

*Hello Everyone!*

*This compilation is of the Questions and Answers as originally asked and answered in the respective exams.*

*Amendments and relevant discussions are covered in the Lecture, not incorporated in the answers directly! It's highly recommended to watch the Lecture and use this Compilation alongside, and not in isolation!*

*Lecture avail on our channel: **CA Siddhesh Valimbe***

# PYQ Compilation

May 24

## Question 1 :

XYZ Ltd., a registered supplier under GST in the State of Tamil Nadu, is engaged in providing various kinds of supplies of goods and services. It provides the following information for month of October, 2023:

S. No.	Particulars	Amount (Rs.)
	<b>OUTWARD SUPPLY:</b>	
(i)	Supplies a consignment of goods in the territorial water to M/s Vikram Industries, registered in Kerala. The said territorial waters is located at a distance of 12 nautical miles from the baseline of State of Kerala and 11 nautical miles from the baseline of State of Tamil Nadu.	5,00,000
(ii)	Provided pure labour services of construction of a single commercial unit located in Delhi not forming part of any residential complex to a customer in Delhi.	12,00,000
(iii)	Supplied 25 televisions over the counter to Mr. Vijay, an unregistered buyer, who took it to his residence in Haryana.	14,00,000
	<b>INWARD SUPPLY:</b>	
(i)	Received a debit note in respect of inward intra-State taxable supplies received in the financial year 2020-21 for the quantity difference as agreed. These inward supplies were used for all goods manufactured in factory. Date of debit note is 17th October, 2023.	3,00,000
(ii)	Purchased silk yarn (to be used as raw material) from Mr. Ravi, who manufactures silk yarn from raw silk. Mr. Ravi is registered in the State of Rajasthan.	8,00,000
(iii)	Availed services of an arbitral tribunal in Chennai, Tamil Nadu to settle a case relating to the Companies Act.	6,00,000
(iv)	Purchased raw material form ABK Ltd., registered in the State of Andhra Pradesh.	15,00,000
(v)	Purchased a new truck from a dealer in Cochin, Kerala for transport of materials.	14,00,000

### Notes:

The company provided the following additional information related to above said transactions or otherwise:

(i) The company claimed depreciation under the Income-tax Act, 1961 on the value of new truck purchased including all applicable taxes.

(ii) The company provided a corporate guarantee of Rs. 2.5 crore to BYH Ltd., its related company, having registered office in the State of Maharashtra, for loan availed by the later form Mangal Bank Ltd., Maharashtra. No consideration has been charged against this corporate guarantee.

(iii) In the month of March, 2023, company had availed services in an inter-State transaction with a taxable value of Rs. 9,00,000 and a tax rate of 18%. This transaction was liable to tax under reverse charge. Payment for the same to the supplier was not made till the current month (overdue for 181 days during October, 2023). However, tax due under the said transaction was paid to Government and input tax credit availed in the month of transaction itself.

(iv) The accountant of the company did not claim input tax credit in respect of debit note received for the reason that the original purchase was related to earlier years for which ITC claim eligibility has become time barred.

(v) Invoice issued to Mr. Vijay for televisions mentions only his name and State. However, his complete address of Haryana is missing in the invoice. (vi) ABK Ltd. is mandatorily required to issue e-invoice.

However, it did not issue e-invoice with Invoice Reference Number (IRN) although the invoice was reflected in GSTR-2B.

(vii) Turnover of XYZ Ltd. for the previous financial year was Rs. 190 lakh.

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

(ix) All the amounts given above are exclusive of the GST, wherever applicable. There is no opening balance of any input tax credit and all the conditions necessary for availing the input tax credit have been fulfilled except if mentioned otherwise and also that details of GST paid on inward supplies are available in GSTR 2B.

(x) Assume that all the inward supplies have been used only for taxable outward supply.

(xi) Company is not covered under any of the exception of rule 86B of the CGST Rules, 2017 regarding restriction on use of available input tax credit.

Compute minimum net GST liability of M/s XYZ Ltd, to be paid in cash if any, after utilizing input tax credit if any, for the month of October, 2023.

**Note:** Working notes along with legal reasoning of each item should form part of your answer. **(14 Marks)**

**Solution :**

**Computation of minimum net GST liability of XYZ Ltd. to be paid in cash for the month of October 2023**

S. No.	Particulars	Amount (Rs.)	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
<b>Output tax payable under forward charge</b>					
(i)	Supply of consignment in territorial waters [Where supply is in territorial waters, place of supply is deemed to be in coastal State where nearest point of the appropriate baseline is located. Therefore, place of supply will be in Tamil Nadu and hence, supply will be intra-State supply]	5,00,000	45,000 [5,00,000 x 9%]	45,000 [5,00,000 0 x 9%]	
(ii)	Pure labour services [Since pure labour services provided for construction of only residential unit are exempt, such services provided for construction of commercial unit are taxable. Further, it is an inter-State supply since place of supply is location of immovable property, viz. Delhi.]	12,00,000			2,16,000 [12,00,000 0 x 18%]
(iii)	Supply of 25 Televisions* [Inter-State supply since place of supply is 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.]	14,00,000			2,52,000 [14,00,000 0 x 18%]
(iv)	Corporate guarantee provided. [Deemed supply under Schedule-I of the CGST Act, 2017 even though made without any consideration. Inter- State supply since place of supply is Maharashtra (location of recipient). Further, value of supply is higher of:	2,50,000			45,000 [2,50,000 x 18%]

	(i) 1% of the amount of such guarantee offered, or (ii) actual consideration [Thus, value of supply is 1% of Rs. 2.5 crores, i.e. Rs. 2,50,000]				
	<b>Total output tax</b>		<b>45,000</b>	<b>45,000</b>	<b>5,13,000</b>
	Less: ITC available for set off [Refer note below.] [IGST credit is utilized for payment of IGST. CGST and SGST credit is first utilized for payment of CGST and SGST liability respectively and thereafter, for payment of IGST liability.]		(45,000) -CGST	(45,000) -SGST	(1,44,000) -IGST (36,000) -CGST (36,000) -SGST
	Net output tax payable in cash		Nil	Nil	2,97,000
	<b>GST payable under reverse charge</b>				
	Tax on services provided by the arbitral tribunal is payable under reverse charge by the recipient of service. [Arbitral tribunal services to XYZ Ltd., a business entity with aggregate turnover exceeding the applicable threshold limit for registration [viz. Rs.20 lakh] in the previous financial year are liable to tax under reverse charge mechanism.]		54,000	54,000	
	Tax on silk yarn supplied by a person who manufactures it from raw silk to a registered person is payable under reverse charge.				1,44,000
	<b>Minimum net GST payable for set off</b>		<b>54,000</b>	<b>54,000</b>	<b>4,41,000</b>

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

S. No.	Particulars	Amount (Rs.)	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
(i)	Debit note received. [ITC on debit notes issued in a financial year (FY) can be availed, any time till 30th November of the succeeding FY or the date of filing of the relevant annual return, whichever is earlier, based on date of issue of debit note, irrespective of the date of original invoice/ supply.]	3,00,000	27,000 [3,00,000 × 9%]	27,000 [3,00,000 × 9%]	
(ii)	Silk yarn purchased. [Inter-State supply since place of supply is location where movement of goods terminates, viz. Tamil Nadu. Further, ITC on goods to be used in course or furtherance of business is available.]	8,00,000			1,44,000 [8,00,000 × 18%]
(iii)	Services of the Arbitral Tribunal availed. Such services are intra-State supply since place of supply is Tamil Nadu (location of recipient). Further,	6,00,000	54,000 [6,00,000 × 9%]	54,000 [6,00,000 × 9%]	

	ITC on services used in course or furtherance of business is available.]				
(iv)	Raw Material purchased from ABK Ltd. [ITC cannot be claimed on the e- invoices without IRN since an e-invoice without IRN is not treated as valid document for claiming ITC.]	15,00,000			
(v)	Truck purchased. [ITC is not available since depreciation has been claimed on the GST component.]	14,00,000			
(vi)	Condition of payment of value of supply plus tax within 180 days does not apply to supplies on which tax is payable under reverse charge mechanism.				
	<b>Total ITC available</b>		<b>81,000</b>	<b>81,000</b>	<b>1,44,000</b>

\*It has been most logically assumed that the value of supply of Rs. 14,00,000 is for 25 televisions supplied.

### Question 2(a) :

A banking company M/s. YVPAY Bank Ltd. is registered under GST laws and provided the following services during the month of October, 2023.

S. No.	Particulars	Amount (Rs.)
(i)	Discount earned on bills discounted	6,00,000
(ii)	Interest earned on reverse repo transaction	2,00,000
(iii)	Penal interest recovered from the borrower for the delay in payment of loan EMI/Dues	5,00,000
(iv)	Services to merchants accepting credit /debit card payments using Point of Sale (POS) machine of bank. (In 50% cases, the amount per transaction was up to Rs. 1,500 while in the other cases, the amount was between Rs. 1,500 to Rs. 2,000)	6,50,000
(v)	Commission received for debt collection service	12,00,000
(vi)	Interest charges for last payment of credit card dues	4,00,000

M/s. YVPAY Bank Ltd. had opted for optional method, under section 17(4) of the CGST Act, 2017, for claiming input tax credit in respect of its operations.

For the month of October, 2023, the relevant details for input tax credit are as follows:

- (i) Amount of GST paid on eligible input services - Rs. 8,00,000
- (ii) Amount of GST paid on eligible capital goods - Rs. 6,00,000
- (iii) Amount of GST paid on items whose credit is blocked under section 17(5) of the CGST Act, 2017 -Rs. 3,00,000
- (iv) Applicable rate of GST is 18% on services provided.

Based on the information given above, calculate the net GST payable by the bank for the month of October 2023. Ignore bifurcation of CGST and SGST or IGST. **(5 Marks)**

### Solution :

#### Computation of net GST payable by YVPAY Bank Ltd.

	Particulars	GST @ 18%* (Rs.)
(i)	Discount earned on bills discounted	-

	[Exempt since consideration is represented by way of discount.]	
(ii)	Interest on reverse repo transaction [Exempt since consideration is represented by way of interest paid to bank.]	-
(iii)	Penal interest on delayed payment of EMIs [Penal interest paid to bank is exempt]	-
(iv)	Services to merchants accepting credit/debit card payments [Exempt since such services are provided to merchants in relation to settlement of an amount upto Rs. 2,000 per transaction through credit/debit card.]	-
(v)	Commission for debt collection services [Not exempt, since it is not a service of extending deposits, loans or advances.]	2,16,000
(vi)	Interest charges for late payment of credit card dues [Not exempt, since specifically excluded.]	72,000
	Output tax payable	2,88,000
	Less: 50% of eligible ITC on input services and capital goods availed in October [(Rs. 8,00,000 + Rs. 6,00,000) × 50%] [Blocked credit cannot be availed.]	(7,00,000)
	<b>Net GST payable</b>	<b>Nil</b>

\*It has been assumed that the amounts given in the question are exclusive of GST. However, it is also possible to solve the question assuming that the amounts given in the question is inclusive of GST.

### Question 2(b) :

M/s. Win here 2407 is an online money gaming platform operating from Singapore. It provides its users a platform to play and win money in different games etc. that are available on its web portal.

In the month of October 2023, Mr. Anil (player), an unregistered person located in India, deposited an amount of Rs. 15,000 (inclusive of GST) in the master wallet available on the portal of M/s Win here 2407. Subsequently, following transactions were undertaken by Mr. Anil during the month of October, 2023.

(i) Mr. Anil utilized the amount of Rs. 2,500 from the master wallet towards playing a virtual racing game on the portal. As a winning amount Rs. 11,000 was credited to the master wallet of Mr. Anil.

(ii) On another portal operated by M/s Win here 2407 in the name of Win 90, Mr. Anil placed a bet of face value of Rs. 12,000 on an international cricket match. The amount of such bet was paid through the master wallet with applicable taxes and accordingly, the bet amount of Rs. 12,000 with applicable taxes was transferred from the master wallet of Mr. Anil to the bank account of Win 90. However, he lost the bet.

(iii) Mr. Anil transferred the balance amount from the master wallet to his bank account after doing the aforesaid transactions.

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

(1) Compute the taxable value under GST law and total GST payable on the aforesaid given transactions in the hands of M/s Win here 2407 in India.

(2) Determine the net amount transferred by Mr. Anil from the master wallet to his bank account after the aforesaid transactions.

#### Note:

Assume all the above transactions to be exclusive of GST unless otherwise specified. Rate of GST applicable is 28% (ignore the bifurcation of GST amount into CGST and SGST or IGST). Calculate amount of value and tax rounded off to nearest rupee. **(5 Marks)**

### Solution :

(1) Computation of taxable value of supply and total GST payable

(i) Value of supply of online money gaming = Total amount deposited with the supplier by the player  
 = Initial deposit of Rs. 15,000 (inclusive of GST) by Mr. Anil with  
 M/s Winhere 2407 after excluding GST = Rs. 11,719 (Rs. 15,000 × 100/128) [rounded off]  
 GST payable = Rs. 11,719 × 28%  
 = Rs. 3,281 (rounded off) – [A]

(ii) Value of supply of online bet = 100% of the face value of the bet  
 = Rs. 12,000  
 GST payable = Rs. 12,000 × 28%  
 = Rs. 3,360 – [B]

Total amount payable = [A] + [B] = Rs. 6,641

(2) Computation of net amount transferred by Mr. Anil from the master wallet to his bank account

Particulars	Amount (Rs.)
Initial Deposit	15,000
Less – GST on deposit	(3,281)
Less – Payment for virtual racing game	(2,500)
Add – Winning from virtual racing game	11,000
Less – Payment for bet placed on Win 90	(12,000)
Less – GST on the bet placed on Win 90	(3,360)
<b>Net balance transferred</b>	<b>4,859</b>

### Question 2(c) :

Calculate the assessable value (rounded off to nearest one rupee) under the Customs Act, 1962 with appropriate working notes from the following particulars related to import of a machine (by sea) by Daksh Industries from USA in the month of October 2023:

S. No.	Particulars	Amount
(i)	Cost of machine at the port of exportation	US \$ 8,200
(ii)	Freight from port of export to port of import	US \$ 1,800
(iii)	Daksh Industries had paid to seller the cost for packing (not as condition of sale but included in cost of machine at point (i) above)	US \$ 400
(iv)	Actual selling commission paid by Daksh Industries to local agent of exporter.	Rs. 20,000
(v)	Actual insurance charges paid are also not ascertainable.	-
(vi)	Ship demurrage charge paid by Daksh Industries at port of importation.	Rs. 15,000
(vii)	Engineering charges paid by Daksh Industries to consultancy firm in Mumbai as a condition of sale.	Rs. 1,25,000

### Note:

- (i) Rate of exchange to be considered Rs. 80 for one US \$  
 (ii) Relevant legal reasoning should form part of your answer. **(4 Marks)**

### Solution :

#### Computation of assessable value

Particulars	Amount in \$	Amount in Rs.
Cost of machine at port of importation	8,200	6,56,000
Add: Local agent's commission	250	

[Includible as not a buying commission.]	(Rs. 20,000/Rs. 80)	20,000
FOB as per customs	8,450	6,76,000
Add: Freight [Freight charges till port of importation are includible in assessable value.]	1,800	1,44,000
Add: Insurance charges @ 1.125% of FOB	95.0625	7,605
Add: Ship demurrage (Rs.15,000/ Rs. 80) [Includible in cost of transport.]	<u>187.50</u>	15,000
<b>Assessable Value (in \$)</b>	<b>10,532.5625</b>	
	<b>Amount (Rs.)</b>	
<b>Assessable value (in Rs.) [<math>10,532.5625 \times Rs. 80</math>]</b>	8,42,605	8,42,605

**Notes:**

1. Packing charges incurred by the buyer are includible in assessable value even though they are not paid as a condition of sale.
2. Engineering charges are not included in the assessable value as engineering work is undertaken in India.

**Question 3(a) :**

Determine the 'place of supply' along with justification for the following independent cases:

I. Crystal Clear Water Ltd. (CCWL) is a manufacturer of mineral water and registered under GST in Mumbai, Maharashtra. CCWL enters into a contract with Global Advertising Agency (GAA) registered under GST in Ahmedabad, Gujarat for displaying its advertisement on hoardings at an awards event organized at Convention Centre Gandhinagar, Gujarat on 31.10.2023. the structure on which the hoardings are to be displayed is taken on rent by GAA from Mr. Kapoor (unregistered person based in Delhi.). Determine the 'place of supply' for tax invoice to be raised by GAA to CCWL.

II. Mr. Sunil (unregistered person under GST) is a resident of Delhi and currently posted in Dehradun, Uttarakhand. He went on an official visit to Arunachal Pradesh. He purchased a leather bag on 15.10.2023 from Arunachal Pradesh and shop keeper M/s ABC issued a tax invoice in the name of Mr. Sunil only. Mr. Sunil returned back to Dehradun along with leather bag. Determine the 'place of supply' for tax invoice issued by M/s. ABC to Mr. Sunil.

III. Mr. Pintu (unregistered person under GST), resident of Karnal, Haryana went to visit Shimla, Himachal Pradesh along with his family during holidays in the month of October 2023. Due to some medical emergency, he purchased some medicines on 20.10.2023 from a medical store at Mall Road, Shimla and the tax invoice was issued in the name of Mr. Pintu mentioning the address as Karnal, Haryana only. The medicines purchased were consumed in Shimla during the period of stay.

Determine the 'place of supply' for tax invoice issued by medical store to Mr. Pintu. **(5 Marks)**

**Solution :**

(I) In the given case, services provided by GAA to CCWL are advertisement services.

The place of supply of such services made to a registered person is location of such person.

Thus, place of supply for tax invoice to be raised by GAA to CCWL is location of CCWL, i.e. Mumbai, Maharashtra.

(II) In case of supply of goods to an unregistered person over the counter (OTC), where address of such person is not recorded in the invoice, the place of supply is location of the supplier.

Since in the given case, the address of Mr. Sunil is not recorded in the invoice, place of supply is location of M/s ABC i.e. Arunachal Pradesh.

(III) In case of supply of goods to an unregistered person over the counter (OTC), where address of such person is recorded in the invoice (i.e. name of State of said person is recorded in invoice), the place of supply is location as per said address.

Thus, in the given case, since the address of Mr. Pintu is recorded in the invoice, place of supply is Karnal / Haryana.

**Question 3(b) :**

Mr. Sharma, director of VEE Ltd., provides personal guarantee on 31.10.2023 to a nationalized bank for sanctioning the cash credit facility of Rs. 100 lakh sanctioned in favour of VEE Ltd. Mr. Sharma was not paid any consideration for the same by VEE Ltd.

Whether the said activity undertaken by Mr. Sharma will be considered as supply? If yes, what will be the value of such services? Explain in brief the relevant provisions of GST law. **(5 Marks)**

**Solution :**

Since director and company are related persons in terms of Schedule I of the CGST Act, 2017, the activity of providing personal guarantee by a director to the banks/ financial institutions for securing credit facilities for their companies is to be treated as a supply of service, even when made without consideration.

Thus, the activity of providing personal guarantee by Mr. Sharma to the nationalized bank will qualify as supply. Value of such supply will be the open market value (OMV) in terms of rule 28 of the CGST Rules, 2017.

However, as per RBI Guidelines, no consideration by way of commission, brokerage fees or any other form, can be paid to the director by the company, directly or indirectly, in lieu of providing personal guarantee to the bank for borrowing credit limits, except in exceptional cases.

Thus, it is clarified that OMV of said supply may be treated as zero / Nil and therefore, no tax is payable on such supply of service by Mr. Sharma to VEE Ltd.

**Question 3(c) :**

GHN Ltd. imported certain items on 14th October 2023. According to GHN Ltd, these items should be classified under chapter heading no. XXXX.AB of the Customs Tariff schedule whereas the Department's view was that these items should be classified under different chapter heading number XXXX.AC.

So, there was a dispute going on between GHN Ltd. and the Department regarding the classification of product.

Meanwhile, an exemption notification was issued on 26th October 2023 which exempted the disputed goods by classifying it under chapter heading number XXXX.AB for the future imports from 30th October 2023 onwards. Now, GHN Ltd. claimed that since the Department exempted product under chapter heading XXXX.AB. Hence, its items are also to be classified under the same heading even though it imported goods earlier.

Discuss with the help of decided case law if any, whether the contention of GHN Ltd. is correct as per law?

**Note:** Chapter headings given above are just an example and not the real one. **(4 Marks)**

**Solution :**

The contention of GHN Limited is correct as per law. As per judicial ruling, if an exemption notification classifies a product under a specified Chapter heading from a specific date, the said classification can be accepted for the period prior to it being beneficial to the applicant.

**Question 4(a) :**

Rajwada Operators Limited (ROL) is registered under GST in the State of Karnataka as an Electronic Commerce Operator (ECO). It owns and operates a web portal which supplies various goods and services on behalf of various sellers/service providers to its ultimate customers. Details of supplies undertaken through ROL in the month of October 2023 are as under:

(i) Sale of goods worth Rs. 1,47,500/- (including GST) by A Ltd., registered supplier of Rajasthan to B Ltd., Gujarat. Also, goods worth taxable value of Rs. 1,40,000/- sold by A Ltd., Rajasthan to B Ltd., Gujarat in the month of September 2023 were returned back in the month of October 2023.

(ii) Value of services provided from 21.10.23 to 30.10.23 by way of transportation of passengers by motor vehicles by X Ltd., registered under GST in Karnataka to Z Ltd., registered under GST in Karnataka amounting to Rs. 5,50,000/- (it includes Rs. 1,50,000/- against transportation services provided by omnibus).

(iii) Miss Zara of Mumbai books a room for 3 days and 2 nights in Raj Niwas Palace, Jodhpur, Rajasthan through Maharaja Resorts Ltd. (MRL), also an ECO registered under GST in Karnataka. MRL is integrated with ROL who has an agreement with Raj Niwas Palace. Raj Niwas Palace is registered under GST in Rajasthan and raises an invoice for Rs. 1,50,000/- to Miss Zara and receives Rs. 1,45,000/- from ROL for the same.

All the figures given above are exclusive of GST except wherever specified separately. Assume rate of CGST and SGST to be 9% each and IGST to be 18% on all inward and outward supplies of goods and services.

Compute the amount of TCS to be collected by ROL for the month of October 2023.

Working notes should form part of your answer. **(5 Marks)**

**Solution :**

(i) ROL is liable to collect tax at source under section 52 of the CGST Act, 2017 @ 1% under IGST of the net value of inter-State taxable supplies of goods (Value of taxable supplies made less value of supplies returned) made through it by the electronic commerce operator (ECO) - A Ltd.

Net value of taxable supplies = Rs. 1,25,000 (Rs. 1,47,500 × 100/118) –

Rs. 1,40,000 = Nil / (Negative Value)

Thus, TCS to be collected is Nil.

(ii) ROL is liable to collect TCS, since the tax on services, by way of transportation of passengers by an omnibus provided by a company through ECO, is not payable by ECO, under section 9(5) of the CGST Act, 2017.

= Rs. 1,50,000 × 0.5%

=Rs. 750 each under CGST and SGST

ROL is not required to collect TCS on transportation of passenger services by other motor vehicles supplied through it worth Rs. 4,00,000 as tax on the same is payable by ROL itself under section 9(5) of the CGST Act, 2017.

(iii) ROL, being supplier side ECO is liable to collect TCS @ 0.5% under CGST and 0.5% under SGST of the net value of intra-State taxable supplies of accommodation services made through it by Raj Niwas Palace.

= Rs. 1,50,000 × 0.5%

=Rs. 750 each under CGST and SGST

**Question 4(b) :**

Bhagwan Manufacturers & Exporters Company (BMEC) is registered under GST in the State of Rajasthan and supplies various goods in domestic as well as in international markets. It is engaged in both manufacturing and trading of goods. It exports goods without payment of tax under bond or letter of undertaking in accordance with the provisions of section 16(3) of the IGST Act, 2017.

BMEC provides the following information in relation to various supplies made by it during October, 2023 tax period:

S. No	Particulars	(Rs.)
1.	Taxable value of goods 'Star' supplied within India	14,00,000/-
2.	Taxable value of goods 'Sun' exported without payment of tax under letter of undertaking. (However, taxable value of such goods when supplied domestically by BMEC in similar quantities is Rs. 6,00,000).	10,00,000/-
3.	Taxable value of goods 'Moon' exported without payment of tax under bond. (However, taxable value of such goods when supplied domestically by BMEC in similar quantities is Rs. 1,50,000)	2,00,000/-

The input tax credit (ITC) availed for the above tax period is as follows:

S. No.	Particulars	(Rs.)
1	Input tax credit availed on capital goods	1,00,000/-
2	Input tax credit availed on inputs	3,00,000/-
3	Input tax credit availed on inputs services	1,50,000/-

**BMEC also provided following additional information:**

(i)	All the above inputs, input services and capital goods are used in manufacturing process and all the conditions for availing input tax credit have been complied with.
(ii)	The balance in the electronic credit ledger of BMEC at the time of filing the refund application is Rs. 1,50,000/-.
(iii)	The balance in the electronic credit ledger of BMEC at the end of the October 2023 tax period for which the refund claim is being filed after GSTR-3B for the said period has been filed is Rs. 3,25,000/-

You are required to compute the amount refundable to Bhagwan Manufacturers & Exporters Company against accumulated unutilized input tax credit for October 2023 tax period according to the provisions of GST law by giving necessary explanations for treatment of various items. **(5 Marks)**

**Solution :**

As per rule 89(4) of the CGST Rules, 2017, in the given case, refund of ITC in the case of zero-rated supply of goods without payment of tax under bond/LUT is as follows:

Refund

Amount =  $\frac{\text{Turnover of zero-rated supply of goods}}{\text{Adjusted Total Turnover}} \times \text{Net ITC on inputs and input services}$

$$= \frac{[9,00,000* + 2,00,000**]}{[9,00,000 + 2,00,000 + 14,00,000]} \times [1,50,000 + 3,00,000] ***$$

=Rs. 1,98,000

\*Turnover of goods 'Sun' = Lower of (i) Rs. 6,00,000 × 1.5 or (ii) Rs. 10,00,000, i.e. Rs. 9,00,000

\*\*Turnover of goods 'Moon' = Lower of (i) Rs. 1,50,000 × 1.5 or (ii) Rs. 2,00,000, i.e. Rs. 2,00,000

\*\*\*It has been most logically presumed that ITC figures given in the question pertains to both CGST and SGST or IGST.

Refundable amount is the least of the following:

(a) Refund as per rule 89(4) of the CGST Rules, 2017 [Rs. 1,98,000]

(b) Balance in ECL at the time of filing refund application, [Rs. 1,50,000] and

(c) Balance in ECL at the end of October 2023 for which refund is being filed after the return in Form GSTR-3B for the said period has been filed [Rs. 3,25,000]

Thus, the refundable amount is Rs. 1,50,000. ITC is on capital goods is not eligible for refund.

**Question 4(c) :**

Varun Goyal, an IT professional and a person of Indian origin, is residing in USA for the last 14 months. He wishes to bring a used microwave oven (costing approximately Rs. 1,85,500/- and weighing 15 kg) with him during his permanent return to India. He purchased the oven in USA 6 months before and he has been using that oven for his personal use in his kitchen. He is not aware of Indian customs rules.

Analyze and summarize the related legal provision of the Baggage Rules, 2016 and provide him with some advice in this regard. Relevant legal provisions should form part of your answer. **(4 Marks)**

**Solution :**

A person, who is engaged in a profession abroad shall, on return after a minimum stay of 1 year during the preceding 2 years, be allowed clearance free of duty, inter alia, personal and household articles, including specified articles upto an aggregate value of Rs. 2,00,000.

One of such specified articles is Microwave oven. However, the Indian passenger should not have availed this concession in the preceding 3 years.

Thus, Varun Goyal can bring Microwave oven duty free provided he had not availed this concession in the preceding 3 years.

**Question 5(a) :**

In an order passed dated 1st April 2023 issued to Sita Ram Pvt. Ltd., the Commissioner of Central Tax, being Revisionary Authority has confirmed IGST demand of Rs. 1400 crore, penalty of Rs. 200 crore and interest of Rs. 20 crore.

Sita Ram Pvt. Ltd. admits the tax liability, penalty and interest to the extent of Rs. 200 crore, Rs. 20 crore and Rs. 10 crore respectively but wishes to litigate the balance amount of demand and thus, Sita Ram Pvt. Ltd. deposits the required amount of pre-deposit on 12th April 2023 and files an appeal with the GSTAT.

GSTAT decides the appeal in favour of Sita Ram Pvt. Ltd. on 12th June 2023. Sita Ram Pvt. Ltd. submits an application seeking refund of the pre-deposit along with applicable interest on 2nd July 2023 and the department acknowledges the application on the same day. The amount of pre-deposit is refunded to Sita Ram Pvt. Ltd. on 15th October 2023.

With reference to provisions of the GST law, compute the amount of pre-deposit required to be deposited before filing an appeal to GSTAT and interest payable by the Department on refund of such pre-deposit, if any, along with necessary explanations. **(5 Marks)**

**Solution :**

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

(i) full amount of tax, interest and penalty as admitted by it, i.e. Rs. 230 (200+20+10) crores and

(ii) 20% of the remaining tax in dispute, i.e. Rs. 240 crore (20% of Rs. 1,200 crore) subject to a maximum of Rs. 100 crores (in case of IGST).

= Rs. 330 crores

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

Period of delay counted from 12th April 2023 is 186 days Interest (rounded off)= Rs. 100 crore × 9% × 186/366 = Rs. 4,57,37,705

**Question 5(b) :**

GST Department initiated prosecution proceedings against Mr. Sahil, a taxable person under GST. Mr. Sahil collected Rs. 8 crore as GST but failed to pay the same to the Government beyond the period of three months from the date on which such payment became due.

He approached the Commissioner on 15.10.2023 with a request for compounding of offence. Mr. Sahil made full and true disclosure of facts relating to the case. After considering the request, the Commissioner directed him to pay an amount of Rs. 5.2 crore as compounding amount on 20.10.2023.

As per the provisions of section 138 of the CGST Act, 2017 read with relevant rule of the CGST Rules, 2017, examine the issue and provide the answers with supporting explanatory note to the following:

- (1) Determine the minimum and maximum compounding amount which can be determined by the Commissioner.
- (2) Is the amount determined by the Commissioner in this case within the limits prescribed under the GST law?
- (3) In what time period will Mr. Sahil have to pay the compounding amount ordered by the Commissioner?

**(5 Marks)**

**Solution :**

(1) Since Mr. Sahil has collected amount exceeding Rs. 5 crores as tax but failed to pay the same to the Government beyond a period of 3 months from the date on which such payment became due:

- (i) minimum amount for compounding is 50% of the tax evaded, i.e., Rs. 4 crore (50% of Rs. 8 crore).
- (ii) maximum amount for compounding is 75% of the tax evaded i.e., Rs. 6 crore (75% of Rs. 8 crore).

(2) Yes, the amount for compounding determined by the Commissioner i.e. Rs. 5.2 crore is within the above limits prescribed under the GST law.

(3) Mr. Sahil has to pay the compounding amount ordered by the Commissioner within 30 days from the date of the receipt of the order.

**Question 5(c) :**

Mr. Pandya imported certain raw material from Japan. However, Mr. Pandya was not able to furnish certain supporting documents related to the said raw material imported along with the Bill of Entry for home consumption. Mr. Pandya requested the customs officials to deposit the said imported goods in a public bonded warehouse for a period of 20 days so that he obtains the required documents. The Customs officer initially denied for allowing warehousing and afterwards insisted Mr. Pandya to execute an indemnity bond for the goods to be deposited in the warehouse.

Examine the correctness of the stand taken by the Customs Officer. **(4 Marks)**

**Solution :**

Where Assistant/Deputy Commissioner of Customs is satisfied on an application of the importer that the imported goods, entered for home consumption / warehousing cannot be cleared within a reasonable time,

such goods may, pending clearance/removal, be permitted to be stored in a public warehouse for a period not exceeding 30 days.

Such goods shall not be deemed to be warehoused goods for the purpose of the Customs Act, 1962 and accordingly warehousing provisions shall not apply to such goods. This is popularly known as warehousing without warehousing.

Thus, goods imported by Mr. Pandya can be stored in the public warehouse for a period of 30 days.

However, the stand taken by the Customs officer to insist him to execute an indemnity bond for goods to be deposited in warehousing is not valid in law since warehousing provisions are not applicable to such goods.

#### **Question 6(a) :**

Under what circumstances, the Revisional Authority (RA) cannot exercise the powers of revision under section 108 of the CGST Act, 2017.

Is there any exception to the above provision? **(6 Marks)**

#### **Solution :**

The RA shall not exercise the power of revision if:

(a) the order sought to be revised has been subject to an appeal before Appellate Authority (AA) or Tribunal or High Court or Supreme Court;

or

(b) the period of 6 months (from the date of communication of order) has not yet expired or more than 3 years have expired after the passing of the decision/order sought to be revised; or

(c) the order has already been taken for revision at an earlier stage; or

(d) the order sought to be revised is itself a revisional order.

(e) Non appealable orders and decisions i.e. order covered under section 121.

The RA may still pass an order on any point which has not been raised and decided in an appeal before AA/Tribunal/High Court/Supreme Court, 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.

#### **Question 6(b) :**

What is search warrant? Who is the competent authority to issue Search Warrant under the CGST Act, 2017?

What details should be contained in a Search Warrant? **(4 Marks)**

#### **Solution :**

A search warrant is a written authority to conduct a search. The competent authority to issue a search warrant is an officer of the rank of Joint Commissioner or above. A search warrant must indicate the existence of a reasonable belief leading to the search. Search warrant should contain the following details:

- the violation under the GST law,
- the premise to be searched,
- the name and designation of the person authorized for search,
- the name of the issuing officer with full designation along with his round seal,
- date and place of issue,

- serial number of the search warrant,
- period of validity i.e. a day or 2 days etc.

**Note** – Any two points may be mentioned.

**OR**

**Question 6(b) :**

Which officers under section 72 of the CGST Act, 2017 are empowered and are required to assist proper officers in the implementation of the CGST Act? **(4 Marks)**

**Solution :**

Under section 72 of the CGST Act, 2017, the following officers have been empowered and are required to assist CGST officers in the execution of CGST Act:

- (i) Police;
- (ii) Railways
- (iii) Customs;
- (iv) Officers of State/UT/ Central Government engaged in collection of GST;
- (v) Officers of State/UT/ Central Government engaged in collection of land revenue;
- (vi) All village officers;
- (vii) Any other class of officers as may be notified by the Central/State Government.

**Question 6(c) :**

Under Foreign Trade Policy (FTP), what does the National Trade Facilitation Action Plan aim to achieve? Enumerate the trade facilitation measures which are provided under Foreign Trade Policy (FTP). **(4 Marks)**

**Solution :**

The National Trade Facilitation Action Plan aims to achieve:

- Improvement in ease of doing business through reduction in transaction cost and time
- Reduction in cargo release time
- A paperless regulatory environment
- A transparent and predictable legal regime
- Improved investment climate through better infrastructure

**Note** – Any two points may be mentioned.

The following trade facilitation measures are provided under FTP:

- Free passage will be provided to export consignment
- There will not be any seizure of export related stock except in exceptional cases.
- Single window system to facilitate export of perishable agricultural produce.
- DGFT is implementing the Niryat Bandhu Scheme for mentoring new and potential exporter on the intricacies of foreign trade through counseling, training and outreach programmes including the 'Districts as Export Hubs'.
- DGFT online customer portal provides information relating to export and import including Acts, rules,

policy and procedures.

- Online facilities for e-RCMC/RC related processes, e-Certificate of Origin (e-CoO) and Quality Control and Trade Disputes (QCTD) are also available on said common digital platform.
- DGFT has undertaken a number of IT Initiatives to enable a paperless, contactless and transparent environment for availing benefits under the export promotion schemes.
- A dedicated 24 X 7 Helpdesk facility has been put in place to assist the exporters in filing online applications on the DGFT portal and other matters pertaining to FTP.
- A large number of Trade Facilitation measures have been taken by Customs Department.
- Authorised Economic Operator (AEO) Programme
- Towns of Export Excellence (TEE)
- Duty Free Entitlements to Select Sectors
- Special privileges granted to Status Holders
- DGFT is committed to function as a facilitator of exports and imports.
- Continuous efforts are being made for better collection, compilation and wider dissemination of Trade Data and Statistics to help the policy makers, researchers, exporters and importers to formulate their trade strategy.
- DGFT has in place a Citizen's Charter, giving time schedules for providing various services to clients.

**Note** – Any four points may be mentioned.

**Nov.24**

**Question 1 :**

Sachha and Sudh Limited is a registered supplier of taxable goods and services at Raipur in the state of Chhattisgarh under regular scheme. Head office of the company is at Raipur whereas its branch office situated at Ludhiana, Punjab. It furnished the following information for various activities or transaction made during the month of April, 2024:

S. No.	Particulars	Amount (Rs.)
	<b>OUTWARD TRANSACTIONS</b>	
(i)	Supplied goods to Matadeen and Sons in the State of Rajasthan on the instruction of Dhananjai Associates, a registered person under GST in the State of Chhattisgarh. The contract for such supply was for the delivery of goods at buyer's premises and included a fixed transportation cost of Rs. 20,000 irrespective of the actual freight paid. It is indicated separately in the invoice issued in this respect of supply of goods.	8,00,000
(ii)	Amount received for sale of the loading tempo, used for transportation of goods, to Mr. Suresh. Loading tempo was purchased at Rs. 4,80,000 and its depreciated value at the time of sale was Rs. 2,40,000. No GST credit was taken. Delivery of the loading tempo was given at registered office of the company.	1,80,000
(iii)	Provided intra-State supply of sponsorship service to Vidhi Agency, a proprietary concern of Raipur.	50,000
(iv)	Received as fine from Vipul, a registered person, for delayed supply of goods. Such payment was made as a compensation for margin loss caused due to price reduction between due date and actual date of supply. There was no express contract in this respect.	50,000
	<b>INWARD TRANSACTIONS</b>	
(i)	Intra-State purchase of goods from various registered persons. (Out of this Rs. 7,00,000, goods of Rs. 1,00,000 was received on 1st May, 2024 due to riots in the area but all the invoices were received by 30th April, 2024.)	7,00,000
(ii)	Rent paid to Indian Railway for office premises situated in the State of Chhattisgarh.	40,000
(iii)	Representational service from Mr. Vikas Gupta, an advocate of Delhi and unregistered person under GST, towards dealing the GST appeal matters with the Commissioner (Appeal)	1,00,000

Additional information: The company paid Rs. 15,000 towards actual freight to Mr. Shailendra of Chhattisgarh, a truck owner and unregistered person in respect of supply of goods to Matadeen & Sons in the State of Rajasthan. Mr. Shailendra had not issued the consignment note.

(i) On 15th April, 2024, the company acquired 1% additional share holding in one of its subsidiary company for a consideration of Rs. 10,00,000

(ii) The company made inter-State purchase of goods of Rs. 1,00,000 to be used for discharge of corporate social responsibility (CSR) referred to in section 135 of the Companies Act, 2013.

**Notes:**

Assume rates of CGST, SGST and IGST are 9%, 9% and 18% for both inward and outward supply of goods and services except transportation service which is chargeable at 2.5%, 2.5% and 5% CGST, SGST and IGST respectively.

Both inward and outward supplies given above are exclusive of taxes.

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

There was no opening balance of any input tax credit.

Compute the minimum net GST payable in cash by Sachha and Sudh Limited for the month of April, 2024 by considering that company wants to pay minimum amount of SGST as far as possible legally.

Working notes and correct provision of law for each point should form the part of your answer along with applicable provisions of place of supply under GST law. **(14 Marks)**

**Solution :**

**Computation of minimum net GST payable in cash by Sachha and Sudh Limited to be paid in cash for the month of April, 2024**

S. No.	Particulars	Amount (Rs.)	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
	<b>Output tax payable under forward charge</b>				
(i)	Supplied goods to Matadeen and Sons [Since the contract is for delivery of goods at buyer's premises and includes transportation cost, it becomes a composite supply; the principal supply being the supply of goods. Thus, GST rate applicable on goods will be charged on the entire value of supply of Rs. 8,00,000 (contract price actually paid by buyer). Further, since goods are delivered on Bill to Ship to Model to Matadeen and Sons on the direction of a third person – Dhananjai Associates, said third person is deemed to have received the goods and the place of supply is the principal place of business of such person, i.e. Chhattisgarh. Thus, it is an intra-State supply.]	8,00,000 <sup>1</sup>	72,000 [8,00,000 x 9%]	72,000 [8,00,000 x 9%]	
(ii)	Sale of used loading tempo to Suresh [Since ITC has not been taken on the tempo and depreciation has been claimed on it under the Income-Tax Act, 1961 <sup>2</sup> , value of supply is consideration received less depreciated value on the date of supply of tempo. However, since value of supply is negative [Rs. 1,80,000 – Rs. 2,40,000], it is to be ignored.]	Nil			
(iii)	Intra-State supply of sponsorship service [Tax is payable under forward charge since recipient of said services is a proprietary concern. Tax is not payable under reverse charge since recipient of said services is a not a partnership firm or body corporate.]	50,000	4,500 [50,000 x 9%]	4,500 [50,000 x 9%]	
(iv)	Fine for delayed supply of goods [There was no express contract. Fine received from Vipul, being liquidated damages is merely a	-			

	payment to compensate the loss caused due to delayed supply of goods and is not a consideration for supply.]				
	<b>Total output tax</b>		<b>76,500</b>	<b>76,500</b>	
	Less: ITC available for set off [Refer note below.] [IGST credit is utilized for payment of SGST only in order to minimize the SGST liability. CGST and SGST credit are utilized for payment of CGST and SGST liability respectively.]		- (57,600)- CGST	(18,000) - IGST (57,600) -SGST	
	Net output tax payable in cash		18,900	900	
	<b>GST payable in cash under reverse charge</b>				
	Add: Tax on services received from the advocate – Vikas Gupta - is payable under reverse charge by the recipient of service.				18,000
	<b>Minimum net GST payable</b>		<b>18,900</b>	<b>900</b>	<b>18,000</b>

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

S. No.	Particulars	Amount (Rs.)	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
(i)	Intra-State purchase of goods [ITC on goods Rs. 1,00,000 not received in April cannot be availed.]	6,00,000 [7,00,000 -1,00,000]	54,000 [6,00,000 × 9%]	54,000 [6,00,000 × 9%]	
(ii)	Freight paid to truck owner [No ITC is available since GST on service of transportation of goods by road received from a person other than a GTA is exempt.]	15,000	-	-	
(iii)	Rent paid to Indian Railway [It is an intra-State supply since the place of supply is location of immovable property, i.e. Chhattisgarh and supplier – Indian Railways is in Chhattisgarh Tax is payable under forward charge. Further, ITC on services used in course or furtherance of business is allowed.]	40,000	3,600 [40,000 × 9%]	3,600 [40,000 × 9%]	
(iv)	Representational services received from Vikas Gupta [Services received by a business entity <sup>3</sup> from advocates are not exempt. It is an inter- State supply since the supplier is in Delhi and place of supply is location of recipient, i.e. Chhattisgarh. Further, ITC on services used in course or furtherance of business is available.]	1,00,000			18,000 [1,00,000 × 18%]
(v)	Additional share holding acquired in subsidiary [It is neither supply of goods nor supply of services, which is covered under Schedule III. ITC cannot be claimed since no GST is payable on the same.]	-			
(vi)	Inter-State purchase of goods to be used for corporate	-			

	social responsibility [ITC on goods to be used for discharge of corporate social responsibility is blocked under section 17(5)]				
	<b>Total ITC available</b>		<b>57,600</b>	<b>57,600</b>	<b>18,000</b>

**Note :**

- 1) It has been logically assumed that the transportation cost of Rs. 20,000 is included in the total contract value of Rs. 8,00,000.
- 2) It has been assumed that depreciation has been claimed under the Income-Tax Act, 1961 and depreciation given in question is depreciation claimed as per the Income-tax Act, 1961.
- 3) It has been assumed that the aggregate turnover of Sachha and Sudh Limited exceeded such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017.

