (₹) (03.10.20xx-31.10.20xx)
'P'	8,00,000 [(10,00,000 – 3,60,000) X 125%]	4,00,000 8,00,000 – 2,00,000 - 1,33,000 67,000]
'Q'	1,00,000 [(2,00,000 – 1,20,000) X 125%]	52,500 1,00,000 – 3,000 – 5,250 – 39,250]
Aggregate turnover	9,00,000	4,52,500

Note- Turnover for Oct., 20XX will be computed as under:

*Turnover Cost of goods sold** x 125% (20% margin on sales = 25% margin on cost)

****Cost of goods sold = Stock as on 30.09.20XX less stock as on 31.10.20XX (since no purchases are made after Sep, 20XX)**

Question 52

Sukhdev is a mining engineer. He has crossed the threshold limit for registration under the GST law and is duly registered in the State of Maharashtra. He effects the following transactions in the month of March and wants you to compute the tax payable in cash. He has filed bond/LUT to claim benefits from zero-rated supplies. The following are the particulars furnished by him.

S.No	Particulars	Value of supply in (₹)
(a)	Sukhdev, being an operating member in mining and exploration services at Mumbai High, has provided certain services to the Joint Venture (JV) in which he is also a participant. He believes that the consideration received from the JV is 'Cost Petroleum' and not taxable.	12,00,000
(b)	He has purchased certain machinery from outside the State, to render services to the JV at Mumbai High.	6,00,000
(c)	He has obtained legal opinion from a local firm of advocates to enter into the contract with the JV, for providing services to it.	1,00,000
(d)	He has obtained accommodation from the State Govt. to locate his office close to the sea shore.	2,00,000
(e)	He gets a portion of the petroleum silt as part of the compensation while exploring the petroleum reserves in the Bombay High- which as per the contract with the Govt. is part of 'Cost Petroleum'.	6,00,000
(f)	He sells the petroleum silt to a SEZ Developer in Mumbai	6,80,000
(g)	Consideration is received towards transfer of tenancy rights, which according to Sukhdev is not liable to GST as it has suffered stamp duty.	8,00,000
(h)	On violation of the terms in production sharing Agreement, Sukhdev has paid liquidated damages to the Govt.	3,00,000
(i)	He has been assigned the right to collect royalty on behalf of Maharashtra Govt., as 'Excess Royalty Collection Contractor'. He has noticed that the mining lease holders have short paid 2,00,000 as IGST from what had been exempted to him under the assignment	-
(j)	He has sold self-fabricated machinery through his agent in Mumbai, that has been used for 2 years, the value of which is not available in the open market. The agent sells it immediately to an unrelated customer in Mumbai	10,00,000
(k)	Opening Balance and brought forward tax credits are as follows:	
	E-cash Ledger-CGST	12,000
	E-credit Ledger CGST	18,000
	E-credit Ledger SGST	12,000
	E-credit Ledger CGST	60,000
(l)	Supply value is exclusive of taxes. Supply of services are taxable at CGST 9%, SGST 9% and IGST 18% and supply of goods are taxable at CGST 2.5%, SGST 2.5% and IGST 5% Determine the tax payable in cash. Provide suitable notes where required.	

Answer

Computation of tax payable in cash

S.N	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
A	GST liability on outward supply				
(i)	Consideration for services provided as an operating member to the Joint Venture [The operating member is providing the mining and exploration service to the joint venture, and thus, the consideration received therefore is not cost petroleum and hence, is liable to tax.]	12,00,000	1,08,000	1,08,000	
(ii)	Compensation received in the form of petroleum silt, which, as per the contract with Govt., is part of cost petroleum [Cost petroleum is not a consideration for service to the Govt. and thus, is not taxable.]	6,00,000	Nil	Nil	
(iii)	Sale of petroleum silt to a SEZ developer [Supply to SEZ developer is a zero-rated supply and no tax is payable on the same if made under a bond/LUT.]	6,80,000			Nil
(iv)	Consideration for transfer of tenancy rights [Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is she even though stamp duty has been paid on same.]	8,00,000	72,000	72,000	
(v)	Sale of fabricated machinery* Since open market value of the machine is not available, the value will be 90% of the price charged for the supply of machinery by the agent unrelated customer)** *It has been assumed that the value of ₹10 lakh at which the agent sells self-fabricated machinery to related customer is known to Sukhdev at the time he sells the machinery to the agent. ** It has been assumed that the supplier has opted value the goods	9,00,000	22,500	22,500	

	at 90% of the value charged by the agent to unrelated customer				
Total tax liability on outward supplies			2,02,500	2,02,500	
B. GST liability on inward supplies under RCM					
(i)	Legal services provided by a firm of advocates to Sukhdev, i.e a business entity. (It has been assumed that aggregate turnover of Sakhdev in the preceding FY exceeds ₹ 20 lakh)	1,00,000	9,000	9,000	
(ii)	Renting of immovable property provided by State Govt. to Sukhdev (a registered person)	2,00,000	18,000	18,000	
(iii)	Assignment, by the State Govt., of the right to collect royalty from mining lease holders to the extent the exemption is not available				2,00,000
Total tax liability on inward supplies under reverse			27,000	27,000	2,00,000
C.	ITC				
(i)	Opening balance		18,000	12,000	60,000
(ii)	Inter-State purchase of machinery	6,00,000			30,000
(iii)	Legal services	1,00,000	9,000	9,000	
(iv)	Renting of immovable property	2,00,000	18,000	18,000	
(v)	Assignment of right to collect royalty				2,00,000
	Total ITC ITC may be availed for making zero rated supply even if such a supply is an exempt supply. Sale of petroleum being a non- taxable supply, is an exempt supply but since it is also a zero-rated supply, ITC can be availed for making such supply.]		45,000	39,000	2,90,000
D.	Computation of tax payable in cash				
	Total tax liability outward supplies		2,02,500	2,02,500	

	Less: ITC of IGST		1,26,500	1,63,500	
	Less ITC of CGST and SGST		45,000 (CGST)	39,000 (SGST)	
	Forward charge liability on outward supplies payable in cash after set off of ITC		31,000		
	RCM liability payable in cash without set off of ITC [Tax payable under RCM, being not an output tax, cannot be set off against ITC and thus, will have to be paid in cash]		27,000	27,000	2,00,000
Total tax liability payable in cash Since ₹ 12,000 (CGST) is available in E-cash Ledger as opening balance, additional ₹ 46,000 (CGST) needs to be paid in cash)			58,000	27,000	2,00,000
	Payment of liquidated damages to the Govt. Services provided by Govt. by way of tolerating non-performance of a contract for which consideration in form of liquidated damages is payable to Govt. under such contract, is exempt from GST. Hence, no tax will be payable by Sukhdev on such input service.]	3,00,000	Nil	Nil	

Note: In terms of section 49B of the CGST Act, full (100%) IGST credit of ₹ 2,90,000 must be utilised first before using CGST or SGST credit. However, the said IGST credit can be set off against the CGST and SGST liability in any order and in any proportion. Thus, the final answer in each case would vary.

Question 53

Mr. Rishi, a registered supplier under GST in the State of Maharashtra, provides the following informas for the month of Jan. 20XX:

S.N	Particulars	Amount in ₹
	OUTWARD SUPPLY:	
(i)	Supplied computers (which were purchased from an unregistered supplier) without any consideration to his brother-in-law in Ranchi (market value of supply was ₹ 62,000)	Nil
(ii)	Supplied a consignment of 10 laptops to M/S NK & Co. in the State of Maharashtra at the instruction of third person being M/s ZX Computers of Tamilnadu.	6,00,000
(iii)	Provided stock counting service to M/s XY Impex registered with GST in the State of Gujarat, whereas the place where the stock counting was carried out was at the godown located in Mumbai.	80,000
(iv)	Provided renting service of his service apartment in Mumbai at a daily rent of ₹ 1500 for residential purposes	30,000

(v)	Recovery agent services provided to Apex Finance Ltd, an NBPC located in Delhi	2,00,000
(vi)	Advance received during the month for future Intra-State supply	9,00,000
	INWARD SUPPLY:	
(i)	Imported computer accessories from Korea and the goods landed in Mumbai Port and reached at his registered premises on 31.01.20XX	5,00,000
(ii)	Availed GTA services from M/s Speed Trans of Kolkata with regard to transport of traded goods where rate of CGST/SGST @ 2.5% each. IGST @ 5% was applicable. GTA has not opted to pay tax under forward charge	1,00,000
(iii)	Apart from the above, received 15 invoices involving IGST of ₹ 1,00,000 during the current month	-

Mr. Rishi provided the following additional information:

(a) Turnover for the previous FY was ₹ 21 lakh.

(b) He had availed services etion was liable transaction with a taxable value of ₹ 4,00,000 and a tax rate of 18%. This transaction was liable to tax under RCM. Payment for the same to the supplier was not made till the current month (overdue for 181 days as at 01.01.20XX). However, tax due under the said transaction was paid to Govt. and credit availed in the month of transaction itself.

(c) Out of the 15 invoices as per above, 12 invoices involving IGST of ₹ 95,000 were uploaded by the suppliers in their GSTR-1 Return. All the invoices are eligible for claiming as ITC

(d) He had sent goods valued ₹ 1,00,000 to his job worker, in the State of Kerala, who further processed the said goods and made direct supply on 31.01.20XX from Kerala to a buyer in the State of Maharashtra.

(e) Out of advance received for future supply, ₹ 5,00,000 related to supply of goods and the rest related to service.

(f) Rate of CGST, SGST and IGST are 9%, 9% and 18% respectively for both inward and outward supply of goods and services. Same rate is also applicable for inward supplies received, except where otherwise provided.

(g) All the amounts given are exclusive of taxes wherever applicable.

From the information given above, you are required to compute the net GST liability payable in cash (CGST and SGST or IGST, as the case may be) for the month of Jan., 20XX. Assessee wants to make the cash payment of GST under SGST head as far as possible.

Answer

Computation of net GST payable in cash for the month of Jan. 20XX

S.N	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
A	GST liability on outward supply				

(i)	Computers supplied without consideration [Not a supply as it is made without consideration and is also not covered in Schedule I because computers have been supplied to an unrelated has also not been availed on the same.]	Nil	-	-	-
(ii)	Consignment of laptops supplied at the instruction of third person [Since supply is a bill to ship to supply where goods are delivered on the direction of a third person-ZX Computers, goods are deemed to be received by ZX Computers and thus, the POS is Tamil Nadu. Hence, it is an inter-State supply.]	6,00,000			1,08,000 [6,00,000 x 18%]
(iii)	Stock counting service to M/s XY Impex of Gujarat [Intra-State supply as the POS is the location of recipient, viz. Mumbai. Godown at Mumbai being a fixed establishment is the location of recipient.]	80,000	7,200 [80,000 x 9%]	7,200 [80,000 x 9%]	Nil
(iv)	Service apartment rented in Mumbai [Taxable. Intra-State supply since POS is Maharashtra as property is located in Mumbai.]	30,000	2,700 [30,000 x 9%]	2,700 [30,000 x 9%]	
(v)	Recovery agent services provided to an NBFC [Tax is payable by the NBFC under RCM.]	2,00,000	-	-	-
(vi)	Advance received for intra-State supply Tax on advance received for supply of goods of ₹5,00,000 will be payable at the time of issuance of invoice.]	4,00,000	36,000 [4,00,000 x 9%]	36,000 [4,00,000 x 9%]	
(vii)	Finished goods sold from the premises of the job worker* [Supply of goods by principal from the job worker's premises is regarded as supply by principal only irrespective of the location of job worker. Therefore, since the POS is the location where movement of goods terminates for delivery to recipient, i.e., Maharashtra, it is an intra- State supply.] *It has been assumed that either	1,00,000	9,000 [1,00,000 x 9%]	9,000 [1,00,000 x 9%]	

	Mr. Rishi has declared the job worker's place of business / premises as his additional place of business or the job worker is registered. Further, it has been assumed that the goods have been sold from job worker's premises at a price of ₹1,00,000 itself.				
	Total tax liability on outward supplies		54,900	54,900	1,08,000
B . GST liability on inward supplies under RCM					
(i)	GTA services availed from M/s speed Trans [Tax is payable under RCM on the GTA services received by a registered person and on which tax is payable @ 5%. Further, it is an inter-State supply since supplier is located in Kolkata and POS is Maharashtra (location of registered recipient)]	1,00,000			5,000 [1,00,000 x 5%]
C.	ITC				
(i)	Import of computer accessories* [Input tax, inter alia, includes IGST charged on import of goods] *It has been assumed that the value of imported computer accessories is inclusive of basic customs duty and social welfare surcharge and consequently, IGST has been computed on the same.	5,00,000			90,000 [5,00,000 x 18%]
	GTA services availed	1,00,000			5,000
	IGST on invoices received during the month [Full ITC can be claimed on the invoices uploaded by supplier in Form GSTR-1.]				(95,000)
	Less: Input tax reversed [Outward supply, tax on which is payable under RCM is considered as exempt supply for the purpose of reversal of ITC. = ₹ 1,90,000 x ₹ 2,00,000 / ₹ 19,10,000 (₹ 1,90,000 × turnover of exempt supply/ total turnover) [The condition for making				(19,895)

	the payment for the supply within 180 days does not apply to RCM supplies. Thus, ITC on ₹4,00,000 will not be affected.]				
Total ITC available for set off			-	-	1,70,105
D.	Computation of net GST payable in cash				
	Total tax liability outward supplies		54,900	54,900	1,08,000
	Less: ITC of IGST		(54,900)	(7,205)	(1,08,000)
	Forward charge liability on outward supplies payable in cash after set off of ITC				
	RCM liability on inward supplies payable in cash without set off of ITC [Tax payable under RCM, being not an output tax, cannot be set off against ITC and thus, will have to be paid in cash]				5,000
Total net GST liability payable in cash (It has been assumed that IGST has been paid on imported goods before Jan. 20XX. Therefore, the same has not been considered as being paid in cash in the month of Jan. 20XX.)			-	47,695	5,000

Question 54

Ram Kumar, a registered supplier under GST in the State of Gujarat, provides the following information pertaining to the supplies made/received for the month of Jan.:

SN.	Particulars	Amount in ₹
(i)	IGST of ₹ 90,000 paid in Dec. on machinery imported from Japan [Goods landed in Gujarat port and reached at his registered premises on 31st Jan..]	
(ii)	Availed services of transportation of raw material from GTA - M/s Ghoomghoom Transporters of Kolkata. GTA has not opted to pay tax under forward charge	1,00,000
(iii)	20 invoices involving IGST of ₹ 1,20,000 received during the current month [Only 16 invoices involving IGST of ₹ 1,00,000 were uploaded by the suppliers in their GSTR-1 statement and their details were reflected in his GSTR-2B. Supplies received against all the invoices were otherwise eligible for claiming ITC.]	
(iv)	Supplied machinery (purchased from an unregistered supplier) free of cost to his brother for manufacturing goods in his factory in Punjab (Market value of supply was ₹ 16,32,000)	Nil

(v)	Supplied a consignment of 5 machines to M/s KK & Co. in the State of Gujarat at the instruction of third person being XX Enterprises of Tamilnadu	6,00,000
(vi)	Provided stock counting service to Gungun Manufacturers registered with GST in State of Gujarat. Stock counting was carried out at the godown located in Gujarat	1,10,000
(vii)	Direct Selling Agent (DSA) services provided to ICIDI Bank, registered in Delhi, for providing services relating to opening of bank account/credit card & loan product	2,00,000
(viii)	Advance received during the month for future intra-State supply [Advance of ₹ 5,00,000 was related to supply of goods and the rest was related to service]	9,00,000
(ix)	Sent goods valued ₹80,000 to job worker, registered in the State of Kerala, who further processed the said goods and made direct supply on 31st Jan. from its premises in Kerala to a buyer in the State of Gujarat at a price of ₹1,00,000	-

Apart from the above information, Ram Kumar also availed inter-State services of ₹ 4,00,000, tax on which was payable under RCM, from Viral Shah Enterprises, Maharashtra. Payment for the same to Viral Shah Enterprises was not made till the current month (overdue for 181 days as on 1st Jan.). However, tax due under the said transaction was paid to Govt. and credit availed in the month of transaction itself.

From the information given above, you are required to compute the net GST liability payable in cash from that Ram Kumar wishes to make the cash payment of GST under SGST head as far as possible and that his turnover for the previous FY was ₹ 21 lakh

Notes :

(i) CGST, SGST & IGST rates on all inward and outward supplies were 9% 9% and 10% respectively, except in case of services received from GTA where the rate of CGST/SGST @ 2.5% each and IGST @5% was applicable.

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

Answer

Computation of net GST payable in cash from E-cash Ledger for the month of Jan.

S.N	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
A	GST liability on outward supply				
(i)	Machinery supplied without consideration and is also not covered in schedule I because machinery has been supplied to an unrelated person (brother not being wholly dependent on Ram Kumar) and ITC has also not been availed on the same.]	Nil	-	-	-

(ii)	Consignment of machines supplied at the instruction of third person [Since supply is a bill to ship to supply where the goods are delivered on the direction of a third person- XX Enterprises, goods are deemed to be received by XX Enterprises and thus, the POS is Tamil Nadu. Hence, it is an inter-State supply.]	6,00,000			1,08,000 [6,00,000 x 18%]
(iii)	Stock counting service to Gungun Manufacturers of Gujarat [Intra-State supply as the POS is the location of recipient, viz. Gujarat.]	1,10,000	9,900 [1,10,000 x 9%]	9,900 [1,10,000 x 9%]	Nil
(iv)	Direct Selling Agent services provided by an individual (Ram Kumar) to a bank [Tax is payable by bank under RCM.]	2,00,000	-	-	-
(v)	Advance received for intra-State supply [Tax on advance received for supply of goods of \$ 5,00,000 will be payable at the time of issuance of invoice.]	4,00,000	36,000 [4,00,000 x 9%]	36,000 [4,00,000 x 9%]	
(vi)	Finished goods sold from the premises of the job worker [Supply of goods by principal from the job worker's premises is regarded as supply by principal only irrespective of the location of job worker. Therefore, since the POS is the location where movement of goods terminates for delivery to recipient, i.e., Maharashtra, it is an intra-State supply.]	1,00,000	9,000 [1,00,000 x 9%]	9,000 [1,00,000 x 9%]	
	Total tax liability on outward supplies		54,900	54,900	1,08,000
B . GST liability on inward supplies under RCM					
(i)	GTA services availed from M/s Ghoomghoom Transporters [Tax is payable under RCM on the GTA services received by a registered person and on which tax is payable @ 5% . Further, it is an inter-State supply since supplier is located in Kolkata	1,00,000			5,000 [1,00,000 x 5%]

	and POS is Gujarat (location of registered recipient).]				
C.	ITC				
(i)	Import of machinery [Input tax, inter alia, includes IGST charged on import of goods.]				90,000
	GTA services availed	1,00,000			5,000
	IGST on invoices received during the month [Full ITC can be claimed only on the invoices uploaded by supplier in Form GSTR- 1 and the details of the same have been communicated to the registered person in Form GSTR-2B.				1,00,000
	Less: Input tax reversed [Outward supply, tax on which is payable under RCM is considered as exempt supply for the purpose of reversal of ITC. = ₹ 1,95,000 x ₹ 2,00,000 / ₹ 19,10,000 (₹ 1,95,000 × turnover of exempt supply/ total turnover) [The condition for making the payment for the supply within 180 days so that the ITC availed does not get added to the output tax liability does not apply to RCM supplies. Thus, ITC on ₹4,00,000 will not be affected.]				(20,419)
Total ITC available for set off			-	-	1,74,581
D.	Computation of net GST payable in cash				
	Total tax liability outward supplies		54,900	54,900	1,08,000
	Less: ITC of IGST		(54,900)	(11,681)	(1,08,000)
	Forward charge liability on outward supplies payable in cash after set off of ITC		-	43,219	
	RCM liability on inward supplies payable in cash without set off of ITC [Tax payable under RCM, being not an output tax, cannot be set off against ITC and thus, will have to be paid in cash]				5,000
Total net GST liability payable in cash			-	43,129	5,000

Question 55

MS Ltd, is a GST registered company. During the month of Oct., 20XX, the company has undertaken the following transactions and wants you to work out the GST output liability, admissible ITC and the amount that will have to be paid in cash by the company to the Govt. before taking you as Manager in the company. There is no carry forward amount in respect of any of the items to be considered for the purpose of calculations other than what is mentioned specifically below.

Rate of IGST can be taken as 18%, CGST 9% and SGST 9% on all goods and services except GTA service/transportation service and restaurant service for which CGST and SGST rate would be 2.50% each and IGST rate would be 5%. The amounts indicated for all the items are without including the CGST and SGST or IGST element.

The company has indicated to you that the GST liability for Oct., 20XX for their main product alone is 54 ₹ lakh of CGST and SGST each and ₹ 72 lakh IGST and the eligible credit on the inputs and input services for Oct., 20XX is ₹1.45 crore IGST and ₹ 20 lakh each towards CGST and SGST which can be straightaway taken for calculations.

Company has provided you the other details which is not part of the above as under:

S.N	Details of the transaction
i.	During the month of Oct. 20XX, the company offered a special discount of 25% on a product, the sale of which it intended to discontinue from 1 st Dec. 20XX onwards and issued credit notes to the dealers. This product was lying in stock with the dealers and the discount offered to the customers was borne by the company by issuing the credit note. The amount reimbursed to the dealers for the discounts given to the customers in the month of Oct. 20XX was ₹ 36,00,000 in the course of inter-State.
ii.	The company sold a van used for personal transport by auction. The van had been purchased at ₹ 3,20,000. The depreciated value at the time of sale was ₹ 1,40,000. No GST credit was taken. The van was sold for an amount of ₹ 1,50,000 during month of Oct. 20XX in course of intra-State
iii.	The company has a policy of raising invoices separately towards transportation cost of their products on their dealers at the time of invoicing for the products sold to them. The company is collecting GST at 5% on all transactions. The transportation cost is collected as a percentage of the value of the good supplied irrespective of the distance involved. The amount collected during the month of Oct. 200X towards transportation in intra-State transaction is ₹ 6 lakh and inter -State transaction is ₹ 4 lakh.
iv.	The security establishment of the company caught an employee who had stolen bearings of value 2.50 lakh during the month of Oct. 20XX. Bearings could not be recovered. But the company successfully recovered the cost from the employee. IGST credit of ₹ 45,000 had been taken by the company on these bearings.
V	The company supplies food and beverages to the employees and all the items are priced at 10% of the actual cost to the company. During the month of Oct., 20XX, the company had charged ₹ 50,000 to the employees. Assume that it is intra-State transaction
vi.	During the month of Oct., 20XX, the company purchased 10 mobile phones in its name and distributed to the employees to enable them to perform their duties more efficiently for the company. Total price of the phones was ₹ 1,20,000. At the end of the month, company sold these mobiles to employees and company recovered only ₹ 20,000 from the employees. Assume that it is intra state transaction.

vii	The company's registered office is located in a building which belongs to the local Municipality The monthly rent is ₹ 1.50 lakh.
viii	The whole-time director of the company was paid a salary of ₹ 5 lakh during the month. He was also paid ₹ 20,000 towards sitting fees for his participation in the meeting

Give a brief note to support your treatment for the items wherever required.

Note: Company wants to pay minimum amount of SGST as far as possible.

Answer

Computation of output GST liability of MS Ltd. for Oct. 20XX

Particulars	CGST (₹ in lakh)	SGST (₹ in lakh)	IGST (₹ in lakh)
GST liability for main product	54	54	72
After-sales discount on a product In the given case, discount given after effecting the supply is not in terms of an agreement that existed at the time of supply . Therefore, discount is not allowed as deduction from value of supply]	Nil	Nil	
Sale of van used for personal transport by auction (Note 1)	0.135 [1.5 x 9%]	0.135 [1.5 x 9%]	
Transportation cost charged on the product [Supply of goods and transport service is a composite supply as the transportation cost is charged at a flat rate from all customers irrespective of the distance involved. Therefore, rate of principal supply (product) viz. 9% CGST/ SGST and 18%]	0.54 [6 x 9 %]	0.54 [6 x 9 %]	0.72 [4 x 18%]
Food and beverages supplied to the employees	0.45	0.45	
Goods being provided to the related person (employees). Open market value of the same [actual cost (50,000 x 100/10)] has been considered as value. CGST & SGST @9% each payable on food items.]	[5.0 x 9 %]	[5.0 x 9 %]	
Supply of mobile phones to employees (Note 2) Supply being made to the related person (employees), open market value (Note 3) of the same has been considered as value].	0.108 [1.20 x 9 %]	0.108 [1.20 x 9 %]	
Total output tax liability	55.233	55.233	72.72
Less: ITC set off [Refer working note (1) below] GST credit is first utilized for payment of IGST liability and then for payment SGST liability followed by CGST liability since the SGST liability is to be kept at minimum.]	(34.972)	(36.858)	(72.72)
After exhausting IGST credit, CGST and SGST credit is to be utilized ITC of CGST cannot be utilized for payment of SGST and vice versa.	(20.261)	(18.375)	
GST payable in cash [A]	Nil	Nil	Nil

GST under RCM payable in cash [Refer working note (2) below] [B] Tax payable under RCM, being not an output tax, cannot be set off against ITC and thus, will have to be paid in cash.	0.153	0.153	
Total GST payable in cash = [A] + [B]	0.153	0.153	

Note:

1.The value of supply as well as applicable rate of tax to be paid in case of old and used motor vehicles can also be determined in terms of Notification No 8/2018 CT (R).

2.It has been assumed that selling of mobile phones to employees at reduced rates does not form part of the employment contract. Further, mobile phones have been considered as inputs. However, it is also possible to consider mobile phones as capital goods. Since in the given case mobile phones (capital goods) are being removed after being used, a specified 'amount' determined in terms of section 18(6) of the CGST Act shall be payable.

3.Since mobile phones have been considered as inputs, purchase price of ₹ 1,20,000 for the mobile phones has been considered as its open market value.

Working notes:**(1) Computation of ITC available with MS Ltd. for Oct. 20XX**

Particulars	CGST (₹ in lakh)	SGST (₹ in lakh)	IGST (₹ in lakh)
Eligible credit on inputs and input services for the month	20	20	145
Ball bearings stolen [ITC on stolen goods is blocked. Hence, ITC taken on stolen ball bearings needs to be reversed.]			(0.45)
Mobile phones purchased for employees ITC of goods used in course of business is allowed)	0.108 [1.2 x 9 %]	0.108 [1.2 x 9 %]	
Rent paid to Municipality	0.135 [1.5 x 9%]	0.135 [1.5 x 9%]	
Sitting fee paid to whole time director	0.018 [0.20 x 9%]	0.018 [0.20 x 9%]	
Total	20.261	20.261	144.55

(2) Tax payable under RCM

Particulars	CGST (₹ in lakh)	SGST (₹ in lakh)	IGST (₹ in lakh)

Rent paid to Municipality [Tax on renting of immovable property services supplied by local authority to a registered person is payable under RCM.]	0.135 [1.5 x 9%]	0.135 [1.5 x 9%]	
Sitting fee paid to whole time director Services provided by employee to employer in the course of his employment are not a supply. Hence, salary paid to director is not taxable. However, sitting fee is a consideration for the services provided beyond course of employment and hence, is taxable. Further, tax on sitting fee paid to director is payable under RCM.]	0.018 [0.20 x 9 %]	0.018 [0.20 x 9 %]	
Total tax payable under RCM	0.153	0.153	

Question 56

Priya Infra Ltd., a registered supplier under GST in the State of Kerala, is engaged in the construction business. It provides the following information for the month of April:

S.N.	Particulars	Amount(₹)
	OUTWARD SUPPLY:	
(i)	Transferred one load of tiles to its branch in Cochin, Kerala, from its head office at Trivandrum, Kerala. Both places are under the same GST registration.	7,50,000
(ii)	Provided pure labour services of construction of single commercial unit not forming part of any complex to a customer in Bengaluru (Karnataka).	15,00,000
(iii)	Supplies a consignment of marbles in the territorial waters to Classic Builders LLP. The said territorial waters is located at a distance of 11 nautical miles from the baseline of State of Kerala and 12 nautical miles from the baseline of State of Tamil Nadu.	6,00,000
(iv)	Received an advance for future supplies of goods and services from a customer in Kerala (of which 70% is related to future supplies of services).	7,00,000
(v)	Computer used for business purpose was given free of cost to an unrelated person based in Kerala, computer was purchased 2 years' back at cost of ₹ 88,500 (including GST of ₹ 13,500,) having a W.D.V. of ₹ 71,685 as on the date of sale. Open market value is ₹ 55,000 (excluding GST). No ITC is taken on this computer at the time of purchase.	Nil
(i)	INWARD SUPPLY: Availed services of an arbitral tribunal in Trivandrum, Kerala to settle a case relating to RERA Act	7,00,000
(ii)	(Purchased construction materials from Baahu Steels Ltd, registered in the State of Andhra Pradesh	15,00,000
(iii)	Purchased a new truck from a dealer in Cochin, Kerala for transport of materials	12,00,000

The company provided the following additional information:

- (i) Paid ₹ 6,00,000 as remuneration to an independent director based at Cochin during the month.
- (ii) The company claimed depreciation under the Income-tax Act, 1961 on the new truck purchased all applicable taxes.
- (ii) E-invoice portal shows that Baahu Steels Ltd.'s GST number has been enabled for e-invoicing. However, the supplier did not issue e-invoice/tax invoice with invoice reference number (IRN). The invoice was reflected in GSTR-2B.
- (iv) Turnover of Priya Infra Ltd. for the previous FY was ₹ 180 lakh.
- (v) Rates of CGST, SGST and GST are 9%, 9% and 18% respectively for both inward and outward supply of goods and services.
- (vi) All the amounts given above are exclusive of taxes wherever applicable.

From the information given above, you are required to compute the minimum net GST liability payable in cash (CGST, SGST or IGST, as the case may be) for the month of April. Reason for treatment needs to be given.

Answer

Computation of minimum net GST payable in cash by Priya Infra Ltd. for April

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
GST payable under forward charge			
Transfer of tiles to branch within Kerala Such transfer is not a supply as the branch has the same GSTIN as that of the head office and thus, is not a distinct person]	-	-	-
Inter-State supply of pure labour services for construction of single commercial unit in Bengaluru [Services by way of pure labour contracts of construction of original works pertaining to a single residential unit otherwise than as a part of a residential complex is exempt . Hence, such services in relation to a commercial unit shall be taxable.]			2,70,000 [15,00,000 X 18%]
Supply of consignment in territorial waters [Where the POS is in the territorial waters the POS is deemed to be in the coastal State where the nearest point of the appropriate baseline is located. Therefore, POS will be in Kerala being nearer to base line]	54,000 [6,00,000 X 9%]	54,000 [6,00,000 X 9%]	
Receipt of advance from customer in Kerala Tax will be payable only on advance for services. In case of goods, tax is payable at the time of issuance of invoice/ and not at the time of receipt of advance]	44,100 [7,00,000 X 70% X 9%]	44,100 [7,00,000 X 70% X 9%]	
Computer given free of cost to unrelated customer [Since ITC has not been taken on computer, permanent transfer of the same without any	-	-	

consideration to an unrelated customer shall not amount to deemed supply in terms of Schedule 1. Further, since no ITC has been taken, Question of reversal of ITC attributable to the remaining useful life of the computer does not arise]			
Total output GST	98,100	98,100	2,70,000
Less: ITC [Refer working note below] CGST credit be first utilized for payment of CGST liability and then for payment of IGST liability in that order. Similarly, SGST credit be first utilized for payment of SGST liability and then for payment of IGST liability in that order. ITC of CGST cannot be utilized for payment of SGST and vice versa.]	98,100	98,100	18,900 (CGST) 18,900 (SGST)
Net output GST payable in cash [A]	Nil	Nil	2,32,200
<u>GST payable in cash under RCM [B]</u>			
Tax on services provided by the arbitral tribunal is payable under RCM.	63,000	63,000	
Tax on remuneration paid to director is payable under RCM.	54,000	54,000	
GST payable in cash under RCM [B] [Tax payable under RCM, being not an output tax, cannot be set off against ITC and thus, will have to be paid in cash.]	1,17,000	1,17,000	
Minimum net GST payable in cash [A] + [B]	1,17,000	1,17,000	2,32,200

Working Note:**Computation of ITC available with Priya Infra Ltd. for April**

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Services of an arbitral tribunal [Services provided by the arbitral tribunal to Priya Infra Ltd, a business entity whose aggregate turnover in the previous FY exceeds the applicable threshold limit for registration (viz. ₹ 20 lakh, being a supplier of goods and services in the State of Kerala) shall be able to tax. Further, being services used in course or furtherance of business, ITC shall be available thereon.]	63,000 [7,00,000 x 9%]	63,000 [7,00,000 x 9%]	
Purchase of materials from Baahu Steels Ltd. [An e-invoice without IRN is not treated as invoice and hence, without a valid document, ITC cannot be claimed on such inputs)	-	-	
Purchase of truck Motor vehicle used for transportation of goods is eligible credit. However, since depreciation has been claimed applicable taxes as well, ITC of tax paid on purchase of such truck cannot be claimed.]	-	-	
Payment of remuneration to independent director based at Cochin	54,000	54,000	

(Services provided by employee to employer in the course of his employment are not a supply. However, independent director is not an employee of the company and hence, remuneration paid to him is taxable.	[6,00,000 X 9%]	[6,00,000 X 9%]	
Total ITC	1,17,000	1,17,000	

Question 57

Skylark Pvt. Ltd., Noida (Uttar Pradesh) is engaged in various kinds of commercial activities. It manufactures taxable goods as also provides certain services. The company has branch office in New Delhi. The Head office at Noida and the branch office in New Delhi are registered under GST. The branch office at New Delhi is eligible for full ITC.

The company has reported a total turnover of ₹ 256 crore (exclusive of GST) for the month of Aug 20XX. The following information is provided by the company in relation to such turnover:

(i).The turnover includes ₹ 45 crore from sale of securities which were purchased for ₹ 30 crore in the month of Jan. last year.

(ii) The company supplied goods worth ₹ 50 crore to ABC Ltd. in UK under a letter of undertaking (LUT). The total export proceeds are received in the month of Aug 20XX itself; ₹ 30 crore in foreign currency and balance ₹ 20 crore in Indian rupees.

(ii)The company provided consulting services to Sherpa & Sons in Nepal for ₹ 30 crore under a LUT. The entire consideration is received in Indian rupees in the month of Aug 20XX itself, with the permission of RBI.

(iv) The turnover includes supply of goods worth ₹10 crore to Shanghai Jianguo Trading Company Ltd a company based in China. As per the sale contract, the goods were to be assembled at Shanghai Jianguo Trading Company Ltd.'s office in Gurugram, Haryana. The payment of the goods is received in convertible foreign exchange in the month of Aug 20XX itself.

(v) Goods worth ₹ 20 crore are supplied under a LUT to DEF Pvt. Ltd. located in a SEZ in the State of Uttar Pradesh.

(vi) Goods worth ₹ 40 lakh were being procured from a vendor in Japan. While the goods were in transit, the company secured an order for the said goods for ₹ 50 lakh from a buyer in Thailand, Thus, the goods were directly sent to Thailand without entering India.

(vii) The company owns three immovable properties in Noida. The first building is let out for running a printing press at ₹10 lakh per month. The second building is let out for residential purpose to an unregistered person at ₹5 lakh per month. The third building is let out to a Cold Storage operator at ₹ 5 lakh per month. The cold storage operator sub-lets the building as a warehouse to store potatoes.

(viii) The remaining turnover comprised of taxable goods sold within the State and outside the State in the ratio of 3: 2.

Total turnover of ₹256 crore includes the turnover referred to in points (i) to (vii) above. In addition to above -

(i) the company transferred its stock (taxable goods) from Noida to Delhi branch without any consideration; the value declared in the invoice is ₹ 4.5 crore (exclusive of GST). The cost of production of such goods is ₹ 10 crore. Such stock is sold to independent buyers at ₹ 15 crore (exclusive of GST).

(ii) the company had sent goods worth ₹ 12 crore (exclusive of GST) to M/s Sharma Traders in Haryana on approval basis on 15th Jan., 20XX, 15th Feb 20XX & 15th March 20XX (₹ 4 crore each month). Goods sent during all the 3 months are approved in the month of Sep 20XX.

Compute the GST liability [CGST & SGST or IGST, as the case may be] of Skylark Pvt. Ltd., Noida for the month of Aug 20XX. Make suitable assumptions wherever required.

Assume the rates of taxes to be as under:

	CGST	SGST	IGST
Goods	6%	6%	12%
Services	9%	9%	18%

Answer

Compute the GST liability of Skylark Pvt. Ltd for the month of Aug 20XX.

S.N	Particulars	Value (in crores)	CGST @6%(₹ in crores)	SGST @6%(₹ in crores)	IGST @6%(₹ in crores)
Goods					
(i)	Export of goods to ABC Ltd. in UK under a letter of undertaking (LUT) [Note 1]	50			Nil
	Supply of goods to Shanghai Jianguo Trading Company Ltd. [Note 2]	10			
	Goods supplied to DEF Pvt. Ltd. located in a SEZ (Note 3)	20			
	Sale within the State [Note 4]	60.18	3.6108	3.6108	-
	Sale outside the State [Note 4]	40.18			4.8144
	Stock transfer from Noida to Delhi [Note 5]	4.5			0.54
	Goods sent for sale on approval basis on 15th Feb, 20XX [Note 6]	<u>4.00</u>			<u>0.48</u>
Total tax liability on goods [A]			3.6108	3.6108	7.0344
Services					
			CGST @9%(₹ in crores)	SGST @9%(₹ in crores)	IGST @18%(₹ in crores)
(i)	(Export of services to Nepal under LUT [Note 7])	30			Nil

(ii)	(Receipts from renting of buildings [Note 8])	<u>0.15</u>	<u>0.0135</u>	<u>0.0135</u>	
Total tax liability on services [B]			0.0135	0.0135	
Neither goods nor services					
(i)	Sale of securities [Note 9]	45	Nil	Nil	Nil
(ii)	Goods procured from vendor in Japan and supplied to buyer in Thailand [Note 10]	0.50			Nil
	Total tax liability on goods and services [(A) + (B)]		3.6243	3.6243	7.0344

Notes:

(1) Export of goods means taking goods out of India to a place outside India. Receipt of consideration in foreign exchange is not a pre-requisite for export of goods. Export of goods is a zero rated supply. A zero rated supply is supplied without payment of tax under a LUT.

(2) Export of goods means taking goods out of India to a place outside India. Since, in the given case, the goods are being assembled in India (Gurugram, Haryana), the same are not exported.

Hence, the POS thereof will be governed by section 10 of the IGST Act which prescribes the provisions for determining the POS of goods other than supply of goods imported into or exported from India. As per section 10(1)(d) of the IGST Act, where the goods are assembled or installed at site, the POS shall be the place of such installation or assembly. Therefore, in the given case, the POS will be Gurugram, Haryana.

(3) Supply of goods and/or services to a special economic zone (SEZ) unit is treated to be a supply of goods and/or services in the course of inter-State trade or commerce. Therefore, supply of goods to a SEZ unit located within the same State shall be liable to IGST.

Supply of goods and/or services to a SEZ unit is a zero rated supply. A zero rated supply is supplied without payment of tax under a LUT in terms section 16(3)(a) of that Act.

4) Remaining turnover will be calculated as under

₹ 256 crore- (₹ 45 crore + ₹ 50 crore + ₹ 30 crore + ₹10 crore + ₹20 crore + ₹0.50 crore + ₹0.10 crore + ₹0.05 crore + ₹0.05 crore)

= ₹ 100.30 crore

Supply within the State - ₹100.30 crore x 3/5 = ₹60.18

Supply outside the State - ₹ 100.30 crore x 2/5 = ₹ 40.12

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

Supply of goods and/or services between 'distinct persons, when made in the course of business is included in Schedule I under para 2.

Rule 28 of the CGST Rules prescribes the provisions to determine the value of supply of goods or services or both between distinct or related persons, other than through an agent. Second proviso to the said rule lays down that where the recipient is eligible for full ITC, the value declared in the invoice shall be deemed to be the open market value of the goods or services. Therefore, the value of supply in this case will be ₹ 4.5 crore and open market value and cost of production of the goods will be irrelevant.

(6) As per section 31(7) of the CGST Act, where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or 6 months from the date of removal, whichever is earlier.

In the given case, the time period of 6 months for goods sent on 15th Feb, 20XX expires on 15.08.20XX. Therefore, the invoice for the said goods shall be issued on 15.08.20XX and in terms of section 12(2)(a) of the CGST Act read with Notification No. 66/2017 CT, this date would also be the time of supply of such goods. Thus, such goods will be liable to tax in the month of Aug 20XX. Goods sent in the month of Jan. would have been taxed in the goods sent in the month of March would be taxed in the month of Sep.

(7) The given case is an export of service as per section 2(6) of the IGST Act, as

(i) the supplier of service is located in India (Noida)

(ii) the recipient of service is located outside India (Nepal)

(iii) the POS of service is outside India (POS of consulting service will be the location of recipient, ie. Nepal):

(iv) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the RBI (Receipt of export consideration in Indian rupees is permitted by RBI in the given case); and

(v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8.

Export of services is a zero rated supply. A zero rated supply is supplied without payment of tax under a LUT in terms of section 16(3)(a) of that Act

(8) Letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of service in terms of para 2(b) of the Schedule II the CGST Act. Services by way of renting of residential dwelling for use as residence to an unregistered person is exempt from tax. Therefore, rent of ₹10 lakh received from letting out of building for printing press will be liable to tax and rent of ₹5 lakh received from letting out of building for residential purposes to an unregistered person will be exempt from tax

Further, services by way of loading, unloading, packing, storage or warehousing of agricultural produce is exempt from tax [Notification No. 12/2017 CT (R)]. However, in the given case, the Cold Storage Operator and not Skylark Pvt. Ltd. is engaged in warehousing of agricultural

produce. Therefore, the Cold Storage Operator providing warehousing services for potatoes, being an agricultural produce, will be eligible for such exemption and services provided by Skylark Pvt. Ltd., being services of renting of immovable property (₹ 5 lakh), will be liable to tax.

In case of letting out of first and third buildings,

the location of the supplier is in Noida (Uttar Pradesh); and the POS is the location of the immovable property, ie. Noida hence intra-State supply liable to CGST and SGST.

(9) GST is leviable on supply of goods and/or services. Securities are specifically excluded from the definition of goods and services. Therefore, sale of securities will not be liable to GST.

10) Paragraph 7 of Schedule III to CGST Act provides that supply of goods from a place in taxable territory to another place in non-taxable territory without such goods entering into India (third country shipments) is treated neither as a supply of goods nor a supply of services. Thus, there is no GST liability on such sales. Further, since such goods do not enter India at any point of time, customs duty and IGST leviable on imported goods will also not be leviable on such goods

Question 58

The details of transactions of A. Ltd, Vadodara (Gujarat), a registered taxable person, during the month of Feb, 20XX are as under:

S.N	Particulars
1	Purchased goods from a manufacturer in Maharashtra as a merchant exporter (on payment of 0.1% IGST) and exported the same directly to an importer of Spain under LUT. FOB value is ₹ 7,00,000, Invoice for the supply to J Ltd. was received on 5.2.20XX and payment was made on 8.2.20XX
2	Imported goods from China with CIF value of ₹5,00,000. The goods were sold for ₹5,10,000 high sea sales to an Indian party on 21.2.20XX.
3	Purchased goods from a party in Taiwan. Sold the goods to a party in Turkey without bringing the goods to India. Purchase value was ₹5,00,000 and the sale price was ₹7,00,000. J Ltd paid sales commission of ₹ 50,000 to Mrs. T (located in Turkey), their agent in connection with this transaction. The transaction was completed in the third week of Feb. (The figures in rupees have been given after conversion though transaction was in convertible foreign currency).
4	A Ltd. has agreed to provide technical services to Mr. K of Ahmedabad who is an unregistered person in connection with the manufacturing operations to be undertaken by him for consideration of ₹ 5,00,000 and has received an advance of ₹ 1,00,000 for the same on 2.2.20XX
5	It has imported raw materials from China. CIF value of the goods for the purpose of Customs included ₹1,00,000 as ocean freight paid by J Ltd. The value for the purpose of levy of IGST worked out by Customs was ₹6,00,000. Clearance of the goods took place on 4.2.20XX.
6	Locally purchased taxable raw material stored in the factory got spoiled due to rain water in the factory and became unusable. A Ltd. claimed and received on insurance amount of ₹ 60,000 for the same. Value of the raw material at the time of receipt was ₹ 70,000. Raw material was purchased from a party in Gujarat on 3.2.20XX and payment was made on 7.2.20XX.
7	Company purchased a three-wheeler having capacity of 2 persons including driver (engine capacity 20CC) at a cost of ₹ 2,50,000 from a dealer in Gujarat which is being used for transportation of staff of company from residence to factory and back. The vehicle was received on 5.2.20XX and payment was made on the same date.
8	It has paid inward transportation expense of ₹30,000 to Mr. Z, a tempo owner who has not issued

	any consignment notes. He has issued a consolidated bill only on 3.2.20XX and payment was made on 4.2.20XX.
9	It has supplied goods of value of ₹ 50,00,000 to V Ltd. Padra, Gujarat (includes ₹10,00,000 supplied to SEZ unit of V Ltd under LUT)
10	It has purchased goods from X Impex Ltd. Kadi, Gujarat for use as raw materials in its factory. The value of the goods ₹ 30,00,000. Invoice is dated 2.2.20XX.
11	It has availed supply of manpower security services from Y Ltd. Vadodara, Gujarat, a registered taxable person. The amount paid is ₹ 1,00,000. The invoice was received on 1.2.20XX and payment was made on the same day,

Assume the CGST and SGST rates to be 9% each and IGST rate to be 18% except the supply received as a merchant exporter. Ignore compensation cess. J Ltd. had an opening balance of ITC of CGST of ₹20,000 and SGST of ₹ 20,000 as on 1.2.20XX. In respect of all the inward supplies, suppliers have uploaded their invoices in respective Form GSTR-1 and the supplies are reflected in GSTR-2B. All the figures given above exclusive of GST, wherever applicable.

Work out the admissible ITC and GST liability [CGST, SGST or IGST, as the case may be] payable in cash, are by Ltd. Vadodara (Gujarat), for Feb, 20XX.

Answer

Computation of admissible ITC for Feb, 20XX				
Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
Opening balance		20,000	20,000	
Goods purchased as merchant exporter Merchant exporter is eligible to take ITC of IGST paid @ 0.1%. In the absence of the value of supply of goods purchased as a merchant exporter, FOB value of export of such goods has been taken as their purchase price for computing the ITC amount]	7,00,000	-	-	700
Goods imported from China No ITC since tax is not payable. In case of high sea les IGST is paid by the last high sea sales buyer who files the bill of entry for home consumption.]	Nil	-	-	-
Goods purchased from Taiwan No ITC since tax is not payable as goods do not become part of the landmass of the country.]	Nil	-	-	-
Sales commission paid to agent- Mrs. T Since service provider - Mrs. T is an intermediary in the given transaction, POS is location of Mrs. T, i.e. outside India. Thus, tax is not payable under RCM on said services.]	50,000	-	-	-
Imported raw material from China [Input tax, inter includes IGST charged on import of goods.]	6,00,000	-	-	1,08,000 [6,00,00 x 18%]
Raw material spoiled (ITC is blocked under section 17(5) on destroyed/ goods.	-	-	-	-

Insurance amount received is an actionable claim. Thus, it is treated neither as supply of goods nor as supply of services				
Three wheeler purchased ITC on a three-wheeler with engine capacity of 20cc is allowed as it is not a motor vehicle and is used in course of business]	2,50,000	22,500 [2,50,000 x 9%]	22,500 [2,50,000 x 9%]	-
Inward transportation from Mr. Z [Services of transportation of goods without issue of consignment note is not covered under services of GTA and hence exempt. Thus, no ITC is available.]	-	-	-	-
Raw material purchased from X Impex Ltd, Gujarat ITC on goods used in course of business is allowed.]	30,00,000	2,70,000 [30,00,000 x 9 %]	2,70,000 [30,00,000 x 9 %]	
Manpower security services from Y Ltd. [Since security services are provided by a body corporate, tax on the same is not payable under RCM.]	1,00,000	9,000 [1,00,000 x 9%]	9,000 [1,00,000 x 9%]	
Total ITC available		3,21,500	3,21,500	1,08,700

Computation of GST liability payable in cash, by J Ltd.

GST payable on outward supplies				
Export of goods to Spain under LUT (No IGST is payable.)	7,00,000			
High sea sales of goods imported from China [Neither treated as supply for goods nor as supply of services.]	Nil	-	-	-
Goods purchased from Taiwan sold in Turkey without bringing into India [Neither treated as supply for goods nor as supply of services]	Nil	-	-	-
Advance received for the technical services to be provided to Mr. K [Tax on the services to be provided is payable at the time of receipt of advance.]	1,00,000	9,000 [1,00,000 x 9%]	9,000 [1,00,000 x 9%]	
Goods supplied to SEZ unit of V Ltd. (Supply to SEZ unit is a zero-rated supply.)	10,00,000			Nil
Supply of goods to V Ltd, Gujarat	4,00,000	3,60,000 [40,00,000 x 9%]	3,60,000 [40,00,000 x 9%]	
Total output tax		3,69,000	3,69,000	Nil
Less : ITC Credit of IGST can be utilized towards payment of CST and SGST liability in any order and in any Credit of CGST and SGST can be utilized after IGST		54,350 (IGST)	54,350 (IGST)	

credit has been fully utilized. portion Thereafter, credit of CGST and SGST is utilised for payment of CGST and SGST liability respectively. CEST credit cannot be utilized for payment of SGST and vice versa.]				
		3,14,650 (CGST)		
			3,14,650 (SGST)	
Net GST payable				
Add: GST payable on inward supplies		Nil	Nil	Nil
Imported raw material from China	6,00,000			
Total net GST payable in cash		Nil	Nil	

"Note: ITC of IGST can be utilised towards payment of CGST and SGST in any proportion and in any order. Therefore, there can be multiple ways of setting off of IGST credit against CGST and SGST. However, total amount of net GST payable in cash will be same in each case.

Liability for Registration**Question 1**

Determine whether registration has to be obtained under GST ?

(1) Fine oil of Telangana is engaged in the business of machine oil as well as petrol and diesel. The total turnover on supply of machine oil is only ₹ 8 lakhs and in case of petrol and diesel is ₹ 8 crores

(2) Ramlal, an agriculturist, for supply of produce out of cultivation of land amounting to ₹ 21 lakhs.

(3) Agent supplying goods on behalf of some other taxable person and its aggregate turnover does not exceed the applicable threshold limit during the FY.

Answer

(1) Supply of petrol and diesel is not leviable to GST, but **supply of machine oil is taxable**. In order to determine whether Fine oils is liable for registration, turnover of both the supplies, non-taxable as well as taxable would be taken into account for the **threshold of ₹ 20 lakhs**. Here the turnover of machine oil, petrol and diesel **exceeds ₹ 20 lakhs** (₹ 8.08 crores). Thus, **Fine oils is liable for registration**.

(2) An **agriculturist**, to the extent of supply of produce out of cultivation of land is not liable for registration under GST. In the case of Mr. Ramlal, even though turnover of produce out of cultivation has exceeded ₹ 20 lakhs, he will **not be liable for registration**.

(3) As per section 24, a person supplying **taxable** goods/services or both on behalf of other taxable persons whether as an **agent** or otherwise **is liable to be compulsorily registered** even if its aggregate turnover does not exceed the applicable threshold limit during the FY. Hence Agent is liable to be compulsorily registered even if its aggregate turnover does not exceed the applicable threshold limit.

Question 2

Mahadev Enterprises, a sole proprietorship firm, opened a shopping complex dealing in supply of ready-made garments at multiple locations, i.e. in Himachal Pradesh, Uttarakhand and Tripura in the month of June. It has furnished the following details relating to the supply made at such multiple locations for the month of June:

Particulars	Himachal Pradesh (₹)	Uttarakhand (₹)	Tripura (₹)
Intra-State supply of taxable goods	22,50,000		7,00,000
Intra-State supply of exempted goods			6,00,000
Intra-State supply of non-taxable goods		21,00,000	40,000

All the above amounts are excluding GST

With the help of the above mentioned information, answer the following Questions giving reasons:

(1) Determine whether Mahadev Enterprises is liable to be registered under GST law and what is the threshold limit of taking registration in this case assuming that it is not required to pay any tax on inward supplies under RCM.

(2) Explain with reasons whether your answer in (1) will change in the following independent cases:

(a) If Mahadev Enterprises is dealing exclusively in taxable supply of goods only from Himachal Pradesh;

(b) If Mahadev Enterprises is dealing in taxable supply of goods and services only from Himachal Pradesh;

(c) If Mahadev Enterprises is dealing in taxable supply of goods only from Himachal Pradesh and has also effected inter-State supplies of taxable goods (other than notified handicraft goods) amounting to ₹ 4,00,000.

Answer

A supplier is **liable to be registered** in the State/UT from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a FY exceeds the threshold limit. The **threshold limit** for a person making exclusive intra-State taxable supplies of goods is as under:

(i) ₹10 lakh for the States of **Mizoram, Tripura, Manipur and Nagaland**.

(ii) ₹ 20 lakh for the States of **Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand**.

(iii) ₹ 40 lakh for **rest of India**.

The threshold limit for a person **making exclusive taxable supply of services or supply of both goods and services is as under:**

(i) ₹10 lakh for the States of **Mizoram, Tripura, Manipur and Nagaland**.

(ii) ₹ 20 lakh for the **rest of India**.

As per section 2(6), **aggregate turnover** includes the aggregate value of:

(i) all **taxable** supplies,

(ii) all **exempt** supplies,

(iii) **exports** of goods and/or services and

(iv) all **Inter State supplies** of persons having the same PAN.

The above is computed on **all India basis**

In the light of the afore-mentioned provisions, the aggregate turnover of Mahadev Enterprises is computed as under:

Computation of State-wise aggregate turnover of Mahadev Enterprises

Particulars	Himachal Pradesh (₹)*	Uttarakhand (₹)*	Tripura (₹)*

Registration

Intra-State supply of taxable goods	22,50,000	-	7,00,000
Intra-State supply of exempted goods		-	6,00,000
Intra-State supply of non- taxable goods [As per section 2(47), exempt supply includes non- taxable supply.]		21,00,000	40,000
Aggregate Turnover	22,50,000	21,00,000	13,40,000

In given case, Mahadev Enterprises is **engaged in exclusive intra-State supply of goods** from Himachal Pradesh, Tripura and Uttarakhand. However, since Mahadev Enterprises **makes taxable supply of goods from** one of the specified Special Category States (ie. **Tripura**), it will **not be eligible for higher threshold limit of ₹ 40 lakh; instead**, threshold limit for registration will be **reduced to ₹ 10 lakh**.

(1) In view of the above-mentioned provisions, Mahadev Enterprises is **liable to be registered** under GST Law with the **aggregate turnover amounting to ₹ 56,90,000** (computed on **all India basis**). The applicable **threshold limit** of registration in this case is **₹ 10 lakh**. Further, he is **not liable to be registered in Uttarakhand** since he is **not making any taxable supply from Uttarakhand**.

(2) (a) If Mahadev Enterprises is dealing in supply of goods only from Himachal Pradesh, the applicable threshold limit of registration **would be ₹ 40 lakh**. Thus, **Mahadev Enterprises will not be liable for registration** as its **aggregate turnover** would be **₹ 22,50,000**.

(b) If Mahadev Enterprises **is dealing in taxable supply of goods and services** only from Himachal Pradesh then higher threshold limit of ₹ 40 lakh will not be applicable as the same applies only in case of exclusive supply of goods. Therefore, in this case, applicable **threshold limit will be ₹ 20 lakh** and hence, **Mahadev Enterprises will be liable to registration**.

(c) In case of **inter-State supplies** of taxable goods, section 24 **requires compulsory registration** irrespective of the quantum of aggregate turnover. Thus, **Mahadev Enterprises will be liable to registration**.

Question 3

With the help of the following information in the case of M/s Jayant Enterprises, Jaipur (Rajasthan) for the FY, determine the aggregate turnover for the purpose of registration under the CGST Act. Also, determine whether M/s Jayant Enterprises is liable to be registered under GST law.

S.N.	Particulars	Amount
(i)	Sale of diesel on which Sale Tax (VAT) is levied by Rajasthan Govt..	1,00,000
(ii)	Supply of goods, after completion of job work, from the place of Jayant Enterprises directly by principal by declaring the place of M/s Jayant Enterprises as its additional place of business.	3,00,000
(iii)	Export of goods to England (U.K.)	5,00,000
(iv)	Supply to its own additional place of business in Rajasthan	5,00,000
(v)	Outward supply of services on which GST is to be paid by recipient under RCM.	1,00,000

All the above amounts are excluding GST.

You are required to provide reasons for treatment of various items given above.

Answer

Computation of aggregate turnover of M/s Jayant Enterprises for the FY

Particulars	Amount
Sale of diesel on which Sale Tax (VAT) is levied by Rajasthan Govt..[Note 1]	1,00,000
Supply of goods, after completion of job work, from the place of Jayant Enterprises directly by principal [Note 2]	NIL
Export supply to England [Note 3]	5,00,000
Supply to its own additional place of business in Rajasthan [Note 4]	NIL
Outward supply on which GST is to be paid by recipient under RCM [Note 5]	1,00,000
Aggregate turnover	7,00,000

Notes:

1. Supply of diesel, being a non- taxable supply, is an exempt supply and exempt supply is specifically includible in aggregate turnover in terms of section 2(6).
2. Supply of goods after completion of job work by a principal by declaring the place of business of job worker its additional place of business shall be treated as the supply of goods by the principal.
3. Export supplies are specifically includible in the aggregate turnover.
4. Supply made without consideration to **units within the same State (under same registration) is not a supply** and hence not includible in aggregate turnover).
5. Outward **supplies taxable under RCM** would be part of the "aggregate turnover" of the supplier of such supplies. Such turnover is **not included as turnover in the hands of recipient**.

A supplier is **liable to be registered** in the State/UT from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a FY exceeds the threshold limit. The **threshold limit** for a person making exclusive intra-State taxable supplies of goods is as under:

- (i) ₹ 10 lakh for the States of **Mizoram, Manipur, Nagaland and Tripura (MMNT)**
- (ii) ₹ 20 lakh for the States of **Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand**.
- (iii) ₹ 40 lakh for **rest of India**.

The threshold limit for a person **making exclusive taxable supply of services or supply of both goods and services is as under:**

- (i) ₹ 10 lakh for the States of **Mizoram, Tripura, Manipur and Nagaland**.
- (ii) ₹ 20 lakh for the **rest of India**.

The applicable turnover limit for registration, in the given case, will be ₹ 20 lakh as Rajasthan is not a Special Category State and M/s. Jayant Enterprises is engaged in supply of goods and services. Although, the aggregate turnover of M/s Jayant Enterprises does not exceed ₹ 20 lakh, **it is compulsorily required to register** in terms of section 24(i) **irrespective** of the

turnover limit **as it is engaged in making inter- State supply of goods in the form of exports to England.**

Question 4

Decide with reason whether the registration is required under CGST Act in the follow independent cases:

(i) A casual taxable person (CTP) has provided inter-State supply of notified products being textiles hand printing amounting to ₹ 19.25 lakh during the month of Jan., 20XX. Those products were made by craftsmen by both hand and machines equally. CTP had obtained PAN and generated e-way bill for supply.

(ii) Mr. Bantu of Delhi doing trading business across India and his intra-State turnover details are below:

(1) Taxable supplies made from Delhi - ₹ 18 lakh.

(2) Exempt supplies made from Andhra Pradesh - ₹ 10 lakh.

(3) Both taxable and exempt supplies made from Tamilnadu - ₹ 5,00,000 and ₹ 6,00,000 respectively.

Answer

(i) A **casual taxable person (CTP)** is **liable to be registered compulsorily** under GST irrespective of the threshold limit.

However, **CTPs making inter-state taxable supplies** of notified products, when made by the **craftsmen predominantly by hand even** though some machinery may also be used in the process, have been **exempted from obtaining registration** if their aggregate **turnover does not exceed ₹ 20 lakh** [₹ 10 lakh for specified special category State]

Since, in the given case notified products were made by craftsmen by both **hand and machines equally**, they are **not eligible for exemption** and are required to obtain registration mandatorily.

(ii) For a supplier exclusively dealing in intra-State supply of goods, the threshold limit of turnover to obtain registration in the states of Delhi, Andhra Pradesh and Tamil Nadu is ₹40 lakh. Aggregate turnover includes value of all taxable and exempt supplies under same PAN.

Thus aggregate turnover of Mr. Bantu doing trading business across India (It has been assumed that Mr. Bantu makes only intra-State supplies across India)

= ₹ (18 lakh + 10 lakh + 5 lakh + 6 lakh)

= ₹ **39 lakh.**

Therefore, Mr. Bantu is **not liable for registration** as his **turnover does not exceed ₹ 40 lakh.**

Question 5

Comment on the liability to get registered under the GST law in the given independent situations. Your answer should also include relevant provisions of law, notifications or circular

(i) Miss Riddhima is exclusively engaged in the export of readymade garments from the State of Rajasthan and her export turnover during the year is ₹ 17 lakh. Apart from export turnover, she has earned interest on bank FDR for ₹ 2 lakh also.

(ii) Ajanta Enterprises is exclusively engaged in the trading of exempt goods under GST in the State of Haryana and has not taken the GST registration. During the year, its turnover from exempt supplies is ₹ 47 lakh and Ajanta Enterprises also sold old generator for ₹ 1.25 lakh during the year.

(iii) Mr. P has presence in two States, one in Haryana and other in Rajasthan. He is registered in the State of Rajasthan even without crossing the threshold limit. His turnover during the year in Rajasthan is ₹ 32 lakh and in Haryana is ₹ 5 lakh. Is he mandatorily required to get registered in the State of Haryana also?

(iv) Mr. John is engaged in the business of buying and selling of shares on his own account from the secondary market and his income from this activity is assessed as business income under the Income-tax Act 1961. During the year his total sales turnover from shares was ₹ 90 lakh.

Answer

(i) **Export of goods is treated as inter-State supply.** Miss Riddhima is liable to obtain **registration compulsorily** irrespective of the quantum of her aggregate turnover since she is engaged in making inter-State supply (exports) of goods.

(ii) Any person engaged **exclusively in making exempt supplies is not liable to registration.** However, Ajanta Enterprises is **liable to get registered** as it has **also made a taxable supply** along with exempt supplies during the year **and its aggregate turnover (₹ 48.25 lakh) exceeds the threshold limit** for registration.

(iii) Since **registration in GST is PAN based**, once a supplier is liable to register, he has to obtain registration in each of the States/UTs in which he operates under the same PAN. Therefore, **Mr. P is liable to get registered in Haryana also**, provided he is not engaged exclusively in making exempt supplies from Haryana.

However, it is also possible to take a view that a person who is voluntarily registered in one states needs to obtain registration in other States from where he makes a taxable supply only if aggregate turnover exceeds applicable threshold limit for registration. In that case, Mr P is not liable to obtain registration from Haryana since the aggregate turnover does not exceed the threshold limit for registration.

(iv) A supplier is liable to obtain registration in a State/UT from where he makes a taxable supply goods and/or services. Shares are excluded from the definition of goods as well as services, Hence, **buying and selling of shares is not a supply of goods and/or services under GST law.** Thus, Mr. John is **not liable to obtain registration** since he is **not engaged in making a taxable supply of goods and/or services.**

Question 6

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 India Pvt. Ltd., Pune. The turnover of AB Pvt Ltd. in the current FY is ₹ 18 lakh.

Advise AB Pvt. Ltd. as to whether they are required to obtain GST registration. Will your advice be any different if AB Pvt. Ltd. sells readymade garments exclusively through the e-commerce website own and managed by Hi-Tech Indya Pvt. Ltd.?

Answer

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

However, section 24 of the said Act enlists certain categories of persons who are **mandatorily required to obtain registration**, irrespective of their turnover. **Person who supply goods or through such electronic 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**.

ECO means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce. Electronic commerce means 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 issued under section 9(5) specifies services by way 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 supplier

Further, **with effect from 01.10.2023**, Notification No. 34/2023 CT provided that the persons making supplies of **goods** through an ECO who is required to collect TCS under section 52 and having an aggregate turnover in the preceding FY and in the current FY not exceeding the threshold limit in accordance with the provisions of section 22(1), are exempted from obtaining registration, subject to the following conditions, namely:

- (i) such persons shall **not make any inter-State supply** of goods;
- (ii) such persons shall **not make supply** of goods through ECO **in more than one State/UT**;
- (iii) such persons shall be required to have a **PAN**;
- (iv) such persons shall, before making any supply through ECO, **declare on the common portal**:
 - a. their **PAN**
 - b. **address** of their place of business and
 - c. **State/UT in which such persons seek to make such supply**;
- (v) such persons have been **granted an enrolment number**;
- (vi) such persons shall **not be granted more than one enrolment number** in a State/UT;
- (vii) no supply of goods shall be made by such persons through ECO until receipt of enrolment number

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

In the second case, AB Pvt. Ltd **sells readymade garments** through ECO. In such case if AB Pvt. Ltd satisfy the conditions specified under Notification No. 34/2023 then it is not liable to take registration. However, if the said conditions are not satisfied then it will **not be entitled for threshold exemption** and will have to **compulsorily obtain registration**.

Question 7

Rishabh Enterprises, a sole proprietorship firm, started an air-conditioned restaurant in Virar, Maharashtra in the month of Feb wherein the customers are served cooked food as well as

cold drinks/non-alcoholic beverages. In March, the firm opened a liquor shop in Raipur, Uttarakhand for trading of alcoholic liquor for human consumption.

Determine whether Rishabh Enterprises is liable to be registered under GST law with the help of the following information:

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

All the above amounts are excluding GST.

You are required to provide reasons for treatment of various items given above.

Answer

A supplier **is liable to be registered** in the State/UT from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a FY exceeds the threshold limit. The **threshold limit** for taxable supplies of goods is as under:

- (i) ₹ 10 lakh for the States of **Mizoram, Tripura, Manipur and Nagaland**.
- (ii) ₹ 20 lakh for the States of **Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand**.
- (iii) ₹ 40 lakh for the rest of **India**.

The threshold limit for **exclusive taxable supply of services or supply of both goods and services is as under:**

- (i) ₹ 10 lakh for the States of **Mizoram, Tripura, Manipur and Nagaland**.
- (ii) ₹ 20 lakh for the **rest of India**.

As per section 2(6), **aggregate turnover includes** the aggregate value of:

- (i) all **taxable** supplies,
- (ii) all **exempt** supplies,
- (iii) **exports** of goods and/or services and
- (iv) all **inter-State** supplies of persons having the same PAN.

The above is computed on **all India basis**. Further, the **aggregate turnover excludes CGST, SGST, UT tax, IGST and cess**. Moreover, the **value of inward supplies** on which tax is payable under RCM is **included** for calculation of 'aggregate turnover'.

In the given Question, since Rishabh Enterprises is engaged in making taxable supplies of goods and services from Maharashtra and non-taxable supplies from Uttarakhand, the threshold limit for obtaining Registration is ₹ 20 lakh.

In the light of the afore-mentioned provisions, the aggregate turnover of Rishabh Enterprises is computed as under:

Computation of aggregate turnover of Rishabh Enterprises

Particulars	Turnover of Feb (₹)	Cumulative turnover of Feb & March (₹)
Serving of cooked food and cold drinks/non-alcoholic beverages in restaurant in Maharashtra	5,50,000	12,00,000 [₹ 5,50,000 + ₹ 6,50,00]
Add: Sale of alcoholic liquor for human consumption in Uttarakhand Supply of alcoholic liquor for human consumption in Uttarakhand, being a non- taxable supply, is an exempt supply and is, therefore, includible while computing the aggregate turnover.]		5,00,000
Add: Supply of packed food items from restaurant in Maharashtra	1,50,000	3,50,000 [₹ 1,50,000 + ₹ 2,00,000]
Aggregate Turnover	7,00,000	20,50,000

Rishabh Enterprises was **not liable to be registered in the month of Feb** since its **aggregate turnover did not exceed ₹ 20 lakh** in that month. However, **since its aggregate turnover exceeds ₹ 20 lakh in the month of March**, it should **apply for registration within 30 days from the date on which it becomes liable to registration**. Further, he is **not liable to be registered in Uttarakhand** since he is **not making any taxable supply from Uttarakhand**.

Question 8

Pure Oils, Delhi has started the supply of machine oils, services and high speed diesel in the month of April, 20XX. The following details have been furnished by it for the said month:-

S1. No.	Particulars	₹
(i)	Supply of machine oils, services in Delhi	2,00,000
(ii)	Supply of high speed diesel in Delhi	4,00,000
(iii)	Supply made through Fortis Lubricants - an agent of Pure Oils in Delhi	1,75,000
(iv)	Supply made by Pure Oils from its branch located in Punjab	1,80,000

Determine whether Pure Oils is liable for registration.

Will your answer change, if Pure Oils supplies machine oils amounting to ₹ 2,50,000 from its branch located in Manipur in addition to the above-mentioned supplies?

Answer:

A supplier of service is liable to be registered in the State/UT from where he makes a taxable supply of goods or services or both if his aggregate turnover exceeds ₹ 20 lacs.

However, if such taxable supplies are made from any from, Manipur, Mizoram, Nagaland, Tripura, he shall be liable to be registered if his aggregate turnover in a FY exceeds ₹ 10 lakh.

The aggregate turnover for the month of April, 20XX is computed as under:

Sl. No.	Particulars	₹
(i)	Supply of machine oils, services in Delhi	2,00,000
(ii)	Add: Supply of high-speed diesel in Delhi	4,00,000
(iii)	Add: Supply made through Fortis Lubricants - an agent of Pure in Delhi	1,75,000
(iv)	Add: Supply made by Pure Oils from its branch located in Punjab	1,80,000
	Aggregate Turnover	9,55,000

Since the aggregate turnover does not exceed 20 lakh, Pure Oils is **not liable to be registered**.

If Pure Oils made supply of machine oils amounting to ₹ 2,50,000 from its branch in Manipur in addition to the above supply, then threshold limit of registration will be reduced to **₹ 10 lakh** as Manipur is one of the specified Special Category States.

Aggregate Turnover in that case would be ₹ 9,55,000 + ₹ 2,50,000 = **₹ 12,05,000**.

So, if Pure Oils supplies machine oils amounting to ₹ 2,50,000 from its branch in Manipur, then it is **liable to be registered in all States** in which it supplying taxable goods/services.

Question 9

Rajesh Dynamics, having its head office in Chennai, Tamil Nadu carries on the following activities with respective turnovers in a FY:

	₹
Supply of petrol at Chennai, Tamil Nadu	18,00,000
Value of inward supplies on which tax is payable on RCM basis	9,00,000
Supply of transformer oil at Chennai, Tamil Nadu	2,00,000
Value of branch transfer from Chennai, Tamil Nadu to Bengaluru, Karnataka without payment of consideration	1,50,000
Value of taxable supplies at Manipur branch	11,50,000

It argues that it does not have taxable turnover crossing threshold limit of ₹ 40,00,000 either at Chennai, Tamil Nadu or Bengaluru, Karnataka and including turnover at Manipur branch. It believes that the determination of aggregate turnover is not required for the purpose of obtaining registration, but is required for determining composition levy.

Decide based on the above facts:

- (i) The aggregate turnover of Rajesh Dynamics.
- (ii) All conditions that fulfil requirements for registration under CGST Act in the given circumstances.

