

CA FINAL
INDIRECT TAX

SUPER 40
CLARITY Q/A

(Top Conceptual Q/A from PTPs, RTPs & MTPs)

A Compilation by CA Siddhesh Valimbe

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Part I: GST

Chapter 1: Supply

Question 1: Mrs. Kajal, a registered supplier of Jaipur (Rajasthan), has made the following supplies in the month of January:

- (i) Supply of a laptop along with the laptop bag to a customer of Mumbai for Rs. 55,000 (exclusive of GST).
- (ii) Supply of 10,000 kits (at Rs. 50 each) amounting to Rs. 5,00,000 (exclusive of GST) to Ram Fancy Store in Kota (Rajasthan). Each kit consists of 1 hair oil, 1 beauty soap and 1 hair comb.
- (iii) 100 kits are given as free gift to Jaipur customers (all unrelated) on the occasion of Mrs. Kajal's birthday. Each kit consists of 1 hair oil and 1 beauty soap. Cost of each kit is Rs. 35. Input tax credit has not been taken on the goods contained in the kit.
- (iv) Event management services provided free of cost to her brother (wholly dependent on her) for his son's marriage function in Indore (Madhya Pradesh). Cost of providing said services is Rs. 80,000.
- (v) 1,400 chairs and 100 coolers hired out to Function Garden, Ajmer (Rajasthan) for Rs. 3,30,000 (exclusive of GST) including cost of transporting the chairs and coolers from Mrs. Kajal's godown at Jaipur to Function Garden, Ajmer. Since Mrs. Kajal is not a GTA, transportation services provided by her are exempt vide Notification No. 12/2017 CT (R) dated 28.06.2017.

GST Rates:

S. No	Particulars	GST Rate
1.	Laptop	18%
2.	Laptop Bag	28%
3.	Hair Oil	18%
4.	Beauty Soap	28%
5.	Hair Comb	12%
6.	Event Management Service	5%
7.	Service of Renting of Chairs and Coolers	12%
8.	Transportation Service	5%

From the above information, examine each of the above supplies made by Mrs. Kajal for the month of January

and determine the rate of GST applicable on the same. [ICAI SM]

Answer

S. No	Particulars	GST Rate
1	Supply of laptop bag along with laptop to Mumbai customer [Being naturally bundled, it is a composite supply which is treated as the supply of the principal supply [viz. laptop] in terms of section 8(a). Accordingly, rate of principal supply , i.e. laptop will be charged.]	18%
2	Supply of kits to Ram Fancy Store [It is a mixed supply and is treated as supply of that particular supply which attracts highest tax rate [viz. beauty soap] in terms of section 8(b).]	28%
3	Free gifts to customers [Cannot be considered as supply under section 7 read with Schedule I as the gifts are given to <u>unrelated customers without consideration</u> .]	NIL
4	Event management services provided free of cost to her brother [who is a related person as he is wholly dependent] for his son's marriage. [Such services shall fall within the purview of Schedule I and shall be treated as supply even if made without consideration. Since it is an individual supply, it will be taxed at the rate applicable on said service.]	5%
5	Chairs and coolers hired out to Function Garden [Transportation services provided by Mrs. Kajal are exempt. However, since chairs and coolers are hired out along with their transportation, it is a case of composite supply wherein the <u>principal supply is hiring out of chairs and coolers</u> . Accordingly, transportation service will also be taxed at the rate applicable for renting of chairs and coolers (Note)]	12%

Chapter 2: Charge

Question 2: Varun & Arun Associates started a partnership firm of architects in Bhopal (Madhya Pradesh) on 1st April of the current financial year. The firm provides architectural services in Madhya Pradesh only. It provided the following details of its turnover during the current financial year:

April - June: Rs. 20 lakhs

July - Sept: Rs. 30 lakhs

Oct - Dec: Rs. 20 lakhs

The firm has obtained the registration under section 22 with effect from 1st July and opts to pay tax under composition scheme. Determine the tax liability of Varun & Arun Associates for the quarters: April – June, Jul-Sept and Oct-Dec.

Note: The rates of tax on architectural services are CGST: 9% and SGST: 9%.

Answer

Refer to basics of Composition Scheme [10(2A)].

Varun & Arun Associates is exclusively supplying services other than restaurant services. Hence it is not eligible to pay tax under sub-sections (1) and (2) of section 10 and consequently eligible under section 10(2A) wherein the person can pay tax @ 6% of the turnover in State or turnover in Union territory up to an ATO of Rs. 50 lakhs, subject to specified conditions.

In the given case, Varun & Arun Associates has started the supply of services in the current financial year. Therefore, its ATO in the preceding FY is Nil.

Consequently, it is eligible to avail the benefit of composition scheme under section 10(2A) of the CGST Act in the current financial year.

It becomes eligible (*better word is "liable"*) for the registration when its aggregate turnover exceeds Rs. 20 lakhs. While registering under GST, it has to opt for composition scheme under section 10(2A).

- ❑ **April-June:** For determining its turnover of the State for payment of tax under composition scheme under section 10(2A), turnover of April-June quarter [Rs. 20 lakhs] shall be excluded as the value of supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act are to be excluded for this purpose.
- ❑ **July-Sep:** On next Rs. 30 lakhs [turnover of July-Sept quarter], it shall pay tax @ 6% [3% CGST and 3% SGST], i.e. CGST ` 90,000 and SGST ` 90,000.

By the end of July-Sept quarter, its aggregate turnover reaches Rs. 50 lakhs.

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

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

Question 3: B & D Company, a partnership firm, in Nagpur, Maharashtra is a wholesaler of a taxable product 'P' and product 'Q' exempt by way of a notification. The firm supplies these products only in the eastern part of Maharashtra. All the procurements (both goods and services) of the firm are from the suppliers registered under regular scheme in the State of Maharashtra. The firm pays tax under composition scheme.

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

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

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

Bill No	Date	Value of Products: Exclusive of GST		
		Value: P	Value: Q	Total
2306	1 st October	2,00,000	3,000	2,03,000
2307	1 st October	1,36,000	2,250	1,38,250
2308	2 nd October	67,000	39,250	1,06,250
2309	3 rd October	58,750	33,750	92,500
2310	5 th October	1,00,000	-	1,00,000
2311	6 th October	94,000	6,000	1,00,000
2312	6 th October	-	17,000	17,000
2313	8 th October	50,000	6,000	56,000
2314	9 th October	60,000	9,000	69,000

Further, B & D Company paid freight of Rs. 1,40,000 to Goods Transport Agency during the period April to October. Assume equal amount of freight is paid each month on the 10th day of each month. Also, assume that the goods for which the freight is paid on 10th day of the month are transported between 11th to 20th day of the month.

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

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

Note: Make suitable assumptions wherever required. Rate of CGST and SGST on service of transportation of goods by GTA is 2.5% each wherein GTA has not opted to pay tax itself. Stock is valued at cost price.

Answer

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

Refer to "Aggregate Turnover" definition: section 2(6),

Case Analysis: In the given case, the firm is registered under the composition scheme in the State of Maharashtra. The aggregate turnover of the firm exceeds Rs. 1.5 crore on 3rd October

Hint: *Aggregate of both taxable and exempt turnover from 1st April to 3rd October, i.e. Rs. 1,50,05,000 (1,44,65,000 + 2,03,000 + 1,38,250 + 1,06,250 + 92,500)]*

The inward supplies of goods transportation services in respect of which the firm has to pay tax under reverse charge have not been included in the aggregate turnover in terms of section 2(6).

How to know if RCM is applicable or FCM in GTA Service? The tax is payable under reverse charge on such services as the applicable rate of tax on such services is given as 5% and not 12%, in which case the GTA would have been liable to pay tax under forward charge.

Conclusion: Thus, the firm will have to pay tax under the regular scheme (Section 9) from 3rd October.

Output tax liability of B & D Company under composition scheme

Composition: During the period when the firm pays tax under composition scheme, i.e. from 1st April to 2nd October, tax will be payable on quarterly basis and no ITC will be available.

Tax Rate: Since the firm is trading in goods, tax will be payable @ 0.5 % [Effective rate = 1%] of the turnover of **taxable** supplies of goods and services (i.e. 'P') in the State. **[Most Probable Mistake Area!!]**

The tax liability for the quarters ended June, September and December under composition scheme will be:

Particulars	Quarter ended 30 th June (Rs.)	Quarter ended 30 th September (Rs.)	Quarter ended 31 st December (Rs.)
Turnover of 'P' (Taxable supplies)	60,00,000	50,00,000	4,03,000 [2,00,000 + 1,36,000 + 67,000]
CGST @ 0.5% [A1]	30,000	25,000	2,015
SGST @ 0.5% [B1]	30,000	25,000	2,015
Inward supply on which tax is payable under reverse charge [GTA Service @ 5%]	60,000 [(1,40,000/7) x3]	60,000 [(1,40,000/7) x3]	Nil [Paid on 10 th day for goods transported between 11 th to 20 th day of the month, so the same will be assessed under regular scheme]
CGST @ 2.5% [A2]	1,500	1,500	-
SGST @ 2.5% [B2]	1,500	1,500	-
Total CGST [A1 + A2]	31,500	26,500	2,015
Total SGST [B1 + B2]	31,500	26,500	2,015
Total CGST liability [1st April to 2nd October]		60,015 [31,500 + 26,500 + 2015]	
Total SGST liability [1st April to 2nd October]		60,015 [31,500 + 26,500 + 2015]	

Question 4: Shubhlaxmi Foods is engaged in supplying restaurant service in Maharashtra. In the financial year 2021-22, it had a turnover of Rs. 140 lakhs from the restaurant service. Further, it had earned the bank interest of Rs. 20 lakhs from the fixed deposits in said FY. You are required to advise Shubhlaxmi Foods whether it is eligible for the composition scheme under sub-sections (1) and (2) of section 10 in the FY 2022-23.

Further, assuming that in the FY 2022-23, its turnover is Rs. 130 lakhs from the supply of restaurant services and Rs. 10 lakhs from the supply of farm labour in Maharashtra. It has also earned the bank interest of Rs. 30 lakhs from the fixed deposits. Compute the tax payable by Shubhlaxmi Foods in the financial year 2022-23.

Answer

Refer to section 10(1) along with the limit of marginal services allowed.

Although exempt services are included in determining the value of turnover in a State or Union territory, explanation to section 10(1) clarifies that for the purposes of **second proviso to section 10(1)** [which allows marginal service], the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account for determining the value of turnover in a State or Union territory.

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

Given Case: the aggregate turnover of Shubhlaxmi Foods in the financial year 2021-22 is Rs. 140 lakhs (interest of Rs. 20 lakhs from the fixed deposits will not be taken into account for computing ATO). Resultantly, it is **eligible** to opt for composition scheme under sub-sections (1) and (2) of section 10 in the FY 2022-23.

Further, apart from restaurant services, **it can provide services up to Rs. 14 lakhs** [higher of 10% of Rs. 140 lakh or Rs. 5 lakhs], in the financial year 2022-23. As already seen, bank interest of Rs. 20 lakh from fixed deposits will not be considered while determining this limit. *(that's why we took 140 Lacs, not 160 Lacs)*

Tax Payable: 5% (2½% CGST+ 2½% SGST) of the turnover in the State by Shubhlaxmi Foods in the FY 2022-23

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

= **Rs. 7,00,000** [CGST = Rs. 3,50,000 and SGST = Rs. 3,50,000]

[Bank interest of Rs. 30 lakh from the fixed deposits shall not be considered per explanation 2 to section 10]

Question 5: M/s All-in-One, a partnership concern and a registered supplier under GST, is engaged in providing various services under one roof. It is engaged in paying tax under regular scheme under GST law. The concern provides the following information pertaining to supply made/input services availed by it during the month of March.

S. No	Particulars	Amount (Rs.)
1	Provided Direct Selling Agent service to Y Bank Ltd.	4,00,000
2	Provided security services (by way of supply of security personnel) to ABC P. Ltd., a registered person under GST	60,000
3	Provided security services (by way of supply of security personnel) to PSR Trust, an unregistered person under GST	1,00,000
4	Provided renting of motor vehicle for transportation of passengers to Amaze Tours Ltd. and value of supply included cost of fuel	75,000
5	Provided renting of motor vehicle for transportation of passengers to Priti & Co., CA firm and value of supply included cost of fuel	40,000
6	Availed representational service from PB and Co., a law firm towards a Consumer Court case	70,000

Determine the GST liability of M/s All-in-One for the month of March by giving necessary explanations for treatment of various items.

Rates of GST for both inward and outward supply is CGST/SGST@ 9% each except renting a vehicle, for which CGST/SGST @ 2.5% each is applicable. M/s All-in-One commenced its business from February. All the supplies are intra-State only. Ignore the provisions relating to input tax credit.

Answer

	Particulars	Value	CGST	SGST
A	Outward Supplies			
	Direct selling agent service to Y Bank Ltd.	4,00,000	36,000 [4,00,000 x 9%]	36,000 [4,00,000 x 9%]

	[FCM since the supplier is a partnership firm and not an individual.]			
	Security services to ABC P. Ltd., a registered person [RCM as security services are provided by a non-body corporate to a registered person.]	-		
	Security services to PSR Trust, an unregistered person [FCM since security services are provided by a non-body corporate to an unreg. person]	1,00,000	9,000 [1,00,000 x 9%]	9,000 [1,00,000 x 9%]
	Renting of motor vehicle to Amaze Tours Ltd. where value included cost of fuel [RCM since such services are provided by a non-body corporate to a body corporate and GST is payable @ 5%]	-		
	Renting of Motor vehicle to Priti and Co., a CA Firm, where supply value includes cost of fuel [FCM since such services are provided by a non-body corporate to a non-body corporate]	40,000	1,000 [40,000 x 2.5%]	1,000 [40,000 x 2.5%]
	Total GST on outward supplies		46,000	46,000
B	GST Liability on inward supplies @ RCM			
	Availed representational service from PB and Co, a law firm [Legal services provided by a partnership firm of advocates/individual advocate other than a senior advocate to a business entity with an ATO up to such amount in the preceding FY as makes it eligible for exemption from registration, are exempt	70,000	-	-

	from GST.] [Since M/s All-in-One started its business in February, its turnover in the preceding FY = Zero; making it eligible for exemption from registration in the preceding FY and hence, the legal services provided to it are <i>exempt</i> from GST]			
	GST liability on inward supplies under RCM		NIL	NIL

Chapter 3: Place of Supply

Question 6: Determine the place of supply for the following independent cases:

- (i) ABC Events, an event management company at Kolkata, organises two award functions for Bhushan Jewellers of Chennai (registered in Chennai, Tamil Nadu) at New Delhi and in Singapore.
- (ii) Happy Planners (Bengaluru, Karnataka) is hired by Dr. Tripti (unregistered person based in Kochi, Kerala) to plan and organise her daughter's wedding at Mumbai, Maharashtra.
- (iii) Dhirubhai Pvt. Ltd. (New Delhi) imports a machine from Japan for being installed in its factory at New Delhi. To install such machine, Dhirubhai Pvt. Ltd. takes the service of an engineer who comes to India from Japan for this specific installation.
- (iv) Mr. Gogoi, an architect (New Delhi), provides professional services to Mr. George of New York in relation to his immovable property located in Pune.
- (v) Mr. Jigar, an unregistered person based in New Delhi hires a yacht from a company based in London, UK for 20 days. **[MTP May'24]**

Answer

- (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.