**Question 2(a) :**

Mr. Ayush is a registered supplier in Ahmedabad (Gujarat) under GST law. He provides the following information pertaining to various outward supplies made by him during the month of March, 2024:

S. No.	Particulars	Amount (Rs.)
(i)	Vijay Vayapar Chamber of Commerce organized a business summit. Nuba Pvt. Ltd., manufacturer of readymade garments, sponsored the summit and paid sponsorship fee of Rs. 1,80,000 to Vijay Vayapar Chamber of Commerce. Mr. Ayush, an independent director of Nuba Private Ltd., provided the services to the company in relation to this and Nuba Private Ltd. paid Rs. 40,000 to him as remuneration.	40,000
(ii)	Supply of railway equipments by way of transportation by a vessel from one place in India to another.	1,20,000
(iii)	Services by way of storage/warehousing of processed tea used for beverage as green tea.	70,000
(iv)	Health care services by his clinical establishment of providing rooms having room charges Rs.3,100 per day to a person receiving health care services.	3,00,000
(v)	Services of a guest house, for lodging purposes, having value of supply of a unit of accommodation Rs. 800 per day	72,000

All above amounts are exclusive of GST. All the supplies are intra-State supply and assume the rate of taxes are IGST @ 18% and CGST & SGST @ 9% each.

From the above information, compute the GST liability of each item separately, on which tax to be paid by Mr. Ayush for the month of March, 2024.

Correct provision of law should form the part of your answer. **(5 Marks)**

**Solution :**

**Computation of GST liability of Mr. Ayush**

	Particulars	CGST @ 9% (Rs.)	SGST @ 9% (Rs.)
(i)	Service provided to Nuba Pvt. Ltd. [Tax on services provided in the capacity of an independent director is payable by the recipient – Nuba Pvt. Ltd. Under reverse charge mechanism and not by Mr. Ayush.*]	--	--

(ii)	Supply of transportation of railway equipment by vessel [Taxable, since it is not specifically exempt. Transportation of specified goods by vessel from one place in India to another are exempt. However, railway equipment is not a specified good. Exemption earlier available to transportation of railway equipment by vessel from one place in India to another was withdrawn.]	10,800	10,800
(iii)	Storage/warehousing of processed tea [Taxable, since storage/warehousing of only agricultural produce is exempt but processed tea is not an agricultural produce.]	6,300	6,300
(iv)	Health care services of providing rooms by his clinical establishment [Exempt, since room charges do not exceed Rs. 5,000 per day.]	-	-
(v)	Services of a guest house for lodging purposes [Taxable, since exemption with respect to services provided by guest house for lodging purposes with value of supply up to Rs. 1,000 per day, was withdrawn.]	6,480	6,480

\*It has been assumed that services provided by Mr. Ayush are in the capacity of director of that company. However, where such services are assumed to be provided by Mr. Ayush in his personal capacity, tax on the same will be paid by Mr. Ayush under forward charge.

#### Question 2(b) :

M/s Ronak Ltd. having a registered head office in Maharashtra, provides a service to its branch office in Kerala in the month of April, 2024 by way of carrying out administrative work with the use of service of the employees working in the head office. However, the head office has not included the salary cost of employees involved in providing the said services while issuing tax invoice to its branch office.

You are required to decide the following:

What will be the value of service and also discuss whether the salary cost of head office employees involved in providing the said services has to be mandatorily included in the computation of value of service provided by head office to branch office (when full ITC is available to the concerned branch office)?

What will be the value of service if head office has not issue invoice to the branch office?

Also discuss in brief the relevant provisions of GST law. **(5 Marks)**

#### Solution :

(i) The value of supply of services by Head Office (HO) to its Branch Office (BO) [HO and BO being the distinct persons], shall be the open market value (OMV) of such supply.

Further, where the recipient - BO - is eligible for full input tax credit (ITC), the value declared in the invoice by HO shall be deemed to be OMV of such services.

Moreover, the cost of any particular component of said services including the salary cost of the HO employees involved in providing the said services is not required to be mandatorily included in the value of the services in the invoice.

(ii) If HO has not issued a tax invoice to the BO and the recipient - BO – is eligible for full ITC, the value of service by HO to BO may be deemed to be declared as Nil and may be deemed as OMV of such services.

**Question 2(c) :**

Sneha International Ltd., Bombay imported a drill machine from USA (by air). Machinery reached Delhi airport from where it was transshipped to Mumbai airport. Contracted CIF price of machine was US \$ 20,000 which was to be delivered in February 2024. But on request of Sneha International Ltd., supplier agreed to deliver the machine in January 2024 for which US \$ 2000 was charged over and above the contracted CIF price.

Other information is given below:-

S. No.	Particulars	Amount
(i)	Air freight	\$ 5000
(ii)	Insurance charges paid	\$1200
(iii)	Inspection charges of drill machine paid by the supplier (The same was neither mentioned in the terms of contract nor required for making the goods ready for shipment).	\$500
(iv)	Transport charges from Delhi airport to Mumbai Airport	Rs. 50000

You are required to determine the assessable value of imported machine (rounded off to nearest one rupee) under the Customs Act, 1962 from the particulars given above.

**Notes:-**

- (a) Rate of exchange to be taken as Rs. 83 for one \$  
 (b) Brief reasoning for treatment of each item should form part of your answer. **(4 Marks)**

**Solution :****Computation of assessable value**

Particulars	Amount (Rs.)
CIF value (re-negotiated price) [Since the contract price was re-negotiated owing to early delivery of the machine, transaction value, being price actually paid or payable for the goods, will be re-negotiated price, i.e. [\$ 22,000 (20,000 + \$ 2,000) x Rs. 83]	18,26,000
Less: Air freight [\$ 5,000 x Rs. 83]	4,15,000
Less: Insurance [\$ 12,000 x Rs. 83]	<u>99,600</u>
<b>FOB value (in rupees)</b>	<b>13,11,400</b>
Add: Inspection charges [Not includible in value since only the payments actually made as a condition of sale of imported goods by buyer to seller are includible and inspection charges are not required for making the goods ready for shipment.]	<u>Nil</u>
FOB value as per Customs	13,11,400
Add: Air Freight (20% of Rs. 13,11,400) [Air freight cannot exceed 20% of FOB value.]	2,62,280
Add: Insurance [Actual insurance charges paid are includible.]	99,600
Transport charges from Delhi airport to Mumbai airport [Cost of transport charges associated with transshipment of imported goods to another customs station in India are not includible.]	Nil
<b>Assessable value (in Rs.)</b>	<b>16,73,280</b>

**Question 3(a) :**

Vijay Pvt. Ltd. of Chennai, Tamil Nadu, exclusively manufactures and sells product 'V2Z' which is exempt from GST vide notifications with certain taxable supplies. The company sells product 'V2Z' only within Tamil Nadu and it is registered under GST under regular scheme. Further, all the inward supplies of the company are taxable under forward charge. The company expects the sales to grow in the current year. Owing to the growing demand for the product, the company decided to increase its production capacity and purchased additional machinery exclusively used for manufacturing 'V2Z' on 1st August, 2023. The purchase price of such machinery was Rs. 45 lakh (exclusive of GST@ 18%).

However, with effect from 1st December, 2023, exemption available on 'V2Z' was withdrawn by the Central Government and GST @ 12% was imposed thereon. Can Vijay Pvt. Ltd take input tax credit on additional machinery purchased exclusively for manufacturing 'V2Z'? If yes, then when and how much credit can be availed?

Advice Vijay Pvt. Ltd. on the above issues with reference to the provisions of GST law.

Correct provisions of law should form the part of your answer. **(5 Marks)**

**Solution :**

Where an exempt supply of goods by a registered person becomes a taxable supply, such person shall be entitled to take ITC, inter alia, in respect of capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable i.e. Nov 30, 2023.

ITC 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.

Thus, Vijay Pvt. Ltd. can take following amount of ITC on additional machinery purchased exclusively for manufacturing "V2Z" by making an electronic declaration in prescribed form specifying the details of capital goods on the day immediately preceding the date from which such supply becomes taxable within 30 days of becoming eligible to avail ITC:

$$= (\text{Rs. } 45 \text{ lakh} \times 18\%) - (\text{Rs. } 45 \text{ lakh} \times 18\% \times 5\% \times 2 \text{ quarters})$$

$$= \text{Rs. } 8,10,000 - \text{Rs. } 81,000$$

$$= \text{Rs. } 7,29,000$$

**Question 3(b) :**

Decide with reason whether following independent transactions amount to supply or not as per the provision, rules, circulars and notification issued under the GST law:

(i) Satyam has lent securities to Kala Enterprises for a consideration of Rs. 10,000 towards lending of securities under the Securities Lending Scheme, 1997 through an approved intermediary. Ignore the transaction between Satyam and intermediary.

(ii) Patta Limited made supply of goods to its agent, Romi, without consideration. Romi issued invoice for the further supply of goods to the customers in his own name. Romi also disclosed the name of principal in the invoice issued.

(iii) Dilasa Limited recruited Miss Chhaya as senior relationship manager. At the time of joining as senior relationship manager, the company paid Rs. 3,00,000 towards "Not joining" Milan Limited, a stiff competitor of Dilasa Limited. **(5 Marks)**

**Solution :**

(i) Lending of securities under the Securities Lending Scheme is not a transaction in securities as it does not involve disposal of securities. It is not excluded from the definition of services and amounts to supply. Consequently, lending of securities for consideration to Kala Enterprise amounts to supply.

(ii) Since the invoice for further supply of goods is being issued by the agent – Romi. in his own name, the provision of goods from the principal – Patta Limited. - to the agent – Romi - would fall within the purview of Schedule I of the CGST Act, 2017 and would amount to supply even though made without consideration. Further, supply of goods by Romi to the customer for consideration amounts to supply.

(iii) Since any amount paid by employer to employee for not joining a competing business is paid for providing the service of forbearance to act to refrain cannot be considered for providing services in the course of employment, amount received by Miss Chhaya from Dilasa Limited amounts to supply under the GST law.

### Question 3(c) :

Rustam imported a sports car from Japan. He paid the applicable customs duty and an order for home consumption was issued. At the time of actual clearance for home consumption, he found that the sports car was destroyed due to a fire occurred at the customs station. The loss of sports car is forever and beyond recovery. Rustam seeks your advice on how to deal with the situation under the provisions of the Customs Act, 1962.

Whether your answer would differ if Rustam warehoused the sports car due to delay in legal formalities after complying with the relevant provisions of the Customs Act, 1962 and the fire occurred there after the payment of duty but before actual clearance therefrom? (4 Marks)

### Solution :

Where it is shown to the satisfaction of Assistant or Deputy Commissioner that any imported goods have been destroyed, otherwise than as a result of pilferage at any time before clearance for home consumption, the duty shall be remitted on such goods.

In the given case, since loss of sports car is forever and beyond recovery due to fire, Rustam can claim remission of customs duty upon proving the loss to the satisfaction of the Assistant Commissioner or Deputy Commissioner.

Further, since duty has already been paid in the given case, he can claim refund after getting the remission orders.

Further, Rustam can claim remission or refund of duty even if he warehoused the sports car and fire occurred there after the payment of duty but before actual clearance therefrom.

### Question 4(a) :

M/S MN Ltd has a balance of Rs. 30,000 as CGST and Rs. 30,000 SGST in the electronic credit ledger in the beginning of April 2024. During the month of April, 2024, M/S MN Ltd has following liabilities:-

Particulars	CGST (Rs.)	SGST (Rs.)
GST Payable on outward supplies	10,000	10,000
GST payable as a consequence of proceeding instituted under the provision of GST law	5,000	5,000
GST payable on reverse charge supplies	6,000	6,000

Interest for default in late filing of GSTR-3B	500	500
Penalty	500	500
TOTAL	22,000	22,000

There is no input tax credit for the month of April 2024. M/S MN Ltd is of the view that since opening balance in the electronic credit ledger is sufficient to discharge the whole liability for the month of April 2024, it is not required to deposit any tax for the above month.

Explain with reasons whether the contention of M/S MN Ltd is correct in view of the applicable provisions of the CGST Act, 2017.

If not, what would be the amount payable in cash for the month of April, 2024?

Also discuss in brief, the relevant provision of GST law. **(5 Marks)**

#### Solution :

The electronic credit ledger can be used for making payment of only output tax which is the tax chargeable on taxable outward supply, but excludes tax payable on reverse charge mechanism. It cannot be used for making payment of any interest, penalty, fees or any other amount payable under the GST law.

Accordingly, electronic credit ledger can be used for any payment towards output tax, whether self-assessed in the return or payable as a consequence of any proceeding instituted under the GST law.

Thus, in view of the above-mentioned provisions, the contention of MN Ltd. is not correct.

Computation of amount payable in cash is as under: -

Particulars	CGST (Rs.)	SGST (Rs.)
GST payable on outward supplies	10,000	10,000
GST payable as consequence of proceeding instituted under GST law	<u>5,000</u>	<u>5,000</u>
Total	15,000	15,000
Less: ITC in Electronic Credit ledger	<u>(15,000)</u>	<u>(15,000)</u>
Balance	Nil	Nil
Add: GST payable on reverse charge supplies	6,000	6,000
Add: Interest for default in late filing of GSTR-3B	500	500
Add: Penalty	<u>500</u>	<u>500</u>
<b>Total amount payable in cash</b>	<b><u>7,000</u></b>	<b><u>7,000</u></b>

#### Question 4(b) :

Sunita Industries, registered in the State of Gujarat, receives machinery for repair in its workshop located in Surat, Gujarat on 4th April, 2024 from Titen Ltd., an automobile manufacturing company based in China. Titen Ltd. is not registered in India. The repair work was carried out by Sunita Industries for which it was paid in convertible foreign exchange. The aggregate turnover of Sunita Industries was Rs. 450 crore in the preceding financial year 2023- 2024 but for the financial year 2022-2023 the turnover was Rs. 562 crore.

While raising the invoice for the said consideration, the accountant of Sunita 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 by explaining the relevant provisions of GST law with reference to Dynamic Quick Response code along with applicable provisions of place of supply. **(5 Marks)**

#### Solution :

#### ALTERNATIVE-I

Where it is assumed that the machinery is exported without being put to any use in India:

The place of supply of the services supplied in respect of goods which are temporarily imported into India for repairs and are exported after such repairs without being put to any use in India where supplier is in India and recipient is located outside India, is the location of the recipient of services, location outside India i.e. China.

Thus, place of supply of repair services provided to Titen Ltd. in the given case is China.

Further, said repair services shall qualify as “export of services” since:

- supplier is in India,
- both recipient and place of supply are outside India,
- the payment for service is received in convertible foreign exchange, and
- supplier and recipient are not merely establishments of a distinct person.

All B2C invoices issued by a registered person whose aggregate turnover in any preceding financial year from 2017-18 onwards exceeds Rs. 500 crores will have a Dynamic QR code.

However, no Dynamic QR code is required in case of exports. In the given case, although the aggregate turnover of Sunita Industries exceeds Rs. 500 crore in preceding FY 2022-23, it is still not mandatorily required to have a Dynamic QR code requirement on the invoice for said services as Dynamic QR code requirement is not applicable to exports.

#### **ALTERNATIVE-II**

Where it is assumed that the machinery is exported after being put to use in India:

The place of supply of the services supplied which are required to be made physically available by the recipient to the supplier for repairs and are exported after such repairs if put to any use in India where supplier is in India and recipient is located outside India, is the location where goods are situated at the time of supply of services.

Thus, place of supply of repair services provided to Titen Ltd. in the given case is Gujarat.

All B2C invoices issued by a registered person whose aggregate turnover in any preceding financial year from 2017-18 onwards exceeds Rs. 500 crores will have a Dynamic QR code.

However, in cases, where an invoice is issued to recipient outside India, for supply of services, for which place of supply is in India and the payment is received by supplier, in convertible FOREX, such invoice may be issued without having a Dynamic QR Code.

In the given case, although the aggregate turnover of Sunita Industries exceeds Rs. 500 crore in preceding FY 2022-23, it is still not mandatorily required to have a Dynamic QR code requirement on the invoice for said services.

#### **Question 4(c) :**

Mr. Sahil, an importer, had made provisional payment of customs duty of Rs. 2,00,000 under section 18 of the Customs Act, 1962 on 17th July, 2023, along with a security of Rs. 1,00,000 towards provisional release of goods. Final assessment was completed on 15th October, 2023 with a duty assessed as Rs. 50,000. The refund order of Rs. 50,000 and the order of release of security of Rs. 1,00,000 was issued on the same day (15th October, 2023).

Mr. Sahil had filed a refund application on 20th October, 2023 alongwith necessary documents. On perusal of the refund application, proper officer had found some deficiencies which were communicated to Mr. Sahil.

Mr. Sahil had submitted the required additional documents and proper officer had issued an acknowledgement on 5th November, 2023. Refund was paid to him on 25th March, 2024.

You are required to compute interest receivable by Mr. Sahil under section 27A of the Customs Act, 1962 on amount of duty and on amount of security if any.

Calculation should be nearest to one rupee and assume 366 days in the year. **(4 Marks)**

**Solution :**

In case of provisional assessment of duty, if any amount refundable upon finalization of assessment to the importer is not refunded within 3 months from the date of final assessment of duty, interest @ 6% per annum shall be paid on such unrefunded amount till the date of refund of such amount.

No interest is payable on security deposits for provisional release of goods, etc.

Thus, in the given case, the amount of interest receivable by Mr. Sahil is as under:-

16th January, 2024 to 25th March, 2024 (Both inclusive)

Period of delay = 70 days

Thus, interest = Rs.  $50,000 \times 6\% \times 70/366$  = Rs. 574 (rounded off)

**Note:** Please read 'section 27A in the question as section 18.

**Question 5(a) :**

Swastik Tours and Travel is registered taxable person under GST in the State of Punjab. Its gross receipts from the overseas package tours for the month of February 2024 amounted to Rs. 50 crore. Out of this Rs. 50 crore, Rs. 10 crore were received from registered persons. While filing GSTR-1 for the month-of February 2024, it tampered the amount of invoices issued to unregistered persons and reported only Rs. 20 crore on account of B to C transactions (i. e, transaction with unregistered persons), thus, understating the tax liability by Rs. 3.60 crore (i.e. 18% of 20 crore). Moreover, while filing GSTR-3B for the same month, it availed ITC of Rs. 0.40 crore on account of fake invoices received without receipt of goods/services. GST Department initiated prosecution proceedings against Swastik Tours and Travel for the above offence. Swastik Tours and Travel deposited the amount of tax due along with the interest and penalty and Rs. 1 crore as compounding amount being amount equivalent to 25% of tax evaded and requested the commissioner for compounding of offence. Other conditions required for compounding the amount were duly complied with.

Even then commissioner rejected the request of Swastik Tours and Travel on the plea that compounding amount deposited by Swastik Tours and Travel is less than the minimum amount to be deposited for compounding of offence.

You are required to examine the case and comment upon the rejection of request of Swastik Tours and Travel as per the provisions of section 138 of the CGST Act, 2017 read with relevant rule of the CGST Rules, 2017.

Also discuss the relevant legal provision in brief. **(5 Marks)**

**Solution :**

In the given case, Swastik Tours and Travel has committed the following offences:

- Availing of ITC using the fake invoices received without receipt of goods/services
- Falsification or substitution of financial records with an intention to evade payment of tax due or evasion of tax

Here, the amount of tax evaded/ITC wrongly availed is Rs. 4 crore (Rs. 3.60 crore + Rs. 0.4 crore), i.e. it exceeds Rs. 2 crore but does not exceed Rs. 5 crore.

Further, where the offence committed by the person falls under more than one category, the compounding amount shall be the amount determined for the offence for which higher compounding amount has been prescribed.

Thus, the compounding amount will be as follows:

- For the offence of availing of ITC using the fake invoices received without receipt of goods/services, compounding amount is 40% of the amount of ITC wrongly availed.
  - For the offence of falsification or substitution of financial records with an intention to evade payment of tax due or evasion of tax, compounding amount is 40% [higher of 25% or 40%] of the amount of tax evaded].
- Thus, Swastik Tours and Travel should have deposited the following amount of tax evaded/ITC wrongly availed as the compounding amount:

= 40% of Rs. 4 crore

= Rs. 1.60 crore

Since Swastik Tours and Travel has deposited lesser compounding amount than required, the rejection of its request for compounding by the Commissioner is justified.

#### **Question 5(b) :**

Miss Meena is aggrieved by the order passed by the Assistant Commissioner and wants to file an appeal with Commissioner (Appeals). Her accountant, who looked after her GST related matters including filing of GST returns /other compliances online, is on leave for one month. So, she decides to file the appeal manually. The order against which appeal is to be filed is available on the GST portal. There was no such notification issued by the commissioner that appeal can be filed manually.

With reference to the provisions of GST law, you are required to ascertain:-

- (i) Whether Miss Meena can file an appeal to the commissioner (Appeals) in this case?
- (ii) Whether decision taken by Miss Meena to manually file an appeal is valid?

Also explain the relevant legal provisions in support of your answer. **(5 Marks)**

#### **Solution :**

(i) An appeal may be filed to the Commissioner (Appeals) against an adjudicating order if such an order is passed by the Additional or Joint Commissioner.

However, where the order is passed by the Assistant Commissioner, the appeal is to be filed to any officer not below the rank of Joint Commissioner (Appeals).

Thus, in the given case, appeal cannot be filed to the Commissioner (Appeals), but to any officer not below the rank of Joint Commissioner (Appeals).

(ii) An appeal to the Appellate Authority may be filed manually only if-

- (i) the Commissioner has so notified, or
- (ii) the decision or order to be appealed against is not available on the common portal.

Therefore, in light of the facts of the given case, the appeal cannot be filed manually.

#### **Question 5(c) :**

Mr. Charanjit, an importer, filed a claim for refund of custom duty paid under protest which was assessed on the value of imported machinery. The assessment order on the basis of which duty was payable by Mr. Charanjit had neither been reviewed nor modified in any appeal. The department rejected the claim for refund filed by Mr. Charanjit.

Discuss with the help of the decided case law, if any, whether the action of Department rejecting the claim is correct in law? Give reason for support of your answer.

What other options are available to Mr. Charanjit?

**Note:** Name of the case law is not mandatory to be part of your answer. **(4 Marks)**

**Solution :**

The action of the Department of rejecting the refund claim is correct.

The facts of the given case are similar to a Supreme Court judgment\* wherein the Court held that unless an assessment order has been reviewed and/or modified in an appeal, that assessment order stands, and the duty is payable only as per that assessment order.

A refund claim is not an appeal proceeding.

Further, the officer considering the refund claim, cannot not review the assessment order.

Thus, refund claims based on challenge to an order of assessment are liable to be rejected.

Mr. Charanjit has alternative option of:

(i) filing appeal against the assessment order with which he is aggrieved.

or

(ii) request the competent officer to review the assessment order.

\*Priya Blue Industries Limited v. Commissioner of Customs 2004 (172) ELT 145 (SC)

**Question 6(a) :**

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

Also discuss, under what circumstances such payment facility shall not be allowed. **(6 Marks)**

**Solution :**

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

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

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

(a) the taxable person has already defaulted on the payment of any amount under the GST law, for which the recovery process is on.

(b) the taxable person has not been allowed to make payment in instalments in the preceding financial year.

(c) the amount for which instalment facility is sought is less than Rs. 25,000.

(d) the amount payable is self-assessed tax.

**Question 6(b) :**

Discuss in brief the precautions to be observed while issuing summons under the GST law. **(4 Marks)**

**Solution :**

The following precautions should generally be observed when summoning a person: -

(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) Repeated summons should be avoided. As far as practicable, the statement of the accused/ witness should be recorded in minimum number of appearances.

(iii) The time of appearance given in the summons should be respected.

No person should be made to wait for long hours before his statement is recorded unless decided as a matter of strategy.

(iv) Statements should preferably be recorded during office hours; however, an exception could be made regarding the time and place of recording statement having regard to the facts in the case.

**OR**

**Question 6(b) :**

Under the GST law who can order for carrying out inspection and under what circumstances? **(4 Marks)**

**Solution :**

Inspection can be carried out 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 to evade tax:

- i. suppressed any transaction of supply;
- ii. suppressed stock of goods in hand;
- iii. claimed excess input tax credit;
- 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.

**Question 6(c) :**

Define Status Holder under Foreign Trade Policy. Which categories of exporter firms are eligible for recognition as a Status Holder and what are the criteria towards recognition as Status Holder?

Also state what would be the minimum threshold limit of export performance of Status holders for various categories of Star Export House. **(4 Marks)**

**Solution :**

Status Holder is an exporter recognized for export performance by a Regional Authority. Status Holders are exporter firms recognized on the basis of their export performance as business leaders who have excelled in international trade and have successfully contributed to country's foreign trade.

All exporters of goods, services and technology having an import-export code (IEC) number, on the date of application, shall be eligible for recognition as a status holder based on export performance.

An applicant may be categorized as status holder on achieving the threshold export performance in the current and preceding three financial years as indicated below:

Status category	Export Performance (Threshold in USD Million)
One Star Export House	3
Three Star Export House	50
Four Star Export House	200
Five Star Export House	800

**Question 1 :**

M/s BBV Ltd. of Nagpur, registered under GST in the State of Maharashtra, is engaged in providing following types of outward supplies:

- (i) Manufacture of taxable product 'D'
- (ii) Service of hiring of trucks
- (iii) Services on which tax payable under reverse charge
- (iv) Other supplies

M/s BBV Ltd. has provided the following details related to the outward supplies for the month of October, 2024:

S. No.	Particulars	Amount (Rs.)
(i)	Export of product 'D' with payment of IGST	16,50,000
(ii)	Product 'D' supplied under a Letter of Undertaking (LUT) to M/s CFF Pvt. Ltd. located in a SEZ in the state of Maharashtra.	9,00,000
(iii)	Exprt of product 'D' under Letter of Undertaking (LUT)	11,00,000
(iv)	Domestic outward supply turnover of product 'D'	46,00,000
(v)	Domestic Turnover of other outward services on which tax is payable under reverse charge	8,00,000
(vi)	Sale of securities (Purchased at Rs. 36,00,000 in the month of January,2024)	42,00,000
(vii)	Outward supply of Hiring of trucks to M/s ABB, a Goods Transport Agency for transportation of goods.	7,00,000
(viii)	Sale of land (excluding stamp duty value of Rs. 2,80,000, being 2% of value considered for the purpose of stamp duty) (Land was purchased in the month of November,2023)	1,25,00,000
(ix)	Interest received on investment in fixed deposits with a public sector bank.	2,51,000

**Details of inward supplies for the month of October, 2024:**

S. No.	Particulars	Amount (Rs.)
(i)	Common inputs and input services used for outward supply of goods and services mentioned above: (a) Inputs - Rs. 20,00,000; (b) Inputs services - Rs. 8,00,000 Nothing has been used for any non-business purpose.	28,00,000
(ii)	Freight paid in relation to product 'D' to an unregistered Goods Transport Agency, used in relation to taxable supply only.	75,000

**Note:**

(1) All the amounts given above are exclusive of GST, wherever applicable. There is no opening balance of any input tax credit. Assume that all the conditions necessary for availing the input tax credit have been fulfilled including that details of GST paid on inward supplies are available in GSTR 2B.

(2) Assume that all the domestic transactions of company are inter-State and that rate of IGST on goods and services are 12% and 18% respectively; however rate for goods transport agency service to be considered as 5%.

(3) Company is not covered under any of the exception provided in rule 86B of the CGST Rules, 2017 regarding restriction on use of available input tax credit.

Compute the net minimum GST liability of M/s BBV Ltd., to be paid in cash if any, after utilizing Input tax credit if any, for the month of October, 2024.

**Note:** Legal explanations for each point should form part of your answer. **(14 Marks)**

**Solution :**

**Computation of minimum net GST liability of M/s BBV to be paid in cash for the month of October, 2024**

S. No.	Particulars	Amount (Rs.)	IGST (Rs.)
	<b>Output tax payable under forward charge</b>		
(i)	Export of product 'D' with payment of tax [Since exports are inter-State supplies, IGST is payable on them'.]	16,50,000	1,98,000 [16,50,000 x 12%]
(ii)	Product 'D' supplied to SEZ under LUT [Supply to a SEZ unit is a zero-rated supply. Further, no tax is payable since goods are supplied under LUT.]		-
(iii)	Export of product 'D' under LUT [Export is a zero-rated supply. Further, no tax is payable since goods are supplied under LUT.]		-
(iv)	Domestic outward supply of Product 'D'	46,00,000	5,52,000 [46,00,000 x 12%]
(v)	Outward services taxable under reverse charge [No tax is payable since recipient is liable to pay tax.]		-
(vi)	Sale of securities [Since securities are neither goods nor services, sale of securities is not a supply.]		-
(vii)	Supply of hiring of trucks to GTA [Exempt, since services by way of giving on hire to a GTA, a means of transportation of goods, are exempt.]		-
(viii)	Sale of land [Sale of land is neither supply of goods nor supply of services, as it is covered in Schedule III. Thus, it is not a supply.]		-
(ix)	Interest received on investments [Services by way of extending deposits in so far as the consideration is represented by way of interest are exempt.]		-
	<b>Total output tax</b>		<b>7,50,000</b>
	Less: Input tax credit [Refer working note below.] [ITC of IGST is being utilized for set-off of IGST liability.]		(1,39,523)
	Net GST payable Since the value of supply in October month exceeds Rs. 50 lakh, at least 1% of output tax liability is to be paid in cash, in terms of rule 86B. However, since in the given question, ITC available is much less than 99% of the output tax liability, there is no need for any adjustment of amount utilized from electronic credit ledger.		6,10,477
	Add: Tax on services received by the registered recipient from unregistered GTA is payable under reverse charge	75,000	3,750

Minimum net GST payable in cash	6,14,227
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**Working note - Computation of eligible ITC available for set off**

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

**Notes:**

**1. Computation of Exempt turnover**

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

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

**Question 2(a) :**

M/s. JLM & Sons, a partnership firm, is registered under GST at Bengaluru in the State of Karnataka. It has provided the following information related to the month of October, 2024:

S. No.	Particulars	Amount (Rs.)
(i)	Amount charged for composite supply of goods and services by way of milling of wheat into wheat flour, along with fortification to Tamil Nadu Government for distribution of such wheat flour under Public Distribution System (PDS) in Tamil Nadu. (The value of supply of goods in the above supply constitutes 49% of the value of composite supply).	8,50,000

(ii)	Taxable supply of direct selling agent services to a local branch of a public sector Bank.	4,00,000
(iii)	Supply of tobacco leaves as agriculturist to M/s Ram & Sons, a sole proprietorship firm registered at Hubli (Karnataka).	1,05,000
(iv)	Amount received for services provided to State Government in relation to training of drivers at Karnataka during the road safety week celebration of the Karnataka Government. (79.50% of the total expenditure is borne by the Government)	1,05,000
(v)	JLM & Sons got the permission from the municipal authorities to build an 8 floors building in the Bengaluru. But it agreed to build only 4 floors building and received Rs. 26,00,000 as compensation from Sunil Constructions Ltd., a neighbouring housing project which wants to protect its sunlight.	26,00,000

Based on the information given above, calculate the taxable value of supply under GST law on which tax to be paid by M/s JLM & Sons and also calculate tax payable for each item separately for the month of October, 2024.

All the above amounts are exclusive of GST, if any.

Assume rate of CGST and SGST @ 9% each and IGST @ 18% for all the supplies covered including services of obligation to refrain from an act or to tolerate an act. **(5 Marks)**

**Solution :**

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

	Particulars	Value (Rs.)	CGST @ 9% (Rs.)	SGST @ 9% (Rs.)	IGST @ 18% (Rs.)
(i)	Amount charged from Tamil Nadu Government [Taxable since composite supply of service of milling of wheat into flour and fortification for distribution by State Governments under PDS is exempt from GST only if value of goods supplied in said supply: Does not exceed/ is upto 25% of the total value of composite supply. Further, it's an inter-State supply since place of supply is location of recipient, i.e., Tamil Nadu.]	8,50,000			1,53,000
(ii)	Direct selling agent (DSA) services to bank [DSA services are not being provided by an individual direct selling agent, but by a partnership firm. Therefore, tax is not payable under reverse charge, but is payable under forward charge. Further, it's an intra-State supply since place of supply is location of recipient, i.e., Karnataka.]	4,00,000	36,000	36,000	
(iii)	Supply of tobacco leaves [Tax on supply Of tobacco leaves by an agriculturist to a registered person is payable by recipient under reverse charge. So, tax is not payable by M/s JLM & Sons.*]		-	-	-

(iv)	Services provided to State Government [Services provided to the State Government under any training programme for which 75% or more of the total expenditure is borne by the State Government is exempt under GST.]				-
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\*It is important to note that in accordance with the definition of agriculturist as per section 2(7) of the CGST Act, 2017, only an individual or HUF qualifies as an "agriculturist". Thus, alternatively, it is also possible to interpret that since JLM & Sons is a partnership firm, it is not an agriculturist. In that case, CGST and SGST @ 9% each will be payable under forward charge by JLM & Sons, i.e. Rs. 9,450 – CGST and Rs. 9,450 – SGST.

### Question 2(b) :

M/s VRM Ltd. is a registered job worker in the State of Haryana under GST and providing various job work services related to metal products. On 30th April, 2024, VRM Ltd. received steel cabinets worth Rs. 48 lakh under a delivery challan with e-way bill for the purpose of job work from M/s Vijay Pvt. Ltd., a registered manufacturer in Haryana.

The scope of job work included mounting the steel cabinets on a metal frame and sending back the mounted cabinets to Vijay Pvt. Ltd. The metal frames are to be supplied by M/s VRM Ltd. along with services relating to job work. VRM Ltd. has agreed to charge total consideration of Rs. 6.50 lakh for the entire mounting job work activity including the value of metal frames. During the course of mounting activity, metal waste is generated out of metal frames, which is sold by M/s VRM Ltd. for Rs. 52,000. VRM Ltd. sent back the steel cabinets mounted on the metal frame to Vijay Pvt. Ltd. on 13th October, 2024 under a delivery challan with e-way bill.

You are required to compute taxable value and the GST liability of M/s VRM Ltd. related to this transaction in any tax period.

Assume GST rate for metal frame as 28%, for metal waste as 12% and for services as 18%. Also, give reason(s) for inclusion or exclusion of the value of cabinets in the job charges for the purpose of payment of GST by VRM Ltd. **(5 Marks)**

### Solution :

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

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

### Question 2(c) :

DEF Ltd. imported a packaging machine from USA. DEF Ltd. paid Rs. 56,000 as charges for development activities for work done in India with respect to the imported machine.

Further, the following particulars are furnished and you are required to compute the assessable value for the purpose of customs duty payable:

S. No.	Particulars	Amount (\$)
1.	Price of the machine	20,000
2.	Freight (Air)	5,000
3.	Design charges paid to a firm in USA	300
4.	Licence fee relating to imported goods payable by the buyer as a condition of sale	10% of Price of Machine
5.	Buying commission paid by the buyer to his agent in USA	200
		<b>Amount (Rs.)</b>
6.	Materials and components supplied by the buyer free of cost	50,000
7.	Insurance paid to the insurer in India	6,000

Other Particulars:

(i) The commission payable with respect to sales to the local agent of the exporter is 5% of cost of the machine.

(ii) Materials and components supplied by the buyer free of cost are valued at Rs. 50,000.

(iii) Inter-bank exchange rate as arrived by the authorized dealer is Rs. 82.50 per \$.

(iv) CBIC had notified for purpose of Section 14 of the Customs Act, 1962, exchange rate of 83 per \$.

**(4 Marks)**

### Solution :

#### Computation of assessable value

Particulars	Amount (\$)
Price of the machine	20,000
Add: Design charges paid in USA [Includible since it is undertaken elsewhere than in India.]	300
Add: Licence fee payable by the buyer as a condition of sale [10% of Rs. 20,000] [Includible in assessable value.]	2,000
Add: Buying commission [Not includible in assessable value.]	
Add: Commission to local agent [5% of Rs. 20,000] [Includible in assessable value.]	<u>1,000</u>
<b>Total</b>	<b><u>23,300</u></b>
	<b>Amount (Rs.)</b>
Value in Indian currency [\$ 23,300 x Rs. 83] [Rate of exchange notified by the CBIC shall be considered.]	19,33,900
Add: Materials and components supplied by the buyer free of cost	50,000

[Includible in assessable value.]	
Customs FOB	19,83,900
Add: Air Freight [If the goods are imported by air, the freight cannot exceed 20% of FOB price]	3,96,780
Add: Insurance paid to the insurer in India* [Includible in assessable value.]	6,000
<b>CIF value/ Assessable value</b>	<b>23,86,680</b>

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

\* It has been most logically assumed that the insurance charges paid to insurer in India in Indian Rupees pertain to the insurance of goods till the place of importation and thus, have been included in the CIF value of goods.

However, it is also possible to assume that since such charges are paid to insurer in India, they pertain to the insurance of goods post importation. In that case, they shall not be included in assessable value at all; further, since insurance charges till the place of importation become unascertainable, insurance @ 1.125% of Customs FOB shall be added while computing the CIF value/ assessable value.

### Question 3(a) :

Determine the 'place of supply' along with explaining the correct provision of law for the following independent cases:

(i) Mr. Prakash Kumar (unregistered person under GST law) is a resident of Surat, Gujarat. He places an order on 'E-SHOPPE' (an e-commerce platform) for supply of laptop, which is to be delivered to his sister Ms. Ridhima at Mumbai, Maharashtra. Mr. Prakash, while placing the order on the above e-commerce platform, provides the billing address of his residence located in Surat, Gujarat,

(ii) Ms. Ritu is proprietor of 'G n F Center', situated at Lucknow and registered under GST law in Uttar Pradesh. Her client Ms. Neha (unregistered person under GST law) located at Delhi, requests her to provide personal grooming & fitness services at her home at Delhi. Ms. Ritu provides her grooming & fitness services at client's home at Delhi.

(iii) Decor n Décor, an interior decorator firm located at Dehradun, Uttarakhand, enters into a contract with Mr. Diego of Italy to provide interior decoration services in respect two immovable properties of Mr. Diego, one located at Dehradun, Uttarakhand and another located at Italy.

(iv) SQR Mills Private Limited of Kolkata, registered under GST law in West Bengal, gives a contract to LQR Private Limited of Varanasi, registered under GST law in Uttar Pradesh to supply a machine which is required to be assembled at a printing plant of SQR Mills Private Limited located at Bhopal, Madhya Pradesh.

**(5 Marks)**

### Solution :

(i) In cases involving supply of goods to an unregistered person, where the billing address and delivery address are different, the delivery address shall be the place of supply.

Thus, place of supply is Mumbai, Maharashtra.

(ii) The place of supply of personal grooming and fitness services is the location where the services are actually performed.

Thus, place of supply is Delhi.

(iii) Where any services directly in relation to an immovable property are supplied at more than one location, including a location in the taxable territory, its place of supply shall be the location in the taxable territory.

Thus, place of supply is Dehradun, Uttarakhand in respect of interior decoration services provided in relation to the immovable properties located in Dehradun and Italy.

(iv) Where the goods are assembled at site, place of supply shall be the place of such assembly.  
Thus, place of supply is Bhopal, Madhya Pradesh.

**Question 3(b) :**

M/s Vijay Communication Ltd., a registered telecom operator, is planning to bid for securing the right to use spectrum offered by the Government under the spectrum allocation model followed by Department of Telecommunications (DoT).

Company appointed you as advisor to give advice when the liability of payment of GST will arise in the following independent situations:

(i) In case where full upfront payment is made.

(ii) In case where deferred payment is made by the telecom operator in 18 monthly instalments.

Give your advice by explaining the relevant legal provisions with reference to the liability to pay GST, issue of invoice and time of supply. **(5 Marks)**

**Solution :**

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

(i) In case where full upfront payment is made by the telecom operator, GST would be payable when the payment of the said upfront amount is made or is due, whichever is earlier.

(ii) In case where deferred payment is made by the telecom operator in 18 monthly installments, supply shall be considered as 'continuous supply of services', since the services are being supplied continuously for a period exceeding 3 months with periodic payment obligations.

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

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

**Question 3(c) :**

M/s Falcon Ltd. imported capital goods worth Rs. 3 crore after payment of customs duty of Rs. 30 lakh on 10th September, 2024 and the duty concession of Rs. 15 lakh was availed under Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022. Imported capital goods started being used for the specified purpose as per the exemption notification with effect from 3rd January 2025. M/s X Ltd. cleared the above said imported capital goods after having been used for the specified purpose on 15th April 2025.

You are required to calculate the differential duty payable being difference between the duty leviable on such goods on clearance for which the exemption was availed at the time of importation and that already paid, along with interest payable at the rate fixed by the notification issued under section 28AA of the Customs Act, 1962. Differential duty has been paid on 30th April, 2025. Step by step working should be part of your answer. The applicable rate of customs duty is @ 15% (ignore any other cess or duty). **(4 Marks)**

**Solution :**

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

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

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

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

Depreciated value of imported capital goods is Rs. 3 crore – Rs. 24 lakh

= Rs. 276 lakh

=Rs. 276 lakh x 15% = Rs. 41,40,000

(II) Duty already paid = Rs. 30 lakh\*

Differential duty payable = (I) –(II)

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

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

**Question 4(a) :**

M/s XYZ, registered in the State of Maharashtra under GST, made the following supplies during the last week of October 2024. Considering the below mentioned independent supplies your advice is sought with appropriate reasoning for applicability of TDS provisions on the supplies made by XYZ along with quantification of the amount of TDS, if applicable.

Value of supply is exclusive of GST unless otherwise stated. The applicable rate of GST on outward supplies made is CGST 9%, SGST 9% and IGST 18%.

(i) Provided taxable supply worth Rs. 20,000 & exempted supply worth Rs. 40,000/- in an invoice to the Government of NCT of Delhi at New Delhi where a contract for supply is for Rs. 5,00,000/- (out of which Rs. 2,60,000 is for taxable supply including GST and Rs. 2,40,000 is for exempted supply).

(ii) Provided supply of taxable goods amounting to Rs. 20,00,000 to Mumbai office of National Housing Bank, a society established by Government of India under the Societies Registration Act, 1860.

(iii) Provided taxable services worth Rs. 5,00,000 to the Government Department of Himachal Pradesh (registered in Himachal Pradesh only) directly in relation to the property located at Nagpur in the State of Maharashtra and being managed by the Government of Himachal Pradesh.

(iv) Provided supply of taxable goods valued at Rs. 1,00,000 (Contract value Rs. 2,50,000) to Government of Chhattisgarh.

(v) Provided supply of taxable iron scrap valued at Rs. 3,00,000/- to M/s GGS Private Limited, a non-Government private company and registered under GST in Mumbai, Maharashtra. **(5 Marks)**

**Solution :**

S. No.	Particulars*	Tax to be deducted at source		
		CGST @ 1% (Rs.)	SGST @ 1% (Rs.)	IGST @ 2% (Rs.)
(i)	Taxable supply to Government of NCT of Delhi [Since the total value of taxable supply [Rs. 2,20,339 (Rs. 2,60,000 x 100/118)] under the contract for both taxable and	-	-	-

	exempted supply does not exceed Rs. 2,50,000, tax is NOT required to be deducted]			
(ii)	Supply of taxable goods to Mumbai office of National Housing Bank [Since total contract value exceeds Rs. 2,50,000, tax is required to be deducted on intra-State supply.]	20,000	20,000	
(iii)	Taxable services to Government Department of Himachal Pradesh. [No TDS will be deducted since the location of supplier and place of supply (being location of immovable property) is in Maharashtra which is different from State of registration of recipient (Himachal Pradesh).]	-	-	-
(iv)	Supply of taxable goods to Chhattisgarh Government [Since total contract value does not exceed Rs. 2,50,000, no TDS will be deducted.]	-	-	-
(v)	Supply of taxable iron scrap [Any registered person receiving supplies of iron scrap from other registered person is notified person to deduct TDS where total contract value exceeds Rs. 2,50,000.]	3,000	3,000	

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

#### Question 4(b) :

RRY Ltd. has two registered places of business, one in the State of Tamil Nadu and another in the State of Karnataka. Aggregate turnover during the previous financial year 2023-2024 for both the places of business was Rs. 3.27 crore and Rs. 1.47 crore respectively for Tamil Nadu and Karnataka. RRY Ltd. wishes to opt for 'Quarterly Return Monthly Payment' scheme popularly known as QRMP for one of its place of business in the current financial year 2024-25 and wants to continue with regular return filing scheme and to file return on monthly basis for its other place of business.