Answer

Computation of aggregate turnover of Rajesh Dynamics:

Registration

Particulars	₹
Supply of petrol at Chennai, Tamil Nadu [Being a non- taxable supply, it is an exempt supply and thus, includible in aggregate turnover vide section 2(6)]	18,00,000
Value of inward supplies on which tax is payable on RCM basis	NIL
Supply of transformer oil at Chennai, Tamil Nadu	2,00,000
Value of branch transfer from Chennai, Tamil Nadu to Bengaluru, Karnataka without payment of consideration [Being a taxable supply, it is includible in aggregate turnover]	1,50,000
Value of taxable supplies at Manipur branch	11,50,000
Aggregate turnover	33,00,000

Rajesh Dynamics is not liable to be registered in Chennai, Tamil Nadu, if his aggregate turnover in a FY does not exceeds ₹ 40 lakh. However, since Rajesh Dynamics also makes **taxable supplies from Manipur**, a specified Special Category State, the **threshold exemption gets reduced to ₹ 10 lakh** in terms of section 22(1).

Rajesh Dynamics' argument that it is not liable to registration since the threshold exemption of ₹ 40 Lakh is not being crossed either at Chennai, Tamil Nadu, Bengaluru, Karnataka or Manipur is not correct as firstly, the **aggregate turnover** to be **considered** in its case is **₹ 10 lakh** and not ₹ 40 lakh and **secondly, the same is computed on all India basis and not State-wise.**

Further, Rajesh Dynamics is also wrong in believing that aggregate turnover is computed only for the purpose of determining the eligibility limit for composition levy since the **aggregate turnover is required for determining the eligibility for both registration and composition levy.**

Further, Rajesh Dynamics is **compulsorily required to register** under section 24 irrespective of the turnover limit **as it is liable to pay tax on inward supplies under RCM and it also makes inter-State taxable supply.**

Question 10

In the month of April 20XX, Z started supply of goods in his proprietary firm and also set up a one man company named Z Ltd. He needs your assistance to work out his aggregate turnover for the purpose of GST registration. The turnover details up to the month of July, 20XX are as under:

S.No	Particulars of supplies	₹ in lakh (excl. GST)
(i)	Supplies of taxable goods of his firm	31.50
(ii)	Supplies of taxable goods to a 100% EOU of his firm	1.50
(iii)	Exports of taxable goods of his firm	2.60
(iv)	Exempt supplies of his firm	2.40
(v)	Supplies of non-taxable goods of his firm	3.00
(vi)	Supplies of taxable goods by the one-man company set up in his name	2.70

(vii)	Value of supplies on which Z is liable to pay tax under RCM (RCM)	0.80

Note: All his supplies are intra-State except export.

Answer

Computation of aggregate turnover of proprietary firm of Z	
Particulars	(in lakh)
Supplies of taxable goods [Taxable supplies are included in aggregate turnover.]	31.50
Supplies of taxable goods to a 100% EOU [Deemed exports being taxable supplies are included in aggregate turnover.]	1.50
Exports of taxable goods [Included in aggregate turnover.]	2.60
Exempt supplies [Included in aggregate turnover.]	2.40
Supplies of non-taxable goods [Exempt supplies are included in aggregate turnover. Exempt supplies include non-taxable supplies also.]	3.00
Supplies of taxable goods by one-man company set up in Z's name [Not included as one person company is a separate entity with separate PAN.]	-
Value of supplies on which Z is liable to pay tax under RCM [Value of inward supplies on which tax is payable on RCM basis are excluded from the aggregate turnover.]	-
Aggregate turnover of proprietorship firm of Z	41.00
Computation of aggregate turnover of Z Ltd. - one man company of Z	
Supplies of taxable goods by one-man company set up in Z's name [Taxable supplies are included in aggregate turnover.]	2.70
Aggregate turnover of Z Ltd.	2.70

Effective Date of Registration

Question 11

Determine the effective date of registration in following independent cases:

- The aggregate turnover of Dhampur Footwear Industries of Delhi has exceeded the applicable threshold limit of ₹ 40 lakh on 1st Sep. It submits the application for registration on 20th Sep. Registration certificate is granted to it on 25th Sep.

b. Mehta Teleservices is an **architect** in Lucknow. Its aggregate turnover exceeds ₹ 20 lakh on 25th Oct.. It submits the application for registration on 27th Nov.. Registration certificate is granted to it on 5th Dec..

Answer

a. Every supplier becomes liable to registration **if his turnover exceeds the applicable threshold limit** [₹ 40 lakh in this case] in a FY. Since in the given case, the turnover of Dhampur Industries **exceeded ₹ 40 lakh on 1st Sep**, it becomes **liable to registration on said date**.

Further, since the **application** for registration has been **submitted within 30 days** from such date, registration shall be **effective from date on which person becomes liable to registration**. Therefore, effective date of registration is 1st Sep.

b. Since in the given case, the **turnover of Mehta Teleservices exceeds the applicable threshold limit [₹ 20 lakh] on 25th Oct.**, it becomes **liable to registration on said date**.

Further, since the application for registration has been **submitted after 30 days** from the date such person becomes liable to registration, the registration shall be **effective from the date of grant of registration**. Therefore, the effective date of registration is **5th Dec**.

Question 12

Pari & Sons is an unregistered **supplier of services**. On 10th Aug, aggregate turnover of Pari & Sons exceeded ₹20,00,000. The firm applied for registration on 27th Aug and was granted the registration certificate on 1st Sep under CGST Rules. You are required to advise Pari & Son as to what is the effective date of registration in its case. It has also sought your advice regarding period for issuance of revised tax invoices.

Answer

Every supplier is liable to be registered under this Act in the State or UT, from where he makes a taxable supply of goods or services or both **if his aggregate turnover** in a FY **exceeds the threshold limit**.

Supplier whose aggregate turnover in a FY exceeds the threshold limit State/UT is liable to **apply for registration within 30 days** from the date of becoming liable to registration (i.e., the date of crossing the threshold limit).

Where the application is submitted within the said period, the **effective date of registration is the date on which the person becomes liable to registration; otherwise** it is the **date of grant of registration**.

In the given case, since Pari & Sons have applied for registration on 27th Aug which is within 30 days from the date of becoming liable to registration (10th Aug), **its effective date of registration is 10th Aug**.

Further, every registered person who has been granted registration with effect from a date earlier than the date of issuance of registration certificate to him, **may issue revised tax invoices in respect of taxable supplies effected during this period within one month from the date of issuance of registration certificate**.

In view of the same, **Pari & Sons may issue revised tax invoices** against the invoices already issued during the period **between effective date of registration (10th Aug) and the date of issuance of registration certificate (1st Sep), or on before 1st Oct**.

Amendment and Cancellation of Registration**Question 13**

Discuss the procedure for amendment of registration under CGST Act and rules thereto?

Answer

The significant aspects of the same are discussed hereunder:

1. **Where there is any change** in the particulars furnished in registration application/UIN application at the time of obtaining the registration or thereafter, registered person shall **submit an application** in prescribed manner, **within 15 days of such change, along with documents** relating to such change at the Common Portal.
2. In case of **amendment of core fields of information**, the **proper officer may**, on the basis of information furnished or as ascertained by him, **approve or reject amendments** in the registration particulars in the prescribed manner. Such amendment shall take effect from the date of occurrence of event warranting such amendment.
3. However, where **change relates to non-core fields** of information, **registration certificate shall stand amended upon submission of the application** for amendment on the Common Portal
4. Where a change in the constitution of any business results in **change of PAN of a registered person**, the said person shall **apply for fresh registration**. The reason for the same is that **GSTIN is PAN based. Any change in PAN would warrant a new registration.**

Question 14

Dharma Dutta has taken voluntary registration and has not opted for the composition scheme of levy. He is aggrieved by the cancellation of his registration under GST, although he is filing Nil returns, as he has not conducted any business for the past 8 months. He wants to know the circumstances under which the proper officer can cancel registration on his own.

Answer

GST registration may be **cancelled suo motu by GST Officer if the registered person:**

- (i) **does not conduct any business** from the place of business;
- (ii) **issues invoice/bill without supply** of goods/services;
- (iii) **violates the anti-profiteering provisions:**
- (iv) violates the provisions of rule 10A (Furnishing of bank account details);
- (v) **avails ITC in violation** of provisions of section 16;
- (vi) furnishes the details of outward supplies in Form GSTR-1 under section 37 for one or more tax periods which is in excess of the outward supplies declared by him in GSTR-3B;
- (vii) violates the provision of **rule 86B** (Restriction on use of ITC):
- (vii) has **not furnished returns for a continuous period of 6 months** in case of a registered person required to furnish returns on **monthly** basis;
- (ix) has **not furnished returns for a continuous period of 2 tax periods** in case of a registered person required to furnish returns on **quarterly** basis;
- (x) has **not furnished his return for a FY beyond 3 months** from the due date of furnishing the said return if he has opted for **composition** levy;
- (xi) has **not commenced business within 6 months** from date of registration, if he has opted for voluntary registration;
- (xii) has **obtained the registration by means of fraud, wilful misstatement or suppression of facts.**

Miscellaneous

Question 15

LMN Pvt Ltd., Coimbatore exclusively manufactures and sells product 'X' which is exempt from GST vide notifications issued under relevant GST legislations. The company sells product 'X' only within Tamil Nadu and is not registered under GST. Further, all the inward supply of the company are taxable under forward charge. The turnover of the company in the previous year was ₹45 lakh. The company expects the sales to grow by 30% in the current year. The company purchased additional machinery for manufacturing 'X' on 1st July. The purchase price of capital goods was ₹30 lakh exclusive of GST @18%

However, effective from 1st Nov., exemption available on 'X' was withdrawn by the Central Govt. and GST @ 12% was imposed thereon. The turnover of the company for the half year ended 30th Sep was ₹ 45 lakh.

(a) Examine the above scenario and advise LMN Pvt Ltd. whether it needs to get registered under GST

(b) If the answer to the above Question is in affirmative, advise LMN Pvt. Ltd. whether it can avail ITC on the additional machinery purchased exclusively for manufacturing "X"?

(c) In case in the above Question, LMN Pvt. Ltd. is already registered with respect to certain taxable supplies being made by it along with manufacture of exempt product 'X', other facts remaining the same, can it take ITC on additional machinery purchased exclusively for manufacturing 'V'? If yes, then how much credit can be availed?

Answer

Every supplier who is **exclusively engaged in intra- State supply of goods is liable to be registered** under GST in the State/UT from where he makes the taxable supply of goods **only when aggregate turnover in a FY exceeds ₹ 40 Lacs.**

However, the above provisions are not applicable to few specified States, i.e. States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand.

Further, a person **exclusively engaged supply of goods and/or services that are not liable to tax or are wholly exempt from tax is not liable to registration.**

In the given case, the **turnover of the company** for the half year ended on 30th Sep is **₹45 lakh which is more than the applicable threshold limit of ₹ 40 lakh.** Therefore, as per above mentioned provisions, the company should be **liable to registration. However, since LMN Pvt. Ltd. supplied exempted goods till 31st Oct., it was not required to be registered till that day.**

However, the position will change from 1st Nov. as the supply of **goods become taxable** from that day and the **turnover of company is above ₹ 40 lakh.** It is important to note here that, the aggregate turnover limit of ₹ 40 lakh includes exempt turnover also.

Therefore, turnover of 'X' prior to 1st Nov. will also be considered for determining the limit of ₹ 40 lakh even though the same was exempt from GST. Therefore, the **company needs to register within 30 days from 1st Nov.** (the date on which it becomes liable to registration) in terms of section 25(1).

(b) A person who has **applied for registration within 30 days** from the date on which he becomes liable to registration and has been granted such registration shall be **entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods** held in stock on the **day immediately preceding the date from which he becomes liable to pay tax.**

Thus, LMN Pvt. Ltd. **cannot avail credit for additional machinery** purchased exclusively for manufacturing of X as **ITC of only inputs is allowed and capital goods is not allowed.**

(c) ITC on capital goods used or intended to be used exclusively for effecting exempt supplies is not allowed.

However, as per section 18(1)(d), **where an exempt supply** of goods and/or services by a registered person **becomes a taxable supply**, such person gets **entitled to take credit of input tax** in respect of **inputs held in stock** and inputs contained in semi-finished or finished goods held in stock **relatable to such exempt supply and on capital goods exclusively used for such exempt supply** on the day immediately preceding date from which such supply becomes taxable.

Credit on capital goods can be claimed **after reducing the tax paid on such capital goods by 5% per quarter of a year or part thereof from the date of the invoice.**

Therefore, in the given case, LMN Pvt. Ltd. could not claim credit on machinery till the time the supply of product 'X' for which said machinery was being used was exempt. However, it can claim credit from 31st Oct.-the day immediately preceding the date from which the supply of product 'X' became taxable (1st Nov.).

The credit will be available for the remaining useful life of the machinery and will be computed as follows:

Date of purchase of machinery	1 st -July
Date on which credit becomes eligible	31 st Oct.
Number of quarters for which credit is to be reduced	2 (including part of quarter)
GST paid on machinery [₹ 20,00,000 x 18%]	₹ 3,60,000
Credit to be reduced [₹ 3,60,000 x 5% x 2]	₹ 36,000
Amount of credit that can be taken [₹ 3,60,000 - ₹ 36,000]	₹ 3,24,000

Basics of Invoice

Question 1

Jain & Sons is a trader dealing in stationery items. It is registered under GST and has undertaken following sales during the day:

Sr. No.	Recipient of supply	Amount (₹)
1	Raghav Traders a registered retail dealer	190
2	Dhruv Enterprises- an unregistered trader	358
3	Gaurav-a Painter (unregistered]	500
4	Oberoi Orphanage - an unregistered entity	188
5	Aaradhya-a Student [unregistered]	158

None of the recipients require a tax invoice (Raghav Traders being a composition dealer).

Determine in respect of which of the above supplies, Jain & Sons may issue a Consolidated Tax instead of Tax Invoice at the end of the day?

Answer

In the given illustration, Jain & Sons **can issue a Consolidated Tax Invoice only** with respect to supplies **made to Oberoi Orphanage** [worth ₹ 188] **and Aaradhya** [worth ₹ 158] as the value of goods supplied to these recipients **is less than ₹ 200** as also these **recipients are unregistered** and **don't require a tax invoice**.

As regards the supply made to Raghav Traders, although the value of goods supplied to it is less than ₹ 200, Raghav Traders is registered under GST. So, Consolidated Tax Invoice cannot be issued.

Consolidated Tax Invoice can also not be issued for supplies of goods made to Dhruv Enterprises and Gaurav although both of them are unregistered as value of goods supplied is not less than ₹ 200.

Question 2

Jai, a registered supplier, runs a general store in Ludhiana, Punjab. Some of the goods sold by him are exempt whereas some are taxable. You are required to advise him on the following issues:

- (i) Whether Jai is required to issue tax invoices in all cases, even if he is selling the goods to the end consumers?
- (ii) Jai sells some exempted as well as taxable goods valuing ₹ 5,000 to a school student. Is he mandatorily required to issue two separate GST documents?
- (iii) Jai wishes to know whether it's necessary to show tax amount separately in the tax invoices issued to the customer

Answer

- (i) **No**, he is **not required to issue tax invoice** in all cases. Every registered person supplying **taxable goods** is required to issue a '**tax Invoice**'. However, every registered person **supplying exempted goods** is required to **issue a bill of supply instead of tax invoice**.

(ii) Where a registered person is **supplying taxable as well as exempted goods** or services or both **to an unregistered person**, a single “**invoice-cum-bill of supply**” may be issued for all such supplies. Thus, there is **no need to issue a tax invoice and a bill of supply separately**.

(iii) Where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made.

As per rule 46(m), a **tax invoice shall contain the various particulars**, interalia, namely, **amount of tax charged in respect of taxable goods or services**;

Hence, Jai **has to show the tax amount separately** in the tax invoices issued to customer

Question 3

Discuss the provisions relating to issue of an invoice/document in the following circumstances:

- (i) Advance payment is received against a supply, but subsequently no supplies are made.
- (ii) Goods are sent on approval for sale or return and are removed before the supply takes place.
- (iii) Mr. Mohan provides continuous supply of services to his client, where the due date of payment for such services is not ascertainable. No advance has been received in this behalf.
- (iv) Supply by a person registered under composition scheme.
- (v) Supplies received from unregistered supplier of services which are under RCM.

Answer

- (i) Where **advance payment is received** against a supply for which **receipt voucher has been issued**, but subsequently **no supplies are made** and **no tax invoice is issued** in pursuance thereof, **a refund voucher may be issued** to the person who had made the advance payment.
- (ii) The invoice shall be issued **before or at the time of supply or 6 months from the date of removal, whichever is earlier**.
- (iii) In case of **continuous supply of services**, where the **due date of payment** is not ascertainable from the contract, the **Invoice shall be issued before or at the time when the supplier of service receives the payment**.
- (iv) A registered person paying tax under composition scheme shall issue, a **bill of supply**.
- (v) A registered person who is liable to pay tax under RCM **shall issue an Invoice** in respect of supply received by him from the **supplier** who is **not registered**.

Dynamic QR

Question 4

Enumerate the suppliers to whom the Dynamic Quick Response (QR) code is not applicable when they issue an invoice to an unregistered person.

Answer

Dynamic Quick Response (QR) code is not applicable to following suppliers when they issue an invoice to an unregistered person:

- (i) **Insurer or banking company or financial institution** including **NBFC**

(ii) **GTA** (Goods transport agency) supplying services in relation to transportation of goods by road in a goods carriage

(iii) Supplier of **passenger transportation service**

(iv) Person supplying services by way of **admission to exhibition of cinematograph films in multiplex screens**

(v) **Supplier of OIDAR** (online information and database access or retrieval) services

(vi) In case of **exports**

Question 5

Sanmati Industries, registered in the State of Maharashtra, receives a machinery for repair in its workshop located in Mumbai, Maharashtra from Titsubishi Ltd., an automobile manufacturing company based in Japan. The repair work was carried out by Sanmati Industries for which it was to be paid in convertible foreign exchange and goods were returned to Titsubishi Ltd. after being used for some time in India.

While raising the invoice for the said consideration, the accountant of Sanmati Industries approaches you as to whether the Dynamic Quick Response (QR) code is mandatorily required on said invoice? You are required to advise him on the same.

Note-Titsubishi Ltd. is not registered in India. Further, the aggregate turnover of Sanmati Industries was ₹ 550 crores in the preceding FY.

Answer

The POS for the services provided by Sanmati Industries to Titsubishi Ltd. is as follows:

As per section 13(3)(a) of the IGST Act, in case where the services are **supplied in respect of goods** which are **required to be made physically available** by the recipient of services to the supplier of services, the POS of such services **shall be the location where the services are actually performed**. In the given case, for carrying out the repair work, machinery was required to be made physically available by Titsubishi Ltd. to Sanmati Industries. Thus, the **POS** of services in this case is the location **where the services are actually performed i.e Maharashtra, India**.

All invoices issued by a **registered person whose aggregate turnover** in any preceding FY from 2017-18 onwards **exceeds ₹ 500 crores, in respect of B2C supplies** (supply to an unregistered person) will **mandatorily have a Dynamic QR code**. Thus, the invoices issued by Sanmati Industries to unregistered persons are mandatorily required to have a Dynamic QR Code. Accordingly, since **Titsubishi Ltd. is not registered in India**, invoice should **mandatorily have a Dynamic QR code**.

However, Circular No. 165/21/2021 GST has clarified that wherever

- an **invoice is issued to a recipient located outside India**,
- for supply of services, for which the **POS is in India**, and
- the **payment is received in convertible foreign exchange**,

such invoice **may be issued without having a Dynamic QR Code**, as such dynamic QR code cannot be used by the recipient located outside India for making payment to the supplier.

Thus the **Dynamic QR code is NOT mandatorily required on the invoice** to be issued by Sanmati Industries to Titsubishi Ltd.

Revised Invoice

Question 6

Avtaar Enterprises, Kanpur started trading exclusively in ayurvedic medicines from July 1. Its turnover exceeded ₹ 40 lakh on Oct. 3. The firm applied for registration on Oct. 31 and was issued registration certificate on Nov. 5.

Examine whether any revised invoice can be issued in the given scenario. If the answer to the first Question is in affirmative, determine the period for which the revised invoices can be issued as also the last date up to which the same can be issued.

Answer

As per section 31(3)(a), a registered person may, **within one month from the date of issuance of certificate of registration, issue a revised invoice against the invoice already issued** during the period beginning with the **effective date of registration till the date of issuance of certificate** of registration to him.

Registration shall be effective from the date on which the person becomes liable to registration where the application for registration has been submitted within a period of 30 days from such date.

In the given case, Avtaar Enterprises has **applied for registration within 30 days** of becoming liable for registration. Thus, the **effective date of registration** is Oct. 3. Therefore, **revised invoices** can be issued for supplies made **during this intervening period i.e., for the period beginning with Oct. 3 till Nov. 5**. Further, the revised invoices can be issued for the said period **till Dec. 5**.

Credit/Debit Note**Question 7**

Discuss the provisions relating to issuance of credit and debit notes under CGST Act and rules there under

Answer

(i) **Issuance of Debit Note:** There can be situations when after the invoice has been issued:

- The supplier has erroneously **declared a value** which is **less than the actual value** of the good or services or both provided.
- The supplier has erroneously declared a **lower tax rate than** what is **applicable** for the kind of goods or services or both supplied.
- The **quantity received** by the recipient is **more than** what has been **declared** in the tax invoice.
- Any other similar reasons.

In order to regularize these kinds of situations, the supplier is allowed to issue a document called as debit note to the recipient.

(ii) **Issuance of Credit Note:** In the invoice issued by supplier, there can be situations like:

- The supplier has erroneously **declared a value** which is **more than the actual value** of the goods or services provided.
- The supplier has erroneously **declared a higher tax rate than** what is **applicable** for the kind of the goods or services or both supplied.
- The quantity received by the recipient is **less than** what has been **declared** in the tax invoice

- The quality of the **goods or services** or both supplied is **not to the satisfaction** of the recipient thereby **necessitating a partial or total reimbursement** on the invoice value
- Any other similar reasons.

In order to regularize these kinds of situations, the supplier is allowed to issue a document called as credit note to the recipient.

Accounts and Records

Question 1

Essel Groups has started making taxable supplies. You are required to advise it about the accounts and records required to be maintained by it as required under section 35(1).

Answer

Section 35(1) stipulates that a **true and correct account** of following is to be maintained:

- (a) **production or manufacture** of goods;
- (b) **inward and outward supply** of goods or services or both;
- (c) **stock** of goods;
- (d) **ITC** availed;
- (e) **output tax payable** and paid
- (f) such other particulars as may be prescribed.

The records may be **maintained electronically**. Where **more than one place of business** is specified in the certificate of registration, the accounts relating to each place of business **should be kept at such places of business**.

Question 2

Swad Restaurant has opted for composition scheme in the current FY. Discuss the records which are not to be maintained by a supplier opting for composition levy though required to be maintained by a normal tax-payer as enumerated in rule 56.

Answer

Following records are not required to be maintained by a supplier who has opted for composition scheme:

- (i) **Stock of Goods** : Accounts of stock in respect of goods received and supplied by him, and such accounts shall **contain particulars** of the **opening balance, receipt, supply, goods lost, stole destroyed, written off or disposed of** by way of gift or free sample **and the balance of stock** including raw materials, finished goods, scrap and wastage thereof.
- (ii) **Details of tax**: Account, **containing details of tax payable** (including tax payable under RCM), **tax collected** and paid, **input tax, ITC** claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.

Question:

2A

ABC Manufacturers Ltd. engages Raghav & Sons as an agent to sell goods on its behalf wherein the invoice for supply or procurement on behalf of ABC Manufacturers Ltd. is issued by Raghav & Sons in its own name. For the purpose, ABC Manufacturers Ltd. has supplied the goods to Raghav & Sons located in Haryana. Enumerate the accounts required to be maintained by Raghav & Sons as per rule 56(11).

Answer

Every agent shall maintain accounts depicting the:

- (a) particulars of **authorisation received by him from each principal** to receive or supply goods or services on behalf of such principal separately;
- (b) **particulars** including **description, value and quantity** (wherever applicable) of goods or services **received on behalf of every principal**;
- (c) particulars including **description, value and quantity** (wherever applicable) of goods or services **supplied on behalf of every principal**;
- (d) **details of accounts** furnished to **every principal**; and
- (e) **tax paid on receipts or on supply** of goods or services effected **on behalf of every principal**.

Question 3

Is there any specific set of records to be maintained by the provider of works contract service?

Answer

Yes, Registered person providing works contract service shall maintain the accounts showing-

1. the names and addresses of the persons on whose behalf the works contract is executed;
2. The names and addresses of suppliers from whom he has received goods or services.
3. description, value and quantity of goods or services **received and utilised** for the execution of works contract;
4. the details of payment received in respect of each works contract; and

Question 4

Whether the transporters, who are not registered under the GST, are required to maintain any records under the provisions of CGST Act? Also explain, if any other unregistered persons who are required maintain records under GST.

Answer

The **transporters**, who are **not registered** under GST, shall **obtain a unique enrollment number** on GST common portal **and maintain records of goods transported, delivered** and goods stored **in transit** by them along with GSTIN of the registered consignor and consignee for each of his branches.

Every owner or operator of warehouse/godown/any other place used for storage of goods, **even if unregistered**, is also **required to maintain records** under GST.

Question 5

GoToDress is a chain of stores dealing in readymade garments through five showrooms in Delhi. It has a single GSTIN for all its showrooms in Delhi and has a principal place of business at Karol Bagh, Delhi. One of the consultants has suggested GoToDress to maintain books of accounts of all of its five showrooms at principal place of business at Karol Bagh, Delhi for better administration and control. Give your comment on the above advice according to the provisions of GST law.

Answer

The suggestion of the consultant is **not correct**.

Every registered person is required to keep and maintain, his books of accounts **at his principal place** of business.

Where **more than one place** of business is specified in the certificate of registration, the **accounts relating to each place of business shall be kept at such places of business.**

Question 6

Explain the provisions relating to period of retention of accounts as provided under CGST Act?

Answer

Every registered person required to **keep and maintain books of account** or other records shall **retain them until the expiry of 72 months from the due date of furnishing of annual return** for the year pertaining to such accounts and records.

However, a registered person, who is a **party to an appeal or revision** or any other **proceedings** before any Appellate Authority or Revisional Authority or Tribunal or court, **or is under investigation** for an offence under Chapter XIX, **shall retain the books** of account and other records pertaining to the subject matter of such appeal or investigation **for a period of 1 year after final disposal of such appeal or investigation, or for the period specified above, whichever is later.**

E-Way Bill**Question 7**

When is an e-way bill required to be generated?

Answer

Whenever there is a movement of goods of **consignment value exceeding ₹ 50,000:**

- (i) in relation to a **supply**, or
- (ii) for reasons **other than supply**; or
- (iii) due to **inward supply from an unregistered person**,

e-way bill needs to be **generated prior to the commencement** of transport of goods.

Further, in the following situations, **e-way bill needs** to be issued **even if** the value of the **consignment is less than ₹ 50,000:**

- (i) Where **goods are sent by a principal** located in one State/UT **to a job worker located in any other State/UT**, the e-way bill shall be generated either by the principal or the job worker, if registered, **irrespective of the value of the consignment.**
- (ii) Where specified **handicraft goods** are **transported from one State/UT to another State/UT by a person** who has been **exempted from** the requirement of **obtaining registration** under section 24 of the CGST Act, the e-way bill shall be generated by the said person **irrespective of the value of the consignment.**

Question 8

Sindhi Toys Manufacturers, registered in Punjab, sold electronic toys to a retail seller in Gujarat, at a value of ₹ 48,000 (excluding GST leviable @ 18%). Now, it wants to send the consignment of such toys to the retail seller in Gujarat.

You are required to advise Sindhi Toys Manufacturers on the following issues:

- (a) Whether e-way bill is mandatorily required to be generated in respect of such movement of goods?

- (b) If yes, who is required to generate the e-way bill?
- (c) What will be the consequences for non-issuance of e-way bill?

Answer

(a) Rule 138(1) of the CGST Rules provides that **e-way Bill is mandatorily required** to be generated **if the goods are moved**, inter alia, in relation to supply and the **consignment value exceeds ₹ 50,000**. Consignment value of goods shall be the value, determined in accordance with the provisions of section 15, declared in an invoice, a bill of supply or a delivery challan, and also **includes CGST, SGST/UTGST, IGST and cess charged**, if any, in the document and **shall exclude the value of exempt supply of goods where the Invoice is issued in respect of both exempt and taxable supply of goods**.

Accordingly, in the given case, the **consignment value** will be as follows:

$$\text{₹ } 48,000 \times 118\% = \text{₹ } 56,640$$

Since the movement of goods is in relation to supply of goods and the **consignment value exceeds ₹50,000 e-way bill is mandatorily** required to be issued in the given case.

(b) An **e-way bill contains two parts** namely, **Part A** to be **furnished by** the registered **person who is causing movement of goods** of consignment value exceeding ₹ 50,000 and **part B** (transport details) is to be **furnished by** the **person who is transporting** the goods.

Where the **goods are transported by the registered person as a consignor or the recipient of supply as the consignee**, whether in his **own conveyance or a hired one** or a public conveyance, by road, by railways or by air or vessel the **said person shall generate the e-way bill** on the common portal after furnishing information in Part B (Rule 138(2/2A)).

Where the **goods are handed over to a transporter** for transportation by road, the registered person shall furnish the information relating to the transporter on the common portal and the **e-way bill shall be generated by the transporter** on the said portal **on the basis of the information** furnished **by the registered person in Part A** [Rule 138(3)].

Where the **consignor or the consignee has not generated the e-way bill** and the aggregate of the **consignment value** of goods carried in the conveyance is **more than ₹ 50,000**, the **transporter**, except in case of transportation of goods by railways, air and vessel, shall, in respect of inter-State supply, **generate the e-way bill** on the basis of invoice or bill of supply or delivery challan, as the case may be, and may **also generate a consolidated e-way bill on the common portal prior to the movement of goods** [Rule 138(7)].

(c) **If e-way bills**, wherever required, are **not issued**, same will be considered as contravention of rules. As per section 122(1)(xiv) of CGST Act, a taxable person who transports any taxable goods without the cover of specified documents (e-way bill is one of the specified documents) **shall be liable to a penalty of ₹ 10,000 or tax sought to be evaded whichever is greater**. Moreover, as per **section 129(1)** of CGST Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the Rules made thereunder, all such goods and conveyance used as a means of transport and documents relating to such **goods and conveyance shall be liable to detention or seizure**.

Question 9

Power Electricals Ltd., a registered supplier of air-conditioners, is required to send from Mumbai (Maharashtra), a consignment of parts of air-conditioner to be replaced under warranty at various client locations in Gujarat. The value of consignment declared in delivery

challan accompanying the goods is ₹ 70,000. Power Electricals Ltd. claims that since movement of goods to Gujarat is caused due to reasons other than supply, e-way bill is not mandatorily required to be generated in this case.

You are required to examine the technical veracity of the claim made by Power Electricals Ltd.

Answer

The goods to be moved to another State for replacement under warranty is not a 'supply'. However, rule 138(1), stipulates that **every registered person who causes movement of goods of consignment value exceeding ₹ 50,000:**

(i) in relation to a **supply**; or

(ii) for reasons **other than supply**; or

(iii) **due to inward supply from an unregistered person,**

shall, generate an e-way bill before commencement of such movement.

CBIC vide FAQs on E-way Bill has also clarified that **even if the movement of goods is caused due to reasons others than supply** [including replacement of goods under warranty], **e-way bill is required to be issued.**

Thus, in the given case, since the **consignment value exceeds ₹ 50,000**, e-way bill is required to be **mandatorily generated**. Therefore, the **claim of Power Electricals Ltd., is not correct.**

Question 10

Beauty Cosmetics Ltd. has multiple wholesale outlets of cosmetic products in Mumbai, Maharashtra. It receives an order for cosmetics worth ₹ 1,20,000 (inclusive of GST leviable @ 18%) from Prasannaa, owner of a retail cosmetic store in Delhi. While checking the stock, it is found that order worth ₹ 55,000 can be fulfilled from the company's Dadar (Mumbai) store and remaining goods worth ₹ 65,000 can be sent from its Malad (Mumbai) store. Both the stores are instructed to issue separate invoices for the goods sent to Prasannaa. The goods are transported to Prasannaa in Delhi, in a single conveyance owned by Radhey Transporte[₹]

You are required to advise Beauty Cosmetics Ltd. with regard to issuance of e-way bill(s).

Answer

Beauty Cosmetics Ltd. would be **required to prepare two separate e-way bills since each invoice value exceeds ₹ 50,000** and each invoice is considered as one consignment for the purpose of generating e-way bills.

The FAQs on E-way Bill issued by CBIC clarify, **for each invoice, one e-way bill** has to be **generated**, irrespective of the fact whether same or different consignors or consignees are involved. **Multiple invoices cannot be clubbed to generate one e-way bill.** However, after generating all these e-way bills, one consolidated e-way bill can be prepared for transportation purpose, if goods are going in one vehicle.

E-credit Ledger

Question 1

Can one use tax credit for payment of interest, penalty, and payment under RCM?

Answer

No, as per section 49(4) the amount available in the E-credit ledger **may be used for making any payment towards 'output tax'**.

As per section 2(82), output tax means, the CGST/SGST chargeable under this Act on taxable supply of goods and/or services made by him or by his agent and excludes tax payable by him on RCM basis, Therefore, **ITC cannot be used for payment of interest, penalty, and payment under RCM.**

Question 2

Ms PPC & Co. have availed ITC of ₹ 42,500/- during Sep under IGST head, instead of availing ₹ 21,250 under CGST & SGST heads. Mr. X, accountant of the above entity would like to use Form GST PMT-09 for making a transfer from IGST head to respective CGST & SGST heads. Examine the scenario and offer your comments

Answer

A registered person may on the common portal, **transfer any amount of tax, interest, penalty, fee or any other amount available in the E-cash ledger** under the Act to the E-cash ledger for IGST, CGST, SGST or UT tax or cess in **FORM GST PMT-09**.

There is no mechanism to transfer the balance from one head of credit (ITC) ledger to another head.

Accordingly, contention of the Accountant Mr. X of M/s PPC & Co., is not valid for transfer of ₹ 42,500 from head IGST to respective CGST & SGST in E-credit Ledger.

Question 3

M/s Neptune & Co. is registered under GST in the state of Maharashtra. They have made zero-rated supply of goods worth ₹ 84,50,000 on payment of IGST for ₹ 10,14,000 during the month of May. The refund application under section 54 for the above supply has been rejected by the proper officer.

Mr. A, taxation manager of the firm, has sought for recrediting the E-credit Ledger as per the provisions of rule 86 for the above rejection. Examine the scenario and offer your comments

Answer

Rule 86 of CGST Rules provides that where a registered person has **claimed refund of any unutilized amount** (i.e. ITC) from the E-credit ledger in accordance with the provisions of section 54, the amount to the extent of the **claim shall be debited in the said ledger**. Refund of ITC can be taken in case of export of goods without payment of tax under LUT.

If the **refund so filed is rejected**, either fully or partly, the amount so debited to the extent of rejection, shall be **re-credited to the E-credit ledger** by the proper officer.

In the present case, M/s Neptune & Co, have made zero rated supply with payment of IGST for ₹ 10,14,000 and the refund for the same has been rejected by the proper officer. Therefore,

contention of Mr. A is not sustainable as debit entry in the E-credit Ledger has not been made towards "refund of any unutilised amount".

Supply made during May by M/s Neptune & Co. is on payment of IGST and therefore provisions laid out in sub rule (4) of Rule 86 shall not be applicable.

Question 4

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

Answer

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

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

Question 5

A makes intra-State supply of goods valued at ₹ 50,000(excluding taxes) to B within State of Karnataka. There is no ITC balance available with A. B makes inter-State supply to X Ltd. (located in Telangana) after adding 10% as its margin on the value of goods excluding taxes. Thereafter, X Ltd. sells it to Y in Telangana (Intra-State sale) after adding 10% as his margin on the value of goods excluding taxes.

Assume that the rate of GST chargeable is 18% (CGST and SGST at 9% each and IGST chargeable at 18%) and every person involved in the aforesaid supplies are registered tax payer. Calculate tax payable at each stage of the transactions detailed above. Wherever ITC is available and can be utilized, calculate the net tax payable in cash. At each stage of the transaction, indicate which Govt. will receive the tax paid and to what extent.

Answer

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

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

A does not have credit of CGST, SGST or IGST. Thus, the entire CGST (₹ 4,500) & SGST (₹ 4,500) charged will be paid in cash by A, which shall be allocated to Central Govt. and Karnataka Govt. in specified manner.

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

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

Computation of IGST payable by B to Central Govt. in cash

	₹
IGST payable	9,900

Payment of Tax

Less: Credit of CGST	4,500
Less: Credit of SGST	<u>4,500</u>
IGST payable to Central Govt. in cash	900

Credit of CGST and SGST can be used to pay IGST provided the SGST credit shall be utilised towards payment of IGST only where the balance of CGST credit is not available for payment of IGST.

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

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

Computation of CGST and SGST payable by X Ltd in cash

	₹
CGST payable	5,445
Less: Credit of IGST	<u>5,445</u>
CGST payable to Central Govt. in cash	<u>Nil</u>
SGST payable	5,445
Less: Available Credit of IGST [₹ 9,900 – ₹ 5,445]	<u>4,455</u>
SGST payable to Telangana Govt. in cash	<u>990</u>

Credit of IGST shall first be utilised towards payment of IGST and the amount remaining, if any, may be utilised towards the payment of CGST and SGST/UTGST, as the case may be, in any order and in any proportion. Here, there is no payment to be made with respect to IGST so its credit balance will be directly utilised for making payment of CGST or SGST, in any order. Central Govt. will transfer IGST of ₹ 4,455 utilised in the payment of SGST to Telangana Govt..

Question 6

Examine taxes to be paid for the month of July on basis of below information furnished by M/s Zinc & Co.

Particulars	IGST (₹)	CGST (₹)	SGST (₹)
Output Tax Payable	14,75,000	28,34,000	28,34,000
Tax payable under RCM	36,000	1,44,000	1,44,000
Balance in E-credit Ledger	26,52,000	18,32,000	18,32,000

Output tax reported under IGST column pertains to the month of Feb, which was not paid for the said period. Also, note that ITC available in E-credit Ledger pertains to input tax on purchases made during the month of July and no opening balance exists from previous tax period.

Answer

Also, section 49(8) of CGST Act, stipulates that every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order, namely:

Payment of Tax

- (a) self-assessed tax, and other dues related to returns of previous tax periods;
- (b) self-assessed tax, and other dues related to the return of the current tax period;
- (c) any other amount payable under this Act or the rules made thereunder including the demand determined under section 73 or section 74;

As per the above provisions, self-assessed tax of previous tax period i.e. Feb shall be paid first and later self-assessed tax of current tax period i.e. July shall be paid.

Payment of taxes under forward charge

Particulars	IGST	CGST	SGST
Balance in E-credit ledger for utilization	26,52,000	18,32,000	18,32,000
Output tax payable for July	14,75,000	28,34,000	28,34,000
Less Utilization of ITC:			
a. IGST [Note 1]	14,75,000	5,88,500	5,88,500
b. CGST	0	18,32,000	0
c. SGST	<u>0</u>	<u>0</u>	<u>18,32,000</u>
Amount payable through E-cash ledger	Nil	4,13,500	4,13,500

Total amount payable through E-cash ledger

Particulars	IGST	CGST	SGST
Amount payable through E-cash ledger under forward charge	Nil	4,13,500	4,13,500
Amount payable through E-cash ledger under RCM (Note-2)	36,000	1,44,000	1,44,000
Total amount payable through E-cash	36,000	5,57,500	557,500

Notes:

- After utilization of IGST credit towards output IGST liability, balance has been utilized equally amongst CGST & SGST.
- ITC cannot be utilized for discharging tax liability under RCM basis, thus payable vide E-cash ledger.
- Since, M/s Zinc & Co., have defaulted in payment of taxes for the month of Feb and the same has been paid during July, interest is payable as per the provisions of section 50 of the CGST Act

Interest u/s 50

Question 7

Agni Limited filed GST return (under section 39) for the month of Jan. 20XX on 11th April 20XX. Original due date for the said return was 20th Feb 20XX. Details of tax assessed as payable for the said month are given below:

Payment of Tax

Particulars	CGST (₹)	SGST (₹)
Output tax payable	1,80,000	1,80,000
Tax payable under RCM	40,000	40,000
ITC available for utilization	70,000	70,000

(i) Compute the net tax payable in cash while filing the said return as well as the interest payable for the delayed remittance of tax.

(ii) Assuming that the company has an ITC balance of ₹ 2,50,000 each under CGST and SGST for the said month, compute the interest payable, if entire tax due for the said month was paid through the E-credit Ledger to the extent possible as per the provisions of Act.

Answer

(i) Interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date shall be levied only on tax paid through E-cash ledger.

In the given case, since return is filed belatedly, net tax payable in cash and interest thereon is computed as follows

Particulars	CGST (₹)	SGST (₹)
Output tax payable	1,80,000	1,80,000
Less: Credit of CGST and SGST be utilized for payment of CGST and SGST respectively	70,000	70,000
Net tax (A)	1,10,000	1,10,000
Tax under RCM is payable in cash (B)	40,000	40,000
Total tax payable in cash [(A) + (B)]	1,50,000	1,50,000
Interest payable @ 18% per annum (rounded off)	3,699 [1,50,000 x 18% x 50/365]	3,699 [1,50,000 x 18% x 50/365]

(ii) In the above case, if ITC available is ₹ 2,50,000 of CGST and SGST each, output tax payable in cash shall be nil (CGST as well as SGST). However, remaining ITC available cannot be utilised for payment of tax payable under RCM as it is not an output tax. Therefore, interest on delayed payment of tax will be as follows:

Particulars	CGST (₹)	SGST (₹)
Interest payable @ 18% per annum (rounded off)	986 [40,000 x 18% x 50/365]	986 [40,000 x 18% x 50/365]

Question 8

Miss Nitya has following balances in her E-cash Ledger as on 28th Feb as per GST portal.

Major Heads	Minor Heads	Amount (₹)
CGST	Tax	40,000
	Interest	1,000
	Penalty	800
SGST	Tax	80,000
	Interest	400
	Penalty	1,200
	Fee	2,000
IGST	Tax	45,000
	Interest	2000
	Penalty	Nil

Her tax liability for the month of Feb for CGST and SGST was ₹ 75,000 each. She failed to pay the tax and contacted you as legal advisor on 12th April to advise her as to how much amount of tax or interest she is required to pay, if any, by utilizing the available balance to the maximum extent possible as per GST Laws. She wants to pay the tax on 20th April.

Other information:

- (i) Date of collection of GST was 18th Feb.
- (ii) No other transaction after this up to 20th April.
- (iii) Ignore penalty and late fee for this transaction.
- (iv) No other balance is available.

You are required to advise her with reference to legal provisions with brief notes on the legal provision applicable.

Answer

Due date for payment of tax collected on 18th Feb is 20th March. **Interest @ 18% p.a. is payable for the period for which the tax remains unpaid** in terms of section 50 of CGST Act. In the given case, since Miss Nitya wants to pay the tax on 20th April, interest payable on the amount of CGST and SGST each is as follows:

$$\text{₹ } 75,000 \times 18\% \times 31/365 = \text{₹ } 1,147 \text{ (rounded off)}$$

Any amount of tax, interest, penalty, fee or any other amount available in the E-cash ledger under the CGST Act can be transferred to the E-cash ledger for IGST, CGST, SGST, UT tax or cess, through form PMT-09. Consequently, cross-utilization among Major and Minor heads is also possible.

Thus, Miss Nitya is liable to pay the following amount of tax and interest as under:

	CGST		SGST	
	Tax	Interest	Tax	Interest
Tax Liability	75,000	1,147	75,000	1,147
Balances in E-cash ledger in same major/minor head	<u>40,000</u>	<u>1,000</u>	<u>80,000</u>	<u>400</u>
Balance transferred from major/minor head	35,000 (Note 1)	147 (Note 2)	Nil	747 (Note 3)
Amount payable in cash	Nil	Nil	Nil	Nil

Notes

1. ₹ 35,000 shortfall amount has been transferred from cash ledger balance available in Major Head IGST.
2. ₹ 147 shortfall amount has been transferred from cash ledger balance in minor head penalty of major head CGST.
3. ₹ 747 shortfall amount has been transferred from cash ledger balance in minor head tax of major head SGST.

Since there is no restriction in intra-head or inter-head transfer of available balance in cash ledger as per relevant provisions, it is upon taxpayer to decide from which account the shortfall has to be made good.

TDS

Question 9

Manihar Enterprises, registered in Delhi, is engaged in supply of various goods and services exclusively to Govt. departments, agencies etc. and persons notified under section 51. It has provides the information relating to the supplies made, their contract values and the payment due against each of them in the month of Oct. as under:

S.N.	Particulars	Total contract value (inclusive of GST) (₹)	Payment due in Oct. (₹)
(i)	Supply of stationery to Fisheries Department, Kolkata	2,60,000	15,000
(ii)	Supply of car rental services to Municipal Corporation of Delhi	2,95,000	20,000
(iii)	Supply of a heavy machinery to Public Sector Undertaking located in Uttarakhand	5,90,000	25,000

Payment of Tax

(iv)	Supply of taxable goods to Delhi office of National Housing Bank, a society established by Govt. of India under the Societies Registration Act, 1860	6,49,000	50,000
(v)	Interior decoration of Andhra Bhawan located in Delhi. Service contract is entered into with the Govt. of Andhra Pradesh (registered only in Andhra Pradesh)	12,39,000	12,39,000
(vi)	Supply of printed books and printed post cards to a West Delhi Post Office [Out of total contract value of ₹ 9,72,000, contract value for supply of books (exempt from GST) is ₹ 7,00,000 and for supply of printed post cards (taxable under GST) is ₹ 2,72,000.]	9,72,000	50,000 for books & 20,000 for printed post cards
(vii)	Maintenance of street lights in Municipal area of East Delhi* [The maintenance contract entered into with the Municipal Corporation of Delhi also involves replacement of defunct lights and other spares. However, the value of supply of goods is not more than 25% of the value of composite supply.] *an activity in relation to any function entrusted to Municipality under Article 243W of the Constitution.	3,50,000	3,50,000

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

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

Answer

Following persons are required to deduct (1% CGST + 1% SGST/UTGST)] or IGST @ 2% from the payment made/credited to the supplier (deductee) of taxable goods or services or both, where the total value of such supply (excluding GST) under a contract, exceeds ₹ 2,50,000:

(a) a **department or establishment of the Central Govt.** or State Govt.; or

(b) **local authority;** or

(c) **Govtmeantal agencies;** or

(d) an **authority** or a board or any other body,-

(i) **set up by an Act** of Parliament or a State Legislature; or

(ii) **established by any Govt.,**

with 51% or more participation by way of equity or control, to carry out any function; or

(e) **Society** established by the Central Govt. or the State Govt. or a Local Authority under the Societies Registration Act, 1860, or

(f) **Public sector undertakings.**

Further, for the purpose of tax, the value of supply shall be taken as the amount excluding CGST, SGST/UTGST, IGST and GST Compensation Cess indicated in the invoice.

Since in the given case, Manihaar Enterprises is supplying goods and services exclusively to Govt. Departments, agencies etc. and persons notified under section 51, applicability of TDS

provisions on its various receivables is examined in accordance with the above-mentioned provisions as under:

S.N	PARTICULARS	Total contract value	Payment due	Tax to be deducted		
				CGST(₹)	SGST(₹)	IGST(₹)
i	Supply of stationery to Fisheries Department, Kolkata (Note-1)	2,60,000	15,000	-	-	-
ii	Supply of car rental services to Municipal Corporation of Delhi (Note 2)	2,95,000	20,000	-	-	-
iii	Supply of a heavy machinery to Public Sector Undertaking located in Uttarakhand (Note-3)	5,90,000	25,000	-	-	500
iv	Supply of taxable goods to Delhi office of National Housing Bank, a society established by Govt. of India under the Societies Registration Act, 1860 (Note-4)	6,49,000	50,000	500	500	-
V	Interior decoration of Andhra Bhawan located in Delhi (Note-5)	12,39,000	12,39,000	-	-	-
vi	Supply of printed books and printed post cards to a West Delhi Post office (Note 6)	9,72,000	-	-	-	-
vii	Maintenance of street lights in Municipal area of East Delhi (Note-7)	3,50,000	3,50,000	-	-	-

Notes:

1. Supply of stationery to Fisheries Department, Kolkata is subject to IGST @ 18% Therefore, total value of taxable supply (excluding IGST) under contract is as follows

$$= ₹ 2,60,000 \times 100/118 = ₹ 2,20,339 \text{ (rounded off)}$$

Since the total value of supply under the contract does not exceed ₹ 2,50,000, tax is not required to be deducted.

2. Supply of car rental services to Municipal Corporation of Delhi is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

$$= ₹ 2.95,000 \times 100/118 = ₹ 2,50,000$$

Since the total value of supply under the contract does not exceed ₹ 2,50,000, tax is not required to be deducted.

3. Supply of heavy machinery to PSU in Uttarakhand is subject to IGST @ 18%. Therefore, total value of taxable supply [excluding IGST] under contract is as follows:

$$= ₹ 5,90,000 \times 100/118 = ₹ 5,00,000$$

Since the total value of supply under the contract exceeds ₹ 2,50,000, PSU in Uttarakhand is required to deduct tax @ 2% of ₹ 25,000, i.e. ₹ 500.

4. Supply of taxable goods to National Housing Bank, Delhi is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply (excluding CGST and SGST) under the contract is as follows:

$$= ₹ 6,49,000 \times 100/118 = ₹ 5,50,000$$

Since the total value of supply under the contract exceeds ₹ 2,50,000, National Housing Bank, Delhi is required to deduct tax @ 2% (1% CGST + 1% SGST) of ₹ 50,000, i.e. ₹ 1,000.

5. Proviso to section 51(1) of the CGST Act stipulates that **no tax shall be deducted** if the location of the supplier and the **POS** is in a State or UT which **is different from the State** or as the case may be, UT of registration **of the recipient**.

POS of services, directly in relation to an immovable property, including services provided by interior decorators, shall be the location at which the immovable property is located. Accordingly, the POS **of the interior decoration of Andhra Bhawan shall be Delhi**.

Since the location of the supplier (Manihar Enterprises) and the POS is Delhi and the State of registration of the recipient i.e. Govt. of Andhra Pradesh is Andhra Pradesh, no tax is liable to be deducted in the given case.

6. If the contract is made for both taxable supply and exempted supply, tax shall be deducted **if the total value of taxable supply in the contract exceeds ₹ 2,50,000**. Supply of printed post cards to a West Delhi Post Office is subject to CGST and SGST @9% each. Therefore, total value of taxable supply (excluding CGST and SGST) under the contract is as follows;

$$= ₹ 2,72,000 \times 100/118 = ₹ 2,30,509 \text{ (rounded off)}$$

Since the total value of taxable supply under the contract does not exceed ₹ 2,50,000, tax is not required to be deducted.

7. Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply provided to, inter alia, local authority by way of any activity in relation to any function entrusted to a Municipality under article 243W of the Constitution is exempt from GST. Thus, maintenance of street lights (an activity in relation to a function entrusted to a Municipality) in Municipal area of East Delhi involving replacement of defunct lights and other spares where the value of supply of goods is not more than 25% of the value of composite supply is a **service exempt from GST**. Since tax is liable to be deducted for supply of taxable goods or services or both, **no tax** is required to be deducted in the given case **as the supply is exempt**.

The answer **will remain unchanged even if Manihar Enterprises is registered under composition scheme**.

Question 10

From the following information of independent cases, your expert advice, with appropriate reasoning, is sought on the applicability of TDS provisions of the CGST Act. You shall also quantify the amount of TDS, as the case be, if the same is applicable.

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

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

Answer

(1) A State Govt. is required to deduct tax from the payment made to the supplier of taxable goods and/or services, where the total value of such supply (excluding GST) under a contract exceeds ₹ 2,50,000. TDS to be deducted in the given intra-State supply (since POS and location of supplier is in Tamil Nadu) is as follows: $(4,30,000 - 1,00,000) \times 1\% = 3,300$ (CGST) 3,300 (SGST)

(2) Since, in the given case, the location of supplier and POS are in the same State, i.e. Kerala and location of recipient is in Andhra Pradesh, Andhra Pradesh Govt. is not required to deduct TDS although the total value of supply under the contract is more than ₹ 2,50,000.

Note: It has been appropriately assumed that given amounts are exclusive of GST as rate of tax is not given.

Question 11

(i) A Central Govt. Department located at Uttar Pradesh is registered with the Commercial Tax Department UP State for deducting GST. It enters into a contract with a Public Sector Undertaking (PSU), registered under GST in the State of Delhi, for supplying goods valued ₹ 3,50,000. The PSU argues that no tax is deductible on this supply by the Central Govt. Department as it is located outside the State of Uttar Pradesh and therefore not liable to tax under CGST and SGST as it is a local levy and IGST tax deduction is not applicable if it is located in another State, other than the State in which the Department is registered. You are required to comment on this

(ii) Would there be any difference, if instead of the PSU it was an entity in the private sector? Applicable tax rate for deduction is 1% CGST, 1% SGST and 2% IGST.

(iii) If the private sector entity undertakes works contract, for the above Department in New Delhi. What would be the position of tax deduction when the contract value is ₹ 5,00,000?

(iv) The disbursing officer has not paid the tax deducted in the month of Feb 20XX, amounting to ₹ 2,00,000 under CGST and ₹ 2,00,000 under SGST to the Govt.'s account on the relevant due date, but has paid it on 14th May, 20XX. Further, return for that month is also filed on that date and the certificate is also issued simultaneously. What are the consequences, on such failures, to the disbursing officer under the GST law?

Answer

(i) Certain specified persons are required to deduct tax from the payment made to the supplier of taxable goods and/or services, where the total **value of such supply** [excluding GST] under a contract, **exceeds ₹ 2,50,000**.

However, the tax is not liable to be deducted at source when supply of goods and/or services has taken place between one specified person to another specified person. Since both Central Govt. Department and PSU are the specified persons, tax is not deductible in case of supply of goods between them.

(ii) **Central Govt. Department is mandatorily required to deduct IGST @ 2%** since a private entity is not the specified person.

(iii) Since, in the given case, the **location of supplier and POS is in the same State**, i.e., Delhi and **location of recipient is in UP**, **Central Govt. Department is not required to deduct TDS** although the total value of supply under the contract is more than ₹ 2,50,000.

(iv) Failure to deposit TDS with the Govt. and failure to furnish TDS return within the stipulated time period will result in following consequences:

(A) **Interest @ 18% p.a.** on the amount of tax deducted shall be payable.

(B) **Applicable penalty** will also be levied.

Question 12

BSA Corporation is a Public Sector Undertaking registered in Karnataka. For entertainment events in Bengaluru and at Mumbai, BSA has given contract to Mr. A, a renowned artist, registered person in Maharashtra, to perform on contemporary Bollywood songs. BSA Corporation agreed to pay ₹ 12,39,000 and ₹ 18,29,000, inclusive of GST, for Mumbai and Bengaluru events respectively. BSA Corporation seeks your advice regarding amount of TDS to be deducted assuming GST rate @ 18% (CGST @ 9%, SGST @ 9% IGST @ 18%)

Answer

A **Public Sector Undertaking is required to deduct tax @2%** (on inter-State supplies) from payment made to the supplier of taxable services where the total value of such supply, excluding tax indicated the invoice, **under a contract, exceeds ₹ 2,50,000.**

Value of supplies excluding tax are

₹ **10,50,000** (₹ 12,39,000 x 100/118) and

₹ **15,50,000** (₹ 18,29,000 x 100/118)

Further, in the given case, since the location of supplier is Maharashtra and POS of service provided by Mr. A to BSA Corporation is the location of recipient, viz. Karnataka, said services provided at both Mumbai and Bengaluru events are inter-State supplies.

Accordingly, in the given case, BSA Corporation is required to deduct tax as follows:

(i) ₹ 10,50,000 2 % = ₹ **21,000 (IGST)**

(ii) ₹ 15,50,000 2 % = ₹ **31,000 (IGST)**

Question 1

Whether the rate of tax of 0.5% notified under section 52 is CGST or SGST or a combination of both CGST and SGST?

Answer

The **rate of TCS** as notified **under CGST Act** is payable under CGST and the equal rate of TCS is payable under the **SGST Act** also, in effect **aggregating to 0.5%**.

Question 2

Is every e-commerce operator required to collect tax on behalf of actual supplier?

Answer

Yes, every e-commerce operator is required to collect tax **where consideration** with respect to the supply is being **collected by the e-commerce operator**.

However, **no TCS** is required to be collected in the following cases:

- (i) on **supply of services notified under section 9(5)** of the CGST Act.
- (ii) on **exempt supplies**
- (iii) on supplies on which the **recipient is required to pay tax on RCM basis**.
- (iv) Supply made by Unregistered person

Question 3

Suvidha Technologies is in the business of development of e-commerce platforms for various customers. Chennai Creations obtained the ownership rights of an e-commerce platform developed by Suvidha Technologies by paying a specified amount against ownership rights of said portal. Chennai Creations also entered into an annual maintenance contract with Suvidha Technologies for technical maintenance of the said portal. Chennai Creations supplies its own goods and services through said portal to ultimate customers. Examine who is the e-commerce operator in the given case as per the provisions of GST law.

Answer

As per section 2(44), **electronic commerce means** the **supply** of goods or services or both, including digital products **over digital or electronic network**. Further, as per section 2(45), **electronic commerce operator means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce**.

In the given transaction, the e-commerce platform is developed by Suvidha Technologies. However, the ownership of the electronic platform is sold by Suvidha Technologies to Chennai Creations. Thus, **Chennai Creations is the owner of the e-commerce platform and is also operating/managing the said platform** for supply of its own goods and services. In view of definition of e-commerce operator, it is Chennai Creations which owns, operates or manages digital or electronic facility or platform for

electronic commerce. Suvidha Technologies is merely providing the annual management services for the electronic platform, but the ownership rights lie with Chennai Creations. Thus, **Suvidha Technologies cannot be termed as electronic commerce operator** in the given case and Chennai Creations is the e-commerce operator.

Question 4

State whether the provisions pertaining to tax collected at source under section 52 of CGST Act, will be applicable in below mentioned scenarios.

- I. Fitan sells watch on its own through its own website?
- II. ABC limited who is dealer of Fitan brand sells watches through Slipkart, an electronic commerce operator?
- III. A is an e-commerce operator supplying goods through its electronic portal in capacity of an agent. The goods belong to B and the consideration for such supplies is received by A and remitted to B as per the contractual arrangement. A requires your help in arriving at the rate at which tax shall be collected from the amount which is received by it against the supplies?
- IV. X booked a Hotel in Udaipur, Rajasthan through an e-commerce portal for an amount of ₹ 25,000. As per the terms and conditions, the amount was payable at the hotel at the time of check in. Whether TCS provisions shall apply in the present case?
- V. Leela Restaurant supplying food items (Restaurant service) through E-com platform Zomato.
- VI. Top Fashions, a designer cloth dealer and registered in the State of West Bengal, effected s through "QUICK DEAL, an electronic commerce operator. Net value of taxable intra-State supply effected for the month of Oct. 20XX was 1,50,000.

Answer

As per Section 52, every electronic commerce operator not being an agent, shall collect an amount calculated at such rate not exceeding one per cent, as may be notified by the Govt. , on the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator. Hence,

- I. if the **person sells on his own**, provisions pertaining to tax collected at source (**TCS**) **won't be applicable**.
- II. If ABC limited who is dealer of Fitan brand **sells watches through Slipkart**, then the provision of **TCS will be applicable to Slipkart**.
- III. As per Section 52(1) of the CGST Act, the TCS provisions are **not applicable in cases where the ECO is an agent of the supplier**. In the present case, A being an ECO is supplying goods through the electronic portal **in capacity of an agent** and hence the **liability to collect tax as per Section 52 shall not arise** in this case.
- IV. No, as per the provisions under Section 52 of the CGST Act the TCS provisions shall trigger only when the ECO is receiving the consideration for supply from the recipient of supply. In the present case the supplier i.e, the hotel is directly receiving the consideration from

the recipient of the services i.e. X. Hence, the present transactions shall not trigger the TCS provisions under Section 52

- V. **No TCS** is required to be collected by E-com operator in case of **supply of services notified under section 9(5)** of the CGST Act. As Restaurant service falls under service notified under section 9(5), TCS is not required to be collected by Zomato.
- VI. An electronic commerce operator (ECO) is required to collect TCS- an amount @0.5% (CGST 0.25% and SGST @ 0.25%) of the net value of taxable supplies made through it by other supplier
= 1,50,000 x 0.25% = 375 (CGST) & 375 (SGST)

Question 5

Sumitra Nandan books a Hotel – Hillpoint Residency - via Zitcom Technologies Ltd. – an ECO - who in turn is integrated with another ECO-Techsuper Ltd. who has agreement with Hillpoint Residency. You are required to determine who is required to collect TCS in the given case.

Answer

The given case is a case of multiple e-commerce model wherein a customer orders supplies via ECO-1 who in turn is integrated with ECO-2 who has agreement with the supplier. In this case, **ECO-1 will not have any GST information of the supplier. TCS is to be collected** by that **e-Commerce** operator who is **making payment** to the supplier for the particular supply happening through it, **which is** in this case will be **ECO-2**.

Thus, in the given case, TCS is to be **collected by ECO-Techsuper Ltd.** who is making payment to Hillpoint Residency for the supply happening through it.

Question 6

Starkart Limited owns and operates a web portal in the name of “Starkart” and is registered with the jurisdictional GST authorities in Delhi as an electronic commerce operator and is liable to collect tax at source under section 52. Starkart provides listing service to various sellers for selling the goods to ultimate customer. Besides this, Starkart also sells its own products through the same web portal.

For the listing services provided to sellers, Starkart charges a listing fee at the rate of 10% of turnover of goods sold by the seller in a particular month. Such listing fee is recovered from the seller irrespective of any return of goods sold through Starkart. The customers can choose from wide range of goods listed on the web portal and place an online order for goods.

The payment is made by the customers through the payment gateway in online mode only. At the time of monthly settlement, Starkart makes the payment to the sellers after adjusting the tax collection at source at the applicable rates.

The invoice for goods sold on Starkart is issued by the seller in the name of customers and tax is charged on the basis of location of seller and customer. The goods are shipped directly by the seller to the customer and there is no responsibility of shipping the goods on Starkart for such third-party seller

In case of return of goods by the customer, the shipping is arranged by Starkart. It charges a fee equivalent to 20% of the value of goods returned as cancellation charges and refunds the balance amount to the customer.

Further, 10% of the value of goods returned is collected from the seller by Starkart as handling charges for return of goods.

In the month of Jan., Pulkit, a resident of Rajasthan, purchased following goods from Starkart:

- a. Laptop having a value of ₹ 50,000 and a printer having a value of ₹ 10,000. Both the products are sold by Infocom Limited, a seller listed on Starkart and registered under GST in the State of Uttar Pradesh.
- b. Mobile phone having a value of ₹ 30,000 sold by Starkart in its own capacity.
- c. CCTV camera system having a value of ₹ 1,00,000 sold by Secure World, listed on Starkart and registered under GST in the State of Gujarat.

All the amounts given above are exclusive of GST, wherever applicable.

The opening balance of ITC for the relevant tax period for Starkart, Infocom Limited and Secure World is nil. Further, there is no other inward or outward supply transaction for Starkart, Infocom Limited and Secure World in Jan. apart from the aforementioned transactions. Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.

GST is applicable on all inward and outward supplies at the following rates unless otherwise specified:

CGST - 9%, SGST - 9%, IGST - 18%

Compute the net tax liability (including amount collected as TCS) of Starkart Limited and net GST payable in cash (after set-off of credits, if any) of Infocom Limited and Secure World, for the month of Jan..

Answer

Computation of net tax liability (including amount collected as TCS) of Starkart Limited for Jan.:

Particulars	₹
TCS to be collected from Infocom Limited on supply of Laptop and a printer to Pulkit [Starkart is an ECO since it owns and operates a web portal through which Infocom Limited supplies goods. Further, IGST is applicable on said inter-State transaction since supplier - Infocom Limited is located in the State of Uttar Pradesh and POS is Rajasthan [i.e. where movement of goods terminates in terms of section 10(1)(a) of the IGST Act]. Thus, Starkart will collect TCS @ 0.5% of [₹50,000 + ₹10,000]	300
GST to be paid by Starkart on supply of mobile phone made on its own account @ 18% (IGST) of ₹ 30,000. IGST is applicable on said inter-State transaction since supplier - Starkart is located in Delhi and POS is Rajasthan [i.e. where movement of goods terminates in terms of section 10(1)(a) of the IGST Act]. Since supply has been made by Starkart on its own account, no TCS needs to be collected.	5,400

TCS to be collected from Secure World on supply of CCTV camera system to Pulkit [ECO - Starkart is liable to collect TCS on this transaction. Further, IGST is applicable on said inter-State transaction since supplier - Secure World is located in the State of Gujarat and POS is Rajasthan [i.e. where movement of goods terminates in terms of section 10(1)(a) of the IGST Act]. Thus, Starkart will collect TCS @ 0.5% of ₹1,00,000]	500
Listing services provided by Starkart to Infocom Limited and Secure Limited @ 10% of turnover for the month of Jan.. Turnover of Infocom Limited and Secure Limited is ₹ 60,000 and ₹1,00,000 respectively. IGST @ 18% on (₹ 1,60,000 × 10%) is applicable on said inter- State transaction since supplier – Starkart is located in Delhi and POS is Uttar Pradesh and Gujarat respectively [i.e. location of recipient in terms of section 12(2) of the IGST Act]	2,880
Total GST liability (including TCS) of Starkart for Jan.	9,080

Computation of net GST payable in cash by Infocom Limited for the month of Jan.

Particulars	₹
Gross GST liability [18% of turnover for Jan. (₹ 50,000 + ₹ 10,000)]	10,800
Less: ITC of GST payable on listing services received from [(10% of ₹ 60,000) × 18%]	(1,080)
Net GST payable from E-cash Ledger	9,720
Less: TCS credited to E-cash Credit Ledger	(600)
Net GST payable in cash	9,120

Computation of net GST payable in cash by Secure World for the month of Jan.

Gross GST Liability [18% of turnover for Jan. (₹1,00,000)]	18,000
Less: ITC of GST payable on listing services received from [(10% of ₹1,00,000) × 18%]	(1,800)
Net GST payable from E-cash Ledger	16,200
Less: TCS credited to E-cash Credit Ledger	(500)
Net GST payable in cash	15,700

Question 7

Mr. Sanjay of New Delhi made a request for a Motor cab to "Super ride" for travelling from New Delhi to Gurgaon (Haryana). After Mr. Sanjay pays the cab charges using his debit card, he gets details of the driver Mr. Jorawar Singh and the cab's registration number.

"Super ride" is a mobile application owned and managed by D.T. Ltd. located in India. The application "Super ride" facilitates a potential customer to connect with the persons providing cab service under the brand name of "Super ride".

D.T. Ltd. claims that cab service is provided by Mr. Jorawar Singh and hence, he is liable to pay GST. With reference to the provisions of IGST Act, determine who is liable to pay GST in this case?

Would your answer be different, if D.T. Ltd. is located in New York (USA)? Also, briefly state the statutory provisions involved.

Answer

Section 5 of IGST Act provides that **tax on inter-State supplies of specified services notified by Govt. shall be paid by the electronic commerce operator (ECO) located in taxable territory if such services are supplied through it. Services by way of transportation of passengers by a motor cab supplied through ECO is one of the notified service.**

Electronic commerce operator **means any person who owns, operates or manages digital or electronic facility or platform** for supply of goods or services or both, including digital products over digital or electronic network.

Since DT Ltd. owns and manages a mobile application to facilitate supply of passenger transportation service in motor cabs over a digital network, it is an ECO. Thus, **DT Ltd., an ECO located in India is liable to pay GST in the given case.**

However, **where an ECO does not have a physical presence in the taxable territory, person representing ECO is liable to pay tax.** Further, where ECO has neither the physical presence nor any representative in the taxable territory, **person appointed by the ECO for the purpose of paying the tax is liable to pay tax.**

Accordingly, if D.T. Ltd. is located in New York (USA), any person representing DT Ltd. for any purpose in India is liable to pay tax.

Further, if D.T. Ltd. also does not have a representative in India, it shall appoint a person in India for the purpose of paying tax and such person shall be liable to pay tax.

GSTR 1 and GSTR 3B**Question 1**

Mr.X, a regular tax payer, did not make any taxable supply during month of July. Is he required to file any goods and service tax return?

Answer

A regular tax payer is required to furnish a return u/s 39 for every month **even if no supplies** have been **effected** during such period. In other words, **filing of Nil return is also mandatory.**

Question 2

Tax authorities have been scrutinizing the returns furnished by A Ltd. During the scrutiny process, A Ltd has been made aware by authorities about an incorrect disclosure in a return under section 39 filed by it for a particular tax period. A Ltd. seeks your opinion to rectify the incorrect disclosure made in return.

Answer

In terms of section 39(9), any **rectification in the return** furnished by the registered person is **allowed only when** the error or **omission is discovered on** account of **reasons other than scrutiny, audit, inspection, or enforcement activity** by the tax authorities.

In the present case, since the incorrect disclosure has been highlighted to A Ltd. by the tax authorities during process of scrutiny, the rectification of incorrect disclosure cannot be made by A Ltd. on its own.

Question 3

Mr. Anand Kumar, a regular taxpayer, filed GSTR-1 for the month of Aug before the due date. Later, in the month of Feb next year, he discovers error in the GSTR-1 of the month of Aug already filed and wants to revise it. You are required to advise him on the future course of action in this scenario.

Answer

The **mechanism of filing revised return** for any correction of errors/omission **is not available** under GST. The **rectification** of errors/omission is **allowed in the subsequent returns.**

Therefore, Mr. Anand Kumar who discovered an error in GSTR-1 for the month of Aug cannot revise it. However, he should rectify said error in the GSTR-1 filed for the month of Feb and pay the tax and interest, if any, in case there is short payment, in return to be furnished for Feb. The error can be rectified by furnishing appropriate particulars in "Amendment Tables" contained in GSTR - 1.

However, **no rectification of details furnished in GSTR - 1** shall be **allowed after:**

- (i) **30th Nov. following the end of the FY** to which such details pertain, **or**
- (ii) **filing of the relevant annual return**, whichever is **earlier.**

QRMP Scheme**Question 4**

Mr. Mahendra, a registered person, came to know about QRMP (Quarterly Return-Monthly Payment) scheme but was unable to make a decision whether to opt for the same or not. Describe the eligibility criteria and benefits of QRMP Scheme to help Mr. Mahendra make a decision regarding the same.

Answer

Eligibility criteria for QRMP scheme

Registered persons,

- **other than supplier of** online information and database access or retrieval services (**OIDAR**) located in non-taxable territory and providing such services to a non-taxable online recipient and whose **aggregate annual turnover** (PAN based) is **up to ₹ 5 crore in the preceding FY.**
- who have **opted to furnish quarterly returns** under QRMP scheme
- who have **furnished the last return** due on the date of exercising such option are eligible to opt for QRMP scheme

Benefits of QRMP scheme

- Its is a trade facilitation measure and **eases the process of doing business.**
- It will significantly **reduce the compliance burden** on such taxpayers as now the taxpayers need to file GSTR-3B returns and Form GSTR-1-on quarterly basis only 4 times a year.

Question 5

Padmavati Traders, registered in Karnataka, is engaged in supply of taxable goods. Its turnover in the preceding FY was ₹ 230 lakh and was furnishing its GST return on monthly basis.

In the beginning of April month in the current FY, it sought advice from its tax consultant, Dua Consultants, whether it can furnish its GST returns on quarterly basis from now onwards. Dua Consultants advised Padmavati Traders that it cannot furnish its return on quarterly basis as the GST law does not provide for quarterly return under any circumstances. Discuss the technical veracity of the advice given by Dua Consultants.