Conclusion: Since, in the given case, the award functions at New Delhi and Singapore are organized for Bhushan Jewellers (registered in Chennai), place of supply in **both** the cases is the location of Bhushan 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.

Conclusion: Since, in the given case, the service recipient [Dr. Tripti] 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.

Conclusion: 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.

Conclusion: Thus, in given case, the place of supply is the location of immovable property, i.e. **Pune, MH.**

- (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.

Conclusion: Thus, in given case, the place of supply is the location of the supplier of services, i.e. **London.**

Question 7: Priyank Sales of Pune, Maharashtra enters into an agreement to sell goods to Bisht Enterprises of Bareilly, Uttar Pradesh. While the goods were being packed in Pune godown of Priyank Sales, Bisht got an order from Sahil Pvt. Ltd. of Shimoga, Karnataka for the said goods. Bisht Enterprises agreed to supply the said goods to Sahil Pvt. Ltd. and asked Priyank Sales to deliver the goods to Sahil Pvt. Ltd. at Shimoga.

You are required to determine the place of supply(ies) in the above situation.

Answer

Transaction 1: Between Priyank Sales and Bisht Enterprises

Section Applicability: Refer to 10(1)(b): Bill to Ship to Model! [Bisht Enterprises = Third Party]

Thus, in the given case, it is deemed that Bisht Enterprises [*third party*] has received the goods and the

place of supply of such goods is the principal place of business of Bisht Enterprises.

Conclusion: POS between Priyank Sales (Pune) and Bisht Enterprises (Bareilly) will be Bareilly, **Uttar Pradesh**.

Transaction 2: Transaction between Bisht Enterprises and Sahil Pvt. Ltd.

Section Applicability: Refer to 10(1)(a) since movement of goods involved!

Conclusion: Thus, the POS = the location of the goods at the time when the movement of goods *terminates* for delivery to the recipient (Sahil Pvt. Ltd.), i.e. Shimoga, **Karnataka**.

Question 8: Musicera Pvt. Ltd. owned by Nitish Daani - a famous classical singer - wishes to organise a 'Nitish Daani Music Concert' in Gurugram (Haryana). Musicera Pvt. Ltd. (registered in Ludhiana, Punjab) enters into a contract with an event management company, Supriya (P) Ltd. (registered in Delhi) for organising the said music concert at an agreed consideration of Rs. 10,00,000. Supriya (P) Ltd. books the lawns of Hotel Dumdum, Gurugram (registered in Haryana) for holding the music concert, for a lump sum consideration of Rs. 4,00,000. Musicera Pvt. Ltd. fixes the entry fee to the music concert at Rs. 5,000. 400 tickets for 'Nitish Daani Music Concert' are sold.

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

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

Note: Rate of CGST and SGST is 9% each and IGST is 18%. All the amounts given above are exclusive of taxes, wherever applicable. [ICAI SM + MTP May'24]

Answer

In the given situation, three supplies are involved:

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

Taxability

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

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

Tax: Since the location of the supplier (Ludhiana, Punjab) and the place of supply (Gurugram, Haryana) are in different States, IGST will be leviable. Therefore, IGST leviable will be computed as follows:

- ⇒ Consideration = 400 tickets x 5,000 per ticket = Rs. 20,00,000
- ⇒ **IGST @ 18% = Rs. 20,00,000 x 18% = Rs. 3,60,000.**

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

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

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

- ⇒ **IGST @ 18% on value of supply = Rs. 10,00,000 x 18% = Rs. 1,80,000**

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

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

Since the location of the supplier (Gurugram, Haryana) and the place of supply (Gurugram, Haryana) are in the same State, CGST and SGST will be leviable.

- ⇒ **CGST @ 9% = RS. 4,00,000 x 9% = Rs. 36,000 | SGST @ 9% = Rs. 36,000**

❖ **If the price for the entry ticket is fixed at Rs. 450**

Answer of only part (i) Admission will change.

There will be **no IGST liability** if the consideration for the ticket is Rs. 450 as the inter-State services by way of right to admission to, inter alia, musical performance are exempt from IGST, if the consideration for right to admission to the event is **not more than Rs. 500 per person**.

Question 9: Determine POS [Nov'24 MTP]

- (i) Digvijay, residing in Maharashtra, is travelling with 'Heera Airlines' aircraft and is provided with movie-on-demand service for Rs. 500 as on-board entertainment during Delhi- Maharashtra leg of a Bangkok- Delhi- Maharashtra flight. POS?
- ➡ POS = first scheduled point of departure i.e. **Bangkok** [section 12(10)]
- (ii) Kunwar of Delhi purchased online tickets for Chill water park in Mumbai. POS?
- ➡ POS = where the park is located i.e. **Mumbai** [section 12(6)]
- (iii) Maldeo, an unregistered person of Orissa, sends a courier from New Delhi to his friend in Ahmedabad, Gujarat while he was on trip to New Delhi.
- ➡ This is a B2C case. POS = where the courier is handed over for transportation i.e. **New Delhi** [section 12(8)]
- (iv) Rajyavardhan, a registered person in Ranchi, Jharkhand, buys shares from a broker in Patna on NSE, Mumbai. Location of the recipient of service is available in the records of the supplier of service.
- ➡ POS = location of the recipient on records of the supplier i.e. **Ranchi, Jharkhand** [section 12(12)]
- (v) Mr. Rana (New Delhi) boards the New Delhi-Kota train at New Delhi. Mr. Rana sells the goods taken on board by him (at New Delhi), in the train, at Jaipur during the journey.
- ➡ POS = place where taken on board i.e. **New Delhi** [section 10(1)(e)]
- (vi) Sultan Pvt. Ltd. imports electric food processors from China for its Kitchen Store in Noida, Uttar Pradesh. Sultan Pvt. Ltd. is registered in Uttar Pradesh.
- ➡ POS = location of Importer [section 11(a)]

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

⇒ This is a B2C case. POS = where handed over for transportation i.e. Kanpur, UP [section 12(8)]

(viii) Chintu Sharma, a resident of New Delhi, opens his saving account in New Delhi branch of Satta Bank after undergoing the KYC process. He goes to Amritsar for some official work and withdraws money from Satta Bank's ATM in Amritsar thereby crossing his limit of free ATM withdrawals.

⇒ POS = location of Recipient in the records of the Supplier i.e. New Delhi [section 12(12)]

Chapter 4: Exemptions

Question 10: "Chanakya Academy" is registered under GST in the State of Uttar Pradesh. The Academy runs the following educational institutions:

- (i) 'Keshav Institute of Technology' (KIT), a private engineering college in Ghaziabad. KIT also runs distance learning post graduate engineering programmes. Exams for such programmes are conducted in select cities at centres appointed by the KIT. All the engineering courses including the distance learning post graduate engineering programme run by KIT are recognised by the law [The All India Council for Technical Education (AICTE)].
- (ii) 'Little Millennium', a pre-school in Lucknow.
- (iii) 'Bright Minds', a coaching institute in Kanpur. The Institute provides coaching for Institute of Banking Personnel Selection (IBPS) Probationary Officers Exam.
- (iv) 'Spring Model' a higher secondary school affiliated to CBSE Board.

The Academy provides the following details relating to the expenses incurred by the various institutions run by it during the period April to September:

S. No	Particulars	KIT	Little Millenium	Bright Minds	Spring Model
1	Printing services for printing the question papers (paper and content are provided by the Institutions)	2,50,000		1,50,000	2,00,000
2	Paper procured for printing the	4,30,000		2,58,000	3,44,000

	question papers				
3	Honorarium to paper setters and examiners (not on the rolls of the Institution)	5,00,000			
4	Rent for exam centers taken on rent like schools etc., for conducting examination	8,00,000		1,00,000	
5	Subscription for online educational journals [Little Millennium has taken the subscription for online periodicals on child development and experiential learning]	4,00,000	80,000	2,20,000	2,40,000
6	Hire charges for buses used to transport students and faculty from their residence to the institutions and back	4,80,000	5,50,000	1,30,000	7,50,000
7	Catering services for running a canteen in the campus for students (Catering services for KIT include a sum of Rs. 60,000 for catering at a student event organized in a banquet hall outside campus)	3,20,000	2,60,000	1,80,000	5,00,000
8	Security and housekeeping services for the institution(s) (Security and housekeeping services for Spring Model include a sum of Rs. 80,000 payable for security and housekeeping at the student event organized in a banquet hall outside the campus)	6,00,000	4,00,000	3,75,000	4,65,000

With the help of the above details, determine the amount of GST payable, if any, (ignoring ITC provisions) on

goods and services received during April to September by the various educational institutions run by the 'Chanakya Academy'; all the amounts given above are exclusive of taxes, wherever applicable.

Note: Rate of GST on goods is 12%, catering service is 5% and on other services is 18%.

Relevant Answer Points

Let's first analyse if the above institutes are "education institutes" or not.

- ❑ **KIT:** In the given case, all the engineering courses including the distance learning post graduate engineering programme run by KIT are recognised by the law [The All India Council for Technical Education (AICTE)]. Therefore, since KIT imparts education as a part of a curriculum for obtaining a qualification recognised by the Indian law, the same is an educational institution in terms of the exemption notification.
- ❑ **Similarly, Little Millennium and Spring Model,** being a pre-school and a higher secondary school respectively are also educational institutions in terms of the exemption notification.
- ❑ **However, Bright Minds,** being a coaching centre, training candidates to secure a banking job, is not an educational institution in terms of the exemption notification. Hence, none of the select services (mentioned above) will be exempt when provided to Bright Minds.

In the light of the foregoing provisions, the amount of GST payable on Goods and Services received by these educational institutions during April to September is computed as under:

Particulars	KIT	Little Millenium	Bright Minds	Spring Model
Printing services for printing the question papers (paper and content are provided by the Institutions)	Exempt [Services provided <u>to</u> educational institution in relation to conduct of examination are exempt]		27,000 [1,50,000 x 18%]	Exempt
Paper procured for printing the question papers [supply of goods is taxable]	51,600 [4,30,000 x 12%]		30,960 [2,58,000 x 12%]	41,280 [3,44,000 x 12%]

Honorarium to paper setters and examiners (not on the rolls of the educational institution)	Exempt [Services provided to educational institution in relation to conduct of examination]			
Rent for exam centres taken on rent like schools etc., for conducting examination	Exempt [Services provided to educational institution in relation to conduct of examination]		18,000 [1,00,000 x 18%]	
Subscription for online educational journals [Little Millennium has taken the subscription for online periodicals on child development and experiential learning]	Exempt	14,400 [80,000 x 18%]	39,600 [2,20,000 x 18%]	43,200 [2,40,000 x 18%]
Hire charges for buses used to transport students and faculty from their residence to the institutions and back	86,400 [4,80,000 x 18%]	Exempt	23,400 [1,30,000 x 18%]	Exempt
Catering services for running a canteen in the campus for students	16,000 [3,20,000 x 5%]	Exempt	9,000 [1,80,000 x 5%]	Exempt
Security and housekeeping services for the institution(s) [taxable as not provided within the premises]	1,08,000 [6,00,000 x 18%]	Exempt	67,500 [3,75,000 x 18%]	14,400 [80,000 x 18%]
Total GST Payable	2,62,000	14,400	2,15,460	98,880

Question 11: Determine whether GST is payable in respect of each of the following independent services provided by the registered persons:

- (1) Service provided to a Governmental Authority by way of slum improvement and upgradation.

- (2) Fees of 20,000 charged from office staff for in-house personality development course conducted by Banarsidas College providing education as part of a curriculum for obtaining a qualification recognised by Indian law.
- (3) Amount collected for loading, unloading, packing and warehousing of potato chips
- (4) Professional services provided to foreign diplomatic mission located in India
- (5) Services by way of storage/warehousing of raw vegetable fibre such as cotton flex, jute etc.

Answers

- (1) Services provided to a Governmental Authority by way of slum improvement and upgradation is specifically **exempt** from GST vide exemption notification under GST law.
- (2) Services provided **by** an educational institution **to** its students, faculty and staff are exempt from GST vide exemption notification.

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

- (3) Loading, unloading, packing and warehousing of agricultural produce is exempt. However, potato chips are not an agricultural produce, hence its taxable.
- (4) Services by foreign diplomatic missions are exempt, not to.
- (5) Taxable

Chapter 5: Time of Supply

Question 12: KLM Ltd., a publishing and printing house registered in Maharashtra, is engaged in supply of books, letter cards, envelopes, guides and reference materials. The following information is provided by the company:

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

Date of receipt of balance payment	31 st May	30 th April
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In respect of printing of books, content was supplied by the author. For printing of envelopes, the design and logo were supplied by the buyer.

Determine the time of suppl(ies) for the purpose of payment of tax. **[ICAI SM + MTP May'24]**

Relevant Answer Points

Nature of Supplies: Composite Supply - Let's identify the principal component:-

- ☑ In case of printing of books where only content is supplied by the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore, such supplies would constitute **supply of service**.
- ☑ In case of supply of printed envelopes by the printer using its physical inputs including paper to print the design, logo etc. supplied by the recipient of goods, predominant supply is supply of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore, such supplies would constitute **supply of goods**.

Sections Applicable: Accordingly, the TOS of books and envelopes will be as per sections 12 and 13 respectively.