You are required to examine the above case and answer that can RRY Ltd. do so? Explain with reasons with reference to GST law. **(3 Marks)**

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

Comment on the validity of the above statement with reference to GST law. **(2 Marks)**

#### Solution :

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

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

(ii) The given statement is not correct. Dynamic QR code requirements apply to each supplier separately, if such person is liable to issue invoices with Dynamic QR Code for B2C supplies.

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

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

**Question 4(c) :**

Sarah of Germany, a person of foreign origin, has come to India on a tour on travel visa. She carries with her the following as part of baggage:

S. No.	Particulars	Value in (Rs.)
(i)	140 sticks of cigarettes of Rs. 120 each	16,800
(ii)	Travel souvenir	75,000
(iii)	Other articles carried on in person	1,25,500
(iv)	Fire arm with 110 cartridges (value includes the value of cartridges at @ Rs. 510 per cartridge).	1,10,000

Determine with short explanations where required, customs duty payable on concessional baggage, if the effective rate of customs duty on baggage is 38.50% inclusive of social welfare surcharge. Ignore any other applicable cess or duty. **(4 Marks)**

**Solution :**

**Computation of customs duty payable**

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

**Question 5(a) :**

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

CGST & SGST 18% - Rs. 3.60 crore

Penalty under section 74 amounting to 100% of tax due - Rs. 3.60 crore

Interest @ 18% per annum

You are required to answer the following:

- (i) Can the amount of tax be demanded in such cases?
- (ii) Is it a cognizable offence?
- (iii) Quantum of punishment if Mr. X has been convicted.
- (iv) Amount of penalty leviable on Mr. X, if any.
- (v) Amount of penalty leviable on the person who aids or abets the above offence. **(5 Marks)**

### **Solution :**

(i) Since issuance of tax invoice without the underlying supply does not qualify as “supply” under GST, no tax liability would arise against Mr. X. Thus, tax is NOT required to be demanded from Mr. X.

(ii) In the given case, the offence is non-cognizable since the amount of tax evaded or ITC availed/utilised wrongly, or the refund claimed fraudulently, does not exceed Rs. 500 lakh.

(iii) In cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds Rs. 200 lakh but does not exceed Rs. 500 lakh, with imprisonment for a term which may extend to 3 years and with fine.

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

(iv) Penalty is higher of the following amounts: -

(a) Rs. 10,000 (under CGST/SGST) or

(b) 100% of tax evaded or ITC availed of or passed on/distributed irregularly, or the refund claimed fraudulently.

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

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

### **Question 5(b) :**

M/s Karim Associates (supplier) was issued show cause notice under section 74 of the CGST Act, 2017 by the Adjudicating Authority (AA). In the final order dated 30-08-2024 issued to M/s Karim Associates, the Additional Commissioner of Central Tax (AA) confirmed the tax demand of Rs. 60,00,000. Demand on account of penalty of equal amount and interest amounting to Rs. 16,00,000 was also confirmed.

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

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

The application for refund of pre-deposit was made on 01-03-2025 and refund was granted on 14-03-2025. Considering the above facts, you are required to answer the following:

(1) The appellate authority to which M/s Karim Associates would be required to file the appeal against the order of RA.

(2) The amount of pre-deposit required to be deposited along with the above appeal.

(3) Compute the amount of interest payable on refund of such pre-deposit under section 115 of the CGST Act, 2017.

(4) The amount of pre-deposit required assuming if the appeal is to be filed against the orders of appellate authority with original demand and after considering the same amount of payment of admitted demand deposited on 30-11-2024. **(5 Marks)**

**Solution :**

(1) M/s Karim Associates would be required to file an appeal against the order of Revisional Authority to the Appellate Tribunal (GSTAT).

(2) The amount of pre-deposit is computed as under-

(a) full amount of tax (Rs. 20 lakh), interest (Rs. 5 lakh) and penalty (Rs. 20 lakh) admitted, i.e. Rs. 45 lakh and

(b) 20% of the remaining amount of tax in dispute [Rs. 10 lakh (20% of Rs. 50 lakh)],

Thus, amount of pre-deposit would be Rs. 55 lakh (45+10).

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

= Rs. 10,00,000 × 9% × 104/365

= Rs. 25643.84

Rs. 25,644 (rounded off)]

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

(i) Full amount of tax, interest and penalty admitted, i.e., Rs. 45 lakh

(ii) 10% of the tax in dispute, i.e. Rs. 4 lakh (10% of Rs. 40 lakh)

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

**Question 5(c) :**

Mr. Ankush imported the goods from France and applied for warehousing of the said goods. The Proper officer made an order permitting the deposit of the goods on 21st May, 2024. Mr. Ankush deposited goods in warehouse on the same day. These goods were re-exported without payment of duty on 15th October, 2024.

The Custom Department wants to levy interest @ 15% per annum on duty deferred as goods 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) was made. With reference to the Customs Act, 1962 and relevant case law, discuss whether any interest is payable by Mr. Ankush in such case. **(4 Marks)**

**Solution :**

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

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

(i) if the warehoused goods are cleared beyond specified time, interest is payable on the amount of duty "payable or due" on the warehoused goods.

(ii) In this case, on the date of clearance of the goods, no duty is payable.

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

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

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

**Question 6(a) :**

State the power and procedure of Authority for Advance Ruling (AAR) and Appellate Authority for Advance Ruling (AAAR) with reference to section 105 and 106 of the CGST Act, 2017. **(6 Marks)**

**Solution :**

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

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

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

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

Any proceeding before the authority shall be deemed to be judicial proceeding under the Indian Penal Code (IPC). The AAR and AAAR also have the power to regulate their own procedure.

**Question 6(b) :**

Write short note on the 'Assessment of Non-filer of returns' under section 62 of the CGST Act, 2017.

**(4 Marks)**

**Solution :**

**Best Judgment Assessment**

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

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

- fails to furnish the monthly/quarterly return under section 39 or
  - fails to furnish the final return under section 45
  - even after service of a notice requiring him to furnish the return within a period of 15 days,
- the proper officer may assess the tax liability of said person to the best of his judgement taking into account all the relevant material which is available or which he has gathered.

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

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

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

**OR**

**Question 6(b) :**

Under what circumstances, special audit under section 66 of the CGST Act, 2017 may be directed? Is the special audit provision applicable even if the accounts of the registered person have already been audited under any other provisions of the GST law? **(4 Marks)**

**Solution :**

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

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

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

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

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

**Question 6(c) :**

With reference to customs law, state the mandatory documents required for (any two for each):

- (i) Export of goods
- (ii) Import of goods

**(4 Marks)**

**Solution :**

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

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

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

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

**Sept. 25**

**Question 1 :**

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

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

The following additional information be taken into consideration:

- (a) Wherever details for determination of place of supply are not given in the question, it shall be taken as inter-State transaction.
- (b) Out of total consideration received for printing of books, Rs. 3,00,000 was related to paper and ink.
- (c) SIL had filed Letter of Undertaking for zero-rated supplies to make exports without payment of tax.
- (d) Corporate guarantee was given for grant of term loan by a PSU Bank for solar panel installation amounting to Rs. 20 Lakhs with a term of 5 years. The related party availed only Rs. 15 lakhs since it could manage the balance funds through its internal sources.
- (e) Supply of service as well as invoice for footwear sector supply was made on 14th February 2025. There was a change in rate of tax from 12% (by a notification issued in January 2025) to 18%, with effect from 1st February 2025.
- (f) SIL had purchased the machine referred in Sl. No (vi) above in the month of January 2024 at a cost of Rs. 6,00,000 excluding GST. Since invoice was also issued in January 2024, ITC was eligible and claimed during the same month.
- (g) Except as otherwise stated, rates of CGST, SGST and IGST are 6%, 6% and 12% respectively for paper and ink and 9%, 9% and 18% respectively for all other inward and outward supply of goods and/or services.
- (h) All the amounts given above are exclusive of taxes wherever applicable.
- (i) All the conditions applicable for availing ITC have been complied with, subject to the information given above and the said ITC were exclusively used for taxable outward supply only.

From the information given above, you are required to compute the net GST liability payable in cash (CGST, SGST or IGST as the case may be) for the month of January 2025. Brief reason for the treatment of each item should form part of the answer. **(14 Marks)**

**Solution :**

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

S. No.	Particulars	Value (Rs.)	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
(i)	Order for printing of books [Printing of books with only content being supplied by the publisher is a composite supply wherein supply of printing service is the principal supply.]	7,00,000			1,26,000 <sup>1</sup> [7,00,000 x 18%]
(ii)	Renting of commercial building [Since renting of only residential dwelling for use as residence is exempt, renting of commercial buildings for use as residence is not exempt and is thus, taxable. Further, tax is payable under forward charge and not under reverse charge since supplier - SIL – is registered. It is an intra-State supply since place of supply of services in relation to immovable property is the location of such property, i.e. Andhra Pradesh.]	1,20,000	10,800 [1,20,000 x 9%]	10,800 [1,20,000 x 9%]	-
(iii)	Consultancy services provided to a resident of South Korea [Intra-State supply since where services supplied in respect of goods required to be made physically available by the recipient to supplier are supplied at more than one location, including a location in the taxable territory, place of supply is the location in the taxable territory, i.e., Andhra Pradesh.]	20,00,000	1,80,000 [20,00,000 x 9%]	1,80,000 [20,00,000 x 9%]	-
(iv)	Corporate guarantee on behalf of a related person in India [Value of supply of corporate guarantee service for 5 years is higher of the following:- (a) 1% per annum of amount of such guarantee offered [and not amount of loan actually disbursed to the recipient] multiplied by 5 years [1% x ` 20,00,000 x 5 years = ` 1,00,000]	1,00,000			18,000 <sup>2</sup> [1,00,000 x 18%]
(v)	Supply of services related to footwear sector [In case of change in rate of tax, if supply and issue of invoice (14th February, 2025) are after the change in such rate (1st February, 2025), payment is received before change in rate, date of issue of invoice [14th February, 2025] is the time of supply. Therefore, advance is not taxable in the month of		-	-	-

	January, 2025.]				
(vi)	Supply of old machinery [Intra-State supply since in case of “Bill to Ship to” supply, where goods are delivered by the supplier to the recipient at the instruction of a third person, place of supply is principal place of business of third person i.e. Andhra Pradesh. Further, refer working note 2 below for computation of amount to be paid on supply of old machinery on which ITC has been taken.]		40,500	40,500	-
	Total output tax liability		2,31,300	2,31,300	1,44,000
	Less: Input tax credit [Refer working note 1 below.]		-	-	-
	<b>Minimum net GST payable in cash</b>		<b>2,31,300</b>	<b>2,31,300</b>	<b>1,44,000</b>

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

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

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

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

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

#### Note :

- 1) It is specifically mentioned in the question that wherever details of place of supply are not given in the question, it shall be treated as inter-State transaction.
- 2) It is specifically mentioned in the question that wherever details of place of supply are not given in the question, it shall be treated as inter-State transaction.

**Question 2(a) :**

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

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

Following additional information is also provided by Mr. Viswas:

- Wherever details for determination of place of supply are not given in the question, it shall be taken as intra-State transaction.
  - Imported consultation services in the course of his business from his father-in-law in Australia, without a consideration and valued at Rs. 1,20,000.
  - All the amounts given above are exclusive of tax, wherever applicable.
  - Assume the rate of tax for CGST/SGST/IGST as 9%/9%/18% respectively for both inward and outward supplies.
  - Subject to the information given above, Mr. Viswas fulfilled all the conditions required for availing ITC. You are required to determine the value of taxable supply and net GST liability payable in cash by Mr. Viswas for the month of February 2025.
- Reason for treatment of each items needs to be given in the answer. **(10 Marks)**

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

S. No.	Particulars	Amount (Rs.)	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
(a)	Security services to unregistered persons [On Rs. 1,00,000, tax is payable under forward charge and not under reverse charge since security services are provided to unregistered persons.]	1,00,000	9,000 <sup>1</sup> [Rs. 1,00,000 x 9%]	9,000 [Rs. 1,00,000 x 9%]	-
	Security services to registered persons [On Rs. 4,00,000, tax is payable under reverse charge by the recipient since security services are provided by a non- body corporate or by an individual to registered persons.]		-	-	-

(b)	Organisation of entertainment event [Inter-State supply, since place of supply of services provided by way of organisation of entertainment event to a registered recipient is the location of recipient, i.e. Telangana.]	15,00,000			2,70,000 [Rs. 15,00,000 x 18%]
(c)	Training services in a program organized by National Skill Development Corporation (NSDC) [Taxable, since services provided by only a training partner approved by NSDC, in relation to the National Skill Development Programme are exempt.]	2,00,000	18,000 <sup>2</sup> [Rs. 2,00,000 x 9%]	18,000 [Rs. 2,00,000 x 9%]	-
(d)	Sale of old godown [Since sale of building (godown) is neither supply of goods nor supply of services as it is covered in Schedule III of the CGST Act, 2017. Thus, sale of godown is not a supply	-	-	-	-
(e)	Import of consultation services from father-in-law [Since father-in-law is not a related person, import of services from him, though in the course of business shall not be deemed as supply since it is made without consideration.]	-	-	-	-
	Value of taxable supply <sup>3</sup>	22,00,000			
	<b>Total output tax</b>		<b>27,000</b>	<b>27,000</b>	<b>2,70,000</b>
	Less: Input tax credit [Refer working note below.] [ITC of CGST is being used to pay CGST liability first and then remaining for payment of IGST. ITC of SGST is being used to pay SGST liability first and then remaining for payment of IGST.]		(27,000) CGST	(27,000) SGST	(10,350) CGST (10,350) SGST
	<b>Minimum net GST payable in cash</b>		<b>Nil</b>	<b>Nil</b>	<b>2,49,300</b>

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

Particulars	Value (Rs.)	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
Input services availed in relation to organizing entertainment event [Since used exclusively for taxable supply, ITC is fully available.]	4,00,000	36,000 <sup>4</sup> [4,00,000 x 9%]	36,000 [4,00,000 x 9%]	
Tax consultation services received from CA [ITC is available since used in course or furtherance of business. Further, it is commonly used for making taxable and exempt supplies.]	30,000	2,700 [Rs. 30,000 x 9%]	2,700 [Rs. 30,000 x 9%]	
Less: Common credit attributable to exempt supplies = Common credit x (Exempt turnover / Total turnover) = Rs. 2,700 x Rs. 18,00,000 / Rs. 36,00,000		(1,350)	(1,350)	

Exempt turnover = Rs. 18,00,000 Total turnover = Rs. 36,00,000 [Refer Notes 1 and 2 below]				
<b>Total ITC eligible for set-off</b>		<b>37,350</b>	<b>37,350</b>	
<b>Note 1:</b> Exempt turnover includes- (i) security services taxable under reverse charge (Rs. 4,00,000), and (ii) sale of godown [Rs. 14,00,000 [value adopted for paying stamp duty] = Rs. 18,00,000]				
<b>Note 2:</b> Total turnover = Rs. (5,00,000 + 15,00,000 + 2,00,000 + 14,00,000) = Rs. 36,00,000				

**Notes :**

- 1) It is specifically mentioned in the question that wherever details of place of supply are not given in the question, it shall be treated as intra-State transaction.
- 2) It is specifically mentioned in the question that wherever details of place of supply are not given in the question, it shall be treated as intra-State transaction.
- 3) Since the question simply mentions the value of taxable supply, it includes (i) value on which tax is payable by Mr. Vishwas as well as (ii) value on which tax is payable by the recipient of supply. However, alternatively, it is also possible to compute value of supply as only the value on which tax is payable by Mr. Vishwas only and not value on which tax is payable by the recipient of supply.
- 4) It is specifically mentioned in the question that wherever details of place of supply are not given in the question, it shall be treated as intra-State transaction.

**Question 2(b) :**

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

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

Following additional amount was also paid by ABT Ltd.:

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

Other Information:

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

From the above particulars, company wants you to calculate the assessable value and basic custom duty (BCD) payable with appropriate working notes under the Customs Act, 1962. **(4 Marks)**

**Solution :**

Computation of assessable value and basic customs duty (BCD)

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

**Note :**

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

**Question 3(a) :**

Examine the following independent scenarios and answer the questions given thereon:

(i) M/s Sea Foods Limited, registered in the State of Tamilnadu, made a supply of goods to M/s Eat Well Limited, registered in State of Maharashtra. The supply was made in the territorial waters, where

appropriate baseline was situated within 4 nautical miles from the State of Kerala and 12 nautical miles from the State of Tamilnadu. Determine the place of supply with proper reasoning.

(ii) M/s Speed Logistics gave on hire its tipper lorries to M/s ABC, a mining firm for transporting minerals from mining pit head to railway siding. Vehicle was given with driver but fuel cost was to be borne by the recipient. M/s Speed Logistics considered this transaction as exempt supply since it was covered under the entry of transportation of goods by road except by GTA in the exemption notification. Examine the correctness of this treatment. **(5 Marks)**

**Solution :**

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

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

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

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

**Question 3(b) :**

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

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

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

Ignore the panel provision for late or non-issuance of invoices. **(5 Marks)**

**Solution :**

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

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

(a) Date of payment, as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier or

(b) Date immediately following 60 days (or 61st day) from the date of issue of invoice by the supplier, in cases where invoice is to be issued by the supplier or

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

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

1. 8th January, 2025

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

2. 13th January, 2025

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

**Alternatively,**

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

3. 18th February, 2025

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

4. 18th February, 2025

Since it is earlier of:

(i) the date of payment (18th February)

Or

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

### **Question 3(c) :**

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

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

You are required to advise M/s DMP Overseas Ltd. on the said issue elaborating the relevant legal provisions under the customs law. **(4 Marks)**

### **Solution :**

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

1. The importer shall maintain a record of goods sent for job work during the month and mention the same in the quarterly statement.
2. The goods shall be sent to job worker under invoice or through an e- way bill, mentioning their description and quantity.

3. The maximum period for which the goods can be sent to the job worker is one year from the date of invoice/ e-way bill.

4. In case the importer is unable to establish that the goods sent for job work have been used as per the specified particulars, the jurisdictional customs officer shall take necessary action against the importer.  
Conditions for job worker

1. Job worker shall maintain account of goods received, manufacturing process undertaken and waste generated, if any.

2. Job worker shall produce account details before jurisdictional customs officer on demand.

3. Job worker shall, after completion of job work return processed goods to importer or send them to another job worker as directed by importer for remaining process, under invoice or e-way bill.

#### Question 4(a) :

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

You are required to determine with explanations:

(i) Interest, if any, payable under section 50(1) of the CGST Act, 2017 in respect of delayed payment of tax by Seagull and Co.

(ii) Suppose if, all facts remaining the same, except that the said return was filed after the issue of notice under section 74A, determine the interest, if any, payable under section 50(1) of the CGST Act, 2017.

(5 Marks)

#### Solution :

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

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

Accordingly, in the given case, interest payable under section 50 is: on Rs. 14,000 (Rs. 60,000 – Rs. 40,000 – Rs. 6,000)

Applicable rate of interest will be 18%

Number of days of delay = 73 days

= Rs. 14000 × 18% × 73/365

= Rs. 504 (Rs. 252 CGST + Rs. 252 SGST)

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

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

Accordingly, in the given case, interest payable under section 50 is: on Rs. 54,000 (Rs. 60,000 – Rs. 6,000)

= 54000 × 18% × 73 /365

= Rs. 1,944 (Rs. 972 CGST and Rs. 972 SGST)

#### Question 4(b) :

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

- (i) "There is no need of registration at all if a person is engaged in supply services (intra-State and/or inter-State) only through an E-Commerce Operator (ECO)."
- (ii) "There is no requirement of the physical verification of business premises."
- (iii) "There is no requirement to provide the details of bank account at the time of application of registration." (5 Marks)

#### Solution :

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

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

Exceptions:

(i) Such persons having an aggregate turnover not exceeding Rs. 20 lakh (Rs. 10 lakh in case of specified Special Category States) in a FY, are exempt from obtaining compulsory registration.

(ii) Persons making notified supplies through an ECO.

(ii) The statement is partially valid/not valid

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

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

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

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

(iii) The statement is valid/partially valid. After the grant of registration, the registered person is allowed to furnish his bank account details:

(i) within 30 days from date of grant of registration,

or

(ii) before furnishing

(a) the details of outward supplies under section 37

OR

(b) GSTR-1/using IFF

whichever is earlier.

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

#### Question 4(c) :

Ms. Veronica, a UK Citizen, aged 17 years, visited India on tourist visa on 01.02.2025. She brought with her the following items on her visit,

(A) Travel souvenir worth Rs. 60,000

(B) Laptop computer valued Rs. 40,000

(C) Other articles carried on in person worth Rs. 75,000

With reference to the Baggage Rules, 2016, determine the value of baggage liable to customs duty.

**Solution :**

Computation of value of baggage liable to customs duty

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

**Question 5(a) :**

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

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

From the above information given above, calculate:

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

Your answer should include explanations with necessary provisions in brief. **(5 Marks)**

**Solution :**

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

(a) 50% of value of goods [Rs. 1,50,000 (Rs. 3,00,000  $\times$  50%)]

or

(b) 200% of tax payable on goods [Rs. 54,000 (Rs. 3,00,000  $\times$  9%  $\times$  200%)]

whichever is higher,

i.e. penalty will be:

Rs. 3,00,000 (Rs. 1,50,000 each under CGST and SGST)

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

= 25% of the penalty under section 129(3) [as above]

= 25% of Rs. 1,50,000

i.e. pre-deposit will be :

= Rs., 75,000 (Rs. 37,500 each under CGST and SGST)

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

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

or

(b) Rs. 1,00,000

whichever is less,

i.e., pre-deposit will be :

Rs. 2,00,000 (Rs. 1,00,000 each under CGST and SGST)

#### **Question 5(b) :**

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

(i) What is the latest date by which show cause notice (SCN) under section 74A can be issued by the proper officer in the above situation?

(ii) What is the timeline to pass order for the above said SCN?

(iii) What would be your answer for point (i) and (ii) in case the reason of short payment was as a result of wilful-misstatement?

Assume that no extension of time will be provided by the appropriate authority for passing the order in the above situation. **(5 Marks)**

#### **Solution :**

(i) The proper officer can issue a show cause notice within 42 months from the due date of furnishing the annual return (31.12.2025) for relevant financial year to which short payment relates to, i.e. upto 30.06.2029 in the given case.

(ii) The time-limit to pass the order for the above SCN is upto 12 months from the date of issuance of said SCN. This can be extended by a maximum 6 months in special circumstances

(iii) Answers to (i) and (ii) above will remain same in case the reason of the short-payment was a result of willful mis-statement.

#### **Question 5(c) :**

Section 26A of the Customs Act, 1962 provides that the import duty paid on clearance of imported goods for home consumption capable of being easily identified shall be refunded to the person by whom or on whose behalf such duty was paid subject to the fulfillment of certain conditions. You are required to list those conditions with explanation. **(4 Marks)**

#### **Solution :**

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

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

#### **Question 6(a) :**

'Generally, appellant is not allowed to produce any additional evidence at the appeal stage.' Examine this statement with reference to rule 112 of the CGST Rules, 2017 and discuss in brief, the provisions related to production of additional evidence before the Appellate Authority or the Appellate Tribunal. **(6 Marks)**

#### **Solution :**

The statement is correct.

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

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

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

Any additional evidence shall not be admitted unless:

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

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

#### **Question 6(b) :**

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

**(4 Marks)**

**Solution :**

The type of proceedings covered are:

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

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

- mistake
- defect
- omission therein,

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

**OR**

**Question 6(b) :**

What is meant by 'commencement of audit' with reference to section 65 of the CGST Act, 2017? Also state the time limit for the completion of the audit in such cases. **(4 Marks)**

**Solution :**

Commencement of audit means:

(i) the date on which records and other documents, called for by tax authorities, are made available by the registered person

or

(ii) the date of actual institution of audit at the place of business, whichever is later.

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

**Question 6(c) :**

Who has the authority to place an entity in Denied Entity List (DEL) and what are the restrictions imposed on the entity placed in DEL?

Also enumerate when can the name once placed under DEL be removed from DEL? **(4 Marks)**

**Solution :**

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

In such a case:

(i) firm may be refused grant or renewal of a licence/ authorization/ certificate/ scrip/ any instrument bestowing financial/ fiscal benefits,

and

(ii) all new licences, authorisations, scrips, certificates, instruments etc. will be blocked from printing/ issue/ renewal.

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

# RTP Compilation

May 24

## Question 1 :

Sitaram Industries Limited, a registered entity under GST, in the State of Karnataka, is engaged in manufacture and supply of both taxable and exempt goods and services. Following information for the month of October, 2023 is provided by it:

S. No.	Particulars	Amount (Rs.)
	<b>OUTWARD SUPPLIES:</b>	
A	Sold an old warehouse building in the State of Karnataka to a retail giant in the same State	30,00,000
B	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.]	12,00,000
	Special boxes for packing of the laptops	1,30,000
C	Provided Direct Selling Agent service to Kumkum Bank, registered in Karnataka	4,00,000
D	Provided pure labour services pertaining to a single residential unit in Mumbai, Maharashtra (otherwise than as a part of residential complex) for erection and installation of renovation works for a client registered in Maharashtra	6,20,000
E	Provided free of cost training in a resort in Puducherry to its agents based in the State of Karnataka on effective use of the products of the company. [Open market value of the said service is Rs. 1,00,000. Value of supply of service of like kind and quality is Rs. 1,20,000.]	
F	Interest received on fixed deposits from Sulakshan Bank, registered in Karnataka	2,00,000
	<b>INWARD SUPPLIES:</b>	
G	Received a debit note in respect of inward intra- State taxable supplies received in the financial year 2020-21 for the quantity difference as agreed. These inward supplies were used for all goods manufactured in factory. Date of debit note is 16 <sup>th</sup> October, 2023.	4,00,000
H	Solar panels installed in the factory for providing electricity to be used in factory (Intra- State)	5,00,000
I	Purchased employee uniforms for 1000 employees (Inter-State) [Uniforms worth Rs. 3,00,000 were necessary to ensure the safety of the workers while carrying out the manufacturing activity. Remaining uniforms worth Rs. 4,00,000 were sometimes worn by the employees outside the factory for personal purposes.]	7,00,000

The company provided the following additional information:

- In respect of sale of old warehouse building, stamp duty was paid on Rs. 32 lakh.
- The company provided a corporate guarantee of Rs. 2 crores to Laxmi Logistics Limited, its related

company having registered office in the State of Karnataka, for loan availed by the latter from Jandhan Bank Ltd., Karnataka.

iii) The accountant of the company did not claim input tax credit in respect of debit note received for the reason that the original purchase related to earlier years for which ITC claim eligibility was over.

iv) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively for both inward and outward supply of goods and services, except special packing boxes for which the applicable rates of CGST, SGST and IGST are 6%, 6% and 12% respectively.

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

From the information given above, you are required to compute the eligible ITC available for set off and minimum net GST payable in cash (CGST, SGST or IGST, as the case may be) for the month of October, 2023. Provide brief reasons for the treatment of each item.

**Solution :**

**Computation of eligible ITC and net GST payable by M/s Sitaram Industries Ltd., for the month of October, 2023**

Particulars	Value	IGST @ 18%	CGST @ 9%	SGST @ 9%
	Rs.	Rs.	Rs.	Rs.
Outward Supply:				
Sale of old warehouse building [Since sale of building is neither supply of goods nor supply of services in terms of para 5 of Schedule III of the CGST Act, 2017, it does not qualify as supply.]	Nil	-	-	-
Supply of laptops [Inter-State supply since place of supply 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, 2017. Further, as per section 8(a), supply of laptops with packing is a composite supply, chargeable to tax at the rate applicable to the principal supply (viz. supply of laptops) i.e.,18%.]	13,30,000 [12,00,000 + 1,30,000]	2,39,400	-	-
Direct Selling Agent service [Intra-State supply since place of supply here is the location of recipient, viz. Karnataka, in terms of section 12(2)(a) of the IGST Act, 2017. Further, tax will be payable under forward charge since such services are provided by a person other than individual - Notification No. 13/2017 CT(R) dated 28.06.2017.]	4,00,000	-	36,000	36,000
Pure labour service [Inter-State supply since place of supply here is the location of immovable property, viz. Maharashtra in terms of	6,20,000	1,11,600	-	-

section 12(3) of the IGST Act, 2017. Further, services by way of pure labour contracts of erection and installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex are exempt in terms of Notification No. 12/2017 CT(R) dated 28.06.2017 However, such services in relation to renovation work are not exempt.]				
Free training to agents [Services provided by the company to agents without consideration is not deemed as supply in terms of para 3 of Schedule-I since only goods supplied by principal to agent are covered therein. Further, such services are also not covered in para 2 of Schedule I as agents are not related persons.]	1,00,000	-	-	-
Corporate guarantee provided to Laxmi Logistics Limited [Supply of service between related parties even when made without any consideration is deemed supply in terms of Schedule I. Further, value of corporate guarantee, in terms of rule 28(2), will be higher of: (i) 1% of the amount of such guarantee offered, or (ii) actual consideration] (i.e. 1% of Rs. 2 crore) [Circular No. 204/16/2023 GST dated 27.10.2023]	2,00,000	-	18,000	18,000
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 vide Notification No. 12/2017 CT (R) dated 28.06.2017]	2,00,000	-	-	-
Gross GST liability [A]		3,51,000	54,000	54,000
Less: ITC available for set off [Refer Note (iii) below]		24,958	16,639	16,639
<b>Net GST payable in cash</b>		<b>3,26,042</b>	<b>37,361</b>	<b>37,361</b>

**Notes:**

**(i) Computation of ITC admissible to Sitaram Industries Ltd. For the month of October, 2023**

Particulars	Value	IGST	CGST	SGST
	Rs.	Rs.	Rs.	Rs.
Debit note received [ITC on debit notes issued in a financial year can be availed any time till 30th November of the succeeding financial year or the date of filing of the relevant annual return, whichever is earlier, irrespective of the date of original invoice/ supply, in terms of section 16(4).]	4,00,000	-	36,000	36,000
Solar panels purchased [ITC cannot be claimed in respect of solar panels, since ITC on goods or services or both received by a taxable person for construction of		-	-	-

an immovable property (other than plant and machinery on his own account including when such goods or services or both are used in the course of furtherance of business is blocked in terms of section 17(5)(d).]				
Uniforms purchased [ITC on the uniforms which are necessary to ensure the safety of the employees while carrying out the business activity, is available. However, uniforms not provided for any safety purpose are construed as being used for personal consumption and thus, ITC thereon is blocked in terms of section 17(5)(d).]	3,00,000	54,000	-	-
<b>Total</b>		<b>54,000</b>	<b>36,000</b>	<b>36,000</b>

**(ii) Computation of common credit attributable to exempt supplies in respect of Sitaram Industries Ltd. for the month of October, 2023**

Particulars	IGST (Rs.)	CGST (Rs.)	SGST (Rs.)
Common credit on receipt of debit note [Debit note, although received in respect of taxable inward supply, is being used for all goods manufactured in factory which comprises of both taxable and exempt goods.]	--	36,000	36,000
Common credit on purchase of uniforms [Uniforms are being used commonly for manufacturing of both taxable and exempt goods.]	54,000		
Common credit attributable to exempt supplies (rounded off) = Common credit x (Exempt turnover during the period / Total turnover during the period) = Rs. 54,000 x Rs. 32,00,000/Rs. 59,50,000 (IGST) = Rs. 36,000 x Rs. 32,00,000 / Rs. 59,50,000 (CGST/SGST) Exempt turnover = Rs. 32,00,000 and total turnover = Rs. 59,50,000 [Refer note below]	29,042	19,361	19,361

**Note:** 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, inter alia, sale of building subject to clause (b) of paragraph 5 of Schedule II. Further, as per explanation to Chapter V (Input Tax Credit) of the CGST Rules, 2017, for determining the value of an exempt supply as referred to in section 17(3), the value of exempt supply in respect of land and building is the value adopted for the purpose of paying stamp duty.

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 non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances.

Therefore, value of exempt turnover in the given case will be the value of building (Rs. 32,00,000). Total turnover will be sum of value of building (Rs. 32,00,000) + supply of laptop (Rs. 13,30,000) + supply of Direct Selling Agent service (Rs. 4,00,000) + supply of pure labour service (Rs. 6,20,000) + supply of corporate guarantee (Rs. 2,00,000) + interest received on fixed deposits (Rs. 2,00,000) = Rs. 59,50,000

**(iii) Computation of ITC available for set off of Sitaram Industries Limited for the month of October, 2023**

Particulars	IGST (Rs.)	CGST (Rs.)	SGST (Rs.)
Common credit on inputs and input services	54,000	36,000	36,000
ITC available in the Electronic Credit Ledger	54,000	36,000	36,000
Less: Common credit attributable to exempt supplies during the tax period [As calculated in Note (ii) above]	29,042	19,361	19,361
ITC available for set off	24,958	16,639	16,639

**Question 2 :**

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

In the month of December, Player A, an unregistered person located in India, deposited an amount of Rs. 10,000 (inclusive of GST) in the master wallet available on the portal of Fortune 365. Subsequently, following transactions were undertaken by Player A in said month:

- Player A utilized the amount of Rs. 2,000 from the master wallet towards playing a virtual racing game on the portal. As a winning amount, Rs. 10,000 was credited to the master wallet of Player A.
- On another portal operated by Fortune 365 in the name of Bet 180, Player A placed a bet of face value of Rs. 11,000 on an international wrestling match. The amount of such bet was paid by the master wallet of Player A. However, he lost the bet and hence the bet amount of Rs. 11,000 with applicable taxes was transferred from the master wallet to the bank account of Bet 180.
- Player A transferred the balance amount from the master wallet to his bank account after the aforesaid transactions. Assume all the above transactions to be exclusive of GST unless otherwise specified.
- Rate of GST applicable is 28% (Please ignore the bifurcation of GST amount into CGST, SGST and IGST.)

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

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

**Solution :**

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

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

**In accordance with the above provisions:**

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

(i) Value of supply of online money gaming = Total amount deposited with the supplier by the player in terms of rule 31B = Initial deposit of Rs. 10,000 (inclusive of GST) by Player A with Fortune 365 after excluding GST = Rs. 7,812.50 (Rs. 10,000 × 100/128)

GST payable = Rs. 7,812.50 × 28% = Rs. 2,188 – [A]

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

GST payable = Rs. 11,000 × 28%) = Rs. 3,080 – [B]

Total amount of GST that would be collected by the Government on the given transactions = [A] + [B] = 5,268 (rounded off)

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

Particulars Amount	(Rs.)
Initial Deposit	10,000
Less – GST on deposit	2,188
Less – Payment for virtual racing game	2,000
Add – Winning from virtual racing game	10,000
Less – Payment for bet placed on Bet 180	11,000
Less – GST on the bet place on Bet 180	3,080
<b>Net balance available for transfer</b>	<b>1,732</b>

(3) As per section 24(xia), every person supplying online money gaming from a place outside India to a person in India shall be required to obtain registration on a mandatory basis in India.

Accordingly, Fortune 365 being a supplier of online money gaming operating from UAE and supplying services in India shall be liable to obtain registration compulsorily in India. The answer will not change irrespective of the fact that Player A is registered under GST in India or not.

### **Question 3 :**

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

- Bindusara wishes to continue his business without registering under GST since it will enhance the compliance burden under GST law. Can he supply the goods through E-vastustore without obtaining GST registration? You are required to advise him.
- Discuss the GST implications in case Bindusara supplies goods through electronic commerce platform - E-vastustore.

### **Solution :**

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

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

However, the persons making supplies of goods through an ECO who is required to collect TCS and having an aggregate turnover in the preceding financial year and in the current financial year not exceeding the threshold limit in accordance with the provisions of section 22(1), are exempted from obtaining registration, vide Notification No. 34/2023 CT dated 31.07.2023, subject to the following conditions, namely:

- such persons shall not make any inter-State supply of goods;
- such persons shall not make supply of goods through ECO in more than one State/Union territory;

- (iii) such persons shall be required to have a PAN issued under the Income-tax Act, 1961;
- (iv) such persons shall, before making any supply of goods through ECO, declare on the common portal:
  - a. their PAN
  - b. address of their place of business and
  - c. State/UT in which such persons seek to make such supply,which shall be subjected to validation on the common portal;
- (v) such persons have been granted an enrolment number on the common portal on successful validation of the PAN declared above;
- (vi) such persons shall not be granted more than one enrolment number in a State/UT;
- (vii) no supply of goods shall be made by such persons through ECO unless such persons have been granted an enrolment number on the common portal; and
- (viii) where such persons are subsequently granted registration under section 25, the enrolment number shall cease to be valid from the effective date of registration.

Thus, Bindusara can supply goods through E-vastustore without obtaining GST registration till the time its aggregate turnover does not exceed the threshold limit in accordance with the provisions of section 22(1) thereby complying with the aforesaid conditions.

(B) As Bindusara is not required to obtain registration under GST, there shall be no GST implications on the supplies made by him through electronic commerce platform - E-vastustore.

However, the electronic commerce operator - E-vastustore – is required to submit the details of supplies made through it by the unregistered suppliers (including Bindusara) having enrolment number in Form GSTR 8. Further, no tax at source shall be collected by the E-vastustore in respect of such supplies.

#### **Question 4 :**

A Ltd. is registered under GST in Rajasthan, Delhi, Haryana and Punjab. Due to closure of business activities in Rajasthan with effect from May 31, 2023, A Ltd. filed an application for cancellation of registration before the jurisdictional tax authorities of Rajasthan. The application for cancellation of registration was filed on June 30, 2023. The registration was suspended with immediate effect from June 30, 2023, by the jurisdictional tax authorities. The final order of cancellation was dated July 31, 2023.

You are required to advise A Ltd. regarding the last date for filing the final return by it in Rajasthan.

Further, A Ltd. was also registered as an ISD (Input Service Distributor) in Rajasthan; said registration was cancelled with effect from June 30, 2023 with an order dated July 31, 2023. Advise whether the final return is required to be filed upon cancellation of ISD registration by A Ltd.? If yes, what is the due date for filing said final return?

#### **Solution :**

As per section 45 read with rule 81, every registered person who is required to file a return under section 39(1) and whose registration has been cancelled is required to file a final return electronically in Form GSTR-10 through the common portal. The final return has to be filed within 3 months of the:

(i) date of cancellation

or

(ii) date of order of cancellation

whichever is later.

Thus, in the given case, final return for Rajasthan registration has to be furnished within three months of the date of order of cancellation of registration (July 31, 2023). Hence, final return has to be filed by A Ltd. on or before October 31, 2023.

Further, since an ISD is not required to furnish return under section 39(1) but under section 39(4), final return is not required to be filed upon cancellation of ISD registration. Therefore, A Ltd. is not required to furnish final return for ISD registration cancelled.

#### **Question 5 :**

Zebrex, registered in Delhi, enters into a contract with Shine Ltd., an advertising company, located and registered in Gurugram, Haryana, to arrange the display of an advertisement of Zebrex's newly launched product on a hoarding placed in Marine Drive-Mumbai, Maharashtra for initial 3 months of the launch of the product. Shine Ltd., in turn, enters into a contract with the owner of Seaside Hotel located and registered in Marine Drive-Mumbai, Maharashtra for display of the advertisement on a hoarding placed in the lawn of the hotel. What will be the place of supply of service(s) provided in the given case?

#### **Solution :**

**In the given case, two supplies are involved:**

- (i) Services provided by Shine Ltd. to Zebrex by way of arranging the display of the advertisement of its newly launched product, and
- (ii) Services provided by Seaside Hotel to Shine Ltd. by way of placing a hoarding in the lawn of the hotel.

**The place of supply in each of the above supplies is as follows:**

(i) As per section 12(2)(a) of the IGST Act, 2017, the place of supply of services, except the services specified in sub-sections (3) to (14) of section 12 of the IGST Act, 2017, made to a registered person is the location of the person receiving the services. Advertisement services provided by Shine Ltd. to Zebrex is not covered in any of the sub-sections of section 12 of the IGST Act, 2017. Therefore, the place of supply shall be determined by the default provision under section 12(2)(a) of the IGST Act, 2017, viz. the location of the recipient.

Thus, the place of supply, in the given case, is the location of Zebrex, i.e. Delhi.

(ii) In case where there is supply (sale) of space or supply (sale) of rights to use the space on the hoarding/ structure (immovable property) belonging to vendor to the client/advertising company for display of their advertisement on the said hoarding/ structure, the hoarding/structure erected on the land should be considered as immovable structure or fixture as it has been embedded in earth. Further, place of supply of any service provided by way of supply (sale) of space on an immovable property or grant of rights to use an immovable property shall be governed by the provisions of section 12(3)(a) of the IGST Act. Therefore, the place of supply of service provided by way of grant of rights to use the hoarding/ structure for advertising in this case would be the location where such hoarding/ structure is located.

Thus, the place of supply, in the given case, is location of hotel where the hoarding is located, viz. Marine Drive-Mumbai, Maharashtra.

#### **Question 6 :**

Product 'Hexa' was imported by Mr. Narayan by air. The details of the import transaction are as follows:

<b>Particulars</b>	<b>US \$</b>
Price of 'Hexa' at exporter's factory	8,000
Freight from factory of the exporter to load airport (airport in the country of exporter)	500

Loading and handling charges at the load airport	500
Freight from load airport to the airport of importation in India	4,000
Insurance charges	2,000

Though the aircraft arrived on 24th November, the bill of entry for home consumption was presented by Mr. Narayan on 20th November.

The other details furnished by Mr. Narayan are:

	20 <sup>th</sup> November	24 <sup>th</sup> November
Rate of basic customs duty	15%	10%
Exchange rate notified by CBIC	Rs. 70 per US\$	Rs. 73 per US\$
Exchange rate prescribed by RBI	Rs. 72 per US\$	Rs. 74 per US\$
Integrated tax leviable under section 3(7) of the Customs Tariff Act, 1975	15%	12%

Compute-

- value of product 'Hexa' for the purpose of levying customs duty
- total customs duty and tax payable

**Solution :**

**Computation of assessable value of product 'Hexa'**

Particulars	Amount
Ex-factory price of the goods 'Hexa'	8,000 US \$
Freight from factory of the exporter to load airport (airport in the country of exporter)	500 US \$
Loading and handling charges at the load airport	500 US \$
Freight from load airport to the airport of importation in India	4,000 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 \$
Add: 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)	<u>2,000 US \$</u>
CIF for customs purpose	11,800 US \$
Value for customs purpose	11,800 US \$
Exchange rate as notified by CBIC [Note 2]	Rs. 70 per US \$
	<b>Amount (Rs.)</b>
Assessable value (Rs. 70 x 11,800 US \$)	8,26,000
Add: Basic customs duty @ 10% [Note 3]	82,600
Add: SWS @ 10%	<u>8,260</u>
Value for the purpose of levying integrated tax [Note 4]	9,16,860
Add: Integrated tax @ 12%	1,10,023.20
<b>Total duty &amp; tax payable (rounded off)</b>	<b>2,00,883</b>

**Notes:**

(1) 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 [Fifth proviso to rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].

FOB value in this case is the ex-factory price of the goods (8,000 US \$) plus the cost of transport from factory to load airport (500 US \$) plus loading and handling charges at the load airport (500 US \$) which is 9,000 US \$.

(2) Rate of exchange as notified by CBIC on the date on which bill of entry is presented under section 46 of the Customs Act, 1962 is to be considered [Clause (a) of the explanation to section 14 of the Customs Act, 1962].

(3) Section 15 of the Customs Act, 1962 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) Integrated tax is levied on the sum total of the assessable value of the imported goods and customs duties [Section 3(8) of the Customs Tariff Act, 1962]. Social Welfare Surcharge (SWS) leviable on integrated tax has been exempted.

### Question 7 :

Shivansh Ltd. imported a machine from Germany for Rs. 180 lakh during the month of March 2022 on payment of all duties of customs. Due to some technical manufacturing defect the machine was exported (sent back) to supplier for repairs in October 2022. The machine was re-imported without any re-manufacturing or reprocessing in August 2023 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 (excluding cost of material Rs. 10 lakh) would have been Rs. 5 lakh. Actual insurance and freight charges (to and from) were Rs. 5 lakh (Rs. 2.50 lakh each side). The ownership of machinery has not been changed during the period.