Answer

No, the advice given by Dua Consultants **is not valid in law.** With effect from 01.01.2021, a **quarterly return** has been introduced under GST law where the **payment of tax** is to be **made on monthly basis.** The **scheme is known as Quarterly Return Monthly Payment (QRMP) Scheme.**

The scheme has been introduced as a trade facilitation measure and in order to further ease the process of doing business. It is an optional return filing scheme, introduced for small **taxpayers having aggregate annual turnover** (PAN based) **of upto ₹ 5 crore in the current and preceding FY** to **furnish** their Form GSTR-1 and Form GSTR-3B on a **quarterly basis while paying their tax on a monthly basis** through a simple challan. **Thus,** the taxpayers need to **file only 4 GSTR-3B returns instead of 12 GSTR-3B returns** in a year. Similarly, they would be required to file only 4 GSTR-1 returns **since Invoice Filing Facility (IFF) is provided** under this scheme.

Opting of **QRMP scheme is GSTIN wise**. Distinct persons can avail **QRMP scheme option for one or more GSTINs**. It implies that **some GSTINs for a PAN can opt for the QRMP scheme and remaining GSTINs may not opt** for the said scheme.

Since the **aggregate turnover** of Padmavati Traders **does not exceed ₹ 5 crores** in the preceding FY, it is **eligible for furnishing the return on quarterly basis** till the time its turnover in the current FY does not exceed ₹ 5 crore. **In case its aggregate turnover crosses ₹ 5 crore** during quarter in the current FY, it shall **no longer be eligible for furnishing of return on quarterly basis** from the first month of the succeeding quarter and needs to opt for furnishing of return on a monthly basis, electronically, on the common portal, from the first month of the quarter, succeeding the quarter during which its aggregate turnover exceeds ₹ 5 crore.

Annual Return and Final Return

Question 6

Answer the following Questions elaborating the relevant provisions of section 44:

- (a) Who is required to furnish the annual return and what is the due date for furnishing the same?
- (b) What is the prescribed form for furnishing annual return/statement?
- (c) Who is required to furnish a self-certified reconciliation statement?

Answer

(a) **All registered persons are required** to file an annual return. However, **following persons are not required to file annual return**:

- (i) **Casual taxable persons**
- (ii) **Non-resident taxable person**
- (iii) **Input service distributors**
- (iv) Persons **authorized to deduct/collect tax at source** under section 51/52

The Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section. The department of the Central/State Govt. or a local authority, **whose books of account are subject to audit by the Comptroller and Auditor-General of India** or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force, **are exempt** from the requirement of furnishing an annual return including self-certified reconciliation statement.

The annual return for a FY **needs to be filed by 31 Dec. of next FY**.

- (b) (i) **Regular Tax payer - Form GSTR-9**
- (ii) **composition Taxpayer - Form GSTR-9A.**
- (iii) An **ECO** required to collect tax at source - **Form GSTR-9B** (yet to be notified).
- (c) **All registered persons are required to furnish a self-certified reconciliation statement** alongwith annual return if their **aggregate turnover** during a FY **exceeds ₹ 5 crores, in Form**

GSTR-9C. A Self-certified reconciliation statement (GSTR-9C) will reconcile the value of supplies declared in the return furnished for the FY with the audited annual financial statement.

However, **following persons are not required to file self-certified reconciliation statement:**

- (a) **Casual taxable** person
- (b) **Non-resident taxable** person
- (c) **Input service distributors**
- (d) Persons **authorized to deduct/collect tax at source** under section 51/52, and

Question 7

Is an annual return under section 44 and a final return one and the same? Explain.

Answer

No. Annual return has to be filed **by every registered person** paying tax as a **normal taxpayer**, with certain exceptions. **Final return** has to be filed only by those registered persons **who have applied for cancellation** of registration. The **final return** has to be filed **within 3 months** of the **date of cancellation or the date of cancellation order, whichever is later.**

Question 8

ABC Ltd. has applied for cancellation of GST registration in the month of March. The consultant of ABC Ltd has suggested to furnish the final return in the month of Sep. He has advised the company that a final return needs to be furnished before the due date of furnishing the return for the month of Sep of subsequent FY or before furnishing of annual return (for the FY in which cancellation has been sought for), whichever is earlier. However, the jurisdictional authorities have yet not passed the order of cancellation due to reasons not known to ABC Ltd.

Whether the advice given by the consultant of ABC Ltd. is correct? Examine.

Answer

No, the advice of the consultant is **not correct.**

In terms of section 45 read with rule 81, every registered person who is required to furnish GSTR-3B and whose **registration has been cancelled** is **required to file a final return within 3 months** of the **date of cancellation or date of order of cancellation, whichever is later.**

In the given case, the registration of the company **not been cancelled.** Therefore, requirement of filing final return will arise only when the registration of the company gets cancelled.

GST Practitioner (GSTP)

Question 9

Is it compulsory for a taxpayer to file return by himself? Explain.

Answer

No. A registered taxpayer can also get his return filed through a Goods and Services Tax Practitioner.

Question 10

Whether GSTPs are required to furnish any return for disclosure of activities carried out by them for and of the registered person during a tax period? Elucidate

Answer

In terms of section 48(2), a registered person may authorise an approved GSTP to furnish the details outward supplies under section 37, the details of inward supplies under section 38 and the return under section 39 or annual return under section 44 or final return under section 45 and to perform other prescribed functions. Thus, the **GSTP can furnish the specified documents or information on behalf of the registered person with prior authority of the registered person.**

However, **there is no specific return** furnishing mechanism for GSTP to disclose the activities carried out by it for any of the registered person during a tax period.

Miscellaneous

Question 11

Do input service distributors (ISDs) need to file separate statement of outward supplies with the return? Discuss.

Answer

No, the ISDs need to file only a return in Form GSTR-6 and the return has the details of credit received by them from the service provider and the credit distributed by them to recipient units. Since their return itself covers these aspects, there is **no requirement to file separate statement of outward supplies**

Question 12

B Ltd. has filed the return for the month of Oct. belatedly. At the time of computing the late fee to be paid for delay in filing return, B Ltd. has taken a view that if the late fee has been paid as per the provisions under the CGST Act, there is no requirement of paying the late fee under the SGST Act for the same default.

Whether B Ltd. has taken a correct view? Examine.

Answer

The understanding of B Ltd. is incorrect. For **arriving at the late fee** payable on account of delayed filing of GST return, the **computation of late fee** is made **separately for CGST and SGST/UTGST**. This is because the provisions of late fee on delayed filing of return are prescribed in both CGST Act and SGST/UTGST Act although a common return is filed for both the laws.

Question 13

XYZ Ltd. has deducted TDS from the consideration payable to A Ltd. for supplies made by it. The deducted i.e. A Ltd., seeks your advice on taking credit for the TDS deducted by XYZ Ltd.

Also, whether the tax deducted by XYZ Ltd. will be shown in the E-credit ledger or E-cash ledger of A Ltd.?

Answer

The deductee shall claim credit, in his E-cash ledger of the tax deducted and reflected in GSTR-7 of the deductor, after validation. Similarly, rule 87, provides that any **amount deducted under section 51 shall be credited to the E-cash ledger of the deductee.**

Therefore, in the present case, **A Ltd., can take credit of TDS amount deducted by XYZ Ltd.** in its E-cash ledger and use the same for payment of tax, interest, penalty, late fee or any other amount.

Question 14

Mr. X, a registered person in Mumbai has made outward supplies of taxable goods as under:-

Mr. X has become liable for registration on 1st Oct., 2023. He was granted registration on 1st Jan., 2024.

- I. Supplies made from 1st April, 2023 to 30th Sep, 2023 - Rs. 19,50,000
- II. Supplies made from 1st Oct., to 31st Dec., 2023 – Rs. 8,00,000
- III. Supplies made from 1st Jan., 2023 to 31st Jan., 2024 – Rs. 2,00,000

The first return furnished by Mr. X is for the month of Jan., 2024. What is the taxable turnover to be declared in the return filed for Jan., 2024?

Answer

As per section 40 of the CGST Act every registered person who has made **outward supplies in the period** between the date on which he become **liable to registration till the date on which registration has been granted** shall declare the same **in the first return** furnished by him after grant of registration. Hence taxable turnover to be declared by Mr. X for Jan. 2024 is (Rs. 8,00,000 + Rs. 2,00,000) = Rs. 10,00,000.

Question 15

Subhashini Ltd, agreed to provide consultancy services to Madhu Enterprises in the month of May for which it received an advance of ₹ 1,00,000 on 20th April from Madhu Enterprises. Subsequently, in the month of May, before supply of service, the said service contract has to be cancelled owing to some inadvertent circumstances. However, Subhashini Ltd. has issued the invoice for the advance received in April itself and has paid the GST thereon.

You are the tax consultant of Subhashini Ltd. Please advise whether it can claim refund of tax paid or is it required to adjust its tax liability in its returns?

Answer

In case GST is paid by the supplier on **advances received for a future event which got cancelled** subsequently and for which invoice is issued before supply of service, the **supplier is required to issue a "credit note"** in terms of section 34 of the CGST Act. He shall **declare the details** of such credit notes **in the return for the month** during which such **credit note has been issued.** The **tax liability** shall be **adjusted** in the return subject to conditions of section 34. There is no need to file a separate refund claim.

However, in cases where there is **no output liability** against which a credit note can be adjusted registered persons may proceed to **file a refund claim** (Circular No 137/07/2020 GST).

Therefore, in the given case, Subhashini Ltd. is required to issue a credit note, declare its details in the return for the month during which such credit note has been issued and adjust the tax liability. However, there is no output liability of Subhashini Ltd. against which the said credit note can be adjusted, it may proceed to file a refund claim.

Import under GST

Question 1

Explain how imports are taxed under GST.

Answer

All imports are **deemed as inter-State supplies** for the purposes of levy of GST (IGST). The incidence of tax follows the **destination principle** and the **tax revenue accrues to the State where** the imported goods and services are **consumed**. **IGST paid** on import of goods and services is **available as ITC** for set off against the output tax liability. **IGST** on import of goods is **levied under the IGST Act but** the machinery of the **customs law is used to levy and collect** the same.

Question 2

AXT Ltd. entered into a high sea sale transaction with BYU Ltd. for certain goods. AXT Ltd. is of the view that GST on such sale transaction is payable at the time of such sale and basic customs duty is payable at the time of filing the bill of entry for import of goods.

Examine whether the view taken by AXT Ltd. is correct.

Answer

AXT Ltd.'s view is partially correct.

Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption (high sea sale) is neither treated as supply of goods nor supply of services in terms of paragraph 8(b) of Schedule III to the CGST Act.

Thus, **GST is not leviable on high sea sales**. Therefore, AXT Ltd.'s view that GST is payable on a high-sea sale transaction at the time of sale, is not correct.

As per section 14 of the Customs Act, 1962, the value for the purpose of charging customs duty on imported goods is the value at the time of importation, i.e. at the time of filing of the bill of entry. Further, **IGST on imported goods is also levied at the time of filing of bill of entry**. Therefore, in case of high sea sales, the assessable value of imported goods for levying customs duty and IGST is determined on the basis of the price paid by the last high sea sales buyer who files the bill of entry for home consumption.

Therefore, AXT Ltd.'s view that **basic customs duty is payable at the time of filing the bill of entry for import of goods is correct**.

Question 3

GER Ltd. of Germany supplies luxurious car worth ₹ 1 crore to IND Ltd. of India. Before the car reached Indian port but after crossing of the territorial waters of India, IND Ltd. sells it to T1 Ltd. by way of transfer of documents of title.

T1 Ltd. clears the said car for warehousing and stores said goods in customs bonded warehouse.

T1 Ltd. sells the said car from warehouse to T2 Ltd., and T2 Ltd. clears the said car from the customs bonded warehouse.

Answer

- (i) Is GST leviable on import of goods from GER Ltd. by IND Ltd.?
- (ii) Is GST leviable on supply of goods by IND Ltd. to T1 Ltd.?
- (iii) Is GST leviable on supply of goods by T1 Ltd. to T2 Ltd.?
- (iv) Is GST leviable on clearance of goods by T2 Ltd. from the customs bonded warehouse?

Answer

(i) **GST on import of goods is levied at the time when customs duty is levied** on the said goods under the Customs Act, 1962, i.e., on importation. Importation gets completed when the goods become part of the mass of goods within the country.

Thus, **GST is not leviable** on import of goods from GER Ltd. by IND Ltd., **since the import of goods is not complete.**

(ii) **GST is not leviable** on supply of goods by IND Ltd. to T1 Ltd. as **supply** of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but **before clearance for home consumption is treated neither as a supply of goods nor a supply of services** as per Schedule III. This supply is commonly called **high sea sale.**

(iii) **GST is not leviable** on supply of goods by T1 Ltd. to T2 Ltd. since **supply of warehoused goods to any person before clearance for home consumption is treated neither as a supply of goods nor a supply of services** as per Schedule III.

(iv) Yes, **GST is leviable** on clearance of goods by T2 Ltd. from the customs bonded warehouse **as customs duty is levied on warehoused goods at the time of clearance** thereof from the warehouse and as mentioned in point (i), GST on customs duty is levied at the time when customs duty is levied thereon.

OIDAR

Question

4

I. Amar Kant, a Chartered Accountant, being a partner in GST registered firm orders a gaming software for his son from a company located in USA. He makes the payment for the same from his personal bank account.

Examine whether the transaction will be liable to GST. If yes, in whose hands the tax liability will arise?

II. What will be your answer if such gaming software has been ordered and payment been made by GST registered firm.

Answer

The supply of gaming software is in the nature of **OIDAR service** in terms of section 2(17).

The transaction is for personal consumption of Mr. Amar Kant and the payment has also been made from his personal bank account of Mr. Amar Kant and not from the bank account of his GST registered firm.

Therefore, **being an individual receiving OIDAR service for personal consumption, Mr. Amar Kant is a non-taxable online recipient** in terms of section 2(16).

Services received from a provider of service located in a non-taxable territory by an individual in relation to any purpose other than commerce, industry or any other business or profession is exempt from IGST. However, such **exemption is not available in case of OIDAR services**.

Therefore, being an OIDAR service provided by a supplier located outside India and received by a non-taxable recipient, the same is **liable to GST**.

Tax on service supplied by any person located in a non-taxable territory **to any person other than non-taxable online recipient is payable** by the recipient of such service **under RCM**.

Basis above provisions,

- I. Tax on OIDAR services provided by the company located in USA to Mr. Amar Kant, a non-taxable online recipient, will be payable by such company under forward charge.
- II. Tax on OIDAR services provided by the company located in USA to GST Registered firm, will be payable by such GST registered firm under RCM.

Export under GST

Question 5

Briefly discuss how exports are treated under the GST Law.

Answer

Under the GST Law, export of goods or services has been treated as:

- **Inter-State supply** and covered under the IGST Act.
- **'Zero rated supply'**, i.e. the goods or services exported shall be relieved of GST levied upon them either at the input stage or at the final product stage.

Question 6

Describe how exports are taxed under GST.

Answer

Exports of goods and services are **zero rated**. The exporter has the option **either to export under bond/LUT without payment of IGST and claim refund of ITC or pay IGST** at the time of export **and claim refund** thereof.

Question 7

Elaborate the difference between zero rated supplies and exempt supplies.

Answer

The difference between zero rated supplies and exempted supplies is as follows:

Exempted Supplies	Zero-rated supply
Exempt supply means supply of any goods or services or both which attracts nil rate of tax	Zero-rated supply means (i) export of goods and/or services or (ii) supply of goods and/or services to SEZ unit /SEZ developer .

or which may be wholly exempt from tax and includes non - taxable supply.	
No tax is payable on the outward exempted supplies, however, the input supplies used for making exempt supplies are to be taxed	No tax is payable on the outward supplies; Input supplies are also to be tax free (by way of refund of ITC)
Credit of input tax needs to be reversed, if taken.	Credit of input tax may be availed for making zero-rated supplies, even if such supply is an exempt supply.
No ITC is allowed on the exempted supplies.	ITC is allowed on zero rated supplies.
Any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under the CGST or IGST Act shall not be liable to registration.	A person exclusively making zero rated supplies needs to register as refund of unutilized ITC or IGST paid shall have to be claimed.
A registered person exempted supply shall issue, instead of a tax invoice, a bill of supply.	Normal tax invoice shall be issued.

Question 8

A Ltd. enters into an agreement for sale of goods with B Ltd., a company based in UAE. B Ltd. requires the goods to be delivered by A Ltd. to C Ltd., a company based in Karnataka.

Whether the transaction will qualify as export of goods under GST? Analyze the scenario and offer your comments.

Answer

As per the definition of export of goods provided under section 2(5), export of goods **means taking goods out of India to a place outside India.**

Since in the given case, the **goods remain in India**, i.e. with C Ltd. located in Karnataka, the transaction between A Ltd. and B Ltd. **cannot be treated as export** of goods under GST.

Question 9

A Ltd is making zero rated supplies which are also specifically exempt from GST. The company has paid input tax of ₹ 2,00,000 on inputs and input services which have been used exclusively in effecting such zero-rated supplies.

Examine if A Ltd. can avail ITC of input tax of ₹ 2,00,000 paid on inputs and input services used exclusively affecting such zero rated supplies.

Answer

As per section 16(2), **ITC may be availed for making zero rated supplies**, notwithstanding that such supplies are exempt supplies. However, the same is subject to provisions u/s 17(5) of the CGST Act, i.e. blocked credit

Hence, A Ltd. **can take credit of ₹ 2,00,000 even if the outward zero rated supply is exempt** from GST. However, the credit would not be available in respect of the inputs and input services, the credit on which is blocked under section 17(5) of the CGST Act.

Question 10

Is it necessary to execute a bond for effecting zero rated supplies? Elucidate.

Answer

No. The facility to **export under LUT** has been extended to all zero rated suppliers (barring a few exceptions such as those who have been prosecuted for an offence involving tax of ₹ 2.5 crore) vide Notification No.37/2017 CT.

Question 11

‘Separate LUT is to be furnished for every export supply’.

With reference to the provisions of the GST law, examine the veracity or otherwise of the statement.

Answer

No, the statement is **not correct**.

The **LUT remains valid for the whole FY** and there is no need to furnish separate LUT each export supply.

However, **in case goods are not exported** within the time limit specified in rule 96A(1) of the CGST Rules **and** the registered person **fails to pay the amount mentioned** in the said sub rule, the facility of **export under LUT will be deemed to have been withdrawn. However, if** the amount mentioned in the said sub- rule is **paid subsequently**, the facility of export under **LUT shall be restored**. As a results exports, during the period from when the facility to export under LUT is withdrawn till the time the same is restored, shall be either on payment of the applicable IGST or under bond with bank guarantee.

Rule 96A(1) provides inter alia that an **exporter** of goods **has to execute the bond or LUT prior to export**, binding himself **to pay the tax due along with interest @ 18% within 15 days after the expiry of 3 months**, or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, **if the goods are not exported out of India**.

Question 12

ABC Ltd. India has received an order for supply of services amounting to \$ 500,000/- to a US based client. ABC Ltd. India is unable to supply the entire services from India and asks XYZ Ltd. Mexico (who is not merely an establishment of a distinct person viz. ABC Ltd. India, in accordance with the Explanation 1 in section 8 of the IGST Act) to supply a part of the services and raise the invoice for such services on ABC Ltd. Agreed consideration for such part of Service is \$ 200,000/-.

Analyse the GST implication in entire transaction(s).

Answer

ABC Ltd. India shall be the exporter of services for the entire value i.e. \$ 500,000/-, if the invoice for the entire amount is raised by ABC Ltd. India. The **services provided by XYZ Ltd. Mexico to the US based client shall be import of services by ABC Ltd. India** and it would be liable to pay IGST on the same under RCM and also be eligible to take ITC of the IGST so paid.

If, \$ 200,000/- is directly paid by the US based client to XYZ Ltd. Mexico, even in such a scenario also, it will be deemed at consideration has been received by ABL Ltd., provided IGST on import of services has been paid on the part of services provided by XYZ Ltd Mexico directly to the US based client and RBI (by general instruction or by specific approval) has allowed that a part of the consideration for such exports can be retained outside India.

Deemed Export

Question 13

Discuss supplies which have been notified as deemed exports under section 147 of CGST Act.

Answer

The following supplies have been notified as deemed exports under section 147 of the CGST Act:

1. Supply of goods by a registered person against **Advance Authorisation**.
- 2 Supply of capital goods by a registered person **against Export Promotion Capital Goods Authorisation**.
3. Supply of goods by a registered person **to Export Oriented Unit**.
4. Supply of **gold by a notified bank/Public Sector Undertaking** against **Advance Authorisation**.

Refund of Unutilised ITC- Zero Rated Supply & Inverted Duty Structure

Question 1

With reference to section 54(3), mention the cases where refund of unutilised ITC is allowed

Answer

As per section 54(3), a registered person may claim refund of unutilised ITC at the end of any tax period in the following cases:

(i) **Zero rated supplies made without payment of tax: Supply** of goods or services or both **to an SEZ developer/unit or export of goods or services** or both qualifies as zero rated supplies.

(ii) **Accumulated ITC on account of inverted duty structure:** Where the **credit has accumulated** on account of **rate of tax on inputs being higher than the rate of tax on output supplies** (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Govt. on the recommendations of the Council.

However, **refund of unutilized ITC shall not be allowed if:**

- the **goods exported** out of India are **subjected to export duty;**
- the **supplier** of goods or services or both **avails of drawback** in respect of CGST or claims refund of the IGST paid on such supplies.

Question 2

Wye Ltd, provides the following details of Sep 20XX for computation of refund claim under rule 89(4) of the CGST Rules. Compute the eligible claim under the said rule assuming that other conditions are fulfilled.

Particulars	Amount (₹)
Opening balance of ITC	5,00,000
ITC availed during the period,	20,00,000
Zero rated supply of goods made during the period without payment of tax under bond/LUT	5,00,00,000
Supply of goods other than zero rated supply	3,00,00,000

Answer

As per rule 89(4) of the CGST Rules, in case of zero-rated supply of goods without payment of tax under bond/LUT, refund of ITC is granted as per the following formula:

$$\text{Refund Amount} = \frac{(\text{Turnover of zero-rated supply of goods} + \text{Turnover of zero-rated supply of services})}{\text{Adjusted Total Turnover}} \times \text{Net ITC}$$

Accordingly, turnover of zero rated supply of goods = ₹ 5,00,00,000;

Adjusted Total Turnover = ₹ 8,00,00,000 [₹ 5,00,00,000 + ₹ 3,00,00,000]

and

Net ITC = ₹ 20,00,000

Thus, maximum refund amount under rule 89(4)

= ₹ 5,00,00,000 / ₹ 8,00,00,000 x ₹ 120,00,000 = ₹ 12,50,000

Question 3

Synotex Pvt. Ltd. manufactures taxable goods, 'Q' and exempt goods 'S'. Product 'S' is sold in international markets without payment of tax under letter of undertaking. The company is registered under GST in the State of Maharashtra. The company provides the following information in relation to various supplies made by it during a tax period:

(a) Product 'S' has been exported to UK for £ 12,000

(B) Product 'Q' has been supplied to Betty Enterprises within India for ₹ 20,00,000

Note: The above amounts are exclusive of taxes, wherever applicable.

The company provides the following information in relation to tax paid on inward supplies received during the said tax period:

(a) GST of ₹ 500,000 has been paid on inputs

(b) GST of ₹ 2,40,000 has been paid on capital goods

(c) GST of ₹ 2,00,000 has paid on input services

(d) All the above inputs, input services and capital goods are used in the manufacturing process

Following additional information is also provided:

(i) Value of product 'S' exported to UK in Indian rupees is ₹ 12,00,000. However, value of such product when supplied domestically by the company in similar quantities is ₹ 10,00,000.

(ii) Betty Enterprises is a 100% export-oriented undertaking. It has claimed the ITC on goods supplied to it by Synotex Pvt. Ltd

(iii) The balance in the E-credit ledger of Synotex Pvt. Ltd. at the end of the tax period for which the refund claim is being filed after GSTR-3B for the said period has been filed is ₹ 5,80,000.

(iv) The balance in the E-credit ledger of Synotex Pvt Ltd at the time of filing the refund application is ₹ 3,00,000.

Compute the amount refundable to Synotex Pvt. Ltd. for the tax period.

Answer

Export of product 'S'

Export of goods is a zero rated supply . Section 16(2) of the IGST Act stipulates that subject to the provisions of section 17(5) of the CGST Act, ITC may be availed for making zero-rated supplies even if such supply may be an exempt supply. As per section 54(3)(i) of the CGST Act, a registered person may claim refund, of any unutilised ITC at the end of any tax period in the case of zero rated supply made without payment of tax.

Therefore, in the given case, Synotex Pvt. Ltd. will be eligible to claim ITC for export of exempt product 'S' in terms of section 16(2) of the IGST Act and will thus, be able to claim refund of unutilised ITC in terms of section 54(3)(i) of the CGST Act.

As per rule 89(4) of the CGST Rules, in case of zero-rated supply of goods without payment of tax under bond/LUT, refund of ITC is granted as per the following formula:

$$\text{Refund Amount} = \frac{(\text{Turnover of zero-rated supply of goods} + \text{Turnover of zero-rated supply of services})}{\text{Adjusted Total Turnover}} \times \text{Net ITC}$$

Here,

Net ITC = ₹7,00,000 [Net ITC includes ITC on inputs and input services **but not ITC on capital goods**]

Turnover of zero-rated supply of goods (Product 'S') = ₹12,00,000 [**Lower of** the value of zero rated supply of goods (₹12,00,000) or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier (₹15,00,000)].

Adjusted total turnover ₹ 32,00,000 (₹ 20,00,000 + ₹ 12,00,000)

Thus, refund amount under rule **89(4)** = ₹ 7,00,000 x ₹ 12,00,000 / ₹ 32,00,000 = x ₹ 2,62,500

Amount refundable to the applicant is least of the following amounts:

- Maximum refund amount as per the formula in rule 89(4) of the CGST Rules [₹ 2,62,500]
- Balance in the E-credit ledger at the end of the tax period for which the refund claim is being filed after GSTR-3B for the said period has been filed [₹ 5,80,000]
- Balance in the E-credit ledger at the time of filing the refund application [₹ 3,00,000]

Thus, **amount refundable to Synotex Pvt. Ltd. of unutilized ITC is ₹ 2,62,500.**

Supply of product 'R' to Betty Enterprises, a 100% EOU

Supplies to EOU is **notified as deemed export** under section 147. In respect of supplies regarded as deemed exports, the application of refund can be filed by the supplier of deemed export supplies only in cases where the recipient does not avail of ITC on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund [Third proviso to rule 89(1) of the CGST Rules]. Therefore, since in the given case, **Betty Enterprises (recipient) is claiming ITC, Synotex Pvt. Ltd. (supplier of deemed exports) cannot claim refund of ITC.**

Therefore, amount refundable to Synotex Pvt. Ltd. is ₹ 2,62,500.

Question 4

The following particulars are furnished by Delight Exporters, Karnataka, which is duly registered under the GST law. The entity has also filed bond/LUT in order to export goods without payment of any taxes. You are required to calculate the refund amount in respect of ITC on inputs and input services relating to goods exported in the relevant tax period.

S.N.	Particulars of supply	Value of supply in ₹

1	Turnover - excluding supply of services, but includes domestic exempt supplies of ₹ 8,00,000 and inward supplies of ₹ 2,00,000	64,00,000
2	Zero-rated supply of goods under bond/LUT	6,00,000
3	Export services under bond/LUT	48,00,000
4	Non zero rated supply of services	10,00,000
5	Payments received towards zero-rated supply, which includes ₹ 12,00,000 against which services are yet to be supplied.	48,00,000
6	Advance received in the past, against which zero-rated supplies of services have been made in the current tax period	14,00,000
8	ITC on inputs and input services during the tax period	9,60,000

Answer

In case of zero-rated supply of goods and services without payment of tax under bond/LUT, refund of ITC relating to goods and services exported is granted as per the following formula:

$$\text{Refund Amount} = \frac{(\text{Turnover of zero-rated supply of goods} + \text{Turnover of zero-rated supply of services})}{\text{Adjusted Total Turnover}} \times \text{Net ITC}$$

Accordingly, the amount of refund shall be computed as follows:

Particulars	₹
Net ITC	9,60,000
Turnover of zero-rated supply of goods	6,00,000
Turnover of zero rated supply of services [Aggregate of payments received during the relevant period and services where supply has been completed for which payment had been received in advance in any prior period reduced by advances received for which the supply of services has not been completed during the relevant period] [₹ 48 lakh + ₹ 14 lakh - ₹ 12 lakh]	50,00,000
Adjusted total turnover = Turnover in a State excluding turnover of services + Turnover of zero-rated supply of services determined as above + Non-zero-rated supply of services-Exempt supplies other than zero-rated supplies [₹ 64 lakh - ₹ 2 lakh + ₹ 50 lakh + ₹ 10 lakh - ₹ 8 lakh]	1,14,00,000
Refund of ITC for zero rated supply of goods and zero rated supply of services [₹ 9,60,000 x (₹ 56,00,000/ ₹ 1,14,00,000)]	4,71,579 (rounded)

Question 5

An international trade exhibition is going to be held in United States of America in Jan.. Aayaat Niryat Export House (ANEH) has participated in it. It intends to send 100 units of taxable goods manufactured by it to USA for display in the said exhibition.

ANEH is of the view that the activity of sending the goods out of India for exhibition is a zero-rated supply. However, its tax advisor does not concur with its view. Examine whether the view of ANEH is correct

Assuming that ANEH could not sell any goods at the exhibition and brings back entire 100 units to India (i) in Feb, (ii) in Aug, Discuss the requirement to issue invoice, if any, in each of the above independent cases.

Would your answer be different if ANEH sells an aggregate of 65 units of taxable goods in USA exhibition on different dates in Jan. and remaining 35 units are brought back on 31st Jan.. The tax adviser advises that export of 65 units qualify as zero-rated supply and it should apply for refund of the unutilized ITC in respect of the same. Examine the technical veracity of the tax advisor's advice.

Answer

No, the **view of ANEH** that the activity of sending the goods out of India for exhibition is a zero-rated supply, **is not correct**. As per section 7 of the CGST Act, for any activity or transaction to be considered a supply, it must **satisfy twin tests** namely-

- (i) its should be for a **consideration** by a person; and
- (ii) should be in the course of **business**.

Section 16 of IGST Act defines "**zero rated supply**" as following supplies of goods or services or both:

- a. **export** of goods or services or both; or
- b. **supply** of goods or services or both to a **Special Economic Zone** developer/unit.

Thus, only such "supplies" which are either "export" or are "supply to SEZ unit/developer" would qualify as zero-rated supply

In view of the above provisions, Circular No. 108/27/2019 GST clarified that the **activity of sending/taking the goods out of India** for exhibition or on consignment basis for export promotion, except when such activity satisfies the tests laid down in Schedule I of the CGST Act, **do not constitute supply** as the said activity does not fall within the scope of section 7 of the CGST Act as there no consideration at that point in time. **Since such activity is not a supply, the same cannot be considered as "zero rated supply"** as per the provisions contained in section 16 of the IGST Act.

The said circular further clarified that the activity of sending/taking goods out of India for exhibition is the **nature of "sale on approval basis"** wherein the goods are sent/taken outside India for the approval of the person located abroad and it is only when the said goods are approved that the actual supply from the exporter located in India to the importer located abroad takes place.

As per relevant invoice provisions, in case of the **goods being sent or taken on approval for sale, the invoice shall be issued before/at the time of supply or 6 months from the date of removal, whichever is earlier**.

In view of the said provisions, ANEH is not required to issue invoice at the time of taking the goods out of India since the activity of **merely sending/taking the taxable goods out of India is not a supply**. However, the **goods shall be accompanied with a delivery challan**. Further,

(i) In case the entire quantity of goods (100 units) sent to USA is not sold but brought back by ANEH in Feb, i.e. within the stipulated period of 6 months from the date of removal, no tax invoice is required to be issued as no supply has taken place in such a case.

(ii) In case, the entire quantity of goods (100 units) sent to USA is not sold and brought back by ANEH in Aug, i.e. after 6 months from the date of removal, a tax invoice is required to be issued for entire 100 units of taxable goods on completion of 6 months from the date of removal.

However, if an aggregate of 65 units of goods are sold in USA exhibition by ANEH on different dates in Jan. (i.e. within the stipulated period of 6 months), a tax invoice would be required to be issued for these units, at time of each of these sales. When goods are sold in exhibition, actual supply from exporter in India to importer located abroad takes place and this supply qualifies as export. Export of goods is a zero-rated supply in terms of section 16(1)(a) of IGST Act.

If remaining 35 units are brought back on 31st Jan., i.e. within stipulated period of 6 months from date of removal, no tax invoice is required to be issued as no supply has taken place in such a case.

Further, tax advisor's advice is technically correct. Since the activity of sending/taking specified goods out of India is not a zero-rated supply.

However, the sender can prefer refund claim even when the specified goods were sent/taken out of India without execution of a bond/LUT, if he is otherwise eligible for refund as per the provisions contained in section 54(3) read with rule 89(4) in respect of supply of 65 units.

Question 6

Super Engineering Works, a registered supplier in Haryana, is engaged in supply of taxable goods within the State. Given below are the details of the turnover and applicable GST rates of the final products manufactured by Super Engineering Works as also the ITC (ITC) availed on inputs used in manufacture of each of the final products and GST rates applicable on the same, during a tax period:

Products	Turnover (excluding GST) (₹)	Output GST	ITC availed (₹)	Input GST Rates
A	500,000	5%	54,000	18%
B	350,000	5%	54,000	18%
C	100,000	18%	10,000	18%

Determine the maximum amount of refund of the unutilized ITC that Super Engineering works is eligible to claim under section 54(3)(1) provided that Product B is notified as a product, in respect of which no refund of unutilised ITC shall be allowed under said section.

Answer

Section 54(3)(ii) allows refund of unutilized ITC (ITC) at end of any tax period to a registered person where credit has accumulated on account of inverted duty structure i.e. rate of tax on inputs being higher than rate of tax on output supplies (other than nil rated or fully exempt

supplies), except supplies of goods or services or both as may be notified by Govt. on the recommendations of the Council.

In the given case, the rates of tax on inputs used in Products A and B (18% each) are higher than rates of tax on output supplies of Products A and B (5% each). However, Product B is notified as a product, in respect of which no refund of unutilised ITC shall be allowed under section 54(3)(ii). Therefore, only Product A is eligible for refund under section 54(3)(ii).

Further, rule 89(5) stipulates that in the case of refund on account of inverted duty structure, refund of ITC shall be granted as per the following formula-

$$\begin{aligned} \text{Maximum Refund Amount} &= \frac{\text{Turnover of inverted supply of} \\ &\quad \text{of goods and services x Net ITC}}{\text{Adjusted Total Turnover}} \\ &\quad \text{(Less)} \\ &\quad \frac{\text{Tax payable on such inverted rated} \\ &\quad \text{supply of goods and services x Net TTC}}{\text{ITC availed on inputs and input services}} \end{aligned}$$

Where,-

A. "Net ITC" means ITC availed on inputs during the relevant period;

B. Adjusted Total Turnover means the sum total of the value of

(a) the turnover in a State or a UT, as defined under section 2(112), excluding the turnover of services; and

(b) the turnover of zero-rated supply of services determined in specified manner and non zero- rated supply of services, excluding-

(i) the value of exempt supplies other than zero-rated supplies; during the relevant period

C. Relevant period means the period for which the claim has been filed.

In accordance with the aforesaid provisions, the maximum refund amount which Super Engineering Works is eligible to claim shall be computed as follows:

Tax payable on inverted rated supply of Product A = ₹ 5,00,000 x 5% = ₹ 25,000

Net ITC= ₹ 1,18,000 (₹ 54,000 + ₹ 54,000 + ₹ 10,000)

Adjusted Total Turnover = ₹ 9,50,000 (₹ 5,00,000 + ₹ 3,50,000 + ₹ 1,00,000)

Turnover of inverted rated supply of Product A = ₹ 5,00,000

Maximum refund amount for Super Engineering Works is as follows:

= [(₹ 5,00,000 x ₹ 1,18,000)/ ₹ 9,50,000] - [(₹ 25,000 x ₹ 1,18,000)/ ₹ 1,18,000] = ₹ 37,105

Question 7

Jai and Co, a registered supplier under GST, is engages in weaving yarn into fabrics and has provided the following Information

Nature of various intra-State supplies during April 20XX	Value of supply (excluding GST)(₹)
Outward supply of fabrics (Tax rate of CGST and SGST is 2.5% each)	30,00,000
Inward supply of rayon yarn (Tax rate of CGST and SGST is 6% each)	24,00,000
Inward supply of services for processing the yarn (Tax rate of CGST and SGST is 2.5% each)	4,00,000
Inward supply of machineries for weaving the processed yarn into fabrics (Tax rate of CGST and SGST is 9% each)	45,00,000
The concern has not provided any supply other than the outward supply referred above. ITC in respect of all types of inward supplies as given above was claimed in the relevant GSTR 3B as well reflected in GSTR 2B	
Other applicable conditions for claiming the refund are duly complied with.	

You are required to compute the 'maximum refund amount' eligible under rule 89(5) of CGST Rules for inverted duty structure.

Answer

Maximum refund amount under rule 89(5) of the CGST Rules on account of inverted duty structure, is computed as follows-

$$\begin{aligned}
 \text{Maximum Refund Amount} &= \frac{\text{Turnover of inverted supply of goods and services} \times \text{Net ITC}}{\text{Adjusted Total Turnover}} \\
 &\quad (\text{Less}) \\
 &\quad \text{Tax payable on such inverted rated supply of goods and services} \times \text{Net TTC} \\
 &\quad \text{ITC availed on inputs and input services}
 \end{aligned}$$

where Net ITC means **ITC availed only on inputs**

$$= [(\text{₹ } 24,00,000 \times 6\%) \times 30,00,000 / 30,00,000] - [(30,00,000 \times 2.5\%) \times \text{₹ } 1,44,000 / \text{₹ } 1,54,000]$$

(each for CGST and SGST)

$$= \text{₹ } 1,44,000 - \text{₹ } 70,130 = \text{₹ } 73,870$$

Thus, maximum **refund amount is ₹ 73,870 each for CGST and SGST.**

Note: Refund of tax paid on input services and capital goods is not a part of refund of accumulated ITC on account of inverted duty structure.

Question 8

Kailash Global (P) Ltd. supplies various goods in domestic and international markets. It is engaged in both manufacturing and trading of goods. The company is registered under GST in the State of Karnataka.

The company exports goods without payment of tax under letter of undertaking in accordance with the provisions of section 16(3)(a) of the IGST Act.

The company has made the following supplies during a tax period:

S.N.	Particulars	(₹)
(i)	Export of product 'A' to UK for \$10,000. Assessable value under customs in Indian rupees. [Export duty is levied on product 'A' at the time of exports. Further, value of like goods domestically supplied by the similarly placed supplier is ₹ 6,00,000]	7,00,000
(ii)	Domestic supplies of taxable product 'B'* during the period (excluding tax @5%) Input used in manufacturing of such goods are taxable @18%] *not notified as a product, in respect of which refund of unutilised ITC shall not be allowed under section 54(3)(ii)	10,00,000
(iii)	Supply of goods to Export Oriented Unit (excluding tax @ 18%) [ITC has been claimed by the recipient]	5,00,000
(iv)	Export of exempt supplies of goods (Value of like goods domestically supplied by the similarly placed supplier is ₹ 5,00,000)	6,00,000

The ITC available for the above tax period is as follows:

S.No	Particulars	(₹)
(i)	On inputs (including ₹ 50,000 on export of exempt supplies)	3,50,000
(ii)	On capital goods	1,20,000
(iii)	On input services (including ₹18,000 on outdoor catering)	2,00,000

Determine the maximum amount of refund admissible to Kailash Global (P) Ltd. for the given tax period.

Answer

Computation of maximum amount of refund admissible to Kailash Global (p) Ltd.

Particulars	(₹)
Exports of product 'A' to UK [Note (i)]	Nil
Domestic supplies of taxable product 'B' during the period [Note (ii)]	92,105
Supply of goods to Export Oriented Unit [Note (iii)]	Nil
Export of exempt supplies [Note (iv)]	<u>1,14,000</u>

Total refund claim admissible	2,06,105

Notes

(i) Export of goods is a zero rated supply . Further, Kailash Global (P) Ltd. exports goods without payment of tax under letter of undertaking in accordance with the provisions of section 16(3)(a) of the IGST Act. Therefore, as per clause

(i) of first proviso to section 54(3), a registered person may claim refund, of any unutilised ITC in the case of zero rated supply made without payment of tax at the end of any tax period. However, second proviso to section 54(3) lays down that refund of unutilized ITC is not allowed if the goods exported out of India are subjected to export duty.

(ii) Refund of unutilised ITC is allowed in case of inverted duty structure, i.e. where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies) except supplies of goods or services or both as may be notified by the Govt. on the recommendations of the GST Council [Clause (ii) of the first proviso to section 54(3)].

Rule 89(5) stipulates that in the case of refund on account of inverted duty structure, refund of ITC is granted as per the following formula-

$$\begin{aligned} \text{Maximum Refund Amount} &= \frac{\text{Turnover of inverted supply of goods and services} \times \text{Net ITC}}{\text{Adjusted Total Turnover}} \\ &\quad (\text{Less}) \\ &\quad \text{Tax payable on such inverted rated supply of goods and services} \times \text{Net TTC} \\ &\quad \text{ITC availed on inputs and input services} \end{aligned}$$

"Net ITC" means ITC availed on inputs during the relevant period.

"Adjusted total turnover" means the sum total of the value of:

(a) turnover in a State/UT, as defined u/s 2(112), excluding turnover of services; &
(b) turnover of zero-rated supply of services determined in terms of specified manner and non zero-rated supply of services, excluding:

(i) the value of exempt supplies other than zero-rated supplies; and
(ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub rule (4B) or both, if any, during the relevant period.

"Relevant period" means the period for which the claim has been filed.

Tax payable on inverted rated supply of goods = ₹10,00,000 x 5% = ₹ 50,000

Here, Net ITC= ₹ 3,50,000, Adjusted Total Turnover = ₹ 28,00,000 [₹ 7,00,000 + ₹ 10,00,000 + ₹ 5,00,000 + ₹ 6,00,000] and Turnover of inverted rated supply of goods = ₹ 10,00,000

Thus, maximum refund amount under rule 89(5)= ₹ 3,50,000 x ₹ 10,00,000/ ₹ 28,00,000-(₹ 50,000 x ₹ 3,50,000/ 5,32,000) = ₹ **1,25,000 - ₹32,895 = ₹ 92,105**

(iii) As per section 2(39), deemed exports means such supplies of goods as may be notified under section 147. Supplies to EOU is notified as deemed export under section 147. In respect of supplies regarded as deemed exports, the application of refund can be filed by the supplier of deemed export supplies only in cases where the recipient does not avail of ITC on such

supplies and furnishes an undertaking to the effect that the supplier may claim the refund [Third proviso to rule 89(1)]. Therefore, since in the given case, the recipient is claiming ITC, Kailash Global (P) Ltd. (supplier of deemed exports) cannot claim refund of ITC.

(iv) Section 16(2) of the IGST Act stipulates that subject to the provisions of section 17(5) of the CGST Act, ITC may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply. Section 54(3) of the CGST Act allows refund of ITC in the case of zero rated supply made without payment of tax.

Rule 89(4) stipulates that in the case of zero-rated supply of goods or services or both without payment of tax under bond/LUT in accordance with the provisions of section 16(3) of the IGST Act 2017, refund of ITC shall be granted as per the following formula:

$$\text{Refund Amount} = \frac{(\text{Turnover of zero-rated supply of goods} + \text{Turnover of zero-rated supply of services})}{\text{Adjusted Total Turnover}} \times \text{Net ITC}$$

“Net ITC” means ITC availed on inputs and input services during the relevant period other than the ITC availed for which refund is claimed under sub-rules (4A) or (4B) or both.

“Turnover of zero-rated supply of goods” means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond/LUT, or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less.

“Adjusted total turnover” means the same as explained in point ii above

Here, Turnover of zero rated supply of goods = ₹ 6,00,000 (Lower of ₹ 600,000 or 1.5 times of ₹ 500,000 i.e 7,50,000 whichever is lower)

Net ITC= ₹ 5,32,000 [ITC on outdoor catering disallowed under section 17(5)]

Adjusted Total Turnover = ₹ 28,00,000 (as computed in point ii above)

Thus, maximum refund amount under rule 89(4) = ₹ 5,32,000 x ₹ 6,00,000 / ₹ 28,00,000 = ₹ 1,14,000

Other Refunds

Question 9

In case of refund under exports of goods, whether BRC/FIRC is necessary for granting refund?

Answer

In case of refund on account of **export of goods**, the refund rules **do not prescribe BRC/FIRC as a necessary document** for filing of refund claim. However, for **export of services details of BRC/FIRC is required** to be submitted along with the application for refund.

Question 10

DF Ltd. exported goods valued ₹ 50 lakh and received refund of IGST paid amounting to ₹ 9 lakh on 16th Aug, 20XX. He could realise export proceeds to the extent of ₹ 25 lakh, but did not realise the balance export proceeds within the prescribed time limit of 9 months and has applied for extension time to RBI. There is no dispute about the supply of the goods as regards quality, time of supply and fulfilment of terms and conditions of sale. He wants you to inform him of the consequences under GST law in case RBI does not give him the extension.

Answer

Where any applicant has **received the refund** of IGST paid on export of goods of such exported goods within the prescribed time limit (or extended time period), he **shall deposit the amount** so refunded along **with interest of 18% within 30 days of the expiry of the said period** (or extended time period), **to the extent of non-realisation** of sale proceeds

However, if the RBI writes off requirement of such realization on merits, **recovery shall not be made.**

In view of the aforesaid provisions, DF Ltd. has to deposit the refund of IGST of ₹ 4.5 lakh (to the extent of non-realisation of export proceeds of ₹ 25 lakh) along with interest @ 18% within 30 days of the expiry of the prescribed time-limit.

In case of failure to do so, the amount will be recovered in accordance with the provisions relating to **recovery of erroneous** refund and also **penalty can be imposed.**

Question 11

Discuss the provisions relating to refund of the amount of advance tax deposited by a casual taxable person under section 27(2).

Answer

The amount of advance tax deposited by a casual taxable under section 27(2), shall be **refunded** only when such person has, in respect **of the entire period for which the certificate of registration granted** to him had remained in force, furnished all the returns required under section 39 [Section 54(13)]. Further, **refund of any amount, after adjusting the tax payable** by the applicant **out of the advance tax deposited** by him under section 27 at the time of registration, **shall be claimed in the last return required to be furnished by him** [Fourth proviso to rule 89(1)].

Question 12

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

Answer

Section 77, inter alia, stipulates that a registered person who has paid the CGST and SGST, 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 on application to be filed in Form RFD-01.

The IGST liability cannot be adjusted against the CGST and SGST wrongly paid. The taxable person has to pay IGST first and then, he may claim refund of wrongly paid CGST/SGST.

Refund Procedure

Question 13

When is a deficiency memo issued in respect of a refund claim made under section 54?

Answer

Rule 90(3) provides for communication in prescribed form (deficiency memo) where deficiencies viz. required documents and working not submitted are noticed. The said sub-rule also provides that **once the deficiency memo has been issued, the claimant** is required to **file a fresh refund application after the rectification of the deficiencies.**

Question 14

Is there any time limit for sanctioning of refund under section 54?

Answer

Yes, refund has to be sanctioned within 60 days from the date of receipt of application complete in all respects. If refund is not sanctioned within the said period of 60 days, interest @ 6% p.a. will have to be paid from the date immediately **after expiry of 60 days** from the date of receipt of application till the date of refund of such tax.

However, in case where provisional **refund to the extent of 90%** of amount claimed is refundable in respect of **zero-rated** supplies made by certain categories of registered persons in terms of section 54(6), provisional refund has to be given **within 7 days from date of acknowledgement of claim of refund**.

Question 15

Y Ltd. exported service valued at US \$1,00,000. Supply of service was completed on 15th Jan.. Payment for this service was received on 28th Feb. Refund claim was filed by Y Ltd. In respect of tax paid on inputs and inputs services for ₹ 6,00,000 on 31st March. The refund claim was sanctioned on 30th June. What is the relevant date and rate of interest as per GST law?. What is the amount of interest Y Ltd. will get?

Answer

Where **supply of services** had been **completed prior to the receipt of payment**, relevant date is **date of receipt of payment** in convertible foreign exchange, i.e. **28 Feb** [Explanation to section 54].

A per section 56, **where any tax ordered to be refunded to any applicant is not refunded within 60 days** from date of receipt of application, **interest shall be payable @6% p.a.** from the date immediately **after the expiry of 60 days** from the date of **receipt of application till the date of refund** of such tax.

Since in the given case, **tax ordered** to be refunded is **not refunded within 60 days** from the date of **receipt of application**, viz., 31st March, **interest @ 6% p.a. is payable**.

Interest amount = Rs. 6,00,000 * 31/365 * 6% = Rs. 3058 (Rounded off)

Unjust Enrichment

Question 16

State the exceptions to the principle of unjust enrichment as applicable to refund claims.

Or

State few cases where refundable amount shall be paid to the applicant, instead of being credited to Consumer Welfare Fund under CGST Act.

Answer

Section 54(8) provides that the refundable amount shall be paid to the applicant, instead of being credited to the Consumer Welfare Fund.

The principle of unjust enrichment is applicable in all cases of refund except in the following cases:

(a) **Refund of tax paid on export of goods or services** or both or on inputs or input services used in making such exports.

- (b) **Refund of unutilized ITC** in case of **zero-rated supplies** made without payment of tax or accumulated ITC on account of **inverted duty structure**.
- (c) **Refund of tax paid** on a supply which is not provided, either wholly or partially, and **for which Invoice has not been issued** or where a refund voucher has been issued.
- (d) Refund of tax paid on a transaction **treating** it to be an **intra-State supply**, but which is subsequently held to be an **inter-State supply or vice-versa**.
- (e) If the **incidence of tax or interest paid has not been passed** on to any other person.
- (f) Such other class of persons who has borne the incidence of tax as the Govt. may notify.

Question 1.

What happens when the inputs or capital goods are not received back or supplied from the place of business of job worker within prescribed time period?

Answer

If the inputs or capital goods are not received back by the principal or are not supplied from the place of business of job worker within the prescribed time limit, it would be **deemed that such inputs or capital goods had been supplied by the principal to the job worker on the day when the said inputs or capital goods were sent out by the principal (or on the date of receipt by the job worker where the inputs or capital goods were sent directly to the place of business of job worker). Thus, the principal would be liable to pay tax accordingly.**

Question 2

Who is responsible for the maintenance of proper accounts related to job work?

Answer

It is completely the **responsibility of the principal** to maintain proper accounts of job work related inputs and capital goods.

Question 3

Under what circumstances, can the principal directly supply goods from the premises of job worker without declaring the premises of job worker as his additional place of business?

Answer

The goods can be supplied directly from the place of business of job worker without declaring it an additional place of business in two circumstances namely **where the job worker is a registered taxable person or where the principal is engaged in supply of such goods as may be notified by the Commissioner.**

Question 4

Sudama Industries Ltd, registered in the State of Jammu & Kashmir, manufactures plastic pipes for other suppliers on job work basis

On 10th Jan., Plasto Manufacturers (registered in the State of Himachal Pradesh) sent plastic worth ₹ 4 lakh and moulds worth ₹ 50,000, free of cost, to Sudama Industries Ltd. to make plastic pipes. Sudama Industries Ltd, also used its own material-a special type of lamination material for coating the pipes, worth ₹ 1 lakh in the manufacture of pipes. It raised an invoice of ₹ 2 lakh as job charges for making pipes and returned the manufactured pipes through delivery challan to Plasto Manufacturers on 20th Oct. in the same FY

The same quality and quantity of plastic pipes, as was made for Plasto Manufacturers, were made by Sudama Industries Ltd from its own raw material and sold to Solid Pipes (registered in Jammu and Kashmir) for ₹ 75 lakh on 20th Oct.

Examine the scenario and offer your views on the following issues with reference to the provision relating to job work under the GST laws:

(i) Is there any difference between the manufacture of plastic pipes by Sudama Industries Ltd for Plasto Manufacturers and for Solid Pipes?

(ii) Whether Sudama Industries can use its own material even when it is manufacturing the plastic pipes on job-work basis?

(iii) Whether sending the plastic and moulds to Sudama Industries Ltd. by Plasto Manufacturers is a supply and a taxable invoice needs to be issued for the same?

[iv] Whether Sudama Industries should include the value of free of cost plastic and moulds supplied by Plasto Manufacturers in its job charges?

Answer

(i) As per section 2(68), **job work means any treatment or process undertaken by a person on goods belonging to another** registered person and the expression "job worker" shall be construed accordingly. The registered **person on whose goods** (inputs or capital goods) **job work is performed is called the principal**. Thus, the job worker is expected to work on the goods sent by the principal.

Therefore, when the goods are manufactured by Sudama Industries Ltd. for Plasto Manufacturers, it is job work as the process is undertaken on inputs (plastic and moulds) supplied by the principal (Plasto Manufacturers) and **when goods are manufactured for Solid Pipes, it is manufacture on own account** as the pipes are manufactured from company's own raw material. **Further processing** or treatment **on job work basis is a supply of service** in terms of para 3 of Schedule II to the CGST Act **and manufacture of pipes on own account is a supply of goods**.

(ii) It has been clarified vide Circular No. 38/12/2018 GST dated 26.03.2018 that the job worker, **in addition to the goods received** from the principal, **can use his own goods** for providing the services of job work.

(iii) Section 143 provides that the registered principal may, without payment of tax, send inputs or capital goods to a job worker for job work. Subsequently, on completion of the job work, the principal shall either bring back the goods to his place of business or supply (including export) the same directly from the place of business/premises of the job worker within 1 year in case of inputs or within 3 years in case of capital goods (except moulds and dies, jigs and fixtures or tools). Thus, the **provision relating to return of goods is not applicable in case of moulds, dies, gs, fixtures and tools**.

If the time frame of 1 year/ 3 years for bringing back or further supplying the inputs/capital goods is not adhered to, the activity of sending the goods for job work shall be deemed to be a supply by the principal on the day when the said inputs/capital goods were sent out by him. Thus, essentially, sending goods for job work is not a supply as such, but it acquires the character of supply only when the inputs/capital goods sent for job work are neither received back by the principal nor supplied further by the principal from the place of business/premises of the job worker within 1/3 years of being sent out.

Therefore, **sending of plastic and moulds** by Plasto Manufacturers to Sudama Industries Ltd. (job worker) **is not supply** as the manufactured pipes are received back within the stipulated time and the **provisions relating to return of goods are not applicable in case of moulds**.

Rule 45 provides that the **inputs, semi-finished goods or capital goods** being sent for job work shall be **sent under the cover of a delivery challan** issued by the principal.

Therefore, Plasto Manufacturers need not issue a taxable invoice **for sending the inputs to Sudama Industries Ltd. but** should send the inputs under the cover of a challan.

(iv) As per section 15(2)(b), **any amount** that the supplier is liable to pay in relation to such supply but which has been **incurred by the recipient** of the supply and not **included in the price** actually paid or payable for the goods or services or both, **is includible in the value of supply**.

However, Sudama Industries Ltd. **should not include the value of free of cost plastic and moulds** supplied by Plasto Manufacturers in its job charges as Sudama Industries Ltd. is manufacturing the plastic pipes on job work basis. **The scope of supply of the Sudama Industries Ltd. is to manufacture plastic pipes from the raw material supplied by the Plasto Manufacturers. Thus, at no point of time** was Sudama Industries Ltd. (supplier of job work service) **liable to pay for the raw material** and therefore, the **value thereof should not be included in its job charges even though the same has been incurred by Plasto Manufacturers** (recipient of job work service).

Question 5

Alok Pvt. Ltd., a registered manufacturer, sent steel cabinets worth ₹ 50 lakh under a delivery challan to M/s Prem Tools, a registered job worker, for job work on 28th Jan.. The scope of job work included mounting the steel cabinets on a metal frame and sending the mounted panels back to Alok Pvt. Ltd. The metal frame is to be supplied by M/s Prem Tools. M/s Prem Tools has agreed to a consideration of ₹ 5 lakh for the entire mounting activity including the supply of metal frame. During the course of mounting activity, metal waste is generated which is sold by M/s. Prem Tools for ₹ 45,000. M/s Prem Tools sent the steel cabinets mounted on metal frame to Alok Pvt. Ltd. on 3rd Dec. in the same FY.

Assuming GST rate for metal frame as 28%, for metal waste as 12% and standard rate for services as 18%, you are required to compute the GST liability of M/s Prem Tools. Also, give reason(s) for inclusion or exclusion of the value of cabinets in job charges for the purpose of payment of GST by M/s Prem Tools.

Answer

As per para 3 of Schedule II to the CGST Act, any treatment or process which is applied to another person's goods is a supply of services and accordingly is subject to GST rate applicable for services.

In the given case M/s Prem Tools (job worker) undertakes the process of mounting the steel cabinets of Alok Pvt Ltd (principal) on metal frames.

In view of para 3 of Schedule II to the CGST Act cited above, the mounting activity classifies as services even though metal frames are also supplied as a part of the mounting activity. Accordingly, the job charges will be chargeable to rate of 18%, which is the applicable rate for services.

Further, the value of steel cabinets will not be included in the value of taxable supply made by M/s Press Tools as the supply of cabinets does not fall within the scope of supply to be made by M/s Prem Tools. M/s Prem Tools is only required to mount the steel cabinets, which are to be supplied by Alok Pvt Ltd., on metal frames, which are to be supplied by it.

As regards sale of waste generated during the job work, since M/s Prem Tools is registered, the tax leviable on the supply will have to be paid by it in terms of section 143(5). Such supply will be treated as a supply of goods and subject to GST rate applicable for metal waste.

Accordingly, the GST liability of M/s Prem Tools will be computed as under;

Particulars	Amount (₹)
Job charges	5,00,000
GST @18% (A)	90,000
Sale of metal waste	45,000
GST 12% (B)	5,400
Total GST payable (A)+(B)	95,400

Question 6

Bedi Manufacturers, a registered person, instructs its supplier to send the capital goods directly to Rajesh Enterprises, who is a job worker, outside its factory premises for carrying out certain operations on the goods. The goods were sent by the supplier on 10th April and were received by the job worker on 15th April. Rajesh Enterprises carried out the job work, but did not return the capital goods to their principal- Bedi Manufacturers. Discuss whether Bedi Manufacturers is eligible to retain ITC availed by them on capital goods. What action under GST Act is required to be taken by Bedi Manufacturers?

What would be your answer if in place of capital goods, jigs and fixtures are supplied to the job worker and the same has not been returned to the principal?

Answer

As per section 19(5), the principal is **entitled to take ITC** of capital goods sent for job work even if the said goods are directly sent to job worker.

As per the, section 19(6) stipulates that **where the capital goods sent directly to a job worker are not received back by the principal within a period of 3 years** of the date of receipt of capital goods by the job worker, it shall be **deemed that** such capital goods had been **supplied by the principal** to the job worker on the day when the said capital goods were received by the job worker.

In view of aforementioned provisions, Bedi Manufacturers are **eligible to retain the ITC** availed by them on the capital goods.

However, **if the capital goods are not returned by Rajesh Enterprises within 3 years** from 15th April (date of receipt of capital goods by job worker), it shall be **deemed that such capital goods had been supplied** by Bedi Manufacturers to Rajesh Enterprises on 15th April and Bedi Manufacturers shall be **liable to pay the tax along with applicable interest**.

However, there is **no time limit for return of moulds and dies, jigs and fixtures** or tools sent out to a for job work [Section 19(7)].

Hence, if Rajesh Enterprises does not return the jigs and fixtures to Bedi Manufacturers, **it shall not be considered as a supply** of jigs and fixtures to Rajesh Enterprises by Bedi Manufacturers. In this case also Bedi Manufacturers will be **eligible to retain the ITC** availed by them.

Question 7

Genie Engineers had a mould delivered directly to a job worker from the supplier for making certain precision parts for use in the factory of Genie Engineers. As per agreement, the mould was to remain with the job worker as long as work was being sent to him.

After four years a departmental audit team that visited the job worker noticed the mould and traced it to Genie Engineers. GST was demanded from Genie Engineers for taking ITC without receiving the mould and furthermore for not bringing the mould back after 3 years of delivery to the job worker.

How should they respond to this?

Answer

Genie Engineers should reply on the following lines:

Under section 19(6), the **principal may take ITC on capital goods** sent to a job worker for job work without being first brought to his place of business.

The **capital goods** sent for job work should **either be returned to the principal or must be supplied** from the job worker's premises **within 3 years** [extendible by another 2 years] from sending them to the job worker or direct receipt by the job worker from the supplier. **If the above time-lines are not met, it is deemed that the capital goods were supplied** by the principal to the job worker (in other words, **tax will be payable** on them) on the day they were sent out to the job worker.

However, time-limit of 3 years for bringing back the capital goods from the job worker does not apply to moulds.

Hence, Genie Engineers have **correctly taken the ITC on moulds**.

Question 8

Asha Ltd. supplies raw material to a job worker Kareena Ltd. After completing the job-work, the finished product of 5,000 packets are returned to Asha Ltd. putting the retail sale price as Rs. 20 on each packet. The product in the packet is covered under MRP provisions. Determine the transaction value in the hands of Kareena Ltd. under GST law from the following details:

Particulars	Value in Rs.
Cost of raw material supplied	30,000
Job worker's charges including profit	10,000
Transportation charges for sending the raw material to the job worker	3,000
Transportation charges for returning the finished packets to Asha Ltd.	4,500
Asha Ltd. paid certain technology transfer fees to 'Reena Ltd.', so that 'Kareena Ltd.' can use the said technology in the given job-work operation.	22,500

Answer:

Statement showing transaction value of Kareena Ltd.

Particulars	Value in Rs.

Cost of raw material supplied [Further, the value of raw material will not be included in the value of taxable supply made by Kareena Ltd. as the supply of cabinets does not fall within the scope of supply to be made by M/s Kareena Ltd.]	-
Job worker's charges including profit	10,000
Transportation charges for sending the raw material to the job worker [Not included as not in the scope of Kareena Ltd.]	-
Transportation charges for returning the finished packets to Asha Ltd. [It is assumed that responsibility of sending the goods back was on Kareena Ltd.]	4,500
Technology fee [any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply is required to be added] [Sec. 15(2)(b)]	22,500
Sub-total	37,000

Basics

Question 1

Whether principal of natural justice is must to be followed before passing assessment order against the unregistered person?

Answer

Yes, principal of natural justice is must to be followed before passing assessment order against a registered person seeking to impose any financial burden on him.

Provisional Assessment

Question 2

(i) ABC Limited is a supplier of medical equipment to various hospitals. While supplying the equipment ABC Limited is not sure about the rate of IGST applicable on such supplies, i.e. 18% or 28%. You are required to advise ABC Ltd. in this situation.

(ii) Whether a tax officer can suo-moto ask ABC Limited to pay tax on provisional basis?

Answer

(i) In such an event, ABC Limited can **move an application for provisional assessment** for seeking permission to discharge the tax liability provisionally @ 18% **upon the submission of bond and security** and subject to finalization of the assessment.

Upon finalization of the assessment, **ABC Limited would be liable to pay the differential tax liability along with applicable interest if it is found** that the applicable **rate was 28%** whereas ABC Limited paid the tax @ 18% pursuant to the order passed initially on its application for seeking provisional assessment.

(ii) A request for paying tax on provisional basis has to come from tax payer which will then have to be permitted by proper officer. Proper officer can not suo-moto order for provisional assessment.

Question 3

Divy Trader obtained permission for provisional assessment and supplied three consignments of furniture on 28nd April, 20XX. The tax payment on provisional basis was made in respect of all the three consignments on 20th May, 20XX.

Consequent to the final assessment order passed by the Assistant Commissioner on 21st June, 20XX, a tax of ₹ 1,20,000 and ₹1,50,000 became refundable on 1st and 3rd consignments, whereas a tax of ₹ 1,20,000 became due on 2nd consignment. Divy Trader applies for the refund of the tax on 1st and 3rd consignments on 12th July, 20XX and pays the tax due on 2nd consignment on the same day. Tax was actually refunded to it for 1st consignment on 8th Sep, 20XX, whereas of 3rd consignment on 18th Sep, 20XX. Customers of Divy Trader who purchased the consignments have not taken ITC (ITC).

Determine the interest payable and receivable, if any, under CGST Act by Divy Trader.

Answer

Where **tax becomes due consequent to order of final assessment, interest is payable @ 18% p.a., from the first day after the due date** of payment of tax in respect of the goods supplied under provisional assessment **till the date of actual payment**, whether such amount is paid before/after the issuance of order for final assessment.

In the given case, due date for payment of tax on goods cleared on 28.04.20XX under provisional assessment is 20.05.20XX.

Thus, interest payable in respect of 2nd consignment

$$= ₹ 1,20,000 \times 18\% \times 53 [21.05.20XX - 12.07.20XX]/365$$

$$= ₹ 3,136 \text{ (rounded off)}$$

Further, section 56 of CGST Act provides that where **tax becomes refundable** consequent to the order of final assessment, **interest is receivable @ 6% p.a.** from the date immediately **after the expiry of 60 days from the date of receipt of refund application till the date of refund of such tax.**

In the given case, since refund of tax of 1st consignment has been paid on 08.09.20XX which is within 60 days from the date of receipt of application of refund (12.07.20XX), interest is not receivable on tax refunded in respect of 1st consignment.

However, interest receivable in respect of 3rd consignment is as follows:

60 days from the date of receiving the refund application expire on 10.09.20XX.

$$= ₹ 1,50,000 \times 6\% \times 8 [11.09.20XX-18.09.20XX]/365$$

$$= ₹ 197 \text{ (rounded off).}$$

Question 4

Kulbhushan & Sons has entered into a contract to supply a consignment of certain taxable goods.

However, since it is unable to determine the value of the goods to be supplied by it, it applies for payment of tax on such goods on a provisional basis along with the required documents in support of its request.

On 12 Jan., the Assistant Commissioner of CGST issues an order allowing payment of tax on provisional basis indicating the value on the basis of which the assessment is allowed on provisional basis and the amount for which the bond is to be executed and security is to be furnished.

Kulbhushan & Sons complies with the same and supplies the goods on 25th Jan. thereafter paying the tax on provisional basis in respect of said consignment on 19th Feb.

Consequent to the final assessment order passed by the Assistant Commissioner of CGST on 21st March, a tax of ₹1,80,000 becomes due on the consignment.

Kulbhushan & Sons pays the tax due on 9th April. Determine the interest payable, if any, by Kulbhushan & Sons in the above case.

Assuming all the other facts remaining the same, if consequent to the final assessment order passed on 21st March, a tax of ₹ 4,20,000 becomes refundable on the consignment, refund of which is applied by Kulbhushan & Sons on 9th April and tax was refunded to it on 05th June, determine the interest receivable, if any, by Kulbhushan & Sons in the given case.

Answer

Section 60(4) of the CGST Act stipulates that where the **tax liability as per the final assessment is higher than** under **provisional assessment** i.e. tax becomes due consequent to order of final assessment, the registered person shall be liable to pay **interest on tax payable** on supply but not paid on the due date, at the rate specified under section 50[1] **[18% p.a.]**, **from the first day after the due date** of payment of tax in respect of the goods supplied under provisional assessment **till the date of actual payment**, whether such amount is paid before or after the issuance of order for final supply assessment.

In the given case, due date for payment of tax on goods cleared on 25th Jan. under provisional assessment assessment is 20th Feb

In view of the provisions of section 60(4), in the given case, Kulbhushan & Sons is liable to pay following interest in respect of the consignment of goods supplied:

$$= ₹ 1,80,000 \times 18\% \times 48/365$$

$$= ₹ 4,261 \text{ (rounded off)}$$

If, in the given case, it is assumed that consequent to the final assessment order passed on 21st March a tax of ₹ 4,20,000 becomes refundable to Kulbhushan & Sons, answer would be as follows:

Section 60(5) of the CGST Act stipulates that where the tax liability as per the final assessment is less than in provisional assessment i.e. **tax becomes refundable** consequent to the order of final assessment, the **registered person shall be paid interest** at the rate specified under section 56 [6% p.a. from the date immediately **after the expiry of 60 days from the date of receipt of refund application** under section 54(1) **till the date of refund** of such tax]

However, since in the given case, tax was **refunded on (05th June) within 60 days** from the date of filing of application of refund (09th April), **interest is not payable** to Kulbhushan & Sons on tax refunded.

Scrutiny Assessment

Question 5

Explain the recourse that may be taken by the officer in case proper explanation is not furnished for the discrepancy detected in the return filed, while conducting scrutiny of returns under section 61 of the CGST Act.

Answer

If proper explanation is not furnished for the discrepancy detected in return filed, while conducting scrutiny of returns under section 61 of the CGST Act of a registered person, **proper officer may:**

- (i) **conduct audit** of the registered person; or
- (ii) **direct the registered person to get his records** including books of account examined and **audited by a Chartered Accountant or a Cost Accountant** nominated for this purpose by the Commissioner; or.
- (iii) exercise the powers of **inspection, search and seizure** with respect to the registered person, or
- (iv) **proceed to determine the tax** and other dues of the registered person **under Sections 73 or 74** of the Act.

Assessment of unregistered person (Best Judgement Assessment)

Question 6

Explain the provisions relating to assessment of unregistered persons by the proper officer under section 63 of the CGST Act.

Answer

Notwithstanding anything by the contrary contained in section 73 or section 74 of the CGST Act, where a taxable person-

- (i) **fails to obtain registration** even though liable to do so; or
- (ii) **whose registration has been cancelled** for any of the specified reasons but who was liable to pay tax, the proper officer may proceed to assess the tax liability of said taxable person to the best of his Judgement for the relevant tax periods.

*Specified reasons for cancelation are as under

- (a) registered person has contravened such provisions of the CGST Act or the rules made there under as may be prescribed; or
- (b) a person paying tax under composition levy has not furnished returns for three consecutive tax periods; or
- (c) any registered person, other than a person specified in clause (b), has not furnished returns for a continuous period of 6 months; or
- (d) any person who has taken voluntary registration has not commenced business within 6 months from the date of registration; or
- (e) registration has been obtained by means of fraud, wilful misstatement or suppression of facts:

The **assessment order shall be issued by proper officer within a period of 5 years from the due date for furnishing the annual return** for the FY to which non-payment of tax relates.

However, no such assessment order shall be passed without giving person an opportunity of being heard.

Summary Assessment

Question 7

Is summary assessment order to be necessarily passed against the registered person?

Answer

No. In certain cases, like when **goods are under transportation or are stored in a warehouse**, and the registered person in respect of such goods cannot be ascertained, the **person in charge of such goods** shall be **deemed to be the registered person** and will be assessed to tax.

Question 8

Write a brief note on Summary Assessment in certain special cases as per section 64 of CGST Act.

Answer

As per section 64 of the CGST Act 2017, **summary assessments** can be initiated **to protect the interest of revenue with the previous permission of Additional/Joint Commissioner** when the proper officer has evidence that a taxable person has incurred a liability to pay tax under the Act, and **any delay try him** in passing an assessment order **may adversely affect the interest of revenue**

Additional/Joint Commissioner **may withdraw summary assessment order on an application filed by taxable person within 30 days** from the date of receipt of order or on his own motion, if he finds such order to be erroneous and may **instead follow the procedures** laid down in **section 73 or section 74** to determine the tax liability of such taxable person.

Where the **taxable person to whom the liability pertains is not ascertainable** and such liability pertains to supply of goods, the **person in charge of such goods shall be deemed to be the taxable person liable to be assessed** and liable to pay tax and any other amount due under this section

Question 9

Explain in what cases, assessment order passed by proper officer may be withdrawn under CGST Act. 2017?

Answer

Assessment order passed by the proper officer may be withdrawn in following cases:

(i) **Assessment of non-filers of returns-** The best judgement order passed by the proper officer under section 62 of the CGST Act shall automatically stand withdrawn **where a registered person files a valid return within 30 days** of the service of the best judgment assessment order. **However, the liability for payment of interest** under section 50(1) of the CGST Act or **for payment of late fee** under section 47 of the CGST Act **shall continue**.