Refer to sections 12(2) and 13(2): TOS w.r.t Good and Services under FCM *[Do mention about NN 66/2017 also]*

Analysis and Conclusions

- ❖ **Books:** Advance shall be ignored as GST is not applicable w.r.t advance in case of goods. [subject to exceptions]

As per section 31(1), Invoice should have been issued by 7th April i.e. removal of goods. But the Invoice has actually been issued on 10th April. Time of supply = **7th April**.
- ❖ **Printing Service:** Since in the given case, invoice for the services is not issued within 30 days (from 10th April), the time of supply for the advance received is the date of receipt of payment, i.e. **20th March** being earlier than the date of provision of service.

However, the time of supply for the balance payment is the date of provision of service, i.e. **10th April** being earlier than the date of receipt of balance payment.

Question 13: Anuja checked-in at the 'Welcome Tourist Lodge' in Madurai on 15th July, 2022. The room rent for the same was Rs. 900 per day for a single room. She checked-out on 17th of July, 2022 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 up to Rs. 1,000 earlier became chargeable to tax from 18th July, 2022.

Under the GST law, determine the time of supply and taxability of the service of lodging in the hands of 'Welcome Tourist Lodge' if the cheque gets credited into the bank account of 'Welcome Tourist Lodge' on 20th of July, 2022.

Note: Assume that all the days covered in the above case are working days. [Nov'23; Nov'24 MTP]

Answer

In the given case,

Date of receipt of payment is:-

- (a) Date of entry of payment in books of account [17th July 2022] or
- (b) Date of credit of payment in bank account [20th July 2022] whichever is earlier, viz., **17th July 2022**.

Date of issue of invoice is **20th July 2022** (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 July, 2022):

- 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 July, 2022**.

Conclusion: Since the service of lodging up to a value of Rs. 1,000 was exempted at the time of supply, **no GST** is payable in the given case.

Chapter 6: Valuation

Question 14: Binaca Electronics Ltd. (hereinafter referred to as BEL) is engaged in manufacturing televisions. It is registered in the State of Haryana. It has appointed distributors across the country who sell the televisions manufactured by it.

The MRP printed on the package of a television is Rs. 12,000. The applicable rate of GST on televisions is 18%. BEL dispatches the stock of televisions to its distributors ordered by them on a quarterly basis.

In order to promote its sales, the Sales Head of BEL has formulated a sales promotion scheme on 1st April. Under this scheme, BEL offers a discount of 10% (per television) on televisions supplied to the distributors if the distributors sell 500 televisions in a quarter.

The discount is offered on the price at which the televisions are sold to the distributors (excluding all charges and taxes).

It appoints Shah Electronics (an unrelated party as per GST Law) as its distributor in Haryana on 1st April and dispatches 750 televisions on 8th April as stock for the quarter April-June.

BEL has sold the televisions to distributor - Shah Electronics at Rs. 8,400 per television (exclusive of applicable taxes). Shah Electronics has requested BEL for a special packing of the televisions delivered to it for which BEL has charged Rs. 1,200 per television.

Shah Electronics places a purchase order of 1,000 televisions with BEL for the quarter July-September. The distributor reports sales of 700 televisions for the quarter April-June and 850 televisions for the quarter July-September.

The discount policy offered by BEL as explained above is also available to Shah Electronics as per the distributorship agreement.

While Shah Electronics reverses the 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 televisions supplied by BEL to Shah Electronics during the quarters April-June and July-September assuming the rate of tax applicable on the televisions as 18%.

Relevant Answer Points

Refer to section 15(3)(a)/(b): Pre Supply Discounts | Post Supply Discounts (Agreement + ITC Reversal by R)

- **Analysis:** In the given case, Shah Electronics is entitled for 10% discount on televisions supplied by BEL for the quarters April-June as well as July-September as it has sold more than 500 televisions in each of these quarters.
- **Nature of Discount:** 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 televisions supplied to Shah Electronics for the quarters of April-June and July-September is a post-supply discount.
- **Treatment in Value of Supply:** 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 televisions supplied to Shah Electronics for the quarters of April- June and July-September) provided Shah Electronics reverses the ITC attributable to the discount on the basis of document issued by BEL.

Computation of the Value of Supply for the Quarters of April-June

Particulars	Amount (Rs.)
Price at which the televisions are supplied to Shah Electronics [Note 1]	8,400
<u>Add:</u> Packing expenses [Note 2]	1,200
<u>Less:</u> Discount [Note 3]	<u>Nil</u>
Value of Taxable Supply of one unit of television	9,600
Value of Taxable Supply of Televisions 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 price actually paid or payable, in terms of section 15(1) presuming that the supplier and the recipient are not related and price is the sole consideration for the supply.
- (2) The value of supply includes incidental expenses like packing charges in terms of section 15(2)(c).
- (3) Since Shah Electronics has not reversed the input tax credit attributable to such discount on the basis of document issued by BEL, the conditions specified in section 15(3)(b) have not been fulfilled. Thus, the post-

supply discount will **not be allowed as deduction** from the value of supply.

Computation of the Value of Supply for the Quarters of July-September

Particulars	Amount (Rs.)
Price at which the televisions are supplied to Shah Electronics [Note 1]	8,400
<u>Add:</u> Packing expenses [Note 2]	1,200
<u>Less:</u> Discount [Note 3]	(840)
Value of Taxable Supply of one unit of television	8,760
Value of Taxable Supply of Televisions for the Quarter July-Sep [Rs. 9,600 x 1000]	87,60,000

Notes

- (1) Same as above.
- (2) Same as above.
- (3) Since all the conditions specified in section 15(3)(b) have been fulfilled, the post-supply discount will be **allowed as deduction** from the value of supply. The ITC to be reversed = 1,51,200 [1,000 x (8,400 x 10%) x 18%].

Question 15: Rustagi & Co. manufactures customized products at its unit situated and registered in Madhya Pradesh. Cost of production of 1,000 products for Rustagi & Co. is Rs. 20,00,000.

These products require further processing before sale, and for this purpose products are transferred from its Madhya Pradesh unit to its another unit situated and registered in Himachal Pradesh. The value declared on the invoice for such transfer is the cost of production of such products.

The Himachal Pradesh unit, apart from processing its own products, engages in processing of similar products of other persons who supply the products of the same kind and quality. Thereafter, the Himachal Pradesh unit sells these processed products to wholesalers. There are no other factories in the neighbouring area which are engaged in the same business as that of Himachal Pradesh unit.

1,000 units of the products of same kind and quality are supplied to Himachal Pradesh unit, at the time when goods are sent by Madhya Pradesh unit, by another manufacturer located in Himachal Pradesh.

The ex-factory price of such goods is Rs. 19,00,000. The Himachal Pradesh unit of Rustagi & Co. is eligible for full ITC.

Determine the value of 1000 products supplied by Rustagi & Co. to its Himachal Pradesh unit.

Relevant Answer Points

Distinct Persons: As per section 25(4), 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 for the purposes of this Act. Therefore, units of Rustagi & Co. in Madhya Pradesh and Himachal Pradesh are distinct persons under GST.

Refer to Rule 28: Valuation

Analysis: In the given case, the option of valuing the goods @ 90% of the price charged by the recipient to his unrelated customer is not available as the goods are not further supplied 'as such' but only after processing at Himachal Pradesh unit.

However, since the Himachal Pradesh unit is eligible for full ITC, the value declared by the Madhya Pradesh unit in the invoice for transfer of such products, i.e. Rs. 20,00,000 shall be deemed to be the OMV of the products.

Conclusion: Thus, the value of 1000 products supplied by Rustagi & Co. to its Himachal Pradesh unit in terms of rule 28 is the open market value of such products which is **Rs. 20,00,000**.

Question 16: Aviant Ltd., registered in Noida (Uttar Pradesh), is a supplier of machinery used for making bottle caps. The supply of machinery is effected as under:

- The wholesale price of the machinery (excluding all taxes and other expenses) at which it is supplied in the ordinary course of the business to various customers is 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, Aviant 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 Aviant Ltd. through a third-party service provider [Goods Transport Agency (GTA)].
- The customer enters into a separate service contract with the GTA and pays the freight directly to it.

- A cash discount of 2% on the price of the machinery is offered at the time of supply, if the customer agrees to make the payment within 15 days of the receipt of the machinery at his premises.

In the event of failure to make the payment within the stipulated time, the company-

- recovers the discount 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, Aviant Ltd. receives a price linked subsidy of Rs. 2,00,000 from its holding company Diligent Ltd.

Aviant Ltd. has supplied a machinery to an unrelated party, Daffodil Pvt. Ltd. on 29th August at a price of Rs. 40,00,000 (excluding all taxes). Invoice was issued on 29th August by Aviant Ltd.

The corporate office of Daffodil Ltd., which is at New Delhi, has entered into contract with Aviant Ltd. for supply of machinery. However, the machinery has been installed at Daffodil Pvt. Ltd.'s registered manufacturing unit located in Gurugram (Haryana). Daffodil Pvt. Ltd. has paid the freight directly to the GTA.

Discount @ 2% on the price of machinery excluding taxes was given to Daffodil Pvt. Ltd. as it agreed to make the payment within 15 days. However, Daffodil Pvt. Ltd. paid the consideration on 30th September.

Assume the rates of taxes to be as under:

Bottle Cap Machine: CGST 6% | SGST 6% | IGST 12%

Service of Transportation of Goods: CGST 2.5% | SGST 2.5% | IGST 5%

Other Services involved: CGST 9% | SGST 9% | IGST 18%

Calculate the GST liability [CGST, SGST or IGST, as the case may be] with respect to the supply of machinery and support your conclusions with legal provisions in the form of explanatory notes.

Make suitable assumptions, wherever needed.

Answer

Computation of GST Liability of Aviant Ltd.

Particulars	Amount (Rs.)
Price of machine [Note 1]	40,00,000
<u>Add:</u> Handling and loading charges [Note 2]	10,000
Installation and Commissioning Charges [Note 3]	1,00,000
Transportation Cost [Note 4]	Nil
Price linked subsidy from Diligent Ltd. [Note 5]	<u>2,00,000</u>
Total Price of the Machine	43,10,000
<u>Less:</u> 2% cash discount on price of machinery = 40,00,000 × 2% [Note 6]	<u>(80,000)</u>
Taxable value of supply	42,30,000
<i>Tax liability for the month of August [Note 10]</i>	
IGST @ 12% [Note 7 and Note 8] – [A]	5,07,600
<i>Tax liability for the month of September [Note 10]</i>	
Interest collected @ 2% on 41,10,000 [Note 9]	82,200
<u>Add:</u> Cash discount recovered [Note 9]	<u>80,000</u>
Value of interest and cash discount inclusive of tax	1,62,200
IGST = (1,62,200/112) × 12 - [B]	17,379
Total IGST payable on the machinery [A] + [B]	5,24,979

- (1) As per section 15(1), 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).
- (3) Any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is includible in the value of supply in terms of section 15(2)(c).

- (4) Transportation cost has not been included in the value of supply of the machinery as it is a **separate service contract** between the customer and the third-party service provider. The customer pays the freight directly to the service provider.

The supplier (Aviant Ltd), in this case, merely arranges for the transport and does not provide the transport service on its own account. Therefore, there will be no impact on valuation as Supplier is not a party to contract.

- (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).

- (6) Cash discount was deducted by Aviant Ltd. upfront at the time of supply on 1st August, and hence, the same is excluded from the value of supply as it did not form part of the transaction value.

- (7) In the given case-

⇒ the location of the supplier is in Noida (UP); and

⇒ the place of supply of machinery is the **place of installation** of the machinery i.e., Gurugram (Haryana) in terms of section **10(1)(d)** of the IGST Act, 2017.

Therefore, the given supply is an **inter-State** supply as the location of the supplier and the place of supply are in two different States [Section 7(1)(a) of IGST Act, 2017]. Thus, IGST shall be leviable.

- (8) The given supply is a composite supply involving supply of goods (machinery) **and** services (handling and loading and installation and commissioning) where the principal supply is the supply of goods.

As per section 8(a), a composite supply is treated as a supply of the principal supply involved therein and charged to tax accordingly. Thus, tax rate applicable to the goods (machinery) has been considered.

Interest for the delayed payment (which excludes subsidy related amount of Rs 2,00,000 as the same was not recoverable from the recipient) of any consideration for any supply is includible in the value of supply in terms of section 15(2)(d). Further, cash discount recovered will also be includible in the value of supply as now the transaction value i.e., the price actually paid for the machinery is devoid of any discount.

The cash discount recovered and interest respectively are **inclusive of tax**. Thus, tax payable thereon has to be computed by making **back calculations** in terms of rule 35.

- (9) Invoice for the supply has been issued on 29th August. Thus, the time of supply of goods is **29th August** in terms of section 12(1)(a).

As per section 12(6), the time of supply in case of addition in value by way of interest, late fee, penalty etc. for

delayed payment of consideration for goods is the **date on which the supplier receives such addition in value**. Thus, the time of supply of interest received and cash discount recovered on account of delayed payment of consideration is **30th September**, the date when the full payment was made. The supplier may issue a debit note for such interest and cash discount recovered.

Chapter 7: ITC (Input Tax Credit)

Question 17: B & D Company, a partnership firm, registered in Nagpur, Maharashtra is a wholesaler of taxable product 'P' and product 'Q' exempted by way of a notification. The firm supplies these products only in the eastern part of Maharashtra. All the procurements (both goods and services) of the firm are from the suppliers registered under regular scheme in the State of Maharashtra. The firm pays tax under composition scheme.

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

Particulars	Turnover for the Quarter ended 30 th June	Turnover for the Quarter ended 30 th September
'P'	60,00,000	50,00,000
'Q'	17,65,000	17,00,000

Particulars	Stock as on 30 th June	Stock as on 30 th September	Stock as on 31 st October
'P'	25,00,000	10,00,000	3,60,000
'Q'	10,00,000	2,00,000	1,20,000

The entire stock of the products 'P' and 'Q' available with the firm as on 30th September is purchased during the said half year except a consignment of product 'P' valuing Rs. 3,00,000, which was purchased in the April month of the preceding financial year. The said stock could not be sold during the month of October. In the current financial year, in the month of October, no purchases were made, and the products were sold with a profit margin of 20% on sales [exclusive of taxes]

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

Bill No	Date	Value of products (exclusive of taxes)		
		P	Q	Total
2306	1 st October	2,00,000	3,000	2,03,000
2307	1 st October	1,33,000	5,250	1,38,250
2308	2 nd October	67,000	39,250	1,06,250
2309	3 rd October	58,750	33,750	92,500
2310	5 th October	1,00,000	-	1,00,000
2311	6 th October	94,000	6,000	1,00,000
2312	6 th October	-	17,000	17,000
2313	8 th October	50,000	6,000	56,000
2314	9 th October	60,000	9,000	69,000

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

Compute the ITC to be credited to the Electronic Credit Ledger of the B & D Company, when it exits composition scheme and becomes liable to pay tax under regular scheme, in accordance with section 18(1)(c).