You are required to advise Shivansh Ltd. on the concessions (if any) available for importation of the machinery after repairs, also state the conditions to be satisfied for availing such concession.

Also compute the customs duty and integrated tax payable (if any) on the re-import of the machine after repairs.

The rate of basic customs duty is 15% and integrated tax is 12%. Ignore Agriculture infrastructure and development cess.

### Solution :

As per Notification No. 45/2017 Cus. dated 30.06.2017, 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	Rs.
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Value of goods re-imported after exports [Cost of materialsRs. 10 lakh + fair cost of repairsRs. 5 lakh + actual insurance and freight Rs. 5 lakh]	20,00,000
Add: Basic customs duty @ 15% (A)	3,00,000
Add: Social Welfare Surcharge @ 10% on Rs. 3,00,000 (B)	30,000
Value for computing integrated tax	23,30,000
Integrated tax @ 12% (Rs. 23,30,000 x 12%) - (C)	2,79,600
<b>Customs duty and integrated tax payable [(A) +(B)+ (C)]</b>	<b>6,09,600</b>

### Question 8 :

Sudhakar Export House, Madhya Pradesh, is engaged in export of goods to various neighbouring countries. It is keen on becoming a Status Holder and is desirous to know the privileges granted under Foreign Trade Policy (FTP) to various Status Holders. You are required to discuss the same with reference to FTP.

### Solution :

#### Status holders are eligible the following privileges under FTP:

- (a) Authorisation and custom clearances for both imports and exports on self-declaration basis.
- (b) Fixation of Input Output Norms on priority i.e., within 60 days by Norms Committee.
- (c) Exemption from compulsory negotiation of documents through banks. Exception are remittance/receipts.
- (d) Exemption from furnishing of Bank Guarantee in Schemes under FTP unless otherwise specified.
- (e) Two Star Export Houses and above are permitted to establish export warehouses as per the guidelines of Department of Revenue.
- (f) Manufacturers who are also status holders (Three Star/Four Star/Five Star) will be enabled to self-certify their manufactured goods (as per their Industrial Entrepreneurs Memorandum (IEM) / Industrial License (IL) /Letter of Intent (LOI)) as originating from India with a view to qualify for preferential treatment under specified agreements.
- (g) Status holders shall be entitled to export freely exportable items on free of cost basis for export promotion subject to a specified annual limit.
- (h) The status holders would be entitled to preferential treatment and priority in handling of their consignments by the concerned agencies.

**Question 1 :**

Mr. Dinkar is the owner of Dinkar Associates which is registered in Ahmedabad, Gujarat. He is engaged in supply of various goods and services in the domestic market and exporting the same outside India. During the month of February, he has undertaken the following transactions:

**Outward Supplies**

- (i) Transferred the tenancy rights of a commercial complex (taken on rent) located in Vadodra for a tenancy premium of Rs.8,00,000 to DB Morgan Ltd. of Ahmedabad, Gujarat. Stamp duty and registration fee have already been paid on the tenancy premium.
- (ii) Hired out excavators and dumpers alongwith operators to mining lease holders of Kuchchh, Gujarat for extracting and transporting minerals within the mining area for a period of 5 years. The excavators/dumpers are invariably hired out along with operators. Similarly, operators are supplied only when the excavators/dumpers are hired out. Hire charges for excavators and dumpers are Rs.10,00,000 and service charges for supply of manpower for operation of the excavators/dumpers - Rs.2,00,000.
- (iii) Supplied goods of value of Rs.35,00,000 to Choksi Ltd. Jamnagar, Gujarat (including goods worth Rs.10,00,000 supplied to SEZ unit of Choksi Ltd. in Gujarat).
- (iv) Agreed to provide consultancy services to Mr. Krishna of Surat, Gujarat who is an unregistered person in connection with his newly commenced business for a consideration of Rs.6,80,000. An advance of Rs.1,50,000 has been received for the same on 10<sup>th</sup> February.
- (v) Exported the goods to George Inc. of the USA. FOB value of the goods is Rs.8,40,000.
- (vi) Sold a heavy printing machinery purchased from Japan for Rs.5,10,000 in high sea to Dhoomketu Printers, Mumbai, Maharashtra on 10<sup>th</sup> February.
- (vii) Supplied goods to Timahi Corporation, China for Rs.12,00,000 on 15<sup>th</sup> February. These goods were purchased for Rs.10,00,000 from Jamsam Corporation, Japan on 5<sup>th</sup> February and were supplied in China without bringing them to India.

**Inward Supplies**

- (i) The goods exported to George Inc., USA, were purchased by Mr. Dinkar as a merchant exporter for Rs.7,00,000 from Shravan Ltd., a manufacturer registered in Bengaluru, Karnataka.
- (ii) The heavy printing machinery sold in high sea to Dhoomketu Printers was originally imported by Mr. Dinkar from Japan on 2<sup>nd</sup> February, with CIF value of Rs.5,00,000 and FOB value of Rs.4,50,000.
- (iii) Mr. Dinkar paid a sales commission of Rs.5,00,000 to Mr. Kenzo of Japan, his agent in connection with all the imports from Japan.
- (iv) Imported raw materials from Italy under a CIF contract. CIF value of the goods for the purpose of customs included Rs.2,00,000 as ocean freight paid by the exporter on transport of goods through vessel from port of shipment to port of import. The value for the purpose of levy of IGST worked out by the customs was Rs.9,00,000.
- (v) Purchased raw cotton for manufacture of garments for Rs.12,00,000 from Mr. Poonawala, an

agriculturist of Kuchch, Gujarat.

- (vi) Monthly rent of Rs.35,00,000 payable to Dharam Ltd., Gujarat, for the retail outlet (a commercial property) in Ahmedabad, Gujarat (one third of total space available is used by Mr. Dinkar for personal residential purposes).

Compute the net GST payable in cash [CGST and SGST or IGST, as the case may be], by Mr. Dinkar for February.

Notes:

- A. Rates of CGST, SGST and IGST for hiring out of excavators and dumpers are 6%, 6% and 12%. As regards the supply received as a merchant exporter, Mr. Dinkar paid GST at the concessional rates by fulfilling all requisite conditions thereof. Rates of CGST, SGST and IGST for all the other supplies of goods and services including supply of manpower services are 9%, 9% and 18%. Ignore GST compensation cess.
- B. Mr. Dinkar had an opening balance of ITC of CGST of Rs.35,000 and SGST of Rs.35,000 for the relevant period. In respect of all the inward supplies, suppliers have uploaded their invoices in respective Form GSTR-1 and the supplies are reflected in Form GSTR 2B.
- C. All the figures given above are exclusive of GST, wherever applicable. The amounts given in respect of import and export transactions in rupees have been arrived after conversion thereof, though transactions were undertaken in convertible foreign currency.
- D. Mr. Dinkar always makes zero-rated supplies under a bond or letter of undertaking (LUT).  
Provide supporting explanatory notes for your conclusion wherever required.

**Solution :**

**Computation of net GST payable in cash, by Mr. Dinkar**

Particulars	Value (Rs.)	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
<b>GST payable on outward supplies</b>				
Transfer of tenancy rights [Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable even though stamp duty and registration fee have been paid on the same (Circular No. 44/2018 CT dated 02.05.2018). It is an intra-State supply since place of supply is location of immovable property being Ahmedabad, Gujarat.]	8,00,000	72,000 (8,00,000 x 9%)	72,000 (8,00,000 x 9%)	
Hiring out excavators and dumpers including operators [Taxable since renting of trucks and other freight vehicles with driver for a period of time is a service of renting of transport vehicles (with operator) and not service of transportation of goods by road. Further, since the excavators and dumpers are invariably hired out along with operators and the operators are supplied only when the excavators/ dumpers are hired out, it is a case of composite supply under section 2(30) wherein the	12,00,000 [10,00,000 + 2,00,000]	72,000 (12,00,000 x 6%)	72,000 (12,00,000 x 6%)	

<p>principal supply is the hiring out of the excavators and dumpers.</p> <p>As per section 8(a), the composite supply is treated as the supply of the principal supply.</p> <p>Therefore, the supply of manpower for operation of the excavators/ dumpers will also be taxed at the rate applicable for hiring out of the excavator and dumpers (principal supply).</p> <p>Further, it is a taxable intra-State supply since place of supply is location of recipient being Kuchchh, Gujarat.]</p>				
<p>Goods supplied to SEZ unit of Choksi Ltd. [Supply to SEZ unit is a zero-rated supply in terms of section 16(1)(b) of the IGST Act, 2017. No IGST is payable since Mr. Dinkar makes all zero- rated supplies under LUT/bond.]</p>	10,00,000			Nil
<p>Supply of goods to Choksi Ltd., Gujarat [It is a taxable intra- State supply since place of supply is location of goods when movement of such goods terminates, viz., Jamnagar, Gujarat.]</p>	25,00,000 [35,00,000 - 10,00,000]	2,25,000 [25,00,000 × 9%]	2,25,000 [25,00,000 × 9%]	
<p>Advance received for the consultancy services to be provided to Mr. Krishna [Tax on the services to be provided is payable at the time of receipt of advance. Since the place of supply is location of recipient, i.e. Gujarat, it is an intra-State supply.]</p>	1,50,000	13,500 [1,50,000 × 9%]	13,500 [1,50,000 × 9%]	
<p>Export of goods to USA under LUT/bond [Export of goods outside India is a zero- rated supply in terms of section 16(1)(b) of the IGST Act, 2017. No IGST is payable since Mr. Dinkar makes all zero- rated supplies under LUT/bond.]</p>	8,40,000			Nil
<p>High sea sales of heavy printing machinery imported from Japan [High sea sales is neither treated as supply of goods nor as supply of services in terms of para 8(b) of Schedule III of the CGST Act, 2017.]</p>	Nil	--	--	--
<p>Goods purchased from Japan sold in China without bringing them into India [Third country shipments or triangular trade is neither treated as supply for goods nor as supply of services in terms of para 7 of Schedule III of the CGST Act, 2017.]</p>	Nil	--	--	--
Total output tax		3,82,500	3,82,500	Nil
<p>Less: ITC [Refer working note below] [IGST credit has been utilized for payment of CGST and SGST liability in equal proportion. Thereafter, CGST credit and SGST credit have been utilized to pay the CGST liability and SGST liability respectively.]</p>		81,350 (IGST)	81,350 (IGST)	
		3,01,150		

		(CGST)		
			3,01,150 (SGST)	
Net GST payable		Nil	Nil	Nil
<b>Add: GST payable on inward supplies</b>				
Imported raw material from Italy	9,00,000			1,62,000 [9,00,000 × 18%]
Raw material purchased from Mr. Poonawala, Gujarat [Tax on the raw cotton purchased by any registered person from an agriculturist is payable under reverse charge vide Notification No. 4/2017 IT (R) dated 28.06.2017.]	12,00,000	1,08,000 [12,00,000 × 9%]	1,08,000 [12,00,000 × 9%]	
<b>Total net GST payable in cash</b> (CGST and SGST of Rs.1,08,000 each will be paid in cash through GSTN portal and IGST of Rs.1,62,000 will be paid in cash through ICEGATE portal while making customs clearance.)		<b>1,08,000</b>	<b>1,08,000</b>	<b>1,62,000</b>

#### Working Note - Computation of admissible ITC for February

Particulars	Value (Rs.)	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
Opening balance		35,000	35,000	
Goods purchased as merchant exporter [It is an inter-State supply since the place of supply is Gujarat, i.e. location where the movement of goods terminates. Shravan Ltd. would have supplied the goods to merchant exporter – Mr. Dinkar - at concessional rate of IGST of 0.1% prescribed under Notification Nos. 41/2017 IT(R) dated 23.10.2017. Further, the merchant exporter is eligible to take ITC of concessional IGST so paid.]	7,00,000	--	--	700
Heavy printing machinery imported from Japan [No ITC is available since tax is not payable by Mr. Dinkar on the same since in case of high sea sales, IGST is paid by the last high sea sales buyer who clears the goods for home consumption by filing the bill of entry.]	Nil	--	--	--
Goods purchased from Jamsam Corporation, Japan [No ITC is available since tax is not payable by Mr. Dinkar on the same as goods do not become part of the landmass of the country.]	Nil	--	--	--
Sales commission paid to agent - Mr. Kenzo [Since service provider - Mr. Kenzo - is an intermediary in the given transaction, place of supply is location of supplier - Mr. Kenzo, i.e. outside India (Japan), in terms	5,00,000	--	--	--

of section 13(8)(b) of the IGST Act, 2017. Since location of supplier and place of supply are outside India, tax is not payable on said transaction under reverse charge on said services.]				
Imported raw material from Italy [Input tax, inter alia, includes IGST charged on import of goods, in terms of section 2(62). No separate levy of IGST will be there on the component of ocean freight paid by the foreign exporter to the foreign shipping line in the CIF contract by virtue of Union of India vs. Mohit Minerals Pvt. Ltd. 2022 (61) G.S.T.L. 257 (SC) since the Indian importer is liable to pay IGST on the 'composite supply', comprising of supply of goods and supply of services of transportation, insurance, etc. in a CIF contract.]	9,00,000			1,62,000 [9,00,000 × 18%]
Raw cotton purchased from Mr. Poonawala, Gujarat [It is an intra-State supply since the place of supply is location where movement of goods terminates, i.e. Gujarat, in terms of section 10(1)(a) of the IGST Act, 2017. ITC on goods used in course or furtherance of business is allowed in terms of section 16.]	12,00,000	1,08,000 [12,00,000 × 9%]	1,08,000 [12,00,000 × 9%]	
GST paid on monthly rent [In case of services used partly for the business purpose and partly for other purposes, ITC is restricted to so much of ITC as is attributable to the purposes of business. Thus, ITC for GST paid on only 2/3rd of monthly rent is available since GST paid on monthly rent attributable to personal purposes (one-third) is not allowed. Further, it is an intra-State supply since the place of supply of services provided in relation to an immovable property is location of immovable property, i.e. Gujarat in terms of section 12(3) of the IGST Act, 2017.]	35,00,000	2,10,000 [35,00,000 × 9%×2/3]	2,10,000 [35,00,000 × 9%×2/3]	--
<b>Total ITC available</b>		<b>3,53,000</b>	<b>3,53,000</b>	<b>1,62,700</b>

**Note** – Since as per section 49(5) read with rule 88A, ITC of IGST can be utilised towards payment of CGST and SGST in any proportion and in any order, the ITC of IGST of Rs.1,62,700 can be set off against the CGST and SGST liability in any proportion and in any order. In above answer, ITC of IGST has been set off in equal proportion against the payment of CGST and SGST liability. However, multiple answers are possible to given question owing to multiple ways of utilizing the ITC of IGST for payment of CGST and SGST liability.

### Question 2 :

Mr. Jignesh of Delhi books accommodation, through an e-commerce operator - Plan My Trip Ltd. (PMTL), registered under GST in Uttarakhand, in a newly established budget hotel – Paras Resorts Ltd. (PRL) located in Nainital, Uttarakhand. The turnover of PRL in the current financial year is Rs.18 lakh.

PRL raises an invoice for Rs.1,00,000 to Mr. Jignesh. PMTL collects the payment from Mr. Jignesh and after deducting its fees and other charges from the same, remits the balance amount to PRL.

Advise PRL as to whether it is required to obtain GST registration. Also, whether tax is required to be collected at source by PMTL under section 52 on the services provided by PRL to Mr. Jignesh through electronic commerce operator – PMTL. If yes, determine the amount of tax to be collected at source.

Suppose in the above case, other facts remaining same, if PRL, supplying accommodation services, is also an e-commerce operator (registered in Uttarakhand as TCS collector as well as a regular tax payer since its aggregate turnover exceeds the threshold limit) and PMTL has an agreement with PRL for booking the accommodation at the time when Mr. Jignesh booked the accommodation, ascertain whether tax is required to be collected at source under section 52 on the services provided by PRL to Mr. Jignesh through electronic commerce operator – PMTL. If yes, determine the amount of tax to be collected at source and since two e-commerce operators are involved in the said transaction, who is required to collect the tax at source under section 52?

**Note** – Amounts given above are exclusive of GST. Assume applicable rate of CGST and SGST to be 9% each and IGST to be 18%.

#### **Solution :**

As per section 22, every supplier of goods or services or both is required to obtain registration in the State/ Union territory from where he makes the taxable supply if his aggregate turnover exceeds threshold limit in a financial year. However, section 24, inter alia, provides that persons who supply goods or services or both through an electronic commerce operator (hereinafter referred as ECO), who is required to collect tax at source under section 52, are required to obtain registration mandatorily. However, said mandatory registration is not applicable, inter alia, to the suppliers of the services which are notified under section 9(5) or section 5(5) of the IGST Act, 2017; such suppliers are entitled for threshold exemption.

In case where services are notified under section 5(5) of the IGST Act, 2017, the ECO is liable to pay the entire tax on behalf of the suppliers of services. Notification No. 14/2017 IT (R) dated 28.06.2017 issued under said section notifies services by way of providing accommodation in hotels, provided the person supplying such service through ECO is not liable for registration under section 22(1), as one such service where the ECO is liable to pay tax on behalf of the suppliers.

In the given case, PRL provides services by way of providing accommodation in hotel through an ECO. Services by way of providing accommodation in hotels provided by a supplier - PRL - which is not liable for registration under section 22(1) as its turnover is less than the threshold limit for registration, [viz. Rs.20 lakh], is a service notified under section 5(5). Thus, PRL will be entitled for threshold exemption for registration and will not be required to obtain registration even though it supplies services through ECO.

As per section 52, ECO is not required to collect tax at source (TCS) in cases where the service is notified under section 9(5) of the CGST Act, 2017/section 5(5) of the IGST Act, 2017. The applicable tax on such services is to be paid by the ECO as if he is the supplier liable to pay tax on the supply of such services.

Thus, in the given case, no tax is required to be collected at source under section 52. Further, the supply of accommodation services by PRL to Mr. Jignesh is an intra-State supply liable to CGST and SGST since the place of supply of services by way of lodging accommodation by a hotel is the location at which the immovable property is located in terms of section 12(3) of the IGST Act, 2017. Accordingly, in the given case, place of supply is Uttarakhand and location of supplier – PRL - is also Uttarakhand.

As discussed above, entire tax of Rs.9,000 (each under CGST and SGST) on Rs.1,00,000 will be paid by the ECO – PMTL.

In case where PRL is registered under GST, service by way of providing accommodation in hotels provided by it through ECO will no longer be a service notified under section 5(5). The reason for the same is that services by way of providing accommodation in hotels are notified under section 5(5) only where the person supplying such service through ECO is not liable for registration under section 22(1). Consequently, said services shall be subject to the TCS provisions under section 52.

Further, in a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and the supplier-side ECO is himself the supplier of the said supply, Circular No. 194/06/2023 GST dated 17.07.2023 clarifies that the buyer- side ECO will be required to collect TCS, as applicable, pay the same to the Government in accordance with section 52 and also make other compliances under said section.

As discussed above, the supply of accommodation services by PRL to Mr. Jignesh is an intra-State supply liable to CGST and SGST.

Accordingly, in the given case, buyer side ECO – PMTL - is required to collect TCS on Rs.1,00,000 @ 0.5% each under CGST and SGST as follows:

= Rs.1,00,000 × 0.5%

**= Rs.500 each under CGST and SGST**

### **Question 3 :**

A notice for audit under section 65 is served by the proper officer on the basis of risk assessment to Ghoomghoom Pvt. Ltd. on 02.12.2023 for audit of financial years 2021-22 and 2022-23. The tax authorities visited its place of business on 20.12.2023 and requested for certain records, documents and books of accounts, from the company. The required records, documents and books of accounts are provided by Ghoomghoom Pvt. Ltd. on 30.12.2023. After in-depth checking of records, documents and books made available by Ghoomghoom Pvt. Ltd. during audit, the audit was completed on 25.03.2024 and audit findings were communicated to the taxpayer in prescribed form by said date. However, the accountant of Ghoomghoom Pvt. Ltd. is of the view that-

(i) the tax authorities have completed the audit of Ghoomghoom Pvt. Ltd. after the lapse of the maximum time-period permitted by the GST law and

(ii) the tax authorities cannot conduct the audit of two financial years at a time.

Ghoomghoom Pvt. Ltd. has approached you to advise you on the said issues. You are required to determine the technical veracity of the above views of the accountant of Ghoomghoom Private Ltd. on the same with reference to the relevant provisions of the GST law.

### **Solution :**

As per section 65, audit of any registered person may be undertaken by:

- the Commissioner; or
- any officer authorized by him, by way of a general or a specific order.

The audit shall be completed within a period of 3 months from the date of commencement of the audit. However, where the Commissioner is satisfied that audit in respect of such registered person cannot be completed within 3 months, he may, for the reasons to be recorded in writing, extend the period by a

further period not exceeding six months.

For the purposes of this sub-section, the expression "commencement of audit" shall mean:

(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, whichever is later.

In the given case, the date of commencement of audit shall be determined as follows:

(a) The date on which requisite information is made available by Ghoomghoom Private Ltd., i.e., on 30.12.2023.

(b) The date of the actual institution of audit at the place of business, i.e., on 20.12.2023  
whichever is later.

Therefore, the date of commencement of the audit shall be 30.12.2023

Accordingly, the audit has to be completed within 3 months from the date of commencement of the audit, i.e., by 30.03.2024.

Thus, in the given case, the audit was completed by the tax authorities within 3 months from the date of commencement of the audit, i.e., before 30.03.2024. Resultantly, the view of the accountant of Ghoomghoom Pvt. Ltd. that the audit by the tax authorities was completed after the maximum time period prescribed by law for the same, is not correct.

Further, as per section 65 read with rule 101(1), the period of audit to be conducted under said section shall be a financial year or part thereof or multiples thereof. Thus, the view of the accountant that audit cannot be conducted for two financial years is also not correct.

#### **Question 4 :**

Agora Ltd. exported certain goods to its customer located in Germany against which a refund of IGST amounting to Rs.50 lakh was claimed and received by Agora Ltd. The sale proceeds covering 50% of the value of exports were immediately received by Agora Ltd. However, due to financial constraints, the customer failed to pay the balance amount of sale proceeds within the permissible time limits under regulatory provisions prevailing in India.

In view of the aforesaid scenario:

- (a) Determine the amount of refund, if any, which Agora Ltd. is required to deposit back. Also, discuss the time limit which is permissible under law within which the sale proceeds in respect of exported goods should have been realized by Agora Ltd.
- (b) Will your answer to sub-part (a) differ if the Reserve Bank of India writes off the requirement of realisation of sale proceeds on merits?
- (c) Whether Agora Ltd. can claim the refund back in case sale proceeds are realised at a later date?

#### **Solution :**

- (a) As per proviso to section 16(3) of the IGST Act, 2017 read with rule 96B(1) of the CGST Rules, 2017, in the given case, Agora Ltd. shall deposit the amount of refund proportionate to the sale proceeds not realized i.e. 50% of the value of exports. The amount of such refund is Rs.25 lakh alongwith

applicable interest under section 50. Further, such amount is required to be deposited by Agora Ltd. within 30 days of the expiry of the time period allowed under Foreign Exchange Management Act, 1999, including any extension of such time period permitted.

- (b) As per proviso to rule 96B, where sale proceeds, or any part thereof, in respect of such export goods are not realised by the applicant within the time period allowed under the Foreign Exchange Management Act, 1999, but the Reserve Bank of India writes off the requirement of realisation of sale proceeds on merits, the refund paid to the applicant shall not be recovered. Thus, if the RBI writes off the requirement of realisation of sale proceeds by Agora Ltd., the refund amount received by Agora Ltd. is not liable to be recovered.
- (c) As per rule 96B(2), where the sale proceeds are realised by the applicant, in full or part, after the amount of refund has been recovered from him under rule 96B(1) and the applicant produces evidence about such realisation within a period of 3 months from the date of realisation of sale proceeds, the amount so recovered shall be refunded by the proper officer, to the applicant to the extent of realisation of sale proceeds, provided the sale proceeds have been realised within such extended period as permitted by the Reserve Bank of India.

In case the refund amount is deposited by Agora Ltd. alongwith interest as per rule 96B(1) on account of non-realization of sale proceeds from the customer, which is realized on a later date, Agora Ltd. can claim the refund within 3 months from the date of realization of sale proceeds in proportion of the sale proceeds recovered. However, in order to claim such refund, the sale proceeds should have been realized within such extended period as may be permitted by the RBI.

#### **Question 5 :**

Discuss the cases where a registered person is not allowed to furnish the details of outward supplies under section 37 in Form GSTR-1 or using invoice furnishing facility, as enumerated in rule 59.

#### **Solution :**

Rule 59(6) provides that:

- (i) a registered person shall not be allowed to furnish the details of outward supplies in Form GSTR-1, if he has not furnished the return in Form GSTR-3B for the preceding month.
- (ii) a registered person, opting for QRMP scheme, shall not be allowed to furnish the details of outward supplies in Form GSTR-1 or using Invoice Furnishing Facility (IFF), if he has not furnished the return in Form GSTR-3B for preceding tax period.
- (iii) a registered person, to whom an intimation has been issued on the common portal under the provisions of rule 88C(1) in respect of a tax period, shall not be allowed to furnish the details of outward supplies in Form GSTR-1 or using IFF for a subsequent tax period, unless he has either deposited the amount specified in the said intimation or has furnished a reply explaining the reasons for any amount remaining unpaid, as required under the provisions of rule 88C(2).
- (iv) a registered person, to whom an intimation has been issued on the common portal under the provisions of rule 88D(1) in respect of a tax period/periods, shall not be allowed to furnish Form GSTR-1/IFF for a subsequent tax period, unless he has either paid the amount equal to the excess ITC as specified in the said intimation or has furnished a reply explaining the reasons in respect of the amount of excess ITC that still remains to be paid, as required under the provisions of rule 88D(2);
- (v) a registered person shall not be allowed to furnish Form GSTR-1/IFF, if he has not furnished the

details of the bank account as per the provisions of rule 10A.

### Question 6 :

Paramjit Ltd. imported a machine from Oliver Equipments, UK. The FOB price of the machine was settled at 6,000 UK Pound. The machine was shipped on 01.10.2023. Meanwhile, Paramjit Ltd. re-negotiated the price of the machine with Oliver Equipments which agrees on the reduced price of 5000 UK pound on 10.10.2023. The machine arrived in India on 18.10.2023. Other details pertaining to machine are as under:

- (i) License fee that the buyer was required to pay in UK as a condition of sale was 500 UK Pound
- (ii) Buying commission paid in India was Rs.20,000
- (iii) Cost of transport from UK port to Indian port is Rs.40,000. Apart from this, due to deep draught at the port, machine was not taken to the jetty in the port but was unloaded at the outer anchorage. The additional charges incurred for such unloading and transport of machine from outer anchorage to the jetty in barges (small boats) were Rs.10,000.
- (iv) Date of presentation of bill of entry was 15.10.2023 and the rate of exchange notified by CBIC on this date was Rs.100 per pound. Rate of basic customs duty was 10%.
- (v) Date of entry inwards was 18.10.2023 and the rate of exchange notified by CBIC on this date was Rs.105 per pound. Rate of basic customs duty was 15%.
- (vi) Insurance premium details were not ascertainable.

Compute the assessable value and basic customs duty payable (rounded off to nearest one rupee) by Paramjit Ltd.

### Solution :

As per section 14 of the Customs Act, 1962, the value of the imported goods is the transaction value, which means the price actually paid or payable for the goods at the time and place of importation. Further, the Supreme Court in case of Garden Silk Mills v. UOI 1999 (113) E.L.T. 358 held that importation gets complete only when the goods become part of mass of goods within the country.

Since in the instant case, the price of the goods was reduced when the goods were in transit, i.e. before the goods arrived in India, the goods should be valued as per the revised reduced price of 5,000 UK pound, which was the price payable at the time of importation.

### Computation of assessable value and basic customs duty payable by Paramjit Ltd

Particulars	Amount
FOB value of machine	5,000 UK Pound
Add: License fee required to pay in UK (Licence fee relating to imported goods payable by the buyer as a condition of sale is includible in the assessable value)	500 UK Pound
Customs FOB	5,500 UK Pound
	<b>Amount (Rs.)</b>
Value in rupees (5500 x Rs.100)	5,50,000
Rate of exchange as notified by CBIC on the date on which bill of entry is presented	

under section 46 of the Customs Act, 1962 is to be considered [Explanation to section 14 of the Customs Act, 1962].	
Add: Buying commission (Buying commission is not included in the assessable value)	Nil
Add: Cost of transport including barge charges (In case where the big mother vessels cannot enter the harbour for any reason and goods are brought to the docks by smaller vessels like barges, small boats, etc., the cost incurred by the importer for bringing the goods to the landmass, such as lighterage charges, barge charges will be included in the cost of transportation. In other words, the cost of transport of the imported goods includes ship demurrage charges on chartered vessels, lighterage charges or barge charges.)	50,000
Add: Insurance [If insurance cost is not ascertainable, the same shall be added @ 1.125% of FOB value of the goods.]	6187.50
CIF value / Assessable value	6,06,187.50
<b>Basic customs duty @ 15% (Rs.6,06,187.50X 15%) (Rounded off)</b> [Section 15 of the Customs Act, 1962 provides that rate of duty shall be the rate in force on the date of presentation of bill of entry or on the date of entry inwards, whichever is later.]	<b>90,928</b>

#### Question 7 :

Aayaat Enterprises imported goods vide a bill of entry presented before the proper officer on 15<sup>th</sup> April. The proper officer decided that the goods should be subject to a chemical test and therefore, the same were to be provisionally assessed. You are required to advise Aayaat Enterprises regarding the conditions which are to be complied with before payment of duty is made for the purpose of provisional assessment.

Subsequently, the goods imported by Aayaat Enterprises were provisionally assessed at a value of Rs.24,00,000 on 16<sup>th</sup> April and Aayaat Enterprises paid the provisional duty of Rs.2,40,000 on the same date after fulfilling the requirements for provisional assessment. Further, the chemical test report was received on 5<sup>th</sup> May. Advise Aayaat Enterprises regarding the maximum time limit upto which its provisional assessment should be finalized.

Determine the amount of interest payable, if any, under section 18 of the Customs Act, 1962 (considering a year of 365 days) assuming that the provisional assessment was finalized on 30<sup>th</sup> June finally assessing the customs duty at Rs.2,80,000 and the differential duty was paid on the same day.

#### Solution :

As per section 18 of the Customs Act, 1962 read alongwith Circular No. 38/2016 Cus. dated 22.08.2016, wherever, duty is to be assessed provisionally, the importer shall:

- execute a bond in the prescribed form, for the purposes of undertaking to pay on demand the deficiency, if any, between the duty as may be finally assessed and the duty provisionally assessed; and
- furnish prescribed amount of security for the payment of the duty deficiency. The security to be obtained shall be in the form of a bank guarantee or a cash deposit, as convenient to the importer.

As per the Customs (Finalisation of Provisional Assessment) Regulations, 2018, the proper officer has to finalise the provisional assessment within 2 months of receipt of a chemical or other test report, where the provisional assessment was ordered for that reason.

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 5<sup>th</sup> July [within 2 months of receipt of test report (5<sup>th</sup> May)]. However, if the proper officer is not able to finalize the provisional assessment by 5<sup>th</sup> July, the Commissioner may allow a further period of 3 months, i.e., till 5<sup>th</sup> October to the proper officer to finalize the provisional assessment.

Had provisional assessment been finalized on 30<sup>th</sup> June and differential duty been paid on same day, as per section 18(3) of the Customs Act, 1962, the importer would have been 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:

$$\begin{aligned} &= \text{Rs.}40,000 \times 15\% \times 91/365 \\ &= \text{Rs.}1,496 \text{ (rounded off)} \end{aligned}$$

#### **Question 8 :**

With reference to the Foreign Trade Policy 2023, explain in brief the objectives and salient features of Remission of Duties and Taxes on Exported Products (RoDTEP) scheme.

#### **Solution :**

Remission of Duties and Taxes on Exported Products (RoDTEP) scheme is based on the globally accepted principle that taxes and duties should not be exported, and taxes and levies borne on the exported products should be either exempted or remitted to exporters. RoDTEP scheme aims to refund such duties and taxes on exported products, as are otherwise not being refunded under other provisions of law. The rebate under the Scheme shall not be available in respect of duties and taxes already exempted or remitted or credited.

The objective of the scheme is to refund, currently unrefunded:-

- (i) Duties/taxes/levies, at the Central, State & local level, borne on the exported product, including prior stage cumulative indirect taxes on goods & services used in production of the exported product, and
- (ii) Such indirect duties/taxes/levies in respect of distribution of exported products.

Salient features of the scheme: -

- (i) Rebate amount is issued in the form of a transferable duty credit/electronic scrip (e-scrip), which will be maintained in an electronic ledger by the CBIC.
- (ii) Such duty credit shall be used only to pay basic customs duty on imported goods.
- (iii) The duty credit scrips are freely transferable, i.e. credits can be transferred to other importers.
- (iv) The rebate under the scheme shall not be available in respect of duties and taxes already exempted or remitted or credited.

**May 25**

**Question 1 :**

Poorva Impex Ltd., a registered entity under GST in the State of Maharashtra, is engaged in making various supplies. It is not engaged in agricultural operations. Poorva Impex Ltd., India is a subsidiary of Poorva Inc., an entity incorporated in USA, engaged in providing information technology services to customers in India. It provides the following information for the month of April:

S. No.	Particulars	Amount (Rs.)
	<b>OUTWARD SUPPLY:</b>	
(i)	Undertook the promotion and marketing of information technology services on principal-to- principal basis in India for Poorva Inc.	20,00,000
(ii)	Printed letter cards supplied to Subhashini Enterprises, registered in Maharashtra. A logo depicting the vision of the firm was to be imprinted on each letter card and said logo was provided by the firm. Material cost was Rs.8,00,000 and printing cost was Rs.72,000.	8,72,000
(iii)	Supplied raw cotton to Dhruvtara Traders, registered in Maharashtra. The raw cotton was purchased from the local farmers during the previous month.	5,00,000
(iv)	Supplied maintenance services to Municipal Corporation of Greater Mumbai which has awarded a contract of maintenance of street-lights in Greater Mumbai Municipal area. Maintenance work involved the replacement of defunct lights and other spares. [Out of total value of supply of Rs.1,20,000, value of defunct lights and other spares replaced is Rs.32,000.]	1,20,000
(v)	Given on hire 10 cars (seating capacity of 5 persons including driver) to Gujarat State Road Transport Corporation (GSRTC)	3,00,000
	<b>INWARD SUPPLY:</b>	
(i)	Purchased processing machines from Bobby & Co., registered under GST, in the State of Gujarat. Machines were bought in "as is where is condition" at Gujarat to produce taxable items.	5,00,000
(ii)	Purchased metal scrap (covered under Chapter 72) from Mansukh Traders of Maharashtra, an unregistered person, to be used in manufacturing process	2,00,000
(iii)	Procured information technology services for its business through electronic mode from Thomas Inc., a company located in Germany	1,50,000
(iv)	A machinery to be used for manufacturing was sent to George Inc., USA for carrying out repair work on the same. The consideration to George Inc. was paid for such repair work. Machine was received after repair, in the month of May.	5,00,000

The company provided the following additional information:

(i) Poorva Inc., USA provided a corporate guarantee of Rs.1.5 crore on behalf of Poorva Impex Ltd. to Manimani Bank, Maharashtra, free of cost. The tax invoice for the same has been issued on the value as per rule 28(2).

(ii) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively for both inward and outward supply of services and rates of CGST, SGST and IGST are 6%, 6% and 12% respectively for both inward and outward supply of goods, except in case of supply of raw cotton where the applicable rates of CGST, SGST and IGST are 2.5%, 2.5% and 5% and in case of supply of metal scrap where the applicable rates of CGST, SGST and IGST are 9%, 9% and 18%

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

(iv) There was no opening balance of any ITC for the relevant period.

(v) All exports made by Poorva Impex Ltd. are through furnishing of LUT without payment of IGST.

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 for the Poorva Impex Ltd., Maharashtra.

**Solution :**

**Computation of minimum net GST payable in cash for the month of April**

Particulars	Amount (Rs.)	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
<b>GST payable under forward charge</b>				
Promotion and marketing of information technology services to Poorva Inc. [Since the place of supply of promotion and marketing services is the location of recipient – Poorva Inc., viz, outside India, they qualify as export of services by Poorva Impex Ltd. to Poorva Inc. since all the conditions of section 2(6) of the IGST Act, 2017 are complied with. Further, all exports made by Poorva Impex Ltd. are through furnishing of LUT without payment of IGST.]	20,00,000	-	-	-
Supply of printed letter cards [Since letter cards are supplied by the printer using its own physical inputs to print the logo supplied by the recipient, it is a composite supply wherein the predominant/ principal supply is supply of goods. It is an intra-State supply since the place of supply is Maharashtra being the location where movement of goods terminates, in terms of section 10(1)(a).]	8,72,000	52,320 [8,72,000 X 6%]	52,320 [8,72,000 X 6%]	
Intra-State supply of raw cotton [Taxable under forward charge in terms of Notification No. 4/2017 CT (R) dated 28.06.2017. Reverse Charge mechanism is not applicable since here, raw cotton is being sold by a person other than agriculturist.]	5,00,000	12,500 [5,00,000 × 2.5%]	12,500 [5,00,000 × 2.5%]	
Maintenance services provided to Municipal Corporation of Greater Mumbai [Taxable, since the value of supply of goods constitutes more than 25% of the value of composite supply of goods and services provided to the local authority [Notification No. 12/2017 CT (R) dated 28.06.2017]. Further, principal supply is supply of maintenance services. It is an intra-State supply since the place of	1,20,000	10,800 [1,20,000 × 9%]	10,800 [1,20,000 × 9%]	

supply is Maharashtra being location of the recipient, in terms of section 12(2) of the IGST Act, 2017.]				
Inter-State service of giving motor vehicles on hire [Services by way of giving on hire to a State Transport Undertaking (STU), a motor vehicle are exempt only when such motor vehicle is meant to carry more than 12 passengers. Thus, in the given case, service of giving cars on hire is not exempt [Notification No. 9/2017 IT (R) dated 28.06.2017]. Further, it is an inter-State supply as place of supply being location of recipient is Gujarat, in terms of section 12(2) of the IGST Act, 2017.]	3,00,000			54,000 [3,00,000 × 18%]
<b>Total output tax</b>		<b>75,620</b>	<b>75,620</b>	<b>54,000</b>
Less: ITC available for set off [Refer working note] [ITC of IGST is utilized for payment of IGST liability and ITC of CGST and SGST is utilized for payment of CGST and SGST liability respectively.]		(18,000)	(18,000)	(54,000)
<b>Net GST</b>		<b>57,620</b>	<b>57,620</b>	<b>Nil</b>
<b>GST payable under reverse charge</b>				
Metal scrap purchased [Tax on metal scrap purchased by a registered person from an unregistered person is payable under reverse charge in terms of Notification No. 4/2017 CT (R) dated 28.06.2017.]	2,00,000	18,000 [2,00,000 × 9%]	18,000 [2,00,000 × 9%]	
Information technology services procured from Thomas Inc. through electronic mode [Tax on information technology services imported is payable under reverse charge vide Notification No. 10/2017 IT (R) dated 28.06.2017.]	1,50,000			27,000 [1,50,000 × 18%]
Corporate guarantee provided by Poorva Inc. [Where corporate guarantee is provided by the foreign/ overseas entity for a related entity located in India, GST would be payable under reverse charge mechanism, by the recipient of service, i.e., the related entity located in India. Further, since supplier - foreign/ overseas entity - is unregistered, self-invoice shall be issued by it in terms of section 31(3)(f). Moreover, if a supplier gives a corporate guarantee on behalf of a related party located in India for securing of credit facilities from a bank/financial institution by such related party, as per rule 28(2), the value of service is 1% of the amount of guarantee offered per annum or actual consideration, whichever is higher, i.e. 1% of Rs.1.5 crore; invoice is raised at said value. Since Poorva Impex Ltd. is eligible for full ITC, value of supply will be value declared in the invoice [Proviso to rule 28(2)].	1,50,000			27,000 [1,50,000 × 18%]
<b>Total net GST payable in cash</b>		<b>75,620</b>	<b>75,620</b>	<b>54,000</b>

**Working Note - Computation of eligible ITC available for set off**

Particulars	Amount	CGST	SGST	IGST
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	(Rs.)	(Rs.)	(Rs.)	(Rs.)
<p>Machines purchased</p> <p>[It is intra-State supply since place of supply in case of goods not involving movement of goods is location of goods at the time of delivery to recipient, viz. Gujarat, in terms of section 10(1)(c) of the IGST Act, 2017.</p> <p>However, ITC of the same will not be available since the recipient of said intra- State supply is located in a different State / UT than that of place of supply2.]</p>	Nil	-	-	-
<p>Metal scrap purchased</p> <p>[It is intra-State supply since place of supply is Maharashtra being the location of the goods at the time at which the movement of goods terminates for delivery to the recipient, in terms of section 10(1)(a) of the IGST Act, 2017. ITC is available since said goods are being used in course or furtherance of business.]</p>	2,00,000	18,000 [2,00,000 × 9%]	18,000 [2,00,000 × 9%]	
<p>Information technology services procured from Thomas Inc.</p> <p>[The place of supply is Maharashtra being location of the recipient, in terms of section 13(2) of the IGST Act, 2017. Supply of any services where supplier is outside India and the recipient and place of supply is in India, qualifies as import of services. Further, in case of import of service, tax is payable by the person importing such service vide Notification No. 10/2017 IT (R) dated 28.06.2017. ITC is available since said services are being used in course or furtherance of business.]</p>	1,50,000			27,000 [1,50,000 × 18%]
<p>Machinery sent for carrying out repair work to George Inc.</p> <p>[Since the place of supply of repair services is outside India being the location where the services are actually performed in terms of section 13(3) of the IGST Act, 2017, said services are not amenable to tax.]</p>	Nil			
<p>Corporate guarantee provided by Poorva Inc. [ITC is available since said services are being used in course or furtherance of business.]</p>	1,50,000			27,000 [1,50,000 × 18%]
<p><b>Eligible ITC available for set off</b></p> <p>[ITC on goods and services issued for making taxable outward supplies including zero-rated supplies (promotion and marketing of information technology services provided to Poorva Inc.) is fully eligible for set-off, in terms of section 17.]</p>		<b>18,000</b>	<b>18,000</b>	<b>54,000</b>

**Note :**

1) Holding company and Subsidiary company are not considered as “merely establishments of a distinct person” for the purpose of complying with the conditions of export of service, in terms of Circular No. 161/17/2021 GST dated 20.09.2021.

2) Circular No. 170/02/2022 GST dated 06.07.2022

### Question 2 :

In an appeal filed with the High Court by Prateek Ltd., on the question whether activity undertaken by Prateek Ltd. amounts to supply, the appeal was decided in favour of Prateek Ltd. The amount of tax, interest and penalty involved were IGST of Rs.1.2 crore, interest of Rs.60 lakh and penalty of Rs.50 lakh.

However, the Department does not agree with the order passed by the High Court and contends that the said activity amounts to supply under GST. The Department wants to file an appeal before the Supreme Court relating to the dispute pertaining to demand of tax, interest and penalty.

You are required to examine whether appeal can be filed by the Department in the given case. Will your answer change, in case matter is related to valuation of services instead of determining whether the said activity amounts to supply?

### Solution :

Section 120 of the CGST Act, 2017 provides that the Board may, on the recommendations of the Council, from time to time, issue orders or instructions or directions fixing such monetary limits, as it may deem fit, for the purposes of regulating the filing of appeal or application by the officer of the central tax under the provisions of this Chapter. CBIC vide Circular No. 207/1/2024 GST dated 26.06. 2024 has fixed the following monetary limits for filing appeals/ applications/ Special Leave Petition by the Department before GSTAT, High Courts and Supreme Court subject to specified exclusions:

Appellate forum	Monetary limit (Amount involved in Rs.)
GSTAT	20 lakh
High Court	1 crore
Supreme Court	2 crore

Further, where the dispute pertains to demand of tax (with or without penalty and/or interest), the aggregate of the amount of tax in dispute (including CGST, SGST/UTGST, IGST and Compensation Cess) only shall be considered while applying the monetary limit for filing appeal, viz. Rs.1.2 crore (amount of tax only) in the given case. Thus, appeal cannot be filed by the Department to Supreme Court in the given case as the amount involved as per the circular does not exceed the monetary limit of Rs.2 crore.