(ii) **Summary Assessment-** **On an application** made by the taxable person **within 30 days** from the date of receipt of order passed under sub-section (1) **or on his own motion**, if the Additional Commissioner or Joint Commissioner **considers that such order is erroneous**, he may **withdraw** such order and follow the procedure laid down in section 73 or section 74 (Issuance of SCN)

Audit**Question 10**

Explain the difference between Audit by Tax Authorities under section 65 and Special Audit under section 66 of the CGST Act.

Answer**Audit by Tax authorities under section 65 of the CGST Act:-**

- (i) The **Commissioner or any** officer authorized by him **can undertake audit** of any registered person for such period at such frequency and in such manner as may be prescribed.
- (ii) The audit shall be **completed within a period of 3 months** from the date of commencement of audit. However, the **Commissioner can extend this** period by a further period upto maximum **6 months**.

Special Audit under section 66 of the CGST Act-

- (i) The **registered person can be directed to get his records including books** of account **examined and audited by a chartered accountant or a cost accountant** during any stage of scrutiny - inquiry, investigation or any other proceedings; depending upon the complexity of the case. Any **officer not below the rank of Assistant Commissioner may order special audit**, with the approval of the Commissioner, if he is of the opinion that the value has not been correctly declared or the credit availed is not within the normal limits.
- (ii) Audit is to be **completed within 90 days**. However, the Assistant **Commissioner can extend this** period by a **further period of 90 days**.

Question 11

Prithviraj Ltd, registered under GST in Uttar Pradesh, is served a notice for audit by the tax authority under GST law on 10th July. The records and other documents as sought by the tax authority have been made available by Prithviraj Ltd. on 25th July. The tax authority visits the office of Prithviraj Ltd. located in Noida, Uttar Pradesh on 8th Aug for conducting audit.

Determine the time-limit within which the audit under section 65 of the CGST Act is required to be completed assuming that no extension is permitted in the given case.

Answer

As per section 65(4) of the CGST Act, **audit shall be completed within a period of 3 months from** the date of commencement of the audit. Further, **commencement of audit means** later of the following

- (a) the **date on which the records** and other documents, called for by the tax authorities, **are made available** by the registered person, or
- (b) the **actual institution of audit** at the place of business of the taxpayer.

Accordingly, in the given case, date of commencement of **audit is later of:**

- (a) the date on which the records and other documents, are made available by Prithviraj Ltd., i.e. 25th **July, or**
- (b) the actual institution of audit at the place of business of Prithviraj Ltd., i.e. **8th Aug.**

Thus, **date of commencement of audit** is 8th Aug.

Hence, audit **shall be completed within 3 months from** date of **commencement of audit** (8th Aug) i.e. by 8th Nov..

CHAPTER-18

Inspection, Search, Seizure and Arrest

Inspection

Question 1

Who can order for carrying out 'inspection' and under what circumstances

Answer

As per section 67, **inspection can be carried out by an officer of CGST/SGST only upon a written authorization given by an officer of the rank of Joint Commissioner or above.** A Joint Commissioner or an officer higher in rank can give such authorization only **if he has reasons to believe that the person concerned has done one of the following:**

- (i) **suppressed any transaction** of supply;
- (ii) **suppressed stock of goods** in hand;
- (iii) **claimed excess ITC;**
- (iv) **contravened any provision** of the CGST Act to evade tax;
- (v) a **transporter** or an owner/operator of a **warehouse/godown/any other place** has **kept goods** which have **escaped payment of tax** or has **kept his accounts or goods** in a manner that is likely to **cause evasion of tax.**

Search & Seizure

Question 2

Who can order for search and seizure under the provisions of the CGST Act?

Answer

An **officer of the rank of Joint Commissioner or above** can authorize an officer in writing to carry out **search and seize goods, documents, books or things.** Such authorization can be given only where the Joint Commissioner/an officer above his rank has **reasons to believe that any goods liable to confiscation or any documents or books or things relevant** for any proceedings are hidden in any place. The Joint Commissioner/an officer above his rank can himself search and seize such goods, documents or books or things.

Question 3

Describe the powers that can be exercised by an officer during a valid search.

Answer

An officer carrying out a search has the **power to search for and seize goods** (which are liable to confiscation) and **documents, books or things** (relevant for any proceedings under the CGST Act) from the premises searched. During search, the officer has the **power to break open the door of the premises** authorized to be searched **if access to the same is denied.** Similarly, while carrying out search within the premises, he can **break open any almirah or box if access to such almirah or box is denied** and in which any goods, account, registers or documents are suspected to be concealed. He **can also seal the premises if access to it denied.**

Question 4

List the safeguards in section 67 of the CGST Act in respect of the power of search or seizure

Answer

The **safeguards** provided in section 67 of the CGST Act **in respect of the power of search or seizure** are as under:

- (i) Seized documents/goods/things should **not be retained beyond the period necessary** for their examination.
- (ii) **Photocopies/extracts of the documents can be taken by the person** from whose custody documents are seized.
- (iii) In case of seized goods, where a **notice is not issued within 6 months** [extendible for further 6 months] of their seizure, **goods shall be returned** to the person from whose possession they were seized.
- (iv) An **inventory of seized goods is required** to be made by the seizing officer.
- (v) Certain specified categories of goods such as **perishable, hazardous etc. can be disposed** of immediately after seizure.
- (vi) **Searches and seizures** shall be carried out **in accordance with the provisions of Code of Criminal Procedure**. Instead of sending copies of any record made in the course of search to the nearest magistrate, it has to be sent to the Principal Commissioner/Commissioner of CGST

Question 5

Discuss the responsibilities of the person to whom summons has been issued.

Answer

A **person who is issued summon** is **legally bound to attend** either in person or by an authorized representative and he is bound to **state the truth before the officer** who has issued the summon upon any subject which is the subject matter of examination and to **produce such documents and other things** as may be required.

Question 6

Discuss the precautions to be observed while issuing summons under GST law.

Answer

The following precautions should generally be observed when summoning a person under GST law: -

- (i) A summon should not be issued for appearance where it is not justified. **The power to summon can be exercised only when** there is an inquiry being undertaken and the **attendance of the person is considered necessary**.
- (ii) **Normally, summons should not be issued repeatedly**. As far as practicable, the statement of the accused or witness should be recorded in minimum number of appearances.
- (iii) **Respect the time of appearance given in the summons**. No person should be made to wait for long hours before his statement is recorded except when it has been

decided very consciously as a matter of strategy.

- (iv) Preferably, **statements should be recorded during office hours**; however, an exception could be made regarding time and place of recording statement having regard to the facts in the case.

Arrest

Question 1

Explain the meaning of 'arrest',

Answer

The term '**arrest**' has not been defined in the CGST Act. However, as per judicial pronouncements, it denotes 'the **taking into custody** of a person **under some lawful command or authority**'. In other words, a person is said to be arrested when he is **taken and restrained of his liberty by power or colour of lawful warrant**.

Question 2

State the circumstances when the proper officer can authorize 'arrest' of any person under the CGST Act.

Answer

The **Commissioner of CGST** can authorize a CGST officer to arrest a person if he has **reasons to believe that** the person has **committed an offence** attracting a **punishment** prescribed **under section 132(1)(a), (b), (c), (d) or section 132(2)**. This essentially means that a person **can be arrested only where the tax evasion is more than ₹ 2 crore** and the offences are specified offences namely, making **supply without any invoice; issue of invoice without any supply: amount collected as tax but not paid to the Govt. beyond a period of 3 months and taking ITC without receiving goods and services**. However, the **monetary limit shall not be applicable if the offences are committed again** (even after being convicted earlier), i.e. **repeat offender** of the specified offences can be arrested **irrespective of the tax amount** involved in the case.

Question 3

Explain the safeguards provided under section 69 to a person who is placed under arrest.

Answer

Section 69 provides following **safeguards to a person** who is placed **under arrest**:

- (a) If a person is **arrested for a cognizable offence**, he must be informed of the grounds of arrest and be **produced before a magistrate within 24 hours**.
- (b) If a person is **arrested for a non-cognizable offence**, he shall be **admitted to bail** or in default of bail, forwarded to the custody of the Magistrate.
- (c) **All arrest must be in accordance with** the provisions of the **Code of Criminal Procedure** relating to arrest in terms of section 69(3).

Access to Business Premise

Question 4

Explain the situation in which access to business premises is allowed under section 71. Also, list the records which are to be produced during access to business premises.

Answer

During the course of any proceeding under this Act, the duly **empowered officer can have access to** any **business premises**, which may be required for the purpose of such enquiry. **During such access**, the **officers can inspect the books of accounts, documents, computers, computer programs, computer software** and such other things as may be required.

It is the duty of the person in charge of such premises to furnish the required documents. Similarly the **person in charge** of business premises are also **duty bound to furnish such documents** to the audit party deputed by the proper officer or the chartering Accountant or cost Accountant, who has been deputed by the commissioner to carry out special audit. The **following records** are covered by the provision and are to be produced, if called for

- (i) the **record prepared and maintained** by the registered person and declared to the proper officer in the prescribed manner.
- (ii) **trial balance** or its equivalent.
- (iii) **statements of annual financial accounts**, duly audited.
- (iv) **cost audit report**, if any
- (v) the **income-tax audit report**, if any
- (vi) any other relevant record

Chapter 19

Demand and recovery

Section 73 to 75 - Basic

Question 1

Enlist the circumstances for which a show cause notice can be issued by the proper officer under section 73.

Answer

As per section 73, a show cause notice can be issued if:

- tax has not been paid or
- tax has been short period or
- **tax** has been **erroneously refunded**; or
- **ITC** has been **wrongly availed or utilized**,

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

Section 73 to 75 – Time Limit for SCN/Adjudication (Order)

Question 2

Discuss briefly the time limit for Issue of show cause notice as contained under sections 73 and 74.

Answer

(i) In case of **section 73** (cases other than fraud/suppression of facts/willful misstatement), the **time limit for issuance of SCN is 2 years and 9 months from the due date of filing Annual Return** for the FY to which the demand pertains or from the date of erroneous refund.

(ii) In case of **section 74** (cases involving fraud/suppression of facts/willful misstatement), the **time- limit for issuance of SCN is 4 years and 6 months from the due date of filing of Annual Return** for the FY to which the demand pertains or from the date of erroneous refund.

Question 3

Is there any time limit prescribed for adjudication (**Demand order**) of the cases under CGST Act? If yes, discuss the same.

Answer

(i) In case of **section 73** (cases other than fraud/suppression of facts/willful misstatement), the **time limit for adjudication of cases is 3 years from the due date for filing of annual return** for the FY to which demand relates to or within 3 years from the date of erroneous refund.

(ii) In case of **section 74** (cases of fraud/suppression of facts/willful misstatement), the **time limit for adjudication is 5 years from the due date for filing of annual return** for the FY to which demand relates to or within 5 years from the date of erroneous refund.

As per section 44(1), the **due date of filing annual return** for a FY is **31st day of Dec. following the end of such FY**.

Question 4

Everest Technologies Private Limited has been issued a show cause notice (SCN) on 31.01.2024 under section 73(1) on account of short payment of tax during the period between 01.07.2020 and 31.12.2020. Everest Technologies Private Limited contends that 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.

Answer

The **contention** of Everest Technologies Private Limited is **not valid** in law.

SCN under section 73(1) **can be issued within 2 years and 9 months from the due date for furnishing of annual return** for the FY to which the short- paid/not paid tax relates to. The due date for furnishing annual return for a FY is 31st day of Dec. following the end of such FY [Section 44].

The SCN has been issued for the period between 01.07.2020 to 31.12.2020 which falls in the FY 2020-21. **Due date for Furnishing annual return** for the FY 2020-21 is **31.12.2021**. Thus, SCN under section 73(1) ought to have been issued within 2 years and 9 months i.e. by **30.09.2024**. Since in the given case, the notice has been issued on 31.01.2024 **notice is not time-barred**.

Section 73 to 75 (Penalty on non-payment of self-assessed tax)

Question 5

Discuss briefly the procedure for issue of adjudication order under section 74(9) & (11) of the CGST Act.

Answer

Where a show cause notice/statement is issued to a person chargeable with tax, he may furnish a representation to the proper officer in his defence, if he is of the view that he is not so liable to pay whole/part of the amount mentioned in the show cause notice.

The proper officer after considering the representation, if any, made by the person chargeable with tax, pass an order determining the amount of tax, interest and penalty due from such person.

Where any **person pays the tax along with interest payable** thereon and a **penalty equivalent to 50% of such tax within 30 days of communication of the adjudication order**, all proceedings in respect of the said notice shall be deemed to be concluded [Section 74(11)].

Question 6

Mr. Jagjeevan has filed Form GSTR 3B after the due date prescribed for filing it. The adjudicating authority is of the opinion that penalty has to be levied under section 73(9) & (11) of the CGST Act 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.

Answer

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

The provisions of section 73[11] of the CGST Act can be invoked only when the provisions of section 73 are invoked and the **provisions of section 73** are generally **not invoked in case of delayed filing of the return in Form GSTR-3B** because tax along with applicable interest has already been paid.

Thus, penalty under the provisions of section 73[11] is not payable in such cases **although a general penalty may be imposed** since the tax has been paid late in contravention of the provisions of the CGST Act as clarified vide Circular No. 76/50/2018 GST.

Question 7

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 73 for failure to pay GST and issued show cause notice on 10th Aug which was received by Anant & Co. on 14th Aug.

Anant & Co. deposited the tax along with interest on 25th Aug 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).

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

Answer

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

As per section 73, **where self-assessed tax is not paid within 30 days from due date of payment** of such tax, penalty equivalent to 10% of tax or ₹10,000, whichever is higher, is payable. Thus, **option to pay tax within 30 days of issuance of SCN to avoid penalty, is not available in case of self-assessed tax**.

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

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

(ii) **₹ 10,000**,

whichever is higher, is payable by him. Thus, penalty payable is ₹ 10,000 under CGST. 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 is **not correct**.

Question 8

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

No Show Cause Notice (SCN) has been issued to him so far. Inoba Bhave decides to discharge his tax liability, before the SCN is issued to him. He is of the view that no penalty is leviable if the payment of tax is made before issue of SCN. Therefore, he self-assesses his tax liability at ₹ 15,50,000 and pays the same on 26th June. Determine the interest and penalty, if any, payable by Inoba Bhave.

Answer

Due date for payment of tax collected on 18th April is 20th May. However, since tax is actually paid on 26th June, interest @ 18% p.a. is payable for the period for which the tax remains unpaid [37 days] in terms of section 50 of CGST Act. Amount of interest

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

As per section 73(11) of the CGST Act, 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.

CBIC has clarified that, The provisions of section 73[11] of the CGST Act can be invoked only when the provisions of section 73 are invoked and the **provisions of section 73** are generally **not invoked in case of delayed filing of the return in Form GSTR-3B**. In this case also, as tax along with interest has been paid suo-moto, hence penalty under the provisions of section 73[11] is not payable.

Section 73 to 74 (Penalty on tax demand)**Question 9**

Mr. X, registered under GST Act, had made short payment of GST for the month of July 20XX.

He does not want a show cause notice to be served on him by proper officer. Advise Mr. X, if:

(i) Short payment of tax is on account of reasons other than fraud

(ii) Short payment of tax is on account of fraud.

or

A person is chargeable with tax. He decides to pay the amount of demand along-with interest before issue of notice. Is there any immunity available to such person?

Answer**Short payment of tax is on account of reasons other than fraud**

(i) As per section 73 of the CGST Act, the show cause notice will not be issued by the proper officer, **if Mr. X pays the amount of tax short paid along with interest payable** thereon on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer, **before the service of notice and inform the proper officer in writing of such payment. No penalty is leviable in such case.**

(ii) Short payment of tax is on account of fraud

As per section 74 of the CGST Act, the show cause notice will not be issued by the proper officer, if **Mr. X pays the amount of tax short paid along with interest** payable thereon and a **penalty equal to 15% of such tax** on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer, **before the service of notice and inform the proper officer in writing of such payment.**

Question 10

Discuss the amount of tax and penalty to be paid, if any, in the following independent cases where show cause notices are issued under section 74 of the CGST Act.

S.N	Date on which credit was taken wrongly	Amount of ITC taken wrongly (₹ in lakh)	Present status
1	31 st Jan., 2021	200	Adjudication order passed on 26 th July, 2023 demanding the entire amount of credit with interest and imposing amount equal to the credit as penalty.
2	30 th June, 2021	250	Adjudication order passed on 26 th Aug, 2023 demanding the entire amount of credit with interest and imposing amount equal to the credit as penalty.
3	30 th Oct., 2021	120	Show cause notice has been issued on 5 th Sep, 2023 demanding entire amount of credit with interest and proposing penalty equal to 100% of the credit taken.
4	30 th Jan., 2022	50	Statement of the Managing Director has been recorded on 6 th Sep, 2023 wherein he has admitted the non-receipt of the inputs and availing the credit wrongly. Show cause notice has not been issued yet.

Note: In all the cases, assessee wants to pay the amount on 20.09.2023.

Answer

S.N	Date on which credit was taken wrongly	Amount of ITC taken wrongly (₹ in lakh)	Present status

1	31 st Jan., 2021	200	Adjudication order is passed on 26 th July, 2023 and payment is made on 20.09.2023 i.e., after 30 days of the communication of the adjudication order (Note). Therefore, entire amount of ITC wrongly availed which is ₹ 200 lakh and equal amount of penalty i.e., ₹ 200 lakh shall be payable.
2	30 th June, 2021	250	Adjudication order is passed on 26 th Aug, 2023 and payment is made on 20.09.2023 i.e., within 30 days of the communication of the adjudication order (Note) Therefore, entire amount of ITC wrongly availed which is ₹ 250 lakh and 50% of the penalty imposed i.e., ₹ 125 lakh shall be payable.
3	30 th Oct., 2021	120	Show cause notice is issued on 5 th Sep 2023 and payment is made on 20.09.2023 i.e., within 30 days of issue of show cause notice . Therefore, entire amount of ITC wrongly availed which is ₹ 120 lakh and 25% of the penalty imposed i.e., ₹ 30 lakh shall be payable.
4	30 th Jan., 2022	50	Payment made on 20.09.2023 is before issuance of show cause notice. Therefore, amount of ITC admitted to be taken wrongfully which is ₹ 50 lakh and penalty equal to 15% of such ITC i.e., ₹ 7.5 lakh shall be payable.

Note: It is assumed that adjudication order is communicated the same day on which it is passed,

Question 11

A taxpayer has suppressed certain facts resulting in short payment of tax. The mistake is pointed out by the Department, but no show cause notice (SCN) has been issued. As per the taxpayer, suppression of tax amounting to ₹ 12,00,000 is accepted and he agrees that the suppression has taken place for supplies made in the month of Jan., 2023. He clears the dues on 20th April, 2023. However, the Department on verification, identifies additional suppression of tax of ₹ 2,00,000 in the same month of Jan. 2023. SCN is issued and the taxpayer represents before the proper officer, which results into an adverse order against the taxpayer. The order is passed on 25.05.2023 and the taxpayer complies with the adverse adjudication order on 27.06.2023.

Determine the tax, interest and penalty payable at each stage.

Answer

As the suppression activity has taken place in relation to supplies made in Jan., the same has to be reported in the return/statement/report filed in the month of Feb (interest would become payable from 21st Feb in this case).

Tax, interest and penalty payable before the issue of the SCN:

In case of short payment of tax by reason of suppression of facts, if the taxpayer pays such short-paid tax and applicable interest before issuance of show cause notice, penalty equal to 15% of such tax is payable **u/s 74**.

Tax payable = ₹ 12,00,000

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

Penalty = ₹ 12,00,000 x 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 applicable interest after 30 days of communication of the adjudication order penalty equal to 100% of such tax is payable **u/s 74**.

Tax payable = ₹ 2,00,000

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

Penalty = ₹ 2,00,000

Section 75 – General provision relating to determination of tax

Question 12

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 Jan., 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.

Answer

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

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

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

Question 13

Discuss the validity of the following case under the provisions of CGST Act:

CGST officer had issued a notice under section 74(1) against which appeal was preferred by the assessee. Appellate Authority concluded that the notice issued under section 74(1) was not sustainable for the reason that charges of fraud had not been established. Now the officer wishes to determine the tax payable by treating the said notice as if it was issued under section 73(1). Is the action of the officer valid?

Answer

Valid. As per section 75 of the CGST Act, If the Appellate Authority concludes that the **notice issued under section 74(1) is not sustainable** for the reason that the **charges of fraud has not been established**, the proper officer can determine the tax payable by deeming as if the notices was issued under section 73(1).

Tax Collected but Not Deposited (Section 76)

Question 14

Subharti Enterprises collected GST on the goods supplied by it from its customers on the belief that said supply is taxable. However, later it discovered that goods supplied by it are exempt from GST. Accountant of Subharti Enterprises advised it that amount mistakenly collected by Subharti Enterprises representing as tax was not required to be deposited with Govt.. Subharti Enterprises has approached you for seeking the advice on the same. You are required to advise it elaborating the relevant provisions.

Answer

Section 76 stipulates that, **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 Govt., shall forthwith **pay the said amount to the Govt.**, 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 Govt. as mentioned above, and which has not been paid to 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 Govt. and why a **penalty equivalent** to the amount specified in the notice should not be imposed on him under the provisions of this Act.

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

The person who has collected any amount as representing tax, but not deposited same with Govt. shall **in addition** to paying the said amount determined by the proper officer **shall also be liable to pay interest thereon**. Interest is payable from 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 Govt.**

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

Wrong Type of Tax (Section 77)

Question 15

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

Answer

Section 77(1) of the CGST Act stipulates that a registered person who has **paid the CGST and SGST** or, as the case may be, the CGST and the UT 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 case, **person shall not be required to pay any interest on the amount of IGST payable**.

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

Question 16

A taxable person has mistakenly paid CGST and SGST for an inter-State supply. Subsequently, when it's discovered the same, can he adjust the IGST liability against the wrongly paid CGST and SGST?

Answer

Section 77, inter alia, stipulates that a registered person who has paid the CGST and SGST or the case may be, the CGST and the UT tax on a transaction considered by him to be as 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.

Recovery

Question 17

Briefly discuss the modes of recovery of tax available to the proper officer.

Answer

The proper officer may recover the dues in following manner:

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

(c) **Recovery from other person**, from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the credit of the Central or a State Govt. (**Garnishee Proceedings**):

(d) Distrain any movable or immovable property belonging to such person, until the amount payable is paid. If the dues not paid within 30 days, the said **property is to be sold** and with the **proceeds of such sale** the amount payable and cost of sale shall be recovered.

(e) **Through the Collector of the district** in which such person owns any property or resides on carries on his business, as if it was an arrear of land revenue.

(f) By way of an application to the appropriate **Magistrate** who in turn shall proceed to recover the amount as if it were a **fine imposed by him**.

(g) By enforcing bond/instrument executed under this Act or any rules/regulations made thereunder

(h) CGST arrears can be recovered as an arrear of SGST and vice versa [Section 79].

Question 18

In the month of March 20XX, during the course of Departmental GST audit under section 65 of the CGST. Act of Always Right Private Limited, audit team observed that ITC claimed by the company was blocked under section 17(5) of the CGST Act. 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 caused service under section 74 of the CGST Act and transferred the matter to adjudicating officer and also started recovery process under sections 78 and 79 of the CGST Act, for recovery of the ITC wrongly availed.

You are required to comment whether action of the Department to recover the amount is justified with the reference to the legal provisions of the GST law.

Answer

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

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

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

Question 19

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 consideration of ₹ 2 lakh without taking any

permission from the authorities under GST. The value for the purpose of stamp duty valuation was ₹ 80 lakh.

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

Determine the validity of the act of transferring of property by Mr. Arihant to his wife Soma, under the provisions of the GST law.

Answer

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

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

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

Chapter – 20

Liability to pay in certain cases

Transfer of Business

Question 1

Avatar Industries, a registered person under GST, has sold whole of its business to Rolex Manufacturers. Determine the person liable to GST, interest or any penalty under GST law [determined before sale, but still unpaid] due from Avataar Industries upto the time of such transfer.

Answer

Where a taxable person, liable to pay tax under this Act, **transfers his business** in whole or in part, **by sale, gift, lease, leave and license, hire** or in any other manner whatsoever, the **taxable person and the person to whom the business is so transferred shall, jointly and severally, be liable** wholly or to the extent of such transfer, to pay the tax, interest or any penalty due from the taxable person **upto the time of such transfer**, whether such tax, interest or penalty has been **determined before** such transfer, but has remained unpaid **or** is determined **thereafter**.

Thus, in the given case, **Avataar Industries and Rolex Manufacturers shall, jointly and severally, be liable** wholly or to the extent of such transfer, **to pay** GST, interest or any penalty [determined before sale, but still unpaid] due from Avataar Industries upto the time of such transfer.

Principal and Agent

Question 2

ABC Manufacturers Ltd. engages Raghav & Sons as an agent to sell goods on its behalf. Raghav & Sons sells goods to Swami Associates on behalf of ABC Manufacturers Ltd. Determine the liability to pay GST payable on such goods as per the provisions of section 86.

Answer

Where an **agent supplies or receives any taxable goods on behalf of his principal, such agent and his principal shall, jointly and severally, be liable** to pay the tax payable on such goods under this Act.

Thus, in the given case, ABC Manufacturers Ltd. and Raghav & Sons shall, jointly and severally, be liable to pay GST payable on such goods.

Company and its Directors

Question 3

Discuss the liability to pay tax in case of an amalgamation/merger, under section 87.

Answer

Section 87 stipulates that when **two or more companies are amalgamated/merged** in pursuance of an order of court or Tribunal or otherwise and the order is to **take effect from a date earlier to the date of the order** and **any two or more of such companies have supplied/received any goods and/or services** to or from each other during the period **commencing on the date from which the order takes effect till the date of the order**, then such transactions of supply and receipt **shall be included in the turnover of supply or receipt of the respective companies** and they **shall be liable to pay tax accordingly**.

For the purposes of the CGST Act, the said two or more companies shall be treated as distinct companies for the period up to the date of the said order. The **registration certificates of the said companies shall be cancelled with effect from the date of the said order.**

Question 4

Explain the provisions relating to liability for GST in case of company in liquidation (section 88).

Answer

The provisions relating to **liability for GST** in case of company in **liquidation** provided under section 88 are:

- Where any company is being wound up whether under the orders of a court or Tribunal or otherwise, every **person appointed as a liquidator/receiver of assets of a company shall give the intimation of his appointment to the Commissioner within 30 days of his appointment.**
- The Commissioner shall ascertain the amount which in the opinion of the Commissioner would be sufficient to provide for any tax, interest or penalty which is then, or is likely thereafter to become, payable by the company.
- He shall **communicate the details of amount to the liquidator within 3 months of the receipt of intimation of appointment of liquidator.**
- **When any private company is wound up and any tax, interest or penalty determined under the CGST Act on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered, then every person who was a director of such company at any time during the period for which the tax was due shall, jointly and severally, be liable** for the payment of such tax, interest or penalty.

However, **director shall not be liable if he proves to the satisfaction of the Commissioner that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty** on his part in relation to the affairs of the company.

Question 5

With reference to the provisions of CGST Act, explain the liability of directors of private company?

Answer

Where any tax, interest or penalty due from a private company in respect of any supply of goods or services both for any period **cannot be recovered, then, every person who was a director** of the private company during such **shall, jointly and severally, be liable** for the payment of such tax, interest or penalty **unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty** on his part in relation to the affairs of the company.

Where a **private company is converted into a public company** and the **tax, interest or penalty** in respect of any supply of goods or services or both for any period during which such

company was a private company **cannot be recovered before such conversion**, then, above **provisions shall not apply to any person who was a director of such private company** in relation to any tax, interest or penalty in respect of such supply of goods or services or both of such private company. **However, this exception does not apply to any personal penalty imposed on such director.**

Question 6

Mr. Ajit Basu is the director of Dharma Private Limited of Kolkata for past 5 years. He resigned from the company on 1st April of the current FY. He receives a notice of demand on 5th July for the recovery of tax dues of Dharma Private Limited pertaining to the preceding FY as the said dues cannot be recovered from the company owing to its poor financial condition. Mr. Ajit Basu is of the view that the tax dues of Dharma Private Limited cannot be recovered from him as he is no more a director in the company. You are required to advise him on the same taking into count the relevant provisions of the GST law.

Answer

Section 89 of the CGST Act stipulates that, **where any tax, interest or penalty due from a private company** in respect of any supply of goods or services or both for any period **cannot be recovered**, then, **every person who was a director** of the private company during such period **shall, jointly and severally, be liable** for the payment of such tax, interest or penalty **unless** he proves that the **non-recovery cannot be attributed to any gross neglect, misfeasance or breach** of duty on his part in relation to the affairs of the company.

Thus, in the given case, since Mr. Ajit Basu was the director of Dharma Private Limited during the preceding FY for which the demand is raised, he shall, jointly and severally, be liable for the payment of the tax dues unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

Partnership and its Partners

Question 7

With reference to the provisions of CGST Act, explain the liability of partners of firm to pay tax?

Or

Discuss the liability of the retiring partner of a firm to pay any tax, interest or penalty, if any, leviable on the firm under CGST/IGST/SGST Act.

Answer

Partners of the firm jointly and severally liable to pay any tax, interest or penalty of the firm:

Where any firm is liable to pay any tax, interest or penalty under this Act, the **firm and each of the partners of the firm shall, jointly and severally, be liable for such payment.**

Retiring partner : Where **any partner retires from the firm, he or the firm, shall intimate the date of retirement** of the said partner to the Commissioner by a notice in that behalf in

writing and **such partner shall be liable to pay tax, interest or penalty due up to the date of his retirement** whether determined or not, on that date.

However, **if no such intimation is given within 1 month from the date of retirement, the liability** of such partner **shall continue until the date on which such intimation is received by Commissioner.**

Death of Proprietor

Question 8

In case of death of a person liable to pay tax, interest or penalty, who shall be liable to pay said dues? Discuss as per the provisions of section 93(1) of the CGST Act.

Or

A person, liable to pay GST, interest and penalty under GST law, dies, Determine the person liable to pay the GST, interest and penalty due from such person under GST law determined after his death if the business carried on by such person is continued after his death by his legal representative. Would your answer be different if the business carried on by the person who has died, is discontinued after his death?

Answer

Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, **where a person, liable to pay tax, interest or penalty under CGST Act, dies**, then:

- **business is continued after his death: his legal representative** or any other person, **such legal representative** or other person, **shall be liable to pay tax, interest or penalty** due from such person under this Act.
- **business is discontinued:** whether before or after his death, **his legal representative shall be liable to pay**, out of the estate of the deceased, **to the extent** to which the **estate is capable of meeting the charge**, the tax, interest or penalty due from such person under this Act,

whether such tax, interest or penalty has been **determined before his death but** has **remained unpaid or is determined after his death.**

Other Liability

Question 9

What happens to the GST liability when the estate of a taxable person is under the control of Court of Wards?

Answer

Where the **estate of a taxable person** owning a business in respect of which any tax, interest or penalty is payable is **under the control of the Court of Wards/Administrator General/Official Trustee/Receiver or Manager appointed** under any order of a Court, the tax, interest or penalty shall be **levied and recoverable from such Court of Wards/Administrator General/Official Trustee/Receiver or Manager to the same extent** as it would be determined and recoverable from a taxable person.

Chapter – 21

Offences & penalties and ethical aspects under GST

Penalty for Certain Offences (Section 122)

Question 1

What are the various type of offences which may be committed by a taxable person liable to penalty?

Answer

There are 21 offences which may be committed by a taxable person and may be classified into following categories based upon their nature:

offences having nexus with invoice

- (i) Issue of **invoice or bill without making supply**;
- (ii) Issuing invoice or document using GSTIN of another person;
- (iii) Making a **supply without invoice** or with false/incorrect invoices

offences having nexus with payment of tax

- (iv) **Not paying any amount collected as tax** for a period exceeding 3 months;
- (v) Not paying tax collected in contravention of the CGST/SGST Act for a period exceeding 3 months;
- (vi) Non deduction or **lower deduction of tax deducted at source** or not depositing tax source under section 51;
- (vii) Non collection or **lower collection of or non-payment of tax collectible at source** under section 52
- (viii) **Availing/utilizing ITC without actual receipt of goods** and/or services;
- (ix) Availing/distributing ITC by an Input Service Distributor in violation of Section 20;
- (x) Fraudulently obtains any refund of tax;
- (xi) Suppressing turnover;

offences having nexus with records and related information

- (xii) Falsification/substitution of financial records or furnishing of fake accounts/documents or furnishing false information/return with intent to evade payment of tax;
- (xiii) Failure to maintain accounts/documents in the manner specified in the Act or failure to retain accounts/documents for the period specified in the Act;
- (xiv) Failure to furnish information/documents required by an officer in terms of the Act/Rules or furnishing false information/documents during the course of any proceeding;
- (xv) Tampering/destroying any material evidence/documents;
- (xvi) Obstructing or preventing any official in discharge of his duty;

Offences having nexus with Registration

- (xvii) Failure to register despite being liable to pay tax;

(xviii) Furnishing false information regarding registration particulars either at the time of applying for registration or subsequently

Offences having nexus with Supply/Transport of goods

(xix) Transporting goods without prescribed documents;

(xx) Supplying/transporting/storing any goods liable for confiscation

(xviii)Furnishing false information regarding registration particulars either at the time of applying for registration or subsequently

Offences having nexus with Supply/Transport of goods

(xix) Transporting goods without prescribed documents;

(xx) Supplying/transporting/storing any goods liable to confiscation;

(xxi) Disposing of/tampering with goods detained/seized/attached under the Act.

Question 2

What is the quantum of penalty for an offence mentioned under section 122(1), 122(1A) and section 122(2)?

Answer

Section 122(1) provides that any taxable person **who has committed any of the 21 offences mentioned** thereunder, shall be liable to a penalty which **shall be higher of the following amounts:**

(a) ₹ 10,000; or

(b) 100% of

(i) **Tax evaded/ wrong ITC availed/ wrong refund claimed;** or

(ii) **Tax not/short deducted/collect** under section 51/52 or not paid to the Govt.; or

Further, Section 122(1A) provides that any **person who retains the benefit** of a transaction covered under clauses (i), (ii), (vii) or clause (ix) of sub-section (1) and at whose instance such transaction is conducted, shall be **liable to a penalty of an amount equivalent to the tax evaded** or ITC availed of or passed on.

Also, Section 122(2) provides that if any registered **person who supplies any goods and/or services** on which any **tax** has **not been paid or short paid** or erroneously refunded or where the ITC has been wrongly availed or utilized:

(i) **for any reason other than the reason of fraud or any willful misstatement** or suppression of facts to evade tax, he shall be **liable to a penalty of ₹ 10,000 or 10% of the tax due from such person**, whichever is higher.

(ii) **for reason of fraud, or any willful misstatement** or suppression of facts to evade tax, penalty shall be equal to **₹ 10,000 or 100% of tax due from such person, whichever is higher.**

Question 3

What are the penalty provisions specific to Electronic commerce operator.

Answer

Any electronic commerce operator who—

(i) **allows a supply** of goods or services or both through it **by an unregistered person other than a person exempted from registration** by a notification issued under this Act to make such supply;

(ii) **allows an inter-State supply** of goods or services or both through it **by a person who is not eligible** to make such inter-State supply; or

(iii) fails to furnish the correct details in the Form GSTR-8 of any outward supply of goods effected through it by a person exempted from obtaining registration under this Act,

shall be liable to pay a **penalty of 10,000, or 100% of the amount of tax involved** had such supply been made by a registered person, whichever is higher.

Question 4

Nirmal Private Limited, registered in Vasai, Maharashtra, is engaged in supply of taxable goods and services. In the month of April, it sold goods worth ₹ 5,00,000 (excluding GST) to Suraksha Enterprises and collected tax @ 28% on said goods from the buyer. However, the actual rate of tax applicable in the given case was 18%.

Nirmal Private Limited deposited the tax @ 18% on these goods to the Govt. on the due date and retained the remaining tax collected. Determine the amount of penalty, if any, that may be imposed on Nirmal Private Limited in the month of Oct. in the given case ignoring interest payable, if any.

Answer

Section 122(1)(iv) of the CGST Act stipulates that a taxable **person who collects** any tax in contravention of the provisions of CGST Act, but **fails to pay the same to Govt. beyond a period of 3 months** from the date on which such payment becomes due shall be liable to pay a penalty of

(a) ₹ 10,000

or

(b) an **amount equivalent to the tax evaded, whichever is higher.**

In the given case, since Nirmal Private Limited has collected tax at a wrong rate (i.e. 28%), but fails to deposit the full tax collected to the Govt. i.e. it deposits only tax @ 18% thereby retaining the remaining tax collected, amount of penalty that can be imposed on Nirmal Private Limited is as follows:

(a) 10,000

or

(b) an amount equivalent to the tax evaded [₹ 50,000 (₹ 5,00,000 X 28%) - (₹ 5,00,000 X 18%)], whichever is **higher, i.e. ₹ 50,000.**

Question 5

Is there any penalty prescribed for a person other than the taxable person under section 122?

Answer

Yes, section 122(3) provides for levy of **penalty extending to ₹ 25,000 for any person who-**

- **aids or abets** any of the 21 offences,
- **deals in any way** (whether receiving, supplying, storing or transporting) with goods that are liable to confiscation,
- **receives or deals** with supply of services in contravention of the Act,
- **fails to appear** before an authority who has **issued a summon**,
- **fails to issue any invoice** for a supply or account for any invoice in his books of accounts.

Question 6

M/s Fly-by-Night Traders, a taxable person, issued an invoice on 15th April 20XX involving ITC (ITC) of ₹ 25 lakh to M/s Runaway Traders who utilised the same. No supply of goods was involved in this transaction between the two traders. M/s Fly-by-Night Traders conducted this transaction at the instance of its tax consultant who was not a qualified professional.

Explain the relevant provision in brief and determine the amount of penalty leviable under CGST Act, if any, on the persons involved in respect of the above referred transaction.

Answer

Where a taxable person:

- a. **issues any invoice without supply** of goods, or
- b. **takes/utilises ITC without actual receipt** of goods, either fully or partially, in contravention/violation of the provisions of the GST law or the rules made thereunder, such person shall be liable to pay a **penalty of**

(i) ₹ 10,000

or

(ii) an **amount equivalent to the ITC availed of or passed on** (₹ 25 lakh), whichever is **higher**.

Thus M/s Fly-by- ight Traders & M/s Runaway Traders, both are **liable to pay penalty of ₹ 25 lakh** each.

Further, any person at whose instance above transactions are conducted, shall be liable to a penalty of an amount equivalent to ITC availed of/passed on. Thus, the **tax consultant will be liable to pay a penalty of ₹ 25 lakh**.

Question 7

Answer the following Questions:

(i) Shagun started supply of services in Vasal, Maharashtra from 01.01.20XX. Her turnover exceeded ₹ 20 lakh on 25.01.20XX. However, she didn't apply for registration. Determine the amount of penalty, if any, that may be imposed on Shagun on 31.03.20XX, if the tax evaded by her, as on said date, on account of failure to obtain registration is ₹ 1,26,000.

(ii) Sagar, managing director of Telecom Solutions Ltd., is issued a summon to appear before the CGST officer to produce the books of accounts of Telecom Solutions Ltd. in an inquiry conducted on said company. Determine the amount of penalty, if any, that may be imposed on Sagar, if he fails to appear before the CGST officer.

Answer

(i) Where the **aggregate turnover** of a supplier making supply of services from a State/UT **exceeds ₹ 20 lakh in a FY, he is liable to be registered** in

the said State/UT. The **said supplier must apply for registration within 30 days from the date** on which he **becomes liable to registration**. However, in the given case, although Shagun became liable to registration on 25.01.20XX, **she didn't apply for registration within 30 days** of becoming liable to registration.

Section 122(1)(xi) of the CGST Act stipulates that a taxable person who is liable to be registered under the CGST Act but **fails to obtain registration** shall be **liable to pay a penalty** of:

(a) **₹ 10,000**

or

(b) an **amount** equivalent to the **tax evaded** [₹ 1,26,000 in the given case], whichever is **higher**.

Thus, the amount of penalty that can be imposed on Shagun is ₹ 1,26,000.

(ii) Section 122(3)(d) of the CGST Act stipulates that **any person who fails to appear** before the officer of CGST, **when issued with a summon** for appearance to give evidence or produce a document in an inquiry is liable to a penalty **which may extend to ₹ 25,000**. Therefore, **penalty upto ₹ 25,000 can be imposed on Sagar**, the given case.

General Disciplines related to Penalty (Section 126)

Question 8

Mangeshwar, registered under the CGST Act has made a breach in payment of tax amounting to ₹ 6,100. Assessing Authority has imposed a penalty as per law applicable to breach. Invoking the provisions of section 126, Mangeshwar argues that it is a minor breach and therefore, no penalty is imposable.

In another instance, Mangeshwar has omitted certain details in documentation that is not easily rectifiable. This has occurred due to the gross negligence of his accountant and he makes a plea that he was unaware of it and therefore, no penalty should be levied.

Mangeshwar voluntarily writes accepting a major procedural lapse from his side and requests the officer to condone the lapse as the loss caused to the revenue was not significant.

Also a lapse on the part of Mangeshwar has no specific penalty provision under the CGST Act. He is very confident that no penalty should be levied without a specific provision under the Act.

Discuss what action may be taken by the Assessing Authority under law for each of the above breaches.

Answer

As per section 126(1) of the CGST Act, **no penalty** shall be leviable under the Act for **minor breaches** of tax regulations. In terms of Explanation (a) to section 126(1), a breach shall be considered **minor breach**", if **tax involved is less than ₹ 5,000**. Therefore, breach made by Mangeshwar is not a 'minor breach' since the amount involved is not less than ₹ 5,000. So, penalty is imposable.

Any **omission or mistake in documentation** which is easily rectifiable and **made without fraudulent intent/gross negligence** is **not liable for penalty** in terms of section 126(1) of the CGST Act. **However, penalty is imposable** in the present case, since the omission in the documentation is not easily rectifiable and has occurred due to gross negligence.

As per section 126(5) of the CGST Act, where there is a **voluntary disclosure of breach**, prior to its discovery by the officer, the proper officer may **consider** this fact **as a mitigating factor when quantifying the penalty**. Since Mangeshwar has voluntarily disclosed the breach of procedural requirement to the officer, the proper officer may consider this fact as a mitigating factor when quantifying the penalty. Therefore, the **quantum of penalty will depend on the facts and circumstances** of the case.

As per section 125 of the CGST Act, when no specific penalty has been specified for contravention of any of the provisions of the Act or any rules made there under, it shall be **liable to a penalty which may extend to ₹ 25,000**. Therefore, **general penalty upto ₹ 25,000 may be imposed** on Mangeshwar.

Question 9

Mr. X, an unregistered person under GST purchases the goods supplied by Mr. Y who is a registered person without receiving a tax invoice from Mr. Y and thus helps in tax evasion by Mr. Y.

- (i) What disciplinary action may be taken by tax authorities to curb such type of cases and on whom?
- (ii) Suppose in the above case, a disciplinary action is taken against Mr. X and an adhoc penalty of ₹ 20,000 is imposed by issue of SCN without describing contravention for which penalty is going to be imposed and without mentioning the provisions under which penalty is going to be imposed Should Mr. X proceed to pay for penalty or challenge SCN issued by department?

Answer

(i) **Both Mr. X and Mr. Y** will be offender and will be liable to penalty as under:

Mr. X -Penalty under section 122(3) which **may extend to ₹ 25,000**;

Mr. Y-Penalty under section 122(1), which will be **higher of** following, namely **₹ 10,000 or 100% of tax evaded**.

(ii) The **levy of penalty** is subject to a certain disciplinary regime which is based on jurisprudence **principles of natural justice** and principles governing international trade and agreements. Such general discipline is enshrined in section 126 of the Act. **Accordingly**

- **no penalty is to be imposed without issuance of a show cause notice** and proper hearing in the matter, affording an opportunity to the person proceeded against to rebut the allegations levelled against him,
- the **penalty is to depend on** the totality of the **facts and circumstances** of the case, the penalty imposed is to be **commensurate with the degree and severity of breach** of the provisions of the law or the rules alleged,

- the **nature of the breach is to be specified** clearly in the order imposing the penalty,
- the **provisions of the law** under which the penalty has been imposed is to be specified.

Since SCN issued to Mr. X suffers from lack of clarity about nature of breach which has taken place and about provision of law under which penalty has been imposed, SCN issued by department may be challenged.

Detention, Seizure and Release of Goods & Conveyances in Transit (Section 129)

Question 10

Whether action can be taken for transportation of goods without valid documents or if goods are attempted to be removed without proper record in books? If yes, explain the related provisions under the CGST Act.

Answer

Yes, action can be taken for **transportation of goods without valid documents** or if goods are attempted to be removed without proper record in books. If any person transports any goods or stores any such goods while in transit without the documents prescribed under the Act or supplies or stores any goods that have not been recorded in the books or accounts maintained by him, then such **goods shall be liable for detention** along with any vehicle on which they are being transported [Section 129 of CGST Act].

Where owner comes forward: - Such goods shall be **released on payment of penalty equal to 200% of the tax payable** on such goods **and, in case of exempted goods**, on payment of an amount **equal to 2% of the value of goods or ₹ 25,000, whichever is less**.

Where owner does not come forward :- Such goods shall be released on **payment of penalty equal to 50% of the value of the goods or 200% of the tax payable** on such goods, whichever is **higher**, **and in case of exempted goods**, on payment of an amount **equal to 5% of the value of goods or ₹ 25,000 whichever is less**

Question 11

XYZ carries goods from Vadodara, Gujarat to Pune, Maharashtra. The value of the goods is ₹ 80,000 which are chargeable to tax @ 18% IGST and in transit, proper officer intercepted the same under section 68 of the CGST Act, and found contravention.

Calculate the penalty payable under section 129 of CGST Act:

- If XYZ come forward for payment of such penalty.
- If XYZ does not come forward for payment of such penalty.

Answer

The **penalty payable under section 129** of the CGST Act is

200% of the tax payable on goods detained or seized where the **owner of the goods comes forward** for payment of such penalty;

(b) **50% of the value of the goods or 200% of the tax payable** on such goods, whichever is **higher** where the **owner of the goods does not come forward** for payment of such penalty.

By virtue of section 20 of the IGST Act provisions of penalty payable under section 129 of the CGST Act 2017 apply in case of IGST as well. However, where the penalty is leviable under the CGST Act and the SGST/UTGST Act, the penalty leviable under the IGST Act shall be the sum total of the said penalties. Therefore, penalty payable under IGST Act is double the penalty payable under section 129 of the CGST Act.

Therefore, in the given case the penalty payable will be computed as under:

If XYZ comes forward for payment of such penalty (It has been assumed that XYZ is the owner of the goods)-

$$= ₹ 80,000 \times 18\% \times 200\%$$

= ₹ 28,800

If XYZ does not come forward for payment of such penalty -

$$(a) ₹ 80,000 \times 50\% = ₹ 40,000$$

or

$$(b) ₹ 80,000 \times 18\% \times 200\% = ₹ 28,800$$

whichever is **higher**

Thus, the amount of penalty that can be imposed is **₹ 40,000**.

Question 12

From the following details, calculate the amount to be paid, for release of goods detained or seized under section 129 of the CGST Act, if owner of the goods does not come forward for payment such penalty.

Particulars	Amount (₹)
Value of goods	30,00,000
Applicable CGST on such goods	5,40,000

Would your answer be different if goods were exempted from GST and value remains the same namely ₹ 30,00,000?

Answer

If owner of the goods does not come forward for payment of such penalty, the amount of penalty to be paid for release of goods detained or seized under section 129 of the CGST Act is equal to 50% of the value of the goods or 200% of the tax payable on such goods, whichever is higher.

Therefore, in the given case, the amount payable

$$(a) ₹ 30,00,000 \times 50\% = ₹ 15,00,000$$

or

$$(b) ₹ 5,40,000 \times 200\% = ₹ 10,80,000$$

whichever is higher

Thus, the amount of penalty that can be imposed is **₹ 15,00,000**.

However, **in case of exempted goods**, amount to be paid for release of goods detained is equal to 5% to the value of goods or ₹ 25,000, whichever is less.

= 5% of ₹ 30,00,000 or ₹ 25,000, whichever is less.

= **₹ 1,50,000 or ₹ 25,000, whichever is less**

= **₹ 25,000**

Question 13

Adinath Private Limited, registered under GST in the State of Uttar Pradesh, instructed Ashok Transporters to deliver certain taxable goods to Mahavir Enterprises in Uttar Pradesh on 10th Jan. 20XX. The value of the goods is ₹ 6,80,000 which are chargeable to CGST & SGST@ 9% each. While the goods were in transit, proper officer intercepted the goods and the truck in which goods were being transported, under section 68. However, the driver of the truck failed to tender any document in relation to the goods in movement. The proper officer, after conducting the physical verification of the goods and the truck, decided to seize the goods and the truck and issued a notice under section 129(3) specifying the penalty payable by Adinath Private Limited after giving it an opportunity of being heard.

You are required to determine the amount of penalty payable under CGST Act if Adinath Private Limited does not come forward for the payment of penalty. Further, discuss the suitable course of action for Ashok Transporters if it intends to get its truck released.

Answer

As per section 129(1)(b), when **owner of goods does not come forward** for the payment of penalty, detained/seized goods and conveyance (used as a means of transport for carrying said goods) and related documents are released on payment of **penalty equal to higher of the following:**

(i) **50% of value of goods**

or

(ii) **200% of the tax payable** on such goods.

In view of the same, the amount of penalty payable under the CGST Act If Adinath Private Limited does not come forward for the payment of penalty is as follows:

(i) 50% of value of goods [₹ 3,40,000 (50% of ₹ 6,80,000)]

or

(ii) 200% of the tax payable on such goods [₹ 1,22,400 (200% of ₹ 6,80,000 x 9%)] whichever is higher, i.e. **₹ 3,40,000**

As per first proviso to section 129(6), **conveyance shall be released on payment by the transporter the penalty as mentioned in the order or ₹ 1 lakh, whichever is less.**

In the given case, since the owner-Adinath Private Limited has failed to come forward to make payment of penalty, penalty of ₹ 3,40,000 under CGST Act shall be levied. Further, the

transporter of goods can get its truck released upon payment of the lower of the following under CGST Act:

(i) **penalty as mentioned in the order [₹ 3,40,000]**

(ii) **₹ 1,00,000**

Hence, Ashok Transporters can get its truck released **upon payment of ₹ 1,00,000.**

Confiscation of Goods or Conveyances (Section 130)

Question 14

Neurological Systems Private Limited has been subject to confiscation of goods on the ground that it has not accounted for the goods that are liable to tax under the CGST Act. The directors would like to know from you as to how such goods are to be released from the Department. You are required to advise the directors regarding the provisions of law on this matter.

Answer

To get the confiscated goods released from the Department, the directors of Neurological Systems Private Limited are advised as under:

Neurological Systems Private Limited shall get an option to pay redemption fine in lieu of confiscation.

Such fine should be less than or equal to [Market value of goods confiscated - Tax chargeable thereon]

Aggregate of such fine and penalty leviable shall not be less than the penalty **equal to 100% of the tax payable** on such goods.

Neurological Systems Private Limited can get its confiscated goods released on payment of such redemption fine plus the penalty and charges payable in respect of such goods.

Question 15

Answer the following Questions:

(a) Radhaswamy owns and supplies certain goods costing ₹ 30,00,000 in a conveyance hired from Manikaran Transporters. Market value of said goods is ₹ 40,00,000 and tax chargeable thereon is ₹ 4,80,000.

The goods supplied by Radhaswamy and the conveyance [owned by Manikaran Transporters] used for carriage of such goods are confiscated since Radhaswamy has supplied said goods in contravention of the provisions of the CGST Act with an intent to evade payment of tax.

However, the proper officer intends to give an option to Radhaswamy and Manikaran Transporters to pay in lieu of confiscation, a fine leviable under section 130 of the CGST, Act.

Determine the maximum amount of the fine in lieu of confiscation on:

(i) the goods liable for confiscation.

(ii) the conveyance used for carriage of such goods.

(b) Raghuraman is a registered supplier in Madhya Pradesh. He failed to pay the GST amounting to ₹ 7,400 for the month of Jan., 20XX. The proper officer imposed a penalty on Raghuraman for failure to pay tax. Raghuraman believes that it is a minor

breach and in accordance with the provisions of section 126 of the CGST Act, no penalty is imposable for minor breaches of tax regulations. Examine the correctness of Raghuraman's claim.

Answer

(a) (i) In case of **goods liable for confiscation**, **maximum** amount of **fine leviable** in lieu of confiscation in terms of first proviso to section 130(2) of the CGST Act is the **market value of the goods confiscated, less the tax chargeable thereon**. Therefore, in the given case, **maximum fine leviable**: = ₹ 40,00,000 - ₹ 4,80,000 = ₹ 35,20,000

(ii) In case where **conveyance used for carriage** of such goods is liable for confiscation, the **maximum amount of fine** leviable in lieu of confiscation in terms of third proviso to section 130(2) of the CGST Act **is equal to tax payable** on the goods being transported thereon.

Therefore, in the given case, **maximum fine leviable** = ₹ 4,80,000

(b) No. Raghuraman's claim is **not tenable** in law. Section 126(1) of the CGST Act provides that **no officer shall impose any penalty** under CGST Act, inter alia, **for minor breaches** of tax regulations or procedural requirements. Further, explanation to section 126(1) of the CGST Act stipulates that **a breach shall be considered a 'minor breach' if the amount of tax involved is less than ₹ 5,000**.

In the given case, breach made by Raghuraman **is not a 'minor breach' since the amount involved is not less than ₹ 5,000**. So, **penalty is imposable** under the CGST Act.

Punishment for Certain Offences

Question 16

Examine the implications as regards the availability and quantum of punishment on prosecution, in respect of the following cases pertaining to the month of Dec. under CGST Act-

(i) 'X' collects ₹ 245 lakh as tax from its clients and deposits ₹ 241 lakh with the Central Govt.. It is found that he has falsified financial records and has not maintained proper records.

(ii) 'Y' collects ₹ 550 lakh as tax from its clients but deposits only ₹ 30 lakh with the Central Govt..

What will be the implications with regard to punishment on prosecution of 'X' and 'Y' for the offences?

What would be the position, if 'X' and 'Y' repeat the offences?

It may be assumed that offences are proved in the Court.

Answer

(i) As per section 132(1)(d)(ii) of the CGST Act, failure **to pay any amount collected as tax beyond 3 months** from due date of payment is **punishable with specified imprisonment and fine** provided the amount of tax evaded exceeds at least ₹ 200 lakh. Therefore, failure to deposit ₹ 4 lakh collected as tax by 'X' will not be punishable with imprisonment.

Further, **falsification of financial records** by 'X' is **punishable with imprisonment up to 6 months** or with fine or both vide section 132(1)(f) and 132(1)(iv) of the CGST Act, assuming that falsification of records is with an intention to evade payment of tax due under the CGST Act. Said **offence is bailable** in terms of section 132(4) of the CGST Act.

(ii) Failure to pay any **amount collected as tax beyond 3 months** from due date is punishable with **imprisonment up-to 5 years and with fine, if the amount of tax evaded exceeds ₹ 500 lakh** in terms of section 132(1)(d) of the CGST Act.

Since, the amount of tax evaded by 'Y' exceeds ₹ 500 lakh (₹ 550 lakh - ₹ 30 lakh), "Y is liable to Imprisonment up-to 5 years and with fine. It has been assumed that amount of ₹ 520 lakh collected as tax is not paid to the Govt. beyond 3 months from the due date of payment of tax. **Further the imprisonment shall be minimum 6 months** in the absence of special and adequate reasons to the contrary to be recorded in the judgment vide section 132(3) of the CGST Act, **Such offence is non-bailable** in terms of section 132(5) of the CGST Act.

If 'X' and 'Y' repeat the offence, they shall be punishable for second and for every subsequent offence with imprisonment up-to 5 years and with fine in terms of section 132(2) of the CGST Act. Such imprisonment shall also be minimum 6 months in the absence of special and adequate reasons to the contrary to be recorded in the judgment.

Question 17

State the prosecution, arrest and bail implications, if any, in respect of the following independent cases pertaining to June:

(i) 'Ashuram' fraudulently avails ITC of ₹ 200 lakh without any invoice or bill. However, he is yet to utilize the same.

(ii) 'Bahubali' fraudulently avails the refund of tax of ₹ 550 lakh. The said tax has been recovered from the buyer also.

(iii) 'Chintamani' knowingly supplies false information sought by the CGST Officer. The amount of tax involved is ₹ 250 lakh.

(iv) 'Deendayal' collects ₹ 650 lakh as tax in Jan. from its clients but has deposited only ₹ 50 lakh with the Central Govt. till date.

Note: Assume that in all above cases, offence, if any, has been committed for the first time.

Answer

Person	Offence	Prosecution	Arrest	Bail
'Ashuram'	Non-cognizable offence [Section 132(1)(c) read with section 132(4)]	No prosecution as amount is not more than 200 Lakhs	No arrest	Bailable Offence [Section 132(4)]

'Bahubali'	Non-cognizable offence [Section 132(1)(e) read with section 132(4)]	Upto 5 years [Section 132(1)(e)(i)]	No arrest	Bailable Offence [Section 132(4)]
'Chintamani'	Non-cognizable offence [Section 132(1)(f) read with section 132(4)]	Upto 3 years [Section 132(1)(f)(ii)]	No arrest	Bailable Offence [Section 132(4)]
'Deendayal'	Cognizable offence [Section 132(1)(d) read with section 132(5)]	Upto 5 year [Section 132(1)(d)(i)]	Arrest can be ordered by Commissioner without arrest warrant	Non Bailable [Section 132(5)]

Question 18

Elaborate about cognizable and non-cognizable offences under the CGST Act. What is the difference between these two while exercising powers by the GST authorities?

Answer

All offences specified under section 132 **except** the **offences that are cognizable and non-bailable** (as mentioned below) **are non-cognizable offences** under the CGST Act.

Cognizable offences under the CGST Act are the following offences, where **amount of tax evaded** or ITC wrongly availed or utilised or refund wrongly taken **more than (exceeding) ₹ 5 crores**, namely:

- (a) **Supply without issue of any invoice**, in violation of provisions of GST, with intention to evade tax;
- (b) **Issue of any invoice/bill without any supply** in violation of the provisions of GST law leading to wrongful availment or utilisation of ITC/refund of tax;
- (c) **Avails ITC using such invoice/bill** referred to in clause (b);
- (d) **Collects any amount as tax but fails to pay the same** to the Govt. beyond a period of 3 months from the date on which such payment becomes due;

In case of a **cognizable offence**, the officer authorised to **arrest the person** shall inform such person of the grounds of arrest and **produce him before a Magistrate within 24 hours**.

In case of a **non-cognizable offence**, the arrested person shall be **admitted to bail or in default** of bail, forwarded to the custody of the Magistrate.

The Deputy/Assistant Commissioner shall for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer-in-charge of a police station.

Compounding of Offences

Question 19

Ganesh Enterprises, a registered supplier under the GST law, has committed an offence that is compoundable. The Department has instituted prosecution against the proprietor of Ganesh Enterprises and he is of the opinion that he shall not be able to apply for compounding of the offence as the prosecution has been launched. He seeks your advice whether he has the opportunity to apply for compounding of the offence and the consequences arising therefrom.

Answer

A person accused of an offence is permitted to make an application for compounding of an offence even after the institution of prosecution against him.

Therefore, in the given case, Ganesh Enterprises can apply for compounding of offence even though prosecution has been instituted/launched against him.

On payment of compounding amount determined by the Commissioner, the criminal proceedings which have been initiated against Ganesh Enterprises in respect of the said offence, shall stand abated.

The amount for compounding of offences under this section shall be such as may be prescribed, subject to the minimum amount not being less than 25% of the tax involved and the maximum amount not being more than 100% of the tax involved

Question 20

Department initiated prosecution proceedings against a taxable person who had committed offence of **supply without invoice** of ₹ 4.2 crores. He has approached the Commissioner with a request for compounding the offence. After considering the request, the Commissioner has directed him to pay an amount of ₹ 2.5 crores as compounding amount. Indicate the minimum and maximum limits for compounding amount. Is the amount fixed by the Commissioner in this case within the limits prescribed under the law? What is the consequence of the decision of the commissioner allowing the request for compounding the offence?

Answer

The amount for compounding of offences under GST provisions is minimum amount not being less than 50% of the tax involved and the maximum amount not being more than 75% of the tax involved where offence is relating to supply without invoice for more than 2 crores.

In the present case, the minimum limit for compounding is ₹ 2.1 crores (50% x ₹ 4.2 crores) and maximum limit for compounding in this case is ₹ 3.15 crores (75% of ₹ 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

Offence by Trust

Question 21

Where an offence under the GST law is committed by a taxable person being a trust, who are deemed to be guilty of the offence and under what circumstances? When do the relevant provisions become applicable in respect of individuals concerned with the trust?

Answer

Section 137 of the CGST Act stipulates that **where an offence** under the GST law is **committed by a taxable person being a trust**, the **managing trustee** shall be **deemed to be guilty** of that offence and shall be liable to be proceeded against and **punished accordingly**.

Further, where it is proved that the offence committed by the trust has been **committed-**

- **with the consent or connivance of**, or
- **is attributable to any negligence** on the part of any other individual concerned with the trust, he shall also be **deemed to be guilty** of that offence and **shall be liable to be proceeded against and punished accordingly**.

The relevant **provisions will become inapplicable** in respect of individuals concerned with the trust, **if** they prove that the **offence was committed without their knowledge** or that **they had exercised all due diligence to prevent the commission** of such offence.

Appellate Authority

Question 1

Does CGST law provide for any appeal to a person aggrieved by any order or decision passed against by an adjudicating authority under the CGST Act? Explain the related provisions under the CGST Act

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 is paid as **pre-deposit** by the appellant.

Question 2

Describe the provisions relating to Departmental appeal to Appellate Authority under section 107.

Answer

Section 107(2) provides that Department can file "review application/appeal" with Appellate Authority.

The Commissioner may, on his own motion, or upon request from the SGST/UTGST Commissioner, examine the record of any proceedings in which an adjudicating authority has passed any decision/order to satisfy himself as to the legality or propriety of the said decision/order. The **Commissioner may** by, order, **direct any officer** subordinate to him to **apply to the Appellate Authority within 6 months from the date of communication of the said decision/order** for the determination of such points arising out of the said decision/order as may be specified him.

The **AA can condone the delay in filing** of appeal **by 1 month** if it is satisfied that there was sufficient cause for such delay [Section 107(4)].

Such application shall be dealt with by the AA as if it were an appeal made against the decision/order of the adjudicating authority [Section 107(3)]. There is **no requirement of making a pre-deposit in case of departmental appeal**.

Question 3

Briefly examine whether the appeal/review application filed in the following independent cases is within the time limit prescribed under the GST law:

(i) The adjudicating authority issued the adjudication order on 23rd April and the same is communicated to the taxpayer "Mr. X" on 28th April. Mr. X, aggrieved by the order of the adjudicating authority filed an appeal to the Appellate Authority on 26th July.

(ii) The adjudicating authority passed the order on 3rd March (communicated same day to the Commissioner). The Commissioner directs his subordinate officer to file a review application with the Appellate Authority.

The subordinate officer filed the review application on 23rd Sep.

Answer

A person **aggrieved by any decision/order of an adjudicating authority can file an appeal to the Appellate Authority within 3 months from the date of communication of such decision/order**. The Appellate Authority can **condone the delay** in filing of appeal **by 1 month** if it is satisfied that there was a sufficient cause for such delay [Section 107 of the CGST Act].

In view of the aforesaid provision, in the given case, the relevant date for computing the period of 3 month (for filing the appeal to Appellate Authority) is 28th April (date of communication of order) and not 23rd April. Accordingly, an appeal can be filed by Mr.X to Appellate Authority within 3 months from the date of communication of order (and not 23rd April), i.e, 28th July.

Thus Mr. X has filed the appeal within the time limit prescribed under the GST law.

(ii) The **commissioner may**, by order, **direct any officer subordinate to him to apply to the Appellate Authority within 6 months** from the date of communication of the decision/order for the determination of such points arising out of the said decision/order as may be specified by him.

The Appellate Authority **can condone the delay** in filing of appeal **by 1 month** if it is satisfied that there was sufficient cause for such delay [Section 107 of the CGST Act].

In the present case, the Commissioner directs his subordinate officer to file a review application there with the Appellate Authority. The subordinate officer should have filed the said application till 3rd Sep (i. e. within 6 months from the date of communication of order). However, the subordinate officer filed the application on 23rd Sep, i.e. after the expiry of period of 6 months from the date of communication of order. Thus, in the given case, appeal has not been filed within the time limit prescribed under the GST law.

Question 4

XY Company received an adjudication order passed by the Assistant Commissioner of CGST on 1st Nov. under section 73 wherein it was decided as follows:

CGST + SGST due	₹ 6,00,000
Interest	@ 18% p.a. for number of delayed days
Penalty	₹ 60,000

The taxpayer filed an appeal before the Appellate Authority on 26th Nov..

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

Whether your answer would be different if the taxpayer appeals only against part of the demanded amount say ₹ 4,00,000 and admits the balance liability of tax amounting to ₹ 2,00,000 and proportionate penalty arising from the said order?

Answer

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

(a) **full tax, interest, fine, fee and penalty** arising from Impugned order, as is admitted by him; and

(b) **10% of remaining tax in dispute** arising from the impugned order **subject to a maximum of ₹ 25 crore**, in relation to which the appeal has been filed.

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

Thus, **in Case I**, XY Company has to **make a pre-deposit** of 10% of ₹ 6,00,000, which is **₹ 60,000** (i.e. CGST ₹ 30,000 and SGST ₹ 30,000) assuming that XY Company disagrees with the entire tax demanded.

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

(i) **₹ 2,00,000 + ₹ 20,000** (proportionate penalty on tax admitted] + **interest @ 18% p.a.** payable on the tax admitted for the period of delay, **and**

(ii) 10% of 4,00,000 which is **₹ 40,000**.

Question 5

Pursuant to audit conducted by the tax authorities under section 65, a show cause notice was issued to Home Furnishers, Surat, a registered supplier, alleging that it had wrongly availed the ITC without actual receipt of goods for the month of

July. In the absence of a satisfactory reply from Home Furnishers, Joint Commissioner of CGST passed an adjudication order dated 20th Aug (received by Home Furnishers on 22nd Aug) confirming a tax demand of ₹ 50,00,000 (i.e., CGST 25,00,000 and SGST 25,00,000) and imposing a penalty of equal amount under section 122.

Home Furnishers does not agree with the order passed by the Joint Commissioner. It decides to file an appeal with the Appellate Authority against the said adjudication order. It has approached you for seeking advice on the following issues in this regard:

- (1) Can Home Furnishers file an appeal to Appellate Authority against the adjudication order passed by the Joint Commissioner of CGST? If yes, till what date can the appeal be filed?
- (2) Does Home Furnishers need to approach both the Central and State Appellate Authorities for exercising its right of appeal?
- (3) Home Furnishers is of the view that there is no requirement of paying pre-deposit of any kind before filing an appeal with the Appellate Authority. Give your opinion on the issue.

Answer

(1) An **appeal against** a decision/order passed by any **adjudicating authority** under the CGST Act or SGST Act/UTGST Act is **appealable before the Appellate Authority** [Section 107(1)]. Thus, Home Furnishers can file an appeal to Appellate Authority against the adjudication order passed by the Joint Commissioner of CGST.

Further, such appeal can be filed **within 3 months from the date of communication of such decision/order** [Section 107(1)]. Thus, Home Furnishers can file appeal to Appellate Authority on or before 22nd Nov.. Further, the **Appellate Authority can also condone the delay** in filing of appeal by 1 month if it is satisfied that there was sufficient cause for such delay [Section 107(4)].

(2) GST law makes provisions for **cross empowerment between CGST and SGST/UTGST officers** to ensure that a proper officer under the CGST Act is also treated as the proper officer under the SGST/UTGST Act and vice versa. Thus, a **proper officer can issue orders with respect to both, the CGST as well as the SGST/UTGST laws**.

GST law also provides that where a **proper officer under one Act** (say CGST) **has passed an order**, any **appeal/review/revision/rectification against the said order** will **lie only with the proper officers of that Act (CGST Act)**. Accordingly, if any order is passed by the proper officer under a SGST Act, any appeal/review/revision/rectification against the said order will lie only with the proper officer under that SGST Act. Thus, **Home Furnishers is required to file an appeal only with the CGST Appellate Authority** (Section 6 of CGST Act).

Home Furnishers' **view is not correct in law**. Section 107(6) provides that **no appeal shall be filed** before the Appellate Authority, **unless** the appellant has paid-

(a) **full amount of tax, interest, fine, fee and penalty** arising from the impugned order, as is admitted by him; and

(b) a **sum equal to 10% of the remaining amount of tax in dispute** arising from the impugned order **subject to a maximum of ₹ 25 crore***.

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

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

Revisional Authority

Question 6

With reference to section 108, elaborate whether a CGST/SGST authority can revise an order passed by his subordinates.

Answer

Section 2(99) defines "Revisional Authority" as an authority appointed or authorised under the CGST Act for revision of decision or orders referred to in section 108.

Section 108 of the Act authorizes such "**revisional authority**" to **call for and examine any order passed by his subordinates and in case** he considers the **order** of the lower authority to be **erroneous** in so far as it is **prejudicial to revenue and is illegal or improper or has not taken into account certain material facts**, whether available at the time of issuance of the said order or not or in consequence of an observation by the Comptroller and Auditor General of India, he may, if necessary, can **revise the order** after giving opportunity of being heard to the person concerned. The "**revisional authority**" **can also stay the operation of any order passed** by his subordinates pending such revision.

The "revisional authority" **shall not revise** any order if-

(a) the **order has been subject to an appeal** under section 107 or under section 112 or under section 117 or under section 118; or

(b) the **period specified** under section 107(2) **has not yet expired or more than 3 years have expired** after the passing of the decision or order sought to be revised.

(c) the order has **already been taken up for revision** under this section at any earlier stage.

(d) the **order is a revisional order**

Question 7

The original adjudicating authority confirmed a demand of GST of ₹ 42.50,000 with interest and imposed a penalty of ₹ 4,25,000 in its order dated 1st - March, 20XX. The assessee filed an appeal before appellate authority challenging the demand as well as penalty. The internal audit party, after an audit of the records of the assessee, submitted a note to the Commissioner that actual amount demanded should have been ₹ 48,50,000. While the issue was pending before the appellate authority, based on the note, the Commissioner stayed the order of the original authority and issued a show cause notice on 15th Sep, 201X, proposing revision of the order of the original authority and revise the demand on the basis of the audit note. Examine the correctness of the action taken by the Commissioner in accordance with the provisions of GST law.

Answer

As per section 108 of the CGST Act, **Revisional Authority cannot revise an order** if, inter alia, such order has been **subject to an appeal before Appellate Authority or Tribunal or High Court or Supreme Court**.

The Revisional Authority may, **however, pass an order on any point which has not been raised and decided in an appeal before Appellate Authority/Tribunal/High Court/Supreme Court**.

In the given case, Commissioner wants to revise the order on the point which is subject matter in appeal. Therefore, the **Commissioner cannot exercise the power of revision in respect of such order**.

Question 8

Mr. Mahendran is aggrieved by the order of the Revisional Authority (RA) and wants to make an appeal to the First Appellate Authority. While commenting on the decision of Mr. Mahendran, you are also required to state the powers of the Revisional Authority to revise the orders passed by the subordinate officers under section 108 of the CGST Act.

What is the time period for the Revisional Authority to exercise the power of revision?