Note: Make suitable assumptions wherever required. Stock is valued at cost price.

Relevant Answer Points

As per section 10(3) the option availed of by a registered person to pay tax under composition scheme shall lapse **with effect from the day** on which his aggregate turnover during a financial year **exceeds Rs. 1.5 crore**.

Refer to section 2(6): Meaning of Aggregate Turnover

Analysis

- In the given case, the firm is registered under the composition scheme in the State of Maharashtra.
- The aggregate turnover of the firm exceeds Rs. 1.5 crore **on 3rd October** [aggregate of both taxable and

exempt turnover from 1st April to 3rd October, i.e. 1,50,05,000 (1,44,65,000 + 2,03,000 + 1,38,250 + 1,06,250 + 92,500)].

- Thus, the firm will pay tax under regular scheme (Section 9) from 3rd October.
- Refer to section 18(1)(c) [Capital Goods ITC also available] and 18(2) [Restriction of 1 year from Invoice Date]

ITC credited to the E-Credit Ledger of the B & D Company on inputs held in on 2nd October

Particulars	Amount
Stock of taxable inputs as on 30 th September [Since no tax is paid on exempt purchases ('Q'), there does not arise any question of availing ITC on the same. Hence, stock of only taxable inputs ('P') is considered]	10,00,000
Add: Purchases [No purchases are made in October]	Nil
Less: Cost of taxable goods sold from 1 st October to 2 nd October [(2,00,000 + 1,33,000 + 67,000) x 80%]	<u>3,20,000</u>
Stock of taxable inputs as on 2 nd October [Since the bill numbers are in continuation, it can be concluded that no sales are missing from the extract]	6,80,000
Less: Stock with invoice issued prior to one year	<u>3,00,000</u>
Stock of inputs on which ITC can be claimed	3,80,000
ITC of CGST @ 9%	34,200
ITC of SGST @ 9%	34,200

Question 18: Sarani Weavers, at Pune, Maharashtra is a registered input service distributor and intends to distribute ITC for the month of March. The following are the details available for such distribution:

Branch	Turnover of Last Quarter	ITC specifically attributable to Branch
Ganganagar Branch (Rajasthan)	10,00,000	IGST = 12,000 CGST = 3,000

		SGST = 3,000
Madhugiri Branch (Karnataka)	5,00,000	Nil
Kosala Branch (UP)	15,00,000	Nil
Mumbai Branch (Maharashtra)	20,00,000	IGST = 1,50,000 CGST = 15,000 SGST = 15,000

ITC available on input services used commonly for all branches is as under:

- CGST: 60,000
- SGST: 60,000
- IGST: 1,20,000

ITC (IGST) of Rs. 10,000 pertaining to March (last year) was inadvertently not distributed. Whether the same can be considered for distribution in March this year?

Madhugiri, Karnataka branch uses input services to manufacture exempted products. Turnover excludes duties & taxes payable to Central and State Government.

Determine the manner of input tax distribution. **[ICAI SM + MTP May'24]**

Relevant Answer Points

Refer to section 20 read with rule 39:

- (i) Total GST credit (CGST+ SGST + IGST) of Rs. 18,000 specifically attributable to Ganganagar Branch, Rajasthan will be distributed as **IGST credit of Rs. 18,000 only to Ganganagar Branch**, Rajasthan [Since recipient and ISD are located in different states].
- (ii) IGST credit of Rs. 1,50,000, CGST credit of Rs. 15,000 and SGST credit of Rs. 15,000 specifically attributable to Mumbai Branch, Maharashtra will be distributed as **IGST credit of Rs. 1,50,000, CGST credit of Rs. 15,000 and SGST credit of Rs. 15,000** respectively, only to Mumbai Branch, Maharashtra [Since recipient is located in the same State in which ISD is located].
- (iii) CGST credit of Rs. 60,000, SGST credit of Rs. 60,000 and IGST credit of Rs. 1,20,000 have to be distributed among the three branches and Mumbai Branch, Maharashtra in proportion of their turnover of the last quarter.

- Ganganagar Branch, Rajasthan will get: **Rs. 48,000** $[2,40,000 \times (10,00,000/50,00,000)]$ as **IGST** credit.
- Madhugiri Branch, Karnataka will get: **Rs. 24,000** $[2,40,000 \times (5,00,000/50,00,000)]$ as **IGST** credit.

The credit attributable to a recipient is distributed even if such recipient is making exempt supplies.

- Kosala Branch, UP will get: **Rs. 72,000** $[2,40,000 \times (15,00,000/50,00,000)]$ as **IGST** credit.
- Mumbai Branch, Maharashtra [same state as of ISD] will get:
 - **Rs. 24,000** $[60,000 \times (20,00,000/50,00,000)]$ as **CGST** credit,
 - **Rs. 24,000** $[60,000 \times (20,00,000/50,00,000)]$ as **SGST** credit and
 - **Rs. 48,000** $[1,20,000 \times (20,00,000/50,00,000)]$ as **IGST** credit.

(iv) ITC of Rs. 10,000 of March (last year) **cannot be distributed in March this year** as ITC available for distribution in a month is to be distributed in the same month.

Question 19: XYZ Pvt. Ltd. is a manufacturing company registered under GST in the State of Uttar Pradesh. It manufactures two taxable products 'Alpha' and 'Beta' and one exempt product 'Gama'. On 1st October, while product 'Beta' got exempted through an exemption notification, exemption available on 'Gama' got withdrawn on the same date. The turnover (exclusive of taxes) of 'Alpha', 'Beta' and 'Gama' in the month of October was Rs. 9,00,000, Rs. 10,00,000 and Rs. 6,00,000 respectively:

XYZ Pvt. Ltd. has furnished the following details:

S. No	Particulars	Price	GST
(a)	Machinery 'U' purchased on 1 st October for being used in manufacturing all the three products	2,00,000	36,000
(b)	Machinery 'V' purchased on 1 st October for being used in manufacturing product 'Alpha' and 'Gama'	1,00,000	18,000
(c)	Machinery 'W' purchased on 1 st October for being exclusively used in manufacturing product 'Beta'	3,00,000	54,000
(d)	Machinery 'Y' purchased on 1 st October four years ago for being exclusively used in manufacturing product 'Beta'. From 1 st October, such machinery will also be used for manufacturing product 'Gama'.	4,00,000	72,000

(e)	Machinery 'Z' purchased on 1 st October two years ago for being used in manufacturing all the three products	3,00,000	54,000
(f)	Raw Material used for manufacturing 'Alpha' purchased on 5 th October	1,50,000	27,000
(g)	Raw Material used for manufacturing 'Beta' purchased on 10 th October	2,00,000	36,000
(h)	Raw Material used for manufacturing 'Gama' purchased on 15 th 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 (T_c)
- (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.

Answer

S. No	Particulars	ITC (Rs.)
(i)	Amount of ITC credited to Electronic Credit Ledger, for the month of October	
	Machinery 'U' - 'A' [Note 1]	36,000
	Machinery 'V' [Note 2]	18,000
	Machinery 'W' [Note 3]	-
	Machinery 'Y' [Note 4]	-
	Machinery 'Z' [Note 5]	-
	Raw Material used for manufacturing 'Alpha' [Note 6]	27,000
	Raw Material used for manufacturing 'Beta' [Note 6]	-
	Raw Material used for manufacturing 'Gama' [Note 6]	<u>18,000</u>

	Amount of ITC credited to Electronic Credit Ledger, for the month of October	99,000
	Aggregate value of common credit (Tc) – Note 7	
(ii)	Value of 'A' for Machinery 'U' purchased on 1 st October	36,000
	Value of 'A' for Machinery 'Z' purchased on 1 st October 2 years ago for effecting both taxable and exempt supplies	54,000
	Input tax claimed on Machinery 'Y' purchased on 1 st October 4 years ago for effecting taxable supplies but used for effecting both taxable and exempt supplies from 1 st October in the current year [Note 8]	<u>72,000</u>
	Aggregate value of common credit (Tc)	1,62,000
(iii)	Common credit attributable to exempt supplies, for the month of 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 E- Cash Ledger	
	IGST payable on 'Alpha' [9,00,000 x 18%]	1,62,000
	IGST payable on 'Beta' [Exempt]	Nil
	IGST payable on 'Gama' [6,00,000 x 18%]	<u>1,08,000</u>
	Total IGST payable on outward supply	2,70,000
	Common credit attributable to exempt supplies for month of October [Note 11]	<u>1,080</u>
	Total output tax liability of October	2,71,080
	Less: ITC available in the Electronic Credit Ledger	<u>99,000</u>
	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 [Rule 43(1)(c)].
- (2) ITC in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies but including zero rated supplies shall be **credited** to the electronic credit ledger [Rule 43(1)(b)].

- (3) ITC in respect of capital goods used or intended to be used exclusively for effecting exempt supplies shall **not** be credited to electronic credit ledger [Rule 43(1)(a)].
- (4) Machinery 'Y' 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 'Z' 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 [Rule 42].
- (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 'T_c', shall be the common credit in respect of such capital goods [Rule 43(1)(d)].
- (8) Where any capital goods which were used exclusively for effecting taxable supplies are subsequently also used for effecting exempt supplies, the ITC claimed in respect of such capital goods shall be added to arrive at the aggregate value of common credit 'T_c' [Proviso to rule 43(1)(d)].
- (9) ITC attributable to a month on common capital goods during their useful life (T_m) shall be computed in accordance with rule 43(1)(e) as under:
- $$= T_c \div 60$$
- $$= 1,62,000 \div 60 = \text{Rs. } \mathbf{2,700}$$
- 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 'T_e', and shall be calculated as:
- $$= \text{Common Credit} \times \text{Turnover of exempt supplies during October} / \text{Total turnover of XYZ Pvt Ltd during October}$$
- $$= 2,700 \times 10,00,000 / 25,00,000 = \mathbf{1,080}$$
- (11) Common credit attributable to the exempt supplies (T_e) along with the applicable interest (which is to be ignored in this case) shall, during every tax period of the useful life of the concerned capital goods, be **added to the output tax liability** of the person making such claim of credit [Rule 43(1)(h)].

Question 20: 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.)
	<u>OUTWARD SUPPLIES:</u>	
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
	<u>INWARD SUPPLIES:</u>	
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 th 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.	7,00,000

	4,00,000 were sometimes worn by the employees outside the factory for personal purposes.]	
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The company provided the following additional information:

- i. In respect of sale of old warehouse building, stamp duty was paid on Rs. 32 lakh.
- ii. 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. **[RTP May'24]**

Answer

Computation of Eligible ITC and Net GST payable by M/s Sitaram Industries Ltd., for m/o October, 2023

Particulars	Value	IGST @ 18%	CGST @ 9%	SGST @ 9%
<u>Outward Supply</u>				
Sale of old warehouse building <i>[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]</i>	Nil	-	-	-
Supply of laptops	13,30,000	2,39,400	-	-

<p><i>[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.</i></p> <p><i>Further, as per section 8(a), supply of laptops with packing is a <u>composite supply</u>, chargeable to tax at the rate applicable to the principal supply (viz. supply of laptops) i.e.,18%]</i></p>	<p>[12,00,000 + 1,30,000]</p>			
<p>Direct Selling Agent service</p> <p><i>[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.</i></p> <p><i>Further, tax will be payable under forward charge since such services are provided by a person other than individual]</i></p>	<p>4,00,000</p>	<p>-</p>	<p>36,000</p>	<p>36,000</p>
<p>Pure labour servicer</p> <p><i>[Inter-State supply since place of supply here is the location of immovable property, viz. Maharashtra in terms of section 12(3) of the IGST Act, 2017.</i></p> <p><i>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]</i></p> <p><i>However, such services in relation to renovation work are not exempt.]</i></p>	<p>6,20,000</p>	<p>1,11,600</p>	<p>-</p>	<p>-</p>
<p>Free training to agents</p> <p><i>[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</i></p>	<p>1,00,000</p>	<p>-</p>	<p>-</p>	<p>-</p>

<i>not related persons.]</i>				
Corporate guarantee provided to Laxmi Logistics Limited <i>[Supply of service between related parties even when made without any consideration is deemed supply in terms of Schedule I.</i> Valuation: Further, value of corporate guarantee, in terms of rule 28(2), will be higher of: (i) 1% of the amount of guarantee (2 cr), (ii) <i>actual consideration]</i>	2,00,000	-	18,000	18,000
Interest received on fixed deposits <i>[Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest are exempt]</i>	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
Net GST payable in cash		3,26,042	37,361	37,361

Notes

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

Particulars	Value	IGST	CGST	SGST
Debit note received <i>[ITC on debit notes issued in a FY can be availed anytime 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)]</i>	4,00,000	-	36,000	36,000

Solar panels purchased <i>[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 or 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)]</i>		-	-	-
Uniforms purchased <i>[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)(g)]</i>	3,00,000	54,000	-	-
Total		54,000	36,000	36,000

(ii) Computation of Common Credit Attributable to Exempt Supplies

Particulars	IGST	CGST	SGST
Common credit on receipt of debit note <i>[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.]</i>	--	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) = 54,000 x 32,00,000/59,50,000 (IGST) = 36,000 x 32,00,000 / 59,50,000 (CGST/SGST) Exempt turnover = 32,00,000 and total turnover = 59,50,000 [note below]	29,042	19,361	19,361

Notes

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

(iii) Computation of ITC available for set off

Particulars	IGST	CGST	SGST
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
<u>Less:</u> Common credit attributable to exempt supplies during the tax period [Note (ii)]	29,042	19,361	19,361
ITC available for set off	24,958	16,639	16,639

Question 22: Poorva Impex Ltd., 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, 2023:

S. No.	Particulars	Amount
	OUTWARD SUPPLY:	
(i)	Sold a future derivative contract at NSE (National Stock Exchange) which was due in the month of April. Said contract had no delivery option.	20,00,000
(ii)	Supplied 50 LED TVs at Hyderabad to the State Government of Telangana.	8,00,000
	50 Stands mandatorily required to mount the TV on wall were also supplied along with LED TV.	72,000
(iii)	Provided intra-State service as a Direct Selling Agent (D.S.A.) to Uday Small Finance Bank Limited for their retail loan products	5,00,000

(iv)	Passenger transportation service provided to general public by company owned ferries between two islands in the State of Maharashtra. Purpose was to facilitate daily commutation of local people.	1,20,000
(v)	Supplied goods to its agent in the State of Bihar. Open market value of the said goods were 3,00,000. The said agent is supplying goods of like kind and quality to his unrelated customer at ` 3,20,000.	
	INWARD SUPPLY:	
(i)	Availed HR training services for all its employees from "BE HUMBAL", an HR Firm registered under GST in Maharashtra. Training was held at a resort in the State of Himachal Pradesh.	4,00,000
(ii)	Purchased processing machines from David & Co., registered under GST, in the State of Gujarat. Machines were bought in "as is where is condition" at Gujarat to produce taxable items.	1,00,000
(iii)	Purchased 5 two-wheelers with engine capacity of 25 cc for usage of its employees both within and outside factory producing taxable products. Supply was made at Mumbai by a GST registered dealer at Tamil Nadu.	2,00,000

The company provided the following additional information:

- (i) Company wishes to choose the most beneficial option in respect of supply to agent and branch transfer.
- (ii) Company transferred certain taxable items to its Kerala branch for distributing as free samples on the occasion of inauguration of said branch which is yet to be registered. Value declared in the invoice for transfer was Rs. 2.50 lakh whereas open market value of the same was Rs. 3.00 lakh. Kerala branch has yet not sold such kind of goods to any of the customer.
- (iii) Rate of CGST, SGST and IGST are 9%, 9% and 18% respectively for both inward and outward supply of goods and services, except TV stand for which the rates are 14%, 14% and 28% respectively.
- (iv) All the amounts given above are exclusive of taxes, wherever applicable.
- (v) Except specially written, all the inward supplies were used for taxable as well as exempted outward supplies.
- (vi) No inward supply is used for non-business purpose.
- (vii) 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 payable in cash (CGST, SGST or IGST, as the case may be) for the month of April, 2023 for the Poorva Impex Ltd., Maharashtra.

Reason for the treatment of each item needs to be given. [Nov'23 Exam]

Answer

Computation of minimum net GST payable in cash for the month of April, 2023

S. No.	Particulars	Amount	CGST	SGST	IGST
(i)	Futures derivatives contract <i>[Futures derivative contracts with no delivery option qualify as securities. They are <u>neither goods nor services</u> in terms of Schedule III of the CGST Act, 2017. Thus, given transaction is not a supply.]</i>	20,00,000	-	-	-
(ii)	Supply of 50 LED TVs <i>[It is an inter-State supply since place of supply here is the location where the movement of goods terminates, viz. Hyderabad. Further, supply of LED TVs with stands is a composite supply, chargeable to tax at the rate applicable to the <u>principal supply (viz. supply of LED TVs) i.e., 18%</u>.]</i>	8,72,000 [8,00,000 + 72,000]			1,56,960 [8,72,000 × 18%]
(iii)	Intra-State supply as Direct Selling Agent (DSA) <i>[Taxable under forward charge. Reverse Charge Mechanism is not applicable since services are provided by a body corporate and not by an individual DSA.]</i>	5,00,000	45,000 [5,00,000 × 9%]	45,000 [5,00,000 × 9%]	
(iv)	Passenger transportation service <i>[Passenger transportation service provided by public transport, <u>other than predominantly for tourism purpose</u>, in a vessel between places located in India is exempt.]</i>	1,20,000			

(v)	Supply of goods to an agent <i>[Value of inter-State supply of goods to agent shall be: (i) Open Market Value (3,00,000); or (ii) 90% of the price of goods of like kind and quality charged by recipient to unrelated customer (3,20,000 × 90%), at the option of owner. Since the company wishes to choose most beneficial option, least of the two values has been taken.]</i>	2,88,000			51,840 [2,88,000 × 18%]
(vi)	Inter-State transfer of taxable items to Kerala branch <i>[Since recipient is <u>not eligible for full ITC</u> and goods are not intended for further supply as such by the recipient, value of supply of goods to branch shall be open market value.]</i>	3,00,000			54,000 [3,00,000 × 18%]
	Total output tax		45,000	45,000	2,62,800
	Less: ITC available for set off [Refer note below]		33,600	33,600	36,000
	Minimum net GST payable in cash (rounded off)		11,400	11,400	2,26,800

Note: Computation of eligible ITC available for set off

S. No.	Particulars	Amount	CGST	SGST	IGST
1	HR training availed <i>[It is intra-State supply as place of supply of training services provided to registered person is location of recipient i.e. Maharashtra. Further, ITC of services used in course or furtherance of business is available.]</i>	4,00,000	36,000 4,00,000 × 9%]	36,000 [4,00,000 × 9%]	
2	Machine purchased <i>[It is intra-State supply since place of supply in case of goods not involving movement of goods is location of goods <u>at the time of delivery</u> to recipient, viz. Gujarat.]</i>	1,00,000	-	-	-

	<i>However, ITC of the same will not be available as CGST/SGST of one State cannot be utilized for discharging of CGST/SGST liability of another State.]</i>				
3	Two wheelers purchased <i>[It is inter-State supply since place of supply is Mumbai. ITC is not blocked as it is eligible on two-wheelers with engine capacity of up to 25cc.]</i>	2,00,000			36,000 [2,00,000 x 18%]
	Common credit <i>[ITC availed on HR training is common credit.]</i>		36,000	36,000	
	<u>Less:</u> ITC attributable to exempt supplies [Common credit x (Exempt turnover/ Total turnover)] to be reversed [36,000 x 1,40,000/21,00,000] Total Exempt Turnover = Exempt ferry service (120,000) + value of security (20,000) = 1,40,000 Value of exempt supply includes transactions in securities and value of transactions in securities is 1% of sale value of security =1% of 20,00,000 = 20,000		2,400	2,400	
	Eligible ITC out of common credit		33,600	33,600	
	<u>Add:</u> ITC on two-wheelers used exclusively in relation to taxable products				36,000
	Eligible ITC available for set off		33,600	33,600	36,000

Chapter 8: Registration

Question 8: Decide with reason whether the registration is required under CGST Act, 2017 in the following independent cases:

- (i) A casual taxable person (CTP) has provided inter-State supply of notified products being textiles hand printing amounting to Rs. 19.25 lakh during the month of January. Those products were made by craftsmen by both hand and machines equally. CTP had obtained PAN and generated e-way bill for supply.

(ii) Mr. Chandu of Delhi doing trading business across India and his intra-state turnover details are as below,

- ⇒ Taxable supplies made from Delhi: Rs. 18 lakh.
- ⇒ Exempt supplies made from Andhra Pradesh: Rs. 10 lakh.
- ⇒ Both taxable and exempt supplies made from Tamil Nadu: Rs. 5,00,000 and Rs. 6,00,000 respectively.

It may be noted that Mr. Chandu makes only intra-State supplies across India. **[Nov'24 MTP]**

Hints:

- (i) Mandatory registration for CTP. Exemption would have applied if the notified products were made by the craftsmen predominantly by **hand**.
- (ii) Threshold limit for registration for Intra State supply of goods in Delhi, AP and Tamil Nadu = 40 Lacs

Agg. T/o = 39 Lacs

Hence, Mr. Chandu is **not liable** to be registered.

Question 17: Mahadev Enterprises, a sole proprietorship firm, opened a shopping complex dealing in supply of ready-made garments at multiple locations, i.e. in Himachal Pradesh, Uttarakhand and Tripura in the month of June.

It has furnished the following details relating to the supply made at such multiple locations for the month of June:-

Particulars	Himachal Pradesh	Uttarakhand	Tripura
Intra state supply of Taxable Goods	22,50,000		7,00,000
Intra-State supply of exempted goods			6,00,000
Intra-State supply of non-taxable goods		21,00,000	40,000

Amounts are exclusive of GST.

With the help of the above mentioned information, answer the following questions giving reasons:-

1. Determine whether Mahadev Enterprises is liable to be registered under GST law and what is the threshold limit

of taking registration in this case assuming that it is not required to pay any tax on inward supplies under reverse charge.

2. Explain with reasons whether your answer in (1) will change in the following independent cases:
- (1) If Mahadev Enterprises is dealing exclusively in taxable supply of goods only from Himachal Pradesh;
 - (2) If Mahadev Enterprises is dealing in taxable supply of goods and services only from Himachal Pradesh;
 - (3) If Mahadev Enterprises is dealing in taxable supply of goods only from Himachal Pradesh and has also effected inter-State supplies of taxable goods (other than notified handicraft goods and notified hand-made goods) amounting to Rs. 4,00,000.

Relevant Answer Points

1. **As per section 22 read with Notification No. 10/2019**, a supplier is liable to be registered in the State/ UT from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a FY exceeds the threshold limit. The threshold for a person making exclusive intra-State taxable supplies of **goods** is as under:-
- (i) **Rs. 10 lakhs** for the States of Mizoram, Tripura, Manipur and Nagaland.
 - (ii) **Rs. 20 lakhs** for the States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.
 - (iii) **Rs. 40 lakhs** for rest of India.

The threshold limit for a person exclusively making taxable supply of services or supply of both goods and services is as under:-

- (i) **Rs. 10 lakhs** for the States of Mizoram, Tripura, Manipur and Nagaland.
- (ii) **Rs. 20 lakhs** for the rest of India.

Refer to section 2(6): Meaning of aggregate turnover

In the light of the afore-mentioned provisions, the aggregate turnover of Mahadev Enterprises is computed as under:

Computation of State-wise Aggregate Turnover of Mahadev Enterprises

Particulars	Himachal Pradesh	Uttarakhand	Tripura
Intra-State supply of taxable goods	22,50,000	-	7,00,000
Intra-State supply of exempted goods	-	-	6,00,000
Intra-State supply of non- taxable goods (Refer Note below)		21,00,000	40,000
Aggregate Turnover	22,50,000	21,00,000	13,40,000

Note: As per section 2(47), **exempt supply includes non-taxable supply**. Thus, intra-State supply of non-taxable goods in Uttarakhand, being a non-taxable supply, is an exempt supply and is, therefore, included in the aggregate turnover.

Analysis: Mahadev Enterprises is engaged in exclusive intra-State supply of goods from Himachal Pradesh, Tripura and Uttarakhand. However, since Mahadev Enterprises makes taxable supply of goods from one of the specified Special Category States (i.e. Tripura), it will not be eligible for the higher threshold limit of Rs. 40 lakhs; instead, the threshold limit for registration will be **reduced to Rs. 10 lakhs**.

- (1) **Conclusion:** Mahadev Enterprises is **liable to be registered** under GST law with the aggregate turnover amounting to Rs. **56,90,000** (computed on all India basis) of the States of Himachal Pradesh, Uttarakhand and Tripura since the applicable threshold limit of registration in this case is Rs. 10 lakhs. Further, he is **not liable to be registered in Uttarakhand** since he is not making any taxable supply from there.
- (2) (a) If Mahadev Enterprises is dealing in supply of goods only from Himachal Pradesh, the applicable threshold limit of registration would be Rs. **40 lakhs**. Thus, Mahadev Enterprises will **not be liable** for registration as its aggregate turnover would be **Rs. 22,50,000**.
- (b) If Mahadev Enterprises is dealing in taxable supply of goods and services only from Himachal Pradesh then higher threshold limit of Rs. **40 lakh will not be applicable** as the same applies only in case of exclusive supply of goods. Therefore, in this case, the applicable threshold limit will be Rs. **20 lakh** and hence, Mahadev Enterprises will be **liable to registration**.
- (c) In case of inter-State supplies of taxable goods other than notified handicraft goods or notified hand-made products, **section 24 requires compulsory registration irrespective of the quantum of aggregate turnover**. Thus, Mahadev Enterprises will be **liable to registration**.

Question 18: 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:

- i. 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.
- ii. 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.
- iii. Player A transferred the balance amount from the master wallet to his bank account after the aforesaid transactions. Assume all the above transactions to be exclusive of GST unless otherwise specified.
- iv. Rate of GST applicable is 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? [RTP May'24]*

Answer

Online Gaming: 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.

Betting: 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:

- (2) **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 10,000 (inclusive of GST) by Player A with Fortune 365 after excluding GST = **7,812.50** (10,000 × 100/128)

GST payable = 7,812.50 × 28%

= **2,188** – [A]

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

GST payable = 11,000 × 28%

= **3,080** – [B]

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

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

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

(4) 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.

Chapter 10: Accounts | Records | E-Way Bill

Question 2: M/s Cute and Co., a registered person under GST, filed an appeal with respect to denial of Input Tax Credit (ITC) related to the financial year 2017-18. This appeal was disposed of in favour of M/s Cute and Co. on 30-09-2022. Annual return for the financial year 2017-18 was filed by it on 31-03-2020. Due date for the said return was 07-02-2020.

Cute and Co. seeks your advice with reason regarding the time-line upto which they are supposed to retain the books of accounts and other records as per the provisions of the CGST Act, 2017. **[Nov'23 Exam]**

Answer

M/s Cute & Co. who is a party to an appeal is required to retain the books of accounts and other records:

- (i) for a period of 1 year after final disposal of such appeal (i.e. 30.09.2023), or
- (ii) for 72 months from the due date of furnishing of annual return for the financial year 2017-18 (07.02.2026), whichever is **later**.

Conclusion: Thus, M/s Cute & Co. needs to maintain books of accounts till **07.02.2026**.

Chapter 11: Payment of Tax

Question 2: Mr. Broker wrongly availed Rs. 1,25,000 as input tax credit (CGST + SGST) at the time of furnishing return under section 39 of the CGST Act, 2017 for the month of October 2022. This ITC was not utilized against the output tax liability for the month of October 2022. Mr. Broker utilised ITC of Rs. 75,000 from the above wrongly availed ITC of Rs. 1,25,000 against output tax liability for the month of November 2022. **[Nov'23 Exam]**

Mr. Broker paid the amount of ITC wrongly utilised of Rs. 75,000 on 10th March, 2023 and reversed the unutilized amount of Rs. 50,000 on 20th March 2023. Calculate the total interest payable (CGST + SGST) rounded off to nearest rupee under GST law if Mr. Broker files:

- (i) Form GSTR-3B for the month of October on 18th November 2022, and
- (ii) Form GSTR-3B for the month of November on 25th December 2022.