However, the circular further provides that the monetary limits specified above for filing appeal or application by the Department before GSTAT or High Court and for filing Special Leave Petition or appeal before the Supreme Court shall not be applicable in the following circumstances where the decision to file appeal shall be taken on merits irrespective of the said monetary limits:

- i. Where any provision of the CGST Act or SGST/UTGST Act or IGST Act or GST (Compensation to States) Act has been held to be ultra vires to the Constitution of India; or
- ii. Where any rules or regulations made under the CGST Act or SGST/UTGST Act or IGST Act or GST (Compensation to States) Act have been held to be ultra vires the parent Act; or

iii. Where any order, notification, instruction, or circular issued by the Government or the Board has been held to be ultra vires of the CGST Act or SGST/UTGST Act or IGST Act or GST (Compensation to States) Act or the rules made thereunder; or

iv. Where the matter is related to -

- a. valuation of goods or services; or
- b. classification of goods or services; or
- c. refunds; or
- d. place of supply; or
- e. any other issue,

which is recurring in nature and/or involves interpretation of the provisions of the GST law/ the Rules/ notification/ circular/ order/ instruction etc.; or

v. Where strictures/adverse comments have been passed and/or cost has been imposed against the Government/Department or their officers; or

vi. Any other case or class of cases, where in the opinion of the Board, it is necessary to contest in the interest of justice or revenue.

In view of the above, if in the given case the matter is related to valuation of services, appeal can be filed by the Department to the Supreme Court based on the merits irrespective of the monetary limits.

### **Question 3 :**

Smith Inc., a company located in USA, charges subscription fee from its unregistered customers in India at its online money gaming portal. The Department contends that GST should be charged on the subscription fees which Smith Inc. receives from Indian customers. Smith Inc. opposes the above view stating that since online money gaming are intangible goods and do not cross customs frontiers physically in this case, GST is not leviable thereon. Considering the above facts, you are required to answer the following questions:

(i) What would be the place of supply in this case?

(ii) Whether GST is leviable on the subscription fee charged by Smith Inc. from unregistered customers? If yes, who is required to pay said GST?

### **Solution :**

(i) As per section 11 of the IGST Act, 2017, the place of supply of goods imported into India is the location of the importer. Online money gaming being specified actionable claim is covered in goods, in terms of section 2(52) read with section 2(102A).

Accordingly, in the given case, the place of supply would be location of the recipient of specified actionable claim of online money gaming, i.e., India.

(ii) As per proviso to section 5(1) of the IGST Act, 2017, IGST on goods imported into India is levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962.

However, in case of intangible goods, it is not possible to levy and collect IGST on imports in said manner, as the goods do not cross the customs frontiers physically. Resultantly, the Government has notified certain goods for whom proviso to section 5(1) of the IGST Act, 2017 will not be applicable for levy and collection of IGST; in such cases, IGST shall be levied and collected in the manner specified in section 5(1) only. Supply of online money gaming has been notified for the said purpose.

So, import of specified actionable claim of online money gaming will be taxed under IGST as import of goods.

Accordingly, the contention of department is correct in this case and Smith Inc. is liable to pay IGST on subscription fees that it receives from unregistered customers from India.

As per section 14A of the IGST Act, 2017, a supplier of online money gaming, not located in the taxable territory, shall in respect of the supply of online money gaming by him to a person in the taxable territory, be liable to pay IGST on such supply. Section 24(xia) makes it mandatory for a every person supplying online money gaming from a place outside India to a person in India to obtain registration irrespective of quantum of aggregate turnover. A supplier of online gaming services is required to take a single registration under a Simplified Registration Scheme.

However, if the supplier has a representative in India for any purpose, such person (representative in India) shall get registered and pay IGST on behalf of the supplier.

In case the overseas supplier neither has a physical presence nor has any representative for any purpose in India, he may appoint a person in India for the purpose of paying IGST and such person shall be liable for payment of such tax.

Accordingly, in the given case, since Smith Inc. is required to pay the IGST on the subscription fees that it charges from Indian customers, it is required to pay the IGST in the manner specified above.

#### **Question 4 :**

Mr. Divas, a registered person in Agra, Uttar Pradesh purchased a car for Rs.12,50,000 on 15th October. On 31st October, the car met with an accident resulting in minor damage.

Due to urgency, he got his car repaired in the local garage of a nearby market instead of garage authorized by his general insurance company, i.e. Suraksha Insurance Company, through which his car was insured.

The total cost of repairs was Rs.54,000 (excluding GST @ 18%). On the instructions of Mr. Divas, the invoice for the entire amount was raised by garage in the name of Suraksha Insurance Company. The insurance company approved the claim amount of only Rs.40,000 after the survey and reimbursed the same amount alongwith GST @ 18% to Mr. Divas.

In light of the above facts, you are required to answer the following questions:

(i) Whether Suraksha Insurance Company is eligible to avail ITC on the basis of the invoice raised by garage? If yes, what would the amount of eligible input tax credit?

(ii) Would your answer be different, if garage had issued two different invoices, one for Rs.40,000 + GST @ 18% to Suraksha Insurance Company and another for Rs.14000 + GST @ 18% to Mr. Divas?

(iii) In case, the garage issued the invoice in the name of Mr. Divas, would Suraksha Insurance Company be eligible to avail ITC?

#### **Solution :**

(i) Section 17(5) provides that ITC in respect of services of repair of motor vehicles shall be available where received by a taxable person engaged in the supply of general insurance services in respect of motor vehicles

insured by him. Further, section 2(93) defines recipient of supply of goods or services or both, as the person who is liable to pay the consideration, where such consideration is payable for the said supply of goods or services or both. As per section 2(31), consideration includes any payment made or to be made in relation to supply of the goods or services or both, whether by the recipient or by any other person. CBIC vide Circular No. 217/11/2024 GST dated 26.06.2024 has clarified that in reimbursement mode of claim settlement, the payment is made by the insurance company for the approved cost of repair services through reimbursement to the insured.

Further, irrespective of the fact that the payment of the repair services to the garage is first made by the insured, which is then reimbursed by the insurance company to the insured to the extent of the approved claim cost, the liability to pay for the repair service for the approved claim cost lies with the insurance company, and thus, the insurance company is covered in the definition of recipient in respect of the said supply of services of vehicle repair provided by the garage, in terms of section 2(93), to the extent of approved repair liability.

Moreover, availment of credit in respect of input tax paid on motor vehicle repair services received by the insurance company for outward supply of insurance services for such motor vehicles is not blocked under section 17(5).

Accordingly, it is clarified that ITC is available to insurance companies in respect of motor vehicle repair expenses incurred by them in case of reimbursement mode of claim settlement. It is further clarified that if the invoice for full amount for repair services is issued to the insurance company while the insurance company makes reimbursement to the insured only for the approved claim cost, then the ITC may be available to the insurance company only to the extent of reimbursement of the approved claim cost to the insured, and not on the full invoice value.

In the given case, although the invoice for the full amount of repair services (Rs.54,000 +GST) is raised in the name of Suraksha Insurance Company, it is liable to pay the repair service to the extent of the approved claim cost (Rs.40,000 +GST). Thus, it is covered in the definition of 'recipient' under section 2(93), to the extent of approved claim cost.

Hence, it is eligible to avail the ITC to the extent of the GST paid on the amount of Rs.40,000 (approved claim cost). Thus, ITC of Rs.7,200 ( $\text{Rs.40,000} \times 18\%$ ) is available to Suraksha Insurance Company.

(ii) The circular further clarifies that in cases where the garage issues two separate invoices in respect of the repair services, one to the insurance company in respect of approved claim cost and second to the customer for the amount of repair service in excess of the approved claim cost, ITC may be available to the insurance company on the said invoice issued to the insurance company subject to reimbursement of said amount by insurance company to the customer.

Thus, in the given case, if the garage has issued two different invoices, the answer would remain the same because the approved claim of service cost which was reimbursed by Suraksha Insurance Company to Mr. Diwas was Rs.40,000 only. Thus, ITC of Rs.7,200 ( $\text{Rs.40,000} \times 18\%$ ) is available to Suraksha Insurance Company.

(iii) The circular also clarifies that where the invoice for the repair of the vehicle is not in name of the insurance company, condition of clauses (a) and (aa) of section 16(2) is not satisfied and accordingly, ITC will not be available to the insurance company in respect of such an invoice. Thus, in the given case, if the invoice has been raised in the name of Mr. Diwas, then Suraksha Insurance Company would not be eligible to avail the ITC.

**Question 5 :**

List the scenarios where goods or conveyances are liable to confiscation under section 130 of the CGST Act, 2017.

**Solution :**

**As per section 130, where any person—**

- (i) supplies or receives any goods in contravention of any of the provisions of GST law or the rules made thereunder with intent to evade payment of tax;
- (ii) does not account for any goods on which he is liable to pay tax under GST law; or
- (iii) supplies any goods liable to tax under GST law without having applied for registration; or
- (iv) contravenes any of the provisions of GST law or the rules made thereunder with intent to evade payment of tax; or
- (v) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of GST law or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance, then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122.

**Question 6 :**

Mr. Manmeet imported certain goods from his son, Mr. Harbhajan residing in US and transaction value has been rejected. Rules 4 and 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 are found inapplicable as no similar/ identical goods are imported in India.

Mr. Manmeet furnishes cost-related data of imports and requests customs authorities to determine value accordingly as per rule 8. The relevant data are given below:-

Sr. No.	Particulars	Amount
1.	Cost of materials incurred by Mr. Harbhajan	\$ 2000
2.	Fabrication charges incurred by Mr. Harbhajan	\$ 1000
3.	Other chargeable expenses incurred by Mr. Harbhajan	\$ 400
4.	Other indirect costs incurred by Mr. Harbhajan	\$ 250
5.	Freight from Mr. Harbhajan 's factory to US port	\$ 250
6.	Loading charges at US port	\$ 100
7.	Normal net profit margin of Mr. Harbhajan	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.85 per \$

The customs authorities are of the opinion that since value as per rule 7 can be determined at Rs.5,00,000, there is no need to apply rule 8.

Can the request of Mr. Manmeet be legally acceptable? If so, compute the assessable value under the Customs Act, 1962.

**Solution :**

Rule 2(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (hereinafter referred to as Import Valuation Rules), inter alia, provides that persons shall be deemed to be "related" if they are members of the same family. Thus, since Mr. Manmeet and his son are related, transaction value has been rejected [Rule 3]. Rules 4 and 5 are found inapplicable as no similar/ identical goods are imported in India. Rule 6 provides that if the value of imported goods cannot be determined under the provisions of rules 3, 4 and 5, the value shall be determined under the provisions of rule 7 or, when the value cannot be determined under that rule, under rule 8. Thus, 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. Manmeet 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. Manmeet has been approved by the proper officer, the assessable value of the imported goods under rule 8 will be the sum of-

- (a) the cost of materials and fabrication or other processing
- (b) an amount for profit and general expenses
- (c) 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	<u>250</u>
Cost of the goods at Mr. Harbhajan'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	<u>50</u>
<b>Assessable value</b>	<b>5,700</b>
Particulars	Amount (Rs.)
Assessable value in Indian Rupees (Exchange rate - Rs.85 per \$)	4,84,500

#### Question 7 :

Green Peppers Company imported goods valued at Rs.20,00,000 vide a Bill of Entry presented before the proper officer on 15th July, on which date the rate of customs duty was 10%. Green Peppers Company has produced all the necessary documents and furnished full information.

However, the proper officer deemed it necessary to make further enquiry and therefore, the same were provisionally assessed at a value of Rs.20,00,000 and Green Peppers Company paid provisional duty of Rs.2,00,000 on the same date.

Determine the amount of interest payable, if any, under section 18 of the Customs Act, 1962 provided that:

- (i) Green Peppers Company voluntarily pays duty of Rs.50,000 on 20th August.
- (ii) Final duty is assessed on 31st August at Rs.3,00,000.
- (iii) Green Peppers Company pays balance duty on the date of assessment of final duty.

**Solution :**

Section 18 of the Customs Act, 1962 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:

$$= [\text{Rs.}50,000 \times 15\% \times 51/365] + [\text{Rs.}50,000 \times 15\% \times 62/365]$$
$$= \text{Rs.}1,048 + \text{Rs.}1,274 = \text{Rs.}2,322$$

**Question 8 :**

Briefly discuss the provisions of section 69 of the Customs Act, 1962 relating to clearance of warehoused goods for export.

**Solution :**

Warehoused goods can be exported without payment of import duty in accordance with the provisions of section 69, for instance, ship stores, which are meant to be exported only; goods meant for re-export and goods supplied to duty free shops and the like. Section 69 provides that any warehoused goods may be exported to a place outside India without payment of import duty if:

- (a) a shipping bill or a bill of export or the form as prescribed under section 84 has been presented in respect of such goods;
- (b) the export duty, fine and penalties payable in respect of such goods have been paid; and
- (c) an order for clearance of such goods for export has been made by the proper officer. Order for clearance of warehoused goods for export may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria.

In case Government of India is of the opinion that goods of any specified description are likely to be smuggled back into India, it may by notification in the Official Gazette, direct that such goods:

- (i) shall not be exported to any place outside India without payment of duty or
- (ii) be allowed to be so exported subject to such restrictions and conditions as may be specified in the notification.

**Question 1 :**

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

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

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

The company provided the following additional information:

(i) Some taxable goods were transferred to the company's branch located in Uttarakhand for promotional gifting by branch. Invoice value was Rs. 2,40,000, but open market value was Rs. 2,80,000.

(ii) Nandita Pvt. Ltd. had secured a loan amounting to Rs. 120 crores in the month of April from Manimani Bank, Rajasthan. Penal charges amounting to Rs. 26,00,000 were levied by Manimani Bank in the month of

January, in compliance with RBI directions, since Nandita Pvt. Ltd. failed to comply with the material terms and conditions of the loan contract.

(iii) All the amounts given the question are exclusive of taxes, wherever applicable.

(iv) All the inward supplies were used for taxable as well as exempted outward supplies.

(v) There was no opening balance of any ITC for the relevant tax period.

(vi) The company always chooses the most beneficial option for valuation of supplies made to agent and branches.

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

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

1. Eligible Input Tax Credit (ITC) available for set-off.

2. Minimum net GST liability payable in cash (CGST and SGST or IGST, as the case may be).

**Solution :**

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

S. No.	Particulars	Amount (Rs.)	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
(i)	Forward derivatives contract [Forward derivative contracts where the settlement takes place by netting off the difference between the forward rate and market rate qualify as securities. Hence, they are neither goods nor services in terms of definitions of goods and services under sections 2(52) and 2(102). Thus, given transaction is not a supply.]	18,00,000	-	-	-
(ii)	Renting of dumpers to Dhanvarsha Builders [Not specifically exempt. Further, it is an inter-State supply since place of supply provided to registered person is location of recipient, i.e. Jharkhand.]	11,50,000			2,07,000 [11,50,000 × 18%]
(iii)	Supply of silk yarn [Tax on silk yarn supplied by a person who manufactures it from raw silk to a registered person is payable under reverse charge by the recipient. Thus, tax is payable by Gajodhar Traders.]	80,00,000	-	-	
(iv)	Accommodation service provided to students [Supply of accommodation services having value of supply less than or equal to Rs. 20,000 per person per month is exempt provided that the accommodation service is supplied for a continuous period of at least 90 days.]	2,00,000	-	-	-
(v)	Supply of goods to an agent [Supply of goods by the company to agent qualifies	5,04,000	45,360 [5,04,000	45,360 [5,04,000	

	<p>as supply in terms of para 3 of Schedule I of the CGST Act, 2017 since agent issues invoice to customers in its own name.</p> <p>Further, it is an intra-State supply since place of supply is location where movement of goods terminates, viz. Rajasthan. Moreover, value of supply of goods to agent is:</p> <p>(i) Open Market Value (Rs. 5,40,000)</p> <p>or</p> <p>(ii) 90% of the price of goods of like kind and quality charged by recipient to unrelated customer Rs. 5,04,000 (Rs. 5,60,000 × 90%), at the option of supplier [Rule 29].</p> <p>Since the company wishes to choose most beneficial option, least of the two values has been taken.]</p>		× 9%]	× 9%]	
(vi)	<p>Inter-State transfer of taxable goods to Uttarakhand branch [ITC of goods received for promotional gifting is not available to branch, as ITC in respect of goods disposed of by way of gift or free samples is blocked in terms of section 17(5)(h).</p> <p>Since recipient -branch - is not eligible for full ITC and goods are not intended for further supply as such by it, value of supply of said goods shall be open market value (Rule 28).]</p>	2,80,000			50,400 [2,80,000 × 18%]
	Total output tax		45,360	45,360	2,57,400
	Less: ITC available for set off [Refer Working note below]		9,340	9,340	6,172
	<b>Minimum net GST payable in cash (rounded off)</b>		<b>36,020</b>	<b>36,020</b>	<b>2,51,228</b>

**Working Note - Computation of eligible ITC available for set off**

Particulars	Amount (Rs.)	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
<p>Event management services availed</p> <p>[It is intra-State supply as place of supply of event management services provided to registered person is location of recipient, i.e. Rajasthan. Further, ITC of services used in course or furtherance of business is available.]</p>	5,50,000	49,500 [5,50,000 × 9%]	49,500 [5,50,000 × 9%]	
<p>Machine purchased</p> <p>[It is intra-State supply since place of supply in case of goods not involving movement of goods is location of goods at the time of delivery to recipient, viz. Jharkhand.</p> <p>However, ITC of the same will not be available since the recipient of said intra-State supply is located in a different State than that of place of supply*.]</p>	1,00,000	-	-	-
Electric scooters purchased	1,80,000			32,400

[It is inter-State supply since place of supply is Jaipur and supplier is in Kerala. Further, ITC on two- wheelers with engine capacity upto 25cc, used in course or furtherance of business, is not blocked in terms of section 17(5)(a) since they are excluded from the definition of motor vehicle.]				[1,80,000 × 18%]
Penal charges [Penal charges levied by regulatory entities including banks, in compliance with RBI directions are essentially in the nature of charges for breach of terms of contract and hence, no GST is payable on the same**. Thus, no ITC is available.]	26,00,000			
<b>Total ITC</b>		<b>49,500</b>	<b>49,500</b>	<b>32,400</b>
<b>Computation of eligible ITC available for set-off</b>				
Common credit [All inward supplies are used commonly for exempt and taxable supplies.]		49,500	49,500	32,400
Less: ITC attributable to exempt supplies [Common credit x (Exempt turnover/ Total turnover)] to be reversed Rs. [Common credit × 82,18,000/1,01,52,000] – Refer note below		(40,070)	(40,070)	(26,228)
<b>Eligible ITC available for set off</b>		<b>9,430</b>	<b>9,430</b>	<b>6,172</b>

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

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

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

\*Circular No. 170/02/2022 GST dated 06.07.2022

\*\*Circular No. 245/02/2025 GST dated 28.01.2025

## Question 2 :

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

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

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

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

**Solution :**

As per section 16(6), where:

- the registration of a registered person is cancelled under section 29,
- and subsequently cancellation is revoked by any order under section 30,
- and availment of ITC was not restricted under section 16(4) on the date of cancellation,

then such person is entitled to take ITC on such invoice or debit note in a return under section 39:

(i) filed up to 30th November following the financial year to which such invoice or debit note pertains, or date of furnishing annual return, whichever is earlier; or

(ii) for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, where such return is filed within 30 days from the date of order of revocation of cancellation of registration

whichever is later.

In view of the aforementioned legal provisions in the given case, Aakarsha Traders is entitled to claim input tax credit (ITC) in respect of invoices issued in February and March of the preceding financial year in a return under section 39:

(i) filed up to 30th November of current financial year

or

(ii) return filed for the period from effective date of cancellation of registration till the date of order of revocation of cancellation of registration, within 30 days of revocation of cancellation i.e., up to 14th January

whichever is later.

Thus, Aakarsha Traders is entitled to claim input tax credit (ITC) in respect of invoices issued in February and March of the preceding financial year in the return for the month of September furnished on 21<sup>st</sup> December of current financial year.

**Question 3 :**

Arnav Enterprises, a registered supplier located in Madhya Pradesh, has duly filed its monthly GST returns for the financial year 2024–25. During the scrutiny of its returns for the said financial year in August 2025, the proper officer noticed an inadvertent short payment of CGST and SGST totaling Rs. 4,60,000 in the month of October 2024, on account of a bonafide error. Before issuance of the show cause notice by the proper officer, Arnav Enterprises paid the tax of Rs. 1,00,000 (Rs. 50,000 CGST and Rs. 50,000 SGST) on the basis of its own ascertainment along with applicable interest and with penalty, if any, on 15th September 2025 and informed the proper officer in writing of such payment.

Based on the facts above, answer the following:

(1) Ascertain the last date by which show cause notice can be issued by the proper officer for the amount of tax short paid by Arnav Enterprises.

(2) Determine the amount of penalty, if any, payable on the payment of tax of Rs. 1,00,000 by Arnav Enterprises on the basis of its own ascertainment along with applicable interest on 15th September 2025.

(3) Assuming that the proper officer decides to issue a show cause notice under section 74A on 10th October 2025, determine the maximum amount of tax for which he can issue the show cause notice. Ascertain the last date by which the proper officer should issue order under section 74A assuming that show cause notice is issued by proper officer on said date.

(4) In continuation of sub-part (3) above, if proper officer issues a show cause notice under section 74A on 10th October, 2025 for the amount of tax so allowed and Arnav Enterprises decides to pay said tax along with applicable interest, on 5th December, 2025, you are required to determine penalty, if any, payable by Arnav Enterprises.

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

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

**Solution :**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Thus, in the given case, Arnav Enterprises has to pay penalty of Rs. 90,000 [Rs. 3,60,000 × 25%]. If Arnav Enterprises has paid the tax of Rs. 3,60,000 alongwith applicable interest and penalty of Rs. 90,000 [Rs. 3,60,000 × 25%] on 5<sup>th</sup> December, 2025, which is within 60 days of issuance of show cause notice, i.e. on

or before 9th December, 2025, all proceedings in respect of the said notice shall be deemed to be concluded.

#### **Question 4 :**

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

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

#### **Solution :**

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

- (a) full amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and
- (b) 10% of the remaining amount of tax in dispute, in addition to the amount deposited before the AA, arising from the said order, subject to a maximum of Rs. 20 crore (Rs. 40 crore in case of IGST), in relation to which appeal has been filed.

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

- (i) Full amount of tax, interest and penalty as admitted by the company, i.e. Rs. 100 crore and
- (ii) 10% of the tax in dispute, i.e. Rs. 110 crore (10% of Rs. 1,100 crore) subject to a maximum of Rs. 40 crore

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

\*Since GST Tribunal has not yet become functional, Venue Automobiles Pvt. Ltd. decides to make the payment of an amount equal to the amount of pre-deposit on the GST portal and to file an undertaking/ declaration with the jurisdictional proper officer that it will file appeal against the order of the Appellate Authority before the Appellate Tribunal, as and when it comes into operation. Circular No. 224/18/2024 GST dated 11.07.2024 has clarified that if the taxpayer files an undertaking/ declaration with the jurisdictional proper officer that he will file appeal against the impugned order of the Appellate Authority before the Appellate Tribunal, as and when it comes into operation, within the prescribed timelines and on payment of said amount equal to the amount of pre-deposit (which will be adjusted against the amount of pre-deposit required to be deposited at the time of filing appeal before the Appellate Tribunal), recovery of the remaining amount of confirmed demand as per the order of the appellate authority will stand stayed.

#### **Question 5 :**

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

- (i) ABC Insurance Ltd. enters into a co-insurance agreement with XYZ Insurance Ltd. where ABC Insurance Ltd. is the lead insurer. The insured – Gyaati Industries- pays a total premium of Rs. 50,00,000 which is apportioned by the lead insurer - ABC Insurance Ltd. between itself and XYZ Insurance Ltd. in the ratio of 60:40 for the

insurance services jointly supplied by them to Gyaati Industries. ABC Insurance Ltd. agrees to discharge the entire GST liability on the full amount of premium received from Gyaati Industries.

(ii) A large industrial plant needs an insurance worth Rs. 500 crore. It approaches ABC Insurance Ltd. for the same. However, since ABC Insurance Ltd. is unable to underwrite the entire risk alone, it enters into a reinsurance agreement with a reinsurer – PQR Insurance Ltd. The total premium charged is Rs. 50 lakh. The insurer - ABC Insurance Ltd. pays a reinsurance premium of Rs. 20 lakh to PQR Insurance Ltd. This allows ABC Insurance Ltd. to manage its risk and financial exposure. While paying this amount to PQR Insurance Ltd., ABC Insurance Ltd. deducts a ceding commission of Rs. 1,00,000 which it has charged for the services it provides to PQR Insurance Ltd. PQR Insurance Ltd. pays GST on the gross reinsurance premium including the ceding commission.

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

(a) Apportionment of co-insurance premium by ABC Insurance Ltd. To XYZ Insurance Ltd. for the insurance services jointly supplied by them to Gyaati Industries.

(b) Services by ABC Insurance Ltd. to PQR Insurance Ltd. for which ceding commission is deducted from reinsurance premium paid by ABC Insurance Ltd. to PQR Insurance Ltd.

#### **Solution :**

(a) As per para 9 of Schedule III of the CGST Act, 2017, activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured is neither supply of goods nor supply of services and hence no GST is charged on the apportionment transaction.

However, the lead insurer (ABC Insurance Ltd.) is required to pay the entire GST (CGST and SGST or IGST, as applicable) on the full premium amount paid by the insured – Gyaati Industries, of Rs. 50,00,000. The co-insurer – XYZ Insurance Ltd. does not pay GST on its share of the premium separately.

(b) As per para 10 of Schedule III of the CGST Act, 2017, services by insurer to the reinsurer for which ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer is neither supply of goods nor supply of services, subject to the condition that the central tax, the State tax, the Union territory tax and the integrated tax is paid by the reinsurer on the gross reinsurance premium payable by the insurer to the reinsurer, inclusive of the said ceding commission or the reinsurance commission.

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

#### **Question 6 :**

Suhasi Electronics Pvt. Ltd., an importer, who availed the benefit of the notification imported the raw materials for manufacturing LED panels.

No condition or time period has been specified in the notification in relation to re export of unutilized or defective goods, so imported. The goods were imported on 10th February, 2024.

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

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

(a) Whether Suhasi Electronics can re-export these unutilised or defective goods? If yes, what is the maximum permissible time period, in which Suhasi Electronics can re-export the goods?

(b) What are the conditions applicable in case of re-export of goods?

(c) If Suhasi Electronics chooses to clear the goods for home consumption, explain the procedure for the same.

**Solution :**

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

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

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

(i) within the period specified in the notification;

(ii) within one year from the date of import, where the time period is not specified in the notification:

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

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

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

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

(i) Re export of the unutilized or defective goods shall be recorded by the importer in the quarterly statement by providing the details of necessary export documents.

(ii) The value of such goods for re-export shall not be less than the value of the said goods at the time of import.

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

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

**Question 7 :**

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

The bill of entry was filed on 18th February, on which date the basic customs duty rate was 10%, and the exchange rate notified by CBIC was Rs. 102 per UK Pound. The aircraft carrying the goods arrived on 15th

February, when the customs duty rate was 15%, and the CBIC- notified exchange rate was Rs. 98 per UK Pound. The inter-bank exchange rate prevailing on both dates was Rs. 106 per UK Pound.

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

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

Compute the assessable value of second hand goods.

**Solution :**

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

### Notes:

1. As per section 14 of the Customs Act, 1962, the value of the imported goods is the transaction value, which means the price actually paid or payable for the goods. In this case, since the contract was re-negotiated and the importer paid the re-negotiated price, the transaction value would be such re-negotiated price and not the contract price.

2. Rate of exchange notified by CBIC on the date of filing of bill of entry will be considered as per third proviso to section 14 of the Customs Act, 1962.

3. Only the payments actually made as a condition of sale of the imported goods by the buyer to the seller are includible in the assessable value under rule 10(1)(e) of the Customs Valuation

(Determination of Value of Imported Goods) Rules, 2007. Charges of vendor inspection on the goods carried out by foreign supplier on his own and not required for making the goods ready for shipment, are not includible in the assessable value of the imported goods [Bombay Dyeing & Mfg. v. CC 1997 (90) ELT 276 (SC)].

4. Commission paid to local agent (since it is not buying commission) is includible in the assessable value on the presumption that local agent has been appointed by the exporter [Rule 10(1)(a)(i) of the Customs Valuation Rules].
5. Actual amount incurred towards freight will be considered since freight is not more than 20% of FOB value [Fifth proviso to rule 10(2) of Customs Valuation Rules].
6. Actual insurance charges paid are includible in the assessable value as per rule 10(2)(b) of the Customs Valuation Rules.
7. As per proviso to section 15 of the Customs Act, 1962, rate of duty will be the rate in force on the date of presentation of bill of entry or on the date of arrival of the aircraft, whichever is later.

#### **Question 8 :**

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

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

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

Critically examine the validity of the Department's demand in light of the provisions of the Customs Act, 1962 and relevant judicial ruling, if any.

#### **Solution :**

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

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

**Jan. 26**

**Question 1 :**

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

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

The company provided the following additional information:

- (i) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively for both inward and outward supply of goods and services.
- (ii) All the amounts given above are exclusive of taxes, wherever applicable.
- (iii) There was no opening balance of any ITC.

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

**Solution :**

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

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

### Working Note -1

#### Computation of output tax liability

S. No.	Particulars	Amount (Rs.)	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
(i)	Consignment of Power Drill Kits supplied at the instruction of a third person [Since it is a bill to ship to supply where the goods are delivered on the directions of a third person- M/s ToolMart, goods are deemed to be received by such third person and thus, the place of supply is Tamil Nadu, in terms of section 10(1)(b) of the IGST Act, 2017. Hence, it is an inter- State supply.]	6,00,000	-	-	1,08,000 [6,00,000 × 18%]
(ii)	Supplied silk yarn to SilkAura Creations [Intra-State supply since place of supply is the location as per the address of the said person recorded in the invoice issued in respect of the said supply, viz. Maharashtra, in terms of section 10(1)(ca) of IGST Act, 2017. Further, tax will be payable under forward charge since such silk yarn is being supplied to an unregistered person (Notification No. 4/2017 IT (R) dated 28.06.2017 as amended).]	4,00,000	36,000 [4,00,000 × 9%]	36,000 [4,00,000 × 9%]	-
(iii)	Free of cost training to agents [Services provided by the company to agents without consideration is not deemed as supply in terms of para 3 of Schedule - I since only goods supplied by principal to agent are covered therein. Further, such services are also not covered in para 2 of Schedule I as agents are not related persons.]	-	-	-	-
(iv)	Transfer of tenancy rights [Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable even though stamp duty and registration fee have been paid on the same*. It is an intra-State supply since place of supply is location of immovable property being Mumbai,	8,00,000	72,000 (8,00,000 x 9%)	72,000 (8,00,000 x 9%)	-

Maharashtra.]				
<b>Total output tax</b>		<b>1,08,000</b>	<b>1,08,000</b>	<b>1,08,000</b>

### Working Note – 2

#### Computation of input tax credit available for set-off

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

\*Circular No. 44/18/2018 CT dated 02.05.2018

#### Question 2 :

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

ITC to other units that are carrying manufacturing, trading and supplying services to the customers.

Sl. No.	Particulars	Amount in lakh (Rs.)
(1)	Turnover in the relevant month of each of the units:	
	Mumbai (Maharashtra)	12.00

	Bangalore (Karnataka)	60.00
	Hyderabad (Andhra Pradesh)	36.00
	Trivandrum (Kerala)	72.00
(2)	Total ITC of input services available during the month with the ISD (includes CGST/SGST & IGST) on account of supplies received during the month	48.00
(3)	Out of the above, ITC of input services exclusive to Bangalore unit, available as IGST credit	12.00
(4)	Out of the above, ITC of input services exclusive to Trivandrum and Hyderabad units (CGST and SGST of Rs. 3.00 lakh each)	6.00
(5)	Rest of the credit of input services available is allocable as common credit to all the units and is received from local suppliers in Kerala	
(6)	Basic value of a debit note received for input services during the month, in respect of a previous supply, with tax levied @ 12% IGST -being charged and shown separately. This pertains to all the four units of the company.	50.00
(7)	Total value in the credit note received for input services, during the month, applicable exclusively to Trivandrum (Kerala) unit, taxed at the rate of 9% CGST and 9% SGST, which is charged and indicated separately	118.00 (inclusive of GST)

**Notes:**

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

**Solution :**

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

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

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

### Question 3 :

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

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

### Solution :

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

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

#### **Question 4 :**

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

No Show Cause Notice (SCN) had been issued by the GST Department until that time. Before any such notice could be served, Mr. Vikramaditya Rao, upon reconciling his accounts, voluntarily decided to discharge his outstanding tax liability. He believes that if the tax is paid before the issuance of an SCN, no penalty would be levied and only interest, if any, would be payable.

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

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

#### **Solution :**

Due date for payment of tax collected on 18th April is 20th May.

However, since tax is actually paid on 26th June, interest @ 18% p.a. is payable for the period for which the tax remains unpaid [37 days] in terms of section 50 read with Notification No. 13/2017 CT dated 28.06.2017. Amount of interest is as follows: = Rs. 15,50,000 × 18% × 37/365 = Rs. 28,282 (rounded off)

As per section 74A(11) of the CGST Act, 2017 read with section 20 of the IGST Act, 2017 where self-assessed tax/any amount collected as tax is not paid within 30 days from due date of payment of tax, then, inter alia, option to pay such tax before issuance of SCN to avoid penalty, is not available.

Consequently, penalty equivalent to

(i) 10% of tax, viz., Rs. 1,55,500 or

(ii) Rs. 20,000,

whichever is higher,

is payable in terms of section 74A(5)(i) of the CGST Act, 2017 read with section 20 of the IGST Act, 2017. Therefore, penalty of Rs. 1,55,500 is payable by Vikramaditya Rao in the given case.

#### **Question 5 :**

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

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

the tax authority on 25th July.

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

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

**Solution :**

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

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

In this scenario, the relevant dates are:

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

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

**Question 6 :**

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

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

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

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

**Solution :**

(a) In accordance with Rule 7 of the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022, the maximum period for which the goods can be sent to the job worker is one year from the date of invoice or electronic way bill.

Since the rods remained with the job worker, M/s. Sharp Tools & Co. beyond one year, the Global Machines Pvt. Ltd. has not complied with the requirement.

(b) Yes, importer shall be responsible for ensuring that the said goods are used in accordance with the purposes prescribed in the rules and in the event of failure to do so, the jurisdictional Customs Officer would take necessary action against the importer prescribed under rules 11 & 12 of the Customs (Import of Goods at Concessional Rate of Duty or for Specified Purposes) Rules, 2022.

(c) The job worker - Sharp Tools & Co.- have following record- keeping responsibilities in this case-

i. It shall maintain an account of receipt of goods, manufacturing process undertaken thereon and the waste generated, if any, during such process; and

ii. It shall produce the account details before the jurisdictional Customs Officer as and when required by the said officer.

(d) If part of the processed rods needs to be sent to another job worker for further finishing, the processed goods must move under the cover of an invoice or an electronic way bill.

#### **Question 7 :**

The Central Government is in the process of drafting an amendment to the Foreign Trade Policy (FTP). During this process, it circulates a draft for stakeholder consultation and provides them 30 days for feedback.

Global Exporters' Association (GEA) submits detailed suggestions, on the same. The Government acknowledges receipt of their suggestions but, in the final amendment, these recommendations are not accepted. GEA requests the Government to explain why their views were rejected.

The Ministry provides a brief explanation, stating that acceptance of the suggestions would conflict with India's international obligations under a trade agreement.

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

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

(a) Is the Central Government obliged to always consult stakeholders before formulating or amending the FTP?

(b) Whether the action taken by Government for rejecting the proposal of GEA and giving only limited reasons was valid? Explain with brief reasoning.

(c) Can FFEF demand the Government to legally disclose the reasons for not accepting its feedback? Also, list the situations where the Government is not required to provide reasons for rejecting stakeholder views.

#### **Solution :**

(a) The Central Government, in the course of formulation of FTP, as and when it deems reasonable to do so, may seek views/suggestions/comments/feedback from relevant stakeholders, including

importers/exporters/industry experts with regard to formulation, incorporation of specific provision(s) or amendments in the FTP.

However, Central Government reserves the right to suo moto formulate, amend or incorporate any specific provisions, without seeking views, suggestions, comments or feedback from stakeholders.

Thus, the Central Government is not obliged to always consult stakeholders before formulating or amending the FTP.

(b) If the views, suggestions, comments or feedback are not incorporated in the FTP, the Central Government may to the extent possible and if deems reasonable to do so, provide, to the relevant stakeholders, including importers/exporters/industry experts the reasons for not considering their views etc. while formulating, amending or incorporating specific provisions in the FTP.

Thus, the action taken by Government is valid in rejecting the proposal of GEA and giving only limited reasons.

(c) Central Government is not obliged or mandated to disclose reasons for not incorporating views etc., that No legal right is conferred on any person to seek reasons for his views, comments, opinions or feedback, not being incorporated in the FTP thereof. Disclosure is at the discretion of the Government.

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

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

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

#### **Question 8 :**

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

In this regard, following additional information is also provided:

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

You are required to compute the total customs duty and integrated tax payable on the importation of machine. You may make suitable assumptions wherever required.

**Solution :**

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

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

**Notes:**

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

## MTP Compilation

May 25

Series-1

### Question 1 :

Vedant Shoppe is a retail trader of both taxable and exempted goods, registered under GST in the State of Rajasthan. Vedant Shoppe has furnished the following details for a month:

		(Rs.)
(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 not leviable to GST	4,00,000
(3)	Details of expenses:	
	Monthly rent payable for the shop	3,50,000
	Telephone expenses paid (Rs. 30,000 for bills of land line phone installed at the shop and Rs. 20,000 towards mobile phone bills of the employees – Mobile phones are also given to employees for official use)	50,000
	Audit fees paid to a Chartered Accountant (Rs. 35,000 for the statutory audit of preceding financial year and Rs. 25,000 for certification work)	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) [service taxable @ 5%] for inward transportation of goods not leviable to GST	50,000
	Freight paid to goods transport agency (GTA) [service taxable under reverse charge @ 5%] 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 kinds of taxes, wherever applicable.

All the inward and outward supplies made by Vedant Shoppe are from/to registered suppliers within Rajasthan.

Assume, wherever applicable, for purpose of reverse charge payable by Vedant Shoppe, the CGST, SGST and IGST rates as 2.5%, 2.5% and 5% respectively. CGST, SGST and IGST rates to be 6%, 6% and 12% respectively in all other cases.

There is no opening balance in the electronic cash ledger or electronic credit ledger.

Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.

You are required to compute the following:

- (i) Input Tax Credit (ITC) credited to Electronic Credit Ledger
- (ii) Common credit available for apportionment
- (iii) ITC attributable towards exempt supplies out of common credit

(iv) Net GST payable from Electronic Cash Ledger for the month (14 Marks)

**Solution :**

**Computation of ITC credited to Electronic Credit Ledger**

ITC of input tax attributable to inputs and input services intended to be used for business purposes is credited to the electronic 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) of the CGST Act, 2017 is not credited to electronic credit ledger [Sections 16 and 17 of the CGST Act, 2017].

In the light of the aforementioned provisions, the ITC credited to electronic credit ledger of Vedant Shoppe is calculated as under:

Particulars	Amount (Rs.)	CGST @ 6% (Rs.)	SGST @ 6% (Rs.)
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 Chartered Accountant Fee	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-Provido to section 17(5)(b) of the CGST Act, 2017].	10,000	Nil	Nil
Taxable Goods given as free samples [ITC on goods disposed of by way of free samples is blocked under section 17(5)(h) of the CGST Act, 2017]	5,000	Nil	Nil
Particulars	Amount (Rs.)	CGST @ 2.5% (Rs.)	SGST @ 2.5% (Rs.)
Freight paid to GTA for inward transportation of non-taxable goods under reverse charge [Since definition of exempt supply under section 2(47) of the CGST Act, 2017 specifically includes non-taxable supply, the input service of inward transportation of non-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 reverse charge	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

**Computation of common credit available for apportionment**

Common Credit = ITC credited to Electronic Credit Ledger – ITC attributable to inputs and input services intended to be used exclusively for effecting taxable supplies [Section 17 of the CGST Act, 2017 read with rule 42 of the CGST Rules, 2017].

Particulars	CGST (Rs.)	SGST (Rs.)
ITC credited to Electronic 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

(iii) 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 of the CGST Act, 2017 read with rule 42 of the CGST Rules, 2017].

Particulars	CGST (Rs.)	SGST (Rs.)
ITC attributable towards exempt supplies [Rs. 27,600 x (Rs. 10,00,000/Rs. 60,00,000)]	4,600	4,600

(iv) Computation of net GST liability for the month

Particulars	CGST (Rs.)	SGST (Rs.)
GST liability under forward charge		
Supply of taxable goods [Rs. 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	2,96,750	2,96,750
Net GST payable [A]	3,250	3,250
GST liability under reverse charge		
Freight paid to GTA for inward transportation of taxable goods [Rs. 1,50,000 x 2.5%]	3,750	3,750
Freight paid to GTA for inward transportation of non-taxable goods [Rs. 50,000 x 2.5%]	1,250	1,250
Total tax liability under reverse charge [B]	5,000	5,000
Net GST liability [A] + [B]	8,250	8,250

Note: Amount available in the electronic credit ledger may be used for making payment towards output tax [Section 49 of the CGST Act, 2017]. However, tax payable under reverse charge is not an output tax in terms of definition of output tax provided under section 2(82) of the CGST Act, 2017. Therefore, tax payable under reverse charge cannot be set off against the input tax credit and thus, will have to be paid in cash.

### Question 2(a) :

Malceto Manufacturers Ltd., registered in Mumbai (Maharashtra), is a manufacturer of footwear. It imports a footwear making machine from USA.

Malceto Manufacturers Ltd. enters into a contract with Shiva 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, Malceto Manufacturers Ltd. authorises Shiva 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 Malceto Manufacturers Ltd. which shall be reimbursed by Malceto Manufacturers Ltd. to Shiva Logistics on the actual basis in addition to agency charges.

Shiva Logistics provided following details in the invoice issued by it to Rolly Manufacturers Ltd.:

S. No.	Particulars	Amount (Rs.)
(i)	Agency charges	5,00,000
(ii)	Unloading of machine at Kandla port, Gujarat	50,000
(iii)	Charges for transportation of machine from Kandla port, Gujarat to its Shiva Logistics' godown in Ahmedabad, Gujarat	25,000
(iv)	Charges for transportation of machine from Shiva Logistics' Ahmedabad godown to the warehouse of Malceto Export Import House in Mumbai, Maharashtra	28,000
(v)	Prepared and submitted 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 Shiva Logistics with the help of given information.

Would your answer be different if Shiva Logistics has charged Rs. 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 Malceto Manufacturers Ltd.? **(10 Marks)**

#### **Solution :**

As per explanation to rule 33 of the CGST Rules, 2017, a “pure agent” means a person who-

- (i) 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;
- (ii) 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;
- (iii) does not use for his own interest such goods or services so procured; and
- (iv) 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, Shiva Logistics has entered into a contractual agreement with recipient of supply, Malceto 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, Shiva Logistics does not hold any title to said services and does not use them for his own interest.

Lastly, Shiva Logistics receives only the actual amount incurred to procure such services in addition to agency charges. Thus, Shiva Logistics qualifies as a pure agent.

Further, rule 33 of the CGST Rules, 2017 stipulates that notwithstanding anything

contained in the provisions of Chapter IV – Determination of Value of supply, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely-

- (i) the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;

(II) the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and

(III) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

Since conditions (I) to (III) mentioned above are satisfied in the given case, expenses (ii) to (vii) incurred by Shiva Logistics as a pure agent of Malceto Manufacturers Ltd. shall be excluded from the value of supply.