Answer

The decision of Mr. Mahendran of making an appeal to the First Appellate Authority against the order of the **RA is not valid in law**. Any person **aggrieved by an order passed against him by RA** under CGST Act may **appeal to the Appellate Tribunal**, the second level of appeal

The powers of the **RA to revise the orders** passed by the subordinate officers under section 108 of the CGST Act are **as under:-**

- (i) The RA may, **on his own motion, or upon information received** by him or on request from the SGST/UTGST Commissioner, **call for and examine the record** of any proceedings.
- (ii) On examination of the case records, if RA is of the view that the decision/order passed by any officer subordinate to him is **erroneous and illegal/improper or has not taken into account material facts**, he may **stay the operation of such order** for such period as he deems fit.
- (iii) The RA, after **giving the person concerned an opportunity of being heard and after making necessary further inquiry**, **pass such order**, as he thinks just and proper, **including enhancing or modifying or annulling the said order**.

The RA **can revise an order after expiry of a period of 6 months** from date of communication of the said order **but not later than expiry of a period of 3 years** from the passing of the said decision/order.

In case of an order subject to an appeal before Appellate Authority (AA)/Tribunal/High Court/Supreme court the RA **can pass an order on any point which has not been raised and decided in the appeal. before the expiry of a period of 1 year from the date of the order in such appeal or before the expiry of a period of 3 years from the date of initial order, whichever is later.**

Appellate Tribunal

Question 9

The Appellate Tribunal has the discretion to refuse to admit any appeal. Examine the correctness of the above statement

Answer

The statement is **partially correct.**

Though the Appellate Tribunal does have the **power to refuse to admit an appeal, It cannot refuse to admit ANY appeal. It can refuse to admit an appeal where-**

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

Question 10

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

Answer

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

- (a) **full amount of tax, interest, fine, fee and penalty** arising from the impugned order, as is **admitted by him; and**
- (b) **a sum equal to 10% of the remaining amount of tax** in dispute arising from the impugned order, **subject to a maximum of ₹ 25 crore.**

Provided that **no appeal** shall be filed to (AA) **against an order under section 129(3), unless a sum equal to 25% of the penalty has been paid by the appellant.**

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

- (a) **full amount of tax, interest, fine, fee and penalty** arising from the impugned order, as is admitted by him; and
- (b) **20% of the remaining amount** of tax in dispute, in addition to the amount deposited before the AA, arising from the said order, **subject to a maximum of ₹ 50 crore**, in relation to which appeal has been filed.

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

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

Question 11

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

Assuming that the Appellate Authority also confirms the order of the Joint Commissioner and the company wants to file an appeal before the Appellate Tribunal against the order of the Appellate Authority, determine the amount of pre-deposit to be made by the company for filing the said appeal

Answer

Section 107(6) read with section 20 of the IGST Act provides that **no appeal shall be filed** with the Appellate Authority **unless** the applicant has **paid in full, such part of the amount of tax, interest, fine, fee and penalty** arising from the impugned order, as is admitted by him **and a sum equal to 10% of the remaining amount of tax** in dispute arising from the said order **subject to a maximum of ₹ 50 crore.**

Thus, the amount of pre-deposit for filing an appeal with Appellate Authority cannot exceed ₹ 50 crore (for tax in dispute) where IGST demand is involved.

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

(i) **₹ 28 crore** [10% of the amount of tax in dispute, viz. ₹ 280 crore] or

(ii) **50 crore, whichever is less. = ₹ 28 crore.**

Further, section 112(8) provides that **no appeal** shall be filed **with the Appellate Tribunal unless** the applicant has **paid in full, such part of the amount of tax, interest, fine, fee and penalty** arising from the impugned order, as is admitted by him **and a sum equal to 20% of the remaining amount of tax in dispute**, in addition to the amount paid as pre-deposit while filing appeal to the Appellate Authority, arising from the said order subject to a maximum of ₹ 100 crores.

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

(i) **₹ 56 crores** [20% of the amount of tax in dispute, viz. 280 crores] or

(ii) **₹ 100 crores, whichever is less = ₹ 56 crores.**

Additional Evidence

Question 12

Rule 112 of the CGST Rules lays down that the appellant shall not be allowed to produce before the Appellate authority (AA) or the Tribunal any evidence, whether oral or documentary, other than the evidence produced by him during the course of the proceedings before the adjudicating authority or, as the case may be, the AA.

What are the exceptional circumstances specified in the rule where the production of additional evidence will be allowed? Can AA or Tribunal direct production of any document or examination of witness?

Answer

Exceptional circumstances specified in rule 112 of the CGST Rules where the **production of additional evidences will be allowed are as follows:**

- a. where the adjudicating authority/appellate authority (AA) has **refused to admit evidence which ought to have been admitted.**
- b. where the appellant was **prevented by sufficient cause from producing the evidence** which he was called upon to produce by the adjudicating authority/AA
- c. where the appellant was **prevented by sufficient cause from producing** before the adjudicating authority/AA any evidence **which is relevant to any ground** of appeal; or
- d. where adjudicating authority/AA has made the **order appealed against without giving sufficient opportunity to the appellant to adduce evidence** relevant to any ground of appeal.

Yes, the AA or the Tribunal can direct the production of any document or examination of any witness to enable it to dispose of the appeal.

Non - Appealable Order

Question 13

With reference to the provisions of section 120, list the cases in which appeal is not to be filed and also specify other relevant provisions in this respect.

Answer

- (1) The Board may, on the recommendations of the GST Council, issue orders or instructions or directions fixing monetary limits for regulating filing of appeal or application by the CGST officer.
- (2) Non-filing of appeal/application by a CGST officer on account of such monetary limits fixed by the Board shall not preclude such officer from filing appeal or application in any other case involving the same or similar issues or Questions of law.
- (3) No person, who is a party in application or appeal can contend that the CGST Officer has acquiesced in decision on disputed issue by not filing an appeal or application (on account of monetary limits).
- (4) The Appellate Tribunal or Court hearing such appeal or application shall have regard to circumstances for non-filing of appeal or application by the CGST officer on account of monetary limits fixed by the Board.

Question 14

With reference to the provisions of section 121, specify the orders against which no appeals can be filed.

Answer

As per section 121, no appeal shall lie against any decision taken or order passed by a CGST officer if such decision take or order past relates to any one or more of the **following matters**, namely:

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

High Court & Supreme Court

Question 15

Mr. A had filed an appeal before the Appellate Tribunal against an order of the Appellate Authority where the issue involved relates to POS. The order of Appellate Tribunal is also in favour of the Department. Mr. A now wants to file an appeal against the decision of the Appellate Authority as he feels the stand taken by him is correct.

You are required to advise him suitably with regard to filing of an appeal before the appellate forum higher than the Appellate Tribunal.

Answer

As per section 117(1), an **appeal against orders passed by the State Bench or Area Benches of the Tribunal would lie to the High Court** if the High Court is satisfied that such an appeal involves a substantial Question of law.

However, appeal against orders passed by the **National Bench or Regional Benches of the Tribunal would lie to the Supreme Court and not High Court**. As per section 109(5) of the Act, only the National Bench or Regional Benches of the Tribunal can decide appeals where one of the issues involved relates to the POS.

Since the issue involved in Mr. A's case relates to POS, the appeal in his case would have been **decided by the National Bench or Regional Bench** of the Tribunal. Thus, **Mr. A will have to file an appeal with the Supreme Court and not with the High Court**.

Question 16

On scrutiny of returns filed by Chandan & Co., the Department found some discrepancy in ITC claimed by the company and consequently a Departmental audit was conducted under section 65 of the CGST Act. On conclusion of the audit in Feb, 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 Jan.. The Joint Commissioner of CGST, not being satisfied by the reply given by the company to the SCN, passed a written order on 28th April which was received by the company on 1st May. The order confirmed the tax demand of ₹30,00,000 (i.e., CGST ₹ 15,00,000 and SGST ₹ 15,00,000) and imposed a penalty of equal amount under section 74.

Aggrieved by the order, Chandan & Co. decides to contest the order of adjudication in its entirety. It seeks advice on the following issues -

To whom should make an appeal? Can it directly approach the High Court?

- (i) What is the time limit for filing the appeal in the given case?
- (ii) Is there any requirement of pre-deposit of any amount and if so, what would be the amount?

Provide your legal and reasoned advice to Chandan & Co.

Answer

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

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

(ii) The **time-limit for filing an appeal** in the given case is **3 months from the date of communication of the order** appealed against, i.e, 3 months from 1st May. Hence, the appeal must be filed on or before 1st Aug.

(iii) **No appeal can be filed** before the Appellate Authority **unless appellant**-Chandan & Co. has **paid pre-deposit of ₹ 3,00,000**, computed as sum of the following

(a) **Full amount of tax**, interest and penalty arising from order as admitted by him, viz. nil, and

(b) **10% of the remaining tax in dispute (₹ 30,00,000)** arising from the order, viz. ₹ 3,00,000.

Question 17

Anirudh Ltd. is registered in Telangana and paid IGST on a transaction considering the same to be inter- State supply on the basis that the customer is situated in Delhi.

However, GST authorities have raised a dispute and have issued a show cause notice that since the services are rendered within Telangana, it is an intra-State supply leviable to CGST and SGST.

Anirudh Ltd. has lost the case before the proper officer and also in first appeal before the Departmental Appellate Authority.

Advise Anirudh Ltd. regarding the following:

(i) Can Anirudh Ltd. file an appeal against the order of the first Appellate Authority? If yes, before which forum can Anirudh Ltd. file the said appeal?

(ii) Once a valid appeal is filed by Anirudh Ltd. before the appropriate forum, can the authorities insist Anirudh Ltd. to deposit the CGST and SGST which the authorities are claiming that Anirudh Ltd. ought to have paid but has not paid.

(iii) If Anirudh Ltd. loses at the 2nd appellate stage as well, is there any other Statutory forum available for Anirudh Ltd. to file another appeal? If yes, before which forum?

(iv) Assuming Anirudh Ltd. loses at all levels, would there be any interest liability on Anirudh Ltd.?

Answer

(i) **Yes, Anirudh Ltd. can file an appeal** against the order of the first Appellate Authority **to the Appellate Tribunal. National Bench/Regional Benches of the Tribunal will have jurisdiction** to hear the appeal **as POS is one of the issues** in dispute.

(ii) **No, Authority can't insist**, because once a valid appeal is filed i.e., **on payment of requisites pre-deposit, the recovery proceedings for the balance amount of the demand in dispute gets stayed** till the disposal of appeal.

(iii) Yes Anirudh Ltd. **can file another appeal against the decision** of the National Bench/Regional Bench of the Tribunal, **directly before the Supreme Court.**

(iv) **No, there will be no interest liability** on Anirudh Ltd. if it loses at all levels. A registered person who has paid IGST on a transaction considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, is not required to pay any interest on the amount of CGST and SGST payable because there is no shortfall of overall tax amount.

Question 1

What is the objective of having a mechanism of Advance Ruling?

Answer

The broad objective for setting up such an authority is to:

- (i) provide **certainty in tax liability** in advance in relation to an activity being undertaken or proposed to be undertaken by the applicant:
- (ii) helps taxpayer in **financial planning and making new investments**
- (iii) attract **Foreign Direct Investment (FDI)**:
- (iv) reduce litigation
- (v) **pronounce ruling expeditiously in transparent and inexpensive** manner.

Question 2

Can Mr. Venkat obtain advance ruling for the issue related to POS? Also list all issues for which advance ruling can be sought.

Answer

Advance Ruling can be sought for the following Questions:

- (a) **classification** of any goods or services or both;
- (b) **applicability of a notification issued** under provisions of the GST Act(s);
- (c) determination of **time and value of supply** of goods or services or both;
- (d) **admissibility of ITC** of tax paid or deemed to have been paid;
- (e) **determination of the liability to pay tax** on any goods or services under the Act;
- (f) **whether applicant is required to be registered** under the Act;
- (g) **whether any particular thing** done by the applicant with respect to any goods or services **amounts to or results in a supply of goods or services**, within the meaning of that term.

However, Authority shall not admit the application where the Question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act

Advance Ruling **cannot** be obtained for issue related to **POS**.

Applicability

Question 3

What is the time period for Applicability of Advance Ruling?

Answer

The law does not provide for a fixed time period for which the ruling shall apply. Instead, in section 103(2), it is provided that advance ruling **shall be binding till the period when the law, facts and circumstances supporting the original advance ruling have changed**. Thus, a ruling shall continue to be in force so long as the transaction continues and so long as there is no change in law, facts and circumstances.

Question 4

To whom will the Advance Ruling be applicable?

Answer

The advance rulings are given in personam and not in rem, that is, not to the whole world and therefore **rulings cannot apply to other similar cases**. Section 103 provides that an advance ruling pronounced by AAR or AAAR shall **be binding only on the applicant who sought it** in respect of any matter referred to in section 97(2) **and on the jurisdictional tax authority of the applicant**. This clearly means that an advance ruling is not applicable to similarly placed taxable persons in the State. It is **only limited to the person who has applied for an advance ruling**.

Question 5

Can an advance ruling given be nullified?

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 (but excluding the period when advance ruling was given and up to the period when the order declaring it to be void is issued). An **order declaring advance ruling to be void can be passed only after hearing the applicant**.

Procedure

Question 6

Briefly explain the procedure to be followed by the Authority for Advance Ruling on receipt of the application for Advance Ruling under section 98.

Answer

The procedure to be followed by the Authority for Advance Ruling (AAR) on receipt of the application for advance ruling under section 98 is as under:

1. Upon receipt of an application, **the AAR shall send a copy of application to the officer** in whose Jurisdiction the applicant falls and call for all relevant records.

2. The AAR may then **examine the application along with the records** and may also **hear the applicant**. Thereafter he will **pass an order either admitting or rejecting the application**
3. Application for advance ruling will **not be admitted** in cases where the Question raised in the **application is already pending or decided in any proceedings** in the case of an applicant under any of the provisions of this Act.
4. **If the application is rejected**, it should be **by way of a speaking order giving the reasons** for rejection and only after giving an opportunity of being heard to the applicant.
5. **If the application is admitted**, the AAR shall **pronounce its ruling on the Question** specified in the application. Before giving its ruling, it shall examine the application and any further material furnished by the applicant or by the concerned departmental officer.
6. Before giving the ruling, **AAR must hear the applicant or his authorized representative** as well as the jurisdictional officers of CGST/SGST.
7. If there is a **difference of opinion between the two members of AAR**, they shall **refer the point or points on which they differ to the Appellate Authority** for hearing the issue
8. The Authority shall **pronounce its advance ruling** in writing **within 90 days from the date of receipt of application**.
9. A copy of the advance ruling duly signed by members and certified in prescribed manner shall be sent to the applicant, the concerned officer and the jurisdictional officer.

Appeal against Advance Ruling

Question 7

Briefly explain whether an appeal could be filed before the Appellate Authority against order of Authority for Advance Ruling (AAR), with reference to sections 100 and 101.

Answer

Yes, the concerned officer, jurisdictional officer or applicant aggrieved by any advance ruling **may appeal to the Appellate Authority** for Advance Ruling (AAAR) **within 30 days** [extendible by another 30 days] **from the date on which such ruling is communicated** to him in the prescribed form and manner.

The AAAR must pass an order **confirming or modifying** the ruling appealed against **within a period of 90 days of the filing of an appeal**, after hearing the parties to the appeal.

If members of AAAR differ on any point referred to in appeal, it shall be deemed that no advance ruling can be issued in respect of the Question under appeal. A copy of the advance ruling pronounced by the AAAR is sent to applicant, concerned officer, jurisdictional officer and to the Authority.

Miscellaneous

Question 8

Ranjan intends to start selling certain goods in Delhi. However, he is not able to determine (1) the classification of the goods proposed to be supplied by him (as the classification of said goods has been contentious) and (1) the POS if he supplies said goods from Delhi to buyers in U.S.

Ranjan's tax advisor has advised him to apply for the advance ruling in respect of these issues. He told Ranjan that the advance ruling would bring him certainty and transparency in respect of the said issues and would avoid litigation later. Ranjan agreed with his view, but has some apprehensions.

In view of the information given above, you are required to advise Ranjan with respect to following:

- (i) The tax advisor asks Ranjan to get registered under GST law before applying for the advance ruling as only a registered person can apply for the same. Whether Ranjan needs to get registered?
- (ii) Ranjan is apprehensive that if at all advance ruling is permitted to be sought, he has to seek it every year. Whether Ranjan's apprehension is correct?
- (iii) The tax advisor is of the view that the order of Authority for Advance Ruling (AAR) is final and is not appealable. Whether the tax advisor's view is correct?
- (iv) Sambhav - Ranjan's friend - is a supplier registered in Delhi. He is engaged in supply of the goods, which Ranjan proposes to supply at the same commercial level that Ranjan proposes to adopt. He intends to apply the classification of the goods as decided in the advance ruling order to be obtained by Ranjan, to the goods supplied by him in Delhi. Whether Sambhav can do so?

Answer

(i) Advance ruling under GST can be sought by a registered person or a person desirous of obtaining registration under GST law [Section 95(c)]. Therefore, it is **not mandatory for a person seeking advance ruling to be registered**.

(ii) Section 103(2) stipulates that the advance ruling shall be **binding unless the law, facts or circumstances supporting the original advance ruling have changed**. Therefore, once Ranjan has sought the advance ruling with respect to an eligible matter/Question, it will be binding till the time the law, facts and circumstances supporting the original advance ruling remain same.

(ii) No, the tax advisor's view is not correct. As per section 100, if the applicant is aggrieved with the finding of the AAR, **he can file an appeal with Appellate Authority for Advance Ruling (AAAR)**. Similarly, if the concerned/jurisdictional officer of CGST/SGST does not agree with the findings of AAR, he can also file an appeal with AAAR.

Such **appeal must be filed within 30 days from the date on which the ruling sought to be appealed against is communicated**.

(iv) Section 103 provides that an advance ruling pronounced by AAR is **binding only on the applicant who had sought it and on the concerned officer or the jurisdictional officer** in respect of the applicant. This implies that an advance ruling is not applicable to similarly placed other taxable persons in the State. It is only limited to the person who has applied for an advance ruling

Thus, Sambhav will not be able to apply the classification of the goods that will be decided in the advance ruling order to be obtained by Ranjan, to the goods supplied by him in Delhi.

Question 9

Chandra is engaged in supplying certain goods in the State of Punjab from his factory located in Jalandhar, Punjab. He is not yet registered under GST. As his turnover is moving towards the applicable threshold limit for registration under GST, he approaches his tax advisor to ascertain the applicability of GST on the supply made by him. His tax advisor is unable to determine whether supply of goods by Chandra amounts to supply of goods under GST law and also, the classification of said goods. He advises Chandra to apply for the advance ruling in respect of said issues. He told Chandra that the advance ruling would bring him certainty and transparency in respect of the said issues and would avoid litigation later. Chandra agrees with his view, but has some apprehensions.

In view of the information given above, you are required to advise Chandra with respect to following

(i) Can Chandra seek advance ruling to determine whether supply of goods by Chandra amounts to supply of goods under GST law and if yes, to determine the classification of said goods?

(ii) Chandra is doubtful whether he can seek advance ruling in relation to an activity/transaction already being undertaken. Whether Chandra's doubt is correct?

(iii) Chandra is apprehensive that Authority for Advance Ruling may take years to pronounce its ruling. Whether his apprehension is correct?

Answer

(i) Section 97(2) of the CGST Act stipulates the Questions/matters on which advance ruling can be sought. It provides that advance ruling can be sought for, inter alia, determining whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term as well as the classification of any goods or services or both. Therefore, **Chandra can seek the advance ruling for determining whether supply of goods by him amounts to supply of goods** under GST law as well as for determining the classification of said goods.

(ii) As per the definition of advance ruling under section 95(a) of the CGST Act, **advance ruling decision can be provided** by the Authority to an applicant **on matters/Questions** specified in section 97(2) of the said Act, in relation to the **supply of goods or services or both being undertaken or proposed to be undertaken** by the applicant. Thus, advance ruling can be sought not only for activities/transactions proposed to be undertaken but also for activities/transactions already undertaken by the applicant.

Hence, in the given case, Chandra can seek the advance ruling in relation to the supply of goods being already undertaken by him.

(iii) **No, Chandra's view is not correct.** As per section 98(6) of CGST Act, the Authority for Advance Ruling **shall pronounce its ruling in writing within 90 days from the date of receipt of application.**

Confidentiality

Question 1

When shall the particulars relating to any proceedings or prosecution be published under GST laws? Discuss the relevant provisions.

Answer

When the **Commissioner/authorised officer** is of opinion that it is **necessary or expedient** in the public interest to publish the **name of any person and any other particulars relating to any proceedings or prosecution** under the CGST Act in respect of such person, it may cause to be **published such name and particulars** (Section 159(1)).

No publication under this section shall be made **in relation to any penalty** imposed under the CGST Act **until the time for presenting an appeal** to the Appellate Authority under section 107 **has expired without an appeal** having been presented or the appeal, **if presented, has been disposed of** [Section 159(2)].

Question 2

Section 158(1) lays down that the information obtained by a public servant from the record of any proceeding under the CGST Act is confidential and cannot be disclosed.

Is there any exception to this rule? Discuss in brief.

Answer

Yes, the **confidential information can be disclosed** by the public servant for certain specific purposes in terms of section 158(3). Such specific purposes are given in brief hereunder:

- (i) For **prosecution**
- (ii) For **carrying out the objects** of the CGST Act
- (iii) For **service of notice** or recovery of demand
- (iv) For **furnishing information to Court** in a proceeding where Govt. is a party
- (v) For **audit** of tax receipts or refunds
- (vi) For **Inquiry** into the conduct of a GST officer
- (vii) For **enabling levy, realisation of any tax** or duty
- (viii) In **lawful exercise of powers**
- (ix) For **enquiry** into a charge of misconduct by any professional
- (x) For **data entry** on automated system
- (xi) For fulfilling the requirement under any other law and in public interest

Rectification

Question 3

Explain the provisions related to rectification of errors apparent on the face of record under section 161

Or

Briefly answer the following Questions with reference to the provisions of rectification of mistakes/errors apparent on the face of record by any authority, under section 161?

- (a) Which documents are covered under section 161?
- (b) Who can rectify the errors apparent on the face of record?
- (c) What type of mistakes or errors can be rectified?
- (d) What is the time limit for rectification?

Answer

(a) Following **documents** are covered under section 161:

- **Decision**
- **Order**
- **Any notice**
- **Certificate**
- Any other document

(b) Any **authority** who has passed or issued any decision or order or notice or certificate or any other document **may rectify any error** which is **apparent on the face of record** in such documents.

(c) Errors or mistakes which are apparent on the face of record may be rectified. Rectification can only be of error apparent from record. It is a settled law that a **decision on a debatable point of law is not a mistake apparent from the record.**

(d) **No rectification** can be made **after a period of 6 months** from the date of issue of such decision.

However, such time limit does not apply in cases **where the rectification is purely** in the nature of correction of a **clerical or arithmetical error or mistake**, arising from any **accidental slip or omission**

Question 4

A show cause notice was issued demanding GST of ₹1,80,180 for the month of July, 20XX on 1st Oct. 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 Rs. 10,80,180 on 15 Nov., 20XX, is issued.

Answer

(i) Advice after issue of order:

As per section 75(7) of the CGST Act, 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. There is **no time limit 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].

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

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

Anti-Profiteering Measure

Question 6

Director General of Anti-Profiteering Authority/Competition Commission, determines that a registered person, has not passed the benefits of reduction of GST tax rates. List the different possible orders that may be passed by the said authority for the above finding.

Answer

Where the Authority determines that a registered person has not passed on the benefit, it may order-

(a) reduction in prices:

(b) **return to the recipient, an amount** equivalent to the amount **not passed** on by way of commensurate reduction in prices along with interest 18% or recovery of the amount including interest not returned, as the case may be.

(c) the **deposit of an amount** equivalent to 50% of the amount determined under the above cause along with interest @ 18% and the remaining 50% of the amount in the **Consumer Welfare Fund of the concerned State**, where the eligible person does not claim return of the amount or is not identifiable

(d) **imposition of prescribed penalty**; and

(e) **cancellation of registration** under GST.

Other Miscellaneous Provisions

Question 7

Briefly explain how the GST compliance rating score is determined.

Answer

As per section 149(2), the GST **compliance rating** is determined on a **scale of ten** on the basis of prescribed parameters.

Question 8

When shall the power to call for information be exercised under GST laws? Explain.

Answer

As per section 151, the **Commissioner or an officer authorised** by him may, **by an order, direct any person to furnish information relating to any matter dealt** with in connection with this Act, within such time, in such form, and in such manner, as may be specified therein.

Question 9

State the various modes of service of a notice, decision, order, summons, or any other communication under the CGST Act, on the taxable person or any other person to whom it is intended.

Answer

Section 169(1) provides that any decision, order, summons, notice or other communication under the CGST Act and the rules made thereunder **can be served by any one of the following methods:**

(a) **Giving/tendering directly** including by a courier **to the addressee or authorised representative or to any adult member of family** residing with the taxable person; or

(b) By **Registered post/speed post/courier** with acknowledgement due at the last known place of business or residence; or

(c) By **Email to the e-mail address** provided at the time of registration or as amended from time to time; or

(d) By **making the same available at common portal**; or

(e) **Publication in newspaper** circulating in the locality in which the addressee is last known to have resided, carried on business or personally worked for gain; or

(f) If none of the above modes is practicable then by **Affixing at last known place of business** or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority concerned.

Question 10

Explain the scope of circulars and instructions issued by the Board.

Answer

Section 168 empowers the Board (CBIC) to issue orders, instructions the purpose of uniformity in the implementation of the CGST Act. All officers and all other persons employed in the implementation of the Act observe and follow such orders, instructions or directions.

The binding nature of such orders, instructions and directions has been a matter of debate and scrutiny. The general understanding that prevails now is that a **circular is binding on the officers, but not on the assessee. However, in case such circular states something contrary to the law, the law shall lower the circular.**

Question 11

The time limits provided under the CGST Act cannot be extended.

Do you agree with the statement? Give your views with reference to section 168A.

Answer

The statement is **not correct**.

The Govt. has power to extend the time limits provided under the CGST Act. However, such powers are not unbridled powers. Section 168A **empowers the Govt. to extend the time limits** when the actions cannot be completed or complied with **due to force majeure**. Here, force majeure means war, epidemic, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature affecting the implementations of provisions of the CGST Act. This power can also be exercised retrospectively.

CHAPTER - 1

Levy of and Exemptions from Customs Duty

Basics

Question 1

Briefly explain the following with reference to the provisions of the Customs Act:

- (i) Indian customs waters
- (ii) India

Answer**(i) Indian customs waters**

Indian customs waters means the waters **extending into the sea up to the limit of Exclusive Economic Zone** and includes any bay, gulf, harbour, creek or tidal river.

If a person has committed any offence punishable under customs law within the Indian customs waters, he may be arrested. Also, goods may be confiscated and vessel be stopped in the Indian customs waters if the same is found to be used **in the smuggling**. Further, **prohibited goods** can also be confiscated if brought within the Indian customs waters.

(ii) India

India includes the territorial waters of India.

Meaning and significance of territorial waters of India

Territorial waters of India extend to 12 nautical miles into sea from the appropriate base line. Goods are deemed to have been imported if the vessel enters the imaginary line on the sea at the 12th nautical mile i.e. if the vessel enters the territorial waters of India. Therefore, a vessel not bound to India should not enter these waters. India includes not only the surface of sea in the territorial waters, but also the air space above and the ground at the bottom of the sea.

Exemptions and Concessions**Question 2**

Referring to section 25 of the Customs Act, discuss the following:

- (i) Special exemption
- (ii) General exemption

Answer**(i) Special Exemption:**

As per Sec. 25(2), if the Central Govt. is satisfied that it is **necessary in the public interest** so to do, it may, **by special order** in each case, **exempt from payment of duty**, any goods on which duty is leviable only under circumstances of an exceptional nature to be stated in such order. Further, no duty shall be collected if the amount of duty leviable **is equal to, or less than, Rs. 100**. This type of exemption is called as ad hoc exemption. Order under section 25(2) is **not**

required to be published in the Official Gazette.

(ii) General Exemption:

If the **Central Govt.** is satisfied that it is **necessary** in the **public interest** so to do, it may, **by notification** in the Official Gazette, **exempt generally** either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification, goods of any specified description **from the whole or any part** of duty of customs leviable thereon.

However, where any exemption is granted subject to any condition, such exemption shall, unless otherwise specified or varied or rescinded, be **valid up to 31st day of March falling immediately after two years** from the date of such grant or variation.

Further, this exemption applies to all importers while exemption under section 25(2) is for specific- importer and specific goods under import.

Question 3

Goods manufactured or produced in India, which were earlier exported and thereafter imported into India will be treated at par with other goods imported into India. Is the proposition correct or any concession is provided on such import? Discuss briefly.

Answer

The given proposition is correct i.e., goods produced in India, which were earlier exported and thereafter imported into India will be **treated at par** with other goods imported into India. However, the **following concessions** are **being provided** in this regard:

- (i) Maximum import duty will be **restricted to duty drawback or refund availed** or IGST not paid at the time of export.
- (ii) Where the goods *were* originally exported for repairs, the duty on re-importation is **restricted to the fair cost of repairs including cost of materials** used in repairs whether such costs are actually incurred or not, **insurance and freight charges**, both ways done abroad. The **ownership** of the goods should also **not** have **changed**.

The above two concessions are given subject to the **condition** that:

- (a) the **re-importation** is done **within 5 years or 7 years** if time is extended.
- (b) the exported goods and re-imported **goods** must **be the same**.

However, these concessions would not be applicable if, reimported goods

- had been exported by EOU or a unit in FTP
- had been exported from a public/private warehouse
- which fall under fourth schedule to the Central Excise Act, 1944.

- (iii) When **exported goods come back for repairs** and **re-export**, the re- imported goods other

than specified goods can **avail exemption** from paying of import duty subject to following **conditions**:

- (a) the **re-importation is for repairs** only
- (b) the **time limit is 3 years**, In case of **Nepal**, such **time-limit is 10 years**.
- (c) the goods must be **re-exported** after repairs **within 6 months** (extendable to one year).

Question 4

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

Answer

As per said rules, the **importer is permitted to send the imported goods for job work**. The said rule stipulates that the importer shall **maintain a record** of the goods sent for job work during the month **and mention the same in the prescribed monthly statement**. The **importer shall send the goods** to the premises of the job worker under an invoice or wherever applicable **through an e-way bill**, mentioning the description and quantity of the goods. The **maximum period** for which the goods can be sent to the job worker shall be **6 months** from the date of the invoice/e-way bill.

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

Question 5

Mr. X, a chemical manufacturer, imports a machine from Germany on 12th January, 2020 for Rs. 20 lakh. Mr. X is eligible for concessional rate of customs duty on capital goods imported by him subject to the condition that he follows the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017. Machinery was put to use on 1st February, 2020. On 5th April, 2023, Mr. X wants to clear the machine for home consumption after having used the machine for the specified purpose for which it was imported. Mr. X requires your help in calculating the customs duty he will be liable to pay for

such clearance as per rule 7 of the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017. Concessional rate of BCD is 5%. Normal rate of BCD is 20%. Calculate the BCD payable by Mr. X on clearance of such capital goods for home consumption on 5th April, 2023.

Answer

Computation of BCD payable by Mr. X

An importer who has imported the capital goods availing benefit of an exemption notification, may clear such goods after using them for specified purpose, on payment of duty equal to difference between the duty leviable on such goods without exemption and duty already paid at the time of importation, along with interest, on the depreciated value allowed in straight line method, as below:

- (i) for every quarter in the first year @ 4%;
- (ii) for every quarter in the second year @3%;
- (iii) for every quarter in the third year @ 3%;
- (iv) for every quarter in the fourth and fifth year @ 2.5%;
- (v) and thereafter for every quarter @ 2%.

Thus, depreciation % will be computed as follows:

2020: 4 quarter x 4= 16%
 2021: 4 quarter x 3= 12%
 2022: 4 quarter x 3= 12%
 2023: 2 quarter x 2.5= 5%

Total **depreciation % will be** 45%

Depreciation amount will be: 45% of Rs. 20 Lakh = Rs. 9 lakh

Depreciated value of the machine is Rs. 20 Lakh — Rs. 9 lakh = Rs. **11 lakh**

Accordingly, **BCD payable by Mr. X will be computed as follows:**

= [Rs. 11 lakh x 20%] - [Rs. 20 lakh x 5%]
 = Rs. [2.20-1.00] lakh = **Rs. 1.20 lakh**

Author note : remember that quarter to be calculated as per calendar quarter Apr May Jun , JAS, OND, JFM

Remission and Abatement [section 13, 22, 23]

Question 6

Distinguish between Pilfered goods and Lost/destroyed goods

Answer

	Pilfered goods	Lost/Destroyed goods
1.	Covered by section 13	Covered by section 23(1)
2.	No duty payable on such goods	Duty paid on such goods to be remitted

3.	Department gets compensation from the custodian (Section 45(3))	No such compensation
4.	Petty theft by human being	Loss/Destruction by fire, flood, etc. (Act of God)
5.	Restoration possible	Restoration is not possible
6.	Occurrence is after unloading and before Customs clearance order for home consumption or warehousing	Occurrence may be at any time before clearance for home consumption
7.	Occurrence in warehouse not recognized	Occurrence in warehouse is recognized
8.	Duty need not be calculated	Duty should be calculated for determining the remission amount
9.	No need to prove pilferage. It is quite obvious	Should be proved and remission sought for

Question 7

Peerless Scraps, imported during August, by sea, a consignment of metal scrap weighing 6,000 M.T. (metric tons) from U.S.A. They filed a bill of entry for home consumption. The Assistant Commissioner passed an order for clearance of goods and applicable duty was paid by them. Peerless Scraps thereafter found, on taking delivery from the Port Trust Authorities (i.e., before the clearance for home consumption), that only 5,500 M.T. of scrap were available at the docks although they had paid duty for the entire 6,000 M.T., since there was no short-landing of cargo. The short-delivery of 500 M.T. was also substantiated by the Port-Trust Authorities, who gave a "weighment certificate" to Peerless Scraps.

On filing a representation to the Customs Department, Peerless Scraps has been directed in writing to justify as to which provision of the Customs Act governs their claim for remission of duty on the 500 M.T. not delivered by the Port-Trust.

You are approached by Peerless Scraps as "Counsel" for an opinion/advice. Examine the issues and tender your opinion as per law, giving reasons.

Answer

As per provisions of section 23, where it is shown to the satisfaction of Assistant or Deputy Commissioner that any imported **goods have been lost or destroyed, otherwise than as a result of pilferage** at any time before clearance for home consumption, the AC/DC shall remit the duty on such goods, Therefore, duty **shall be remitted only if loss has occurred before clearance for home consumption**.

In the given case, it is apparent from the facts that quantity of scrap received in India was 6000 metric tonnes and **500 metric tonnes thereof was lost when it was in custody of Port Authorities i.e. before clearance for home consumption** was made. Also, the loss of **500 MT of scrap cannot be construed** to be pilferage, as loss of such huge quantity cannot be treated as 'Petty Theft'.

Hence, **Peerless Scraps may take shelter under section 23** justifying his claim for remission of duty.

Question 8

Supreme Car Decors imported car music systems and GPS devices from Germany. The importer submits the following issues for your consideration:

- (i) 7 music systems were pilfered before unloading and before the proper officer has made an order for clearance for home consumption.
- (ii) 10 GPS devices were pilfered after unloading and before the proper officer has made an order for clearance for home consumption.
- (iii) 30 music systems were damaged after unloading and examination for assessment by the customs authorities but before actual home clearance.

Supreme Car Decors seeks your expert advice with reason regarding the impact on customs duty on the said goods.

Answer

- (i) **Duty is payable** on the music systems **pilfered before unloading** since an importer is not liable to pay duty leviable on pilfered imported goods only if such goods are pilfered after unloading and before proper officer makes order for clearance for home consumption.
- (ii) Supreme Car Decors is **not liable to pay duty** leviable on **GPS devices pilfered** since an importer is not liable to pay duty leviable on any imported goods pilfered **after unloading and before** proper officer makes **order for clearance for home consumption**.
- (iii) **Abatement of duty** on damaged imported goods **is available** if such imported goods are **damaged accidentally after unloading but before examination** for assessment by customs authorities.

In the given case, since imported music systems (It has been assumed that that the imported music systems have not been warehoused) are **damaged after examination** for assessment by the customs authorities, **abatement of duty on such goods is not available**.

Question 9

In January, 20XX, Rock & Rock India Ltd. imported a consignment from U.S.A (by sea). The value of consignment was 7,50,000 and total duty payable was 1,50,000.

Company filed bill of entry for home consumption but before inspection and clearance for home consumption it found that the goods were damaged.

On filing a representation to the Customs Department, proper officer refused the claim for abatement because goods were already unloaded. The proper officer is in agreement with the claim that the value of goods has come down to only 1,50,000.

Examine the issue with reference to the relevant statutory provisions and calculate the amount of total duty payable:

Would your answer be different in the above case if the goods get deteriorated after unloading and examination but before clearance for home consumption, and value comes down to 7,00,000.

Answer

The abatement of duty is allowed where it is shown to the satisfaction of the Assistant/Deputy

Commissioner of Customs that, inter alia, any imported goods, other than warehoused goods, had been damaged at any time after the unloading thereof in India but before their examination, on account of any accident not due to any willful act, negligence or default of the importer.

Thus, in view of the above-mentioned provisions, the stand taken by the proper officer of **refusing the claim for abatement is not valid** in law.

The **duty to be charged on the damaged goods** shall be reduced in proportion to the reduction in the value of goods on account of damage.

Thus, in the given case, the amount of total duty payable

$$= [1,50,000 / 7,50,000] \times 1,50,000 = 30,000$$

The abatement of duty is allowed in case of deterioration only if such deterioration occurs before or during the unloading of goods. **Since in this case, imported goods have deteriorated before clearance for home consumption but after unloading, abatement of duty will not be allowed and full duty will have to be paid.**

Case Laws

Question 10

KIP Chemical, Ahmedabad, Gujarat supplies goods to ACCP, Bharuch, situated in Dahej SEZ (Gujarat). Examine with reference to decided case law, whether such supply is chargeable to export duty under Customs Act.

Answer

Supply made by KIP Chemical, Gujarat, to ACCP situated in Dahej SEZ, Gujarat is **not chargeable to export duty**.

In a judicial pronouncement*, it is held that the **clearances of goods from DTA to SEZ are not chargeable to export duty** on the basis of the following observations:

- The charging section under Customs Act needs to be construed strictly.
- If a person is not expressly brought within the scope of the charging section, he cannot be taxed at all.

Customs duty can be levied only on goods imported into or exported from India. Since both the **SEZ unit and the DTA unit** are located within India, **supplies from DTA to SEZ** would not attract **charging section for customs duty**. Since there is no charging provision in the SEZ Act providing for levy and collection of export duty on goods supplied by a DTA unit to a Unit in a SEZ, export duty cannot be levied on the DTA supplier

CHAPTER - 2

Types of Duty

Preferential Rate**Question 1**

What are the conditions required to be fulfilled by the importer to make the imported goods eligible for preferential rate of duty prescribed by the Central Govt. by notification under section 25 of the Customs Act.

Answer

The Govt. may by notification prescribe preferential rate of duty in respect of imports from certain preferential areas. The importer will have to **fulfill the following conditions** to make the imported goods eligible for preferential rate of duty:

- (i) At the time of importation, he should **make a specific claim for the preferential rate.**
- (ii) He should also claim that the goods are produced or **manufactured in such preferential area.**
- (iii) The **area should be notified** under section 4(3) of the Customs Tariff Act to be a preferential area.
- (iv) The origin of the goods shall be determined in accordance with the rules made under Customs Tariff Act.

Safeguard Duty**Question 2**

During the year 20XX, the customs authorities have noticed that there is an increased quantity of Product XYZ being imported into the country. Determine whether the Central Govt. should consider levying safeguard duty or anti-dumping duty with appropriate reasons. Also enumerate any exemptions/reliefs available from such duty.

Answer

In the given case, **since Product XYZ is being imported into the country in increased quantity, Central Govt. should consider levying safeguard Duty and not anti-dumping duty.**

Anti-dumping duty is imposed when any article is exported from any country to India at less than its normal value, which is not the case here.

However, **safeguard duty can be imposed only** when Central Govt. is satisfied that such increased **importation is causing/threatening** to cause **serious injury to the domestic industry.**

Exemptions/reliefs from safeguard duty: **not imposed on** the imports

- (a) originating **from developing country** if the share of **imports of that article from that country** ≤ **3% of the total imports** of that article into India.
- (b) on articles originating from more than one developing country if the **aggregate of imports from developing countries** each with < 3% import share taken together ≤ **9% of the total**

imports of that article into India.

- (c) on articles imported by a 100% EOU/ SEZ unit unless specifically made applicable or **article imported is either cleared as such/used in the manufacture of any goods** that are cleared, into DTA.

Question 3

Determine the customs duty payable under the Customs Tariff Act including the safeguard duty of 30% under section 8B of the said Act with the following details available on hand:

Assessable value of Sodium Nitrite imported from a developing country from 26 th October, 2021 to 25 th October, 2022	₹ 30,00,000
Share of imports of Sodium Nitrite from the developing country against total imports of Sodium Nitrite to India	4%
BCD	10%
IGST	12%
Social welfare surcharge	10%

Will it change your answer if ABC Exports is a SEZ unit? Explain discussing applicable provisions.

Answer

Computation of customs duty and IGST payable thereon

Particulars	Amount (₹)
Assessable value of sodium nitrite imported	30,00,000
Add: BCD @ 10% on ₹30,00,000	3,00,000
Safeguard duty @ 30% on ₹30,00,000 [Safeguard duty is imposable in the given case since share of imports of sodium nitrite from the developing country is more than 3% of the total imports of sodium nitrite into India]	9,00,000
Social welfare surcharge @ 10% x ₹ 3,00,000	30,000
Total	42,30,000
IGST (42,30,000 * 12%) [Note]	5,07,600
Total customs duty payable (3,00,000 + 9,00,000 + 30,000 + 5,07,600)	17,37,600

Note: It has been clarified by DGFT vide Guidance note that value for calculation of IGST shall also include safeguard duty amount.

Safeguard measures are not applicable to articles imported by a SEZ unit unless specifically made applicable or article imported is cleared as such/ used in the manufacture of goods cleared into DTA.

Thus, if ABC Exports is a SEZ unit, safeguard duty will not be applicable to it and total amount of duties payable will be ₹ 8, 37,600. 10(3, 00,000 BCD + 30,000 SWS + 5,07,600 IGST)

Countervailing Duty and Anti-Dumping Duty**Question 4**

With reference to the Customs Tariff Act, discuss the validity of the imposition of customs duties in the following cases:

- (a) Both countervailing duty and anti-dumping duty have been imposed on an article to compensate for the same situation of dumping.
- (b) Countervailing duty has been levied on an article for the reason that the same is exempt from duty borne by a like article when meant for consumption in the country of origin.
- (c) Definitive anti-dumping duty has been levied on articles imported from a member country of World Trade Organization as a determination has been made in the prescribed manner that import of such article into India threatens material injury to the indigenous industry.

Answer

- (a) **Not valid.** No article shall be subjected to both countervailing and anti-dumping duties to compensate for the same situation of dumping or export subsidization.
- (b) **Not valid.** Countervailing or anti-dumping duties shall not be levied by reasons of exemption of such articles from duties or taxes borne by the like articles when meant for consumption in the country of origin or exportation or by reasons of refund of such duties or taxes.
- (c) **Valid.** No definitive countervailing duty or anti- dumping duty shall be levied on the import into India of any article from a member country of the World Trade Organisation or from a country with whom Govt. of India has a most favored nation agreement, **unless a determination has been made** in the prescribed manner that import of such article into India causes or threatens material injury to any established industry in India or materially retards the establishment of any industry in India.

Question 5

With reference to section 9A(1A) of the Customs Tariff Act, mention the ways that constitute circumvention of antidumping duty imposed on an article which may warrant action by the Central Govt..

Or

CVD was applicable on purchase of machine Z, Mr. Veeru managed to import the same product by altering the name of the product. But proper officer imposed countervailing duty on the said import.

Answer

Following are the ways that would constitute circumvention (avoiding levy of duty by unscrupulous means) of antidumping duty imposed on an article that may warrant action by the Central Govt.

- (i) **altering the description or name or composition** of article subject to such anti-dumping duty,
- (ii) import of such article **in an unassembled or disassembled** form,
- (iii) **changing the country of its origin** or export, or
- (iv) **any other manner**, whereby the anti-dumping duty so imposed is **rendered ineffective**.

In such cases, investigation can be carried out by Central Govt. and then anti-dumping/CVD can be imposed on additional articles/countries.

Question 6

With reference to section 9AA of Customs Tariff Act, state briefly the provisions of refund of anti-dumping duty.

Answer

According to the provisions of section 9AA of the Customs Tariff Act, where an importer proves to the satisfaction of the Central Govt. that he has paid any anti-dumping duty imposed on any article, in excess of the actual margin of dumping in relation to such article, he shall be entitled to refund of such excess duty. However, the importer will not be entitled for refund of provisional anti-dumping duty under section 9AA as the same is refundable under section 9A(2) of the said Act.

Question 7

With reference to the Customs Act, decide the validity of the following independent cases with proper legal provisions:

- (i) Apex Rubber Limited is a 100% EOU located in a Special Economic Zone. It imported certain items from China for its production process. Customs officer proposed to impose anti-dumping duty on such imports. The importer contends that no anti-dumping duty can be imposed on imports by a 100% EOU under any circumstances.
- (ii) Customs Department proposed to impose anti-dumping duty retrospectively in respect of certain items. Importer's association claimed that anti-dumping duty cannot be levied with retrospective effect under any circumstances.

Answer

- (i) **The contention of the importer is partially correct.**
Anti-dumping duty cannot be imposed on imports made by 100% EOU. However, following circumstances are **exception** to the same:
 - (i) where it is **specifically made applicable** in such notifications or such impositions, as the case may be; or
 - (ii) where such **article imported is either cleared as such into the DTA or used in the manufacture of any goods that are cleared into the DTA**, and in such cases anti-dumping duty shall be levied on that portion of the article so cleared or so used as was leviable when it was imported into India.
- (ii) **The claim of the importer's association is not correct. Anti-dumping duty can be levied with retrospective effect not beyond 90 days** from the date of such notification, if Central Govt. is of the opinion that:
 - (a) there is a **history of dumping** which caused injury or that the importer was, or should have been, aware that the exporter practices dumping and that such dumping would cause injury, and
 - (b) the injury is caused by **massive dumping** of an article imported in a relatively short time

which is likely to **seriously undermine the remedial effect of anti-dumping duty** liable to be levied owing to timing and volume of imported article dumped and other circumstances.

Question 8

(A) KTU Limited has imported certain goods for sale in India from Country Z, which are liable for anti-dumping duty. Country Z sell the like goods in its domestic market in the ordinary course of trade at USD 300 per piece. The imported goods are sold in domestic Indian industry @ USD 275 per piece. KTU Limited has imported the goods at USD 180 per piece. Landed value of the imported goods is USD 190 per piece.

Compute the anti-dumping duty payable by KTU Limited for 800 pieces of these goods it has imported during the year assuming conversion rate @ 1 72 per USD.

(B) What would be your answer if Country Z does not sell these goods in its domestic market. However, it exports the said goods at USD 280 per piece to another third country.

Answer

The **quantum of anti-dumping duty** is:

- (i) **margin of dumping** or
- (ii) **injury margin whichever is lower.**

Margin of dumping is the difference between export price and normal value of the imported article.

Injury margin is the difference between the fair selling price [non-injurious price (NIP)] due to the domestic industry **and the landed value** of the dumped imports.

Export price in relation to an article, means the price of an article exported from the exporting country. KTU Limited has imported the goods at USD 180 per piece. Thus, export price is USD 180 per piece.

Normal value in relation to an article, means **comparable price**, in the ordinary course of trade, for the like article when destined for consumption **in the exporting country** as determined in accordance with the rules. Since Country Z sell the like goods in its domestic market in the ordinary course of trade at USD 300 per piece, thus normal value **in the given case is USD 300 per piece.**

Fair **Selling Price (FSP)** [Non-Injurious Price] is that **level of** price, which the Indian industry is, **expected to have charged under normal circumstances** in the Indian market during the period defined. Since the imported goods are sold in domestic Indian Industry @ USD 275 per piece, thus Fair selling price in the **present case is USD 275 per piece.**

Landed Value is taken as the assessable value under the Customs Act and the applicable basic customs duties except CVD, SAD and special duties. **Landed value in the given case is USD 190 per piece.**

In the given case, anti-dumping duty per piece is:

- (i) Margin of dumping is USD 120 [USD 300- USD 180] or
- (ii) Injury margin is USD 85 [USD 275 — USD 190] whichever is lower i.e. USD 85

Anti-dumping duty for 800 pieces (in rupees) = USD 85 x 800 pieces x 72 = 48,96,000

(B) When there are no sales of the like article in the domestic market of the exporting country, normal value is taken as the comparable representative price of the *like* article when exported from the exporting country to an appropriate third country.

In the given case, anti-dumping duty per piece is:

(iii) Margin of dumping is USD 100 [**USD 280**- USD 180] or

(iv) Injury margin is USD 85 [USD 275 — USD 190] whichever is lower i.e. USD 85

Anti-dumping duty for 800 pieces (in rupees) = USD 85 x 800 pieces x 72 = 48,96,000

CHAPTER - 3

Classification of Imported and Export Goods

Classification Rules**Question 1**

Briefly explain the provisions of rule 2(a) of Rules of Interpretation of the First Schedule to the Customs Tariff Act on classification of incomplete/unfinished articles.

Answer

The provisions of rule 2(a) of Rules of Interpretation of the First Schedule to the Customs Tariff Act on **classification of incomplete/unfinished articles** are as under:

If any particular **heading refers to a finished/complete article, the incomplete/unfinished form of that article shall also be classified under the same heading** provided the incomplete/unfinished goods have the **essential characteristics** of the finished goods.

Reference to an article will also **include** the article complete or finished (or failing to be classified as complete or finished) presented **un-assembled or dis-assembled**.

Question 2

Explain rule 3 of the rules for Interpretation of the Customs Tariff.

Answer

The application of this rule arises when the **goods consists of more than one material or substance**.

When by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:

Rule 3(a) — Specific over general:

- (i) The heading which provides the most specific description shall be preferred to headings providing a more general description.
- (ii) However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

Rule 3(b) — Essential character principle: Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified with reference to (a), shall be classified as if they consisted of material which gives them their essential character, in so far as this criterion is applicable.

Rule 3(c) — Latter the better: When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

Question 3

What is the purpose of including General Rules of Interpretation of First Schedule in Customs Tariff? Do they form part of the Tariff Schedule? Explain the Akin Rule of interpretation.

Answer

The Customs Tariff has a set of six General Rules for Interpretation of the First Schedule and three General Explanatory Notes. The six General Rules of Interpretation and three General Explanatory Notes are integral part of the Tariff Schedule. The **purpose** of their inclusion in Customs Tariff is to **give legal force to rules** and **standardize** the manner in which the nomenclature in schedule is to be interpreted so as to reduce classification disputes.

Rule 4 of the Rules of Interpretation is called as **akin rule**. This rule lays down that **goods which cannot be classified** in accordance **with rules 1, 2 and 3** of the Rules of Interpretation **shall be classified under the heading** appropriate to the goods **to which they are most akin**. In other words, **akin rule** is a **residual** rule which is to be applied when classification is not possible by applying any of the earlier rules. It is a rule of last resort.

Question 4

Precise Finishing Ltd. imported consignment of graphic design system and one electronic flat knitting machine. The graphic design system is a computer system required to design the artwork which shall be knitted by the flat knitting machine. Graphic design system is not an integral part of electronic flat knitting machine.

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, an exemption had been granted in respect of electronic flat knitting machine and falling within Chapter 85 of the First Schedule to the Customs Tariff Act. The exemption does not include any specific mention of accessories to the machine. Precise Finishing Ltd. has claimed exemption of the said notification in respect of Graphic Design System also as accessory of Flat Knitting Machine.

The Customs Department rejected the importer's claim for exemption on Graphic Design System. Examine whether the Department's action is sustainable in law.

Answer

The **graphic design system is not an integral part of the electronic flat knitting machine**. It is an accessory to the machine.

Hence, electronic flat knitting machine and graphic design system cannot be treated as one single unit and should be classified and assessed separately.

In the given case, the exemption had been granted under the customs law specifically in respect of the electronic flat knitting machine falling under Chapter 85 of the First Schedule to the Customs Tariff Act and not to its accessory — the graphic design system.

Therefore, benefit of the **exemption** notification available in respect of **electronic flat knitting machine will not be available to graphic design system**. The Department's action is sustainable in law.

Question 5

Your client manufactures Almond Milk which is an almond based drink. The manufacturing process of almond milk is as follows:

- Selection of high quality California almonds;
- Blanching of almonds, roasting, and grinding into a paste
- Almond paste is blended with other ingredients like RO water, salt, vitamins and minerals.
- Sterilization of mixture by ultra-high temperature processing
- Homogenization
- Packaging in a septic package

As per the Rate Notification for goods issued under GST, following entries are relevant:

Rate: 12%

Entry 41 — 2009 — Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter

Entry 48 - 2202 9920 - Fruit pulp or fruit juice based drinks Entry 50 - 2202 9930 — Beverages containing milk

Rate: 18%

Entry 24A — 2202 9100 or 2202 99 90 - Other non-alcoholic beverages other than tender coconut water

Your client is confused with the correct classification of Almond Milk under GST. He has approached you for your opinion so as to enable him to discharge the tax correctly.

Following additional information may be relevant:

As per First Schedule to Customs Tariff Act, following entries of Chapter 20, 22 and 8 are relevant:

Chapter 20 - Preparations of vegetables, fruit, nuts or other parts of plants

Tariff Item	Description of goods
2009	Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter
	Juice of any other single fruit or vegetable:
2009 8100	Cranberry (<i>Vaccinium macrocarpon</i> , <i>Vaccinium</i> , <i>Oxycoccus</i> , <i>Vaccinium vitis-idaea</i>) juice
2009 89	Other
2009 89 10	Mango
2009 89 90	Other
2009 90 00	Mixtures of juices

Chapter 22 - Beverages, spirits and vinegar

Tariff Item	Description of goods

2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, section-iv 172 chapter-22 and other non-alcoholic beverages, not including fruit or vegetable juices of heading 2009
2202 10 10	Aerated Waters
2202 10 20	Lemonade
2202 10 90	Other
	Other
2202 91 00	Other Non-alcoholic Beer
2202 99	Other
2202 99 10	Soya milk drinks, whether or not sweetened or flavored
2202 99 20	Fruit pulp or fruit juice based drink
2202 99 30	Beverages containing milk
2202 99 90	Other

Chapter 8 - Edible fruit and nuts; peel of citrus fruit or melons

Tariff Item	Description of goods
0802	Other nuts, fresh or dried, whether or not shelled or peeled
	Almonds:
0802 11 00	In Shell
0802 12 00	Shelled

Further, explanatory notes to Chapter 20 specify that:

The fruit and vegetable juices of this heading are generally obtained by pressing fresh, healthy and ripe fruit or vegetables. This may be done (as in the case of citrus fruits) by means of “mechanical extractors” operating on the same principle as the household lemon-squeezer, or by pressing which may or may not be preceded either by crushing or grinding (for apples in particular) or by treatment with cold or hot water or with steam (e.g., tomatoes, black currants and certain vegetables such as carrots and celery).

Answer

The first step in the classification of Almond Milk is to determine if the same would fall under Chapter 20 or 22 of the First Schedule of Customs Tariff Act. On a plain reading of Heading of Chapter 20 along with Explanatory Notes, it emerges that Chapter 20 is applicable to juices of ripe fruits and vegetables. Therefore, it is important to determine if the “almond” qualifies to be a fruit or not.

While in common parlance, we refer '**almonds**' as dry fruits, however if we analyze Chapter 8 of the First Schedule of Customs Tariff Act, it appears that '**almonds**' are referred to as '**nuts**' under sub-heading 0802.

Therefore, the '**almonds**' do not classify as '**fruits for the purpose of classification under HSN system**.

Accordingly, the classification under Chapter 20 is completely ruled out. Now, the 3 entries relevant under Chapter 22 are:

- 2202 99 20 — Fruit pulp or fruit juice based drink — As stated above, since almond is not a fruit but a nut for the purpose of classification, this entry is ruled out
- 2202 99 30 - Beverages containing milk — Admittedly, as per the process specified above, the

Almond Milk does not contain any milk. Therefore, this entry is also ruled out.

- (c) 2202 9100 or 2202 99 90 - Other non-alcoholic beverages other than tender coconut water — The Almond milk will be classifiable under 2202 99 90 as Others.

Therefore, the Almond Milk will be chargeable to 18% GST.

This view is also supported by CBIC's Circular No. 113/32/2019 GST dated 11.10.2019 which states that:

“Almond Milk is made by pulverizing almonds in a blender with water and is then strained. As such almond milk neither constitutes any fruit pulp or fruit juice. Therefore, it is not classifiable under tariff item 2202 99 20.

Almond milk is classified under the residual entry in the tariff item 2202 99 90 and attract GST rate of 18%”

Project Imports

Question 6

Write a note on “Project Imports” under the Customs Tariff Act.

Answer

Project Imports are the imports of machinery, instruments, and apparatus etc., falling under different classifications, required for initial set up of a unit or for substantial expansion of an existing unit.

Heavy customs duty on imported machinery for projects make the initial project cost very high and project may become unviable. Hence, concept of 'project import' is introduced to bring machinery etc. required for initial setup or substantial exemption at concessional customs duty.

In a project several different items are required, each of which is importable at different rates of customs duties. Thus, this simple method is adopted, as otherwise, **classifying each machinery** and its parts in different heads and valuing them would have been **cumbersome** and would have delayed clearances. Therefore, for such project imports **one consolidated rate** of customs duty has been made applicable **for all items imported under a project** irrespective of the nature of the goods and their customs classification. Further, individual exemption notification will apply even for items grouped under the said heading of the customs tariff liable to duty at the project rate as per recent Supreme Court judgement

The items eligible for project import are specified in Heading 9801 of the Customs Tariff Act. These are: all items of machinery, apparatus and appliances, components or raw materials etc, required for initial setting up of a unit or substantial expansion of a specified (1) industrial project (2) Irrigation project (3) Power projects (4) Mining project (5) Project for exploration of oils or other minerals and (6) Other projects as may be notified by Central Govt.

The spare parts, raw material and consumables stores upto 10% of the value of goods can be imported.

CHAPTER - 4

Valuation under the Customs Act

Relevant Date for Rate of Duty/Tariff Valuation /Exchange Rate**Question 1**

Briefly discuss the provisions relating to date for determining the rate of duty and tariff valuation of imported goods.

Answer

As per section 15 rate of duty and tariff valuation of imported goods for different situations as given below:

- (a) **Goods are entered for home consumption under section 46** - The relevant date for the three modes of transport would be as follows:
 - (i) For goods imported by vehicle or air-craft - the relevant date is the **date of filing B/E** under section 46 **or date of arrival of vehicle/aircraft, whichever is later.**
 - (ii) For goods imported by a vessel at a customs port - the relevant date is the **date of filing B/E** under section 46 **or date of entry inwards to vessel** under section 31, **whichever is later.**
- (b) **Goods cleared from a warehouse under section 68** - the relevant date is the **date on which a bill of entry for home consumption** in respect of such goods is presented.
- (c) In the case of any other goods - the relevant date is the date of payment of duty.

These provisions relating to determination of relevant date **do not apply to baggage and imports by post**, in which sections 78 and 83 apply respectively.

Question 2

M/s Impex imported some consignment of goods on 01.06.20XX. A bill of entry for warehousing of goods was presented on 05.06.20XX and the materials were duly warehoused. The goods were subject to duty @ 50% ad valorem. In the meanwhile, on 01.07.20XX, an exemption notification was issued reducing the effecting customs duty @ 30%, ad valorem. M/s Impex filed their bill of entry for home consumption on 01.08.20XX claiming duty @ 30% ad valorem. However, Customs Department charged duty @ 50% ad valorem being the rate on the date of clearance into the warehouse.

Explain with reference to the provisions of the Customs Act:

- (i) the rate of duty applicable for clearance for home consumption in this case.
- (ii) whether the rate of exchange on 01.08.20XX could be adopted for purpose of conversion of foreign currency into local currency?

Answer

- (i) Section 15(1)(b) of the Customs Act provides that in the case of **goods cleared from a warehouse, rate of duty applicable** is the rate of duty in force on the **date on which a bill of**

entry **for home consumption** in respect of such goods **is presented**.

In the given case, since M/s Impex has filed the bill of entry for home consumption on 01.08.20XX, rate of duty is the rate prevalent on the said date viz. 30%.

- (ii) Third proviso to section 14 of the Customs Act provides that the rate of exchange notified by the CBIC as prevalent on the date of presentation of bill of entry for warehousing is the applicable rate of exchange for conversion of foreign currency into local currency.

Therefore, in the given case, **rate of exchange that would be prevalent on date of presentation of bill of entry** for warehousing i.e. **05.06.20XX** and not the one prevalent on date of presentation of bill of entry for home consumption i.e., 01.08.20XX, **would be adopted**.

Question 3

‘Queen Marry’, is a vessel containing the goods imported by XML Ltd. The events relating to its entry into India and the discharge and onward movement and storage of the goods are as follows.

24.05.20XX Vessel entered the Indian territorial waters.

25.05.20XX Import manifest was delivered to the customs authorities

27.05.20XX XML Ltd filed bill of entry for the goods

29.05.20XX Entry inwards granted to the vessel

The rate of customs duty on the goods was increased from 8% to 10% on 28.05.20XX. At what rate should XML Ltd. pay the customs duty on the goods imported by it?

Answer

Rate of duty will be 10%, because the bill of entry is deemed to have been filed on the date of entry inward though it was actually filed before the rate of duty increased.

Transaction Value

Question 4

Mother Mary Hospital and Research Centre imported a machine from Delta Scientific Equipment's, Chicago for in house research. The price of the machine was settled at US\$ 5,000. The machine was shipped on 10.04.20XX. Meanwhile, the Hospital Authorities negotiated for a reduction in the price. As a result, Delta Scientific Equipments agreed to reduce the price by \$ 850 and sent the revised price of \$ 4,150 under a telex dated 15.04.20XX. The machine arrived in India on 18.04.20XX. The Commissioner of Customs has decided to take the original price as the transaction value of the goods on the ground that the price is reduced only after the goods have been shipped.

Do you agree to the stand taken by the Commissioner? Give reasons in support of your answer.

Answer

No, the Commissioner's approach is not correct in law.

As per section 14 of the Customs Act, the **transaction value** of the goods is the **price actually paid or payable** for the goods at the time and place of importation. Further, the Supreme Court in the case *Garden Silk Mills v. UOI* has held that importation gets complete only when the goods become part of mass of goods within the country. Therefore, since **in the instant case the price of the goods was reduced while they were in transit, it could not be contended that the price was revised after importation** took place. Hence, the **goods should be valued as per the reduced price**, which was the price actually paid at the time of importation.

Question 5

An importer entered into a contract for supply of crude sunflower seed oil @ U.S. \$ 435 C.I.F./Metric ton. Under the contract, the consignment was to be shipped in the month of July. The period was extended by mutual agreement and goods were shipped on 5th August at old prices.

In the meanwhile, the international prices had gone up due to volatility in market and other imports during the month of August were at higher prices. Department sought to increase the assessable value on the basis of the higher prices of contemporaneous imports.

Decide whether the contention of the Department is correct, with reference to a decided case law, if any.

Answer

No, the contention of the Department is not correct.

The facts of the given case are similar to the case of *Aggarwal Industries Ltd.* 2011. The Supreme Court, in the instant case, observed that since the contract entered into for supply of crude sunflower seed oil @ US \$ 435 CIF/metric ton could not be performed on time, the extension of time for shipment was agreed upon by the contracting parties.

The Supreme Court pointed out that the commodity involved had volatile fluctuations in its price in the international market, but having delayed the shipment; the **supplier did not increase the price of the commodity even after the increase in its price in the international market.**

Further, there was **no allegation regarding supplier and importer being in collusion.** Thus, the appeal was allowed in the favour of the assessee and the **contract price was accepted as the 'transaction value'.**

Question 6

M/s IES Ltd. (assessee) imported certain goods at US \$ 20 per unit from an exporter who was holding 30% equity in the share capital of the importer company. Subsequently, the assessee entered into an agreement with the same exporter to import the said goods in bulk at US\$ 14 per unit. When imports at the reduced price were effected pursuant to this agreement, the Department rejected the transaction value stating that the price was influenced by the relationship and completed the assessment on the basis of transaction value of the earlier imports i.e., at US\$ 20 per unit under rule 4 of the Customs Valuation Rules 2007.

State briefly, whether the Department's action is sustainable in law?

Answer

No, the Department's action is not sustainable in law. Persons shall be **deemed to be "related"** if **one of them directly or indirectly controls the other.** The word "control" has not been defined under the said rules. As per common parlance, **control is established when one enterprise holds at least 51% of the equity shareholding** of the other company. However, **in the instant case, the exporter company held only 30%** of shareholding of the assessee. Thus, exporter company did not exercise control over the assessee. So, the **two parties cannot be said to be related.**

The fact that assessee had made bulk imports could be a reason for reduction of import price. The burden to prove under-valuation lies on the Revenue and **in absence of any evidence** from the Department to prove under-valuation, the **price declared by the assessee is acceptable.**

In the light of foregoing discussion, it can be inferred that Department's action is not sustainable in law.

Identical Goods/Similar Goods

Question 7

A Malaysian company donated 1,000 metric tons of palm oil to a charitable trust in India for free distribution to the poor and the needy citizens. The trust in India had to meet the expenditure towards freight and insurance only which came to US \$ 20 per metric ton. The Custom Department found that at or about the same time of importation of this consignment, there were following imports of palm oil of Malaysian origin into India.

S. No.	Quantity imported in metric tons	Unit price in US Dollars (CIF)
1.	500	400
2.	900	350
3.	780	300

The rate of exchange on the relevant date was 1 US \$ = Rs 65 and the rate of customs duty was 20% ad valorem. Calculate the amount of customs duty payable on the consignment under the Customs Act with appropriate assumptions and explanations. It would be sufficient if only BCD is calculated.

Answer

In the given case, there is no transaction value for the subject goods. Therefore, value has to be determined based on the transaction value of contemporaneous imports of identical/similar goods.

Rule 4(1)(a) of the aforementioned rules provides that, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued.

In the three imports given during the relevant time, the goods are identical in description and of the same country of origin.

Further, said rules requires that the comparable import should be at the **same commercial level and in substantially same quantity** as the goods being valued.

The consignment of **500 tonnes cannot be** considered to be of substantially the **same quantity.** Hence, remaining 2 consignments will only be relevant.

If **more than one transaction value** of identical goods is found, the **lowest** of such value shall be used

to determine the value of imported goods.

Accordingly, the unit price of the consignment under valuation would be **US \$ 300** per metric ton.

Particulars	Amount
CIF value of 1000 metric tonnes [1,000 x \$ 300]	US\$ 3,00,000
CIF Value (in Rupees) at the exchange rate of \$ 1 = Rs. 65	1,95,00,000
Assessable value	1,95,00,000
BCD @ 20%	39,00,000
Add: SWS @ 10% of BCD	3,90,000
Total custom duty payable	42,90,000

Author's note : As price given is CIF price, hence insurance and freight is not required to be add.

Question 8|

A consignment of 800 metric tonnes of edible oil of Malaysian origin was imported by a charitable organization in India for free distribution to below poverty line citizens in a backward area under the scheme designed by the Food and Agricultural Organization. This being a special transaction, a nominal price of US\$ 10 per metric tonne was charged for the consignment to cover the freight and insurance charges. The Customs House found out that at or about the time of importation of this gift consignment there was following imports of edible oil of Malaysian origin:

S.N.	Quantity imported in metric tonnes	Unit price in US\$ (CIF)
1.	20	260
2.	100	220
3.	500	200
4.	900	175
5.	400	180
6.	780	160

The rate of exchange on relevant date was 1 US\$ = Rs. 70.00 and the rate of BCD was 10% ad valorem. Ignore IGST and GST Compensation Cess. Calculate the amount of duty leviable on consignment under Custom Act with appropriate assumptions and explanations, where required.

Answer

Determination of transaction value of the subject goods:

In the instant case, while determining transaction value of goods, following factors need consideration:

1. In the given case, US\$ 10 per metric tonne has been paid only towards freight and insurance charges and no amount has been paid or payable towards the cost of goods. Thus, there is no transaction value for the subject goods. Consequently, we have to look for transaction value of identical goods under rule 4 of Customs Valuation Rules, 2007
2. Rule 4(1)(a) of the aforementioned rules provides that subject to the provisions of rule 3, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued. In the six imports

given during the relevant time, the goods are identical in description and of the same country of origin.

3. Further, said rules requires that the comparable import should be at the **same commercial level and in substantially same quantity** as the goods being valued. Since, nothing is known about the level of the transactions of the comparable consignments, it is assumed to be at the same commercial level.
4. As far as the quantities are concerned, the consignments of 20 and 100 metric tonnes cannot be considered to be of substantially the same quantity. Hence, remaining 4 consignments are left for our consideration.
5. However, unit prices in these 4 consignments are different. stipulates that in applying rule 4 of said rules, if more than one transaction value of identical goods is found, **lowest** of such value shall be used to determine value of imported goods. Accordingly, the unit price of the consignment under valuation would be US \$ 160 per metric tonne.

Computation of amount of duty payable

Particulars	Amount
CIF value of 800 metric tonnes = 800 x \$ 160	US\$ 1,28,000
CIF Value (in Rupees) at the exchange rate of \$ 1 = Rs. 70	89,60,000
Assessable Value	89 60 000
10% of Ad Valorem duty on Rs. 89,60,000	8,96,000
Add: Social Welfare Surcharge @ 10%	89,600
Total custom duty payable	9,85,600

Deductive and Commuted Value

Question 9

Mr. X imported certain goods from a related person Mr. Q of US and transaction value has been rejected. Rules 4 and 5 of the Import Valuation Rules are found inapplicable as no similar/ identical goods are imported in India. Mr. X furnishes cost related data of imports and requests customs authorities to determine value accordingly as per rule 8. The relevant data are

1. Cost of materials incurred by Mr. Q \$ 2000
2. Fabrication charges incurred by Mr. Q \$ 1000
3. Other chargeable expenses incurred by Mr. Q \$ 400
4. Other indirect costs incurred by Mr. Q \$ 250
5. Freight from Mr. Q 's factory to US port \$ 250
6. Loading charges at US port \$ 100
7. Normal net profit margin of Mr. Q is 20% of FOB
8. Air freight from US port to Indian port \$ 1,500
9. Insurance from US port to Indian port \$ 50
10. Exchange rate Rs. 70 per \$

The customs authorities are of the opinion that since value as per rule 7 can be determined at Rs. 4,00,000, there is no need to apply rule 8.

Can request of Mr. X be legally acceptable? If so, compute the assessable value under Customs Act.

Answer

The value of the imported goods is determined under rule 8 if the same cannot be determined under the earlier rules. However, the order of application of rules 7 and 8 can be reversed at the request of the importer and with the approval of the proper officer.

Thus, request of Mr. X for determination of value under rule 8 is legally acceptable, if the same is also approved by the proper officer.

Assuming that the request of Mr. X has been approved by the proper officer, the **assessable value of the imported goods under rule 8 will be the sum of-**

- the **cost of materials** and fabrication or other processing;
- an amount for **profit and general expenses**
- the cost or value of **all other expenses** under rule 10(2) of the said rules.