Note: Assume there is no extension of due date of filing of Form GSTR-3B and no other transactions were

undertaken during the year 2022-23. [MTP May'24]

Answer

Where ITC has been wrongly availed and utilised, the registered person shall pay interest on the same

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

Since wrongly availed ITC of Rs. 50,000 has been reversed without utilizing the same, interest is **not payable** on the same.

Interest is payable on wrongly availed and utilised ITC of Rs. **75,000**. Date of utilisation of said ITC will be:

- (a) Due date of furnishing return for November, 2022 [20th December, 2022] or
- (b) Actual date of filing of the return for November [25th December, 2022] whichever is earlier.

Thus, date of utilisation of said ITC will be 20th December, 2022.

Interest (CGST + SGST) will be payable for **80 days** [21st December 2022 to 10th March, 2023 (both days inclusive)] as follows:

$$75,000 \times 80/365 \times 18\%$$

$$= \mathbf{2,959} \text{ [CGST+SGST] (rounded off)}$$

Question 19: Miss Nitya has following balances in her Electronic Cash Ledger as on 28th February as per GST portal.

Major Heads	Minor Heads	Amount
CGST	Tax	40,000
	Interest	1,000
	Penalty	800
SGST	Tax	80,000
	Interest	400
	Penalty	1,200
	Fee	2,000

IGST	Tax	45,000
	Interest	200
	Penalty	Nil

She furnishes return on monthly basis. Her tax liability for the month of February for CGST and SGST was Rs. 75,000 each. She failed to pay the tax and contacted you as legal advisor on 12th April to advise her as to how much amount of tax or interest she is required to pay, if any. In order to optimize the interest liability as per GST provisions, she is willing to make any transfer from the cash ledger between any of the major or minor heads as the case may be. She wants to pay the tax on 20th April.

Other information:

- (i) Date of collection of GST was 18th February.
- (ii) No other transaction after this up to 20th April.
- (iii) Ignore penalty and late fee for this transaction.
- (iv) No other balance is available.

You are required to advise her with reference to legal provisions with brief notes on the legal provisions applicable.

Answer

As per section 49(10) of the CGST Act, 2017, any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the CGST Act, 2017 can be transferred to the electronic cash ledger for integrated tax, central tax, State tax, Union territory tax or cess, in such form and manner and subject to such conditions and restrictions as may be prescribed. Thus, amount entered under any Minor head (Tax, Interest, Penalty, etc.) and Major Head (CGST, IGST, SGST/UTGST) of the Electronic Cash Ledger can be transferred to any other major or minor head. Consequently, cross-utilization among Major and Minor heads is also possible.

Further, as per rule 88B of the CGST Rules, 2017, where any amount has been credited in the Electronic Cash Ledger as per provisions of section 49(1) on or before the due date of filing the said return, but is debited from the said ledger for payment of tax while filing the said return after the due date, the said amount shall not be taken into consideration while calculating such interest if the said amount is lying in the said ledger from the due date till the date of its debit at the time of filing return.

Thus, as per section 49(10) read with rule 88B, since the amount available in the Electronic Cash Ledger from the due date till the date of its debit at the time of filing return is more than the GST payable, no interest is payable in the given case.

Question 20: Manihar Enterprises, registered in Delhi, is engaged in supply of various goods and services exclusively to Government departments, agencies etc. and persons notified under section 51. It has provided the information relating to the supplies made, their contract values and the payment due against each of them in the month of October, respectively as under:

S. No	Particulars	Total Contract Value (incl. of GST)	Payment due in October
1	Supply of stationery to Fisheries Department, Kolkata	2,60,000	15,000
2	Supply of car rental services to Municipal Corporation of Delhi	2,95,000	20,000
3	Supply of a heavy machinery to Public Sector Undertaking located & registered in Uttarakhand	5,90,000	25,000
4	Supply of taxable goods to Delhi office of National Housing Bank, a society established by Government of India under the Societies Registration Act, 1860	6,49,000	50,000
5	Interior decoration of Andhra Bhawan located in Delhi. Service contract is entered into with the Government of Andhra Pradesh (registered only in Andhra Pradesh)	12,39,000	12,39,000
6	Supply of printed books and printed post cards to a West Delhi Post Office [Out of total contract value of Rs. 9,72,000, contract value for supply of books (exempt from GST) is Rs. 7,00,000 and for supply of printed post cards (taxable under GST) is Rs. 2,72,000.]	9,72,000	50,000 for books & 20,000 for printed postcards

7	<p>Maintenance of street lights in Municipal area of East Delhi* [The maintenance contract entered into with the Municipal Corporation of Delhi also involves replacement of defunct lights and other spares. However, the value of supply of goods is not more than 25% of the value of composite supply.]</p> <p><i>*an activity in relation to any function entrusted to a Municipality under article 243W of the Constitution</i></p>	3,50,000	3,50,000
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You are required to determine amount of tax, if any, to be deducted from each of the receivable given above assuming the rate of CGST, SGST and IGST as 9%, 9% and 18% respectively.

Will your answer be different, if Manihar Enterprises is registered under composition scheme? **[MTP Nov'24]**

Relevant Answer Points

Refer to section 51 [TDS Provisions]

Further, for the purpose of deduction of tax, the value of supply shall be taken as the amount **excluding** CGST, SGST/UTGST, IGST and GST Compensation Cess indicated in the invoice.

Analysis: Since in the given case, Manihaar Enterprises is supplying goods and services exclusively to Government departments, agencies etc. and persons notified under section 51, applicability of TDS provisions on its various receivables is examined in accordance with the above-mentioned provisions as under:

S. No	Particulars	Total Contract Value	Payment Due	Tax to be Deducted		
				CGST	SGST	IGST
1	Supply of stationery to Fisheries Department, Kolkata (Note-1)	2,60,000	15,000			
2	Supply of car rental services to Municipal Corporation of Delhi (Note-2)	2,95,000	20,000			

3	Supply of a heavy machinery to Public Sector Undertaking located in Uttarakhand (Note-3)	5,90,000	25,000			500
4	Supply of taxable goods to Delhi office of National Housing Bank, a society established by Government of India under the Societies Registration Act, 1860 (Note-4)	6,49,000	50,000	500	500	
5	Interior decoration of Andhra Bhawan located in Delhi (Note-5)	12,39,000	12,39,000			
6	Supply of printed books and printed post cards to a West Delhi Post Office (Note-6)	9,72,000				
7	Maintenance of street lights in Municipal Value of East Delhi (Note 7)	3,50,000	3,50,000			

Notes

1. Being an inter-State supply of goods, supply of stationery to Fisheries Department, Kolkata is subject to IGST @ 18%. Therefore, total value of taxable supply [excluding IGST] under the contract is as follows:

$$= 2,60,000 \times 100 / 118$$

$$= \mathbf{2,20,339}$$
 (rounded off)

Since the total value of supply under the contract does not exceed Rs. 2,50,000, **tax is not required** to be deducted.

2. Being an intra-State supply of services, supply of car rental services to Municipal Corporation of Delhi is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

$$= 2,95,000 \times 100 / 118$$

$$= \mathbf{2,50,000}$$

Since the total value of supply under the contract does not exceed Rs. 2,50,000, **tax is not required** to

be deducted.

3. Being an inter-State supply of goods, supply of heavy machinery to PSU in Uttarakhand is subject to IGST @ 18%.

Therefore, total value of taxable supply [excluding IGST] under the contract is as follows:

$$= 5,90,000 \times 100 / 118$$

$$= 5,00,000$$

Since the total value of supply under the contract exceeds` 2,50,000, PSU in Uttarakhand is **required to deduct tax @ 2% of Rs. 25,000, i.e. Rs. 500.**

4. Being an intra-State supply of goods, supply of taxable goods to National Housing Bank, Delhi is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

$$= 6,49,000 \times 100 / 118$$

$$= 5,50,000$$

Since the total value of supply under the contract exceeds Rs. 2,50,000, National Housing Bank, Delhi is **required to deduct tax @ 2% (1% CGST + 1% SGST) of Rs. 50,000, i.e. Rs. 1,000.**

5. Proviso to section 51(1) of the CGST Act, 2017 stipulates that no tax shall be deducted if the location of the supplier and the place of supply is in a State or Union territory which is **different** from the State or as the case may be, Union territory of registration of the recipient.

Refer to Section 12(3) of the IGST Act, 2017: POS w.r.t Immovable Property

Since the location of the supplier (Manihar Enterprises) and the place of supply is Delhi and the State of registration of the recipient i.e. Government of Andhra Pradesh is Andhra Pradesh, **no tax is liable to be deducted** in the given case.

6. If the contract is made for both taxable supply and exempted supply, tax shall be deducted if the total value of **taxable supply in the contract exceeds Rs. 2,50,000**. Being an intra-State supply of goods, supply of printed post cards to a West Delhi Post Office is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

$$= 2,72,000 \times 100 / 118$$

$$= 2,30,509 \text{ (rounded off)}$$

Since the total value of taxable supply under the contract does not exceed Rs. 2,50,000, **tax is not required to be deducted.**

7. Refer to Entry 3A of the Exemption Notification.

Since maintenance of street lights (an activity in relation to a function entrusted to a Municipality) in Municipal area of East Delhi involving replacement of defunct lights and other spares where the value of supply of goods is **not more than 25%** of the value of composite supply is a service **exempt** from GST. Since tax is liable to be deducted from the payment made or credited to the supplier of taxable goods or services or both, **no tax is required to be deducted** in the given case as the supply is exempt.

- **The answer will remain unchanged** even if Manihar Enterprises is registered under composition scheme. Tax will be deducted in all cases where it is required to be deducted under section 51 of the CGST Act, 2017 including the scenarios when the supplier is registered under composition scheme.

Chapter 12: ECO

Question 1: Starkart Limited owns and operates a web portal in the name of “Starkart” and is registered with the jurisdictional GST authorities in Delhi as an electronic commerce operator and is liable to collect tax at source under section 52. Starkart provides listing service to various sellers for selling the goods to ultimate customers. Besides this, Starkart also sells its own products through the same web portal.

For the listing services provided to sellers, Starkart charges a listing fee at the rate of 10% of turnover of goods sold by the seller in a particular month. Such listing fee is recovered from the seller irrespective of any return of goods sold through Starkart. The customers can choose from wide range of goods listed on the web portal and place an online order for goods.

The payment is made by the customers through the payment gateway in online mode only. At the time of monthly settlement, Starkart makes the payment to the sellers after adjusting the tax collection at source at the applicable rates.

The invoice for goods sold on Starkart is issued by the seller in the name of customers and tax is charged on the basis of location of seller and customer. The goods are shipped directly by the seller to the customer and there is no responsibility of shipping the goods on Starkart for such third-party sellers.

In case of return of goods by the customer, the shipping is arranged by Starkart. It charges a fee equivalent to 20% of the value of goods returned as cancellation charges and refunds the balance amount to the customer.

Further, 10% of the value of goods returned is collected from the seller by Starkart as handling charges for return of goods.

In the month of January, Pulkit, a resident of Rajasthan, purchased following goods from Starkart:

- Laptop having a value of Rs. 50,000 and a printer having a value of Rs. 10,000. Both the products are sold by Infocom Limited, a seller listed on Starkart and registered under GST in the State of Uttar Pradesh.
- Mobile phone having a value of Rs. 30,000 sold by Starkart in its own capacity.
- CCTV camera system having a value of Rs. 1,00,000 sold by Secure World, listed on Starkart and registered under GST in the State of Gujarat.

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

The opening balance of input tax credit for the relevant tax period for Starkart, Infocom Limited and Secure World is nil. Further, there is no other inward or outward supply transaction for Starkart, Infocom Limited and Secure World in January apart from the aforementioned transactions. Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.

GST is applicable on all inward and outward supplies at the following rates unless otherwise specified:

CGST - 9%, SGST - 9%, IGST - 18%

Compute the net tax liability (including amount collected as TCS) of Starkart Limited and net GST payable in cash (after set-off of credits, if any) of Infocom Limited and Secure World, for the month of January.

Answer

Computation of net tax liability (including amount collected as TCS) of Starkart Limited for January:

Particulars	Amount (Rs.)
TCS to be collected from Infocom Limited on supply of Laptop and a printer to Pulkit <i>[Starkart is an ECO since it owns and operates a web portal through which Infocom Limited supplies goods. Further, IGST is applicable on said inter-State transaction since supplier - Infocom Limited is located in the State of Uttar Pradesh and place of supply is Rajasthan [i.e. where movement of goods terminates in terms of section 10(1)(a) of the IGST Act, 2017]. Thus, Starkart will collect TCS @ 0.5% of [50,000 + 10,000]</i>	300
GST to be paid by Starkart on supply of mobile phone made on its own account @ 18% (IGST) of Rs. 30,000. IGST is applicable on said inter-State transaction since supplier - Starkart is located in Delhi and place of supply is Rajasthan [i.e. where movement of goods terminates in terms of section 10(1)(a) of the IGST Act, 2017]. Since supply has been made by Starkart	5,400

on its own account, no TCS needs to be collected.	
TCS to be collected from Secure World on supply of CCTV camera system to Pulkit <i>[ECO - Starkart is liable to collect TCS on this transaction. Further, IGST is applicable on said inter-State transaction since supplier - Secure World is located in the State of Gujarat and place of supply is Rajasthan [i.e. where movement of goods terminates in terms of section 10(1)(a) of the IGST Act, 2017]. Thus, Starkart will collect TCS @ 0.5% of 1,00,000]</i>	500
Listing services provided by Starkart to Infocom Limited and Secure Limited @ 10% of turnover for the month of January. Turnover of Infocom Limited and Secure Limited is 60,000 and 1,00,000 respectively. IGST @ 18% on (1,60,000 × 10%) is applicable on said inter- State transaction since supplier – Starkart is located in Delhi and place of supply is Uttar Pradesh and Gujarat respectively [i.e. location of recipient in terms of section 12(2) of the IGST Act, 2017]	2,880
Total GST liability (including TCS) of Starkart for January	9,080

Computation of net GST payable in cash by Infocom Limited for the month of January

Particulars	Amount (Rs.)
Gross GST liability <i>[18% of turnover for January (50,000 + 10,000)]</i>	10,800
<u>Less:</u> ITC of GST payable on listing services received from [(10% of 60,000) × 18%]	(1,080)
Net GST payable from Electronic Cash Ledger	9,720
<u>Less:</u> TCS credited to Electronic Cash Credit Ledger	(300)
Net GST payable in Cash	9,420

Computation of net GST payable in cash by Secure World for the month of January

Particulars	Amount
Gross GST Liability <i>[18% of turnover for January (` 1,00,000)]</i>	18,000

<u>Less:</u> ITC of GST payable on listing services received from [(10% of 1,00,000) × 18%]	(1,800)
Net GST payable from Electronic Cash Ledger	9,720
<u>Less:</u> TCS credited to Electronic Cash Credit Ledger	(500)
Net GST payable in cash	15,700

Question 21: 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. **[May'24]**

Answer

- (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

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

= 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 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 Raj Niwas Palace.