Accordingly, value of supply made by Shiva Logistics is as follows:

Particulars	Amount (Rs.)
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 Shiva Logistics' Ahmedabad godown to the warehouse of Malceto Export Import House in Mumbai, Maharashtra	Nil
Customs duty	Nil
Dock charges	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 Rs. 13,00,000 is paid then the value of supply shall be Rs. 13,00,000 and tax shall be charged on value of supply since individual cost are not given.

### Question 2(b) :

15,000 chalices were imported for charitable distribution in India by Social Welfare Charitable Trust. The Trust did not pay either for the cost of goods or for the design and development charges, which was borne by the supplier. Customs officer computed its FOB value at USD 20,000 (including design and development charges), which was accepted by the Trust. Other details obtained were as follows:

Sl. No.	Particulars	Amount
1.	Freight paid (air) (in USD)	4,500
2.	Design & development charges paid in USA (in USD)	2,500
3.	Commission payable to an agent in India (in Rs.)	12,500
4.	Exchange rate notified by CBIC and rate of basic duty is as follows: Date of Bill of Entry                      BCD      Exchange Rate in 8th September                                      20%      Rs. 70 Date of arrival of aircraft                      BCD      Exchange Rate in 30th September                                      10%      Rs. 72 The inter-bank rate was                      1 USD = Rs. 73	

Compute the amount of Assessable value of chalices. Make suitable assumptions where required. Working notes should form part of your answer. **(4 Marks)**

**Solution :**

## Computation of Assessable Value

Particulars	Amount
FOB value computed by Customs Officer (including design and development charges)	20,000 US \$
Exchange rate [Note 1]	Rs. 70 per \$
	Rs.
FOB value computed by Customs Officer (in rupees)	14,00,000.00
Add: Commission payable to agent in India	12,500.00
FOB value as per Customs	14,12,500.00
Add: Air freight (Rs. 14,12,500 × 20%) [Note 2]	2,82,500.00
Add: Insurance (1.125% of Rs. 14,12,500) [Note 3]	15,890.63
CIF value for customs purposes	17,10,890.63
Assessable value	17,10,890.63

## Note:

1. Rate of exchange notified by CBIC on the date of filing of bill of entry has to be considered [Third proviso to section 14 of the Customs Act, 1962].
2. In case of goods imported by air, freight cannot exceed 20% of FOB value [fifth proviso to rule 10(2) of the Customs (Determination of Value of Imported Goods) Rules, 2007].
3. Insurance charges, when not ascertainable, have to be included @ 1.125% of FOB value of goods [Third proviso to rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].

**Question 3(a) :**

RMN 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 financial year):

S. No.	Items	GST paid In (Rs.)
(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 Rs. 4,00,000 and claimed depreciation of Rs. 44,800 (@ 10%) on the full amount of Rs. 4,48,000 under Income Tax Act, 1961	48,000

## Other information:

- (1) In the month of September of previous financial year, RMN Company Ltd. availed ITC of Rs. 2,40,000 on purchase of raw material which was directly sent to job worker's premises under a challan on 25<sup>th</sup> September (previous financial year). The said raw material has not been received back from the job worker up to 30th April (current financial year).

(2) All the above inward supplies except at S. No. (iii) above have been used in the manufacture of taxable goods. Inward supplies at S. No. (iii) above have been used in the manufacture of exempt goods.

Compute the amount of net ITC that can be availed by RMN 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 the other conditions necessary for availing ITC have been fulfilled. **(5 Marks)**

**Solution :**

Computation of ITC available with RMN Company Ltd. for the month of April

Particulars	ITC (Rs.)
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 the instant case and thus, the ITC thereon is blocked [Second proviso to section 17(5)(b) of the CGST Act, 2017].

(2) ITC cannot be taken since invoice is missing and delivery challan is not a valid document to avail ITC [Section 16(2)(a) of the CGST Act, 2017 ].

(3) ITC can be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply [Section 16(2) of the CGST Act, 2017].

(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) of the CGST Act, 2017].

(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) of the CGST Act, 2017].

(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 of the CGST Act, 2017].

Hence, the ITC taken by RMN Company Ltd. in the month of September 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 3(b) :

Determine the time of supply in the following cases:

(i) Bhansali Ltd. sells goods to Chopra Ltd. on 4th June. The goods are taxable under reverse charge. Invoice for the same is issued on 4th June. Chopra Ltd. receives the goods on 12th June.

Chopra Ltd. records the payment in the books of account on 30th June and the same is debited from the bank account of C Ltd. on 2nd July.

(ii) Aanand Ltd. sells food coupons to Banwari Ltd. The company gives these coupons to its employees as part of the agreed perquisites. The coupons can be redeemed for purchase of any item of food /provisions in the outlets that are part of the program. **(5 Marks)**

### Solution :

(i) Time of supply of the goods is 12th June being the earliest of the three stipulated dates namely:

- date of receipt of goods,
- date of payment and
- date immediately following 30 days of issuance of invoice.

(ii) As per section 12(4) of the CGST Act, 2017, the time of supply of vouchers exchangeable for goods is-

- Date of issue of the voucher, if the supply that it covers is identifiable at that point, or
- Date of redemption of the voucher in other cases,

In the given case, As the supply against which the coupon will be redeemed is not known on the date of the sale of the coupon, the time of supply of the coupon will be the date on which the employee redeems it against food / provision items of his choice.

### Question 3(c) :

M/s Bhalla Imports Ltd. imported certain goods, which were unloaded in the customs area on 1st October. When order for clearance was passed by proper officer on 5th October, it was found that there was some pilferage of such goods.

As the imported goods were in the custody of Port Trust, the Department demanded duty from the custodian under section 45(3) of the Customs Act, 1962, on such pilferage. The Port Trust denied such demand contending that it was not an approved custodian falling under section 45 of Customs Act, 1962 and possession of goods by it was by virtue of powers conferred under the Major Port Trust Act, 1963. Hence, it is not liable for customs duty on pilfered goods.

M/s Bhalla Imports Ltd. has also asked the Port Trust to make good the loss of goods. Examine, whether the demands made by the Department and M/s Bhalla Imports Ltd. are justified in law, referring to decided case law. **(4 Marks)**

### Solution :

The facts of the case are similar to the case of Board of Trustees v. UOI (2009) 241 ELT 513 (Bom HC DB), wherein the High Court held that considering the language of section 45(3) of the Customs Act, 1962, the liability to pay duty is of the person, in whose custody the goods remain as an approved person under section 45 of the Act. Therefore, section 45(3) of the Customs Act, 1962 applies only to the private custodians who are required to be approved by Principal Commissioner/ Commissioner of Customs under

section 45(1). Accordingly, the major ports and airports covered under Major Port Trust Act, 1963 who do not require any approval under section 45(1), are not covered by section 45(3). Thus, the Department cannot demand duty from Port Trust on the pilferage under section 45(3) of the Customs Act, 1962.

Section 45(3) of the Customs Act, 1962 holds the custodian responsible only in respect of the customs duty in respect of pilfered goods. It does not extend to the value of goods lost. However, the Port Trust, as bailee of the goods, is liable for value of the goods to the importer.

**Question 4(a) :**

M/s Surajbhan & Co. is registered under GST in the state of Maharashtra. They have made zero-rated supply of goods worth Rs. 84,50,000 without payment of IGST for Rs. 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. Abhay, taxation manager of the firm, has sought for recrediting the Electronic Credit Ledger as per the provisions of rule 86 for the above rejection. Examine the scenario and offer your comments. **(5 Marks)**

**Solution :**

Rule 86 of the CGST Rules, 2017 provides that where a registered person has claimed refund of any unutilized amount (i.e. ITC) from the electronic credit ledger in accordance with the provisions of section 54 of the CGST Act, the amount to the extent of the claim shall be debited in the said ledger.

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 electronic credit ledger by the proper officer.

In the present case, M/s Surajbhan & Co., have made zero-rated supply without payment of IGST for Rs. 10,14,000 and the refund for the same has been rejected by the proper officer.

Therefore, contention of Mr. Abhay is sustainable as debit entry in the Electronic Credit Ledger has been made as per sub-rule (3) of Rule 86 towards "refund of any unutilized amount".

**Question 4(b) :**

Mr. Narayan has, over three consignments of 200, 400 and 400 units, imported a total of 1000 units of an article "ZEP", which has been valued at Rs. 1,150 per unit.

The customs duty on this article has been assessed Rs. 250 per unit. He adds his profit margin Rs. 350 per unit and sells the article for Rs. 1,750 per unit.

After one month of selling the entire consignment of article "ZEP", Mr. Narayan 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. Mr. Narayan files an application for refund for Rs. 50,000 (200 X 250). Is the bar of unjust enrichment attracted? **(5 Marks)**

**Solution :**

Mr. Narayan's invoices show that he collected duty of Rs. 250 per unit on 1,000 items. However, he paid duty on 200 items more. This payment, in the normal course, was made before the order permitting the clearance of the goods. It would be evident from the bill of entry that the amount paid was more than the amount of duty assessed. Thus Mr. Narayan's case falls within the exception to unjust enrichment listed at clause (g) of the first proviso to section 27(2) of the CGST Act, 2017. He will be able to refute the charge of unjust enrichment. Furthermore, clause (a) of the same sub-section provides that the doctrine of unjust

enrichment will not apply to the refund of duty and interest, if any, paid on such duty if such amount is relatable to the duty and interest paid by the importer/exporter, if he had not passed on the incidence of such duty and interest to any other person.

Mr. Narayan's invoices and other documentary evidences will show how much duty he collected from his customers, hence he may be covered by this clause also to escape the bar of unjust enrichment.

#### Question 4(c) :

Vishal imported certain goods in May. An 'into bond' bill of entry was presented on 14th May and goods were cleared from the port for warehousing. Assessable value on that date was US \$ 1,00,000. The order permitting the deposit of goods in warehouse for 4 months was issued on 21st May. Vishal 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 Customs Act, 1962, demanding duty and interest. Vishal cleared the goods on 14th October. Compute the amount of duty and interest payable by Vishal while removing the goods on the basis of the following information:

Particulars	14th May	21st September	14th October
Rate of exchange per US \$ (as notified by Central Board of Indirect taxes & Customs)	Rs.65.20	Rs. 65.40	Rs. 65.50
Basic customs duty	15%	10%	12%

Integrated Tax leviable under section 3(7) of the Customs Tariff Act is exempt.

Ignore agriculture and infrastructure development cess. **(4 Marks)**

#### Solution :

Computation of import duty payable by Vishal

Particulars	Amount (US \$)
Assessable value	1,00,000
	Amount (Rs.)
Value in Indian currency (US \$ 1,00,000 x Rs. 65.20) [Note 1]	65,20,000
Customs duty @ 10% [Note 2]	6,52,000
Add: Social welfare surcharge @ 10% on Rs. 6,52,000	65,200
Total customs duty payable	7,17,200

Notes:

1. As per third proviso to section 14(1) of the Customs Act, 1962, assessable value has to be calculated with reference to the rate of exchange prevalent on the date on which the into bond bill of entry is presented for warehousing under section 46 of the Customs Act, 1962.

2. Goods which are not removed within the permissible period are deemed to be improperly removed in terms of section 72 of the Customs Act, 1962 on the day they should have been removed [Kesoram Rayon v. CC 1996 (86) ELT 464 (SC)]. 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.

As per section 61 of the Customs Act, 1962, if goods 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 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, interest payable will be computed as under:

Period of 90 days commencing from the date of order made under 60 expires on	19th August
No. of days for which interest shall be payable [12 days of August + 30 days of September + 14 days of October]	56 days
Interest payable = $Rs.7,17,200 \times 15/100 \times 56/365$ (rounded off)	Rs. 16,505

#### Question 5(a) :

Examine the implications as regards the bailability and quantum of punishment on prosecution, in respect of the following cases pertaining to the month of December under CGST Act, 2017-

- (i) 'Amit' collects Rs. 245 lakh as tax from its clients and deposits Rs. 241 lakh with the Central Government. It is found that he has falsified financial records and has not maintained proper records.
- (ii) 'Suresh' collects Rs. 550 lakh as tax from its clients but deposits only Rs. 30 lakh with the Central Government.

What will be the implications with regard to punishment on prosecution of 'Amit' and 'Suresh' for the offences? What would be the position, if 'Amit' and 'Suresh' repeat the offences?

It may be assumed that offences are proved in the Court. **(5 Marks)**

#### Solution :

(i) Failure to pay any amount collected as tax beyond 3 months from due date of payment is a specified offence as per clause (d) of Section 132(1) of the CGST Act, 2017.

In the present case, failure to deposit the tax Rs. 4 lakh (Rs. 245 lakh – Rs. 241 lakh). As the amount of failure does not exceed Rs. 200 lakh therefore, failure to deposit Rs. 4 lakh collected as tax by 'Amit' will not be punishable with imprisonment as per section 132(1) of the CGST Act, 2017.

Further, falsification of financial records by 'Amit' is a specified offence as per section 132(1)(d) and punishable with imprisonment upto 6 months or with fine or both as per clause (iv) of section 132(1) of the CGST Act, 2017 assuming that falsification of records is with an intention to evade payment of tax due under the CGST Act, 2017 and the said offence is bailable in terms of section 132(4) of the CGST Act, 2017.

(ii) Failure to pay any amount collected as tax beyond 3 months from due date is punishable with imprisonment upto 5 years and with fine, if the amount of tax evaded exceeds Rs. 500 lakh in terms of section 132(1)(d) read with clause (i) of section 132(1) of the CGST Act, 2017.

Since the amount of tax evaded by 'Suresh' exceeds Rs. 500 lakh (Rs. 550 lakh -Rs. 30 lakh), 'Suresh' is punishable with an imprisonment for a term which may extend to 5 years and with fine. It has been assumed that amount of Rs. 520 lakh collected as tax is not paid to the Government beyond 3 months from the due date of payment of tax. Such offence is non-bailable in terms of section 132(5) of the CGST Act, 2017.

If 'Amit' and 'Suresh' repeat the offence, they shall be punishable for second and for every subsequent offence with imprisonment upto 5 years and with fine in terms of section 132(2) of the CGST Act, 2017.

Such imprisonment shall also be of at least 6 months in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court.

**Question 5(b) :**

In an order dated 20th August issued to QR (P) Ltd., the Joint Commissioner of CGST has confirmed IGST demand of Rs. 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. **(5 Marks)**

**Solution :**

Section 107(6) of the CGST Act, 2017 read with section 20 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 Rs. 50 crore. Thus, the amount of pre-deposit for filing an appeal with Appellate Authority cannot exceed Rs. 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) Rs. 28 crore [10% of the amount of tax in dispute, viz. Rs. 280 crore]

or

(ii) Rs. 50 crore,

whichever is less.

= Rs. 28 crore.

Further, section 112(8) of the CGST Act, 2017 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 Rs. 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) Rs. 56 crores [20% of the amount of tax in dispute, viz. 280 crores]

or

(ii) Rs. 100 crores,

whichever is less.

= Rs. 56 crores.

**Question 5(c) :**

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 Government by notification under section 25 of the Customs Act, 1962? **(4 Marks)**

**Solution :**

The Government may by notification under section 25 of the Customs Act, 1962 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, 1975 to be a preferential area.
- (iv) The origin of the goods shall be determined in accordance with the rules made under section 4(2) of the Customs Tariff Act, 1975.

**Question 6(a) :**

Write a brief note on Summary Assessment in certain special cases as per section 64 of the CGST Act, 2017.

**(6 Marks)**

**Solution :**

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 by 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 of the CGST Act, 2017 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 6(b) :**

Explain the provisions relating to rectification of errors apparent on the face of record under section 161.

**(4 Marks)**

**Solution :**

Section 161 of the CGST Act, 2017 lays down that 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 decision or order or notice or certificate or any other document, either on its own motion or where such error is brought to its notice by any GST officer or by the affected person within a period of three months from the date of issue of such decision or order or notice or certificate or any other document, as the case may be.

However, no such rectification shall be made after a period of six months from the date of issue of such decision or order or notice or certificate or any other document. Further, the said period of six months shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission. Principles of natural justice should be followed by the authority carrying out such rectification, if it adversely affects any person.

**OR**

**Question 6(b) :**

State the circumstances when the proper officer can authorize 'arrest' of any person under the CGST Act.

**(4 Marks)**

**Solution :**

The Commissioner can authorize an 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) of the CGST Act, 2017 and the tax evaded / input tax credit wrongly availed or utilized or refund wrongly taken exceeds Rs. 2 crore. This essentially means that a person can be arrested only where the tax evasion is more than Rs. 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 Government beyond a period of 3 months and taking input tax credit 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 6(c) :**

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. **(4 Marks)**

**Solution :**

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. 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 the Commissioner [Section 90 of the CGST Act, 2017].

## Series-2

### Question 1 :

Rajnath Private Limited is registered under GST in the State of Uttar Pradesh. It is engaged in supplying three products – Product Theta, Product Delta and Product Omega, from its factory located in Rampur, Uttar Pradesh. Product Theta and Product Delta are taxable whereas Product Omega 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 August:

Particulars	(Rs.)*
Supply of Product Theta	50,00,000
Supply of Product Omega	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 Delta	1,00,00,000
Export of consultancy services [including exports made to a Nepal based company of Rs. 5 lakh (payment is received in Indian currency in said case)]	20,00,000
Sale of building (excluding stamp duty of Rs. 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 Haribhari bank	10,50,000
Sale of shares of a public company (Purchase price of such shares is Rs. 2,40,00,000)	2,50,00,000
Supply of cigarettes [GST being levied @ 28%.] (including excise duty of Rs. 12,50,000)	1,00,00,000
Supply of petrol and diesel (including VAT of Rs. 5,00,000 and excise duty of Rs. 12,50,000)	80,00,000
Amount received from Devi Prasad Private Limited of Lucknow, Uttar Pradesh. It has sponsored the business exhibition organized in Delhi by Rajnath Private Limited.	6,00,000

\*excluding GST

With the help of the above-mentioned information, compute the gross GST liability of Rajnath Private Limited for the month of August on the outward supplies made by it during said period.

Note: Assume that rates of GST on outward supply of goods and services are 12% and 18% respectively unless otherwise specified (Ignore CGST, SGST or IGST for the sake of simplicity). Exports made by Rajnath Private Limited, if any, have been made to persons other than distinct/related persons and are made by furnishing LUT without payment of IGST. **(14 Marks)**

### Solution :

Computation of gross GST liability on outward supply of Rajnath Private Limited for the month of August

Particulars	Value (Rs.)	GST (Rs.)
Supply of Product Theta [Liable to GST @ 12%]	50,00,000	6,00,000
Supply of Product Omega [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	50,00,000	9,00,000

[Services by way of renting of residential dwelling for use as residence are exempt from GST. Thus, renting of commercial complex is taxable and GST is payable on the same @ 18%.]		
Export of Product Delta [Export of goods is a zero-rated supply in terms of section 16(1)(a) of the IGST Act, 2017. 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, 2017, 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 services to Nepal are treated as 'normal exports'. Export of services is a zero-rated supply in terms of section 16(1)(a) of the IGST Act, 2017. 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 III to the CGST Act, 2017, 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 Haribhari Bank [Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest are exempt vide Notification No. 12/2017 CT (R) dated 28.06.2017]	10,50,000	Nil
Sale of shares [Shares are neither goods nor services in terms of section 2(52) and 2(102) of the CGST Act, 2017. 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%] [Excise duty is included in the value since as per section 15(2)(a) of the CGST Act, 2017, value of supply includes all taxes, duties, cesses other than GST.]	1,00,00,000	28,00,000
Supply of petrol and diesel [Supply of petrol and diesel is not leviable to GST as per section 9 of the CGST Act, 2017.]	80,00,000	Nil
Amount received from Devi Prasad 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 (Devi Prasad Private Limited) under reverse charge. Thus, tax on such services is not payable by Rajnath Private Limited.]	6,00,000	Nil
Total GST liability on outward supply		52,00,000

### Question 2(a) :

Travis, a manufacturer of roofing sheets, is having Rs. 1,60,000 as opening balance of ITC for June month. He provides the following information pertaining to the goods and services procured during the month of June:

- (1) Input tax on raw materials is Rs. 40,000. The raw material is used for making both taxable and exempt supplies.
- (2) Input tax on catering services procured from 'Hari Caterers' in connection with his housewarming ceremony is Rs. 10,000.
- (3) Input tax on raw materials used exclusively in manufacture of exempt supplies of Rs. 2 lakh is Rs. 20,000.
- (4) Input tax on cosmetic and plastic surgery of manager of the factory is Rs. 30,000. Total taxable turnover for the month of June is Rs. 60 lakh exclusive of tax. Compute the ITC credited for the month of June to the Electronic Credit Ledger and net GST payable from Electronic Cash Ledger by Travis for the month of June. Rate of GST is 18% (Ignore CGST, SGST or IGST and provisions of rule 86B for the sake of simplicity). Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled. All the purchases are made from registered suppliers. **(10 Marks)**

**Solution :**

Computation of ITC available and net GST payable from Electronic Cash Ledger for the month of June

Particulars	Amount (Rs.)
GST on taxable turnover for the month of June [Rs. 60,00,000 × 18%]	10,80,000
Less: ITC available for June month in terms of rule 42	
Opening balance of ITC available in the Electronic Credit Ledger	Rs. 1,60,000
Add: ITC credited to the Electronic Credit Ledger for the month of June [Refer working note below]	Rs. 40,000
Less: ITC out of common credit attributable to exempt supply [Refer working note below]	(Rs. 1,290)
Net GST payable from Electronic Cash Ledger	8,81,290

Working Note:

Computation of ITC (out of common credit) attributable to exempt supplies

Particulars	Amount (Rs.)
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
ITC credited to the Electronic Credit Ledger in terms of rule 42 in the month of June	40,000
Common credit [Note 5]	40,000
ITC attributable towards exempt supplies to be reversed [Note 6]	1,290

Notes:

- (1) Being used in the course or furtherance of business, input tax on raw materials is available as ITC and is credited to the Electronic Credit Ledger [Section 16(1) of the CGST Act, 2017].
- (2) ITC on outdoor catering is blocked in terms of section 17(5) of the CGST Act, 2017 if the same is not used for making an outward supply of outdoor catering or as an element of a taxable composite/mixed supply. Hence, the same is not credited to the Electronic Credit Ledger [Rule 42 of the CGST Rules, 2017].
- (3) Input tax on inputs used exclusively for making exempt supplies is not available as ITC and thus, not credited to the Electronic Credit Ledger in terms of rule 42 of the CGST Rules, 2017.

(4) ITC on cosmetic and plastic surgery is blocked in terms of section 17(5) of the CGST Act, 2017 if the same are not used for making the same category of outward supply or as an element of a taxable composite/mixed supply.

Hence, the same is not credited to the Electronic Credit Ledger [Rule 42 of the CGST Rules, 2017].

(5) Since there are no inputs and input services which are used exclusively for effecting taxable supplies, the entire ITC credited to Electronic Credit Ledger, i.e. Rs. 40,000 will be the common credit [Rule 42 of the CGST Rules, 2017].

(6) ITC attributable towards exempt supplies = Common credit x (Aggregate value of exempt supplies during the tax period / Total turnover in the State during the tax period)

= Rs. 40,000 × Rs. 2,00,000/ Rs. 62,00,000 - (rounded off)

= Rs. 1,290 (rounded off)

### Question 2(b) :

SOP & Company Ltd. has imported a machine from U.K. From the following particulars furnished by it, arrive at the assessable value for the purpose of customs duty payable.

	Particulars	Amount
(i)	Price of the machine	10,000 U.K. Pounds
(ii)	Freight (air)	3,000 U.K. Pounds
(iii)	Engineering and design charges paid to a firm in U.K.	500 U.K. Pounds
(iv)	License fee relating to imported goods payable by the buyer as a condition of sale	20% of Price of machine
(v)	Materials and components supplied in UK by the buyer free of cost valued at Rs. 20,000	
(vi)	Insurance paid to the insurer in India	Rs. 6,000
(vii)	Buying commission paid by the buyer to his agent in U.K.	100 U.K. Pounds

Other particulars:

(i) Inter-bank exchange rate: Rs. 98 per U.K. Pound.

(ii) CBIC had notified for purpose of section 14 of the Customs Act, 1962, exchange rate of Rs. 100 per U.K. Pound.

(iii) Importer paid Rs. 5,000 towards demurrage charges for delay in clearing the machine from the Airport.

(Make suitable assumptions wherever required and show workings with explanations). **(4 Marks)**

### Solution :

Computation of assessable value of machine imported by SOP & Co.

Particulars	Amount (£)
Price of the machine	10,000
Add: Engineering and design charges paid in UK [Note 1]	500
Licence fee relating to imported goods payable by the buyer as a condition of sale (20% of Price of machine) [Note 1]	2,000
Total	12,500
	Amount (Rs.)

Value in Indian currency [£12,500 x Rs. 100] [Note 2]	12,50,000
Add: Materials and components supplied by the buyer free of cost [Note 1]	20,000
FOB	12,70,000
Add: Freight [Note 3]	2,54,000
Insurance paid to the insurer in India [Note 1]	6,000
CIF value	15,30,000
Assessable value	15,30,000

Notes:

1. Engineering and design charges paid in UK, licence fee relating to imported goods payable by the buyer as a condition of sale, materials and components supplied by the buyer free of cost and actual insurance charges paid are all includible in the assessable value [Rule 10 of the Customs (Determination of Value of Imported Goods) Rules, 2007].
2. As per Explanation to section 14(1) of the Customs Act, 1962, assessable value should be calculated with reference to the rate of exchange notified by the CBIC.
3. If the goods are imported by air, the freight cannot exceed 20% of FOB price [Fifth proviso to rule 10(2) of the Customs (Determination of Value of Imported Goods) Rules, 2007].
4. Buying commission is not included in the assessable value [Rule 10(1)(a) of the Customs (Determination of Value of Imported Goods) Rules, 2007].
5. 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 [Explanation to Rule 10(2) of the Customs (Determination of Value of Imported Goods) Rules, 2007].

### Question 3(a) :

Mohan 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 Mohan Medical Centre.

However, the money actually charged by Mohan Medical Centre from the in-patients is higher than the 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 Mohan Medical Centre and not to the patients. Hence, their services are not the health care services and must be subject to GST. Further, GST is applicable on the retention money kept by Mohan Medical Centre.

You are required to examine whether the stand taken by the Department is correct. **(5 Marks)**

### Solution :

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 dated 12.02.2018 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 Mohan 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 Mohan Medical Centre, being healthcare services, are also exempt from GST.

### **Question 3(b) :**

Mr. Sumit Awasthi, an interior decorator provides professional services to Mr. Manish Pareek in relation to two of his immovable properties.

Determine the place of supply in the transactions below as per provisions of GST law in the following independent situations:

Case	Location of Mr. Sumit Awasthi	Location of Mr. Manish Pareek	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. **(5 Marks)**

### **Solution :**

Case I

As per section 12(3) of the IGST Act, 2017 where both the service provider and the service recipient are located in India, the place of supply of services directly in relation to an immovable property, including services provided by interior decorators is the location of the immovable property. However, if the immovable property is located outside India, the place of supply is the location of the recipient.

Since in the given case, both the service provider (Mr. Sumit Awasthi) and the service recipient (Mr. Manish Pareek) are located in India and the immovable property is located outside India (New York), the place of supply will be the location of recipient, i.e. Maharashtra.

Case II

As per section 13(4) of the IGST Act, 2017, where either the service provider or the service recipient is located outside India, the place of supply 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. Sumit Awasthi) is located in India and service recipient (Mr. Manish Pareek) is located outside India (New York), the place of supply will be the location of immovable property, i.e. Paris (France).

### Question 3(c) :

Vinayak Company imported goods valued at Rs. 10,00,000 vide a Bill of Entry presented before the proper officer on 15th December, 2024, 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 Rs. 10,00,000 and Vinayak Company paid provisional duty of Rs. 2,00,000 on the same date. Vinayak Company wants to voluntarily pay duty of Rs. 1,50,000 on 20th January, 2025.

- (1) Can Vinayak 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, 1962 assuming that the payment of Rs. 1,50,000 as stated above is made on 20th January, 2025 and that the final duty is assessed on 31st January, 2025 at Rs. 4,00,000 and the balance duty is paid on the same day. **(4 Marks)**

### Solution :

(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, 1962]. Thus, Vinayak 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, 1962 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

$$= [\text{Rs. } 1,50,000 \times 15\% \times 51/365] + [\text{Rs. } 50,000 \times 15\% \times 62/365]$$

$$= \text{Rs. } 3,144 + \text{Rs. } 1,274 = \text{Rs. } 4,418$$

### Question 4(a) :

Mahima Ltd. has belatedly filed GST return (under section 39 of the CGST Act, 2017) for the month of January after 60 days from the due date for filing such return. Total tax paid in such return is as below:

Particulars	IGST (Rs.)	CGST (Rs.)	SGST (Rs.)
Output tax payable	4,50,000	2,85,000	2,85,000
Tax payable under reverse charge	18,000	32,000	32,000
Input tax available for utilisation	2,50,000	55,000	55,000
Tax paid through Electronic Cash Ledger	2,18,000	2,62,000	2,62,000

Examine the interest payable as per the provisions of GST law with the help of above information.

What would be your answer, if entire tax for the month of January has to be paid through Electronic Credit Ledger except taxes to be paid on reverse charge basis? **(5 Marks)**

**Solution :**

Proviso to section 50 of the CGST Act, 2017 lays down that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39 of the CGST Act, 2017, except where such return is furnished after commencement of any proceedings under section 73 or section 74 of the CGST Act, 2017 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.

In the given scenario, Mahima Ltd. has filed its return belatedly and as per the above provisions, interest is payable on the tax component paid through Electronic Cash Ledger only. A point relevant to note here is that tax payable on reverse charge basis also carries interest for the period of delay in remittance of tax and input tax credit cannot be used to pay the same (i.e. tax payable under reverse charge has to be paid in cash).

Accordingly, interest under section 50 payable for the tax paid through Electronic Cash Ledger is computed as below:

$$\text{IGST: } 218,000 * 18\% * 60/365 = 6,450$$

$$\text{CGST: } 262,000 * 18\% * 60/365 = 7,752$$

$$\text{SGST: } 262,000 * 18\% * 60/365 = 7,752$$

Further, if entire tax payable for January is paid through Electronic Credit ledger, except for the taxes to be paid under reverse charge basis, then interest under section 50 of the CGST Act, 2017 is applicable only on the remittance of tax under reverse charge basis and not for tax payable on forward charge basis. Interest payable is given as below:

$$\text{IGST: } 18,000 * 18\% * 60/365 = 533 \text{ (rounded off)}$$

$$\text{CGST: } 32,000 * 18\% * 60/365 = 947 \text{ (rounded off)}$$

$$\text{SGST: } 32,000 * 18\% * 60/365 = 947 \text{ (rounded off)}$$

**Question 4(b) :**

With the help of the following information in the case of M/s Avkash Enterprises, Jaipur (Rajasthan) for the financial year, determine the aggregate turnover for the purpose of registration under the CGST Act.

Sl. No.	Particulars	Amount (Rs.)
(i)	Sale of diesel on which VAT is levied by Rajasthan Government.	1,00,000
(ii)	Supply of goods, after completion of job work, from the place of Avkash Enterprises directly by principal by declaring the place of M/s Avkash 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 reverse charge.	1,00,000

All the above amounts are excluding GST.

You are required to provide reasons for treatment of various items given above. **(5 Marks)**

**Solution :**

Computation of aggregate turnover of M/s Avkash Enterprises for the FY

Particulars	Rs.
Supply of diesel on which Sales Tax (VAT) is levied by Rajasthan Government [Note-1]	1,00,000
Supply of goods, after the completion of job work, from the place of Avkash Enterprises, directly by the principal [Note-2]	Nil
Export supply to England [Note-3]	5,00,000
Supply to its own additional place of business in Rajasthan <sup>1</sup> [Note-4]	Nil
Outward supply of services on which GST is to be paid by recipient under reverse charge [Note-5]	1,00,000
Aggregate turnover	7,00,000

Notes:-

1. As per section 2(47) of the CGST Act, 2017, exempt supply includes non- taxable supply. Thus, 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) of the CGST Act, 2017.
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 in terms of explanation (ii) to section 22 of the CGST Act, 2017.
3. Export supplies are specifically includible in the aggregate turnover in terms of section 2(6) of the CGST Act, 2017.
4. Supply made without consideration to units within the same State is a not a supply and hence not includible in aggregate turnover.
5. Outward supplies taxable under reverse charge 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.

As per section 22 of the CGST Act, 2017 read with Notification No. 10/2019 CT dated 07.03.2019, a supplier is liable to be registered in the State/ Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold limit for a person making exclusive intra-State taxable supplies of goods is as under:-

- (i) Rs. 10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.
- (ii) Rs. 20 lakh for the States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.
- (iii) Rs. 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) Rs. 10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.
- (ii) Rs. 20 lakh for the rest of India.

The applicable turnover limit for registration, in the given case, will be Rs. 20 lakh as Rajasthan is not a Special Category State and M/s. Avkash Enterprises is engaged in supply of goods and services. Although, the aggregate turnover of

M/s Avkash Enterprises does not exceed Rs. 20 lakh, it is compulsorily required to register in terms of section 24(i) of the CGST Act, 2017 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(c) :**

Determine the total duties payable under Customs Act if Mr. Raju imported rubber from Malaysia at landed price (exclusive of duties) of Rs. 25 lakh. It has been notified by the Central Government that share of imports of rubber from the developing country against total imports to India exceeds 5%. Safeguard duty notified on this product is 30%, IGST u/s 3(7) is 12% and BCD is 10%. Ignore agriculture infrastructure and development cess. **(4 Marks)**

**Solution :**

Computation of total duties payable under the Customs Act

S. No.	Particulars	(Rs.)
1	Landed price	25,00,000
2	Add: Basic customs duty @ 10%	2,50,000
3	Add: Safeguard duty @ 30% on Rs. 25,00,000	7,50,000
4	Add: Social welfare surcharge (SWS) @ 10 % on Rs. 2,50,000 [While calculating SWS, safeguard duty is excluded]	25,000
5	Add: Integrated tax 12% of Rs. 35,25,000 (Rs. 25,00,000 + Rs. 2,50,000 + Rs. 7,50,000 + Rs. 25,000) [Integrated tax is levied on the sum total of the assessable value of the imported goods, customs duties and applicable SWS]	4,23,000
6	Total customs duties and tax payable [Rs. 2,50,000 + Rs. 7,50,000 + Rs. 25,000 + Rs. 4,23,000]	14,48,000

**Question 5(a) :**

Examine the implications as regards the bailability and quantum of punishment on prosecution, in respect of the following cases pertaining to the month of December under CGST Act, 2017-

- (i) 'Makkhanlal' collects Rs. 245 lakh as tax from its clients and deposits Rs. 241 lakh with the Central Government. It is found that he has falsified financial records and has not maintained proper records.
- (ii) 'Kishore' collects Rs. 550 lakh as tax from its clients but deposits only Rs. 30 lakh with the Central Government.

What will be the implications with regard to punishment on prosecution of 'Makkhanlal' and 'Kishore' for the offences? What would be the position, if 'Makkhanlal' and 'Kishore' repeat the offences? It may be assumed that offences are proved in the Court. **(5 Marks)**

**Solution :**

(i) Failure to pay any amount collected as tax beyond 3 months from due date of payment is a specified offence as per clause (d) of Section 132(1) of the CGST Act, 2017.

In the present case, failure to deposit the tax Rs. 4 lakh (Rs. 245 lakh – Rs. 241 lakh). As the amount of failure does not exceed Rs. 200 lakh therefore, failure to deposit Rs. 4 lakh collected as tax by Makkhanlal' will not be punishable with imprisonment as per section 132(1) of the CGST Act, 2017.

Further, falsification of financial records by 'Makkhanlal' is a specified offence as per section 132(1)(d) and punishable with imprisonment upto 6 months or with fine or both as per clause (iv) of section 132(1) assuming that falsification of records is with an intention to evade payment of tax due under the CGST Act, 2017 and the said offence is bailable in terms of section 132(4).

(ii) Failure to pay any amount collected as tax beyond 3 months from due date is punishable with imprisonment upto 5 years and with fine, if the amount of tax evaded exceeds Rs. 500 lakh in terms of section 132(1)(d) read with clause (i) of section 132(1) of the CGST Act, 2017.

Since the amount of tax evaded by 'Kishore' exceeds Rs. 500 lakh (Rs. 550 lakh -Rs. 30 lakh), 'Kishore' is punishable with an imprisonment for a term which may extend to 5 years and with fine. It has been assumed that amount of Rs. 520 lakh collected as tax is not paid to the Government beyond 3 months from the due date of payment of tax.

Such offence is non-bailable in terms of section 132(5) of the CGST Act, 2017.

If 'Makkhanlal' and 'Kishore' repeat the offence, they shall be punishable for second and for every subsequent offence with imprisonment upto 5 years and with fine in terms of section 132(2) of the CGST Act, 2017.

Such imprisonment shall also be of at least 6 months in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court.

### **Question 5(b) :**

In an order dated 20th August issued to UX (P) Ltd., the Joint Commissioner of CGST has confirmed IGST demand of Rs. 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. **(5 Marks)**

### **Solution :**

Section 107(6) of the CGST Act, 2017 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 Rs. 50 crore. Thus, the amount of pre-deposit for filing an appeal with Appellate Authority cannot exceed Rs. 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) Rs. 28 crore [10% of the amount of tax in dispute, viz. Rs. 280 crore]

or

(ii) Rs. 50 crore,

whichever is less.

= Rs. 28 crore.

Further, section 112(8) of the CGST Act, 2017 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 Rs. 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) Rs. 56 crores [20% of the amount of tax in dispute, viz. 280 crores]

or

(ii) Rs. 100 crores,

whichever is less.

= Rs. 56 crores.

#### **Question 5(c) :**

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 Government by notification under section 25 of the Customs Act, 1962? **(4 Marks)**

#### **Solution :**

The Government may by notification under section 25 of the Customs Act, 1962 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, 1975 to be a preferential area.

(iv) The origin of the goods shall be determined in accordance with the rules made under section 4(2) of the Customs Tariff Act, 1975.

#### **Question 6(a) :**

TFT Private Ltd. has been declared insolvent by the order of court and the same company is going under liquidation process. Advise the directors of that company about the provisions relating to liability for GST in case of company in liquidation. **(6 Marks)**

#### **Solution :**

The provisions relating to liability for GST in case of company in liquidation provided under section 88 of the CGST Act, 2017 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 6(b) :**

Explain the provisions relating to rectification of errors apparent on the face of record under section 161 of the CGST Act, 2017. **(4 Marks)**

**Solution :**

Section 161 of the CGST Act, 2017 lays down that 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 decision or order or notice or certificate or any other document, either on its own motion or where such error is brought to its notice by any GST officer or by the affected person within a period of three months from the date of issue of such decision or order or notice or certificate or any other document, as the case may be.

However, no such rectification shall be made after a period of six months from the date of issue of such decision or order or notice or certificate or any other document. Further, the said period of six months shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission. Principles of natural justice should be followed by the authority carrying out such rectification, if it adversely affects any person.

**OR**

**Question 6(b) :**

List the cases, in which transfer of property to be void specified under section 81 of the CGST Act, 2017. **(4 Marks)**

**Solution :**

In accordance with section 81 of the CGST Act, 2017, 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 the intention of defrauding the Government revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the said person.

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

**Question 6(c) :**

Discuss the key similarities and differences between Advance Authorization and DFIA (Duty Free Import Authorization) schemes. **(4 Marks)**

**Solution :**

In both DFIA and Advance Authorization schemes, import of inputs, oil and catalyst which are consumed/ utilised in the process of production of export product are permitted without payment of customs duty. Validity period for both the schemes is 12 months from the date of issue. Key differences between DFIA and Advance Authorisation schemes are as follows-

- (i) 'Advance Authorisation' is not transferable. DFIA is transferable after export obligation is fulfilled.
  - (ii) Advance Authorisation scheme requires 15% value addition, while in case of DFIA, minimum 20% value addition is required.
  - (iii) Advance Authorisation and / or material imported under Advance Authorisation is subject to 'Actual User' condition. No DFIA shall be issued for an input which is subject to pre-import condition or where SION prescribes 'Actual User' condition or certain other specified inputs with pre import condition.
  - (iv) DFIA cannot be issued where SION (Standard Input Output Norms) prescribes actual user condition [as the material is transferable after fulfilment of export obligation]. Advance Authorisation can be issued even if SION for that product is not fixed. DFIA can be issued only if SION has been fixed for that product to be exported.
  - (v) Duty Free Import Authorisation shall be exempted only from payment of Basic Customs Duty (BCD). Drawback as per rate determined and fixed by Customs authority shall be available for duty paid inputs, whether imported or indigenous, used in the export product. Imports under Advance Authorisation are exempted from payment of Basic Customs duty, Additional Customs duty, Education cess, Anti- dumping duty, Countervailing duty, Safeguard duty and Transition Product Specific Safeguard duty, wherever applicable.
- However, specified deemed exports are not exempted from payment of applicable anti-dumping duty, countervailing duty, safeguard duty and transition product specific safeguard duty, if any. Imports under Advance Authorisation for physical as well as deemed exports are also exempt from whole of the Integrated Tax and Compensation Cess.

Sept.25

Series-1

**Question 1 :**

Ducket 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	(Rs.) (in lakh)	Receipts	(Rs.) (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 employees	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 Rs. 0.80 lakh is procured from Bihar and Rs. 1.5 lakh is imported from China. Basic customs duty of Rs. 0.15 lakh, social welfare surcharge of Rs. 0.015 lakh and integrated tax of Rs. 0.2997 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 Rs. 0.30 lakh is procured from unregistered suppliers; the remaining raw material is procured from registered suppliers.

Further, raw material worth Rs. 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 Rs. 0.25 lakh for running the generator in the factory.

(iii) Transportation charges comprise of Rs. 0.60 lakh paid to Goods Transport Agency (GTA) in Kolkata and Rs. 0.10 lakh paid to horse pulled carts. GST applicable on the services of GTA is 5% payable under reverse 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 financial year.

(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.

(viii) The breakup of sales is as under:

Sales in West Bengal – Rs. 7 lakh

Sales in States other than West Bengal – Rs. 3 lakh

Export under LUT – Rs. 5 lakh

(ix) The opening balance of ITC with the company for the tax period is:

CGST - Rs. 0.15 lakh

SGST - Rs. 0.08 lakh

IGST - Rs. 0.09 lakh

Compute (i) Total ITC available with Duckett Pvt. Ltd. for the tax period; and (ii) Net GST payable [CGST, SGST or IGST, as the case may be] from Electronic Cash Ledger by Duckett Pvt. Ltd. for the tax period.

Note-

(i) CGST, SGST & IGST rates to be 9%, 9% and 18% respectively, wherever applicable.

(ii) The necessary conditions for availing ITC have been complied with by Duckett Pvt. Ltd., wherever applicable.

You are required to make suitable assumptions, wherever necessary. **(14 Marks)**

### Solution :

Computation of ITC available with Duckett Pvt. Ltd. for the tax period

S. No.	Particulars	ITC			
		CGST* Rs.	SGST* Rs.	IGST* Rs.	Total Rs.
1.	Opening balance of ITC	15,000	8,000	9,000	32,000
2.	Raw Material				
	Raw material purchased from Bihar [Refer Note 1(i)]			14,400	14,400
	Raw material imported from China [Refer Note 1(ii)]			29,970	29,970
	Raw material purchased from unregistered suppliers within West Bengal [Refer Note 1(iii)]	Nil	Nil		Nil
	Raw material destroyed due to seepage [Refer Note 1(iv)]	Nil	Nil		Nil
	Remaining raw material purchased from West Bengal [Refer Note 1(i)] [Rs. 3.5 - Rs. 1.5 – Rs. 0.80 – Rs. 0.30 – Rs. 0.05] = Rs. 0.85]	7,650	7,650		15,300
	Total ITC for raw material	7,650	7,650	44,370	59,670
3.	Consumables [Refer Note 2]	9,000	9,000		18,000
4.	Transportation charges for bringing the raw material to factory [Refer Note 3]	1,500	1,500		3,000
5.	Salary paid to employees on rolls [Refer Note 4]	Nil	Nil	Nil	Nil
6.	Premium paid on life insurance policies taken for specified employees [Refer Note 5]	14,400	14,400	-	28,800
7.	Audit fee [Refer Note 6]	4,500	4,500	-	9,000
8.	Telephone expenses [Refer Note 6]	2,700	2,700		5,400

9.	Bank charges [Refer Note 6]	900	900		1,800
Total ITC available for the tax period		55,650	48,650	53,370	1,57,670

#### Computation of net GST payable

Particulars	CGST* Rs.	SGST* Rs.	IGST* Rs.	Total Rs.
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 and Note 9]	(55,650)	(48,650)	(53,370)	(1,57,670)
Net GST payable from Electronic Cash Ledger [A]	7,350	14,350	630	22,330
GST payable on inward supply of GTA services under reverse charge through Electronic Cash Ledger [Note 3 and 10] [B]	1,500	1,500		3,000
Net GST payable through Electronic Cash Ledger [A] + [B]	8,850	15,850	630	25,330

#### Notes:

(1) (i) Credit of input tax (CGST & SGST/ IGST) paid on raw materials used in the course or furtherance of business is available in terms of section 16(1) of the CGST Act, 2017.