Computation of assessable value

Particulars	Amount (\$)
Cost of materials	2,000
Add: Fabrication charges	1,000
Other chargeable expenses	400
Other indirect costs	250
Cost of the goods at Mr. Q's factory	3,650
Add: Net profit margin @ 20% of FOB, i.e. 25% of total cost Total cost till US port = Cost of the goods at factory + Freight from factory to US port and loading charges at US port = \$ 4,000 [\$ 3,650 + \$ 250 + \$ 100] FOB value = Total cost till port + profit = \$ 5,000 (\$ 4,000 + \$ 1,000)	1,000
Add: Freight & loading/unloading charges [In case of import by air, the cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation are restricted to 20% of FOB value]	1,000
Insurance charges	50
Assessable value	5,700
Assessable value in Indian Rupees (Exchange rate – Rs. 70 per \$)	3,99,000

Addition (Rule 10)

Question 10

Raghu Limited imported a machine from Japan. The payment includes , ₹ 2,00,000 for post importation charges for installation and testing at the site of Raghu Limited in India. These charges

are payable as a condition for sale of the imported machine. The department contends that this amount is includible in the assessable value. Examine the correctness of the stand taken by the Department.

Answer

Payment made for installation and testing at the site of the importer is **includible in the assessable value** of imported goods **since said payment is made as a condition of sale** of such goods by the buyer to the seller, even though imported goods are subjected to said process after their importation.

The stand of **Department is correct.**

Examine the validity of following statements with reference to Customs Act giving brief reasons:

- (i) Service charges paid to canalizing agent are not includible in the assessable value of imports. Such agent imports the goods from foreign sellers and enters into an agreement to sell such goods with buyers in India in high seas.
- (ii) Charges for “vendor inspection” on the second hand goods carried out by foreign supplier on his own and not required for making the goods ready for shipment, are not includible in the assessable value of the imported goods.

Answer

- (i) The **statement is not valid**. Since the canalizing agent is not the agent of the importer nor does he represent the importer abroad, purchases in bulk by canalizing agency from foreign seller and subsequent sale by it to Indian importer on high seas sale basis are independent of each other. Hence, the commission or service charges paid to the canalizing agent includible are in the assessable value as these cannot be termed as buying commission.
- (ii) The **statement is valid**. As per rule 10(1)(e) of the Customs (Determination of Value of Imported Goods) Rules, 2007, only the payments actually made as a condition of sale of the imported goods by the buyer to the seller are includible in the assessable value. Thus, charges of vendor inspection on the goods carried out by foreign supplier on his own and not required for making the goods ready for shipment, are not includible in the assessable value of the imported goods.

Question 12

‘A’ had imported goods from Finland. Due to deep draught at the port, such goods were not taken to the jetty in the port but were unloaded at the outer anchorage. The charges incurred for such unloading and transport of the goods from outer anchorage to the jetty in barges (small boats) were Rs. 1,35,000. ‘A’ claims that such charges form part of the loading and unloading charges and should be deemed to be included in the CIF value of such goods, made under rule 10(2)(b) of the Customs Valuation Rules, 2007. Discuss the tenability of ‘A’s’ claim.

Answer

As per Rule 2(da), “**place of importation**” means the customs station, where the goods are brought for being cleared for home consumption/warehouse. Therefore, the outer anchorage where the goods are unloaded would not be the place of importation. Rule 10(2)(a) stipulates that for the purposes of section 14(1) of the Customs Act and Valuation rules, value of imported goods shall be the value of such goods and shall include, the cost of transport, loading, unloading and handling charges associated with delivery of imported goods to the place of importation.

Therefore, in cases where the big mother vessels cannot enter the harbour for any reason and goods are brought to the docks by smaller vessels like barges, the cost incurred by the importer for bringing the goods to the landmass or place of consumption, such as barge charges will also be included in the cost of transportation. Therefore, **'A's claim is not tenable in law.**

Question 13

Determine the assessable value of imported goods in the following cases:

Case I

Particulars	US\$
FOB value	1,000
Freight, loading unloading and handling charges associated with the delivery of the imported goods to the place of importation	Not known
Insurance charges	10

Case II

Particulars	US\$
FOB value plus insurance charges	1,010
Freight, loading unloading and handling charges associated with the delivery of the imported goods to the place of importation	Not known

Case III

Particulars	US\$
FOB value	1,000
Sea freight, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	60
Insurance charges	Not known

Case IV

Particulars	US\$
FOB value plus sea freight and loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	1,060
Insurance charges	Not known

Case V

Particulars	US\$
FOB value	1,000
Air freight, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	250
Insurance charges	10

Answer

Rule 10(2) provides that for the purposes of sub-section (1) of section 14 and these rules, the value of the imported goods shall be the value of such goods, and shall include -

(a) the cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation;

(b) the cost of insurance to the place of importation:

Provided that where the cost referred to in clause (a) is not ascertainable, such cost shall be 20% of the free on board value (FOB) of the goods.

Provided further that where the FOB value of the goods is not ascertainable but the sum of FOB value of and the cost referred to in clause (b) is ascertainable, the cost referred to in clause (a) shall be 20% of such sum:

Provided also that where the cost referred to in clause (b) is not ascertainable, such cost shall be 1.125% of FOB.

Provided also that where the FOB is not ascertainable but the sum of FOB and the cost referred to in clause (a) is ascertainable, the cost referred to in clause (b) shall be 1.125% of such sum.

Provided also that in the case of goods imported by air, where the cost referred to in clause (a) is ascertainable, such cost shall not exceed 20% of FOB value of the goods.

Explanation-

The cost of transport of the imported goods referred to in clause (a) includes the ship demurrage charges on chartered vessels, lighterage or barge charges.

Computation of assessable value

Case I

Particulars	US\$
FOB value	1,000
Add: Cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation [20% of FOB value]	200
Cost of insurance	10
Assessable value [CIF value]	1,210

Case II

Particulars	US\$
FOB value plus insurance charges	1,010
Add: Cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation [20% of sum of FOB value of the goods and the cost of insurance]	202
Assessable value [CIF value]	1,212

Case III

Particulars	US\$
FOB value	1,000
Add: Cost of sea transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	60
Insurance (1.125% of sum of FOB value of the goods)	11.25
Assessable value [CIF value]	1,071.25
Assessable value rounded off	1,071

Case IV

Particulars	US\$
FOB value plus sea freight and loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	1,060
Add: Insurance [1.125% of sum of FOB value of the goods and sea freight and loading, unloading and handling charges]	11.925
Assessable value CIF value	1071.925
Assessable value rounded off	1,072

Case V

Particulars	US\$
FOB value	1,000
Add: Cost of air transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation is restricted to 20% of FOB value when transportation of goods is through air	200
Cost of insurance	10
Assessable value [CIF value]	1,210

Computation of Assessable Value and Duty Payable on Import

Question 14

Jagat Corporation Limited imported some goods from US. The details of the transaction are as follows:

Authority	Rate of exchange
CBIC	1 US\$ = 70
RBI	1 US\$ = 71

CIF value of the goods is \$1,50,000

Rate of BCD is 10%

Rate of social welfare surcharge is 10%

IGST is 18%. Ignore GST Compensation Cess.

Calculate total customs duty and IGST payable thereon.

Answer**Computation of total custom duty and IGST payable**

Particulars	Amount
CIF Value	\$ 1,50,000
Assessable value (in Rs) = \$ 1,50,000 x 70 (Note -1)	₹ 1,05,00,000
Add: BCD @ 10% (, ₹ 1,05,00,000 x 10%)	₹ 10,50,000
Add: Social Welfare surcharge [₹ 10,50,000 x 10%]	₹ 1,05,000
Sub-total	1,16,55,000
Add: IGST (₹ 1,16,55,000 x 18%) (Note-2)	₹ 20,97,900
Total custom duty and IGST payable	₹ 32,52,900

Notes:

- (1) The applicable exchange rate is the rate notified by CBIC [Explanation to section 14(1) of the customs Act].
- (2) IGST is levied on the sum total of the assessable value of the imported goods, customs duties and applicable social welfare surcharge.

Question 15

From the following particulars, calculate total customs duty and IGST payable:

- (i) Date of presentation of bill of entry: 20.06.20XX [Rate of BCD 20%; Inter-bank exchange rate: ₹ 61.60 and rate notified by CBIC ₹ 70].
- (ii) Date of arrival of aircraft in India: 30.06.20XX [Rate of BCD 10%; Inter-bank exchange rate: ₹ 61.80 and rate notified by CBIC ₹ 73].
- (iii) Rate of IGST: 12%. Ignore GST Compensation Cess.

(iv) CIF value 2,000 USD; Air freight 500 USD, Insurance cost 100 USD.

(v) Social Welfare Surcharge 10%

Answer

Computation of total customs duty and IGST payable

Particulars		Amount
CIF value		2,000 USD
Less: Freight	500	
Insurance	100	600 USD
FOB Value		1,400 USD
Add: Air Freight [Note1]	280	
Insurance (actual amount)	100	380 USD
CIF Value for customs purposes		1,780 USD
		₹
Value @ ₹ 70 [Note 2]		1,24,600
Assessable Value		1,24,600
BCD @ 10% (a) [Note 3]		12,460
Add: Social Welfare Surcharge @ 10% on 12,460 (b)		1,246
Sub-total		1,38,306
IGST (12% on ₹ 1,38,306) (c) [Note 4] (rounded off)		16,597
Total duty and IGST (a + b + c)		30,303

Notes:

- (1) If the goods are imported by air, the freight cannot exceed 20% FOB price.
- (2) Rate of exchange notified by CBIC on the date of presentation of bill of entry would be the applicable rate.
- (3) Rate of duty would be the rate as prevalent on the date of filing of bill of entry or arrival of aircraft, whichever is later.
- (4) IGST is levied on the sum total of the assessable value of the imported goods, customs duties and applicable social welfare surcharge.

ABC Industries Ltd. imports an equipment by air. CIF price of the equipment is 6,000 US\$, freight paid is 1,200 US\$ and insurance cost is 1,800 US\$. The banker realizes the payment from importer at the exchange rate of ₹ 61 per US\$. CBIC notifies the exchange rate as ₹ 70 per US\$ while rate of exchange notified by RBI is ₹ 72 per US\$. ABC Industries Ltd. expends ₹ 56,000 in India for certain development activities with respect to the imported equipment.

BCD is 10%, IGST is leviable @ 12% and social welfare surcharge is 10% on duty. Ignore GST Compensation Cess.

You are required to compute the amount of total duty and IGST payable by ABC Industries Ltd. under Customs law.

Answer**Computation of customs duty and IGST payable by ABC Industries Ltd.**

Particulars	Amount
CIF value	6,000 US\$
Less: Freight	1,200 US\$
Less: Insurance	1 800 US\$
FOB value	3,000 US\$
Add: Freight (20% of FOB value) [Note 1]	600 US\$
Add: Insurance (actual)	1,800 US\$
CIF for customs purposes	5,400 US\$
Exchange rate as per CBIC [Note 3]	₹ 70 per US\$
Assessable value = ₹ 70 x 5,400 US\$	₹ 3,78,000
Add: BCD @ 10%	₹ 37,800
Add: Social Welfare Surcharge @ 10%	₹ 3,780
Sub-total	₹ 4,19,580
IGST @ 12% of ₹ 4,19,580 [Note 5] (rounded off)	₹ 50,350
Total customs duty and IGST payable [₹ 37,800 + ₹ 3,780 + ₹ 50,350]	₹ 91,930

Notes:

1. If the goods are imported by air, the freight cannot exceed 20% of FOB price.
2. Rate of exchange determined by CBIC is considered.
3. Rule 10(1) of the Customs Valuation Rules, provides that value of **development** work undertaken elsewhere than in India is includible in the value of the imported goods. Thus, development charges of ₹ 56,000 paid for **work done in India have not been included** for the purposes of arriving at the assessable value.
4. IGST is levied on the sum total of the assessable value of the imported goods, customs duties and applicable social welfare surcharge.

Question 17

Mr. Backpack imported second-hand goods from a UK supplier by air, which was contracted on CIF basis.

However, there were changes in prices in international market between the date of contract and actual importation. As a result of several negotiations, parties agreed for a negotiated price payable as follows:

Particulars	Contract Price (£)	Changed Price (£)	Negotiated Price (£)
CIF Value	5,000	5,800	5,500
Air Freight	300	600	500
Insurance	500	650	600

Other details for computing assessable value and duty payable are tabled below:

Particulars		Amount
Vendor inspection charges (inspection carried out by foreign supplier on his own, not required under contract or for making the goods ready for shipment)		£ 600
Commission payable to local agent @ 1% of FOB in local currency		
Date of bill of entry	Basle customs duty	Exchange rate in ₹ notified by CBIC
18.02.20XX	10%	102
Date of arrival of aircraft	BCD	Exchange rate in ₹ notified by CBIC
15.02.20XX	15%	98

Inter-bank rate 1 UK Pound = Rs. ₹ 106

Compute the assessable value and calculate BCD payable by Mr. Backpack.

Answer

Computation of custom duty payable

Particulars	Amount (£)
CIF value (negotiated price) [Note-1]	5,500
Less: Air freight	500
Less: Insurance	600
FOB value	4,400
Add: Vendor inspection charges [Note-2]	Nil
FOB value	4,400
Exchange rate is Rs ₹ 102 per £ [Note-5]	₹
FOB value in ₹	4,48,800
Add: Commission payable to local agent [1% of FOB value] [Note-6] = (US\$ 4,400 x 102) x 1%	4,488
FOB value as per Customs	4,53,288
Freight (Actual) [Note-3] [£ 500 x ₹ 102]	51,000
Insurance [Note-4] [£ 600 x ₹ 102]	61,200
CIF for customs purposes (Assessable value)	5,65,488
Add: BCD @ 10% [Note-7] — rounded off	56,549
Social Welfare Surcharge (10% of ₹ 56,549) [rounded off]	5 655
Customs duty payable	62,204

Notes:

- As per Section 14 of the Customs Act, 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.
- 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). 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.

3. Actual amount incurred towards freight will be considered since freight is not more than 20% of FOB value.
4. Actual insurance charges paid are includible in the assessable value.
5. Rate of exchange notified by CBIC on the date of filing of bill of entry will be considered.
6. Commission paid to local agent (since it is not buying commission) is includible in the assessable value on the presumption that local agent has been appointed by the exporter.
7. Rate of duty will be the rate in force on the date of presentation of bill of entry or on the date of arrival of the aircraft, whichever is later.

Question 18

An importer from Cochin imports goods from an exporter in US. The vessel carrying the goods reaches Mumbai port first and from there goods are transshipped to Cochin port.

Determine the assessable value of the imported goods under the Customs Act from the following particulars:

S.N	Particulars	Amount
1.	Cost of the machine at the factory of the exporter	US\$ 20,000
2.	Transport charges from the factory of exporter to the port for shipment	US\$ 1,000
3.	Handling charges paid for loading the machine in the ship	US\$ 100
4.	Buying commission paid by the importer	US\$ 100
5.	Freight charges from exporting country to India	US\$ 2,000
6.	Actual insurance charges paid are not ascertainable	-
7.	Charges for design and engineering work undertaken for the machine in US	US\$ 5,000
8.	Unloading and handling charges paid at the place of importation	₹ 1,500
9.	Transport charges from Mumbai to Cochin port	₹ 25,000
10.	Exchange rate to be considered: 1\$ = Rs. 70	

Answer

Computation of assessable value of imported goods

Particulars	Amount (US\$)
Price of the machine at the factory of the exporter	20,000
Add: Transport charges up to the port in the country of the exporter [Note 1]	1,000
Handling charges at the port in the country of the exporter [Note 1]	100
Charges for design and engineering work undertaken for the machine in US [Note 2]	5,000
Buying commission [Note 3]	Nil
FOB value	26,100
Add: Freight charges up to India	2,000

Insurance charges @ 1.125% of FOB [Note 4]	293.63
Transport charges from Mumbai to Cochin port [Note 5]	
CIF value	28,393.63
Add: Unloading and handling charges paid at the place of importation [Note 6]	Nil
Assessable value	28,393.63
Assessable value in Indian rupees @ ₹ 70 per \$	₹ 19,87,554.10
Assessable value (rounded off)	₹ 19,87,554

Notes:

1. The cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation are includible in the assessable value.
2. Design and engineering work undertaken elsewhere than in India and necessary for the production of the imported goods is includible in the assessable value
3. Buying commission is not included in the assessable value
4. If insurance cost is not ascertainable, the same shall be added @ 1.125% of FOB value of the goods.
5. Cost of insurance, transport, loading, unloading, handling charges associated with transshipment of imported goods to another customs station in India is not included in the assessable value
6. As per rule 10(2) of the CVR, only charges incurred for delivery of goods "to" the place of importation are includible in the transaction value,

The loading, unloading and handling charges associated with the delivery of the imported goods at the place of importation are not to be added to the CIF value of the goods.

Question 19

Milly Ltd. imported a machinery from USA. The machine reaches Delhi Airport first and then from there, it is transhipped to Dehradun Airport.

From the following details furnished, compute the assessable value (up to nearest rupee) for the purpose of customs duty payment:

S. No.	Particulars	Amount
(i)	Price of the machine	US \$ 15,000
(ii)	Air freight	US \$ 4,000
(iii)	License fee relating to imported goods payable by the buyer as a condition of sale	15% of price of machine
(iv)	Drawing charges paid to an architect in India	25,000
(v)	Commission (not buying commission) paid by the buyer to agent of exporter in USA	US \$ 250

Other details for computing the assessable value are as under:

- i. Insurance charges paid in India-Not ascertainable.

- ii. Material supplied in USA by the buyer free of cost valued at 75,000.
- iii. Importer paid transshipment charges from Delhi Airport to Dehradun Airport 1,00,000.
- iv. Importer paid 20,000 towards demurrage charges for delay in transport of the machine from Delhi airport.
- v. Exchange rate to be considered is 70 per US\$.

Note: Price of the machine (US \$ 15,000) given at serial number (i) of table above is excluding of any of the amounts given thereafter.

Working notes should form part of your answer.

Answer

Computation of assessable value

Particulars	Amount (\$)
Price of the machine	15,000
Add: License fee [Licence fee relating to imported goods is includible since it is payable by the buyer as a condition of sale.]	2,250
Add: Drawing charges [Not includible since undertaken in India.]	-
Add: Commission paid by buyer to agent of exporter [Includible since it is not buying commission]	250
Total	17,500
	Amount (Rs.)
Value in Indian currency [\$ 17,500 x 70]	12,25,000
Add: Material supplied by the buyer free of cost [Includible in the assessable value]	75,000
FOB value	13,00,000
Add: Air Freight [Restricted to 20% of FOB value since goods are imported by air.]	2,60,000
Add: Demurrage charges [Only ship demurrage charges are includible in the cost of transport of the imported goods.]	-
Add: Insurance Charges [1.125% of FOB value since insurance charges are not ascertainable]	14,625
Add: Transshipment charges from Delhi Airport to Dehradun Airport [Since these charges are incurred within India, they are not includible in the assessable value]	-
Assessable value	15,74,625

Question 20

Rudraksh Manufacturers, Kolkata, is engaged in manufacturing the textile articles. It has decided to enhance its production capacity in the current year. Therefore, it imports a machine through vessel

from George Inc., USA at a price of \$ 31,650 (including transport charges from the factory of George Inc. up-to US port of \$ 2,500 and handling charges at US port of \$ 1,750). Rudraksh Manufacturers has provided the following additional information in respect of machine imported:

S.N.	Particulars	Amount
(i)	Charges for design and engineering work undertaken for the machine in US	US\$ 1,750
(ii)	Buying commission paid by Rudraksh Manufacturers	US\$ 150
(iii)	Freight charges from USA to India	US\$ 3,000
(iv)	Unloading and handling charges paid at the place of importation	₹ 2,250
(v)	Exchange rate to be considered: 1\$ = ₹ 60	

The actual insurance charges paid are not ascertainable. You are required to determine the assessable value of the imported machine.

Answer

Computation of assessable value of imported goods

Particulars	Amount (US\$)
Price of the machine (including transport charges from the factory of George Inc. upto US port and handling charges at US port) [Note-1]	31,650
Add: Charges for design and engineering work undertaken for the machine in USA [Note 2]	1,750
Buying commission [Note 3]	<u>Nil</u>
FOB value	33,400
Add: Freight charges up to India (Actual) [Note-1]	3,000
Insurance charges @ 1.125% of FOB [Note 4]	375.75
CIF value	36,775.75
Add: Unloading and handling charges paid at the place of importation [Note 5]	<u>Nil</u>
Assessable value	36,775.75
Assessable value in Indian rupees @ ₹ 60 per \$	₹ 22,06,545

Notes:

- (1) The cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation are includible in the assessable value.
- (2) Design and engineering work undertaken elsewhere than in India and necessary for the production of the imported goods is includible in the assessable value.
- (3) Buying commission is not included in the assessable value.
- (4) If insurance cost is not ascertainable, the same shall be added @ 1.125% of FOB value of the goods.
- (5) Only charges incurred for delivery of goods "to" the place of importation are includible in the transaction value. The loading, unloading and handling charges associated with the delivery of

the imported goods at the place of importation are not to be added to the CIF value of the goods.

Question 21

Foreign Trade International Ltd. has imported one machine from England. It has given the following particulars:

(i)	Price of machine	8,000 UK Pounds
(ii)	Freight paid (air)	2,500 UK Pounds
(iii)	Design and development charges paid in UK	300 UK Pounds
(iiia)	Licence fee	200 UK Pounds
(iv)	Commission payable to local agent of exporter @ 2% of price of machine, in Indian Rupees	
(v)	Date of bill of entry	24.10.20XX (Rate BCD 10%; Exchange rate as notified by CBIC ₹ 100 per UK Pound)
(vi)	Date of arrival of aircraft	20.10.20XX (Rate of BCD 20%; Exchange rate as notified by CBIC ₹ 98 per UK Pound)
(vii)	IGST is 12%	
(viii)	Insurance charges have been actually paid in India but details are not available.	
(ix)	Demurrage charges for delay in clearing the machine from the Airport.	Rs. 5000

Compute the total customs duty and IGST payable by Foreign Trade International Ltd.

Answer

Computation of total duty and IGST payable

Particular	Amount
Price of machine	8,000 UK pounds
Add: Design and development charges [Note 1]	<u>300 UK pounds</u>
Add: Licence fee [Note 1A]	<u>200 UK pounds</u>
Total	8,500 UK pounds
	(₹)
Total in rupees @ ₹ 100 per pound [Note 2]	₹ 8,50,000
Add: Local agency commission [Note 1] (2% of 8000 UK pounds) = 160 UK pounds x ₹ 100	<u>₹ 16 000</u>

FOB value as per Customs	8,66,000
Add: Air freight (8,66,000 x 20%) (restricted to 20% of FOB) [Note 3]	1,73,200
Add: Insurance @ 1.125% of customs FOB [Note 4]	<u>9,742.50</u>
CIF Value	10,48,942.50
Assessable value (rounded off)	10,48,942
Add: BCD @ 10% [Note 5] (rounded off)	1,04,894
Add: Social Welfare Surcharge @ 10% on ₹ 1,04,894 (rounded off)	<u>10 489</u>
Total	11,64,325
Add: IGST @ 12% [Note 7] (rounded off)	1,39,719
Total duty and IGST payable (₹ 1,04,894 + ₹ 10,489 + ₹ 1,39,719)	2,55,102

Notes:

1. Design and development charges paid in UK and commission paid to local agent (since it is not buying commission) are includible in the assessable value
- 1A. license fee relating to imported goods payable by the buyer as a condition of sale, are includible.
2. The rate of exchange notified by the CBIC on the date of presentation of bill of entry has been considered
3. If the goods are imported by air, the freight cannot exceed 20% of FOB price.
4. Where the insurance charges are not ascertainable, such cost is taken as 1.125% of FOB value or the goods.
5. Section 15 of the Customs Act provides that rate of duty shall be the rate in force on the date of presentation of bill of entry or the rate in force on the date of arrival of aircraft, whichever is later.
6. IGST is levied on the sum total of the assessable value of the imported goods, customs duties and applicable social welfare surcharge.
7. Only ship demurrage charges on chartered vessels are included in the cost of transport of the imported goods. Thus, demurrage charges for delay in clearing the machine from the Airport will not be includible in the assessable value.

Question 22

Product 'Z' was imported by Mr. X by air. The details of the import transaction are as follows:

Particulars	US\$
Price of 'Z' at exporter's factory	8,500
Freight from factory of the exporter to load airport (airport in the country of exporter)	250
Loading and handling charges at the load airport	250
Freight from load airport to the airport of importation in India	4,500
Insurance charges	2,000

Though the aircraft arrived on 22.08.20XX, the bill of entry for home consumption was presented by

Mr. X on 20.08.20XX.

The other details furnished by Mr. X are:

	20.08.20XX	22.08.20XX
Rate of BCD	20%	10%
Exchange rate notified by CBIC	₹ 70 per US\$	₹ 72 per US\$
Exchange rate prescribed by RBI	₹ 71 per US\$	₹ 72 per US\$
IGST leviable under section 3(7) of Customs Tariff Act	18%	12%

Compute

- value of product 'Z' for the purpose of levying customs duty
- customs duty and tax payable

Answer

Computation of assessable value of product 'Z'

Particulars		Amount
Ex-factory price of the goods		8,500 US\$
Freight from factory of the exporter to load airport (airport in the country of exporter)	250 US \$	
Loading and handling charges at the load airport	250 US \$	
Freight from load airport to the airport of importation in India	4,500 US \$	
Total cost of transport, loading and handling charges associated with the delivery of the imported goods to the place of importation	5,000 US \$	
Cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation (restricted to 20% of FOB value) [Note 1]		1,800 US\$
Insurance (actual)		2,000 US\$
CIF for customs purpose		12,300 US\$
Value for customs purpose		12,300 US\$
Exchange rate as per CBIC [Note 2]		₹ 70 per US\$
		Amount (Rs.)
Assessable value (₹ 70 x 12,300 US \$)		8,61,000
Add: BCD @ 10% [Note 3]		86,100
Add: SWS @ 10%		8,610
Value for the purpose of levying IGST [Note 4]		9,55,710
Add: IGST @ 12% (rounded off)		1,14,685
Total duty & tax payable		2,09,395

Notes:

- In the case of goods imported by air, the cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation shall not exceed 20% of the FOB value of the goods.

FOB value in this case is the ex-factory price of the goods (8,500 US \$) plus the cost of

transport from factory to load airport (250 US \$) plus loading and handling charges at the load airport (250 US \$) which is 9,000 US \$.

- (2) Rate of exchange determined by CBIC is to be considered
- (3) Section 15 of the Customs Act provides that rate of duty shall be the rate in force on the date of presentation of bill of entry or the rate in force on the date of arrival of aircraft, whichever is later.
- (4) IGST is levied on the sum total of the assessable value of the imported goods and customs duties. SWS leviable on IGST have been exempted.

Question 23

PPR Engineering a manufacturer of tools and spares of Punjab, imports a CNC machine from USA. Contracted CIF price for import was US \$ 15,500. Due to fluctuation of price of machine in international market, price of the machine was re-negotiated after placing the order and finally the machine was agreed to be imported at US\$ 14,000 CIF. Actual freight paid was US\$ 3,000 and insurance cost was US\$ 1,800. Other information is given below:

- (i) Cost of inspection carried out by foreign supplier on his own account was US\$ 300, and the same was neither required under the terms of contract nor for making the goods ready for shipment.
- (ii) Commission payable to local agent of the exporter was US\$ 184. (It is not a buying commission).
- (iii) Date of bill of entry presentation is 25 February, 20XX. On this date, rate of BCD is 10%, rate of exchange notified by CBIC for 1 US\$ is ₹ 73, RBI rate is ₹ 71.
- (iv) Date of arrival of aircraft at customs station is 5th March, 2022. On this date, rate of BCD is 15%, rate of exchange notified by CBIC for 1 US\$ is ₹ 74, RBI rate is ₹ 72.

You are required to compute the assessable value and calculate BCD payable by PPR Engineering.

Answer

Computation of assessable value and BCD payable

Particulars	Amount (\$)
CIF value	14,000
[Transaction value is re-negotiated price since it is the price actually paid/payable.]	
Less: Air freight	3,000
Less: Insurance	<u>1 800</u>
FOB value	9,200
Add: Vendor inspection charges	Nil
[Not includible since it is not a payment made as a condition of sale of the imported goods by the buyer to the seller]	
Add: Commission payable to local agent of the exporter [Includible since it is not a buying commission (Refer Note)]	184

FOB value as per customs	9,384
Add: Freight	1,876.80
[Restricted to 20% of FOB value since goods are imported by air.]	
Add: Actual insurance charges	1,800
	13,060.80
Exchange rate is ₹ 73 per \$	
[Rate of exchange notified by CBIC on the date of filing of bill of entry]	
Assessable value [\$ 13,060.80 x ₹ 73] (rounded off)	9,53,438
BCD @ 15% (rounded off)	1,43,016
[Rate of BCD is the rate in force on the date of presentation of bill of entry or on the date of arrival of the aircraft, whichever is later.]	

Question 24

An importer imported a machine from Germany. The vessel carried the machine up to Chennai port and from the Chennai port the machine was transshipped to Kandla port, Determine the assessable value under Customs Act. Conversion to Indian rupees has already been done wherever required.

S.N.	Particulars	Amount (₹)
i	Basic cost of the machine at the factory in Germany	2,00,000
ii	Transport charges of the machine from the factory in Germany to the load port for transportation to India	10,000
iii	Loading and handling charges at the load port in Germany for loading the machine on the ship	2,000
iv	Freight charges payable to the shipping company for transport to India	10,000
v	Insurance charges paid but not ascertainable	
vi	Transshipment charges from Chennai to Kandla port	5,000
vii	Unloading and handling charges paid at Kandla port	2,000

Provide brief note to support your conclusion wherever required.

Answer**Computation of assessable value**

Particulars	Amount (₹)
Cost of machine	2,00,000
Add: Transport charges from factory in exporting country to load port	10,000
Add: Loading and handling charges at load port	2,000
FOB value	2,12,000
Freight charges for transport to India	10,000
Insurance charges	2,385
[Insurance charges have been included @ 1.125% of FOB value of goods]	
Assessable value	2,24,385

Note: Cost of transport, unloading and handling charges associated with transshipment of

imported goods to another customs station in India is not included in the assessable value.

Question 25

Niketan Industries Ltd., New Delhi has imported certain machine (by sea) from Japan. From the following particulars furnished by it, work out the assessable value of the machine and customs duty payable by Niketan Industries Ltd. with appropriate working notes:

S.N.	Particulars	Amount in (₹)
(i)	CIF value of the machine	4,23,379
(ii)	Freight incurred from port of entry to Inland Container depot	25,000
(iii)	Unloading and handling charges paid at the place of importation	40,000
(iv)	Designing charges paid to Consultancy firm in Mumbai	10,000

Other Information:

1.	BCD leviable @10% advalorem
2.	IGST leviable under section 3(7) of the Customs Tariff Act is 18%.
3.	Note: Ignore GST Compensation Cess.

Answer

Computation of assessable value and customs duty payable

Particulars	₹
CIF value of machine	4,23,379
Unloading and handling charges at the place of importation [Note-1]	Nil
Freight from port of entry to ICD [Note-2]	Nil
Designing charges paid to consultancy firm in Mumbai (Note-3)	Nil
Assessable Value	4,23,379
Add: BCD (BCD) @10% (rounded off)	42,338
Add: SWS @10% of BCD (rounded off)	<u>4,234</u>
Value for computing IGST	4,69,951
IGST @ 18% (rounded off)	84,591
Total duty and tax payable [₹ 42,338 + ₹ 4,234 + ₹ 84,591]	1,31,163

Notes:

- Only charges incurred for delivery of goods "to" the place of importation are includible in the transaction value vide rule 10(2)(a). The loading unloading and handling charges associated with the delivery of the imported goods "at" the place of importation are not to be added to the CIF value of the goods.
- In case of goods imported by sea and transhipped to another custom station in India, the cost of transport associated with such transshipment is excluded.

3. Only the design and engineering work undertaken **elsewhere than in India** is includible in the assessable value.

Question 26

Determine the Assessable value under customs law of an imported machine based on following information:

- (1) Cost of machine

(Contract price = ₹ 1,00,000, Revised price = ₹ 2,00,000, Negotiated & Agreed price = ₹ 1,50,000)

(2) Freight from the factory of the exporter to the port for shipment	= ₹ 20,000
(3) Freight incurred from port of entry to inland container depot	= ₹ 60,000
(4) Handling charges paid for loading the machine in the ship	= ₹ 5,000
(5) Demurrage charge paid at port of importation	= ₹ 30,000
Buying commission paid by importer	= ₹ 5,000
Commission paid to local agent appointed by exporter	= ₹ 1,000
Vendor inspection charges (not required under contract)	= ₹ 8,000

Answer

Computation of assessable value of the imported machine under customs law

Particulars	₹
Cost of machine [Note-1]	1,50,000
Add: Commission paid to local agent appointed by <i>exporter</i> [Note-4]	1,000
Add: Cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation - 20% of FOB [Note-2 & 5]	35,200
Add: Insurance @ 1.125 % of FOB [Note-3 & 5]	<u>1,980</u>
Assessable value	1,88,180

Notes:

- As per section 14 of the Customs Act, the value of the imported goods is the transaction value, i.e. the price actually paid or payable for the goods, which in this case is negotiated and agreed price.
- The cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation are includible in the assessable value. Further, where such cost is not ascertainable, it shall be 20% of the free on board (FOB) value of the goods
- Where insurance cost is not ascertainable, it shall be 1.125% of the free on board (FOB) value of the goods
- Buying commission is not includible in the assessable value. However, commission paid to local agent appointed by exporter is includible since it's not a buying commission.
- FOB value will be sum total of cost of machine, freight from factory of exporter to port for shipment, handling charges paid for loading the machine in the ship and commission paid to local agent appointed by exporter, which will be ₹ 1,76,000 [(₹ 1,50,000 + ₹ 20,000 + ₹ 5000

+ ₹ 1,000)).

6. Freight incurred from port of entry to Inland Container depot is not includible in assessable value
7. Only the payments actually made as a condition of sale of the imported goods by the buyer to the seller are includible in the assessable value. Vendor inspection charges not required under contract are thus, not includible in the assessable value

Question 27

ABC Industries Ltd. of Mumbai imported one machine through vessel from Japan, in the month of November, 20XX.

The following particulars are made available:

S.N.	Particulars	Amount (¥)
(i)	Cost upto port of exportation incurred by exporter	6,00,000
(ii)	Loading charges at port of exportation	25,000
(iii)	Freight charges from port of export to port of import in India.	1,00,000

Following additional amounts paid by ABC Industries Ltd:

S.N.	Particulars	Amount (₹)
(i)	Designing charges, necessary for such machine, paid to consultancy firm in New Delhi	8,00,000
(ii)	Commission paid (not the buying commission) to local agent of exporter.	1,25,000
(iii)	Actual landing charges paid at the place of importation.	15,000
(iv)	Actual insurance charges paid to the place of importation are not ascertainable.	
(v)	Lighterage charges paid at the port of importation	20,000

Calculate Assessable value with appropriate working notes.

Answer

Computation of assessable value of the **imported** goods

Particulars	Japanese Yen
Cost upto port of exportation	6,00,000
Add: Loading charges at the port of exportation [Note-1]	<u>25,000</u>
Total in Japanese Yen	6,25,000
Total in Indian rupees @ ₹ 0.71 per Japanese Yen	4,43,750
Add: Commission paid to local agent of exporter [Note-3]	<u>1.25.000</u>
FOB value as per customs	5,68,750
Add: Freight charges from port of export to port of import in India [Note-1] [1,00,000 Japanese Yen x 0.71 = Rs. 71,000]	71,000
Add: Lighterage charges paid by the importer at port of importation [Note-1]	20,000
Add: Insurance charges @ 1.125% of FOB [5,68,750 x 1.125%] [Note-4]	<u>6.398.43</u>

CIF value	6,66,148.43
Assessable Value (rounded off)	6,66,148

Notes:

- (1) The cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to place of importation are includible in assessable value. Cost of transport of imported goods includes lighterage charges.
- (2) Design and engineering work is includible in assessable value only when the same is undertaken elsewhere than in India and necessary for production of imported goods.
- (3) Buying commission is not included in the assessable value. Commission paid to local agent of exporter is includible in assessable value since it is not buying commission.
- (4) If insurance cost is not ascertainable, the same shall be added @ 1.125% of FOB value of the goods.
- (5) Cost of insurance, transport, loading, unloading, handling charges associated with transshipment of imported goods to another customs station in India is not included in the assessable values.

Question 28

Jolly overseas Ltd. of Hyderabad has imported a machine from U.K (England) through the sea route by a vessel. The details of the import transaction are as follows:

S.N.	Particulars	Amount (UK £)
(i)	Cost of the machine at the factory of the exporter	20,000
(ii)	Transport charges from the factory of exporter to the port for shipment	600
(iii)	Handling charges paid for loading the machine on ship at port of exportation	500
(iv)	License fee relating to the imported goods payable by the importer as a condition of sale	900
(v)	Actual Freight charges from the port of <i>export</i> to the port of import are not ascertainable	
(vi)	Actual insurance charges paid	200
(vii)	Landing charges paid at the place of importation are not ascertainable	
(viii)	Handling charges associated with the delivery of the imported goods at the place of importation	₹ 15,000

CBIC exchange rate on the date of filing of BoE was Rs. 101

Compute the assessable value of the machine (in rupees) for the purpose of levy of Customs Duty.

Answer**Computation of assessable value of machine**

Particulars	Amount (UK £)
Cost of the machine at the factory of the exporter	20,000
Add: Licence fee relating to the imported goods payable by the importer as a condition of sale [Note 1(i)]	900
Add: Cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation [20% of £ 22,000] [Note 1(ii)]	4,400
Insurance charges [Taken at actuals]	<u>200</u>
CIF value	25,500
Add: Landing charges paid at place of importation and handling charges associated with the delivery of the imported goods at the place of importation [Note 1(iii)]	Nil
Assessable value	25,500
Assessable value in Indian rupees @ ₹ 101 per £ [Note 2]	25,75,500

Notes:

(1) As per rule 10 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007-

- (i) Licence fees related to the imported goods payable as a condition of the sale of the goods being valued is includible in the assessable value
- (ii) The cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation are includible in the assessable value.

Where such cost is not ascertainable, it shall be 20% of free on board (FOB) value of goods.

FOB value will be sum total of cost of machine, transport charges from factory to port of exportation, handling charges at the port of exportation and licence fee paid as a condition of sale of imported goods, which will be £ 22,000 [£ 20,000 + £ 600 + £ 500 + f 900]

- (iii) Only charges incurred for delivery of goods "to" the place of importation are includible in the transaction value. The loading, unloading and handling charges associated with the delivery of imported goods at the place of importation are not to be added to the CIF value of goods.

Question 29

A non-resident Indian from USA donated food processing machinery to Om Charitable Trust (OCT), however, paid commission to local agent in India.

Assistant Commissioner of Customs determined the FOB value of machine at US \$ 17,500 including design and development charges. The trust accepted the value determined. Actual air freight paid was US \$ 4,000 and insurance cost was US \$ 1,500. Commission paid to local agent of the exporter is US\$ 2,100 (paid in ₹ 1,57,500).

Compute the assessable value in foreign currency under the Customs Act

Answer

Computation of assessable value, BCD, social welfare surcharge and IGST

Particulars	Amount (\$)
FOB value computed by Customs Officer (including design and development charges)	17,500
Add: Commission paid to local agent in India [Includible since it is not a buying commission]	<u>2,100</u>
FOB value as per customs	19,600
Add: Air freight (\$ 19,600 X 20%) [Restricted to 20% of FOB value since goods are imported by air.]	3,920
Add: Actual insurance charges	1,500
Assessable value in \$	25,020

Duty payable on Re-importation of goods which had been Exported for repairs

Question 30

A machine was originally imported from Japan at ₹ 250 lakh in July on payment of all duties of customs. The said machine was exported (sent-back) to supplier for repairs in December and re-imported without any re-manufacturing or re-processing in October next year after repairs. Since the machine was under warranty period, the repairs were carried out free of cost.

However, the fair cost of repairs carried out (including cost of material ₹ 6 lakh) would have been ₹ 9 lakh. Actual insurance and air freight charges (to and from) were ₹ 3 lakh. The rate of BCD is 10% and IGST is 12%. Ignore GST compensation cess.

Compute the amount of customs duty payable (if any) on re-import of the machine after repairs. The ownership of the machine has not been changed during the period,

Note: The importer intends to avail exemption, if any, with regard to re-importation of goods which had been exported for repairs abroad.

Answer

Duty payable on re-importation of goods which had been exported for repairs abroad is the duty of customs which would be leviable if the value of re-imported goods after repairs were made up of the fair cost of repairs carried out including cost of materials used in repairs (whether such costs are actually incurred or not), insurance and freight charges, both ways. However, following conditions need to be satisfied for availing this concession:

- goods must be re-imported within 5 years, extendable by further 2 years, after their exportation;
- exported goods and the re-imported goods must be the same;
- ownership of the goods should not change.

Since all the conditions specified above are fulfilled in the given case, the customs duty payable on re-imported goods will be computed as under:

Particulars	₹
Value of goods re-imported after exports [₹ 9 lakh (including cost of materials) + ₹ 3 lakh]	12,00,000

Add: BCD @ 10% (A)	1,20,000
Add: Social Welfare Surcharge @ 10% on ₹ 1,20,000 (B)	<u>12 000</u>
Value for computing IGST	13,32,000
IGST @ 12% on ₹13,32,000 – (C)	1,59,840
Customs duty and IGST payable [(A) + (B) + (C)]	2,91,840

Author's comment : Do note, actual air fare to be added in fair cost of repair (Not to limit it to 20%)

Question 31

Maxiline Corp, not being an EOU, had imported technical instruments from USA for ₹180 lakh on payment of duty. It had to subsequently send back the same to the supplier for repair. The supplier has agreed to provide discount of 50% of fair cost of repairs, resulting in Maxiline Corp paying USD 15,000.

Following further particulars are available:

	Outwards (Amt. in ₹)	Inwards (Amt in ₹)
Insurance	20,000	30,000
Air Freight	80,000	1,20,000

Assume conditions of concessional duty has been satisfied.

Answer

In case of re-importation of goods exported for repairs, duty is payable on fair cost of repairs carried out, insurance and freight charges, both ways, subject to fulfillment of specified conditions in terms of Notification No. 94/96 Cus. dated 16.12.1996.

Following conditions are to be satisfied in this regard:

- The time limit for re-importation is 5 years
- The exported goods and the re-imported goods must be the same.
- The ownership of the goods should not have changed.

Since all specified conditions are fulfilled in the given case, total duty payable will be computed as under:

Computation of total duty payable by Maxiline Corp.

Particulars	
Fair cost of repairs (in dollars) = \$ 15,000/50%	\$ 30,000 ₹
Fair cost of repairs (in rupees) = \$ 30,000 x ₹ 62 [Note-1]	18,60,000
Add: Inward and outward insurance [₹ 20,000 + ₹ 30,000]	50,000
Add: Inward and outward air freight [₹ 80,000 + ₹ 1,20,000]	<u>2,00,000</u>
Assessable Value	21,10,000

Question 32

Dhruvtaara Enterprises imported a machine from Japan in January for ₹ 48.75 lakh. However, the machine was exported back in June for repairs. The supplier had agreed to carry out the repairs as the machine was still in warranty period. The fair cost of the repairs would cost ₹ 8.90 lakh. Since repair process was expected to take a time of 6 months, Dhruvtaara Enterprises requested the supplier to provide it another machine so that it could carry out its operations without hindrance in the meantime.

Acceding to the request, the supplier provided it with another machine which was imported in a vessel during October. The value of the new machine (FOB value) was ₹ 49.50 lakh. Freight charges incurred from load port to port of importation were ₹ 1.80 lakh. You are required to compute the assessable value.

Answer

Duty payable on re-importation of goods which had been exported for repairs abroad is the duty of customs which would be leviable if the value of re- imported goods after repairs were made up of the fair cost of repairs carried out including cost of materials used in repairs (whether such costs are actually incurred or not), insurance and freight charges, both ways. However, following conditions need to be satisfied for availing this concession:

- goods must be re-imported within 5 years, extendable by further 2 years, after their exportation;
- exported goods and the re-imported goods must be the same;
- ownership of the goods should not change.

However, above special provisions relating to payment of **concessional duty** in case of re-importation of goods exported for repairs are **not applicable in the given** case as the goods exported for repairs and the re-imported goods **are not the same**. Therefore, full customs duty will be payable on the machine received as replacement.

Computation of assessable value

Value of new machine (FOB)	49,50,000
Add: Freight charges	1,80,000
Insurance charges @ 1.125% of FOB [₹ 49,50,000 x 1.125%] [Insurance charges have been included @ 1.125% of FOB value since actual charges are not ascertainable]	<u>55,687.50</u>
Assessable Value (rounded off)	51,85,688

Question 33

Great Year Ltd. imported a offset printing machine from Germany for ₹ 5.00 crores and the bill of entry or home consumption was cleared in October, 2023 on payment of duty. However, due to certain technical glitches, the said machine could not be started functioning and the said machine was sent-back to the supplier for repairs in November, 2023. The manufacturer of machinery in Germany had made necessary repairs and had sent back the machine again to

Great Year Ltd.

Accordingly, Great Year Ltd. re-imported the machine without any re-manufacturing or reprocessing in March 2024. Since the machine was having manufacturing defect, the repairs were carried out by the machine manufacturer without charging any amount for the repairs. However, the fair cost of repairs carried out including cost of material consumed during repairs for ₹ 70 lakh, would have been ₹ 90 lakh.

Actual insurance and freight charges incurred were ₹ 7.5 lakh each side from India to Germany and from Germany to India. Assume the rate of BCD is 10%, social welfare surcharge is 10% and IGST is 18%.

You are required to compute the amount of customs duty payable (if any) on re-importation of the machine. Make the necessary assumptions, if required. Also, provide the exemption, if any, with regard to re-importation of goods which had been exported for repairs abroad.

Answer

Duty payable on re-importation of goods which had been exported for repairs abroad is the duty of customs which would be leviable if the value of re-imported goods after repairs were made up of the fair cost of repairs carried out including cost of materials used in repairs (whether such costs are actually incurred or not), insurance and freight charges, both ways. However, following conditions need to be satisfied for availing this concession:

- (a) goods must be re-imported within 3 years, extendable by further 2 years, after their exportation;
- (b) exported goods and the re-imported goods must be the same;
- (c) Ownership of the goods should not change.

Since all the conditions specified above are fulfilled in the given case, the customs duty payable on re-imported goods will be computed as under:

Particulars	₹ in lakh
Value of goods re-imported after exports [₹ 90 lakh (including cost of materials) + (insurance and freight charges, both ways ₹ 7.5 x 2) lakh]	105
Add: BCD @ 10% (A)	10.5
Add: Social welfare surcharge @ 10% on ₹ 10.5(B)	<u>1.05</u>
Value for computing IGST	116.55
IGST @ 18% (₹ 116.55 lakh x 18%) - (C)	20.979
Customs duty and IGST payable [(A) +(B)+ (C)]	32.529

Export Duty

Question 34

Sphinx Merchandise Ltd. has exported some goods to USA by air. The FOB price of goods exported is US\$ 1,00,000.

Compute the export duty payable by Sphinx Merchandise Ltd. with the help of following details provided.

Particulars	Date	Rate of duty	Rate of exchange notified by CBIC	Rate of exchange prescribed by RBI
Presentation of shipping bill	17.06.20XX	12%	1 US\$ = 65	1 US\$ = 64
Let export order	19.07.20XX	10%	1 US\$ = 64	1 US\$ = 65

Answer**Computation of export duty**

Particulars	Amount(US\$)
Assessable value [Note 1]	1,00,000
	Amount (₹)
Assessable value = US\$ 1,00,000 x ₹ 65 [Note 2]	65,00,000
Export duty @ 10% (Note 3)	6,50,000

Notes:

1. The transaction value, i.e. FOB price of export goods, is considered as assessable value in terms of section 14(1) of the Customs Act.
2. Assessable value has to be calculated basis rate of exchange notified by CBIC on date of presentation of shipping bill of export.
3. The rate of duty prevalent on the date of let export order is considered for computing export duty.

CHAPTER - 5

Importation, Exportation and Transportation of Goods

Import and Export Procedure**Question 1**

Explain the obligation cast on person-in-charge on arrival of vessels or aircrafts in India under section 29 of the Customs Act.

Answer

Vessel/aircraft must call or land only at a notified customs port or airport,

Exception : Can land at other than custom port/airport due to emergency e.g. accident. However the **person-in-charge has the following obligation** cast on him:

1. He will have **to report the arrival** of the vessel/aircraft **to the nearest customs officer or officer in charge of police station** and produce the log book if demanded.
2. He should **not allow any** unloading **of goods without permission and** should **not allow** any passengers or crews to leave the immediate vicinity of the vessel or aircraft. However, the goods can be removed, or the passengers and crews can be allowed to depart if the same is necessary for reason of health, safety or preservation of life or property.
3. He should comply with all the directions given by such officers with respect to any such goods.

Question 2

State in brief the provisions of the Customs Act relating to filing of "Arrival manifest or import manifest/Report"

Or

Write short note on Import General Manifest (IGM)

Answer

Arrival manifest or import manifest or import report **is a detailed information** to customs about **goods in the vessels/aircrafts** which have been **brought in at any port/airport** for unloading at that particular port/international airport as also that which would be carried further for other ports/airports. Declarations of such cargo has to be made in a prescribed form (which is **termed 'Import General Manifest or IGM**) and manner. Imports via **land route** require filing of declaration (**called 'Import Report'**).

Goods involved in an export may also be carried in the import conveyance (vessel or other), without such goods being delivered in India. The IM/IR must also contain details of goods meant for export and carried by the conveyance.

Particulars	Import Document	Time limit for presentation of IM/IR	Mode of presentation
Where the imported goods are brought in a vessel/aircraft	Arrival manifest or import manifest	Any time prior to the arrival of the vessel/aircraft	Electronic filing

Where the imported goods are brought in a vehicle	Import Report	Within twelve hours after its arrival in the customs station	Manual filing

Question 3

Explain the procedure prescribed in Customs Act in case of goods not cleared, warehoused or transhipped within 30 days after unloading.

Answer

If there are any goods imported from a place outside India, which are **not cleared either for home consumption or for warehouse within 30 days** or within such further time as proper officer may allow **or if title to any imported goods is relinquished, custodian of the goods is permitted**, with the approval of customs department and after giving notice to importer, **to sell goods by auction**.

A consolidated bill of entry, buyer-wise will be filed with the Customs in prescribed format by concerned custodian for clearance of the goods.

- (a) The **proper officer of Customs shall assess the goods to** duty in accordance with the extant law **within 15 days of filing of Bill of Entry** and after assessment inform the amount of duty payable to the concerned custodian.
- (b) The **auctioned goods shall be handed over to the successful bidder** after assessment and out-of-charge orders given by the proper officer, on payment of dues.

In the case of **sensitive goods like animals, foodstuffs and hazardous goods etc.** the custodian with the approval of the proper officer **can sell the goods even before the expiry of the 30 days** limit. Similarly, in the case of arms or ammunition, which cannot be sold in public auction, the disposal is regulated by the rules made in this regard.

Question 4

Meaning of entry inwards, entry outwards and Boat Note.

Answer

Entry inwards is permission to begin unloading of the imported goods, and entry outwards is permission to begin loading of export goods.

Boat notes are issued to cover transport of cargo to or from vessels (large) that cannot come into the port.

No imported goods shall be water borne for being loaded in any boat (small), and no export goods which are not accompanied by a shipping bill, shall be water borne for being shipped unless the goods are accompanied by a boat note in the prescribed form.

Bill of Entry, Payment and Deferred Payment

Question 5

An importer filed a bill of entry after 60 days of filing Import General Manifest. The DC of Customs imposed a penalty of ₹ 10,000 for late filing of the bill of entry. Since, importer wanted to clear the

goods urgently, he paid the penalty. Can penalty be imposed for late filing of the bill of entry? Can bill of entry be filed in advance? Examine the issue regarding period available for filing bill of entry in the light of relevant statutory provisions?

Answer

Yes, charges are payable for late filing of bill of entry if an **importer fails to present the bill of entry before the end of the day** (including holidays) **preceding the day on which the aircraft/vessel/vehicle carrying the goods arrives** at a customs station at which such goods are to be cleared for home consumption or warehousing and the proper officer is satisfied that there was no sufficient cause for such delay [Section 46(3) of the Customs Act].

Yes, a bill of entry can be filed in advance. It can be presented within **30 days of the expected arrival of the aircraft/vessel/vehicle** by which the goods have been shipped for importation into India.

In the given case also, the time period as described above will be available - with reference to the date of arrival of vessel/aircraft - for filing the bill of entry.

Question 6

Which class of importers is required to pay customs duty electronically? Name the dedicated payment gateway set up by the Board (CBIC) to use e-payment facility easily by an importer.

Answer

Authorised economic operators and those importers who are paying ₹ 10,000 or more per bill of entry. They will pay through ICEGATE.

The Central Govt. has notified the **following classes of importers who have to pay customs duty electronically**, namely:

- (i) Importers registered under **Authorized Economic Operator**;
- (ii) Importers paying customs duty of **₹ 10,000 or more per bill of entry**.

The Board has set up **a dedicated payment gateway called, 'ICEGATE'** through which the payments are to be made. The importer need not produce any proof of payment for the clearance of goods in case of e-payment.

Question 7

State the salient features of "Deferred duty payment facility" in custom.

Or

With reference to the facility, 'Clear first-Pay later' extended to importers under the customs law, answer the following questions:

- (i) What is the objective of the facility?
- (ii) Who is eligible to avail this scheme?
- (iii) What are the due dates for payment of duty under this facility?
- (iv) What are the circumstances when the deferred payment facility will not be available?

Answer

- (i) 'Clear first-Pay later' i.e., deferred duty payment is a mechanism for delinking duty payment and customs clearance. The aim is to have **a seamless wharf to warehouse transit** in order to facilitate just-in-time manufacturing.

- (ii) Central Govt. has permitted importers certified under **Authorized Economic Operator programme** as AEO (Tier-Two) and AEO (Tier-Three) and **Authorised Public Undertaking** to make deferred payment of import duty (**eligible importers**).

As a part of the ease of doing business focus of the Govt. of India, the CBIC has rolled out the AEO (Authorized Economic Operator) programme.

It is a trade facilitation move wherein benefits are extended to the entities who have demonstrated strong internal control systems and willingness to comply with the laws administered by the CBIC.

- (iii) The due dates for payment of deferred duty are —

S.N.	Goods corresponding to bill of entry returned for payment from	Due date of payment of duty
1.	1st day to 15 th day of any month	16 th day of that month
2.	16 th day till the last day of any month other than March	1 st day of the following month
3.	16 th day till the 31 st day of March	31 st March

The eligible importer **shall** pay the duty electronically except where Assistant/Deputy Commissioner of Customs allow payment by any other mode for reasons to be recorded in writing.

- (iv) If there is default in payment of duty by due date more than once in three consecutive months, the facility of deferred payment will not be allowed unless the duty with interest has been paid in full. The **benefit** of deferred payment of duty **will not be available in respect of the goods which** have not been assessed or not declared by the importer in the bill of entry.

Assessment and Audit

Question 8

Mr. Krishna Bhansali, has imported some garments from Paris. He is unable to make self-assessment under section 17(1) of the Customs Act because of differential rates for different kinds of material and hence has made a request in writing to the proper officer for provisional assessment pending technical testing. Is he eligible to apply for provisional assessment? Discuss.

Answer

Yes, Mr. Krishna Bhansali can apply for provisional assessment under section 18 of the Customs Act. Section 18(1) provides that provisional assessment can be resorted to, inter alia, where importer or exporter is **unable to make self-assessment** under sub-section (1) of section 17 and makes a request in writing to the proper officer for assessment. While 'unable' is not about willingness but deficiency of information to make an accurate determination of the liability, **in this case Mr. Bhansali satisfies**

the criterion because he lacks information necessary to classify the goods pending technical testing.

Question 9

Mr. X has imported some items from abroad. Since he was unable to make a self-assessment, he has sought for provisional assessment pending technical testing on 29.04,20XX. The technical report was received on 05.05.20XX. Discuss about the time limit available to the officer for finalizing the provisional assessment as per law and guide Mr. X as to when his provisional assessment will be finalized.

Answer

The proper officer **can finalize the provisional assessment within 2 months** of receipt of a chemical or other test report, where the provisional assessment is ordered for that reason.

The **Commissioner of Customs may allow a further time period of 3 months** in case the proper officer is not able to finalize the provisional assessment within the period of 2 months.

Thus, in the given case, **provisional assessment will be finalized by 05.07.20XX** [within 2 months of receipt of test report (05.05.20XX)]. However, if the proper officer is not able to finalize the provisional assessment by 05.07.20XX, the **Commissioner may allow a further period of 3 months**, i.e., till 05.10.20XX to the proper officer to finalize the provisional assessment

Question 10

Joginder & Co. imported goods valued at ₹ 12,00,000 vide a bill of entry presented before the proper officer on 15th December 2022, on which date the rate of customs duty was 20%. The proper officer decided that the goods should be subject to chemical test and therefore, the same were provisionally assessed at a value of ₹ 12,00,000 and Joginder & Co. paid provisional duty of ₹ 2,40,000 on the same date after fulfilling the requirements for provisional assessment.

Conditions which are to be complied before payment is made for the purpose of provisional assessment?

Determine the amount of interest payable, assuming that final duty is assessed on 31st January 2023 at ₹ 3,80,000 and the balance duty is paid on the same day.

Answer

Before, the provisional assessment of duty, the importer shall **execute a bond** for the purpose of undertaking to pay on demand the deficiency between the duty as may finally assessed and the duty provisionally assessed **and** shall furnish prescribed amount of **security** for the payment of the duty deficiency.

The importer is liable to pay interest, on any amount payable consequent to the final assessment order @ 15% p.a. from the **1st day of the month in which the duty is provisionally assessed till the date of payment thereof.**

Accordingly, **amount of interest payable will be**

$$= ₹ 1,40,000 \times 15\% \times 62/365 = ₹ 3,567 \text{ (rounded off)}$$

Question 11

Laxmi Company imported goods valued at ₹ 10,00,000 vide a Bill of Entry presented before the proper officer on 15th December, 2022, on which date the rate of customs duty was 20%. The proper officer decided that the goods should be subject to chemical or other test and therefore, the same were provisionally assessed at a value of ₹ 10,00,000 and Laxmi company paid provisional duty of ₹ 2,00,000 on the same date. Laxmi Company wants to voluntarily pay duty of ₹ 1,50,000 on 20th January, 2023.

- (1) Can Laxmi Company provisionally pay the duty and what are the conditions which are to be complied before such payment is made?
- (2) Determine the amount of interest payable, if any, under section 18 of the Customs Act assuming that the payment of ₹ 1,50,000 as stated above is made on 20th January, 2023 and that the final duty is assessed on 31st January, 2023 at ₹ 4,00,000 and the balance duty is paid on the same day.

Answer

1. **Provisional assessment of duty is permitted** in case where the **proper officer deems it necessary to subject any imported goods or export goods to any chemical or other test** [Section 18 of the Customs Act]. Thus, Laxmi Company can pay the duty on provisional basis.

Before, the provisional assessment of duty, the **importer must furnish such security** as the proper officer deems fit for the payment of the deficiency, if any, between the duty finally assessed/re-assessed and the duty provisionally assessed.

2. Section 18 of the Customs Act further stipulates that the importer is liable to pay interest, on any amount payable consequent to the final assessment order @ 15% p.a. **from the first day of the month** in which the duty is provisionally assessed till the date of payment thereof.

Accordingly, **amount of interest payable will be**

$$[\text{₹}1,50,000 \times 15\% \times 51/365] + [\text{₹}50,000 \times 15\% \times 62/365] \\ = \text{₹}3,144 + \text{₹}1,274 = \text{₹}4,418/-$$

Question 12

Moris Lal has imported goods from Germany and is finally re-assessed u/s 18(2) of the Customs Act for two such consignments. Particulars are as follows:

Date of provisional assessment	12 th December, 2022
Date of final re-assessment	2 nd February, 2023
Duty demand for 1 st consignment	₹ 1, 80,000
Refund for the 2 nd consignment	₹ 4,20,000
Date of refund made by the department	28 nd April, 2023
Date of payment of duty demanded	5 th February, 2023

Determine the interest payable and receivable, if any, by Moris Lal on the final re-assessment of the two consignments, with suitable notes thereon.

Answer

An importer is liable to pay interest at the rate of 15% p.a., on any amount payable consequent to the re-assessment order from the **1st day of the month** in which the duty is provisionally assessed till the date of payment.

Therefore, in the given case, Moris Lal is liable to pay following interest in respect of 1st consignment:

$$= ₹ 1,80,000 \times 15\% \times 67/365$$

$$= ₹ 4,956 \text{ (rounded off)}$$

If any amount refundable consequent to the re-assessment order is **not refunded within 3 months from date of re-assessment of duty**, interest is payable to importer on unrefunded amount at the rate of 6% p.a. till the date of refund of such amount.

Since in the given case, refund has been made (28.04.2023) within 3 months from the date of re-assessment of duty (02.02.2023), interest is not payable to Moris Lal on duty refunded in respect of 2nd consignment.

Question 13

Can the customs audit cover a person who is not an exporter or importer?

Ans. Yes, persons dealing with the goods can also be audited. Auditee includes an importer or exporter or custodian approved under section 45 or licensee of a warehouse and any other person concerned directly or indirectly in clearing, forwarding, stocking, carrying, selling or purchasing of imported goods or export goods or dutiable goods.

Stores and Baggage

Question 14

A fishing trawler is operating 10 nautical miles from the baseline. Is it entitled to duty-free stores?

Answer

No, it is not entitled to duty-free stores because supply is not made to foreign going vessel

Foreign going vessel or aircraft means any vessel or aircraft for the time being engaged in the carriage of goods or passengers between any port or airport in India and any port or airport outside India, whether touching any intermediate port or airport in India or not includes-

- any naval vessel of any foreign Govt. taking part in any naval exercise;
- any vessel engaged in fishing or any other operations outside the territorial waters of India;
- any vessel or aircraft proceeding to a place outside India for any purpose whatsoever.

India includes the territorial waters of India.

The definition of India is an inclusive definition and includes not only the land mass of India but also the territorial waters of India. The territorial waters extend to 12 nautical miles into the sea from the appropriate base line.

Question 15

What is the relevant date for determination of rate of duty under the Customs Act in the case of clearance of baggage?

Answer

As per section 78 of the Customs Act, the **relevant date** for determination of rate of duty in case of clearance of baggage **is the date on which a declaration is made in respect of such baggage** under section 77.

Question 16

Mr. Cliff Paul, a resident and citizen of USA, visits India on a business tour. He made declaration to the proper officer about his baggage under section 77 of the Customs Act for the purpose of clearance. During the scrutiny of the declaration, proper officer found that some of the articles declared in baggage brought with him were prohibited to be entered in India and were detained by the officer.

Although Mr. Paul did not insist to clear those articles, value of those articles was very high and it was a difficult situation for him. You are required to advise any procedure prescribed under customs law to overcome the situation. Give your advice on the basis of relevant statutory provisions.

Answer

Where the **baggage of a passenger contains any prohibited article** which has been **declared by him** under section 77, the proper **officer may, at the request of the passenger, detain (keep) such article, which can be returned to him on his leaving India.**

In the given case, proper officer has detained the prohibited article declared and brought by Mr. Cliff Paul. Such articles shall be returned to him on his leaving India.

Further, if for any reason, he is not able to collect it at the time of his leaving India, the said article may be returned to him through any other passenger authorized by him and leaving India or as cargo consigned in his name.

Question 17

After visiting USA for a month, Mrs. and Mr. Iyer (Indian residents aged 35 and 40 years respectively) brought to India a laptop computer valued at ₹ 70,000, used personal effects valued ₹1,40,000 and a personal computer for ₹ 58,000.

Calculate the custom duty payable by Mrs. & Mr. Iyer, if any.

Answer

- (1) As per the Baggage Rules, 2016, an Indian resident arriving from a country other than Nepal, Bhutan, or Myanmar, is allowed duty free clearance of-
 - (i) **Used personal effects and travel souvenirs** without any value limit
 - (ii) **Articles** [other than certain specified articles] **up to a value of ₹ 50,000** carried as accompanied baggage [General duty free baggage allowance].

- (iii) Further, such general duty free baggage allowance of a passenger cannot **be pooled with the general duty free baggage allowance of any other passenger.**
- (2) **One laptop computer** when imported into India by a **passenger** of the **age of 18 years or above** (other than member of crew) is exempt from whole of the customs duty.
- (3) (i) Accordingly, there will be **no customs duty on used personal effects** (worth ₹ 1,40,000) of Mrs. and Mr. Iyer and laptop computer brought by them will be exempt from duty.
- (ii) Duty payable on personal **computer** after exhausting the duty free baggage allowance will be ₹ 58,000 - ₹ 50,000 = ₹ 8,000
- (iii) Effective rate of duty for baggage = **38.50%**
- (iv) Therefore, total customs duty = ₹ 3,080

Question 18|

Mr. Sujoy, an Indian entrepreneur, went to London to explore new business opportunities on 01.04.2022. His wife also *joined* him in London after three months. The following details are submitted by them with the Customs authorities on their return to India on 15.04.2023:

- (a) used personal effects worth ₹ 80,000,
- (b) 2 music systems each worth ₹ 50,000,
- (c) the jewellery brought by Mr. Sujoy worth ₹ 58,000 [20 grams] and the jewellery brought by his wife worth ₹ 1,16,000 [40 grams].

With reference to Baggage Rules, 2016, determine whether Mr. and Mrs. Sujoy will be required to pay any customs duty?

Answer

As per rule 3 of the Baggage Rules, 2016, an Indian resident arriving from any country other than Nepal, Bhutan or Myanmar, shall be allowed clearance free of duty articles in his bona fide baggage, that is to say, used personal effects and travel souvenirs and articles [other than certain specified articles], upto the value of ₹ 50,000 if these are carried on the person or in the accompanied baggage of the passenger.

Thus, there is **no customs duty on used personal effects** and travel **souvenirs** and general duty free baggage allowance is ₹ 50,000 per passenger. Thus, **duty liability of Mr. Sujoy and his wife is nil** for the used personal effects worth ₹ 80,000 and 2 music systems each worth ₹ 50,000.

As per rule 5 of the Baggage Rules, 2016, the jewellery allowance is as follows:

Jewellery Brought by	Duty Free Allowance
Gentleman Passenger	Jewellery upto a weight of 20 grams with a value cap of ₹ 50,000
Lady Passenger	Jewellery upto a weight of 40 grams with a value cap of ₹ 1,00,000

However, the jewellery **allowance** is applicable only to a **passenger** residing **abroad** for more than 1 year.

Consequently, there is **duty liability on Rs. 8000/- (58,000 – 50,000) Jewellery brought by Mr. Sujoy** as he had stayed abroad for period exceeding 1 year and weight of jewellery brought by him is 20 grams but value is higher than ₹ 50,000.

However, **his wife is not eligible for this additional jewellery allowance** as she had stayed abroad for a period of less than a year. Thus, **she has to pay customs duty on the entire amount of jewellery brought by her** as **she has already exhausted the general duty free baggage allowance of ₹ 50,000** allowed under rule 3.

Question 19

Mrs. X, an Indian resident aged 30 years *who* was on a visit to China, returned after months. She was carrying with her the following items:

(i)	Personal effects	₹ 75,000
(ii)	Laptop computer	₹ 60,000
(iii)	Jewellery - 25 grams (purchased in China)	₹ 75,000
(iv)	Music system	₹ 50,000

Compute the customs duty payable by Mrs. X with reference to the Baggage Rules, 2016

Answer

Computation of customs duty payable by Mrs. X

Particulars	₹
Personal effects (Duty free clearance is allowed)	Nil
Laptop computer [One laptop computer is exempt when imported into India by a passenger ≥ 18 years of age]	Nil
Jewellery [Duty free jewellery allowance is not available to Mrs. X since she did not reside abroad for more than 1 year]	75,000
Music system	<u>50,000</u>
Total value	1,25,000
Less: General duty free baggage allowance of ₹ 50,000	<u>50,000</u>
Value of baggage liable to customs duty	75,000
Rate of Duty	38.50%
Customs duty @ 38.50%	28,875

Question 20

Gregory Peg of foreign origin has come on travel visa, to tour in India. He carries with him, as part of baggage, the following:

Particulars	₹
Travel Souvenir	85,000
Other articles carried on in person	1,50,000
120 sticks of cigarettes of ₹ 100 each	12,000
Fire arm with 100 cartridges (value includes the value of cartridges at @ ₹ 500)	1,00,000

per cartridge).	
1 liter wine	10,000

Determine customs duty payable, if the effective rate of customs duty is 38.50% inclusive of social welfare surcharge, with short explanations where required.

Answer

As per rule 3 of Baggage Rules, 2016, tourist of foreign origin, excluding infant, is allowed duty free clearance of

- (i) travel souvenirs; and
- (ii) Articles up to the value of ₹ 15,000 (excluding inter alia fire arms, cartridges of fire arms exceeding 50 and cigarettes exceeding 100 sticks), if carried on in person.

Computation of customs duty payable	₹
Travel souvenir	Nil
Articles carried on in person	1,50,000
Cigarettes [100 sticks can be accommodated in General Free Allowance (GFA)]	10,000
Fire arms cartridge (50 cartridges can be accommodated in GFA)	25,000
1 liter wine (2 liter wine can be accommodated in GFA)	10,000
Baggage that can be accommodated in GFA	1,95,000
Less: GFA	15,000
Baggage on which duty is payable	1,80,000
Duty payable @ 38.50%	69,300

Note: Fire arms, cartridges of firearms exceeding 50 and cigarettes exceeding 100 sticks are not chargeable to rate applicable to baggage. These items are charged @ 100% applicable to baggage under Heading 9803 of the Customs Tariff.

Question 21

Mr. X, an Indian resident aged 30 years, returns to India on 10.04.2022 after visiting France for 3 months. On his return to India, he brings with him following articles:

- (i) Used personal effects like clothes etc. valued at ₹ 1,75,000
- (ii) Music system valued at 1,20,000
- (iii) Jewellery valued at ₹ 1,30,000 measuring 20 grams brought by Mr. 'X'
- (iv) Laptop worth ₹ 1,20,000
- (v) Wine 1 litre worth ₹ 6,000
- (vi) Mobile phone worth ₹ 50,000

You are required to determine the taxable value of baggage with reference to the Baggage Rules, 2016.

Answer

Computation of taxable value of baggage

Used personal effects [Duty free clearance is allowed.]	Nil
Music system	1,20,000
Jewellery [Duty free jewellery allowance is not available to Mr. X since he did not reside abroad for more than 1 year.]	1,30,000
Laptop (One laptop computer is exempt when imported into India by a passenger ≥ 18 years age)	Nil
1 litre wine [Can be accommodated in general free allowance]	6,000
Mobile phone	<u>50,000</u>
Total value	3,06,000
Less: General duty free baggage allowance of ₹ 50,000	<u>50,000</u>
Taxable value of baggage	<u>2,56,000</u>

Question 22

John Biden, aged 32, is a tourist of US origin. He has come to India on a travel visa and carries with him the following articles as part of baggage:

Particulars	Value in ₹
Used personal effects	50,000
Travel souvenirs	50,000
Laptop	1,20,000
200 gms tobacco [Valued @ ₹ 5 per gram]	1,000
50 cigars [Valued @ ₹ 100 each]	5,000
Fire-arms	80,000
80 cartridges of fire-arms [Valued @ ₹ 500 per cartridge]	40,000
1.5 litres wine	5,000
Mobile phone	80,000

With reference to the Baggage Rules, 2016, determine customs duty payable.

Answer

As per rule 3 of the Baggage Rules, 2016, tourist of foreign origin, excluding infant, is allowed duty free clearance of:

- used personal effects and travel souvenirs; and
- Articles up to the value of ₹ 15,000 (excluding, inter alia, fire-arms, cartridges of fire arms exceeding 50, wine in excess of 2 litres, tobacco exceeding 125 gms and cigars exceeding 25), if carried on in person or in the accompanied baggage of the passenger.