= 1,50,000 × 0.25%

= Rs. **375 each** under CGST and SGST

Chapter 13: Returns

Question 21: 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? **[RTP May'24]**

Answer

Refer to section 45: Final Return

Analysis: 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.**

Final Return w.r.t ISD Reg. Cancellation: 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.

Chapter 14: Import Export

Question 22: A Ltd. is making zero rated supplies which are also specifically exempt from GST. The company has paid input tax of Rs. 2,00,000 on inputs and input services which have been used exclusively in effecting such zero rated supplies.

Examine if A Ltd. can avail ITC of input tax of Rs. 2,00,000 paid on inputs and input services used exclusively in effecting such zero-rated supplies.

Answer

As per section 16(2), ITC **may be availed** for making zero rated supplies, notwithstanding that such supplies are exempt supplies. However, the same is subject to provisions u/s 17(5) of the CGST Act, i.e. blocked credit.

Hence, A Ltd. can take credit of Rs. 2,00,000 even if the outward zero rated supply is exempt from GST. However, the credit would not be available in respect of the inputs and input services, the credit on which is blocked under section 17(5) of the CGST Act.

Question 23: Mr. Amar Kant, a Chartered Accountant, being a partner in GST registered firm orders a gaming software for his son from a company located in USA. He makes the payment for the same from his personal bank account. Examine whether the transaction will be liable to GST. If yes, in whose hands the tax liability will arise? **[MTP May'24]**

Answer

- The supply of gaming software is in the nature of OIDAR service in terms of section 2(17).
- The transaction is for personal consumption of Mr. Amar Kant and the payment has also been made from the personal bank account of Mr. Amar Kant and not from the bank account of his GST registered firm. Therefore, being an unregistered person receiving OIDAR service in taxable territory, **Mr. Amar Kant is a non-taxable online recipient** in terms of section 2(16).
- Services received from a provider of service located in a non-taxable territory by an individual in relation to any purpose other than commerce, industry or any other business or profession is **exempt** from IGST. However, such exemption is not available in case of OIDAR services.
- Therefore, being an OIDAR service provided by a supplier located outside India and received by a non-taxable online recipient, the same is **liable to GST**.
- Tax on service supplied by any person located in a non-taxable territory to any person *other than non-taxable online recipient* is payable by the recipient of such service under reverse charge. Therefore, tax on OIDAR services provided by the company located in USA to Mr. Amar Kant, a non-taxable online recipient, will be payable by such company under **forward charge**.

Question 24: AXT Ltd. entered into a high sea sale transaction with BYU Ltd. for certain goods. AXT Ltd. is of the view that GST on such sale transaction is payable at the time of such sale and basic customs duty is payable at the time of filing the bill of entry for import of goods. Examine whether the view taken by AXT Ltd. is correct.

Answer

AXT Ltd.'s view is **partially correct**.

Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption (high sea sale) is **neither treated as supply of goods nor supply of services** in terms of paragraph 8(b) of Schedule III to the CGST Act.

- ➔ Thus, GST is not leviable on high sea sales. Therefore, AXT Ltd.'s view that GST is payable on a high-sea sale transaction at the time of sale, is **not correct**.

As per section 14 of the Customs Act, 1962, the value for the purpose of charging customs duty on imported goods is the value at the time of importation, i.e. at the time of filing of the bill of entry. Further, IGST on imported goods is also levied at the time of filing of bill of entry. Therefore, in case of high sea sales, the assessable

value of imported goods for levying customs duty and IGST is determined on the basis of the price paid by the last high sea sales buyer who files the bill of entry for home consumption.

- ➔ Therefore, AXT Ltd.'s view that basic customs duty is payable at the time of filing the bill of entry for import of goods is **correct**.

Chapter 15: Refunds

Question 25: Kailash Global (P) Ltd. supplies various goods in domestic and international markets. It is engaged in both manufacturing and trading of goods. The company is registered under GST in the State of Karnataka. The company exports goods without payment of tax under letter of undertaking in accordance with the provisions of section 16(3) of the IGST Act, 2017.

The company has made the following supplies during a tax period:

S. No	Particulars	Amount (Rs.)
1	Export of product 'A' to UK for \$ 10,000. Assessable value under customs in Indian rupees. [Export duty is payable on product 'A' at the time of exports. Further, value of like goods domestically supplied by the similarly placed supplier is Rs. 6,00,000]	7,00,000
2	Domestic supplies of taxable product 'B'* during the period [excluding tax @ 5%] [Inputs used in manufacturing of such goods are taxable @18%] *not notified as a product, in respect of which refund of unutilised ITC shall not be allowed under section 54(3)(ii)	10,00,000
3	Supply of goods to Export Oriented Unit [excluding tax@ 18%] [ITC has been claimed by the recipient]	5,00,000
4	Export of exempt supplies of goods (Value of like goods domestically supplied by the similarly placed supplier is Rs. 5,00,000)	6,00,000

The ITC available for the above tax period is as follows:

S. No.	Particulars	Rs.
1	On inputs	3,50,000
2	On input service	1,50,000
3	On capital goods	1,20,000

Determine the maximum amount of refund admissible to Kailash Global (P) Ltd. for the given tax period.

Answer

Computation of Maximum Amount of Refund Admissible to Kailash Global (P) Ltd.

Particulars	Amount (Rs.)
Exports of product 'A' to UK [Note (i)]	Nil
Domestic supplies of taxable product 'B' during the period [Note (ii)]	90,000
Supply of goods to Export Oriented Unit [Note (iii)]	Nil
Export of exempt supplies [Note (iv)]	<u>1,07,143</u>
Total Refund Claim Admissible	1,97,143

Notes

- (i) Export of goods is a zero-rated supply in terms of section 16(1)(a) of the IGST Act, 2017. Further, Kailash Global (P) Ltd. exports goods without payment of tax under letter of undertaking in accordance with the provisions of section 16(3) of the IGST Act, 2017.

Therefore, as per clause (i) of first proviso to section 54(3), a registered person may claim refund, of any unutilised ITC in the case of zero rated supply made without payment of tax at the end of any tax period. However, second proviso to section 54(3) lays down that refund of unutilized ITC is **not allowed** if the goods exported out of India are subjected to **export duty**.

- (ii) Refund of unutilised ITC is allowed in case of inverted duty structure, i.e. where the credit has accumulated on account of rate of tax on inputs being **higher** than the rate of tax on output supplies (other than nil rated or fully exempt supplies) except supplies of goods or services or both as may be notified by the Government on

the recommendations of the GST Council [Clause (ii) of the first proviso to section 54(3)].

- **“Relevant period”** means the period for which the claim has been filed. Tax payable on inverted rated supply of goods = $10,00,000 \times 5\% = 50,000$
- Here, **Net ITC = 3,50,000,**
- Adjusted Total Turnover = **28,00,000** [7,00,000 + 10,00,000 + 5,00,000 + 6,00,000] and Turnover of inverted rated supply of goods = 10,00,000
- Thus, maximum refund amount under rule 89(5) = $3,50,000 \times 10,00,000 / 28,00,000 - (50,000 \times \{3,50,000 / (3,50,000 + 1,50,000)\}) = 90,000$

(iii) As per section 2(39), deemed exports means such supplies of goods as may be notified under section 147. Supplies to EOU is notified as deemed export under section 147. In respect of supplies regarded as deemed exports, the application of refund can be filed by the supplier of deemed export supplies only in cases where the **recipient does not avail of ITC** on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund [Third proviso to rule 89(1)]. Therefore, since in the given case, the recipient is claiming ITC, Kailash Global (P) Ltd. (supplier of deemed exports) **cannot claim refund of ITC.**

(iv) Section 16(2) of the IGST Act, 2017 stipulates that subject to the provisions of section 17(5) of the CGST Act, ITC may be availed for making zero-rated supplies, notwithstanding that such supply may be exempt supply. Section 54(3) of the CGST Act, 2017 allows refund of ITC in the case of zero rated supply made without payment of tax.

Here, Turnover of zero rated supply of goods = 6,00,000 (Lower of 6,00,000 or 1.5 times of 5,00,000 i.e. 7,50,000), Net ITC = 5,00,000 and Adjusted Total Turnover = 28,00,000 (as computed in point ii above)

Conclusion: Maximum refund amount under rule 89(4) = $5,00,000 \times 6,00,000 / 28,00,000 = 1,07,143.$

Chapter 17: Assessment | Audit

Question 26: Explain in what cases, assessment order passed by proper officer may be withdrawn under CGST Act, 2017?

Answer

Assessment order passed by the proper officer may be withdrawn in following cases:-

- (i) **Assessment of non-filers of returns:** The best judgement order passed by the proper officer under section 62 of the CGST Act shall automatically stand withdrawn where a registered person **files a valid return** within **60 days** of the service of the best judgment assessment order. However, the liability for payment of interest under section 50(1) of the CGST Act, 2017 or for payment of late fee under section 47 of the CGST Act, 2017 shall continue.

However, where the registered person fails to furnish a valid return within 60 days of the service of the assessment order, 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 and in case he furnishes valid return within such extended period, the said assessment order shall be deemed to have been withdrawn, but the liability to pay interest under section 50(1) or to pay late fee under section 47 shall continue.

- (ii) **Summary assessment:** As per section 64(2) of the CGST Act, 2017, a taxable person against whom a summary assessment order has been passed can apply for its withdrawal to the jurisdictional Additional/ Joint Commissioner **within 30 days** of the date of receipt of the order.

If the said officer finds the order erroneous, he can withdraw it and direct the proper officer to carry out determination of tax liability in terms of section 73 or 74 of the CGST Act. The Additional/ Joint Commissioner can follow a similar course of action on his own motion if he finds the summary assessment order to be erroneous.

Chapter 20: Demand

Question 27: M/s. Square & Co. received a notice under section 74(1) of the CGST Act, 2017 demanding tax, interest and penalty on the allegation of suppression of facts for the financial year 2018-19. Notice was issued on 24-11-2022. Square & Co. filed an appeal denying any suppression and on which Appellate Authority concluded that the notice is not sustainable under section 74(1), for the reason that the charges have not been established by the Department. Proper officer deemed the said notice to have been issued under section 73(1) and re-determined the demand.

Square & Co. is of the opinion that the action of proper officer is not in line with GST law. Square & Co. filed its annual return for the financial year 2018-19 on 30-11-2019. Assume the due date of such return as 31-12-2019.

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

- (i) Whether the proper officer can proceed to re-determine the demand under section 73(1), in respect of notice issued under section 74(1)? **[Nov'24 MTP]**
- (ii) If yes, whether the fresh demand is valid?
- (iii) If the above notice issued under section 74(1) is assumed to have been issued on 24-09-2022, what would be your answer for the validity of demand? **[Nov'23 Exam]**

Answer

- i. Since the appellate authority concluded that the notice under section 74(1) is not sustainable for reason that the charges of fraud etc. have not been established by Department against M/s Square & Co., the proper officer **can re-determine** the demand, deeming as if the notice was issued under section 73(1) of the CGST Act, 2017.
- ii. Fresh demand will **not be valid** since show cause notice under section 74(1) of the CGST Act, 2017 was issued on 24.11.2022, i.e. beyond 2 years and 9 months from the due date of furnishing of annual return for financial year 2018-19, i.e. **30.09.2022**.
- iii. If show cause notice under section 74(1) of the CGST Act, 2017 was issued on 24.09.2022, i.e. within 2 years and 9 months from the due date of furnishing of annual return for financial year 2018-19, demand **would be valid**.

Chapter 21: Offences and Penalties

Question 28: Robecco Private Limited, registered under GST in the State of Uttar Pradesh, instructed Sambhav Transporters (Uttar Pradesh) to deliver certain taxable goods to ABC Enterprises in Uttar Pradesh on 10th January. The value of the goods is ₹ 6,80,000 which are chargeable to CGST & SGST@ 9% each. While the goods were in transit, proper officer intercepted the goods and the truck in which goods were being transported, under section 68 of the CGST Act, 2017. However, the driver of the truck failed to tender any document in relation to the goods in movement. The proper officer, after conducting the physical verification of the goods and the truck, decided to seize the goods and the truck and issued a notice under section 129(3) of the CGST Act, 2017 specifying the penalty payable (under CGST and SGST each) by Robecco Private Limited after giving it an opportunity of being heard.

You are required to determine the amount of penalty payable (under CGST and SGST each) if Robecco Private Limited does not come forward for the payment of penalty. Further, discuss the suitable course of action for Sambhav Transporters if it intends to get its truck released. **[MTP May'24]**

Answer

As per section 129 of the CGST Act, 2017, when owner of goods **does not come forward** for the payment of penalty, detained/seized goods and conveyance (used as a means of transport for carrying said goods) and related documents are released on payment of penalty equal to higher of the following:

- ⇒ **50% of value** of goods or
- ⇒ **200% of the tax** payable on such goods.

In view of the same, the amount of penalty payable (each under CGST and SGST) if Robecco Limited does not come forward for the payment of penalty is as follows:

- 50% of value of goods [3,40,000 (50% of 6,80,000)] or
- 200% of the tax payable on such goods [1,22,400 (200% of ₹ 6,80,000 × 9%)]

whichever is **higher**, i.e. **3,40,000** (each under CGST and SGST).

- ⇒ **Conveyance shall be released** on payment by the transporter the penalty as mentioned in the order or 1 lakh, whichever is **less**.