(ii) IGST paid on imported goods qualifies as input tax in terms of section 2(62)(a) of the CGST Act, 2017. Therefore, credit of IGST paid on imported raw materials used in the course or furtherance of business is available in terms of section 16(1) of the CGST Act, 2017.

(iii) Tax on intra-State procurements made by a registered person from an unregistered supplier is levied only on notified categories of goods and services. [Section 9(4) of the CGST Act, 2017].

(iv) ITC is not available on destroyed inputs in terms of section 17(5)(h) of the CGST Act, 2017

2. Consumables, being inputs used in the course or furtherance of business, input tax credit is available on the same in terms of section 16(1) of the CGST Act, 2017. However, levy of CGST on diesel has been deferred till such date as may be notified by the Government on recommendations of the GST Council [Section 9(2) of the CGST Act, 2017]. Hence, there being no levy of GST on diesel, there cannot be any ITC.

3. GST is payable under reverse charge on transportation service received from GTA. Tax payable under section 9(3) of the CGST/SGST Act qualifies as input tax in terms of clauses (b) and (d) of section 2(62) of the CGST Act, 2017. Thus, input tax paid under reverse charge on GTA service will be available as ITC in terms of section 16(1) of the CGST Act, 2017 as the said service is used in course or furtherance of business.

Furthermore, intra-State services by way of transportation of goods by road except the services of a GTA and a courier agency are exempt from CGST vide Notification No. 12/2017 CT (R) dated 28.06.2017. 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) of the CGST Act, 2017]. Therefore, GST paid on premium for life insurance policies will be available as ITC in terms of section 16(1) of the CGST Act, 2017 as the said service is used in the course or furtherance of business.

6. Audit fee, telephone expenses and bank charges are all services used in the course or furtherance of business and thus, credit of input tax paid on such service will be available in terms of section 16(1) of the CGST Act, 2017.

7. Export of goods is a zero rated supply in terms of section 16(1)(a) of the IGST Act. A zero rated supply under LUT is made without payment of integrated tax [Section 16(3)(a) of the IGST Act].

8. Since export of goods is a zero rated supply, there will be no apportionment of ITC 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) of the CGST Act, 2017 read with rule 88A of the CGST Rules, 2017, 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. Section 49(4) of the CGST Act, 2017 lays down that the amount available in the electronic credit ledger may be used for making payment towards output tax.

However, tax payable under reverse charge is not an output tax in terms of section 2(82) of the CGST Act, 2017. Therefore, tax payable under reverse charge 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 2(a) :**

Radiant 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 Rs. 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 the price of the machinery, Radiant Ltd. charges from the customer the following incidental expenses:

- associated handling and loading charges of Rs. 10,000

- installation and commissioning charges of Rs. 1,00,000

– The machinery can be dismantled and erected at another site, if required.

The above charges are compulsorily levied in case of each supply of machinery.

– Transportation of machinery to the customer's premises is arranged by Radiant 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 given at the time of receiving payment from the customer (no separate amount of

GST is recovered); and

- charges simple interest @ 1% per month or part of the month (no separate amount of GST is recovered) on the total amount due from the 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, Radiant Ltd. receives a price linked subsidy of Rs. 2,00,000 from its holding company Decent Ltd.

Calculate the value of supply of machinery supplied at a price of Rs. 40,00,000 (excluding all taxes) wherein a cash discount @ 2% on the price of machinery excluding taxes was given at the time of supply of machinery. Make suitable assumptions, wherever needed. **(5 Marks)**

### Solution :

#### Computation of value of supply of machinery

Particulars	(Rs.)
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 Decent Ltd. [Note 5]	2,00,000
Total price of the machine	43,10,000
Less: 2% cash discount on price of machinery = Rs. 40,00,000 × 2% [Note 6]	(80,000)
Taxable value of supply	42,30,000

#### Notes:

(1) As per section 15(1) of the CGST Act, 2017, the value of a supply is the transaction value i.e., the price actually paid or 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) of the CGST Act, 2017.

(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) of the CGST Act, 2017.

(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 (Radiant 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 Government and State Governments are includible in the value of supply in terms of section 15(2)(e) of the CGST Act, 2017.

(6) Cash discount was deducted by Radiant Ltd. upfront at the time of supply of machinery, and hence, the same is excluded from the value of supply as it did not form part of the transaction value.

**Question 2(b) :**

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

- (i) Rooms provided to the in-patients where the room charges per day are Rs. 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 Sanskar 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 Sanskar Nursing Home. The food is prepared by its employees and nothing is outsourced to any third-party vendors.
- (v) Homeopathic medical treatment. Sanskar 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 Sanskar Nursing Home. **(5 Marks)**

**Solution :**

Health care services provided by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST vide Notification No. 12/2017 CT (R) dated 28.06.2017. In light of the same, the eligibility to exemption in respect of each service offered by Sanskar 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 Rs. 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 Sanskar Nursing Home would be eligible for exemption under the said notification.

(iv) Exempt. Circular No. 32/06/2018 GST dated 12.02.2018 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) 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 and thus, said services are no longer exempt from GST. Therefore, services provided in relation to preservation of stem cells by the cord blood bank operated by Sanskar Nursing Home will be liable to GST.

**Question 2(c) :**

Mrs. Hotilal, an Indian resident (36 years old) who was on a visit to China, returned after 6 months. She was carrying with her the following items:

(i)	Personal effects	Rs. 75,000
(ii)	Laptop computer	Rs. 60,000
(iii)	Jewellery - 25 grams (purchased in China)	Rs. 75,000
(iv)	Music system	Rs. 50,000

Compute the customs duty payable by Mrs. Hotilal with reference to the Baggage Rules, 2016. Ignore Agriculture infrastructure and development cess. **(4 Marks)**

**Solution :**

Computation of customs duty payable by Mrs. Hotilal

Particulars	Rs.
Personal effects [Duty free clearance is allowed]	Nil
Laptop computer [One laptop computer is exempt when imported into India by a passenger $\geq$ 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	50,000
Total value	1,25,000
Less: General duty free baggage allowance of Rs. 50,000	50,000
Value of baggage liable to customs duty	75,000
Rate of Duty	38.50%
Customs duty @ 38.50% (including social welfare surcharge)	28,875

**Question 3(a) :**

Determine the place of supply for the following independent cases:

(i) Jagmagahat Events, an event management company at Kolkata, organises two award functions for Kamna Jewellers of Chennai (Registered in Chennai, Tamil Nadu) at New Delhi and at Singapore.

(ii) Wonder Planners (Bengaluru, Karnataka) is hired by Dr. Cummins (unregistered person based in Kochi, Kerala) to plan and organise his son's wedding at Mumbai, Maharashtra.

Will your answer be different if the wedding is to take place in Malaysia? **(4 Marks)**

**Solution :**

(i) When service by way of organization of an event is provided to a registered person, place of supply is the location of such person in terms of section 12(7)(a)(i) of the IGST Act, 2017.

Since, in the given case, the award functions at New Delhi and Singapore are organized for Kamna Jewellers (registered in Chennai), place of supply in both the cases is the location of Kamna Jewellers, i.e. Chennai, Tamil Nadu.

(ii) As per section 12(7)(a)(ii) of the IGST Act, 2017, when service by way of organization of an event is provided to an unregistered person, the place of supply is the location where the event is actually held and if the event is held outside India, the place of supply is the location of recipient.

Since, in the given case, the service recipient [Dr. Cummins] is unregistered and event is held in India, place of supply is the location where the event is actually held, i.e. Mumbai, Maharashtra.

However, if the wedding is to take place outside India [Malaysia], the place of supply is the location of recipient, i.e. Kochi, Kerala.

### Question 3(b) :

Mr. Smiley 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. Murari for a tenancy premium of Rs. 10,00,000 on 1st June. Mr. Murari has also paid the applicable stamp duty and registration charges on transfer of tenancy rights.

Moreover, Mr. Murari has agreed to pay a monthly rent of Rs. 1,00,000 to Mr. Smiley (unregistered under GST) from June.

Determine the taxability of the transaction(s) involved in the given case, for the month of June. **(4 Marks)**

### Solution :

Circular No. 44/2018 CT dated 02.05.2018 clarifies that the activity of transfer of tenancy right against consideration [i.e. tenancy premium] is squarely covered under supply of service liable to GST. It is a form of lease or renting of property and such activity is specifically declared to be a service in Schedule II i.e. any lease, tenancy, easement, 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. Murari 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) dated 28.06.2017], grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both to an unregistered person is exempt. Consequently, monthly rent Rs. 1,00,000 received by Mr. Smiley from Mr. Murari is exempt.

### Question 3(c) :

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 transhipped to Cochin port.

Determine the assessable value of the imported goods under the Customs Act, 1962 from the following particulars:

S. No.	Particulars	Amount
(i)	Cost of the machine at the factory of the exporter	US \$ 20,000
(ii)	Transport charges from the factory of exporter to the port for shipment	US \$ 1,000

(iii)	Handling charges paid for loading the machine in the ship	US \$ 100
(iv)	Buying commission paid by the importer	US \$ 100
(v)	Freight charges from exporting country to India	US \$ 2,000
(vi)	Actual insurance charges paid are not ascertainable	-
(vii)	Charges for design and engineering work undertaken for the machine in US	US \$ 5,000
(viii)	Unloading and handling charges paid at the place of importation	Rs. 1,500
(ix)	Transport charges from Mumbai to Cochin port	Rs. 25,000
(x)	Exchange rate to be considered: 1\$ = Rs. 70	

(6 Marks)

**Solution :**

Computation of assessable value of imported goods

Particulars	Amount (US \$)
Price of the machine at the factory of the exporter	20,000
Add: Transport charges up to the port in the country of the exporter [Note 1]	1,000
Handling charges at the port in the country of the exporter [Note 1]	100
Charges for design and engineering work undertaken for the machine in US [Note 2]	5,000
Buying commission [Note 3]	Nil
FOB value	26,100.00
Add: Freight charges up to India	2,000.00
Insurance charges @ 1.125% of FOB [Note 4]	293.63
Transport charges from Mumbai to Cochin port [Note 5]	Nil
CIF value	28,393.63
Add: Unloading and handling charges paid at the place of importation [Note 6]	Nil
Assessable value	28,393.63
Assessable value in Indian rupees @ Rs. 70/ per \$	Rs.19,87,554.10
Assessable value (rounded off)	Rs. 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 [Rule 10(2)(a) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR)].
- (2) Design and engineering work undertaken elsewhere than in India and necessary for the production of the imported goods is includible in the assessable value [Rule 10(1)(b)(iv) of the CVR].
- (3) Buying commission is not included in the assessable value [Rule 10(1)(a)(i) of the CVR].
- (4) If insurance cost is not ascertainable, the same shall be added @ 1.125% of FOB value of the goods [Third proviso to rule 10(2) of the CVR].
- (5) Cost of insurance, transport, loading, unloading, handling charges associated with transshipment of imported goods to another customs station in India is not included in the assessable value [Sixth proviso to rule 10(2) of the CVR].

(6) As per rule 10(2) of the CVR, only charges incurred for delivery of goods “to” the place of importation are includible in the transaction value. The loading, unloading and handling charges associated with the delivery of the imported goods at the place of importation are not to be added to the CIF value of the goods.

**Question 4(a) :**

M3M Pvt. Ltd., Pune, Maharashtra, provides house-keeping services. The company supplies its services exclusively through an e-commerce website owned and managed by Fortech India Pvt. Ltd., Pune. The turnover of M3M Pvt. Ltd. In the current financial year is Rs. 18 lakh.

Advise M3M Pvt. Ltd. as to whether it is required to obtain GST registration. Will your advice be any different if M3M Pvt. Ltd. sells readymade garments exclusively through the e-commerce website owned and managed by Fortech India Pvt. Ltd.? **(5 Marks)**

**Solution :**

As per section 22 of the CGST Act, 2017, every supplier of goods or services or both is required to obtain registration in the State/ Union territory from where he makes the taxable supply if his aggregate turnover exceeds threshold limit in a financial year.

However, section 24 of the CGST Act, 2017 enlists certain categories of persons who are mandatorily required to obtain registration, irrespective of their turnover. Persons who supply goods or services or both through such electronic commerce operator (ECO), who is required to collect tax at source under section 52 of the CGST Act, 2017, is one such person specified under clause (ix) of section 24 of the CGST Act, 2017. However, where the ECO is liable to pay tax on behalf of the suppliers of services under a notification issued under section 9(5) of the CGST Act, 2017, the suppliers of such services are entitled for threshold exemption. Section 2(45) defines ECO as any person who owns, operates or manages digital or electronic facility or platform for electronic commerce. Electronic commerce is defined under section 2(44) of the CGST Act, 2017 to mean the supply of goods or services or both, including digital products over digital or electronic network.

Since Fortech India 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) of the CGST Act, 2017.

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

In the given case, M3M India Pvt. Ltd. provides house-keeping services through an ECO. It is presumed that Hi-Tech Indya is an ECO which is required to collect tax at source under section 52 of the CGST Act, 2017. However, house-keeping services provided by M3M India Pvt. Ltd., which is not liable for registration under section 22(1) as its turnover is less than Rs. 20 lakh, is a service notified under section 9(5) of the CGST Act, 2017. Thus, M3M India 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, M3M India Pvt. Ltd. sells readymade garments through ECO. Such supply cannot be notified under section 9(5) of the CGST Act, 2017 as only supplies of services are notified under that section. Therefore, in the second case, M3M India Pvt. Ltd. will not be entitled for threshold exemption and will have to compulsorily obtain registration in terms of section 24(ix) of the CGST Act, 2017.

**Question 4(b) :**

M/s VSM & Co. have availed input tax credit of Rs. 42,500 during September under IGST head, instead of availing Rs. 21,250 under CGST & SGST heads. Mr. Raghu, 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. **(5 Marks)**

**Solution :**

As per provisions of section 49(10) of the CGST Act, 2017 read with rule 87(13) of the CGST Rules, 2017, "A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the Act to the electronic cash ledger for integrated tax, central tax, State tax or Union territory tax or cess in FORM GST PMT-09".

It is important to note that only amounts available under Electronic Cash Ledger can be transferred to the respective heads using Form GST PMT-09 and not otherwise.

Accordingly, contention of the Accountant Mr. Raghu of M/s VSM & Co., is not valid for transfer of Rs. 42,500 from head IGST to respective CGST & SGST in Electronic Credit Ledger.

**Question 4(c) :**

Flourish Sales' imports were being provisionally assessed pending a verification that the department was carrying out. Upon completion of the verification, the assessments were finalized, and Flourish Sales was asked to pay Rs. 12 lakh, which it paid. After six months, upon detailed scrutiny of the verification report and taking legal opinion on it, Flourish Sales filed a claim for refund of Rs. 8 lakh on the ground that the differential amount should be Rs. 4 lakh only and that there were factual errors in the verification report. Was this the correct mode of redressal by Flourish Sales? What will be likely outcome of the claim? Discuss on the basis of case law on the subject. **(4 Marks)**

**Solution :**

Flourish Sales received an order finalizing provisional assessment on the basis of a verification report, and requiring payment of Rs. 12 lakh. They did not contest this order, but made the payment, and allowed the appeal period of sixty days to lapse.

After appeal became time-barred they filed a claim for refund in which they challenged the order. This was a backdoor method of seeking relief against the order; it also asked an officer of the same rank to review the order passed; and it sought to bypass the time limitation for appeal by presenting the appeal as a claim for refund. The Supreme Court has held, in the case of Priya Blue Industries Limited, 2004 (172) ELT 145 (SC), that such a refund claim is not permissible for all these reasons. A person who is aggrieved with an assessment order cannot seek refund without filing an appeal against the assessment order.

**Question 5(a) :**

Rishabh intends to start selling certain goods in Delhi. However, he is not able to determine

(i) the classification of the goods proposed to be supplied by him [as the classification of said goods has been contentious] and

(ii) the place of supply if he supplies said goods from Delhi to buyers in U.S. Rishabh's tax advisor has advised him to apply for the advance ruling in respect of these issues. He told Rishabh that the advance ruling would

bring him certainty and transparency in respect of the said issues and would avoid litigation later. Rishabh agreed with his view, but has some apprehensions.

In view of the information given above, you are required to advise Rishabh with respect to following:

(i) Rishabh is apprehensive that if at all advance ruling is permitted to be sought, he has to seek it every year. Whether Rishabh's apprehension is correct?

(ii) 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? **(5 Marks)**

**Solution :**

(i) Section 103(2) of the CGST Act, 2017 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 of the CGST Act, 2017, 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. The Appellate Authority may allow additional 30 days for filing the appeal, if it is satisfied that there was a sufficient cause for delay in presenting the appeal.

**Question 5(b) :**

Ramkumar Enterprises is entitled for exemption from tax under GST law.

However, it collected tax from its buyers worth Rs. 50,000 in the month of August. It has not deposited the said amount collected as GST with the Government. You are required to brief to Ramkumar Enterprises the consequences of collecting tax, but not depositing the same with Government as provided under section 76 of the CGST Act, 2017. **(5 Marks)**

**Solution :**

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

For any such amount not so paid, proper officer may issue SCN for recovery of such amount and penalty equivalent to amount specified in notice. The proper officer shall, after considering the representation, if any, made by the person on whom SCN is served, determine the amount due from such person and

thereupon such person shall pay the amount so determined alongwith interest at the rate specified under section 50 from the date such amount was collected by him to the date such amount is paid by him to the Government.

**Question 5(c) :**

Nikunj imported a sports car from Japan. He paid the applicable customs duty and an order for home consumption was issued. At the time of actual clearance for home consumption, he found that the sports car was destroyed due to a fire occurred at the customs station. The loss of sports car is forever and beyond recovery.

Nikunj seeks your advice on how to deal with the situation under the provisions of the Customs Act, 1962. Whether your answer would differ if Nikunj warehoused the sports car due to delay in legal formalities after complying with the relevant provisions of the Customs Act, 1962 and the fire occurred there after the payment of duty but before actual clearance therefrom? **(4 Marks)**

**Solution :**

Where it is shown to the satisfaction of Assistant or Deputy Commissioner that any imported goods have been destroyed, otherwise than as a result of pilferage at any time before clearance for home consumption, the duty shall be remitted on such goods.

In the given case, since loss of sports car is forever and beyond recovery due to fire, Nikunj can claim remission of customs duty upon proving the loss to the satisfaction of the Assistant Commissioner or Deputy Commissioner.

Further, since duty has already been paid in the given case, he can claim refund after getting the remission orders.

Further, Nikunj can claim remission or refund of duty even if he warehoused the sports car and fire occurred there after the payment of duty but before actual clearance therefrom.

**Question 6(a) :**

Briefly discuss the modes of recovery of tax available to the proper officer. **(6 Marks)**

**Solution :**

The proper officer may recover the dues in following manner:

- (i) Deduction of dues from the amount owned by the tax authorities payable to such person.
- (ii) Recovery by way of detaining and selling any goods belonging to such person;
- (iii) Recovery from other person, from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the credit of the Central or a State Government;
- (iv) 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.
- (v) Through the Collector of the district in which such person owns any property or resides or carries on his business, as if it was an arrear of land revenue.
- (vi) 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.
- (vii) By enforcing the bond/instrument executed under this Act or any rules or regulations made thereunder.

(viii) CGST arrears can be recovered as an arrear of SGST and vice versa.

**Question 6(b) :**

Discuss in brief the precautions to be observed while issuing summons under the GST law. **(4 Marks)**

**Solution :**

The following precautions should generally be observed when summoning a person: -

(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) Repeated summons should be avoided. As far as practicable, the statement of the accused/ witness should be recorded in minimum number of appearances.

(iii) The time of appearance given in the summons should be respected. No person should be made to wait for long hours before his statement is recorded unless decided as a matter of strategy.

(iv) Statements should preferably be recorded during office hours; however, an exception could be made regarding the time and place of recording statement having regard to the facts in the case.

**OR**

**Question 6(b) :**

Under the GST law who can order for carrying out inspection and under what circumstances? **(4 Marks)**

**Solution :**

Inspection can be carried out 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 to evade tax:

i. suppressed any transaction of supply;

ii. suppressed stock of goods in hand;

iii. claimed excess input tax credit;

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.

**Question 6(c) :**

With reference to section 9A(1A) of the Customs Tariff Act, 1975, mention the ways that constitute circumvention of antidumping duty imposed on an article which may warrant action by the Central Government. **(4 Marks)**

**Solution :**

As per section 9A(1A) of the Customs Tariff Act, 1975, 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 Government:

- (i) altering the description or name or composition of the 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 Government and then anti dumping can be imposed on such articles.

## Series-2

### Question 1 :

Adwatt Pvt. Ltd. is a manufacturing company registered under GST in the State of Uttar Pradesh. It manufactures two taxable products 'Delta' and 'Omega' and one exempt product 'Theta'. On 1st October, while product 'Omega' got exempted through an exemption notification, exemption available on 'Theta' got withdrawn on the same date.

The turnover (exclusive of taxes) of 'Delta', 'Omega' and 'Theta' in the month of October was Rs. 9,00,000, Rs. 10,00,000 and Rs. 6,00,000 respectively. Adwatt Pvt. Ltd. has furnished the following details:

S. No.	Particulars	Price (Rs.)	GST (Rs.)
(a)	Machinery 'P' purchased on 1st October for being used in manufacturing all the three products	2,00,000	36,000
(b)	Machinery 'Q' purchased on 1st October for being used in manufacturing product 'Delta' and 'Theta'	1,00,000	18,000
(c)	Machinery 'R' purchased on 1st October for being exclusively used in manufacturing product 'Omega'	3,00,000	54,000
(d)	Machinery 'S' purchased on 1st October four years ago for being exclusively used in manufacturing product 'Omega'. From 1st October, such machinery will also be used for manufacturing product 'Theta'.	4,00,000	72,000
(e)	Machinery 'T' purchased on 1st October two years ago for being used in manufacturing all the three products	3,00,000	54,000
(f)	Raw Material used for manufacturing 'Delta' purchased on 5th October	1,50,000	27,000
(g)	Raw Material used for manufacturing 'Omega' purchased on 10th October	2,00,000	36,000
(h)	Raw Material used for manufacturing 'Theta' purchased on 15th October	1,00,000	18,000

Compute the following:

- (i) Amount of ITC to be credited to Electronic Credit Ledger, for the month of October
- (ii) Amount of aggregate value of common credit (Tc)
- (iii) Common credit attributable to exempt supplies, for the month of October
- (iv) GST liability of the company payable through Electronic Cash Ledger, for the month of October if opening balance of ITC is nil.

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%. Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled. Ignore interest, if any and make suitable assumptions wherever required. **(14 Marks)**

### Solution :

S. No.	Particulars	ITC (Rs.)
(i)	Amount of ITC credited to Electronic Credit Ledger, for the month of October	
	Machinery 'P' - 'A' [Note 1]	36,000
	Machinery 'Q' [Note 2]	18,000
	Machinery 'R' [Note 3]	-
	Machinery 'S' [Note 4]	-
	Machinery 'T' [Note 5]	-
	Raw Material used for manufacturing 'Delta' [Note 6]	27,000

	Raw Material used for manufacturing 'Omega' [Note 6]	-
	Raw Material used for manufacturing 'Theta' [Note 6]	18,000
	Amount of ITC credited to Electronic Credit Ledger, for the month of October	99,000
(ii)	Aggregate value of common credit (Tc) – Note 7	
	Value of 'A' for Machinery 'P' purchased on 1st October	36,000
	Value of 'A' for Machinery 'T' purchased on 1st October 2 years ago for effecting both taxable and exempt supplies	54,000
	Input tax claimed on Machinery 'S' purchased on 1st October 4 years ago for effecting taxable supplies but used for effecting both taxable and exempt supplies from 1st October in the current year [Note 8]	72,000
	Aggregate value of common credit (Tc)	1,62,000
(iii)	Common credit attributable to exempt supplies, for the month of October	
	Common credit for the month of October (Tm) [Note 9]	2,700
	Common credit attributable to exempt supplies, for the month of October (Te) – Note 10	1,080
(iv)	Computation of GST liability of the company for October payable through Electronic Cash Ledger	
	IGST payable on 'Delta' [Rs. 9,00,000 x 18%]	1,62,000
	IGST payable on 'Omega' [Exempt]	Nil
	IGST payable on 'Theta' [Rs. 6,00,000 x 18%]	1,08,000
	Total IGST payable on outward supply	2,70,000
	Common credit attributable to exempt supplies for the month of October [Note 11]	1,080
	Total output tax liability of October	2,71,080
	Less: ITC available in the Electronic Credit Ledger	99,000
	IGST payable from Electronic 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 electronic credit ledger.

(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.

(3) ITC in respect of capital goods used or intended to be used exclusively for effecting exempt supplies shall not be credited to electronic credit ledger .

(4) Machinery 'S' is being used for effecting both taxable and exempt supplies from 1st October. 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 electronic credit ledger.

(5) Machinery 'T' is being used for effecting both taxable and exempt supplies from 1st October two years ago. Therefore, ITC in respect of such machinery would have already been credited to the electronic credit ledger.

(6) ITC in respect of inputs used for effecting taxable supplies will be credited in Electronic Credit Ledger. ITC in respect of inputs used for effecting exempt supplies will not be credited in the electronic credit ledger.

(7) The aggregate of the amounts of 'A' credited to the electronic 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.

(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 the aggregate value of common credit 'Tc' .

(9) ITC attributable to a month on common capital goods during their useful life (Tm) shall be computed as under:

$$= Tc \div 60 = \text{Rs. } 1,62,000 \div 60 = \text{Rs. } 2,700$$

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

(10) The amount of common credit attributable towards exempted supplies, be denoted as 'Te', and shall be calculated as:

$$Te = (E \div F) \times Tr \text{ where,}$$

'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.

$$= Tr \times \frac{\text{Turnover of exempt supplies during the month of October}}{\text{Total turnover of XYZ Pvt. Ltd. during the month of October}}$$

$$= \text{Rs. } 2,700 \times \frac{10,00,000}{25,00,000}$$

$$= \text{Rs. } 1,080$$

(11) Common credit attributable to the exempt supplies (Te) 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 .

### Question 2(a) :

Auralink Electronics Ltd. (hereinafter referred to as AEL) is engaged in manufacturing air purifiers. It is registered in the State of Haryana. It has appointed distributors across the country who sell the air purifiers manufactured by it.

The maximum retail price (MRP) printed on the package of a air purifier is Rs. 12,000. The applicable rate of GST on air purifiers is 18%. AEL dispatches the stock of air purifiers to its distributors ordered by them on a quarterly basis.

In order to promote its sales, the Sales Head of AEL has formulated a sales promotion scheme on 1st April. Under this scheme, AEL offers a discount of 10% (per air purifier) on air purifiers supplied to the distributors if the distributors sell 500 air purifiers in a quarter.

The discount is offered on the price at which the air purifiers are sold to the distributors (excluding all charges and taxes).

It appoints Cygnatek Electronics (an unrelated party as per GST Law) as its distributor in Haryana on 1st April and dispatches 750 air purifiers on 8th April as stock for the quarter April-June.

AEL has sold the air purifiers to distributor - Cygnatek Electronics at Rs. 8,400 per air purifier (exclusive of applicable taxes). Cygnatek Electronics has requested AEL for a special packing of the air purifiers delivered to it for which AEL has charged Rs. 1,200 per air purifier.

Cygnatek Electronics places a purchase order of 1,000 air purifiers with BEL for the quarter July-September. The distributor reports sales of 700 air purifiers for the quarter April-June and 850 air purifiers for the quarter July-September.

The discount policy offered by AEL as explained above is also available to Cygnatek Electronics as per the distributorship agreement.

While Cygnatek Electronics reverses the input tax credit availed for the quarter July-September, it has failed to reverse the input tax credit availed for the quarter April-June.

Examine the scenario with reference to section 15 and compute the taxable value of air purifiers supplied by ABEL to Cygnatek Electronics during the quarters April- June and July-September assuming the rate of tax applicable on the air purifiers as 18%. **(10 Marks)**

### **Solution :**

Section 15(3)(a) of the CGST Act, 2017 allows discounts to be deducted from the value of taxable supply if the same is given before or at the time of the 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) of the CGST Act, 2017 if-

(i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices;

and

(ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

In the given case, Cygnatek Electronics is entitled for 10% discount on air purifiers supplied by AEL for the quarters April-June as well as July-September as it has sold more than 500 air purifiers in each of these quarters. However, since the sales targets are achieved after the entire stock for the respective quarters of April-June and July-September has been dispatched, the discounts on the air purifiers supplied to Cygnatek Electronics for the quarters of April-June and July- September is a post-supply discount.

Such post-supply 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 air purifiers supplied to Cygnatek Electronics for the quarters of April-June and July-September) provided Cygnatek Electronics reverses the input tax credit attributable to the discount on the basis of document issued by AEL.

The value of supply for the quarters of April-June and July-September will thus, be computed as under:

Computation of value of supply for the quarter - April-June

Particulars	Amount (Rs.)
Price at which the air purifiers are supplied to Cygnatek 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 air purifiers for the quarter April-June [Rs. 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 the said supply, in terms of section 15(1) of the CGST Act, 2017 presuming that the supplier and the recipient of supply are not related and price is the sole consideration for the 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) of the CGST Act, 2017.

(3) Since Cygnatek Electronics has not reversed the input tax credit attributable to such discount on the basis of document issued by AEL, the conditions specified in section 15(3)(b) of the CGST Act, 2017 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-September

Particulars	Amount (Rs.)
Price at which the air purifiers are supplied to Cygnatek Electronics [Note 1]	8,400
Add: Packing expenses [Note 2]	1,200
Less: Discount [Note 3]	(840)
Value of taxable supply of one unit of television	8,760
Value of taxable supply of air purifiers for the quarter July-September [Rs. 8,760 x 1,000]	87,60,000

Notes:

(1) The value of a supply is the transaction value, which is the price actually paid or payable for the said supply, in terms of section 15(1) of the CGST Act, 2017 presuming that the supplier and the recipient of supply are not related and price is the sole consideration for the 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) of the CGST Act, 2017.

(3) Since all the conditions specified in section 15(3)(b) of the CGST Act, 2017 have been fulfilled, the post-supply discount will be allowed as deduction from the value of supply. The input tax credit to be reversed will work out to be Rs.1,51,200  $[1,000 \times (8,400 \times 10\%) \times 18\%]$ .

### Question 2(b) :

Determine the customs duty payable under the Customs Tariff Act, 1975 including the safeguard duty of 30% under section 8B of the said Act with the following details available on hand:

Assessable value of Zinc imported from a developing country from 26th August, 2023 to 25th August, 2024 (both days inclusive)	Rs.30,00,000
Share of imports of Zinc from the developing country against total imports of Zinc to India	4%
Basic custom duty	10%
Integrated tax	12%
Social welfare surcharge	10%

Note: Ignore GST compensation cess and Agriculture infrastructure and development cess. **(4 Marks)**

**Solution :**

Computation of customs duty and integrated tax payable thereon

Particular	Amount (Rs.)
Assessable value of zinc imported	30,00,000
Add: Basic custom duty @ 10% (Rs. 30,00,000 × 10%)	3,00,000
Safeguard duty @ 30% on Rs.30,00,000 [Safeguard duty is imposable in the given case since share of imports of zinc from the developing country is more than 3% of the total imports of sodium nitrite into India (Proviso to section 8B(2) of the Customs Tariff Act, 1975)]	9,00,000
Social welfare surcharge @ 10% x Rs. 3,00,000	30,000
Total	42,30,000
Integrated tax (Rs. 42,30,000 × 12%) [Note]	5,07,600
Total customs duty payable (Rs. 3,00,000 + Rs. 9,00,000 + Rs. 30,000 + Rs. 5,07,600)	17,37,600

Note: It has been clarified by DGFT vide Guidance note that value for calculation of integrated tax shall also include safeguard duty amount.

**Question 3(a) :**

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

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

April - June - Rs. 20 lakh

July - September - Rs. 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.

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

(i) If he is a manufacturer

(ii) If he is a trader. **(5 Marks)**

**Solution :**

As per section 10 of the CGST Act, 2017 read with rule 7 of the CGST Rules,2017, 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 manufacturers of notified goods	1% (½% CGST+ ½% SGST/UTGST) of the turnover in the State/ Union territory
Trader	1% (½% CGST+ ½% SGST/UTGST) of turnover of taxable supplies of goods & services in the State/ Union territory

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

(i) If Mr. Arpit is a manufacturer

CGST = Rs. 100 lakh x 0.5% = Rs. 50,000

SGST = Rs. 100 lakh x 0.5% = Rs. 50,000

(ii) If Mr. Arpit is a trader

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

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

**Question 3(b) :**

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

Agreed consideration	US \$1,00,000
Date on which services are provided by Butler Inc.	16th June
Date on which invoice is issued by Butler Inc.	19th August
Date of debit in the books of account of Beniwal Ltd.	30th September
Date on which payment is made by Beniwal Ltd.	23rd December

**(4 Marks)**

**Solution :**

Since Beniwal Ltd. holds 51% shares of Butler Inc., Beniwal Ltd. and Butler Inc. are 'associated enterprises' as per section 92A of the Income-tax Act, 1961. 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 Beniwal Ltd. in the present case]	30th September
OR	OR
Date of payment [by Beniwal Ltd. in the present case]	23rd December

Thus, time of supply is 30th September.

**Question 3(c) :**

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

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

Do you think the demand of the Customs Department is valid. **(5 Marks)**

**Solution :**

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

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

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

**Question 4(a) :**

Heeralal & Sons, a prominent supplier operating in Maharashtra, has established three distinct branches located in Mumbai, Pune, and Mahabaleshwar. The Mumbai and Pune branches are primarily engaged in the supply of garments, while the Mahabaleshwar branch specializes in the supply of shoes. Heeralal & Sons opts to have separate registrations for all three branches and the Mumbai branch subsequently sends garments (which are liable to GST) for sale to the Pune branch.

You are required to address the requirement of raising a tax invoice and the taxability of such transfers between Mumbai and Pune branch. **(6 Marks)**

**Solution :**

Section 25(4) of the CGST Act, 2017, states that a person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory, shall, in respect of each such registration, be treated as distinct persons.

So, Mumbai branch and the Pune branch will be treated as "distinct persons" for GST purposes.

Further, clause 2 of Schedule I to the CGST Act, 2017, specifies that "supply of goods or services or both between distinct persons as specified in section 25, when made in the course or furtherance of business," shall be treated as supply even if made without consideration.

Accordingly, the transfer of garments from the Mumbai branch to the Pune branch will be treated as a supply between distinct persons under the CGST Act, 2017.

Therefore, Mumbai branch must issue a tax invoice and pay GST on such a transfer, irrespective of whether any consideration is charged for this internal transfer.

**Question 4(b) :**

Gulwani Toys Manufacturers, registered in Punjab, sold electronic toys to a retail seller in Gujarat, at a value of Rs. 48,000 (excluding GST leviable @ 18%). It wants to send the consignment of such toys to the retail seller in Gujarat. You are required to advise whether e-way bill is mandatorily required to be generated in respect of such movement of goods? **(4 Marks)**

**Solution :**

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 Rs. 50,000. Further, explanation 2 to rule 138(1) of the CGST Rules, 2017 stipulates that the consignment value of goods shall be the value, determined in accordance with the provisions of section 15, declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and also includes CGST, SGST/UTGST, IGST and cess charged, if

any, in the document and shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

Accordingly, in the given case, the consignment value will be as follows:

= Rs. 48,000 × 118%

= Rs. 56,640.

Since the movement of goods is in relation to supply of goods and the consignment value exceeds Rs. 50,000, e-way bill is mandatorily required to be issued in the given case.

#### **Question 4(c) :**

'Ravi', an importer, imported some goods and deposited them in the warehouse on 12th April. These goods were re-exported without payment of duty on 15<sup>th</sup> August. With reference to the Customs Act, 1962, discuss whether any interest under section 61 of the Customs Act, 1962 is payable by 'Ravi'? **(4 Marks)**

#### **Solution :**

As per section 61(2) of the Customs Act, 1962, if goods 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) is solely dependant upon the exigibility 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 'Ravi'.

#### **Question 5(a) :**

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

The accountant of Blumora Studio advised it that the amount mistakenly collected by Blumora Studio representing as tax was not required to be deposited with Government. Blumora Studio has approached you for seeking the advice on the same. You are required to advise it elaborating the relevant provisions.

**(5 Marks)**

#### **Solution :**

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

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

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

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

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

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

#### **Question 5(b) :**

M/s. Om Sai Traders, a registered person, received an order passed by the Adjudicating Authority on 23rd January 2024. The said order was duly communicated to M/s. Om Sai Traders on the very same day. Aggrieved by the order, M/s. Om Sai Traders filed an appeal with the Appellate Authority (AA) on 16th February 2024.

During the appeal proceedings, a competent Court issued an order staying the proceedings before the Appellate Authority for a period commencing from 1st May 2024 to 30th June 2024.

Based on the above information, determine the last date by which the Appellate Authority can pass its order.

**(5 Marks)**

#### **Solution :**

The Appellate Authority (AA) must ordinarily decide an appeal within one year from the date it was filed. However, if the proceedings are stayed by a court or tribunal, this stay period is excluded from the calculation.

In the given case, the order was communicated on January 23, 2024, and the appeal was filed on February 16, 2024. The stay order was in effect for 61 days i.e. May 1, 2024 to June 30, 2024.

Therefore, the ordinary one-year period from February 16, 2024, which would have ended on February 16, 2025, will be extended by 61 days i.e. April 18, 2025, is the last date for the AA to pass its order.

#### **Question 5(c) :**

Yashoda Company imported goods valued at Rs. 10,00,000 vide a Bill of Entry presented before the proper officer on 15th December, 2023, 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 Rs. 10,00,000 and Yashoda company paid provisional duty of Rs. 2,00,000 on the same date. Yashoda Company wants to voluntarily pay duty of Rs. 1,50,000 on 20th January, 2024.

Determine the amount of interest payable, if any, under section 18 of the Customs Act, 1962 assuming that the payment of Rs. 1,50,000 as stated above is made on 20th January, 2024 and that the final duty is assessed on 31st January, 2024 at Rs. 4,00,000 and the balance duty is paid on the same day. **(4 Marks)**

**Solution :**

Section 18 of the Customs Act, 1962 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

$$= [\text{Rs. } 1,50,000 \times 15\% \times 51/365] + [\text{Rs. } 50,000 \times 15\% \times 62/365]$$

$$= \text{Rs. } 3,144 + \text{Rs. } 1,274 = \text{Rs. } 4,418$$

**Question 6(a) :**

Briefly explain the procedure to be followed by the Authority for Advance Ruling on receipt of the application for Advance Ruling under section 98 of the CGST Act, 2017. **(6 Marks)**

**Solution :**

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.

**Question 6(b) :**

Section 158(1) of the CGST Act, 2017 lays down that the information obtained by a public servant from the record of any proceeding under the CGST Act, 2017 is confidential and cannot be disclosed.

Is there any exception to this rule? Discuss in brief. **(4 Marks)**

**Solution :**

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 Government 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.

**OR**

**Question 6(b) :**

Who can order for search and seizure under the provisions of the CGST Act, 2017? **(4 Marks)**

**Solution :**

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 empowered to authorize any officer to carry out search and seizure can himself also carry out search and seize such goods, documents or books or things.

**Question 6(c) :**

State salient aspects of Advance authorisation for annual requirements to exporters. **(4 Marks)**

**Solution :**

Annual Advance authorisation would be issued to exporters having past export performance in at least preceding two financial years, to enable them to import the inputs required by them on annual basis.

Advance authorization for annual requirement shall only be issued for items, notified in SION and not on basis of ad hoc norms under self-declared authorisations where SION does not exist.

Annual Advance Authorisation in terms of CIF value of imports will be granted upto 300% of FOB value of physical exports in preceding financial year and/or FOR value of deemed exports in preceding year or Rs. 1 crore, whichever is higher.

Jan.26

Series-1

**Question 1 :**

Shantunu Ltd., a registered supplier under GST in the State of Kerala, is engaged in providing a bouquet of goods and services (other than renting of cars). It provides the following information for the month of January:

S. No.	Particulars	Amount (Rs.)
	OUTWARD SUPPLY:	
(i)	Distributed 1,000 free gifts (electronic items worth Rs. 5,000 each purchased from unregistered local vendors) to its customers within Kerala in the month of January to promote sales	Nil
(ii)	Supplies a consignment of goods in the territorial waters to Indrajeet Enterprises. 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
(iii)	Advance received during the month for future intra-State taxable supply [Advance of Rs. 2,10,000 was related to supply of goods and the rest was related to service]	7,00,000
(iv)	Provided pure labour services of construction of single commercial unit located in Mumbai not forming part of any residential complex to a customer in Mumbai (Maharashtra).	15,00,000
	INWARD SUPPLY:	
(i)	Monthly rent paid to Kerala State Government for an office taken on rent	6,00,000
(ii)	Purchased raw material from Srinivas 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) During the course of arranging and filing documents, the accountant of Shantunu Ltd. observed that an invoice for Rs. 96,000 (excluding GST) dated 2nd December of last year was omitted to be recorded in the books of accounts and no payment was made against the same till the end of January. This invoice was issued by Mr. Deepak of Kerala, from whom Shantunu Ltd. had taken cars on rental basis. Invoice included cost of fuel also.

(ii) Availed services of an arbitral tribunal in Kannur, Kerala worth Rs. 7,00,000 to settle a case relating to Companies Act.

(iii) The company claimed depreciation under the Income-tax Act, 1961 on the new truck purchased including all applicable taxes.

(iv) Srinivas Steels Ltd. is mandatorily required to issue e-invoice. However, it did not issue e-invoice with invoice reference number (IRN). The invoice was reflected in GSTR-2B.

(v) Turnover of Shantunu Ltd. for the previous financial year was Rs. 180 lakh.