In view of the said provisions, customs duty shall be computed as follows

Particulars	₹
Used personal effects	Nil
Travel souvenirs	Nil
Laptop [One laptop computer is exempt when imported into India by a passenger ≥18 years of age]	Nil
Tobacco [₹ 5 x 125 gm] [125 gms tobacco can be accommodated in General Free Allowance (GFA)]	625
Cigars [₹ 100 x 25] [25 cigars can be accommodated in GFA]	2,500
Fire-arms' cartridges [₹ 500 x 50] [50 fire-arms' cartridges can be accommodated in GFA]	25,000
1.5 litres wine (Wine upto 2 litres can be accommodated in GFA)	5,000
Mobile phone [Can be accommodated in GFA]	<u>80,000</u>
Total value	1,13,125
Less: GFA	<u>15,000</u>
Baggage on which duty is payable	<u>98,125</u>
Duty payable on baggage If 38.50% [rounded off]	<u>37,778</u>

Note: Firearms, cartridges of firearms exceeding 50, cigars exceeding 25 and tobacco exceeding 125 gms are not chargeable to rate applicable to baggage. These items are charged @ 100% applicable to baggage under Heading 9803 of the Customs Tariff.

Question 23

Kiara of Indian origin, came to India on tour from Australia with her baby of 1 year. She brought following goods:

1.	Personal effects	50,000
2.	Used personal effects of infant	10,000
3.	New camera	45,000
4.	Mobile phone	12,500
5.	Cigarette sticks 70	1,000
6.	Wine – 2 Litres	18,000
7.	Travel Souvenirs	5,000
8.	Laptop	90,000

Indicate the taxability or taxable value in respect of each item in the table and calculate customs duty payable rounded off to the nearest rupee in accordance with law. There is no need for any notes to support the conclusions regarding taxability or taxable amount.

Answer

Particulars	₹
Personal effects	Nil
Used personal effects of infant	Nil
New camera	45,000
Mobile phone	12,500
Cigarette sticks 70	1,000
Wine - 2 litres	18,000
Travel souvenirs	Nil
Laptop	Nil
Total	<u>76,500</u>
Less: General Free Allowance	<u>50,000</u>
Baggage on which duty is payable	26,500
Duty payable on baggage @ 38.50% {rounded off}	10,203

Transit and Transshipment

Question 24

State the difference between transit and transshipment of goods under the provisions of Customs Act.

Answer

Transit	Transshipment
Section 53 of the Customs Act provides for transit of goods.	Section 54 of the Customs Act provides for transshipment of goods.
In case of transit of goods, goods are allowed to remain on the same conveyance .	In case of transshipment <i>of</i> goods, the conveyance changes i.e., the goods are unloaded from one conveyance and loaded in another conveyance.
In case of transit of goods, there is continuity of records .	In transshipment of goods, continuity in the records is not maintained as the goods are transferred to another conveyance.

CHAPTER - 6

Warehousing

Question 1

BL Ltd. imported Super Kerosene Oil (SKO) and stored it in a warehouse. An ex-bond bill of entry for home consumption was filed and duty was paid as per the rate prevalent on the date of presentation of such bill of entry; and the order for clearance for home consumption was passed.

On account of highly combustible nature of SKO, the importer made an application to permit the storage of such kerosene oil in the same warehouse until actual clearance for sale/use. The application was allowed. However, the rate of duty increased when the goods were actually removed from the warehouse.

The Department demanded the differential duty. The company challenged the demand. Whether it will succeed? Discuss briefly taking support of decided case(s), if any.

Answer

Yes, the company will succeed. The facts of the given situation are similar to the case of Biecco Lawrie Ltd. 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, 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.**

Section 49 of the Customs Act inter alia also 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.

Question 2

Sun Traders imported goods from Japan and got them ware-housed. Subsequently, a local vendor approached Sun Traders for purchasing said goods, but if first wishes to check the goods to ensure that the goods match its requirements. Can Sun Traders show the goods to the local vendor for sale? You are required to advise Sun Traders with regard to its right to deal with the warehoused goods under the Customs Act.

Answer

When the imported goods are warehoused, the **temporary possession and the custody** of the goods are **passed on to warehouse keeper.** However, remaining titular rights of the goods vest with owner.

Thus, the owner has every access to the goods.

In the course of his dealings with the goods, he may:

- (a) **inspect** the goods;
- (b) **ensure** that the goods do **not deteriorate or get damaged** during storage in the warehouse;
- (c) sort the goods; or
- (d) **show the goods for sale.**

Question 3

If manufacturing operations are carried out on warehoused goods and finished products are cleared for home consumption, then appropriate duty of customs should be levied on the quantity of the warehoused goods contained in the waste or refuse arising out of such manufacturing process.”

Examine the validity of the said statement in the context of section 65 of the Customs Act dealing with manufacture and other operations in relation to warehoused goods.

Answer

The said statement is valid.

Section 65 lays down that if the finished products arising as a result of operations carried out in the warehouse are cleared for home consumption, **import duty** would be **charged on the quantity of the warehoused goods contained in the waste** or refuse arising from such operations.

Question 4

Enumerate the circumstances under which goods are considered to have been removed improperly from a warehouse under the Customs Act.

Answer

Section 72 provides that in any of the following circumstances the goods shall be considered to have been **removed improperly from a warehouse—**

- (a) where any warehoused goods are **removed** from a warehouse **in contravention of section 71** of the Customs Act;
- (b) **where** any **warehoused goods have not been removed** from a warehouse **at the expiration of the** period during which such goods are **permitted** under section 61 to remain in a warehouse;
- (c) **where** any goods in respect of which **a bond has been executed** under section 59 **and** which have not been cleared for home consumption or export are not duly accounted for to the satisfaction of the proper officer.

Interest on Warehousing

Question 5

Comment on the validity of the following statements:

- (a) Goods, other than capital goods, intended for use in any hundred per cent export- oriented undertaking, can be warehoused only till the expiry of five years.
- (b) Interest free period of ninety (90) days under section 61(2) in respect of warehoused goods

(not intended for being used in 100% EOU) commences from the date on which an into-bond bill of entry in respect of such goods is presented.

Answer

- (a) **Invalid.** Goods, other than capital goods, **intended to be used in a 100 % EOU/ STP unit/EHTP unit can be warehoused till the consumption or clearance of such goods from the warehouse.** Further, capital goods intended to be used in a 100% EOU can also be warehoused till the clearance of such goods from the warehouse.
- (b) **Invalid.** As per section 61, if goods (not intended for being used in 100% EOU, STP unit, EHTP unit) **remain in a warehouse beyond a period of 90 days from** the date on which the **order permitting deposit of goods** in a warehouse under section 60(1) is made, **interest is payable @ 15% on the amount of duty payable** at the time of clearance of the goods, for the period **from** the expiry of **the said 90 days till** the date of **payment of** duty on the warehoused goods.

In other words, the relevant date for determining the commencement of the period of 90 days is the date *of* order made under section 60 permitting removal of goods *from* the customs station for deposit in a warehouse, and not the date on which into-bond bill of entry in respect of such goods is presented.

Question 6

Radheysham is engaged in manufacture of goods in Rajasthan. It imported certain goods for using in the manufacture of the finished goods in the month of May. However, it did not *clear* the goods from the port for home consumption. Instead, it presented an 'into bond' bill of entry on 14th May. Assessable value on that date was US\$ 2,35,000. The order permitting the deposit of goods in warehouse for 4 months was issued on 21st May. Radheysham deposited the goods in warehouse on the same day, but did not clear the imported goods even after the warehousing period got over on 21st September.

A notice was issued under section 72 of the Custom Act, demanding duty and interest. Radheysham cleared the goods on 14th October. Customs duty paid on removal of the goods is ₹ 8,28,000.

You are required to compute interest payable on such removal, explaining Customs Act assuming that imported goods are not meant for being used in an 100% EOU, STP unit, EHTP unit.

Answer

As per section 61(2) of the Customs Act, if goods (not meant for being used in an 100% EOU, STP unit, EHTP unit) remain **in a warehouse beyond a period of 90 days** from the date on which the order permitting deposit in a warehouse is made, **interest is payable @ 15% p.a., on the amount of duty payable** at the time of clearance of the goods, for the period **from** the **expiry of** the said **90 days** till the date of **payment of duty** on the warehoused goods.

Therefore, in the given case, interest payable will be computed as under:

- (i) Period of 90 days commencing from the date of order permitting deposit in a warehouse

expires on – **19th August.**

- (ii) No. of days for which interest shall be payable= 56 days [12 days of August + 30 days of September + 14 days of October]
- (iii) Interest payable = ₹ 8, 28,000 x 15/100 x 56/365 = ₹ **19,055** (rounded off)

Question 7

Niryaat Exporters imported some goods on 1st January. The goods were not meant for being used in an 100% EOU, STP unit, EHTP unit. The goods were cleared from the Mumbai port for warehousing on 8th January by presenting an 'into Bond' Bill of Entry. The assessable value of the goods was US\$ 10,000. On 8th January, the exchange rate was ₹ 66 per US\$ and the rate of BCD was 15%. The order permitting the deposit of goods in warehouse for 4 months was issued under section 60 of the Customs Act on 15th January. The goods were thereafter deposited in a warehouse at Pune and were cleared from Pune warehouse on 31st May. The rate of BCD was 15% and exchange rate was ₹ 68.75 per 1 US\$ on 31st May. IGST @ 10% is applicable on said goods. Further, the rate of BCD was 12% and exchange rate was ₹ 67 per 1 US\$ on 15th May.

Ignore IGST and agriculture and infrastructure development cess.

You are required to compute: (a) total customs duty payable and (b) interest, if any, payable.

Answer

Computation of import duty payable by Niryaat Exporters

Particulars	Amount (US \$)
Assessable value	10,000
Particulars	Amount(₹)
Value in Indian Currency (US \$ 10,000 X ₹66) [Note 1]	6,60,000
Customs duty @ 12%[Note 2]	79,200
Add : Social welfare surcharge @10% on ₹ 79,200	<u>7,920</u>
Total customs duty payable	87,120

Notes:

- Assessable value has to be calculated with reference to the rate of exchange prevalent on the date on which the into bond bill of entry is presented for warehousing.
- Goods which are not removed from warehouse within the permissible period are deemed to be improperly removed in terms of section 72 of the Customs Act on the day they should have been removed [Kesoram Rayon v. CC]. The **applicable** rate of duty in such a case is **the** rate of duty **prevalent on the last date on which the goods should have been removed.**

Computation of interest payable by Niryaat Exporters

As per section 61 of the Customs Act, if goods (not meant for being used in an 100% EOU, STP unit, EHTP unit) **remain in a warehouse beyond a period of 90 days** from the date on which the order permitting deposit of goods in warehouse under section 60 of the Customs Act is made, **interest is payable** (@ 15% p.a.), on the amount of duty payable at the time of clearance of the goods, for the period **from the expiry of said 90 days till the date of payment of duty** on the warehoused goods.

Therefore, interest payable will be computed as under:

Period of 90 days commencing from the date of order made under section 60 expires on	15 th April
No. of days for which interest shall be payable [15 days of April + 31 days of May]	46 days
Interest payable = ₹ 87,120 x 15/100 x 46/365 (rounded off)	₹ 1,647

Question 8

'X', an importer, (other than 100% EOU, STP unit, EHTP unit) imported some goods and deposited them in the warehouse on 12th April. These goods were re-exported without payment of duty on 15th August. With reference to the Customs Act, discuss whether any interest under section 61 of the Customs Act is payable by 'X'?

Answer

As per section 61(2) of the Customs Act, **if goods (belonging to importer other than 100% EOU, STP unit, EHTP unit) remain in a warehouse beyond a period of 90 days from the date on which the order under section 60(1) is made, interest is payable @ 15% on the amount of duty payable at the time of clearance of the goods, for the period from the expiry of the said 90 days till the date of payment of duty on the warehoused goods.**

In *Pratibha Processors v. UOI* 1996 (88) ELT 12 (SC), the Apex Court has held that **when goods** at the time of removal from warehouse are **wholly exempted from payment of duty**, the liability to pay **interest cannot be saddled** on a non-existing duty. Liability to pay **interest** under section 61(2) of the Customs Act is solely **dependant upon the eligibility or actual liability to pay duty**. In case the liability to pay duty is nil, then, the interest will also be nil.

Therefore, since in this case the **goods** have been **re-exported without payment of duty**, **no interest is payable by 'X'.**

CHAPTER - 7

Refund

Question 1

Explain Customs Act relating to computation of limitation for submission of refund application.

Answer

Application of Refund shall be made within 1 year from Relevant Date

Scenario	Relevant Date
Refund filed by importer or exporter	Date of payment of duty/interest
Refund filed by person from whom duty collected (i.e. purchaser)	Date of purchase of goods
Exemption by special order	Date of such order
Refund due to judgement /decree /order /direction	Date of such judgement/decree/order
Provisional Payment of duty	Date of adjustment of duty after final Assessment

The **time limit of one year** is not **applicable if duty is paid under protest**. These provisions regarding time limit are mandatory and customs authorities cannot grant a refund which is filed beyond the maximum permissible period.

Unjust Enrichment**Question 2**

Under what situations the amount of duty and interest refundable under the Customs Act shall be paid to the importer/exporter instead of being credited to the Consumer Welfare Fund?

Or

What are the exceptions provided under sub-section (2) of section 27 of the Customs Act in which refund of duty and interest may be paid to the applicant?

Answer

The refund of duty and interest thereon is subject to the principle of unjust enrichment. It shall be paid to the importer or the exporter, as the case may be, only in following situations:

- if the **importer or the exporter**, as the case may be, **has not passed on the incidence** of such duty and interest to any other person.
- if imports were made by an individual for his **personal use**,
- if the duty or interest was borne by **a notified class of applicants**.
- if the **buyer has not passed on the incidence** of such duty and interest to any other person.
- the **export** duty as specified in section 26;
- drawback of duty payable under sections 74 and 75.

In all other cases, the amount of such refund and interest shall be credited to the Consumer Welfare Fund.

Question 3

State briefly with reference to the provisions of section 27 of the Customs Act whether the principle of “unjust enrichment” will apply in case of refund of excess duty paid on car imported for personal use?

Answer

The bar of unjust enrichment applies in case of refund of customs duty under section 27(2) of the Customs Act.

The principle of unjust enrichment will **not apply to refund of duty on car imported for personal use**, as per provisions in case of imports made by an individual for his personal use, the **refund should not be credited to consumer welfare fund, but shall be paid to the applicant.**

Question 4

M/s. HIL imports copper concentrate from different suppliers. At the time of import, the seller issues a provisional invoice and the goods are provisionally assessed under section 18 of the Customs Act based on the invoice. When the final invoice is raised, based on the price prevalent in the London Metal Exchange on a predetermined date as agreed in the contract between the buyer and seller, the assessments are finalized on the basis of the price in such invoices.

M/s HIL has filed a refund claim arising out of the finalization of the bill of entry by the authorities. The Department, however, has rejected the refund claim on the grounds of unjust enrichment. Discuss whether the action of the department is correct in law?

Answer

Section 18 (dealing with provisional assessment) incorporates the principle of unjust enrichment in case of refund arising out of finalization of provisional assessment. It provides that **if any amount is found to be refundable after finalisation of provisional assessment, such refund will be subject to doctrine of unjust enrichment.**

Further, section 28D places the **onus on the person who has paid duty to prove that he has not passed on the incidence of such duty.** In the absence of any proof from such person, section 28D deems that the burden of duty has been passed on to the buyer.

Therefore, in the given case, the **Department's action will be correct if M/s HIL does not produce any evidence** of bearing the burden of duty.

Question 5

Rishabh Traders is engaged in trading of cast iron moulds. It imported a total of 600 units of cast iron moulds in two consignments of 200 and 400 units which has been valued at ₹ 1,500 per unit. The customs duty on the imported moulds has been assessed at ₹ 250 per unit. Rishabh Traders sells the moulds for ₹ 2,030 per unit after adding its profit margin of ₹ 280 per unit.

After one month of selling the entire consignment of cast iron moulds, Rishabh Traders found that there had been an error in payment of amount of duty, in which duty for the consignment of 200 units was paid as if it was 400 units, resulting in excess payment of duty. Rishabh Traders files an

application for refund for ₹ 50,000 (200 x 250). You are required to determine whether the unjust enrichment is attracted in the given case?

Answer

As per section 27 of the Customs Act, the importer or his agent, or the buyer who has been charged the duty by the importer, **has to establish that he has not passed the burden of duty to another person**, in order to be given refund of duty. **Otherwise**, the refund amount **is credited to the Consumer Welfare Fund**.

Amount of refund shall be paid to the applicant instead of being credited to the fund in case where such amount is relatable to the duty paid by the importer/exporter, if he had not passed on the incidence of such duty and interest to any other person and in case where such amount is relatable to the duty paid in excess by the importer before an order permitting clearance of goods for home consumption is made where such excess payment of duty is evident from the bill of entry in the case of self-assessed bill of entry.

Rishabh Traders' invoices establish that it collected ₹ 250 per unit (duty amount) on 600 moulds from the buyer(s). However, it paid the extra import duty on 200 moulds. This payment, in the normal course, was made before the order permitting the clearance of the goods and **excess payment of duty on 200 units would be evident from the bill of entry. Thus**, Rishabh Traders' case **falls within the exceptions to unjust enrichment** as discussed above. Hence, it will be able to refute the charge of unjust enrichment.

Defective Goods

Question 6

Section 26A of Customs Act provides for refund of import duty paid if goods are found defective or not as per specifications. Discuss the conditions governing such refund in brief.

Answer

Often, goods imported are found to be defective or not according to specifications. Section 26A makes provision for refund of import duty paid if goods are found defective or not as per specifications. The **refund is admissible if goods are re-exported or relinquished (handover) to the customs authorities or destroyed**.

The section stipulates the following **conditions for the refund**:

- (i) the goods are **found to be defective or otherwise not in conformity with the specification** agreed upon between the importer and the supplier of goods;
- (ii) the goods have **not been worked, repaired or used** after importation except where such use was indispensable to discover the defects or non-conformity with the specifications;
- (iii) the goods are **identified** to the satisfaction of Assistant/Deputy Commissioner of Customs **as the goods which were imported**;
- (iv) the importer does **not claim drawback** under any other provision of this Act; and
- (v) the goods are **exported or the importer relinquishes his title to the goods and abandons them to customs or such goods are destroyed/rendered commercially valueless** in the presence of proper officer in prescribed manner **within 30 days** from the date on which the order of clearance of

imported goods for home consumption. This period of 30 days **can be extended up to 3 months**.

- (vi) An **application for refund** shall be made **before the expiry of 6 months** from the relevant date.
- (vii) Imported goods should not be such regarding which an **offence appears to have been committed** under this Act or any other law.
- (viii) Imported goods should **not be perishable goods** and goods which have **exceeded their shelf life** or their recommended storage before use period.

Question 7

Explain the relevant dates as provided in section 26A(2) of the Customs Act for purpose of refund of duty under specified circumstances, namely:

- (ii) goods exported out of India
- (iii) relinquishment of title to goods
- (iv) goods destroyed or rendered valueless.

Answer

The **relevant dates** provided under Explanation to section 26A(2) of the Customs Act for purpose of refund of duty under specified circumstances are as follows:

	Case	Relevant date
	Goods exported out of India	Date on which the proper officer makes an order permitting clearance and loading of goods for exportation
	Relinquishment of title to the goods	Date of such relinquishment
	Goods being destroyed or rendered valueless	Date of such destruction or rendering of goods commercially valueless

Question 8

Explain whether refund of import duty is allowed in case of perishable goods?

Answer

Refund is **not allowed** in case of **perishable goods** and goods which have exceeded their shelf life or their recommended storage-before-use period in terms of section 26A(3) of the Customs Act.

However, the Board may, by notification in the Official Gazette, specify any other condition subject to which the refund may be allowed under section 26A(4) of the Customs Act

Interest on Refund

Question 9

Briefly explain whether interest is paid to the applicant in case of delayed refund by Customs Authorities? If yes, also explain the period for computation of interest?

Answer

Yes, interest is to be paid to the applicant in case **any duty** ordered to be refunded to an applicant is **not refunded within 3 months** from the date of receipt of application for refund. The Govt. is permitted to fix such interest between 5% and 30%.

Currently, the **rate of interest is 6%**.

The interest is to be paid for the **period beginning from the date immediately after the expiry of 3 months from** the date of **receipt of such application**, till the date of **refund of such duty**. The application is deemed to have been received on the date on which a complete application, as acknowledged by the proper officer of Customs, has been made.

CHAPTER - 8

Foreign Trade Policy (FTP)

Introduction to FTP

Question 1

What do you understand by the term 'Foreign Trade Policy' (FTP)? Which is the governing legislation for FTP? Which Govt. authorities administer FTP in India?

Answer

Foreign Trade Policy is a set of guidelines or instructions issued by the Central Govt. in matters related to import and export of goods in India viz., foreign trade. The FTP, in general, **aims at developing export potential, improving export performance, encouraging foreign trade and creating favorable balance of payments position.**

In India, Ministry of Commerce and Industry governs the affairs relating to the promotion and regulation of foreign trade. The **main legislation** concerning foreign trade is the **Foreign Trade (Development and Regulation) Act, 1992 FT (D&R) Act.**

In exercise of the powers conferred by the FT (D&R) Act, the Union Ministry of Commerce and Industry, Govt. of India announces the integrated Foreign Trade Policy (FTP) in every five years with certain underlined objectives. This policy is generally updated every year in April, in addition to changes that are made throughout the year.

FTP is formulated, **controlled and supervised by office of Director General of Foreign Trade (DGFT)**, an attached office of Ministry of Commerce & Industry, Govt. of India. DGFT has several offices in various parts of the country which work on the basis of the policy formed by the **headquarters at Delhi.**

Though the FTP is formulated by DGFT, it is administered in **close coordination with other agencies.** Other important authorities dealing with FTP are:

- (i) CBIC (**CBIC**)
- (ii) Reserve Bank of India (**RBI**)
- (iii) State **VAT Departments**

Question 2

Briefly explain as to how FTP is linked with customs laws.

Answer

The Foreign Trade Policy is closely knit with the Customs laws of India. However, the policy **provisions per-se do not override tax laws.** The **exemptions extended by FTP** are **given effect to by issue of notifications** under respective tax laws (e.g., CGST Act, Customs Tariff Act, Customs Act etc.). Thus, **actual benefit of the exemption depends on the language of exemption notifications** issued by the CBIC.

In most of the cases the exemption notifications refer to policy provisions for detailed conditions. Ministry of Finance/Tax Authorities cannot question the decision of authorities under the Ministry of Commerce (so far as the issue of authorization etc. is concerned).

Decision of Director General of Foreign Trade (DGFT) is final and binding in respect of (a) **Interpretation of any provision of foreign trade** policy or provision of Handbook of Procedures, Appendices, Aayat Niryat Forms (b) Classification of any item in ITC(HS).

Question 3

Enumerate the various matters in respect of which policies and regulations are framed under FTP.

Answer

Following issues are covered under FTP 2023 -

- **General provisions** regarding import and export of goods
- Developing **Districts as Export Hubs**
- **Duty Exemption and Remission Schemes [Advance Authorisation, DFIA and Duty Drawback Scheme and duty remissions schemes under GST law]** to enable exporters to import inputs without payment of customs duty
- **Export Promotion Capital Goods (EPCG)** scheme [to obtain capital goods without payment of customs duty]
- **EOU/EHTP/STP and BTP** schemes
- **Deemed Exports**
- Policy in respect of Special Economic Zones [SEZ] is contained in SEZ Act, 2005 and Rules.

Question 4

With reference to the provisions of FTP 2023, discuss giving reasons whether the following statements are true or false:

- (i) If any doubt arises in respect of interpretation of any provision of FTP, the said doubt should be forwarded to CBIC, whose decision thereon would be final and binding.
- (ii) Authorization once claimed by an importer cannot be refused by DGFT.
- (iii) IEC is a unique 12 digit PAN based alphanumeric code allotted to a person for undertaking any export/import activities.
- (iv) Waste generated during manufacture in an SEZ Unit can be freely disposed in DTA on payment of applicable customs duty, without any authorization.

Answer

- (i) **False.** If any question or doubt arises in respect of interpretation of any provision of the FTP, said **question or doubt ought to be referred to DGFT whose decision** thereon would be **final and binding**.
- (ii) **False.** **No person may claim an Authorization as a right and DGFT shall have power to refuse** to grant or renew the same in accordance with provisions of FT(D&R) Act, rules made thereunder and FTP.
- (iii) **False.** **IEC is a unique 10-digit code** allotted to a person for undertaking export/import activities.
- (iv) **True.** Any waste **or scrap** or remnant including any form of metallic waste & scrap generated

during manufacturing or processing activities of an SEZ Unit/Developer/Co-developer are **allowed to be disposed in DTA freely, without any authorization, subject to payment of applicable customs duty.**

Status Holders

Question 5

Two exporters namely, Red Sky Pvt. Ltd. and Black Night Pvt. Ltd. have achieved the status of Status Holders (One Star Export House) in the current financial year. Both the exporters have been regularly exporting goods (other than Gems and Jewellery) every year. What would have been the minimum export performance of the two exporters to achieve such status?

Both the exporters want to establish export warehouses in accordance with the applicable guidelines. What should be their export turnover to enable them to establish export warehouses?

Answer

In order to be categorized as **One Star Export House**, an exporter needs to achieve the **export performance of 3 million US \$ million [FOB/FOR (as converted)]** during **current and previous three financial years**. Thus, export performance of Red Sky PW. Ltd. and Black Night Pvt. Ltd. would have been at least 3 million US \$ million [FOB/FOR (as converted)] during current and previous three financial years. For granting status, export performance is necessary in all the 3 preceding financial years.

Further, Two Star Export Houses and above are permitted to establish export warehouses. Therefore, Red Sky Pvt. Ltd. and Black Night Pvt. Ltd. **can establish export warehouses in India only if they achieve the status of Two Star Export House** and above. In order to achieve said status, export performance of the exporters during current and previous three financial years should be as indicated below:

Status Category	Export Performance [FOB/FOR (As converted value on US\$ million)]
Two Star Export House	15
Three Star Export House	50
Four Star Export House	200
Five Star Export House	800

Question 6

Discuss the benefits granted under FTP to Status Holders.

Answer

Status holders are granted certain benefits like:

- Authorisation and custom clearances for both imports and exports on **self- declaration basis**.
- Fixation of Input Output Norms (SION) on priority i.e. within 60 days by Norms Committee.
- Exemption from compulsory negotiation** of documents through banks.
- Exemption from furnishing of Bank Guarantee** in Schemes under FTP.

- (e) **Two Star Export Houses and above are permitted to establish export warehouses.**
- (f) **Entitled to export freely exportable items** (excluding Gems and Jewellery, Articles of Gold and precious metals) on free of cost basis for export promotion subject to a certain annual limit specified for each sector separately.

(AA) and (DFIA)

Question 7

State salient aspects of Advance authorisation for annual requirements to exporters.

Answer

Annual AA would be issued to exporters having past **export performance for at least two preceding financial years**, to enable them to import the inputs required by them on annual basis.

AA for Annual Basis **can be only issued for items, notified in SION and not on basis of ad hoc norms.**

Annual AA in terms of **CIF value of imports will be granted up-to 300% of FOB value of physical exports in preceding FY + FOR value of deemed exports in preceding year**

or ₹ 1 crore, whichever is higher.

Question 8

What are the key features of Advance Authorization Scheme? Enlist the items which can be and which cannot be imported against Advance Authorization.

Answer

Under advance authorization scheme, INPUTS which are physically used/incorporated in the export (physical export, SEZ or deemed export) can be imported without payment of customs duties.

The goods imported are **exempt from BCD, anti-dumping duty, countervailing duty, safeguard duty, transition product specific safeguard duty, IGST and IGST cess**, unless otherwise specified.

Validity period for import of Advance Authorisation shall be 12 months from the date of issue of **Authorisation.**

Items **which can be imported** duty free against advance authorization:

- **Inputs, which are physically incorporated** in export product (making normal allowance for wastage)
- Fuel, oil, catalysts which are consumed/utilised to obtain export product
- Mandatory spares which are required to be exported/supplied with resultant product permitted **upto 10% of CIF value of Authorization.**

However, items reserved for imports by STEs cannot be imported against AA.

Question 9

Discuss the key similarities and differences between Advance Authorization and DFIA (Duty Free Import Authorization) schemes.

Answer

In both DFIA and Advance Authorization schemes, **import of inputs, oil and catalyst which are required for export** products are **permitted without payment of customs duty**.

Key differences between DFIA and Advance Authorisation schemes are as follows -

- (i) **'AA' is not transferable. DFIA is transferable.**
- (ii) **AA scheme requires 15% value addition, In DFIA, minimum 20% value addition** is required.
- (iii) DFIA cannot be issued where SION (Standard Input Output Norms) prescribes actual user condition. AA can be issued **even if SION for that product is not fixed. DFIA can be issued only if SION has been fixed.**
- (iv) **IGST has been exempted on imports under AA scheme but there is no such exemption available if imports are under DFIA scheme.**

Question 10

JP has imported inputs, having CIF value of ₹ 25,00,000 without payment of duty under AA. Inputs are supplied free of cost valued at ₹ 5,00,000 to meet eventualities of quality issues arising during manufacture. On manufacturing, the products are supplied to SEZ units.

JP wants to know whether it is entitled to AA scheme and what should be the minimum value addition. And you are required to compute FOR value of supplies to SEZ.

Answer

AA (AA) can be issued for **supplies made to SEZ units** (as supplies made to SEZ units are considered as equivalent to physical exports). The **minimum value addition** required to be achieved under AA is 15%. The FOR value of supplies made to SEZ units is computed as under:

Notional value of free of cost inputs supplied by foreign buyer needs to be **added to the CIF value of imported inputs** to compute FOR value of the supplies made to SEZ units.

FOR value of supplies made to SEZ units (after adding minimum 15% value addition) = 30,00,000
 $\times 115\% = ₹ 34,50,000$

Question 11

Answer the following questions with reference to the provisions of Foreign Trade Policy 2023:

- (i) Flintex Manufacturers manufactures goods by using imported inputs and supplies the same under Aid Programme of the United Nations. Can Flintex Manufacturers seek Advance Authorization for the supplies made by it?
- (ii) XYZ Ltd. has imported inputs without payment of duty under Advance Authorization. The CIF value of such inputs is Rs. 10,00,000. The inputs are processed and the final product is exported. What should be the minimum FOB value of the exports made by the XYZ Ltd. ?
- (iii) Nirav Shah used some duty paid inputs for manufacture of the export products. However, for the rest of the inputs, he wants to apply for advance authorization. Can he do so?

Answer

- (i) **Supply to goods to UN** or international organisations for their official use or supplied to projects financed by them **are 'deemed exports'**. **Advance Authorization can be issued** for supplies made **to such 'deemed exports'**. Therefore, Flintex Manufacturers can seek an Advance Authorization for the supplies made by it.
- (ii) Advance Authorization necessitates exports with **a minimum of 15% value addition (VA)**.

$$VA = [(A - B)/B \times 100]$$
A = FOB value of export realized, B = CIF value of inputs covered by authorization.
Therefore, the minimum FOB value of the **exports made by XYZ Ltd. should be ₹ 11,50,000** to attain 15% VA.
- (iii) Yes, **he can do so**. In case of part duty free and part duty paid imports, **both advance authorization and drawback** are available.

Export Promotion Capital Goods (EPCG)

Question 12

Which exporters are eligible for Export Promotion Capital Goods Scheme as per Foreign Trade Policy 2023? Also describe which capital goods are eligible for import under this scheme?

Answer

Following exporters are eligible for Export Promotion Capital Goods Scheme (EPCG) as per Foreign Trade Policy 2023:

- (i) **Manufacturer exporters**,
- (ii) **Merchant exporters** tied to supporting manufacturer(s), and
- (iii) **Service providers** including service providers designated as Common Service Provider (CSP) subject to prescribed conditions.

Further, following capital goods are eligible for imports under this scheme:

- (1) **Capital goods including** capital goods in **CKD/SKD condition**
- (2) Computer systems and software which are a part of capital goods being imported
- (3) **Spares, moulds, dies, jigs, fixtures, tools & refractories**
- (4) **Catalysts** for **initial** charge plus one subsequent charge

Question 13

XP Pvt. Ltd., a manufacturer, wants to import capital goods in CKD condition from a foreign country and assemble the same in India. The capital goods will be used for pre-production processes. The final products of XP Pvt. Ltd. would be supplied in SEZ unit. XP Pvt. Ltd. wishes to sell the capital goods imported by it as soon as the production process starts.

XP Pvt. Ltd. seeks your advice whether it can avail the benefit of EPCG Scheme for importing the intended capital goods.

Answer

Export Promotion Capital Goods Scheme (EPCG) permits exporters to **import capital goods at**

zero customs duty or procure them indigenously without paying duty in prescribed manner.

The **capital goods can also be imported in CKD/SKD to be assembled in India.**

In return, exporter is under an **obligation to fulfill the export obligation (EO)**

Exports to SEZ unit will be considered for discharge of EO of EPCG Authorization,

EO (EO) for such EPCG Authorizations **would be 6 times of duty saved to be fulfilled in 6 years.**

However, import of capital goods is **subject to 'Actual User' condition** till EO is completed. Only after completion of EO, capital goods can be sold or transferred.

Therefore, based on the above discussion, XP Pvt. Ltd. can import the capital goods under EPCG Scheme. However, **it has to make sure that it does not sell the capital goods till the EO is completed.**

Deemed Export

Question 14

What is 'deemed exports'? Which type of supplies are regarded as deemed exports?

OR

List some supplies which are 'deemed exports' for purpose of benefits under Foreign Trade Policy 2023.

Answer

It refers to those transactions in which **goods supplied do not leave country**, and payment for such supplies is received either in Indian rupees or in free foreign exchange. Supply of goods as specified in FTP shall be regarded as "Deemed Exports" provided goods are manufactured in India.

As per FTP 2023, following are treated as deemed exports:

- Supplies against **AA/DFIA**
- Supplies to EOU/STP/EHTP/BTP
- Supplies **against EPCG authorization**
- Supplies **to projects against International Competitive Bidding**
- Supplies to projects where imports permitted at zero customs duty
- Supply to **mega power, nuclear projects**
- Supplies **to UN or International Organizations** for their official use.

EOU /EHTP/STP/BTP

Question 15

With reference to the provisions relating to EOU, EHTP, STP, BTP & SEZ Schemes as contained in FTP, answer the following questions:

(i) A unit intending to trade in handicrafts wants to set up an EOU. Is it allowed?

(ii) A EOU wants to import a second hand capital goods which is prohibited under ITC (HS). Can it do so?

Answer

(i) No. Units undertaking to export their entire production of goods and services (except permissible sales

in DTA), may be set up under EOU Schemes for manufacture of goods, including repair, re-making, reconditioning, re-engineering and rendering of services. **Trading units are not covered under these schemes.**

- (ii) No. Though an EOU is permitted to import duty free second hand capital goods, without any age limit, it cannot import **capital goods that are prohibited items of import in the ITC(HS).**

Question 16

Write short notes on the following with reference to the provisions relating to EOU/EHTP/STP/BTP as contained in the FTP:

- (i) Entitlement for supplies from DTA
- (ii) Inter-unit transfer
- (iii) Exit from EOU Scheme

Answer

(i) **Entitlements for supplies from DTA**

- **Supplies from DTA to EOU/EHTP/STP/BTP units will be regarded as “deemed exports”** and DTA supplier shall be eligible for relevant entitlements for deemed exports, besides discharge of EO, if any, on the supplier. The refund of GST paid on such supply would be available to the supplier subject to specified conditions and documentations under GST law.
- In addition, **EOU/EHTP/STP/BTP units shall be entitled to following:**
 - Imported **goods are exempt from BCD.** Further, **IGST and GST compensation cess is exempt.**
 - Input Tax Credit of GST paid on inputs and capital goods.**

(ii) **Inter-unit transfer**

- Transfer of manufactured goods from one EOU/EHTP/STP/BTP unit to another EOU/EHTP/STP/BTP unit is **allowed on payment of applicable GST and compensation cess** with prior intimation to concerned Development Commissioners of the transferor and transferee units as well as concerned Customs authorities, following the prescribed procedure.

(iii) **Exit from EOU Scheme**

With approval of DC, an EOU may opt out of scheme. Such exit shall be subject to payment of **applicable IGST/CGST/SGST/UTGST and compensation cess**, if any, and industrial policy in force. **If unit has not achieved obligations, it shall also be liable to penalty at the time of exit.**

Others

Question 17

CD Corporation, a merchant exporter, procured order of goods from a customer in USA. It approached AB Corporation, a manufacturer, for execution of said order. The shipping bills relating

to consignment bear the name of CD Corporation. Bank Realization Certificate, export order and invoice are also in the name of CD Corporation. Comment whether AB Corporation would be deemed as the exporter under FTP.

Answer

The given scenario is a case of third-party exports.

Third-party exports means **exports** made **by an exporter or manufacturer on behalf of another** exporter. The conditions for being allowed as third-party exports under FTP are:

- (i) Export documents such as shipping bills shall indicate **name of both** manufacturing exporter/manufacturer and third party exporter.
- (ii) **BRC, export order and invoice** should be in the **name of third party exporter**.

In the above case, shipping bill does not have the name of AB Corporation (manufacturer). Therefore, AB Corporation will not be treated as the exporter in this case.

Question 18

Monotype traders wants to enter into export contracts with various customers. It intends to understand the currency denomination while entering into contract with them and seeks your advice as to how it should ensure compliance.

Answer

Monotype Traders can denominate all **export contracts and invoices either in** freely convertible currency **or Indian** rupees but export **proceeds** should **be realised in** freely convertible currency.

Question 19

Ms. Ayushi Bhandari wants to import samples from US. State in brief policy for *import* of samples.

Answer

Import of sample of even “restricted” items, is allowed without import authorization. Exceptions are defence/security items, seeds and new drugs.

Samples upto ₹ 3,00,000 can be imported by all exporters **without duty**.

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MCQ contain High complexity. Out of 15 MCQs asked in Nov'24 exam were covered in these MCQs.

CHAPTER 1- Supply under GST

1. Which is deemed as supply even if made without consideration as per Schedule I?
 - (i) A Ltd. transfers goods from its Mumbai branch to Kolkata depot .
 - (ii) Mr. R, permanently transfers the motor vehicle free of cost. ITC on said motor vehicle was blocked and therefore, was not availed.
 - (iii) Mrs. S, received gift from her employer on the occasion of Diwali worth Rs. 21,000.
 - (iv) Tappu (Independent son) provided consultancy services to father Jethalal running mobile shop.

(a) (i) (b) (i) & (ii)
(c) (ii) & (iv) (d) (i) & (iv)
2. Which one is not a supply?
 - (a) Goods supplied free of cost by X & Sons to its agent for further supply to customers at Rs. 5,000.
 - (b) Importation of accounting services (for business purposes) free of cost from a dependent father residing in the US.
 - (c) An expensive watch of Rs. 50,000 gifted to an employee.
 - (d) A machinery disposed off free of cost on which ITC has been availed.
3. Which service, without consideration amounts to supply?
 - (i) From his son well-settled in USA
 - (ii) From his brother well-settled in Germany
 - (iii) From his brother (wholly dependent) in France
 - (iv) From his daughter (wholly dependent) in Russia

(a) i, iii and iv
(b) ii, iii and iv
(c) ii and iii
(d) i and ii
4. Activities with consideration, not a supply?
 - (i) Renting of residential flat to unregistered person for residential use.
 - (ii) An employee agreeing to not work for the competitor after leaving the current job
 - (iii) Sale of flat after first occupation but before receipt of completion certificate
 - (iv) Service by executive director against remuneration

(a) i, iii and iv
(b) ii, iii and iv
(c) ii and iii
(d) iv
5. Which is a supply of services?
 - (a) Transfer of undivided share in goods without transfer of title.
 - (b) Transfer of title in goods
 - (c) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date.
 - (d) None of the above
6. Which supply is naturally bundled?
 - (i) Renting of two different floors of a building-one for residential and another for

- (ii) Pack of watch, tie and belt
- (iii) Package of canned food such as burger, chocolates, sweets, cake etc.
- (iv) None of the above

- (i). Mr. A buys a car and purchases the warranty and maintenance of the car. This is mixed supply.
- (ii). Above is composite supply.
- (iii). Mrs. A buys a microwave oven and some utensils for use in the microwave oven; at a single price. It is mixed supply.
- (iv). Mrs. A buys chocolates, juices and biscuits together. All items have different prices. Chocolates, juices and biscuits are a mixed supply.

Product	Amount (Rs.)
Refrigerator taxable @ 18%	40,000
Stabilizer for refrigerator taxable @ 12%	5,000

TV taxable @ 12%	30,000
AC taxable @ 28%	35,000
Stabilizer for AC taxable @12%.	5,000
Total value	1,15,000

J Ltd. has given a single invoice indicating price of each item separately. Mr. Rakesh given a single cheque of 1,00,000 for all the items as a composite discounted price. Type of supply and the tax rate?

- (a) Composite supply; tax rate applicable on highest price product i.e. TV hence 18%
- (b) Mixed supply; highest tax rate applicable to A.C., i.e. 28%
- (c) Supply other than composite and mixed supply; highest tax rate applicable to A.C., i.e., 28%
- (d) Supply other than composite and mixed supply; respective tax rate applicable to each item

13. Not a supply?

- (i) Disposal of car without consideration and the supplier has not claimed ITC on such car.
- (ii) A principal makes supplies to his agent and the invoice for further supply is issued by the agent in his name.
- (iii) Head Office makes a supply of services to its own branch outside the State.
- (iv) An Independent father imports services without consideration for his business from his elder son.

14. Not a supply?

- (i) Importation of architectural services for Rs. 1,00,000 for residential property used for personal purposes from related person.
- (ii) Importation of architectural services free of cost for office used for business purposes from related person.
- (iii) Importation of architectural services free of cost for office used for business purposes from unrelated person.
- (iv) Import of services free of cost for business purpose by independent brother from dependent sister.

15. M/s. Vmart is supplying a gift pack containing 5 packets of Namkeen taxable @ 12%, 1 packet of Roasted Almonds taxable @ 18%, 1 packet of Chocolate taxable @ 28% and 1 bottle of Juice taxable @18% in a single basket for a single price of 1,000. Type of supply and tax rate?

- (a) Composite supply; tax rate of the principal item, i.e. Namkeen@18%
- (b) Composite supply; highest tax rate out of all items, i.e. 28% applicable to chocolates
- (c) Mixed supply; tax rate of principal item, i.e. Namkeen @18%
- (d) Mixed supply; highest tax rate out of all items, i.e. 28% applicable to chocolates

Answer:

Q	ANS	REASON/Logic
1	A	(i) Supply between distinct person is a deemed supply. (ii) Since ITC is not availed, it is not a supply as per schedule I.

		(iii) Gift to employee up to Rs. 50,000 per annum per employee is not a supply as per schedule I. (iv) Independent father is not related hence not a deemed supply.
2	C	Gifts Up-to Rs. 50,000 in a FY by employer to employee shall not be treated deemed supply.
3	A	Family means, - (i) the spouse and children (Dependent/independent) of the person i.e. Supplier or importer, and (ii) the parents, grand-parents, brothers and sisters if they are wholly or mainly dependent on the said person.
4	D	(a) Renting of residential flat to URP for residence is <u>EXEMPT SUPPLY</u> . (b) Not to do/refrain from doing something is a supply of service. (c) Sale of flat after receipt of CC or first occupation <u>whichever earlier</u> is supply (d) Services by an employee to the employer in the course of employment: As per schedule III, It's neither supply of goods nor supply of service.
5	A	As per Schedule II any transfer of right in goods/undivided share in goods without transfer of title, is a supply of services.
6	D	None of the above are naturally bundled, Naturally bundled are, different elements are supplied together by most supplier and different elements are integral to one overall supply.
7	B	Car, warranty and maintenance is naturally bundled hence composite. Microwave and oven is not naturally bundled but single price hence mixed. Chocolate, juice and biscuits have separate price hence not mixed.
8	D	
9	A	It is naturally bundled hence composite supply. Composite supply taxed at the rate of principle supply.
10	C	Invoice in the name of principle hence 5 crores will not get included in turnover of Agent.
11	C	Gift to employee up to Rs. 50,000 per annum per employee is not a supply as per schedule I
12	D	It is not naturally bundled hence not composite. Not a single price hence not mixed. It is just a single payment with combined discount.
13	A	ITC not taken on car hence it will not be a deemed supply. Note : Son is always relative hence import from son is deemed supply.
14	C	Free from unrelated person is not a supply.
15	D	Mixed supply; highest tax rate out of all items, i.e. 28% applicable to chocolates

CHAPTER 2

Charge of GST PART 1 - (RCM)

- Ravi, purchased books from Kavi. Books are exempt from GST. Ravi arranged the transport of these books from a goods transport agency (GTA). GST is payable @ 5% on such GTA services. Which is correct?
 - GST can either be payable by Ravi or GTA based on what option GTA chooses.
 - Supply of goods and supply of GTA service is a composite supply wherein supply of

goods is the principal supply and since principal supply is an exempt supply, no tax is payable on freight.

- (c) Since exempt goods are being transported, service provided by GTA for transporting the same is also exempt.
- (d) GST is payable by Kavi.

2. No RCM on?

- (a) Services by arbitral tribunal to an individual business entity with PFY turnover of 100 Crs.
- (b) Individual providing sponsorship services to a partnership firm
- (c) Sponsorship services to a body corporate
- (d) Renting of bus to a recipient other than body corporate.

3. No RCM on?

- (i) Service by Mr. Bholaram for transport of passengers to Infosys Ltd.
 - (ii) Services by a director (registered under GST) of Galaxy Ltd. to Mr. Krishna
 - (iii) Services by Department of Posts by way of speed post to MNO Ltd.
 - (iv) Services by a Vasooli Ltd. (A recovery agent) to SNSP Bank.
- (a) (i) & (iii)
 - (b) (i) & (iv)
 - (c) (ii) & (iii)
 - (d) (ii) & (iv)

4. J. & Co. is a firm of advocates registered in Punjab. It provided services to Mr. B a business entity located in Meghalaya. Mr. B achieved the turnover of 15 Lakhs in the preceding FY and 50 Lakhs in current FY.

- (a) Exempt supply
- (b) Payable by J & Co.
- (c) Payable by Mr. B.
- (d) Either FCM or RCM

5. In case of Goods Transport Agency (GTA) services, tax is to be paid under forward charge if:

- (a) GST is payable @ 12%
- (b) GST is payable @ 5% and a factory registered under the Factories Act is the recipient of GTA service.
- (c) An unregistered individual end consumer is the recipient of GTA service.
- (d) A registered casual taxable person is the recipient of GTA service.

6. Adi Chopra, director of YRF Ltd for the purpose of shoot of Tiger 3 movie rented his residential flat. Who will pay tax?

- a) Adi Chopra
- b) YRF, as service provided by director is under RCM
- c) Residential property is exempt
- d) YRF, as renting of residential property under RCM

7. Patel Travels Pvt Ltd. Is supplying passenger transport service in an AC omnibus through Redbus App to Miss Disha Patani. Who will pay tax?

- a) Patel Travels Pvt. Ltd.
- b) Disha Patani
- c) Red Bus
- d) It is exempt

8. Mr. A rents his residential apartment to Dr. Mehta, a un registered individual having previous FY turnover of 19 lacs for running clinical establishment. Who will pay tax?

- a) Mr. A
- b) Dr. Mehta
- c) Exempt as it is residential
- d) Exempt as provided for health services

9. Service by recovery agent to A Ltd in rural area for recovering the amount due from B Ltd. Who will pay tax?

- a) Recovery Agent
- b) Manufacturer
- c) Exempt
- d) B Ltd.

Q	ANS	Logic
1	A	GST is payable on GTA service even though the goods transported are exempt supply. GTA has option to choose between FCM or RCM. Person who pays the freight is the recipient. Hence either GTA or Ravi is liable to pay.
2	D	Services by Arbitral tribunal to business entity having PFY turnover exceeding GST reg. limit is under RCM irrespective that it is individual. Sponsorship services except provided to Individual is under RCM Service of renting of motor vehicle for passengers - RCM is applicable only if service is provided to body corporate. Hence, in this case, RCM is not applicable.
3	C	(iii) Passenger transport service is not under RCM. Renting of motor vehicle is under RCM. Both these are different services. (iv) Director providing services to body corporate, Body corporate is liable to pay GST under RCM. However, in the given case, director is providing services to Individual Mr. Krishna, hence Recipient is not liable. (v) Services supplied by a recovery agent is under RCM even if supplier is Body corporate.
4	A	Legal services provided to a business entity with an ATO up to such amount in the Previous FY as makes it eligible for exemption from registration shall be Exempt. The ATO limit applicable for Meghalaya is Rs. 20 lakhs.
5	A	GST is payable @ 12% if GTA opts to pay under forward charge.
6	D	Tax leviable under FCM as Director providing service in his personal capacity . However, said service of renting of residential property is under RCM.
7	A	When supplier is COMPANY and providing passenger transport service in OMNIBUS then supplier will pay tax hence Patel Travel Pvt. Ltd. will pay tax. In all other cases of passenger transport service through ECO tax shall be payable by ECO u/s 9(5).
8	A	As the residential dwelling is given for commercial use, it is under FCM. Even though receiver is unregistered.
9	A	RCM applicable when service receiver is Bank or NBFC . In this case receiver is not Bank/NBFC hence FCM.

CHAPTER 2

Charge of GST PART 2 – Composition Scheme

1. Mr. H, is a manufacturer of seeds (exempt by exemption notification) & chemical fertilizers (taxable). He is about to cross the threshold limit of registration and wants to opt for Composition.

Allowed?

- (a) Yes, since aggregate turnover is less than Rs. 1.5 crore.
- (b) No, a person effecting supply exempted by way of exemption notification cannot opt.
- (c) No, a manufacturer cannot opt.
- (d) No, a supplier of chemical fertilizer cannot opt.

2. Mr. F, in Arunachal Pradesh, is engaged in trading of ice-cream (not containing cocoa). His turnover in previous FY is : Rs. 70 lacs
Turnover limit and whether he is eligible to opt for Composition?
- (a) Rs. 75,00,000/-: Yes
 - (b) Rs. 75,00,000/-: No
 - (c) Rs. 50,00,000/-: No
 - (d) Rs. 1,50,00,000/-: Yes
3. What happens if the turnover of a person paying taxes under composition during the year 2018-19 crosses threshold limit on 27.11.2018
- (a) He can continue under composition till the end of the financial year
 - (b) He will be liable to pay tax at normal rates of GST on the entire turnover for the FY 2018-19
 - (c) He will cease to remain under the composition with immediate effect
 - (d) He will cease to remain under the composition from the quarter following the quarter in which the turnover exceeds threshold limit
4. Legal services received by composition trader who had turnover of 49 lacs in previous FY
- (a) RCM @1% payable by composition trader
 - (b) Lawyer will pay tax
 - (c) RCM is applicable but tax payable at the rate applicable to those services
 - (d) Service is exempt
5. Can person under composition scheme collect GST on his outward supplies from recipients?
- (a) Yes, in all cases
 - (b) Yes, only on such goods/service as may be notified by the CG
 - (c) Yes, only on restaurant services
 - (d) No
6. Not eligible for composition?
- (a) Firm selling garments in Puducherry, having turnover of Rs. 78 lakhs in the preceding F.Y.
 - (b) A company running a restaurant in Telangana, having turnover of Rs. 98 lakh in the preceding F.Y.
 - (c) A courier service company operating in Mumbai having turnover of Rs. 90 lakhs in the preceding F.Y.
 - (d) A trader selling grocery items in Assam having an turnover of Rs. 95 lakhs in the preceding F.Y.
7. Person ineligible to opt for composition?
- (i) supplying goods or service which are not leviable to tax under GST
 - (ii) supplying goods through an ECO who is liable to collect TCS.
 - (iii) supplying services, tax on which is required to be paid by ECO u/s 9(5)
 - (iv) making inter-state supply of services.
- (a) (i) & (iii)
 - (b) (i) & (iv)

- (c) (ii) & (iii)
(d) (iv)

8. C & Co., opted for composition. It sold goods for Rs. 15,00,000 (exclusive of GST). The applicable GST rate on these goods is 12%. C & Co. purchased goods for Rs. 9,55,000 on which vendor had charged CGST of Rs. 57,300 and SGST of Rs. 57,300. C & Co. also purchased goods in inter-state, for Rs. 2,46,000 on which vendor had charged IGST of Rs. 29,520. Net GST liability of C & Co.?
- (a) CGST Rs. 7,500 & SGST Rs. 7,500
(b) CGST Rs. 3,180 & SGST Rs. 32,700
(c) CGST Rs. 32,700 & SGST Rs. 3,180
(d) CGST Nil and SGST Nil
9. Miss. Raksha is engaged in providing private coaching services in Uttar Pradesh. Her aggregate turnover is Rs 19,00,000/- on 30-Sep-20XX. She got GST registration on 30-Sep- 20XX. Which options are available to her?
- (a) Pay tax @ 18%, charge it from the customer and avail full ITC on procurements made.
(b) Pay tax @ 6% under composition but she can not charge GST from customers and also cannot avail ITC.
(c) She is not liable for registration since her aggregate turnover is less than Rs40,00,000/-
(d) Either (a) or (b)
10. A manufacturer of electronic items, starts selling ice-creams by purchasing it from Vadilal. Can he continue to pay tax as per Composition scheme?
- (a) Yes @ 0.5% CGST and 0.5% SGST
(b) No
(c) Yes for electronic goods, no for ice-cream
(d) Yes @ 2.5% CGST and 2.5% SGST

11. A Ltd of Assam, furnishes following information for FY 2019-20. Whether he is eligible for composition in FY 20-21. (i) If he is manufacturer (ii) If he is trader

(1)	Intra State taxable supplies of Goods X (GST@5% inclusive)	63,00,000
(2)	Intra state Supplies of service which are chargeable to GST at Nil rate	18,00,000
(3)	Inter State supplies of Goods Y which are taxable (GST@12%, exclusive)	9,00,000
(4)	Value of inward supplies on which tax payable under RCM(GST Rate 5%)	5,00,000
(5)	Interest earned on loans	20,00,000
(6)	Outward supply where tax is payable as per RCM	48,00,000
(7)	Intra state Supplies of Petrol which are not leviable to GST	13,00,000
(8)	Exempted goods supplied to branch that is registered in Surat without consideration	5,00,000
(9)	Supplies goods to other states of India through Amazon, who collects TCS u/s 52	10,00,000

- (a) Yes in both
(b) No in both
(c) Yes if manufacturer, No if trader
(d) No if manufacturer, Yes if trader

12. Tax liability in Composition Scheme?

Particulars	Value

Supplies of Goods X chargeable @5% GST	6,00,000
Supplies chargeable to GST at Nil rate	1,80,000
Supplies which are wholly exempt	2,20,000
Value of inward supplies on which tax payable under RCM (GST Rate 5%)	5,00,000
Supplies of Goods Y Chargeable @18% GST	30,00,000
Interest earned on deposits	24,00,000

Supplier is Manufacturer

- (a) 64,000
- (b) 70,000
- (c) 65,000
- (d) 59,000

Supplier is Trader

- 60,000
- 61,000
- 61,000
- 63,000

- 13.** Turnover of the SB Ltd. is 90,00,000. The excise duty paid on the cigarettes removed is 10,00,000. CGST and SGST paid on the cigarettes is 18,00,000 each which was charged separately in the invoices. SB Ltd. also recovered actual freight of 5,00,000 from the buyers on the supply of cigarettes so made and charged CGST/ SGST thereon. The company paid tax@ 5% under RCM while availing the services of GTA of 5,00,000. Aggregate turnover of SB Ltd.?
- (a) Rs. 90,00,000
 - (b) Rs. 1,00,00,000
 - (c) Rs. 1,18,00,000
 - (d) Rs. 1,05,00,000
- 14.** Who can opt for composition scheme under sub-sections (1) and (2) of section 10, in Delhi?
- (i) An ice-cream whole-seller whose agg T/O in the preceding FY is 76 lakh.
 - (ii) A medicine manufacturer whose agg T/O in the preceding FY is 1.26 crores.
 - (iii) Manufacturer of pan masala, tobacco whose agg T/O in preceding FY 74 lakh.
 - (iv) Restaurant service provider, whose agg. T/O in preceding FY is 51 lacs.
- (a) 1, 2
 - (b) 1, 2, 4
 - (c) 3, 4
 - (d) 1, 3

Q	Ans	Reason/logic																				
1	A																					
2	A	Manufacturers of ice cream is not eligible but traders of ice cream is eligible.																				
3	C																					
4	C	Composition person to pay tax under RCM at the rate applicable to those services.																				
5	D	Composition supplier can-not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.																				
6	C	Supplier of service other than restaurant service can opt for Compo scheme only when having aggregate turnover of up-to Rs. 50 lakhs in the preceding F.Y.																				
7	D	Compo supplies allows intra-supply of goods through ECO and services where ECO pays tax u/s 9(5)																				
8	A	CGST = Rs. 15,00,000 x 0.5%= Rs. 7,500 SGST = Rs. 15,00,000 x 0.5%= Rs. 7,500. No ITC is available to a person under composition scheme.																				
9	D	Person can choose regular scheme or composition scheme (if eligible) at the time of registration.																				
10	A	Compo scheme is allowed to trader of ice-cream. Not allowed to manufacturer. Further selling of readymade ice-cream will not fall under restaurant service.																				
11	B	Computation of Aggregate T/o: <table><tr><td>Intrastate taxable supply of goods $\left\{ \frac{63 \text{ L}}{105} \times 100 \text{ L} \right\}$</td><td>6000000</td></tr><tr><td>Intrastate supply of services</td><td>1800000</td></tr><tr><td>Interstate supply of goods</td><td>900000</td></tr><tr><td>Value of inward supply where tax is paid as per RCM</td><td>NIL</td></tr><tr><td>Interest earned on Loans</td><td>NIL</td></tr><tr><td>Outward supply where tax is paid as per RCM</td><td>4800000</td></tr><tr><td>Intrastate supply of petrol</td><td>1300000</td></tr><tr><td>Taxable goods supplied to branch in Surat</td><td>500000</td></tr><tr><td>Supplies goods to other states of India through Amazon,who collects TCS u/s 52</td><td>10,00,000</td></tr><tr><td>TOTAL</td><td>1,63,00,000</td></tr></table> Turnover exceeds 150 lacs hence A ltd. is not eligible for composition scheme. Aggregate turnover calculation and limit is same for manufacturer and trader.	Intrastate taxable supply of goods $\left\{ \frac{63 \text{ L}}{105} \times 100 \text{ L} \right\}$	6000000	Intrastate supply of services	1800000	Interstate supply of goods	900000	Value of inward supply where tax is paid as per RCM	NIL	Interest earned on Loans	NIL	Outward supply where tax is paid as per RCM	4800000	Intrastate supply of petrol	1300000	Taxable goods supplied to branch in Surat	500000	Supplies goods to other states of India through Amazon,who collects TCS u/s 52	10,00,000	TOTAL	1,63,00,000
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12	C	<table><tr><td></td><td>Manufacturer</td><td>Trader</td></tr><tr><td>Output tax liability</td><td>= 40,000</td><td>36,000 (40L X 1%) (36L X 1%)</td></tr><tr><td>RCM liability</td><td>= 25,000 (5L X 5%)</td><td>25,000</td></tr><tr><td>Payable in cash</td><td>= <u>65,000</u></td><td><u>61,000</u></td></tr></table> Logic : No GST on interest for both. For trader, no GST payable on exempted/Nil rated		Manufacturer	Trader	Output tax liability	= 40,000	36,000 (40L X 1%) (36L X 1%)	RCM liability	= 25,000 (5L X 5%)	25,000	Payable in cash	= <u>65,000</u>	<u>61,000</u>								
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RCM liability	= 25,000 (5L X 5%)	25,000																				
Payable in cash	= <u>65,000</u>	<u>61,000</u>																				

		supply.
13	D	Rs. 1,05,00,000 Logic : GST amount and purchase under RCM not includible
14	B	

CHAPTER 3 Place of Supply

1. Mr. A (New Delhi) has leased machine to Mr. B of UP on a monthly rent. Mr. B transferred machine to Job-worker located at Rajasthan. After 14 months Mr. A sold the machine to Mr. B when machine was lying at Rajasthan without any movement of such machine. POS of monthly rental service and sale of machine?
 - (a) New Delhi and UP respectively
 - (b) Rajasthan and UP respectively
 - (c) UP and Rajasthan respectively
 - (d) New Delhi and Rajasthan respectively
2. Which is intra-State supply?
 - (a) Location of supplier (LOS) in Kerala, Location of recipient (LOR) in Kerala and POS in Tamil Nadu
 - (b) LOS in Karnataka, LOR in Andhra and POS in Karnataka
 - (c) LOS in Kerala, LOR in Andhra and POS in Andhra
 - (d) None of the above
3. POS in case of installation of elevator is
 - (a) Supplier's place from where the movement of elevator commences
 - (b) Where the delivery of elevator is taken
 - (c) Where the installation of elevator is made
 - (d) Where address of the recipient is mentioned in the invoice
4. Chennai express started from Chennai, Mr. Bacchan (Registered at Mumbai) boarded from Surat, Bikaji Bhujia vendor loaded Bhujia from Jaipur station. Mr. Bacchan availed consultancy services from co-passenger CA in train and bought Bhujia packet when train was at Delhi station. POS of train ticket service, consultancy services and Bhujia sale?
 - (a) Mumbai, Mumbai and Delhi respectively.
 - (b) Surat, Mumbai and Jaipur respectively.
 - (c) Mumbai, Delhi and Jaipur respectively.
 - (d) Mumbai, Chennai and Jaipur respectively.
5. POS in case of import of goods?
 - (a) Customs port where the goods are cleared
 - (b) Location of the importer
 - (c) Place where the goods are delivered after clearance from customs port
 - (d) Location of vendor outside India
6. Ms. Padukon of Mumbai, recharged his Jio pre-paid SIM at Delhi by paying cash at shop. He also made the payment of his post-paid connection at that shop. Post-paid and prepaid invoices

contain address of Mumbai. POS?

- (a) Mumbai in both
- (b) Post-paid Mumbai, Pre-paid Delhi
- (c) Delhi in both
- (d) Post-paid Delhi, Pre-paid Mumbai

7. Mr. Mittal resident of Gurgaon is director of Shaadi.com registered at Delhi went for official trip to Jaipur (stayed 1 night) and Mumbai (stayed 2 night). Taj group having head-office at Patna charged consolidated sum of Rs.30,000/- for stay at both places. POS?
- (a) POS for 10K is Jaipur and 20K is Mumbai.
 - (b) Delhi
 - (c) Mumbai
 - (d) Patna
8. Mr. X, of Mumbai renders professional services in respect of an immovable property located at Australia belonging to Y Ltd. registered in Bangalore. POS?
- (a) Australia
 - (b) Mumbai
 - (c) Bangalore
 - (d) None of the above
9. D Consultants (Kolkata) impart GST training to employees of Sun Ltd. (Registered in Guwahati) at conference held at Sikkim. POS?
- (a) Guwahati
 - (b) Kolkata
 - (c) Sikkim
 - (d) Sikkim or Guwahati at the option of recipient
10. Mr. A, registered in Chhattisgarh, sells furniture to Mr. B registered in Jharkhand and deliver the furniture through a transporter to Mr. C at Bihar on request of Mr. B. POS?
- (a) Bihar (For A and B) and Jharkhand (For B and C)
 - (b) Jharkhand (For A and B) and Bihar (For B and C)
 - (c) Bihar - For both supplies
 - (d) Jharkhand – For both supplies
11. Mr. A, registered in Haryana, supplied goods on ex-factory basis to Mr. L, an unregistered person, in Rajasthan. Mr. L booked the courier in Delhi for delivery in Rajasthan. Courier Co. picked up the goods from Haryana and delivered in Rajasthan while passing through UP. POS of courier service?
- (a) Haryana
 - (b) Delhi
 - (c) Rajasthan
 - (d) UP
12. Mr. Aman, an unregistered person residing in Haryana, went to Delhi for admission in SRCC. Mr. Aman got the demand draft generated at SBI Bank, registered in UP. Mr. Aman does not have a bank account in SBI Ltd. and the bank doesn't have any policy of KYC requirements. POS for demand draft service?
- (a) Delhi
 - (b) UP
 - (c) Either Delhi or UP, at the option of the recipient
 - (d) Haryana
13. Mr L, went to Himachal Pradesh via Delhi Chandigarh- in his own car .After entering Chandigarh, his car broke down. He called 'ONROADS' - an roadside car assistance company (registered in Delhi) to repair the car. 'ONROADS' does not have policy to maintain a record

of the addresses of the persons taking the car assistance service. The value of supply amounted to Rs. 50,000 (being labour charges 40,000 and spares 10,000). POS?

- (a) Delhi
- (b) Chandigarh
- (c) Noida, U.P
- (d) Himachal Pradesh

14. M/s S Traders, registered in Maharashtra, purchased machinery two years back worth 2 Crores and did not avail ITC on said machinery at the time of its purchase. After using the machinery for two years, it gave said machinery free of cost to an unrelated person in Punjab. On the date of transfer, open market value of the machinery was 100 lacs and the WDV was Rs.150 lacs. It also supplied taxable goods for Rs. 50 lacs to Royal Oil (Registered in Kerala) in the territorial waters. The said territorial waters are located at a distance of 5 nautical miles from the baseline of Maharashtra and 7 nautical miles from the baseline of Kerala.

Rates of CGST, SGST and IGST are 9%, 9% and 18%. Amount of tax payable?

- (a) CGST: Rs.4,50,000; SGST: Rs.4,50,000; IGST: Nil
- (b) CGST: Nil; SGST: Nil; IGST: Rs.9,00,000
- (a) CGST: Rs.4,50,000; SGST: Rs.4,50,000; IGST: 18,00,000
- (b) CGST: Rs.4,50,000; SGST: Rs.4,50,000; IGST: Rs.22,50,000

Q	ANS	REASON
1	C	Rental service : As per default provision Sec 12(2), LOR i.e. UP Sale of machine : Where no movement of goods, POS is location of such goods at the time of the delivery i.e. Rajasthan.
2	B	Intrastate supply means where LOS and POS is in the same state/UT. Note : There is no use of LOR in deciding inter or intra.
3	C	Where the goods are assembled or installed at site, POS is place of such installation.
4	D	Transport service to registered – LOR i.e. Mumbai Service provided in train – 1 st schedule departure of train i.e. Chennai Goods supplied in train – Place from goods loaded i.e. Jaipur
5	B	
6	B	POS for pre-paid when payment made by other than electronic means – LOS i.e. Delhi. POS for post-paid :- LOR i.e. Mumbai
7	A	Service shall be deemed to have been provided at Jaipur & Mumbai in the ratio 1:2 respectively.
8	C	Where LOS and LOR are in India. POS of services in relation to an immovable property is location of such property. However, if the location of the property outside India, the POS shall be the location of the recipient i.e. Bangalore.
9	A	POS of services in relation to training and performance appraisal to a RP, is location of such recipient.
10	B	Jharkhand and Bihar respectively
11	A	Haryana Reason : If customer URP, POS is place where goods handed over.
12	B	Uttar Pradesh
13	A	Delhi

		Logic : Default rule apply (When LOR is not available, LOS will be POS)
14	A	CGST: Rs. 4,50,000; SGST: Rs. 4,50,000; IGST: Nil Logic : ITC was not availed and given to unrelated hence not a deemed supply.

Chapter - 4

Exemption from GST

1. Transportation of passengers by _____ are exempt from GST.
 - (a) Railway in first class
 - (b) Railway in 3 tier AC.
 - (c) Air-conditioned metro
 - (d) None of the above
2. Transportation of _____ by a GTA in a goods carriage is not exempt from GST.
 - (a) Agricultural produce
 - (b) Rice
 - (c) Milk
 - (d) Jaggery
3. Transportation of passengers by _____ are exempt from GST.
 - (a) air-conditioned stage carriage
 - (b) radio taxi
 - (c) air (in economy class), terminating in Assam airport
 - (d) Vessel for tourism
4. DPS school celebrates its annual day in Stadium located at a distance of 20 km from the school precincts. Which one is correct with respect to service provided to DPS in such event.
 - (a) Tent, security and catering services: All taxable
 - (b) Tent, security and catering services: All exempt
 - (c) Tent and security services: Taxable; Catering services: exempt
 - (d) Tent: Taxable; Security and catering services: exempt
5. Not exempt from GST?
 - (a) Transportation of students of the college by Anil transport
 - (b) Cleaning of the school
 - (c) Services relating to conduct of higher secondary exams
 - (d) Hostel fees charged from students by college
6. Exempt from GST?
 - (a) Letting out of the auditorium by college.
 - (b) Food provided to school students by Haldiram restaurant (Payment from students to Haldiram)
 - (c) Advertisement services by school.
 - (d) Placement fees charged from students by college
7. Which services by Department of Posts is exempt?
 - (a) Agency services
 - (b) Life Insurance
 - (c) Express parcel posts below 10 grams
 - (d) Interest on loan given for amount above 2 lacs

8. Which Banking service is exempt from GST?
- (a) Provided to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY)
 - (b) Minimum balance charges charged from salary account holder
 - (c) Provided to basic current account holder
 - (d) Interest charged on delayed payment of credit card.
9. Which statement is false?
- (a) Services by Government ITIs are exempt.
 - (b) Services by private service provider to State Governments by way of transport of patients in ambulances are exempt.
 - (c) Services of renting shops in a hospital are exempt.
 - (d) Services by Police to PSUs are taxable under RCM.
10. Which is taxable?
- (a) Interest income on a partner's fixed/variable capital.
 - (b) Discounting of bills by SBI.
 - (c) Interest charged on EMI by mobile phone seller from customer.
 - (d) Additional interest on delayed payment of EMI by Bajaj finance.
11. Which is exempt with respect to service by temple registered u/s 12AB?
- (a) Open area within temple given on rent @10,000 for a day.
 - (b) Room given on rent in Dharmshala (hotel) located within 1000 meter distance @Rs. 500 per day
 - (c) Shops given on rent located precincts to temple for Rs. 19990/- per annum
 - (d) Training in religious songs @499/- per month.
12. Which is exempt?
- (a) Kesar Maharaj, gave a classical dance performance for Rs 1,60,000 in an event for employees of Infosys.
 - (b) Kanika Kapoor sing classical song in an event organized at store of D-mart for Rs. 1,01,000. She is brand ambassador of D-mart.
 - (c) Kesar Maharaj provided dance training to a student and charged 1,40,000
 - (d) Individual commentator provided services to Recognised sports body.
13. Which statement are incorrect?
- (i) Services of life micro-insurance product having minimum amount of cover of Rs. 2,00,000 is exempt
 - (ii) Service by an acquiring bank, in relation to settlement of an amount up to Rs. 2,500 in a single transaction transacted through credit card, debit card is exempt.
 - (iii) Admission to amusement park is exempt when consideration is up-to 500 per person.
 - (iv) Admission to Museum is taxable when consideration is above 500 per person.
- (a) (i) & (ii)
 - (b) (ii) & (iii)
 - (c) (iii) & (iv)
 - (d) (i), (ii), (iii) & (iv)
14. Which services is exempt?
- (a) Performance in classical art forms of painting/sculpture making with consideration up-to Rs. 1.5 lakh.

- (b) Performance in modern art forms of music/dance/ theatre with consideration up-to Rs. 1.5 lakh.
 - (c) Performance in folk or classical art forms of music/ dance/theatre as brand ambassador with consideration up-to Rs. 1.5 lakh.
 - (d) Performance in folk or classical art forms of music/ dance / theatre not as brand ambassador with consideration up-to Rs. 1.5 lakh.
- 15.** Service is exempted even if ticket price is Rs. 600.
- (a) Circus
 - (b) Theatre
 - (c) Zoo
 - (d) Planetarium
- 16.** Which Method's doctor is not exempt?
- a) Unani
 - b) Siddha
 - c) Reiki
 - d) All above
- 17.** Which is exempt?
- (a) Rent charged from chemist shop in the hospital, selling medicines only to hospital patients.
 - (b) Food supplied by canteen run by the Hospital to in-patients.
 - (c) Food supplied by canteen run by the Hospital to out-patients.
 - (d) Advertisement services provided by the hospital to a pharma company by displaying its products in the hospital building.
- 18.** Which is not exempt?
- (i) Plastic surgery conducted to repair cleft lip of a new born baby.
 - (ii) Air ambulance services to transport high profile patient.
 - (iii) Palliative care provided to serious patients at homes.
 - (iv) Room rent above 5500/- per day in ICU.
 - (a) (i) and (iii)
 - (b) (iv)
 - (c) (i)
 - (d) All are exempt
- 19.** Which is not exempt?
- (a) testing of agricultural produce
 - (b) supply of farm labour
 - (c) warehousing of agricultural produce
 - (d) Milling of paddy into rice.
- 20.** Sahil, is having a residential property which has been given on rent. Which is correct
- (a) If being used for commercial purpose by unregistered person then liable to RCM.
 - (b) If being used as guest house by a registered company then liable to FCM.
 - (c) If used a residence by registered individual for his own residence then liable to RCM.
 - (d) If used as residence by unregistered person (rent 50 lacs p.a) for residence then it is exempt

- 21.** Which is taxable?
- Discounting of bills receivable
 - Interest charged on loans
 - Interest charged on credit card services
 - Sale of foreign currency amongst banks
- 22.** Which is taxable?
- Services provided to recognized sports body as curator of national team.
 - Services provided by way of transportation of passenger in Metered cab.
 - Services by way of public conveniences of facilities of washrooms.
 - Services by an organiser in respect of a business exhibition held outside India
- 23.** Not exempt?
- Religious pilgrimage organised by Todarmal Charitable Trust
 - Services provided by a business facilitator to an insurance company in an urban area
 - Milling of paddy into rice
- (i), (ii)
 - (i), (iii)
 - (ii), (iii)
 - (i), (ii), (iii)
- 24.** Choose true statements?
- Services by private ITIs to individual trainees are exempt.
 - Services by the State Govt. and Private Service Providers by way of transportation of patients in ambulance are exempt from GST.
 - Services of renting of medical shops in a hospital are exempt from GST being health care services.
 - Services provided by police to PSUs are taxable.
- 1, 2 & 4
 - 2, 3 & 4
 - 3 & 4
 - 1, 2, 3 & 4
- 25.** D Rice Ltd. is providing
- Loading and unloading of rice: Rs. 50,00,000.
 - Packing and warehousing of rice: Rs. 30,00,000.
 - Processing services of milling of paddy into rice: Rs. 1,00,00,000.
- Rate of tax is 5%. GST payable?
- Rs. 32,40,000
 - Rs. 9,00,000
 - Rs. 5,00,000
 - Nil
- 26.** A Municipal Corporation has invited bids for maintenance of bus stops. The work involves composite supply of goods and services wherein the supply of services is the principal supply. The value of goods constitutes 25% of the total value of composite supply. Mr. K seeks your opinion to determine the taxability to quote the best price?
- GST payable on goods portion. Exempt on service portion
 - GST payable
 - Exempt

(d) Outside the purview of GST

27. GST on speed post service?

- (a) GST payable
- (b) Non-taxable
- (c) Exempt
- (d) Outside the purview of GST

28. Mr. Kumar has decided to send food grains and other relief materials to the cyclone hit victims in Kerala. The company has contacted Super Airlines and Indian Railways to transport the materials by air and by railways. Determine taxability of transport service of such material?

- (a) Super Airlines: Taxable; Indian Railways: Exempt
- (b) Super Airlines: Taxable; Indian Railways: Taxable
- (c) Super Airlines: Exempt; Indian Railways: Rs. Taxable
- (d) Super Airlines: Exempt; Indian Railways: Exempt

29. Mr. P is an ambulance driver from Delhi, Jeevan Raksha hospital instructed Mr. P to pick up a patient in Gurugram and bring to hospital. While going from Delhi to Gurugram, he picked up 1 passenger for transportation in the ambulance from Delhi to Gurugram and charged Rs. 520. Taxability of Rs. 520?

- (a) Taxable supply
- (b) Exempt supply
- (c) Not a supply at all
- (d) Exempt up-to 500 per person

30. Seva Trust, registered u/s 12AB of Income tax. It has organized a skill development programme relating to persons over the age of 65 years residing in a city and received following amounts

Particulars	Amount (Rs.)
Subscription fees for the programme	50,000
Sponsorship fees received from Mahesh Enterprises – a sole proprietorship firm	1,00,000
Consideration for supply of goods	3,00,000

Besides, the trust has received the donations of 2,00,000 in April. Trust is entitled to use this donation for any purpose. Value of taxable supply?.

- (a) Nil
- (b) Rs. 6,50,000
- (c) Rs. 6,00,000
- (d) Rs. 4,50,000

31. Mr. H is the owner of a residential house. Mr. R, who is a tenant, has surrendered his tenancy rights to Mr. P for a tenancy premium of 5,00,000 on 1st June. Mr. P has paid the applicable stamp duty and registration charges on transfer of tenancy rights. Moreover, Mr. P will pay a monthly rent of 50,000 to Mr. H from June. Value of taxable supply for June?

- (a) H : Rs. 5,50,000; R : Nil
- (b) H : Nil; R : Rs. 5,00,000
- (c) H : Rs. 50,000; R : Nil
- (d) H : Rs. 50,000; R : Rs. 5,00,000

Q	ANSWER	Logic
1	C	Metro is exempt even if Air-conditioned.
2	D	Transportation of Agricultural produce, Newspaper & Magazines, Defence/military equipment, Organic manure, Milk, salt, food grains, flour, pulses and rice by a GTA/rail/vessel is exempt. Jaggery is not Agriculture produce and not covered here.
3	C	Transportation of passengers by air (in economy class) embarking from/terminating in Bagdogra, Arunachal Pradesh, Tripura, Manipur, Mizoram, Meghalaya, Assam, Nagaland and Sikkim: exempt.
4	C	Service to School Tent is always taxable. Catering is always exempt. Security, cleaning, housekeeping OUTSIDE school is taxable.
5	A	Transport service for college students by third party is not exempt.
6	D	Any amount charged from students by school/college is exempt.
7	D	GST is payable on services by the Department of Post except post card, inland letter, book post & ordinary post (envelopes weighing less than 10 grams). Interest on loan is exempted in all cases except credit card.
8	A	
9	C	
10	C	Interest charged by supplier of goods is included in value of supply and taxable.
11	C	Open area exempt if rent up-to 9999/- day Room : Exemption only when property located within precincts (outer boundary of temple) Shop : Exemption when rent is up-to 9999/- per MONTH. Here 19,990/- for a YEAR hence exempt. Training in SPORTS by trust is exempted : All else taxable.
12	C	Services by an individual artist by performance in folk or classical art forms of music/ dance / theatre exempt when Consideration is up-to Rs. 1.5 lakh, and Service provider is not a brand ambassador (c) Training in dance, music painting etc. relating to arts or culture by Individual is exempt without any limit . (d) Commentator is not exempt
13	D	Services Life micro-insurance product having maximum amount of cover up to Rs. 2,00,000 is exempt. Service by an acquiring bank, in relation to settlement of an amount up to Rs. 2,000 is exempt. No exemption for Movie and amusement part Unlimited exemption for National part, Wild-life Sanctuary, Tiger Reserve, Zoo, Museum and Protected Monuments.
14	D	Services by an individual artist by performance in folk or classical art forms of music/ dance / theatre exempt when Consideration is up-to Rs. 1.5 lakh, and Service provider is not a brand ambassador
15	C	Admission to Circus, dance, theater, award function, music performance, sports and planetarium is exempt if ticket up-to 500/- per person.
16	C	Recognised system of medicine in India are: Allopathy, Yoga, Unani, Siddha,

		Homeopathy, Ayurveda, Naturopathy.
17	B	Food supplied to in-patients exempt since it's a composite supply, i.e. it's a bundled service when provided with healthcare. All others are not the health care service
18	D	Note : ICU, NICU, CCU is always exempt irrespective of amount.
19	D	Milling of paddy into rice is not an intermediary process relating to agriculture hence taxable.
20	D	Exempt when given for <u>residential USE</u> to unregistered person or registered individual for own residence. Otherwise : Given to RP – RCM; given to URP - FCM
21	C	Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) is exempt. Hence interest charged on credit card balances is taxable.
22	A	Player, referee, umpire, coach and team manager are exempt. Curator is not exempt.
23	D	(i), (ii), (iii)
24	A	1, 2 & 4
25	C	Rs. 5,00,000
26	C	Exempt
27	A	GST payable
28	A	
29	A	Taxable supply
30	D	Rs. 4,50,000
31	B	H: Nil; R: Rs. 5,00,000

CHAPTER 5

Time of Supply

- Date on which the supplier receives the payment is
 - Date of entry in books of accounts of supplier
 - Date of credit in bank account
 - Date of entry in books of accounts of recipient or date of credit in bank account, whichever is earlier
 - Date of entry in books of accounts of supplier or date of credit in bank account, whichever is earlier
- Time of supply of goods liable to tax under RCM will be earlier of?
Select incorrect one
 - Date of receipt of goods
 - Date of payment
 - Date immediately following 30 days from the date of issue of invoice by the supplier
 - Date of entry in books of account
- Time of supply of vouchers when the supply with respect to the voucher is identifiable?

(a) Date of issue of voucher	(b) Date of redemption of voucher
(c) Date of receipt of payment	(d) Earlier of (a) or (b) or (c)
- Mr. A purchases vouchers on 1st January and made the payment on 10th Jan. The vouchers are redeemable against purchase of any goods. The vouchers are valid till 30th June. Time of supply?

(a) 1st January	(b) 30th June

- (c) The date of redemption of vouchers (d) 10th Jan

5. Time of supply of RCM service?
 - (a) Date of payment
 - (b) Date immediately following 60 days from the date of invoice
 - (c) Date of invoice or date of payment whichever earlier
 - (d) Earlier of (a) and (b)
6. M/s. X enters into a contract with its M/s. Y, its associated enterprise of Pune for supply of software development services on 18.12.2021. Services are supplied on 25.12.2021 and invoiced on 05.01.2022. M/s. Y made entry in its books of account on 27.12.2021 and makes payment by cheque for the services on 29.12.2021 and such payment is credited to the bank account of M/s. X on 06.01.2022. The payment is recorded in the books of account of M/s. Y and Mr. X on 30.12.2021 and 07.01.2022 respectively. The time of supply?
 - (a) 27.12.2021
 - (b) 30.12.2021
 - (c) 06.01.2022
 - (d) 05.01.2022
7. Ms. Pearl booked an auditorium on 10th August and paid Rs. 5,000 as advance on that day. Function was organized on 10th October. Owner issued invoice on 25th November for Rs. 20,000. Pearl made balance payment of Rs. 15,000 on 30th November. Time of supply?
 - (a) 25th November for Rs. 20,000.
 - (b) 10th August for Rs. 5,000 & 25th November for Rs. 15,000.
 - (c) 10th August for Rs. 5,000 & 10th October for Rs. 15,000.
 - (d) 10th October for Rs. 20,000.
8. In case of taxable services by an insurer, invoice shall be issued within a period of _____ from the date of service.
 - (a) 30 days
 - (b) 45 days
 - (c) 60 days
 - (d) 90 days
9. R Ltd. sent bus chassis for body building to M/s H and paid in advance of Rs. 25.00 lakh, received by M/s. H on 10th August. M/s H informed R Ltd. for inspection of the work done on 1st September. R Ltd. visited the workshop of M/s H on 7th September and confirmed the work. M/s H raised an invoice of 25.00 lakh on 15th September and supplied chassis with body, along with the invoice on 16th September. Time of supply?
 - (a) 10th August
 - (b) 7th September
 - (c) 15th September
 - (d) 16th September
10. Banke received an order for sweets on 2nd May. Sweets was delivered on 5th May but without invoice. Invoice raised on 6th May. Payment was made on 7th May. Time of supply?
 - (a) 2nd May
 - (b) 5th May
 - (c) 6th May
 - (d) 7th May

Q	A	Logic
1	D	
2	D	
3	A	
4	C	The time of supply of vouchers when the supply with is not identifiable is Date of redemption of voucher.
5	D	
6	D	Where Invoice is raised within 30 days of service, TOS shall be earlier of Date of invoice - 05.01.2022 Date of receipt of payment - 06.01.2022 [Date of receipt of payment: Earlier of book entry (07.01.22) or credit in the bank (06.01.22)] Hence TOS = 05.01.2022 Note : Different TOS provision of associated enterprise apply in case of import of service. This one is the domestic transaction hence normal provision applies.
7	C	Where invoice not been issued within due date i.e within 30 days of supply service, TOS will be date of payment or date of completion of service whichever is earlier.
8	B	
9	A	(M/s. H is providing service, TOS will be date of receipt of payment as it is earlier)
10	B	Earlier of : Actual date or due date of invoice Due date means : at the time of removal i.e. 5 th Aug

CHAPTER 6

Value of Supply

1. Which one not included in value of supply?
 - (a) Any non-GST taxes, duties, cesses, fees charged separately by supplier
 - (b) Interest, late fee or penalty for delayed payment of consideration for supply
 - (c) Subsidies directly linked to the price except subsidies by the CG & SG
 - (d) Receiver was liable to pay freight but paid by supplier.
2. Which one not included in value of supply?
 - (a) Buying commission
 - (b) Packing charges of the goods
 - (c) Tax levied by Municipal Authority on sale of the goods
 - (d) Subsidy provided by other than CG/SG not directly linked to price.
3. P, sold goods for Rs. 2,00,000 (GST is leviable @ 5% on said goods). As per the terms of sales contract, P has to deliver the goods at the factory of customer. For this purpose, P has charged freight of Rs. 2,000 from customer, GST is leviable @ 12% on freight. Output GST liability? (Amount given are exclusive of GST)
 - (a) Rs. 10,100
 - (b) Rs. 10,240
 - (c) Rs. 24,240
 - (d) Rs. 10,000
4. Which one is not the condition for deducting discount from value of supply when discount was given after the supply?
 - (a) such discount is given as per the agreement entered into at/or before the supply
 - (b) such discount is linked to the relevant invoices

- (c) proportionate ITC is reversed by the recipient of supply
- (d) Discount should be recorded in invoice

5. ASC, a registered person, supplied goods to BSC, a registered person. BSC further sold such goods to Rakesh, a consumer in cash. ASC issued a credit note of 11,800 (10,000+1800-GST) for rate difference to BSC. Thereafter, BSC entered a credit note in its books for the same amount in the name of Rakesh, without intimating him and providing any refund of the sum paid, and reduced its output tax liability accordingly. Who is allowed to reduce their output tax liability?

- (i) ASC
- (ii) BSC
- (iii) Both ASC and BSC
- (iv) Neither ASC nor BSC, since incidence of tax has been passed onto another person.

6. Mr. K, dealing in sale/ purchase of used or second-hand cars, effected following transactions:

Particulars	Purchase Price	Sale Price
Car 1	Rs. 5,00,000	Rs. 7,50,000
Car 2	Rs. 3,00,000	Rs. 2,75,000
Car 3	Rs. 6,00,000	Rs. 6,50,000
Car 4	Rs. 8,00,000	Rs. 9,50,000

Mr. K purchased Car 1, Car 2 and Car 3 from unregistered persons and Car 4 from registered person who charged GST of Rs. 1,30,000 and accordingly Mr. K had availed the ITC of the same.

Determining his GST liability @18% GST rate.

- (a) Rs. 95,000
- (b) Rs. 1,08,000
- (c) Rs. 1,30,500
- (d) No GST is payable since sale of second-hand goods is exempt.

7. Mr. A, received order for supply of goods worth Rs. 2,00,000. Mr. A, incurred the following additional expenses before the goods were delivered: Packing charges - Rs. 3,000; Freight & Charges Rs. 2,500; Handling Charges – Rs 1,500. Customer made full payment (including the additional amounts charged by Mr. A) on delivery of the goods for which he was allowed instant cash discount of 2,000. GST rate: CGST@ 9% and SGST @ 9%

Mr. A paid CGST of 18,000 and SGST of 18,000. Determine the further tax liability of Mr. A.

- (a) CGST - Rs.630 and SGST - Rs.630
- (b) CGST - Rs.450 and SGST - Rs.450
- (c) CGST - Rs. 18,630 and SGST - Rs.18,630
- (d) CGST - Rs. 18,450 and SGST - Rs.18,450

Q	A	REASON
1	D	Supplier was liable to pay but paid by recipient is includible. However, receiver was liable to pay but paid by supplier and recovered the said amount from receiver is not includible in value of supply
2	D	Subsidy directly linked to price is includible but subsidy not directly linked to price is not includible.

3	A	Good + freight is composite supply (because delivery was supplier's responsibility) hence full amount of 202000 taxable @5%.
4	D	Mentioning discount on invoice is mandatory for discount given before sale and not mandatory for discount given after sale
5	A	Credit note can be issued for rate difference provided amount has been refunded to customer.
6	A	Rs. 95,000 Logic : Car 1 (7,50,000 – 5,00,000)*18% Car 3 (6,50,000 – 6,00,000)* 18% Car 4 (9,50,000*18%) – 1,30,000
7	A	Discount not been reduced: As invoice already made before giving discount and said cash discount was not pre-agreed. Hence deduction of discount is not allowed : Sec – 15(3)

CHAPTER 7

Input Tax Credit

1. Mr. A raised invoice on 16.07.2023 on Mr. B. What is the time limit for taking ITC by Mr. B and issuance of GST credit note due to deficiency in service by Mr. A.
 - (a) 180 days for ITC and till 30.11.2024 for credit note
 - (b) For both : 1 year from invoice date
 - (c) For both : 30.11.2024 or due date of filing annual return, whichever is earlier
 - (d) For both : 30.11.2024 or actual date of filing annual return, whichever is earlier
2. If the goods are received in lots/ instalment.
 - (a) 50% ITC can be taken on receipt of 1st instalment and balance 50% on receipt of last instalment.
 - (b) 100% ITC can be availed only upon receipt of last instalment.
 - (c) 100% ITC can be taken on receipt of 1st instalment.
 - (d) Proportionate ITC can be availed on receipt of each lot/instalment.
3. Which one is correct?
 - (a) If supplier takes depreciation of cost of machine excluding GST then ITC is not allowed.
 - (b) Composition tax will be available as ITC to the recipient only if the tax is mentioned separately in the invoice raised by the composition tax payer.
 - (c) ITC can be taken on vehicle having seating capacity of 13 passengers excluding driver if same is being used for driving classes.
 - (d) ITC available on samples given to prospective customers.
4. Mr. Raghu avails services of CA Raj who charged GST, as under -
 - (i) Audit of financial accounts of Mr. Raghu Rs. 50,000
 - (ii) Tax audit and annual accounts filing of Mr. Raghu Rs. 10,000
 - (iii) Income-tax return filing of Mr. Raghu 's wife (salaried-return) Rs. 5,000

Mr. Raghu is eligible to take ITC of-

(a) Rs. 65,000	(b) Rs. 60,000
(c) Rs. 5,000	(d) Rs. 50,000

5. For banking companies using inputs and input services partly for taxable supplies and partly for exempt supplies, which is true?
 - (a) ITC shall be compulsorily restricted to credit attributable to taxable supplies

- including zero rated supplies
- (b) 50% of eligible ITC on inputs, capital goods, and input service shall be mandatorily availed in a month and the rest shall lapse.
- (c) Banking company can choose to exercise either option (a) or option (b)
- (d) ITC shall be compulsorily restricted to credit attributable to taxable supplies excluding zero rated supplies.

6. Eligible ITC?

Particulars	GST paid
Cars purchased from the manufacturer for making further supply of such cars. [Two of such cars are destroyed in accidents while being used for test drives. GST paid on their purchase is Rs. 1 lac]	20,00,000
Works contract services availed for constructing a car shed in its premises.	50,000

- (a) Rs 19,00,000
- (b) Rs 21,10,000
- (c) Rs 19,50,000
- (d) Rs 20,50,000

7. ITC cannot be taken on:

- (a) A software professional providing technical consultancy buys a motorcycle for use of his employee.
- (b) A motor driving school buys a car for being used in imparting motor driving training.
- (c) Good purchased for further supply of works contract services.
- (d) A manufacturer buys a tempo for the purpose of home delivery of order.

8. Kamlesh hires a works contractor for repairing his factory building on payment (inclusive of GST @18%) of Rs. 11,80,000. He debits half of the expenditure in the profit and loss account and the remaining half in the building account. eligible ITC?

- (a) Rs 90,000
- (b) Rs 1,06,200
- (c) Rs 1,80,000
- (d) Nil

9. ITC available under which situation?

- (a) GST paid on motor vehicle for transportation of persons with seating capacity < 13 for business purpose.
- (b) GST paid on club membership fees.
- (c) GST paid on goods or services or both used for personal consumption.
- (d) Goods purchased and delivered directly to the premise of job-worker.

10. ITC not allowed?

- (a) On cars purchased by a manufacturing company for official use of its employees.
- (b) On cars purchased by a car dealer for sale to customers.
- (c) On cars purchased by a company engaged in renting out cars for transportation of passengers.
- (d) On buses purchased by a company for transportation of its employees from their residence to office and back.

11. A trader has purchased 10000 kgs of material with IGST of Rs. 1,00,000 during Feb. He has taken 100 kgs for personal use. 200 kgs were stolen from the factory. 8000 kgs of the materials were sold during the month for production and rest in stock. The ITC available for Feb?

- (a) Rs.80,000

- (b) Rs.97,000
- (c) Rs.98,000
- (d) Rs.1,00,000

12. ITC available on?

- (a) Biscuit and cold-drink procured for investor meeting
- (b) Hiring of helicopter for business use by MD.
- (c) Health services in emergency at plant obtained as per company policy.
- (d) Flight ticket of employee for business use

13. Which statements is False?

- (a) ITC on works contracts services (capitalised) availed by a software company for construction of its office, is blocked.
- (b) ITC on works contract services availed by a manufacturing company for construction of pipelines to be laid outside its factory, is blocked.
- (c) ITC on goods and/or services used by an automobile company for construction of a foundation on which a machinery is to be mounted permanently, is allowed.
- (d) ITC on works contract services availed by a consulting firm for repair of its office building is allowed provided the company has capitalised such expenditure.

14. PZY Ltd. is engaged in manufacturing of motor car. Amount of ineligible ITC?

SN	Particulars	GST
1	General insurance taken on cars manufactured by PZY Ltd.	1 crore
2	Buses purchased for transportation of employees (Seating capacity 23)	25 lakhs
3	Life and health insurance for employees under statutory obligation	6 lakhs
4	Outdoor catering in Diwali Mela organized for employees	31 lakhs

- (a) Rs. 1,06,00,000
- (b) Rs. 31,00,000
- (c) Rs. 1,31,00,000
- (d) Rs. 1,25,00,000

15. Mr. X becomes liable to pay tax on 1st Aug and has applied for registration on 15th Aug and same was granted on 1st Sep. Such person is eligible for ITC on inputs held in stock as on:

- (a) 1st Aug
- (b) 31st Jul
- (c) 15th Aug
- (d) 31st Aug

16. M/s. Royal has decided to transfer his business to M/s Hawaii. Correct option?

- (a) M/s. Royal cannot transfer unutilised ITC in its electronic credit ledger to M/s Hawaii, as the proprietors are different.
- (b) M/s. Royal can transfer unutilized ITC to M/s Hawaii and it can further be utilized in setting off GST liability for the succeeding period.
- (c) M/s. Royal can transfer unutilized ITC to M/s Hawaii and it can be further utilized in setting off GST liability for a period up-to 30th Nov following the year in which ITC was transferred.
- (d) M/s. Royal cannot transfer unutilized ITC but can claim refund.

17. Ash & Co, purchased a machine on 01.08.2021 for Rs. 50,000 and took ITC of Rs. 9000. Now, on

01.01.2021, he sold his machinery to an unrelated party for Rs. 40,000 excluding GST. GST rate on machine is 18%. Ash & Co. is liable to pay GST of?

- (a) Rs. 7,200
- (b) Rs. 8,100
- (c) Rs. 9,000
- (d) Rs. 7,650

18. ITC will be available?

- (a) Cars purchased by a manufacturing company for official use of its employees.
- (b) Aircraft purchased by a manufacturing company for official use of its CEO.
- (c) General insurance taken on a car used by employees of a manufacturing company for official purposes.
- (d) Maintenance & repair services availed by a trading company for a truck used for transporting own goods.

19. State whether statements are true or false:

1. Zero rated supply means supply of any goods or services which attracts nil rate of tax.
 2. Exempt supply means export of goods or services or supply to a SEZ developer/unit.
 3. Non-taxable supply means supply of goods or services or both which is not leviable to tax under the CGST Act but leviable to tax under the IGST Act.
 4. ITC may be availed for making zero rated supply of exempt goods.
- (a) False, False, False, True
 - (b) True, False, False, False
 - (c) True, True, False, False
 - (d) True, False, False, True

Q	A	REASON
1	D	
2	B	
3	C	Note : If Depreciation taken only on cost of machine excluding GST, then ITC can be taken.
4	B	ITC of return filing of Raghu's wife not eligible as used for personal purpose
5	C	
6	A	ITC is not available in case goods lost, stolen or destroyed and Also ITC not available for construction of immovable property Therefore, Net ITC available is Rs. (20 - 1) lacs = Rs. 19,00,000.
7	A	Note : ITC is allowed if vehicle used for imparting training or where vehicle meant for transport of goods.
8	A	ITC is blocked to the extent of capitalisation only. Therefore, ITC of Rs. 90,000 is w.r.t the amount capitalised shall be blocked and remaining Rs. 90,000 w.r.t. amount debited in P&L shall be allowed.
9	D	Blocked credit includes GST paid on motor vehicle for transportation of persons with seating capacity < 13 even if used in the course and furtherance of business, GST paid on club membership fees and GST paid on goods or services or both used for personal consumption
10	A	
11	B	ITC is not available in case of goods for personal consumption and goods lost, stolen, destroyed, written off or given by way of gift/free samples. ITC available even if goods

		are not sold yet.
12	D	ITC is not blocked on passenger transport service. Hence ITC of flight ticket available.
13	D	ITC allowed on repair of its office building if expenditure booked in profit and loss account i.e. not capitalized.
14	B	ITC not available on catering services. Available on all other services
15	B	If person applied for registration within 30 days of becoming liable, he shall be entitled to take ITC of stock held on the day immediately preceding the date from which he becomes liable i.e., 31st July, 2018.
16	B	Person (transferor) is allowed to transfer ITC which remains unutilized in the E-credit ledger and it can further be utilized by transferee in setting off GST liability for the succeeding period.
17	A	In case of supply of capital goods person shall pay the ITC taken reduced by 5% per quarter/part thereof. or tax on the transaction value whichever is higher: ITC availed = Rs 9,000 on 01.08.2020. Machine Sold on 01.01.2021 Quarter 1 – 1 st Aug to 30 th Sep (Part) Quarter 2 – 1 st Oct to 31 st Dec Quarter 3 – 1 st Jan to 31 st Mar (Part) Total 3 quarters/part of quarters Hence reduced ITC = 9,000 - (9000 x 5% x 3 quarters) = Rs. 7,650 Tax on transaction value = 7,200 Higher amount i.e. 7,650/- will be tax liability
18	D	ITC eligible on expenses relating to goods transport vehicle.
19	A	
20	A	False, False, False, True

CHAPTER 8 Registration

1. Calculate the aggregate turnover of Rama Ltd.

Particulars	Amount
Intra-State taxable outward supply including GST @18%	11.8 lakhs
Inter-State exempt outward supply	5 lakhs
Turnover of exported goods under LUT	10 lakhs
Sale of shares of unlisted company	2 lakhs
Payment made for availing GTA services	1 lakh
Note: GTA not paying tax under forward charge	

- (a) 26.8 lakh
(b) 20 lakh
(c) 25 lakh
(d) 10 lakh

2. Ram, based in Gujarat, is earning Rs. 10 lakhs as salary. He is also providing consultancy services to different organizations all over India. His turnover from such services is Rs. 12 lakhs. Ram liable for GST reg?
- (a) Yes, as his turnover is more than Rs. 20 lakhs.
(b) No, as his turnover is less than Rs. 40 lakhs.

- (c) No, as services in the course of employment does not constitute supply and therefore, turnover is less than Rs. 20 lakhs.
- (d) Yes, since he is engaged in inter-state supply of services.
3. Xylo & Co. has three branches, in Jalandhar, Amritsar and Ludhiana, in Punjab. Options available for registration?
- (a) Obtain single registration for Punjab
- (b) Obtain separate registration for each of the three branches
- (c) Obtain one registration for Jalandhar branch and another registration common for Amritsar and Ludhiana
- (d) All of the above
4. Person making inter-State supplies of goods from Madhya Pradesh which is not notified handicraft hand-made goods, is required compulsorily registration,
- (a) if his turnover exceeds Rs. 40 lakhs
- (b) if his turnover exceeds Rs. 20 lakhs
- (c) if his turnover exceeds Rs. 10 lakhs
- (d) Irrespective of the amount of turnover in a financial year.
5. Mr. Z of Himachal Pradesh made following supplies
- Intra-State supply of taxable goods Rs. 17 lakh
 - Supply of exempted goods Rs. 3 lakh
 - Inter-State supply of notified handicraft goods Rs. 1 lakh
- Required to obtain registration?
- (a) No, as the limit of Rs. 40 lakhs is not crossed.
- (b) Yes, as the limit of Rs. 20 lakhs is crossed.
- (c) Yes, as he makes inter-State supply of goods.
- (d) No, as the threshold limit of Rs. 20 lakhs is not crossed.
6. Raghav is supplying taxable garments from Assam for Rs 28 lakh, and from Tripura for Rs 8 lakh. He is also supplying exempted services from Sikkim for Rs. 3 lakh. He is required registration in the state of?
- (a) Assam
- (b) Assam, Tripura and Sikkim
- (c) Assam and Tripura
- (d) No registration required
7. A casual taxable person in Delhi is not required to obtain registration if he makes
- (a) Taxable intra-state supply below 40 lakhs
- (b) Taxable inter-State supply of garments below 20 lakhs
- (c) Taxable inter-State supply of notified handicraft goods below 20 lakhs
- (d) In all of the above
8. Mr. B, a un-registered person of West Bengal is making supply of taxable goods of Rs. 30 lakhs within the State. He desires to take part in a trade fair to be held in the State of Gujarat. He does not have a fixed place of business in Gujarat. Which statement is correct with respect to taking reg. in Gujarat?
- (a) He has to obtain registration as regular tax payer
- (b) He can obtain registration as composition tax payer if its ATO was not exceeding 150 lakhs in previous FY.
- (c) He has to obtain registration as casual taxable person
- (d) He is not required to obtain registration if his ATO does not exceed Rs. 40 lakhs.

9. Mr Ram, a jeweller registered under GST in Mumbai, wants to sell his jewellery in aTrade Expo held in Delhi. Which statements is false?
- He needs to get registration in Delhi as casual taxable person.
 - He needs to pay advance tax on estimated tax liability.
 - He needs to mandatorily have a place of business in Delhi.
 - He needs to file GSTR-1/ IFF and GSTR-3B for Delhi GSTIN.
10. Compulsory registration irrespective of turnover if?
- Supplying services other than falling u/s 9(5) through E-com operator from multiple states.
 - Supplying services falling u/s 9(5) through E-com operator.
 - Supplying services in inter-state
 - Procuring services which is taxable under RCM
11. Which one is incorrect?
- Registration should be applied within 30 days from the date person becomes liable for reg.
 - NRTTP should apply for reg. at least 5 days prior to the commencement of business.
 - If reg. not applied within 30 days of liable to register, effective date of registration will be date of application.
 - CTP will pay net tax liability after adjusting expected ITC in advance.
12. In which cases compulsory registration required?
- An agent, supplying taxable goods on behalf of principal, where invoice is issued in the name of principal.
 - Persons required to deduct tax u/s 51.
 - Person supplying OIDAR services from outside India to a registered person in India.
 - Person providing job-work services, if principle wants to supply goods directly from job-worker's premise.
- (ii)
 - (iii), (iv)
 - (i), (iii)
 - (i), (ii)
13. Mr. Lal, proprietor of M/s Aabadi.com, died. His son – Mr. Pal - wants to continue the business of the deceased father. Which one is correct?
- Mr. Pal should apply for a new registration in the name M/s Aabadi.com under his own PAN w.e.f. the date of succession and file Form GST ITC 02 for transfer of ITC to the new entity.
 - Mr. Pal can get the authorized signatory changed by approaching to the Proper Officer and can continue the same business.
 - Mr. Pal should close the old firm and start new business under different name.
 - Mr. Pal should do the business with his mother as the new proprietor of the M/s Spiceton Restaurant, and Mr. Pal should act as a Manager.
14. Mr. M is a trader. He made following intra-State supplies:
- Delhi - Taxable supplies: Rs. 21,00,000
 - Punjab – Exempted supplies: Rs. 6,00,000
 - Uttar Pradesh – Taxable and exempted supplies: Rs. 3,00,000 each respectively.
 - J & K – Taxable and exempted supplies: Rs. 8,00,000 and Rs. 3,00,000 respectively.
- States in which Mr. M is required to take GST registration?
- Delhi, Punjab, Uttar Pradesh and J & K
 - Delhi, Uttar Pradesh and J & K
 - Delhi and Uttar Pradesh

(d) Delhi

15. Which is not a reason for cancellation of reg?

- (a) There is a change in the constitution of business from partnership firm to proprietorship.
- (b) The business has been discontinued.
- (c) A composition taxpayer has not furnished returns for three months from due date.
- (d) A registered person, other than composition and QRMP taxpayer, has not filed returns for 3 consecutive tax periods.

16. Officer cancelled registration of Mr. Z on 25th July and served the order for cancellation on 31st July. Application for revocation of cancellation can be filed assuming no extension granted?

- (a) Within 30 days from 31st July
- (b) Within 90 days from 25th July
- (c) Within 60 days from 25th July
- (d) Within 90 days from 31st July

Q	ANS	Logic
1	C	GST of Rs. 1.8 lakhs and inward supply under RCM is not included.
2	C	In Gujrat turnover limit for a supplier of service is Rs. 20 lakhs. Salary income is "No supply" as per Schedule 3 hence not included in turnover. Inter-state supply of service is allowed.
3	D	
4	D	Compulsory reg. if supplying inter-state TAXABLE GOODS.
5	B	Limit will be 20 lakhs as he is making inter-state supply of notified handicraft goods.
6	C	Aggregate T/O (All India turnover) limit applicable for Assam is 40 lakhs, Tripura 10 lakhs and Sikkim 20 lakhs. However, once person become liable to reg. in one state he has to take reg. in all the states from where <u>TAXABLE</u> supply being made. ATO of Raghav: Rs (28 + 8+3) lakhs = Rs 39 lakhs. Since ATO exceeds applicable limit for Tripura, Raghav is required registration in Assam and Tripura from where TAXABLE supplies being made.
7	C	Casual Taxable persons making taxable supply are required compulsory registration. However, not required if making inter-state supply of notified goods up-to 20 lakhs.
8	C	B will be a CTP in the state of Gujarat and hence required to take compulsory registration.
9	C	He can be registered as CTP without having a place of business.
10	D	
11	C	If reg. not applied within 30 days of liable to register, effective date of registration will be date of <u>GRANT</u> of Reg.
12	A	
13	A	Mr. Pal should apply for a new registration under GST in the name M/s Spiceton Restaurant under his own PAN w.e.f. the date of succession and file Form GST ITC 02 for transfer of ITC to the new entity.
14	B	Aggregate turnover includes exempted + taxable turnover of all States which comes to 41 lacs. Reg. required in all states from where he making "Taxable" supplies
15	D	Cancellation can be done if failed to file returns for 6 months.
16	D	Within 90 days from date of SERVICE of cancellation order

1. Mr. A's started business on 1st July and its turnover exceeded Rs 40 lakh on October 3 and applied for registration on October 31, registration granted on November 5.
Period for which the revised invoices can be issued and last date up-to which the same can be issued?
 - (a) Revised invoice cannot be issued in the given case.
 - (b) For supplies made between October 3 and November 5. Such RI can be issued till December 5.
 - (c) For supplies made between October 31 and November 5. Such RI can be issued till December 31.
 - (d) For supplies made between July 1 and November 5. Such RI can be issued till December 31.

2. Rate of tax and nature of supply, if the same is not determinable at the time of receipt of advance?
 - (a) 12%, Inter-State supply
 - (b) 12%, Intra-State supply
 - (c) 18%, Inter-State supply
 - (d) 18%, Intra-State supply

3. Bill of supply can't be issued in case of:
 - (a) Exempted supplies
 - (b) Supplies by composition dealer
 - (c) Supply under RCM
 - (d) None of the above.

4. Person supplies taxable goods to unregistered persons. It need not issue tax invoice, if the value of supply to such persons is below ____ and the recipient does not require such invoice.

(a) Rs. 50,000	(b) Rs. 2000
(c) Rs. 150	(d) Rs. 200

5. K Refineries supplies LPG to X Ltd. by a pipeline. The terms of contract are:
Monthly payment of Rs 2 lakh to be made on the 5th day of the month. Quarterly statement will be issued by the 7th day of the month succeeding the quarter.
Actual dates are :

August 6, September 6, October 4	Payments of Rs 2 lakh made in each month
October 6	Statement of accounts issued by supplier for the quarter July - September
October 17	Differential payment of Rs 56,000 received by supplier for the quarter July - September as per statement of accounts

Which is true?

 - (a) Invoice will be issued on August 5, September 5, October 5 and October 7.
 - (b) Invoice will be issued on August 5, September 5 and October 4 and October 6.
 - (c) Invoice will be issued on August 5, September 5, October 5, and Oct. 17
 - (d) Invoice will be issued on August 6, September 6, October 4 and October 6

6. In case of continuous supply of services, where due date of payment is ascertainable from the contract, invoice shall be issued:
 - (a) before or at the time actual date of payment
 - (b) on or before the due date of payment
 - (c) (a) or (b) whichever is later
 - (d) Earlier of (a) and (b)

7. When goods sent on sale on approval basis, invoice has to be issued:
- while sending the goods;
 - when the recipient accepts the goods or 6 months from date of removal, whichever is earlier
 - when the recipient accepts the goods or 6 month from the date of removal, whichever is later
 - When recipient accepts the goods but maximum till due date of annual return.
8. Z Ltd. sold goods to Y Ltd. for Rs. 2,00,000 and charged GST @18%. However, owing to some defect, Y Ltd. returned some of the goods by issuing debit note of Rs. 50,000. Z Ltd. records the return of goods by issuing a credit note of Rs. 50,000 plus GST. Output GST liability of Z Ltd.?
- Rs. 36,000
 - Rs. 27,000
 - Rs. 54,000
 - Rs. 18,000
9. Delivery Challan is required in case of .
- Supply of liquid gas.
 - Transportation of goods for job work.
 - Transportation of goods for reasons other than supply.
 - All of the above.
10. Choose incorrect statements, while issuing a tax invoice?
- POS in case of inter-State supply is not required to be mentioned.
 - A Person whose annual turnover is greater than 5 crores in the preceding FY is not required to mention HSN code for goods or services, supplied by it to an unregistered person.
 - Quantity is not required to be mentioned when goods are sold on "as is where is basis".
 - Description of goods is not required to be given in case of mixed supply of goods.
- (ii), (iii)
 - (i), (ii), (iii)
 - (i), (ii), (iii), (iv)
 - (i), (iii), (iv)
11. Incorrect statement?
- If the supplier has erroneously declared a value which is more than the actual value, then he can issue credit note.
 - If the supplier declared some special discount which is offered after the supply is over, then he cannot issue credit note under GST law for the discount offer.
 - If quantity received by the recipient is more than what has been declared in the tax invoice, then supplier can issue debit note for the same.
 - There is no time limit to claim the ITC of debit note in the hands of recipient.

Q	Ans	Logic
1	B	RI can be issued only when supplier applies for registration within 30 days of becoming liable for registration. RI shall be issued within 1 month of issuance of registration certificate, for the Invoice issued between effective date (i.e. application date) and date of issuance of reg certificate. In current case Reg applied within 30 days hence RI can be issued for supplies made between October 3 and November 5. Such RI to be issued within 1 month from reg. grant date i.e. till December 5.

2	C													
3	C	RCM supplier if registered is required to issue tax invoice.												
4	D	A RP may not issue a tax invoice if the value supply is less than Rs. 200												
5	A	In case of continuous supply of goods, invoice shall be issued before or at the time statement is issued or payment is received (Actual dates) Hence Invoice will be issued on/before August 6, September 6, October 4 for 2 lacs and October 6 for 56,000/-												
6	B	Note : Question asking for finding due date of invoice and not asking for time of supply. Be mindful about it.												
7	B													
8	B	<table> <thead> <tr> <th>Particulars</th><th>GST</th><th>Remark GST on</th></tr> </thead> <tbody> <tr> <td>sales - Output tax liability</td><td>36,000</td><td>Rs 2,00,000 * 18%</td></tr> <tr> <td>Sales return - issuance of credit note resulting in decrease in liability</td><td>9,000</td><td>50,000 * 18%</td></tr> <tr> <td>Net outward GST liability</td><td>27,000</td><td></td></tr> </tbody> </table>	Particulars	GST	Remark GST on	sales - Output tax liability	36,000	Rs 2,00,000 * 18%	Sales return - issuance of credit note resulting in decrease in liability	9,000	50,000 * 18%	Net outward GST liability	27,000	
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Net outward GST liability	27,000													
9	D													
10	C	(i), (ii), (iii), (iv)												
11	D	Maximum time limit to claim ITC relating to Invoice or debit note is 30th November of succeeding FY or Date of filing of annual return, whichever is earlier												

CHAPTER 10

Account and Records; E-way Bill

1. Compulsory E-way bill if?
 - (a) Intra-state transport of the handicraft goods of Rs. 40,000/- by registered supplier.
 - (b) Inter-state transport of handicraft goods of Rs. 40,000 by registered supplier.
 - (c) Inter-state transport of handicraft goods of Rs. 40,000 by person who is exempt from taking registration.
 - (d) Intra-state transport of the handicraft goods of Rs. 60,000/- by unregistered supplier to unregistered customer.

2. What is a validity period for an e-way bill for a distance of 249 km case of Over Dimensional Cargo (ODC) and other than ODC
 - (a) 13 days and 3 days respectively
 - (b) 12 days and 2 days respectively
 - (c) 13 days and 2 days respectively
 - (d) 2 days for both

3. E-way bill required in case of
 - (a) Transportation of Imitation Jewelry.
 - (b) Transportation of Alcoholic Liquor for human consumption.
 - (c) Transportation of Empty Cargo containers.
 - (d) LPG for supply to home

4. E-way bill will not be blocked?
 - (a) Composition person has not furnished GST CMP 08 for 2 consecutive quarters.
 - (b) Composition person has not furnished return in GSTR-4 for 2 months from due date.

- (c) Person, has not furnished return (3B) or statement of outward supplies (GSTR1) for 2 consecutive tax periods.
- (d) Person, whose registration suspended.
5. Consignment-value of E-way bill for calculation of 50,000?
- (a) Excludes exempt goods and includes GST and cess
- (b) Excludes exempt goods, GST and cess
- (c) Includes exempt goods and GST but excludes cess
- (d) Excludes exempt goods and GST but include cess
6. E-way bill generated on 12th Feb at 14.00 hrs. for movement thru truck for a distance of 425 km. Validity will expire?
- (a) Midnight of 14th-15th Feb
- (b) Midnight of 15th-16th Feb
- (c) At 14.00 hrs. of 14th Feb
- (d) At 14.00 hrs. of 15th Feb

Q	Ans	Logic									
1	C	Suppliers of handicraft goods from one State to another State have been exempted from registration if turnover is up-to 20 lacs/10 lacs, however they are required to have a PAN and generate E- way bill mandatorily irrespective of consignment value.									
2	C	Validity of E-way Bill: <table border="1"> <thead> <tr> <th>Particulars</th><th>Distance</th><th>Validity</th></tr> </thead> <tbody> <tr> <td>ODC or multimodal shipment in which at least one leg involves transport by ship</td><td>Each 20 kms or part</td><td>1 day</td></tr> <tr> <td>Other than above</td><td>Each 200 km kms or part</td><td>1 day</td></tr> </tbody> </table>	Particulars	Distance	Validity	ODC or multimodal shipment in which at least one leg involves transport by ship	Each 20 kms or part	1 day	Other than above	Each 200 km kms or part	1 day
Particulars	Distance	Validity									
ODC or multimodal shipment in which at least one leg involves transport by ship	Each 20 kms or part	1 day									
Other than above	Each 200 km kms or part	1 day									
3	A	No exemption for imitation Jewelry									
4	B										
5	A										
6	b	EWB valid for 1 day for each 200 km or part there-of. Hence in this case valid for 3 days. Hence $12 + 3 = 15$. Now EWB expire at mid-night of 15 th i.e. night between 15 th and 16 th . Time of generation is not relevant.									

CHAPTER 11

Payment of Tax (Includes TDS)

1. Balance in electronic credit ledger under CGST can be used against?
- (a) CGST Liability only
- (b) CGST and IGST liability
- (c) CGST, IGST and SGST liability
- (d) CGST and IGST liability & transfer to another State
2. Which ITC cannot be claimed against which output tax liability?
- (a) IGST, SGST
- (b) CGST, IGST
- (c) SGST, IGST
- (d) CGST, SGST

3. Which of the following shall be discharged first, while discharging liability?
 - (a) All taxes/dues related to return of current tax period
 - (b) Demand raised under section 73 and 74
 - (c) All taxes/dues related to return of previous tax period
 - (d) Any sequence may be followed

4. Which is in-correct w.r.t E-cash ledger?
 - (a) Amount in any major/minor head is transferable to any other major/minor head within same GSTIN.
 - (b) Amount in any major head (CGST/SGST/IGST) can be transferred to distinct person under same PAN.
 - (c) Form GST PMT 09 is used on the common portal for transferring the amount.
 - (d) Refund can be taken of any balance in cash ledger.

5. Maximum limit for making payment over the counter?
 - (a) 100,000 per challan per tax period
 - (b) 10,000 per annum
 - (c) 10,000 per challan per tax period
 - (d) 15,000 per month

6. Balance in electronic credit ledger can be utilized against payment of.
 - (a) output tax
 - (b) interest
 - (c) penalty
 - (d) RCM liability

7. What will be GST liability in cash when?
 - (i) Inter-state sale for Rs. 1,25,000
 - (ii) Inter-state purchases for Rs. 40,000
 - (iii) Intra-state purchases for Rs. 65,000
 The applicable rate of GST is 18%.
 - (a) CGST Rs. 1,800 & SGST Rs. 1,800
 - (b) SGST Rs. 3,600
 - (c) IGST Rs. 3,600
 - (d) CGST Rs. 3,600

8. Tax of Rs. 1000/- collected from customer on 15th July has paid in the monthly return of Nov 2024 filed on 19th Dec. ITC utilized 600/-, cash payment – 400/- Interest period and value? (Payment made suo-moto)
 - (a) 21th Aug to 19th Dec on 400/-
 - (b) 15th July to 19th Dec on 1000/-
 - (c) 21th Aug to 19th Dec on 1000/-
 - (d) 20th Aug to 20th Dec on 400/-

9. Jain Associates, registered in Rajasthan, taken consultancy services for its business from another establish of its firm located in UK. However, no consideration was charged for the same. Jain Associates would have paid 4.00 lakh, had it not received the said services from its UK establishment.
 GST rate applicable on said service is C-14%, S-14% and I-28%. GST liability of Jain Associates?
 - (a) IGST - Rs. 72,000
 - (b) CGST - Rs. 36,000 & SGST - Rs. 36,000, since POS is in India
 - (c) Nil, since no foreign exchange was paid.

(d) Nil, since such services are exempt.

10. In which case, TDS is required to be deducted? The amounts given are inclusive of GST @ 18%, wherever applicable.

- (i) Health Department executed a contract with a local supplier, registered under GST, to supply "medical grade oxygen" of Rs. 2.6 lakh and is making full payment.
 - (ii) Government school is making a payment of Rs.3.5 lakh to a registered supplier for supply of cooked food as mid-day meal.
 - (iii) Municipal Corporation of Kolkata purchases a heavy generator of 5 lakhs from a registered supplier in Delhi.
 - (iv) Finance Department in Delhi is making a payment of 3 lakh to a registered supplier of 'printing & stationery' in Delhi.
- (a) (i), (ii) and (iii)
(b) (ii), (iii) and (iv)
(c) Only (i) and (ii)
(d) Only (iii) and (iv)

Q	ANS	Logic
1	B	Note : ITC balance cant be transferred to distinct person.
2	D	CGST ITC can-not be used against SGST liab and vice versa.
3	C	Self-assessed tax and dues related to RETURNS of previous tax period shall be discharged first followed by dues related to returns of current tax period and lastly any other amount payable under this act/rules including demand.
4	B	SGST balance of one state can-not be transferred to other state
5	C	
6	A	Other payments cant be made from credit ledger
7	C	As CGST/SGST ITC can be used against payment of IGST. IGST liability on value addition $(1,25,000 - 40,000 - 65,000) * 18\% = 3600/-$
8	C	Interest applies from the day succeeding the due date of payment which is 20 th Aug. Interest on gross tax liability will apply when liability paid in subsequent return.
9	A	IGST - Rs. 72,000
10	D	TDS applies when TAXABLE value contract > 2.5 lacs excluding GST. Food/catering services to school is exempt.

CHAPTER 13 RETURNS

1. Who is required to furnish GSTR-1 and 3B?

- (a) Composition taxpayer
- (b) Non-resident taxable person
- (c) Casual taxable person
- (d) ISD

2. Late fee payable under the CGST Act for delay in furnishing returns under section 39 (GSTR 3B) where ATO greater than 5 crores in proceeding FY is Rs.

- (a) Rs. 50/- day, Max. 1000 (b) Rs. 25/- day, Max. 2500
(c) Rs. 25/- day, Max. 5000 (d) Rs. 100/- day, Max. 10,000

3. Who is required to file the annual return?
- (a) Input Service Distributor (b) Casual Taxable Person
(c) Non-resident Taxpayer (d) Composition taxable person
4. The due date of filing the final return is.
- (a) 20th of the next month
(b) Within 3 months from date of application for cancellation or date of order of cancellation, whichever is earlier.
(c) Within 3 months of the date of cancellation or date of order of cancellation, whichever is later
(d) 31st December of next financial year
5. What is not the functions of a GSTP?
- (a) Generation of e- way bill;
(b) Generate E-invoice
(c) file an application for amendment or cancellation of registration
(d) Opt or withdraw composition scheme

Q	Ans	Logic
1	C	Every registered person other than an ISD, NRTP, Composition and TDS/TCS collector are required to file GSTR1/3B.
2	C	If ATO is PFY is > 5 Crores then penalty Rs. 25/- day, max 5000/- in CGST and equal penalty in SGST.
3	D	Person other than an ISD, NRTP, TDS/TCS, a casual taxable person.
4	C	As per section 45, The due date for filing final return is within three months of the date of cancellation or date of order of cancellation, whichever is later.
5	B	Functions of GSTP includes: furnish information for generation of e-way bill, file an application for amendment or cancellation of enrolment under rule 58, file an intimation to pay tax under the composition scheme or withdraw from the said scheme

CHAPTER 14

Import and export

1. F Ltd., India, has received an order for supply of services for \$ 5,00,000 from a US client. F Ltd. asks Neik Inc., Mexico to supply 40% of the total contract value. F Ltd. raised the invoice for entire value of \$ 5,00,000, but the US client paid \$ 3,00,000 to F Ltd. and \$ 2,00,000 directly to Neik Inc., Mexico which is approved by a special order of RBI. F Ltd. also paid IGST@ 18% on the services imported from Neik Inc. Mexico. Value of export of services?

- (a) \$ 3,00,000
(b) \$ 5,00,000
(c) \$ 3,90,000
(d) \$ 5,90,000

Q	ANS	Logic
1	B	As per circular, it will be deemed that full consideration received in India.

CHAPTER 15

Refund

1. Mr. C's annual turnover and input tax details are as follows:

	Turnover	Tax paid on inputs
Taxable goods	90,00,000	9,00,000
Exempt goods	10,00,000	1,00,000
Exported goods	10,00,000	2,00,000

No GST is payable on exempt and exported goods. Amount of eligible ITC?

- (a) Rs. 12,00,000
- (b) Rs. 11,00,000
- (c) Rs. 10,00,000
- (d) Rs. 9,00,000

1. Calculate amount of refund of ITC which he is eligible to claim in above case:

- (a) Rs. 2,00,000
- (b) Rs. 1,10,000
- (c) Rs. 1,00,000
- (d) Rs. 1,09,090

Q	ANS	Logic
1	B	ITC relating to taxable and export supply is eligible to avail. ITC on exempt supply not available
2	B	Logic : $(10,00,000/1,00,00,000) * \text{ITC } (11,00,000) = 1,10,000$

CHAPTER 16

Job work

1. Lex Ltd. is purchasing plastic bottles and sending the same for affixing stickers to Job worker Hammer Ltd. These raw materials are sent directly from the place of business of supplier to the premises of job worker. Lex Ltd. booked ITC on purchase of such items. The following transactions took place in this regard:

Value of goods sent to job worker	Input tax paid on such goods	Date of purchase of goods by Lex Ltd.	Date of receipt of goods by Hammer Ltd.	Date of goods received back from Hammer Ltd.
Rs. 50,000	Rs. 6,000	10.07.2021	15.07.2021	12.07.2022
Rs. 2,00,000	Rs. 24,000	25.09.2021	27.09.2021	13.10.2022
Rs. 8,00,000	Rs. 96,000	22.12.2021	25.12.2021	16.08.2023
Rs. 10,00,000	Rs. 1,20,000	21.01.2022	25.01.2022	23.01.2023
Rs. 3,50,000	Rs. 42,000	24.02.2022	26.02.2022	28.02.2023

Determine the total amount to be added to the output tax liability of Lex Ltd. in case of violation of provisions of section 143 assuming that there was no extension granted.

- (a) Rs. 2,88,000 + Interest @ 18%

- (b) Rs. 2,88,000 + Interest @ 24%
- (c) Rs. 1,62,000 + Interest @ 24%
- (d) Rs. 1,62,000 + Interest @ 18%

Q	ANS	Logic
1	D	1 year period to be counted from date of receipt by job-worker in case goods were directly sent from vendor

CHAPTER 17

Assessment and Audit

- In respect of a consignment supplied on 20th August, provisional assessment was resorted to by a person who files return on monthly basis. The assessment was finalized on 20th November and the taxpayer became liable to pay differential IGST of 10,000 and paid this amount on 20th December. The number of days for which interest is applicable?
 - 122 days
 - 91 days
 - 61 days
 - 30 days
- Mr R is engaged in retail business in West Bengal. It has effected supplies to the customers of Uttar Pradesh and Haryana. Its total turnover during the current FY is 18,00,000. Mr. R has decided to shut down the business in the next FY. The proper officer has collected evidence of the inter-State sales of mobile phone effected by Mr. R during the current FY. Which assessment can be done in this case by officer?
 - Self-assessment
 - Provisional Assessment
 - Assessment of unregistered persons
 - Special assessment

Q	ANSWER	REASON
1	B	Logic : From due date of payment i.e. 21 st Sep to 20 th Dec (91 days)
2	C	Assessment of unregistered persons

CHAPTER 18

Inspection, Search, Seizure and Arrest

- For which acts, inspection can be ordered under GST?
 - Suppression of any transaction of supply of goods or services
 - Suppression of stock of goods in hand
 - Contravention of any of the provisions of the GST law to evade tax
 - (i), (ii)
 - (i), (iii)
 - (ii), (iii)
 - (i), (ii), (iii)

Q	ANSWER	REASON
1	D	(i), (ii), (iii)

CHAPTER 19

Demand and Recovery

1. Time-limit for issuance of show cause notice in case of non-payment of tax for reasons other than fraud, willful misstatement or suppression of facts, etc. is:

- (a) 2 years and 9 months from the due date of filing Annual Return for the FY to which the tax not paid relates to.
- (b) 3 years from the due date of filing Annual Return for the FY to which the tax not paid relates to.
- (c) 4 years and 6 months from the due date of filing Annual Return for the FY to which the tax not paid relates to.
- (d) 2 years and 9 months from the actual date of filing Annual Return for the FY to which the tax not paid relates to.

2. Time-limit for issuance of show cause notice in case of any amount collected as tax, but not paid to the Government is:

- (a) 2 years and 9 months from the due date of Annual Return for the FY to which the tax not paid relates to.
- (b) 3 years from the due date of Annual Return for the FY to which the tax not paid relates to.
- (c) 4 years and 6 months from the due date of Annual Return for the FY to which the tax not paid relates to.
- (d) No time-limit is prescribed.

Q	ANS	Logic
1	A	
2	D	No time-limit for SCN is applicable where tax collected has not been paid

CHAPTER 20

Liability to pay in certain cases

1. Mr. M has supplied goods to Mr. Y, under his own invoice, on behalf of his principal, Mr. K. Which is correct?

- (a) Mr. M shall be jointly and severally liable.
- (b) Mr. K shall be jointly and severally liable.
- (c) Both (a) and (b)
- (d) Only Mr. M will be liable

Q	ANSWER	REASON
1	C	Both (a) and (b)

CHAPTER 21

Offenses & Penalties and Ethical Aspects under GST

1. In which cases, compounding of offence is not allowed u/s 138?
 - (i) A person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f) of section 132(1).
 - (ii) A person who has been convicted for an offence under GST law by a Court.
 - (iii) A person who has committed offence of invoice without supply 1st time.
 - (a) (i), (ii)
 - (b) (i), (iii)
 - (c) (ii), (iii)
 - (d) (i), (ii), (iii)
2. Sukanya, registered under GST, failed to pay the GST amounting to Rs. 5,000. Officer imposed a penalty on Sukanya for failure to pay tax. Sukanya believes that it is a minor breach u/s 126 and no penalty is imposable for minor breaches. Which is true?
 - (a) Penalty is leviable as breach is considered as a 'minor breach' only if tax involved is less than Rs. 5,000.
 - (b) Penalty is leviable as breach is considered as a 'minor breach' if tax involved is less than Rs. 2,500.
 - (c) Penalty is not leviable ase breach is considered as a 'minor breach' if tax involved is upto Rs. 5,000.
 - (d) Penalty is leviable as breach is considered as a 'minor breach' only if tax involved is nil.

Q	ANSWER	REASON
1	D	(i), (ii), (iii)
2	A	Penalty is leviable on Sukanya since the breach is considered as a 'minor breach' only if amount of tax involved is less than Rs. 5,000

CHAPTER 22

Appeals & Revisions

1. State true or false:
 - i. Any person aggrieved by decision of GST officer, may appeal to Appellate Authority within 3 months from the date of communication of order.
 - ii. No appeal shall be filed to Appellate Authority unless the appellant has paid 20% of the remaining amount of tax in dispute.
 - iii. Adjournment of appeal shall not be granted more than 3 times.
 - iv. The Appellate Authority shall have the power to refer back the case to adjudicating authority.
 - (a) True, True, True, False
 - (b) False, True, True, False
 - (c) True, False, True, False
 - (d) False, False, False, True
2. Mr. S, a proprietor, has to appear before the Appellate Authority. Which persons can be appointed as 'authorized representative' of Mr. S?
 - (i) Sohan, his son, who has been dismissed from a Government service lately
 - (ii) Rohan, a Company Secretary, who has been adjudged as an insolvent

Q	ANSWER	REASON
1	B	i., ii. and iii

(iii) Mukul, a practicing High Court advocate

- (a) (i) and (ii)
- (b) (ii) and (iii)
- (c) (iii)
- (d) (ii)

3. An appeal to the High Court can be filed?

- (i) By a person aggrieved against the order passed by Stat bench of the Appellate Tribunal
- (ii) By a person aggrieved against the order passed by Principal bench of the Appellate Tribunal
- (iii) For a matter involving substantial question of law

- (a) (i) and (ii)
- (b) (i) and (iii)
- (c) (ii) and (iii)
- (d) (i), (ii) and (iii)

Q	ANSWER	REASON
1	C	True, False, True, False
2	C	(iii)
3	B	(i) and (iii)

CHAPTER 24

Miscellaneous Provisions

1. Where the National Anti-Profiteering Authority determines that a registered person has not passed on the benefit of ITC to the recipient, the Authority may order:

- i. reduction in prices
- ii. imposition of prescribed penalty
- iii. cancellation of registration

- (a) i. and ii.
- (b) i., ii. and iii.
- (c) i. and iii.
- (d) i.

CUSTOM CHAPTER -1

Levy and Exemption from custom duty

1. In which cases, can an importer claim **abatement** of duty under section 22 of the Customs Act?

- (i) Goods pilfered during unloading
- (ii) Goods damaged by accident (due to negligence of the importer) after unloading but before examination for assessment by customs authorities.
- (iii) Goods destroyed by accident while being removed from the warehouse after clearance for home consumption
- (iv) Goods damaged by accident (not due to negligence of the importer) after unloading but before examination for assessment by customs authorities

- (a) Only (iv)
- (b) Only (iii)

- (c) Both (i) and (iii)
 (d) (i), (ii), (iii) and (iv)

2. Which statement are incorrect?

- (i) Special exemption under section 25 of the Customs Act is granted by issuing a notification
 (ii) General exemption under section 25 of the Customs Act is granted by issuing an order
 (iii) Special exemption is required to be published in official gazette
 (iv) General exemption is not required to be published in official gazette.
- (a) (i) and (iii)
 (b) (i), (ii), (iii) and (iv)
 (c) (i) and (ii)
 (d) (ii) and (iv)

3. ABC Ltd. exported certain goods last year. The buyer has sent back those goods since the same were under warranty and required repairs. Which conditions are to be satisfied by ABC Ltd. to avail exemption on such re-import?

- (i) ABC Ltd., at the time of importation, executes a bond.
 (ii) Goods must be re-exported within 6 months or 1 year (if time is extended) of the date of re-importation.
 (iii) In case goods are not repaired, new goods are to be sent by ABC Ltd. within 6 months.
- (a) (i) and (iii)
 (b) (i), (ii) and (iii)
 (c) (ii) and (iii)
 (d) (i) and (ii)

Q	ANSWER	REASON
3	A	Only (iv)
4	B	(i), (ii), (iii) and (iv)
5	D	(i) and (ii)

CHAPTER -2 : Type of Duty

1. XYZ Ltd. sent certain goods abroad for repairs. XYZ Ltd. has been advised by their consultants that they will have to pay customs duty only on fair cost of repairs, cost of materials used in repairs, freight and insurance charges, both ways, on re-import of exported goods provided they fulfill following conditions:
- (i) The re-importation is done within 3 years from date of export or, if time is extended, within 5 years.
 (ii) The exported and re-imported goods are same.
 (iii) The ownership of goods should not have changed.
- Which one of the above-mentioned conditions is/are correct?
- (a) (i), (ii) and (iii)
 (b) (ii) and (iii)
 (c) (i) and (iii)
 (d) Only (ii)

2. Which of the following duties are excluded while computing social welfare surcharge (SWS)?
- Safeguard duty
 - Countervailing duty
 - IGST
 - Anti-dumping duty to protect domestic industry
- (i), (ii), (iii) and (iv)
 - (i), (ii) and (iv)
 - (i), (iii) and (iv)
 - (i), (ii) and (iii)
3. Countervailing duty under section 9 of the Customs Tariff shall not be levied unless it is determined that:
- subsidy relates to export performance.
 - subsidy relates to use of domestic goods over imported goods in export article.
 - subsidy is conferred on all persons engaged in the manufacture of articles whether to be exported or to be consumed domestically
- Choose the most appropriate option.
- (i), (ii) and (iii)
 - Only (iii)
 - (ii) and (iii)
 - (i) and (ii)
4. Anti-dumping duty is calculated as follows:
- Higher of margin of dumping or injury margin
 - Lower of margin of dumping or injury margin
 - Higher of export price or normal value
 - Lower of export price or normal value
5. Which of the following statements is false?
- Anti-dumping duty is imposed when any article is exported from any country to India at more than its normal value.
 - Absorption of countervailing duty is said to have taken place if there is a decrease in the export price of an article without any commensurate change in the resale price in India of such article imported from the exporting country or territory.
 - Safeguard duty shall not be imposed on articles originating from developing country if the share of imports of that article from that country $\leq 3\%$ of the total imports of that article into India.
 - Government may exempt notified quantity of any article, when imported from any country into India, from whole/part of the safeguard duty.

Q	ANWER	REASON
1	A	(i), (ii) and (iii)
2	A	(i), (ii), (iii) and (iv)
3	D	(i) and (ii)
4	B	Lower of margin of dumping or injury margin
5	A	Anti-dumping duty is imposed when any article is exported from any country to India at more than its normal value.

CHAPTER -3 : Classification

1. Which is valid?
- (i) Imposition of countervailing duty and anti-dumping duty on an article to compensate for the same situation of dumping.
 - (ii) Imposition of countervailing duty on an article for the reason that same is exempt from duty borne by a like article when meant for consumption in country of origin.
 - (iii) Imposition of anti-dumping duty on articles imported from a member country of WTO on determination that import of such article materially retards the establishment of any industry in India.

Choose the most appropriate option.

- (a) (i), (ii) and (iii)
 - (b) (i) and (ii)
 - (c) (i) and (iii)
 - (d) Only (iii)
2. Under the customs law, electric shaving machine is classifiable under-following:
8510: Shavers and hair clippers with self-contained electric motors
8509: Electro-mechanical domestic appliances with self-contained electric motor
As per rules of classification, electric shaving machine should be classifiable under:
- (a) 8510
 - (b) 8509
 - (c) More information is needed
 - (d) Can be classified under both

3. Which statements are correct?

- (i) A durable wooden case specially shaped to contain a musical instrument and presented with the same, shall follow the classification of such musical instrument.
- (ii) Packing materials presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods provided such packing materials are clearly suitable for repetitive use.
- (iii). The heading which provides the most specific description shall be preferred to headings providing a more general description.

- (a) (i) and (iii)
- (b) (ii) and (iii)
- (c) (i) and (ii)
- (d) (i), (ii) and (iii)

Q	ANSWER	REASON
1	D	Only (iii)
2	A	8510
3	A	(i) and (iii)

CHAPTER - 4 Valuation under custom

1. The transaction value of imported goods is not accepted for valuation purposes when:
 - (i) use of the imported goods by the buyer is subject to the restrictions imposed by the seller which substantially affect the value of goods.
 - (ii) buyer and seller are not related.
 - (iii) price is not the sole consideration for sale.
 - (a) (i) and (iii)
 - (b) Only (i)
 - (c) Only (iii)
 - (d) (i), (ii) and (iii)
2. Relevant date for determining the rate of exchange in case of imported goods is:
 - (a) date when the vessel leaves the exporter's port for India.
 - (b) date of presentation of bill of entry.
 - (c) Date of entry inward.
 - (d) Date of entry inward or bill of entry whichever later.
3. Which statements is/are not correct?
 - (i) Identical goods are same in all respects, including physical characteristics, quality and reputation as the goods being valued except for minor differences in appearance that do not affect the value of goods.
 - (ii) Identical goods can be produced in any country.
 - (iii) Identical goods are produced by same person who produced the goods being valued, or where no such goods are available, goods produced by a different person.
 - (a) (i), (ii) and (iii)
 - (b) (i) and (iii)
 - (c) Only (ii)
 - (d) Only (iii)
4. Which transaction is between related persons as per Custom law?
 - (i) Foreign company - A Ltd. having a joint venture with Indian company - B Ltd. in the name of AB Ltd., an Indian company. A Ltd. holds 51% shareholding in AB Ltd. The transactions between A Ltd. and AB Ltd.
 - (i) Foreign company - A Ltd. having a joint venture with Indian company - B Ltd. in the name of AB Ltd. The transactions between A Ltd. and B Ltd.
 - (ii) A Inc., a company in USA, holding 4% of share capital of importer company - B Ltd., an Indian company. The transactions between A Inc. and B Ltd.
 - (a) (i), (ii) and (iii)
 - (b) (i) and (iii)
 - (c) (i) and (ii)
 - (d) (ii) and (iii)
5. If cost of insurance is not ascertainable while import, what to be added to calculated Assessable value?
 - (i) 20% of free on board (FOB) value of imported goods
 - (ii) 1.125% of FOB value of imported goods
 - (iii) Where FOB value is not ascertainable, but sum of FOB value and cost of transport, loading, unloading and handling charges up to place of importation is ascertainable; then 1.125% of such sum

- (iv) Where FOB value is not ascertainable, but sum of FOB value and cost of transport, loading, unloading and handling charges up to place of importation is ascertainable; then 20% of such sum.
- (a) (i) or (iii)
 (b) (i) or (iv)
 (c) (ii) or (iii)
 (d) (ii) or (iv)
6. Certain goods were imported by air. The free on board value of goods is Rs. 100. The cost of transport, loading, unloading and handling charges up to place of importation is Rs. 25. The cost of insurance is Rs. 10. For the purposes of rule 10(2) of the Customs Valuation Rules, 2007, which of the following shall be added to the value of imported goods?
- (a) Cost of transport, loading, unloading and handling charges – Rs. 25; & Cost of insurance - Rs. 10
 (b) Cost of transport, loading, unloading and handling charges – Rs. 25; & Cost of insurance - Rs. 1.125
 (c) Cost of transport, loading, unloading and handling charges – Rs. 20; & Cost of insurance - Rs. 1.125
 (d) Cost of transport, loading, unloading and handling charges – Rs. 20; & Cost of insurance - Rs. 10
7. Which statements is not correct in the context of valuation of imported goods?
- (a) Buying commission is not includible in the value of imported goods.
 (b) Rate of exchange notified by CBIC on date of presentation of bill of entry is to be considered
 (c) For imports by air, the cost of transport, loading, unloading and handling charges up to place of importation cannot exceed 20% of free on board value of goods.
 (d) Social welfare surcharge is leviable on basic customs duty, IGST and GST compensation cess.

Q	ANS	REASON
1	A	(i) and (iii)
2	B	date of presentation of bill of entry
3	C	Only (ii)
4	C	(i) and (ii)
5	C	(ii) or (iii)
6	D	Cost of transport, loading, unloading and handling charges – Rs. 20; and Cost of insurance - Rs. 10
7	D	SWS is leviable on basic customs duty, integrated tax and GST compensation cess

CHAPTER -7

Refund under custom

1. In which cases, the refund is credited to the consumer welfare fund?
- (a) If the importer proves that there is no unjust enrichment.
 (b) Where goods are imported for non-personal use of an individual and he could not prove that there is no unjust enrichment.
 (c) If the amount of refund relates to drawback of duty u/s 74 and 75 of the Customs Act.
 (d) If the amount relates to the duty paid in excess (as evident from the bill of entry in case of self-assessed bill of entry) by the importer before an order permitting clearance of goods for home consumption is made.

Q	ANSWER	REASON
1	B	Where goods are imported for non-personal use of an individual and he could not prove that there is no unjust enrichment.

CHAPTER -8

Foreign Trade Policy (FTP)

1. Which of the following privileges are granted to the Status Holders as per FTP?
- (i) Authorisation and custom clearances for both imports and exports may be granted on self-declaration basis.
 - (ii) Two Star Export Houses and above are permitted to establish export warehouses.
 - (iii) Input-Output norms may be fixed on priority within 7 days by the Norms Committee.
 - (iv) Exemption from furnishing of bank guarantee in Schemes under FTP.
- (a) (i), (ii) and (iv)
 (b) (i), (ii) and (iii)
 (c) (i), (ii), (iii) and (iv)
 (d) (i) and (ii)

Q	ANSWER	REASON
1	A	(i), (ii) and (iv)