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

(vii) 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 January. Reason for treatment needs to be given. **(14 Marks)**

**Solution :**

Computation of minimum net GST payable in cash by Shantunu Ltd. for January

Particulars	Value (Rs.)	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
GST payable under forward charge				
Free gifts to customers [Not a supply as it is made without consideration and is also not covered in Schedule I because free gifts have been distributed to an unrelated person (customers are not related persons) and ITC has also not been availed on the same.]	Nil	-	-	-
Supply of consignment in territorial waters [Where the supply is in the territorial waters, the place of supply is deemed to be in the coastal State where the nearest point of the appropriate baseline is located. Therefore, place of supply will be in Kerala being nearer to base line and hence, supply will be intra-State supply]	6,00,000	54,000 [6,00,000 x 9%]	54,000 [6,00,000 x 9%]	
Receipt of advance from customer [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.]	4,90,000 (7,00,000 - 2,10,000)	44,100 [4,90,000 x 9%]	44,100 [4,90,000 x 9%]	
Inter-State supply of pure labour services for construction of single commercial unit in Mumbai [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%]
Total output GST		98,100	98,100	2,70,000
Less: Input tax credit [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
GST payable under reverse charge				
Tax on rent paid to State Government of Kerala by Sudharshan Ltd. (a registered person) is payable under reverse charge	6,00,000	54,000	54,000	
Tax on services provided by the arbitral tribunal is payable under reverse charge by the recipient of service.	7,00,000	63,000	63,000	
GST payable in cash under reverse charge [B]		1,17,000	1,17,000	

[Tax payable under reverse charge, being not an output tax, cannot be set off against ITC and thus, will have to be paid in cash.]				
Minimum net GST payable in cash [A] + [B]		1,17,000	1,17,000	2,32,200

Working Note:

Computation of ITC available with Shantunu Ltd. for January

Particulars	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
Monthly rent paid to Kerela State Government for an office taken on rent [Being services used in the course of furtherance of business, ITC shall be available thereon.]	54,000 [6,00,000 x 9%]	54,000 [6,00,000 x 9%]	
Cars taken on rental basis from Mr. Deepak [Tax on renting of motor car services wherein cost of fuel is included in consideration provided by a non-body corporate to a body corporate and invoice is issued charging CGST/SGST @ 2.5% is payable under reverse charge. Time of supply of such services is 1st February being earlier of date of payment, or date immediately following 60 days since issue of invoice by the supplier. Since the time of supply of renting of motor car services in the given case does not fall in January, tax liability on the same does not arise in said month. Further, ITC on renting of motor car services received is blocked since the recipient - Shantunu Ltd. is not in the same line of business.]	--	--	--
Services of an arbitral tribunal [Services provided by an arbitral tribunal to a business entity with an aggregate turnover up to threshold limit of registration in the previous financial year are exempt from GST. Thus, services provided by the arbitral tribunal to Shantunu Ltd., a business entity whose aggregate turnover in the previous financial year exceeds the applicable threshold limit for registration [viz. Rs. 20 lakh, being a supplier of goods and services in the State of Kerala] shall be liable to tax. Further, being services used in the course of furtherance of business, ITC shall be available thereon.]	63,000 [7,00,000 x 9%]	63,000 [7,00,000 x 9%]	
Purchase of raw material from Srinivas 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 for credit. However, since depreciation has been claimed on applicable taxes as well, ITC of tax paid on purchase of such truck cannot be claimed.]	-	-	
Total ITC	1,17,000	1,17,000	

### Question 2(a) :

Determine the place of supply for the following independent cases:

- (i) SRT Events, an event management company at Kolkata, organises two award functions for Mohini Jewellers of Chennai (registered in Chennai, Tamil Nadu) at New Delhi and in Singapore.
- (ii) Joyful Planners (Bengaluru, Karnataka) is hired by Dr. Srashti (unregistered person based in Kochi, Kerala) to plan and organise her daughter's wedding at Mumbai, Maharashtra.

(iii) Emrick Pvt. Ltd. (New Delhi) imports a machine from Japan for being installed in its factory at New Delhi. To install such machine, Emrick Pvt. Ltd. takes the service of an engineer who comes to India from Japan for this specific installation.

(iv) Mr. Ranjan, an architect (New Delhi), provides professional services to Mr. George of New York in relation to his immovable property located in Pune.

(v) Mr. Jaani, an unregistered person based in New Delhi hires a yacht from a company based in London, UK for 20 days. **(5 x 2 = 10 Marks)**

#### **Solution :**

(i) When service by way of organization of an event is provided to a registered person, place of supply is the location of such person in terms of section 12 of the IGST Act, 2017.

Since, in the given case, the award functions at New Delhi and Singapore are organized for Mohini Jewellers (registered in Chennai), place of supply in both the cases is the location of Mohini Jewellers, i.e. Chennai, Tamil Nadu.

(ii) As per section 12 of the IGST Act, 2017, when service by way of organization of an event is provided to an unregistered person, the place of supply is the location where the event is actually held and if the event is held outside India, the place of supply is the location of recipient.

Since, in the given case, the service recipient [Dr. Srashti] is unregistered and event is held in India, place of supply is the location where the event is actually held, i.e. Mumbai, Maharashtra.

(iii) As per section 13 of the IGST Act, 2017, place of supply of services requiring physical presence of goods on which the services are to be performed is the location where the service is actually performed. Thus, in given case, the place of supply of installation service, which requires the physical presence of machinery, is the location where the service is actually performed, i.e. New Delhi.

(iv) As per section 13 of the IGST Act, 2017, place of supply of services supplied directly in relation to an immovable property is the location of immovable property located or intended to be located. Thus, in given case, the place of supply is the location of immovable property, i.e. Pune.

(v) As per section 13 of the IGST Act, 2017, place of supply of services

consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of 1 month is the location of the supplier of services. Thus, in given case, the place of supply is the location of the supplier of services, i.e. London.

#### **Question 2(b) :**

Mr. Marsh imported certain goods from a related person Mr. Rehan of US and transaction value has been rejected. Rules 4 and 5 of the Customs Valuation (Determination of value of Imported Goods) Rules, 2007 are found inapplicable as no similar/ identical goods are imported in India. Mr. Marsh furnishes cost related data of imports and requests customs authorities to determine value accordingly as per rule 8 of the Customs Valuation (Determination of value of Imported Goods) Rules, 2007. The relevant data are -

1. Cost of materials incurred by Mr. Rehan \$ 2000
2. Fabrication charges incurred by Mr. Rehan \$ 1000
3. Other chargeable expenses incurred by Mr. Rehan \$ 400
4. Other indirect costs incurred by Mr. Rehan \$ 250
5. Freight from Mr. Rehan 's factory to US port \$ 250

6. Loading charges at US port \$ 100
7. Normal net profit margin of Mr. Rehan 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 of the Customs Valuation (Determination of value of Imported Goods) Rules, 2007 can be determined at Rs. 4,00,000, there is no need to apply rule 8 of the Customs Valuation (Determination of value of Imported Goods) Rules, 2007.

Can the request of Mr. Marsh be legally acceptable? If so, compute the assessable value under the Customs Act, 1962. **(4 Marks)**

### Solution :

The value of the imported goods is determined under rule 8 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (hereinafter referred to as Import Valuation Rules) 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. Marsh 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. Marsh has been approved by the proper officer, the assessable value of the imported goods under rule 8 will be the sum of-

- (a) the cost of materials and fabrication or other processing;
- (b) an amount for profit and general expenses
- (c) 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. Rehan's factory	3,650
Add: Net profit margin @ 20% of FOB, i.e. 25% of total cost	1,000
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)	
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

**Question 3(a) :**

Vishesh Pvt. Ltd. of Chennai, Tamil Nadu, exclusively manufactures and sells product 'O2C' which is exempt from GST vide notifications with certain taxable supplies. The company sells product 'O2C' only within Tamil Nadu and it is registered under GST under regular scheme. Further, all the inward supplies of the company are taxable under forward charge. The company expects the sales

to grow in the current year. Owing to the growing demand for the product, the company decided to increase its production capacity and purchased additional machinery exclusively used for manufacturing 'O2C' on 1st August. The purchase price of such machinery was Rs. 45 lakh (exclusive of GST @ 18%).

However, with effect from 1st December, exemption available on 'O2C' was withdrawn by the Central Government and GST @ 12% was imposed thereon.

Can Vishesh Pvt. Ltd take input tax credit on additional machinery purchased exclusively for manufacturing 'O2C'? If yes, then when and how much credit can be availed?

Advice Vishesh Pvt. Ltd. on the above issues with reference to the provisions of GST law.

Correct provisions of law should form the part of your answer. **(5 Marks)**

**Solution :**

Where an exempt supply of goods by a registered person becomes a taxable supply, such person shall be entitled to take ITC, inter alia, in respect of capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable i.e. Nov 30. ITC 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.

Thus, Vishesh Pvt. Ltd. can take following amount of ITC on additional machinery purchased exclusively for manufacturing "O2C" by making an electronic declaration in prescribed form specifying the details of capital goods on the day immediately preceding the date from which such supply becomes taxable within 30 days of becoming eligible to avail ITC:

$$= (\text{Rs. } 45 \text{ lakh} \times 18\%) - (\text{Rs. } 45 \text{ lakh} \times 18\% \times 5\% \times 2 \text{ quarters})$$

$$= \text{Rs. } 8,10,000 - \text{Rs. } 81,000$$

$$= \text{Rs. } 7,29,000$$

**Question 3(b) :**

Kanhaiya Lal checked-in at the 'Royal Tourist Lodge' in Madurai on 15th March. The room rent for the same was Rs. 900 per day for a single room. She checked- out on 17th of March, and payment in respect to the same was received by the lodge via cheque at the time of checking-out and entered in the books on the same date. The lodge decided to issue her the invoice on the same date when the amount would get credited in its bank account.

The lodging of hotel rooms which was exempted upto Rs. 1,000 earlier became chargeable to tax from 18th March. Under the GST law, determine the time of supply and taxability of the service of lodging in the hands of 'Royal Tourist Lodge' if the cheque gets credited into the bank account of 'Royal Tourist Lodge' on 20th of March.

Note: Assume that all the days covered in the above case are working days. **(5 Marks)**

**Solution :**

In the given case,

Date of receipt of payment is:-

(a) Date of entry of payment in books of account [17th March] or

(b) Date of credit of payment in bank account [20th March]

whichever is earlier, viz., 17th March.

Date of issue of invoice is 20th March (since lodge decided to issue invoice on date of credit of payment in its bank account.)

Since in the given case of change in rate of tax (on 18th March):

- services have been supplied and payment has been received, before such change in rate
- but invoice is issued after the change in rate,

time of supply is date of receipt of payment, viz. 17th March. Since the service of lodging upto a value of Rs. 1,000 was exempted at the time of supply, no GST is payable in the given case.

**Question 3(c) :**

After visiting USA for a month, Mrs. and Mr. Chauhan (Indian residents aged 40 and 45 years respectively) brought to India a laptop computer valued at Rs. 80,000, used personal effects valued at Rs. 90,000 and a personal computer for Rs. 52,000.

What is the customs duty payable? Ignore Agriculture infrastructure and development cess. **(4 Marks)**

**Solution :**

(1) As per Baggage Rules, 2016, an Indian resident arriving from any 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] upto a value of Rs. 50,000 carried as accompanied baggage [General duty-free baggage allowance].

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) as baggage is exempt from whole of the customs duty [Notification No. 11/2004 Cus. Dated 08.01.2004].

(3) Accordingly, there will be no customs duty on used personal effects (worth Rs. 90,000) of Mrs. and Mr. Chauhan and laptop computer brought by them will be exempt from duty.

Duty payable on personal computer after exhausting the duty free baggage allowance will be Rs. 52,000 – Rs. 50,000 = Rs.2,000.

Effective rate of duty for baggage = 38.5% [including social welfare surcharge @ 10%]

Therefore, total customs duty = Rs.770

**Question 4(a) :**

Raizada Operators Limited (ROL) is registered under GST in the State of Karnataka as an Electronic Commerce Operator (ECO). It owns and operates a web portal which supplies various goods and services on behalf of various sellers/service providers to its ultimate customers. Details of supplies undertaken through ROL in the month of October are as under:

(i) Sale of goods worth Rs. 1,47,500/- (including GST) by ABC Ltd., registered supplier of Rajasthan to BMC Ltd., Gujarat. Also, goods worth taxable value of Rs. 1,40,000 sold by ABC Ltd., Rajasthan to BMC Ltd., Gujarat in the month of September were returned back in the month of October.

(ii) Value of services provided from 21st October to 30th October by way of transportation of passengers by motor vehicles by Suzen Ltd., registered under GST in Karnataka to Zian Ltd., registered under GST in Karnataka amounting to Rs. 5,50,000/- (it includes Rs. 1,50,000 against transportation services provided by omnibus).

(iii) Miss Sachi of Mumbai books a room for 3 days and 2 nights in Ashoka Palace, Jodhpur, Rajasthan through Maheshmati Resorts Ltd. (MRL), also an ECO registered under GST in Karnataka. MRL is integrated with ROL who has an agreement with Ashoka Palace. Ashoka Palace is registered under GST in Rajasthan and raises an invoice for Rs. 1,50,000 to Miss Sachi and receives Rs. 1,45,000 from ROL for the same.

All the figures given above are exclusive of GST except wherever specified separately. Assume rate of CGST and SGST to be 9% each and IGST to be 18% on all inward and outward supplies of goods and services.

Compute the amount of TCS to be collected by ROL for the month of October.

Working notes should form part of your answer. **(5 Marks)**

**Solution :**

(i) ROL is liable to collect tax at source under section 52 of the CGST Act, 2017 read with section 20 of the IGST Act, 2017 @ 0.5% under IGST of the net value of inter-State taxable supplies of goods (Value of taxable supplies made less value of supplies returned) made through it by the electronic commerce operator (ECO) - ABC Ltd.

Net value of taxable supplies = Rs. 1,25,000 (Rs. 1,47,500 × 100/118) – Rs. 1,40,000 = Nil / (Negative Value)

Thus, TCS to be collected is Nil.

(ii) ROL is liable to collect TCS, since the tax on services, by way of transportation of passengers by an omnibus provided by a company through ECO, is not payable by ECO, under section 9(5) of the CGST Act, 2017.

= Rs. 1,50,000 × 0.25%

=Rs. 375 each under CGST and SGST

ROL is not required to collect TCS on transportation of passenger services by other motor vehicles supplied through it worth Rs. 4,00,000 as tax on the same is payable by ROL itself under section 9(5) of the CGST Act, 2017.

(iii) ROL, being supplier side ECO is liable to collect TCS @ 0.25% under CGST and 0.25% under SGST of the net value of intra-State taxable supplies of accommodation services made through it by Ashoka Palace.

= Rs. 1,50,000 × 0.25%

=Rs. 375 each under CGST and SGST

**Question 4(b) :**

Elegant Cosmetics Ltd. has multiple wholesale outlets of cosmetic products in Mumbai, Maharashtra. It receives an order for cosmetics worth Rs. 1,20,000 (inclusive of GST leviable @ 18%) from Rajendra, owner of a retail cosmetic store in Delhi. While checking the stock, it is found that order worth Rs. 55,000 can be fulfilled from the company's Dadar (Mumbai) store and remaining goods worth Rs. 65,000 can be sent from its Malad (Mumbai) store. Both the stores are instructed to issue separate invoices for the goods sent to Rajendra. The goods are transported to Rajendra in Delhi, in a single conveyance owned by Paridhi Transporters.

You are required to advise Elegant Cosmetics Ltd. with regard to issuance of e-way bill(s). **(5 Marks)**

**Solution :**

Elegant Cosmetics Ltd. would be required to prepare two separate e-way bills since each invoice value exceeds Rs. 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 that if multiple invoices are issued by the supplier to one recipient, that is, for movement of goods of more than one invoice of same consignor and consignee, multiple e-way bills have to be generated. In other words, for each invoice, one e-way bill has to be generated, irrespective of the fact whether same or different consignors or consignees are involved. Multiple invoices cannot be clubbed to generate one e-way bill.

However, after generating all these e-way bills, one consolidated e-way bill can be prepared for transportation purpose, if goods are going in one vehicle.

**Question 4(c) :**

Mr. Jatin, an importer, had made provisional payment of customs duty of Rs. 2,00,000 under section 18 of the Customs Act, 1962 on 17th July, 2024, along with a security of Rs. 1,00,000 towards provisional release of goods. Final assessment was completed on 15th October, 2024 with a duty assessed as Rs. 50,000. The refund order of Rs. 50,000 and the order of release of security of Rs. 1,00,000 was issued on the same day (15th October, 2024).

Mr. Jatin had filed a refund application on 20th October, 2024 alongwith necessary documents. On perusal of the refund application, proper officer had found some deficiencies which were communicated to Mr. Jatin.

Mr. Jatin had submitted the required additional documents and proper officer had issued an acknowledgement on 5th November, 2024. Refund was paid to him on 25th March, 2025.

You are required to compute interest receivable by Mr. Jatin under section 18 of the Customs Act, 1962 on amount of duty and on amount of security if any.

Calculation should be nearest to one rupee and assume 366 days in the year. **(4 Marks)**

**Solution :**

In case of provisional assessment of duty, if any amount refundable upon finalization of assessment to the importer is not refunded within 3 months from the date of final assessment of duty, interest @ 6% per annum shall be paid on such unrefunded amount till the date of refund of such amount. No interest is payable on security deposits for provisional release of goods, etc.

Thus, in the given case, the amount of interest receivable by Mr. Jatin is as under:-

16th January, 2025 to 25th March, 2025 (Both inclusive)

Period of delay = 70 days

Thus, interest = Rs. 50,000 × 6% × 70/366 = Rs. 574 (rounded off)

### Question 5(a) :

Shubham intends to start selling certain goods in Delhi. However, he is not able to determine (i) the classification of the goods proposed to be supplied by him [as the classification of said goods has been contentious] and (ii) the place of supply if he supplies said goods from Delhi to buyers in U.S.

Shubham's tax advisor has advised him to apply for the advance ruling in respect of these issues. He told Shubham that the advance ruling would bring him certainty and transparency in respect of the said issues and would avoid litigation later. Shubham agreed with his view, but has some apprehensions.

In view of the information given above, you are required to advise Shubham with respect to following:

- (i) The tax advisor asks Shubham to get registered under GST law before applying for the advance ruling as only a registered person can apply for the same. Whether Shubham needs to get registered?
- (ii) Shubham is apprehensive that if at all advance ruling is permitted to be sought, he has to seek it every year. Whether Shubham'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) Goldy - Shubham's friend - is a supplier registered in Delhi. He is engaged in supply of the goods, which Shubham proposes to supply at the same commercial level that Shubham proposes to adopt. He intends to apply the classification of the goods as decided in the advance ruling order to be obtained by Shubham, to the goods supplied by him in Delhi. Whether Goldy can do so? **(5 Marks)**

### Solution :

(i) Advance ruling under GST can be sought by a registered person or a person desirous of obtaining registration under GST law. Therefore, it is not mandatory for a person seeking advance ruling to be registered.

(ii) The advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed. Therefore, once Shubham 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.

(iii) No, the tax advisor's view is not correct. 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. The Appellate Authority may allow additional 30 days for filing the appeal, if it is satisfied that there was a sufficient cause for delay in presenting the appeal.

(iv) 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, Goldy will not be able to apply the classification of the goods that will be decided in the advance ruling order to be obtained by Shubham, to the goods supplied by him in Delhi.

**Question 5(b) :**

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

Subsequently, the Department initiated penal proceedings against Prachi & Co. for recovery of penalty under section 74A of the CGST Act, 2017 for failure to pay GST and issued show cause notice on 10th August. Prachi & Co. deposited the tax along with interest on 25th August and informed the Department on the same day. Department is contending that he is liable to pay a penalty of Rs. 45,000 (i.e. 50% of Rs. 90,000) under the CGST Act, 2017.

Examine the correctness of the stand taken by the Department with reference to the provisions of the CGST Act, 2017. Explain the relevant provisions in brief. **(5 Marks)**

**Solution :**

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

As per section 74A of the CGST Act, 2017, 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 Rs. 10,000, whichever is higher, is payable. Thus, option to pay tax within 60 days of issuance of show cause notice to avoid penalty, is not available in case of self-assessed tax.

Since in the given case, Prachi & 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., Rs. 9,000 (10% of Rs. 90,000) or

(ii) Rs. 10,000,

whichever is higher, is payable by him under CGST Act, 2017. Equivalent amount of penalty is payable under SGST/UTGST Act.

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

**Question 5(c) :**

RSM 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. The exports made by RSM Ltd. are subject to general rate of value addition prescribed under Advance Authorization Scheme. No other input is being used by RSM Ltd. in the processing. What should be the minimum FOB value of the exports made by the RSM Ltd. as per the provisions of Advance Authorization under FTP? **(4 Marks)**

**Solution :**

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 RSM Ltd. should be Rs. 11,50,000 to attain 15% VA.

**Question 6(a) :**

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 of the CGST Act, 2017. **(6 Marks)**

**Solution :**

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.

**Question 6(b) :**

Section 158(1) of the CGST Act, 2017 lays down that the information obtained by a public servant from the record of any proceeding under the CGST Act, 2017 is confidential and cannot be disclosed.

Is there any exception to this rule? Discuss in brief. **(4 Marks)**

**Solution :**

Yes, the confidential information can be disclosed by the public servant for certain specific purposes in terms of section 158 of the CGST Act, 2017. 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 Government 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.

**OR**

**Question 6(b) :**

Who can order for search and seizure under the provisions of the CGST Act, 2017? **(4 Marks)**

**Solution :**

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 empowered to authorize any officer to carry out search and seizure can himself also carry out search and seize such goods, documents or books or things.

**Question 6(c) :**

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. **(4 Marks)**

**Solution :**

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 standardize the manner in which the nomenclature in the 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.

## Series-2

### Question 1 :

Keshavrao is a mining contractor. He has crossed the threshold limit for registration in the preceding financial year and is now duly registered under GST in the State of Gujarat.

He has undertaken following transactions during the month of April:

S. No.	Particulars	Value of supply in Rs. (exclusive of taxes)
(a)	Keshavrao is an operating member in mining and exploration services at Reliable Oilfield, Bhavnagar, Gujarat. He has provided certain services to the Joint Venture (JV) at same site in which he is also a member. He believes that the consideration received from the JV is 'Cost Recovery' and not taxable.	15,00,000
(b)	He has purchased certain machinery from Mumbai, Maharashtra, to render services to the JV at Reliable Oilfield.	8,00,000
(c)	He has obtained professional legal services from a senior advocate of Ahmedabad, Gujarat to represent him in a matter before the Tribunal.	1,50,000
(d)	He was allotted an office on rent by the State Government of Gujarat close to the sea shore of Reliable Oilfield.	2,50,000
(e)	He got a portion of the petroleum silt (non taxable under GST) as part of compensation while exploring the petroleum reserves at Reliable Oilfield - which as per the contract with the government is part of 'Cost Petroleum'.	8,00,000
(f)	He sells the petroleum silt (non-taxable under GST) to a SEZ Developer in Bhavnagar, Gujarat. He has already filed LUT under GST.	7,50,000
(g)	Consideration received in the nature of recovery of bond amount in case of 3 employees leaving employment before a minimum period of 1 year as per the terms of contract.	75,000
(h)	Consideration received towards transfer of tenancy rights in Gujarat, which according to Keshavrao is not liable to GST as it has suffered stamp duty. The immovable property in respect of which the tenancy rights are transferred, is a commercial property and the same is located in Gujarat.	7,00,000
(i)	Consideration received from mining lease holders for renting of 5 dumpers including driver given for transport of minerals within the mining area for a period of 2 years. (intra-State transaction)	5,00,000
(j)	He has been assigned the mining right from Government and the amount of IGST involved against royalty payment is Rs. 3,00,000.	

Additional information:

- (1) Keshavrao has filed bond/LUT to claim benefits under zero rated supplies.
- (2) Assume the CGST and SGST rates to be 2.5% each and IGST rate to be 5% on supply of goods.
- (3) Assume the CGST and SGST rates to be 9% each and IGST rate to be 18% on supply of services.
- (4) There is opening balance of Rs. 34,000 in the Electronic Cash ledger (SGST). And there was brought forward ITC of Rs. 15,000 in Electronic Credit ledger (IGST), Rs. 50,000 in Electronic Credit ledger (CGST), Rs. 9,000 in Electronic Credit ledger (SGST).

From the above details, compute the minimum net GST payable by Keshavrao in cash (CGST, SGST or IGST as the case may be) for the month of April. Working notes should form part of your answer. **(14 Marks)**

**Solution :**

Computation of tax payable in cash

S. No.	Particulars	Amount (Rs.)	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
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 therefor is not cost petroleum and hence, is liable to tax.]	15,00,000	1,35,000 (15,00,000 x 9%)	1,35,000 (15,00,000 x 9%)	
(ii)	Compensation received in the form of petroleum silt, which, as per the contract with the Government, is part of cost petroleum [Cost petroleum is not a consideration for service to the Government and thus, is not taxable.]	8,00,000	Nil	Nil	Nil
(iii)	Sale of petroleum silt to a SEZ developer [Supply to SEZ developer is a zero-rated supply made under a bond/LUT and no tax is payable on the same.]	7,50,000	Nil	Nil	Nil
(iv)	Bond amount recovered from employees leaving employment before stipulated period [Not a supply since bond amount recovered is not a consideration for tolerating the act of such premature quitting of employment.]	75,000	Nil	Nil	Nil
(v)	Transfer of tenancy rights [Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable even though stamp duty has been paid on the same.]	7,00,000	63,000 (7,00,000 x 9%)	63,000 (7,00,000 x 9%)	
(vi)	Renting of dumpers including driver [Taxable.]	5,00,000	45,000 (5,00,000 x 9%)	45,000 (5,00,000 x 9%)	
Total tax liability on outward supplies			2,43,000	2,43,000	
B.	GST liability on inward supplies under reverse charge (RCM)				
(i)	Professional services provided by senior advocate to Keshavrao, i.e. a business entity	1,50,000	13,500 (1,50,000 x 9%)	13,500 (1,50,000 x 9%)	
(ii)	Renting of office provided by the State Government to Keshavrao (a registered person)	2,50,000	22,500 (2,50,000 x 9%)	22,500 (2,50,000 x 9%)	
(iii)	Assignment of mining right by Government to Keshavrao (a registered person)				3,00,000
Total tax liability on inward supplies under reverse charge			36,000	36,000	3,00,000
C.	Input tax credit				
(i)	Opening balance		50,000	9,000	15,000
(ii)	Inter-State purchase of machinery	8,00,000			40,000 (8,00,000 x 5%)
					Since the Goods and services are used for effecting

(iii)	Professional services from senior advocate	taxable supplies including zero rated supplies, full ITC thereon will be allowed.	1,50,000	13,500 (1,50,000 x 9%)	13,500 (1,50,000 x 9%)	
(iv)	Renting of office		2,50,000	22,500 (2,50,000 x 9%)	22,500 (2,50,000 x 9%)	
(v)	Assignment of mining right			—	—	<u>3,00,000</u>
Total ITC Note: [ITC may be availed for making zero rated supply even if such a supply is an exempt supply. Sale of petroleum silt, 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.]				86,000	45,000	3,55,000
<b>D. Computation of tax payable in cash</b>						
Total tax liability on outward supplies				2,43,000	2,43,000	
Less: ITC of IGST Note: ITC of IGST to be used first before ITC of CGST and SGST				1,57,000	1,98,000	
Less: ITC of CGST and SGST				86,000 (CGST)	45,000 (SGST)	
Add: Reverse charge liability payable in cash without set off of ITC [Tax payable under reverse charge, being not an output tax, cannot be set off against ITC and thus, will have to be paid in cash.]				36,000	36,000	3,00,000
Total tax liability payable in cash				36,000	36,000	3,00,000
Less: Balance of Electronic Cash Ledger				—	(-)34000	—
Net minimum tax liability payable in cash				36,000	2,000	3,00,000

### Question 2(a) :

Mr. Arpit is a registered supplier in Ahmedabad (Gujarat) under GST law. He provides the following information pertaining to various outward supplies made by him during the month of March:

S. No.	Particulars	Amount (Rs.)
(i)	Shyamji Vayapar Chamber of Commerce organized a business summit. Fiama Pvt. Ltd., manufacturer of readymade garments, sponsored the summit and paid sponsorship fee of Rs. 1,80,000 to Shyamji Vayapar Chamber of Commerce. Mr. Arpit, an independent director of Fiama Private Ltd., provided the services to the company in relation to this in the capacity of director and Fiama Private Ltd. paid Rs. 40,000 to him as remuneration.	40,000
(ii)	Supply of railway equipments by way of transportation by a vessel from one place in India to another.	1,20,000
(iii)	Services by way of storage/warehousing of processed tea used for beverage as green tea.	70,000
(iv)	Health care services by his clinical establishment of providing rooms having room charges Rs. 3,100 per day to a person receiving health care services.	3,00,000

(v)	Services of a guest house, for lodging purposes, having value of supply of a unit of accommodation Rs. 800 per day	72,000
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All above amounts are exclusive of GST. All the supplies are intra-State supply and assume the rate of taxes are IGST @ 18% and CGST & SGST @ 9% each.

From the above information, compute the GST liability of each item separately, on which tax to be paid by Mr. Arpit for the month of March. Correct provision of law should form the part of your answer. **(5 Marks)**

**Solution :**

Computation of GST liability of Mr. Arpit

	Particulars	CGST @ 9% (Rs.)	SGST @ 9% (Rs.)
(i)	Service provided to Fiama Pvt. Ltd. [Tax on services provided in the capacity of an independent director is payable by the recipient – Fiama Pvt. Ltd. under reverse charge mechanism and not by Mr. Arpit.]	-	
(ii)	Supply of transportation of railway equipment by vessel [Taxable, since it is not specifically exempt. Transportation of specified goods by vessel from one place in India to another are exempt. However, railway equipment is not a specified good. Exemption earlier available to transportation of railway equipment by vessel from one place in India to another was withdrawn.]	10,800	10,800
(iii)	Storage/warehousing of processed tea [Taxable, since storage/warehousing of only agricultural produce is exempt but processed tea is not an agricultural produce.]	6,300	6,300
(iv)	Health care services of providing rooms by his clinical establishment [Exempt, since room charges do not exceed Rs. 5,000 per day.]	-	-
(v)	Services of a guest house for lodging purposes [Taxable, since exemption with respect to services provided by guest house for lodging purposes with value of supply up to Rs. 1,000 per day, was withdrawn.]	6,480	6,480

**Question 2(b) :**

On 25th August, M/s Mehta & Mehta, a registered supplier of taxable goods located in Bengaluru (Karnataka), purchased one machine for Rs. 12,39,000 (including IGST) from one supplier of Maharashtra who issued the invoice on the same date.

M/s Mehta & Mehta received the machinery on the same day and availed ITC for the eligible amount.

M/s Mehta & Mehta used the machine in the process of manufacture of taxable goods. However, M/s Mehta & Mehta sold this machine to Mr. Anand Rathore of Andhra Pradesh on 20th August of next year for Rs. 7,50,000 (excluding IGST).

With reference to section 18(6) of the CGST Act, 2017, determine the amount payable, if any, by M/s Mehta & Mehta at the time of sale of the machine.

Note: The applicable rate of IGST is 18%. **(5 Marks)**

**Solution :**

(b) As per section 18(6) of the CGST Act, 2017, 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 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 of the CGST Act, 2017.

Accordingly, the amount payable on supply of machinery by M/s Mehta & Mehta shall be computed as follows:

Particulars	Amount (Rs.)
ITC taken on the machinery (Rs. 12,39,000 × 18/118)	1,89,000
Less: Input tax credit to be reversed @ 5% per quarter for the period of use of machine	
(i) For the previous year = (Rs. 1,89,000 × 5%) × 3 quarters	28,350
(ii) For the current year = (Rs. 1,89,000 × 5%) × 2 quarters	18,900
Amount required to be paid by adding the reversal amount to the output tax liability) (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 Mehta & Mehta is required to pay an amount of Rs. 1,41,750 at the time of sale of machinery by adding the same to the output tax liability.

\*\* In the above solution, amount payable towards disposal of machine has been computed on the basis of rule 40(2) of the CGST Rules, 2017, i.e. ITC to be reversed for the period of use of capital goods/machine has been computed @ 5% for every quarter or part thereof from the date of the issue of invoice.

However, the said amount can also be computed in accordance with rule 44(6) of the CGST Rules, 2017, i.e. ITC involved in the remaining useful life (in months) of the capital goods/ machine can be reversed on pro-rata basis, taking the useful life as 5 years.

### Question 2(c) :

Product 'PKY' was imported by Mr. Surya by air. The details of the import transaction are as follows:

Particulars	US \$
Price of 'PKY' 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 22nd January, the bill of entry for home consumption was presented by Mr. Surya on 20th January.

The other details furnished by Mr. Surya are:

	20th January	22nd January
Rate of basic customs duty	20%	10%
Exchange rate notified by CBIC	Rs. 70 per US\$	Rs. 72 per US\$
Exchange rate prescribed by RBI	Rs. 71 per US\$	Rs. 72 per US\$
Integrated tax leviable under section 3(7) of the Customs Tariff Act, 1975	18%	12%

Compute -

- value of product 'PKY' for the purpose of levying customs duty
- customs duty and tax payable **(4 Marks)**

### Solution :

Computation of assessable value of product 'PKY'

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 \$
Add: 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]	Rs. 70 per US \$
	Amount (Rs.)
Assessable value (Rs. 70 x 12,300 US \$)	8,61,000
Add: Basic customs duty @ 10% [Note 3]	86,100
Add: Social Welfare Surcharge (SWS) @ 10%	8,610
Value for the purpose of levying integrated tax [Note 4]	9,55,710
Add: Integrated tax @ 12%	1,14,685.2
Total duty & tax payable (rounded off)	2,09,395

Notes:

(1) 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, 1962 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) Integrated tax is levied on the sum total of the assessable value of the imported goods and customs duties. SWS leviable on integrated tax have been exempted.

**Question 3(a) :**

KMP 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 financial year):

S. No.	Items	GST paid in (Rs.)
(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 Rs. 4,00,000 and claimed depreciation of Rs. 44,800 (@ 10%) on the full amount of Rs. 4,48,000 under Income Tax Act, 1961	48,000

Other information:

(1) In the month of September of previous financial year, KMP Company Ltd. availed ITC of Rs. 2,40,000 on purchase of raw material which was directly sent to job worker's premises under a challan on 25th September (previous financial year). The said raw material has not been received back from the job worker up to 30th April (current financial year).

(2) All the above inward supplies except at S. No. (iii) above have been used in the manufacture of taxable goods. Inward supplies at S. No. (iii) above have been used in the manufacture of exempt goods.

Compute the amount of net ITC that can be availed by KMP 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 the other conditions necessary for availing ITC have been fulfilled. **(6 Marks)**

**Solution :**

Computation of ITC available with KMP Company Ltd. for the month of April

Particulars	ITC (Rs.)
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 the instant case and thus, the ITC thereon is blocked [section 17(5)(b) of the CGST Act, 2017].

(2) ITC cannot be taken since invoice is missing and delivery challan is not a valid document to avail ITC [Section 16(2)(a) of the CGST Act, 2017].

(3) ITC can be availed for making zero-rated supplies, notwithstanding that such supply may be an 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) of the CGST Act, 2017].

(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) of the CGST Act, 2017].

(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 of the CGST Act, 2017].

Hence, the ITC taken by KMP Company Ltd. in the month of September 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 3(b) :

Nal Neer Private Ltd. is engaged in the business of distribution of construction material. As an incentive, Nal Neer Private Ltd. pays an amount of Rs. 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. Nal Neer Private Ltd. is of the view that GST is not leviable on such incentive paid to the employees. Whether the view taken by Nal Neer Private Ltd. is correct? **(4 Marks)**

### Solution :

Yes, Nal Neer Private Ltd.'s view is correct. In terms of section 7(2) of the CGST Act, 2017 read with Schedule III of the CGST Act, 2017, 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 Nal Neer Private Ltd. is not in the nature of gift, and thus, is not covered under Schedule I. Infact, in the given case, the incentive is part of the salary and is directly linked to the sales target. Therefore, the services provided in course or in relation to employment by the employees for which incentives are given to them shall not be treated as a "supply".

In the light of above discussion, GST is not leviable on the incentive paid by Nal Neer Private Ltd. to its employees.

### Question 3(c) :

Mantu Chaudhary has imported goods from Germany and is finally re-assessed u/s 18(2) of the Customs Act, 1962 for two such consignments. Particulars are as follows:

Date of provisional assessment	12th December, 2024
Date of final re-assessment	2nd February, 2025
Duty demand for 1st consignment	Rs. 1,80,000
Refund for the 2nd consignment	Rs. 4,20,000
Date of refund made by the department	28th April, 2025

Date of payment of duty demanded

5th February, 2025

Determine the interest payable and receivable, if any, by Mantu Chaudhary on the final re-assessment of the two consignments, with suitable notes thereon. **(4 Marks)**

**Solution :**

As per section 18(3) of the Customs Act, 1962, an importer is liable to pay interest at the rate of 15% p.a. (Notification No. 33/2016-Cus. (NT) dated 01.03.2016), on any amount payable consequent to the re-assessment order from the first day of the month in which the duty is provisionally assessed till the date of payment.

Therefore, in the given case, Mantu Chaudhary is liable to pay following interest in respect of 1st consignment:

$$= \text{Rs. } 1,80,000 \times 15\% \times 67/365$$

$$= \text{Rs. } 4,956 \text{ (rounded off)}$$

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 specified rate till the date of refund of such amount in terms of section 18(4) of the Customs Act, 1962.

Since in the given case, refund has been made (28.04.2025) within 3 months from the date of re-assessment of duty (02.02.2025), interest is not payable to Mantu Chaudhary on duty refunded in respect of 2nd consignment.

**Question 4(a) :**

Examine the taxes to be paid for the month of July on the basis of below information furnished by M/s Silver & Co.:

Particulars	IGST (Rs.)	CGST (Rs.)	SGST (Rs.)
Output tax payable	14,75,000	28,34,000	28,34,000
Tax payable under reverse charge	36,000	1,44,000	1,44,000
Balance in Electronic Credit Ledger	26,52,000	18,32,000	18,32,000

Output tax reported under IGST column pertains to the month of February, which was not paid for the said period. Also, note that input tax credit available in Electronic Credit Ledger pertains to input tax on purchases made during the month of July and no opening balance exists from previous tax period. It furnishes return on monthly basis. **(6 Marks)**

**Solution :**

Payment of taxes is governed as per the provisions laid in section 49 read with section 49A and 49B of CGST Act, 2017 along with rule 88A of CGST Rules, 2017

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:

(a) self-assessed tax, and other dues related to returns of previous tax periods;

(b) self-assessed tax, and other dues related to the return of the current tax period;

(c) any other amount payable under this Act or the rules made thereunder including the demand determined under section 73 or section 74 or section 74A;

As per the above provisions, self-assessed tax of previous tax period i.e. February 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 electronic 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 input tax credit:			
a. GST [Refer Note1]	14,75,000	5,88,500	5,88,500
b. GST	0	18,32,000	0
c.	0	0	18,32,000
GST			
Amount payable through electronic cash ledger	Nil	4,13,500	4,13,500

Total amount payable through electronic cash ledger

Particulars	IGST	CGST	SGST
Amount payable through Electronic cash ledger under forward charge	Nil	4,13,500	4,13,500
Amount payable through electronic cash ledger under reverse charge [Refer Note-2]	36,000	1,44,000	1,44,000
Total amount payable through electronic cash ledger	36,000	5,57,500	557,500

Notes:-

1. After utilization of IGST credit towards output IGST liability, balance has been utilized equally amongst CGST & SGST
2. Input tax credit cannot be utilized for discharging tax liability under reverse charge basis, thus payable vide electronic cash ledger.

Since, M/s Silver & Co., have defaulted in payment of taxes for the month of February and the same has been paid during July, interest is payable as per the provisions of section 50 of the CGST Act, 2017

#### Question 4(b) :

Manoharan & Sons, a registered person, sends certain category of yarn for processing to the job worker in January. The job worker undertakes the processing work on the yarn as per the requirement of Manoharan & Sons. During the process, the job worker uses his own material also. The processed yarn is sold by Manoharan & Sons directly from the job worker's premises in the month of March. The balance quantity of yarn and waste material is sent back by the job worker to Manoharan & Sons in April.

The accountant of job worker is of the opinion that since the job worker is using his own material also in the processing, the supply being made by it to Manoharan & Sons is in the nature of supply of goods as well as services. Do you agree with the opinion of accountant of the job worker? **(4 Marks)**

#### Solution :

No, the opinion of the accountant of the job worker is not correct. Section 7(1A) of the CGST Act, 2017 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. Any processing activity carried on any other person's goods is treated as supply of service in terms of Schedule II. Circular No. 38/12/2018 GST dated 26.03.2018 has also clarified that the job worker,

in addition to the goods received from the principal, can use his own goods for providing the services of job work. These goods are not supply per se, but are being used in the processing activity carried out by it.

Thus, the activity undertaken by the job worker, in the given case, squarely falls within the purview of Schedule II and shall be considered as supply of service by the job worker to Manoharan & Sons.

**Question 4(c) :**

Richard Wilson of foreign origin has come on travel visa, to tour in India. He carries with him, as part of baggage, the following:

Particulars	Value in Rs.
Travel Souvenir	85,000
Other articles carried on in person	1,50,000
120 sticks of cigarettes of Rs.100 each	12,000
Fire arm with 100 cartridges (value includes the value of cartridges at @ Rs. 500 per cartridge).	1,00,000

Determine customs duty payable, if the effective rate of customs duty is 38.50% inclusive of social welfare surcharge, with short explanations where required.

Ignore Agriculture infrastructure and development cess. **(4 Marks)**

**Solution :**

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 Rs. 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	Rs.
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
Baggage than can be accommodated in GFA	1,85,000
Less: GFA	15,000
Baggage on which duty is payable	1,70,000
Duty payable @ 38.50% (including 10% Social welfare surcharge)	65,450

Note: Fire arms, cartridges of firearms exceeding 50 and cigarettes exceeding 100 sticks are not chargeable to rate applicable to baggage [Notification No. 26/2016 Cus. Dated 31.03.2016]. These items are charged @ 100% applicable to baggage under Heading 9803 of the Customs Tariff.

**Question 5(a) :**

Kanha Handloom, a registered supplier located in Madhya Pradesh, has duly filed its monthly GST returns for the financial year 2024–25. During the scrutiny of its returns for the said financial year in August 2025, the proper officer noticed an inadvertent short payment of CGST and SGST totaling Rs. 4,60,000 in the

month of October 2024, on account of a bonafide error. Before issuance of the show cause notice by the proper officer, Kanha Handloom paid the tax of Rs. 1,00,000 (Rs. 50,000 CGST and Rs. 50,000 SGST) on the basis of its own ascertainment along with applicable interest and with penalty, if any, on 15th September 2025 and informed the proper officer in writing of such payment.

Ascertain the last date by which show cause notice can be issued by the proper officer for the amount of tax short paid by Kanha Handloom. **(5 Marks)**

**Solution :**

The proper officer can issue a show cause notice within 42 months from the due date of furnishing the annual return for relevant financial year to which short payment relates to [Section 74A(2) of the CGST Act, 2017]. For the financial year 2024–25, the due date for furnishing the annual return is 31st December, 2025. Therefore, the last date by which show cause notice can be issued by the proper officer for the amount of tax short paid by Kanha Handloom is 30th June 2029.

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

**Question 5(b) :**

Mr. Cummins, an unregistered person under GST, purchases the goods supplied by Mr. Marsh who is a registered person without receiving a tax invoice from Mr. Marsh and thus helps in tax evasion by Mr. Marsh. A disciplinary action is taken against Mr. Cummins and an adhoc penalty of Rs. 20,000/- is imposed by passing an order 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. Cummins proceed to pay for penalty or challenge the order passed by Department? **(5 Marks)**

**Solution :**

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 CGST Act, 2017.

Accordingly—

- no penalty is to be imposed without affording an opportunity of being heard 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 the order suffers from lack of clarity about nature of breach which has taken place and about applicable law under which penalty has been imposed, such order passed by the department should be challenged.

**Question 5(c) :**

State few cases where refundable amount shall be paid to the applicant, instead of being credited to Consumer Welfare Fund under the CGST Act, 2017. **(4 Marks)**

**Solution :**

Section 54(8) of the CGST Act, 2017 provides that the refundable amount shall be paid to the applicant, instead of being credited to the Consumer Welfare Fund, if such amount is relatable to —

- (a) refund of tax paid on export of goods and/or services 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) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or
- (f) the tax or interest borne by notified class of applicants.

**Question 6(a) :**

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, 2017. **(4 Marks)**

**Solution :**

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, 2017 of a registered person, the 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 or 74A of the Act.

**Question 6(b) :**

Section 158(1) of the CGST Act, 2017 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. **(6 Marks)**

**Solution :**

Yes, the confidential information can be disclosed by the public servant for certain specific purposes in terms of section 158(3) of the CGST Act, 2017. 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 Government 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.

**OR**

**Question 6(b) :**

Briefly explain the procedure to be followed by the Authority for Advance Ruling on receipt of the application for Advance Ruling under section 98 of the CGST Act, 2017. **(6 Marks)**

**Solution :**

The procedure to be followed by the Authority for Advance Ruling (AAR) on receipt of the application for advance ruling under section 98 of the CGST Act, 2017 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.

**Question 6(c) :**

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. **(4 Marks)**

**Solution :**

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 standardize the manner in which the nomenclature in the 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.