Conclusion: In the given case, since the owner - Robecco Limited has failed to come forward to make payment of penalty, penalty of ₹ 3,40,000 (each under CGST and SGST) shall be levied.

Further, the transporter of goods can get its truck released upon payment of the **lower** of the following under the CGST Act, 2017:

- penalty as mentioned in the order [3,40,000] or
- 1,00,000

Conclusion: Hence, Sambhav Transporters can get its truck released upon payment of **1,00,000** (each under CGST and SGST).

Question 29: 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) 'X' collects 245 lakh as tax from its clients and deposits 241 lakh with the Central Government. It is found that he has falsified financial records and has not maintained proper records.
- (ii) 'Y' collects 550 lakh as tax from its clients but deposits only 30 lakh with the Central Government.

What will be the implications with regard to punishment on prosecution of 'X' and 'Y' for the offences? What would be the position, if 'X' and 'Y' repeat the offences?

It may be assumed that offences are proved in the Court.

Answer

- i. 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).

In the present case, failure to deposit the tax is of Rs. 4 lakh (245 lakh – 241 lakh). As the amount of failure does not exceed 200 lakh therefore, failure to deposit 4 lakh collected as tax by 'X' will **not be punishable with imprisonment** as per section 132(1).

Further, falsification of financial records by 'X' is a specified offence as per section 132(1)(d) and punishable with imprisonment **up to 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 500 lakh** in terms of section 132(1)(d) read with clause (i) of section 132(1).

Since the amount of tax evaded by 'Y' exceeds Rs. 500 lakh (550 lakh - 50 lakh), 'Y' is punishable with an imprisonment for a term which may extend to **5 years and with fine**. It has been assumed that amount of ` 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).

If 'X' and 'Y' repeat the offence, they shall be punishable for second and for every subsequent offence with imprisonment **up to 5 years and with fine** in terms of section 132(2) of the CGST Act, 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.

Chapter 22: Appeals and Revisions

Question 30: 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. **[May'24]**

Answer

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

- (i) full amount of tax, interest and penalty as admitted by it, i.e. 230 (200+20+10) crores and
- (ii) 20% of the remaining tax in dispute, i.e. 240 crore (20% of 1,200 crore) subject to a maximum of ` 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) = ` 100 crore × 9% × 186/366 = Rs. **4,57,37,705**

Question 31: 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 ` 1.2 crore, interest of ` 60 lakh and penalty of ` 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?

Answer

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 `)
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 ` 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.

Chapter 23: Advance Ruling

Question 32: Ranjan 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.

Ranjan's tax advisor has advised him to apply for the advance ruling in respect of these issues. He told Ranjan that the advance ruling would bring him certainty and transparency in respect of the said issues and would avoid litigation later. Ranjan agreed with his view, but has some apprehensions.

In view of the information given above, you are required to advise Ranjan with respect to following:

- (i) The tax advisor asks Ranjan to get registered under GST law before applying for the advance ruling as only a registered person can apply for the same. Whether Ranjan needs to get registered?
- (ii) Ranjan is apprehensive that if at all advance ruling is permitted to be sought, he has to seek it every year. Whether Ranjan's apprehension is correct?
- (iii) The tax advisor is of the view that the order of Authority for Advance Ruling (AAR) is final and is not appealable. Whether the tax advisor's view is correct?
- (iv) Sambhav - Ranjan's friend - is a supplier registered in Delhi. He is engaged in supply of the goods, which Ranjan proposes to supply at the same commercial level that Ranjan proposes to adopt.

He intends to apply the classification of the goods as decided in the advance ruling order to be obtained by Ranjan, to the goods supplied by him in Delhi. Whether Sambhav can do so?

Answer

- i. Advance ruling under GST can be sought by a registered person or a person **desirous** of obtaining registration under GST law [Section 95(c)]. Therefore, it is **not mandatory** for a person seeking advance ruling to be registered.
- ii. Section 103(2) stipulates that the advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed. Therefore, once Ranjan has sought the advance ruling with respect to an eligible matter/question, it will be **binding till** the time the law, facts and circumstances supporting the original advance ruling remain same.

No, the tax advisor's view is **not correct**. As per section 100, if the applicant is aggrieved with the finding of the AAR, he can file an appeal with Appellate Authority for Advance Ruling (AAAR). Similarly, if the concerned/jurisdictional officer of CGST/SGST does not agree with the findings of AAR, he can also file an appeal with AAAR.

- iii. 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. Section 103 provides that an advance ruling pronounced by AAR is binding only on the applicant who had sought it and on the concerned officer or the jurisdictional officer in respect of the applicant. This implies that an advance ruling is **not applicable to similarly placed other taxable persons** in the State. It is only limited to the

person who has applied for an advance ruling.

Thus, Sambhav **will not be able to apply** the classification of the goods that will be decided in the advance ruling order to be obtained by Ranjan, to the goods supplied by him in Delhi.

Chapter 24: Misc Provisions

Question 33: Explain the scope of circulars and instructions issued by the Board. *[Nov'24 MTP]*

Answer

Section 168 empowers the Board (CBIC) to issue orders, instructions or directions to the CGST officers for the purpose of uniformity in the implementation of the CGST Act. All officers and all other persons employed in the implementation of the Act observe and follow such orders, instructions or directions.

The binding nature of such orders, instructions and directions has been a matter of debate and scrutiny. The general understanding that prevails now is that a circular is **binding on the officers, but not on the assessee**. However, in case such circular states something contrary to the law, the **law shall prevail over the circular**.

Part II: Customs

Chapter 1: Levy and Exemptions

Question 34: 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.

Answer

Duty payable on re-importation of goods which had been exported for repairs abroad is the duty of customs which would be leviable if the value of re-imported goods after repairs were made up of the fair cost of repairs carried out including cost of materials used in repairs (whether such costs are actually incurred or not), insurance and freight charges, both ways. However, following conditions need to be satisfied for availing this concession:

- (a) goods must be re-imported within **5 years** (extension up to 2 years) or in case of **Bhutan- 7 years** (extension up to 3 years for machinery and equipment exported);
- (a) exported goods and the re-imported goods must be the **same**;
- (b) 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	Amount (Rs.)
Value of goods re-imported after exports [Cost of materials 10 lakh + fair cost of repairs 5 lakh + actual insurance and freight Rs. 5 lakh]	20,00,000
<u>Add:</u> Basic customs duty @ 15% (A)	3,00,000
<u>Add:</u> Social Welfare Surcharge @ 10% on Rs. 3,00,000 (B)	<u>30,000</u>
Value for computing integrated tax	23,30,000
Integrated tax @ 12% (23,30,000 x 12%) - (C)	2,79,600
Customs Duty and Integrated Tax Payable [(A) +(B)+(C)]	6,09,600

Chapter 2: Types of Duties

Question 35: Royal Park Limited has imported Product 'A' for sale in India from Country Alpha, which are liable for anti-dumping duty. You are provided with the following details.

(i) Country Alpha does not sell Product 'A' in its domestic market.

However, it exports the same Product 'A' at USD 200 per piece to another third country.

(ii) The Product 'A' is sold in domestic industry @ USD 175 per piece.

(iii) Royal Park Limited has imported Product 'A' at USD 100 per piece.

(iv) Landed value of Product 'A' is USD 125 per piece.

Compute the anti-dumping duty payable by Royal Park Limited for 1,000 pieces of Product 'A' it has imported during the year assuming conversion rate @ Rs. 75 per USD.

Answer

The quantum of anti-dumping duty is:

→ margin of dumping or

→ injury margin, whichever is lower.

Margin of dumping is the difference between export price and normal value of the imported article and injury margin is the difference between the fair selling price [non-injurious price (NIP)] due to the domestic industry and the landed value of the dumped imports.

In the given case, anti-dumping duty per piece is:

→ *Margin of dumping is USD 100 [USD 200 - USD 100]*

or

→ *Injury margin is USD 50 [USD 175 – USD 125]*

→ whichever is lower i.e. **USD 50**

Conclusion: Anti-dumping duty for 1,000 pieces (in rupees) = USD 50 × 1,000 pieces × 75 = Rs. **37,50,000**

Question 36: Determine the total duties payable under Customs Act if Mr. Rao 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.

Answer

Computation of Total Duties Payable under the Customs Act

S. No	Particulars	Amount (Rs.)
1	Landed price	25,00,000
2	<u>Add:</u> Basic customs duty @ 10%	2,50,000
3	<u>Add:</u> Safeguard duty @ 30% on 25,00,000	7,50,000
4	<u>Add:</u> Social welfare surcharge (SWS) @ 10 % on 2,50,000 <i>[While calculating SWS, safeguard duty is excluded]</i>	25,000
5	<u>Add:</u> Integrated tax 12% of Rs.35,25,000 (25,00,000 + 2,50,000 + 7,50,000 + 25,000) <i>[Integrated tax is levied on the sum total of the assessable value of the imported goods, customs duties and applicable SWS]</i>	4,23,000
6	Total customs duties and tax payable [2,50,000 + 7,50,000 + 25,000 + 4,23,000]	14,48,000

Chapter 4: Valuation

Question 37: Compute the total customs duty and integrated tax payable under Customs law on an imported machine, based on the following information:

S. No	Particulars	USD
1	Cost of the machine at the factory of the exporter	20,000
2	Transport charges from the factory of exporter to the port for shipment	800
3	Handling charges paid for loading the machine in the ship	50
4	Freight charges from exporting country to India	5,000
5	Buying commission paid by the importer	100
		INR
1	Lighterage charges paid by the importer at port of importation	12,000

2	Freight incurred from port of entry to Inland Container depot	60,000
3	Ship demurrage charges paid at port of importation	24,000

Date of Bill of Entry	20 th January (Rate BCD 20%; Exchange rates notified by CBIC 70 per US \$)
Date of Entry Inward	25 th March (Rate of BCD 10%; Exchange rates notified by CBIC 75 per US \$)
IGST	12%

Answer**Computation of Customs Duty and Integrated Tax Payable on the Imported Goods**

Particulars	USD
Cost of the machine at the factory	20,000
Transport charges up to port	800
Handling charges at the port	<u>50</u>
FOB	<u>20,850</u>
FOB value in Indian rupees @ 70/- per \$ [Note 1]	14,59,500
Freight charges up to India [US \$ 5,000 x 70]	3,50,000
Ligherage charges paid by the importer [Note 2]	12,000
Ship demurrage charges on chartered vessels [Note 2]	24,000
Insurance charges @ 1.125% of FOB [Note 3]	<u>16,419.38</u>
CIF	18,61,919.38
<u>Add:</u> Basic customs duty @ 10% [Note 4] [a]	1,86,192
<u>Add:</u> Social Welfare surcharge @ 10% [b]	<u>18,619.20</u>
Total	20,66,730.58
Add: Integrated tax @ 12% of 20,66,730.58 [c] [Note 5]	2,48,007.67
Total custom duty and integrated tax payable [(a) +(b) + (c)] rounded off	4,52,819

Notes

- (1) Rate of exchange notified **by CBIC** on the date of presentation of bill of entry is considered.
- (2) Cost of transport of the imported goods **includes** ship demurrage charges and lighterage charges.
- (3) Insurance charges is included **@ 1.125% of FOB** value of goods.
- (4) Rate of duty is the rate prevalent on the date of presentation of bill of entry or the rate prevalent on the date of entry inwards, whichever is **later**.
- (5) Integrated tax is levied on the sum total of the assessable value of the imported goods, customs duties and applicable Social Welfare Surcharge.
- (6) Buying commission is **not** included in the assessable value.
- (7) Freight incurred from port of entry to Inland Container depot is **not** includible in assessable value.

Question 38: Mr. X imported certain goods from a related person Mr. Q of US and transaction value has been rejected. Rules 4 and 5 of the Import Valuation Rules are found inapplicable as no similar/ identical goods are imported in India. Mr. X furnishes cost related data of imports and requests customs authorities to determine value accordingly as per rule 8. The relevant data are:

1. Cost of materials incurred by Mr. Q \$ 2000
2. Fabrication charges incurred by Mr. Q \$ 1000
3. Other chargeable expenses incurred by Mr. Q \$ 400
4. Other indirect costs incurred by Mr. Q \$ 250
5. Freight from Mr. Q 's factory to US port \$ 250
6. Loading charges at US port \$ 100
7. Normal net profit margin of Mr. Q is 20% of FOB
8. Air freight from US port to Indian port \$ 1,500
9. Insurance from US port to Indian port \$ 50
10. Exchange rate Rs. 70 per \$

The customs authorities are of the opinion that since value as per rule 7 can be determined at Rs. 4,00,000, there is no need to apply rule 8.

Can the request of Mr. X be legally accepted? If so, compute the assessable value under Customs Act, 1962.

Answer

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. X for determination of value under rule 8 is **legally acceptable**, *if* the same is also approved by the proper officer.

Assuming that the request of Mr. X has been approved by the proper officer, the assessable value of the imported goods under rule 8 will be the sum of-

- (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.*

Answer**Computation of Assessable Value**

Particulars	Amount (\$)
Cost of materials	2,000
<u>Add:</u> Fabrication charges	1,000
<u>Add:</u> Other chargeable expenses	400
<u>Add:</u> Other indirect costs	<u>250</u>
Cost of the goods at Mr. Q's factory	3,650
<u>Add:</u> 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 USport = \$ 4,000 [\$ 3,650 + \$ 250 + \$ 100]	
FOB value = Total cost till port + profit = \$ 5,000 (\$ 4,000 + \$ 1,000)	

Add: Freight & loading/unloading charges <i>[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]</i>	1,000
Insurance charges	<u>50</u>
Assessable value [\$]	5,700
Assessable value in Indian Rupees (Exchange rate - Rs. 70 per \$)	3,99,000

Chapter 5: Importation Exportation

Question 39: Mr. Noddy, aged 40 years and a citizen of Australia, is on a solo trip to India for 1 month to meet his Indian friend residing in Mumbai. He carries with him following articles as part of baggage:

Particulars	Value in Rs.
Used personal effects	80,000
Other articles carried on in person	1,00,000
65 cartridges of fire arms @ Rs. 1,000 per cartridge	65,000
150 gms of tobacco @ Rs. 10 per gram	1,500
Mobile phone	50,000
50 cigars of Rs. 100 each	5,000
Used personal effects of his infant child for donation	10,000

With reference to the Baggage rules 2016, indicate the taxability and taxable value in respect of each item in the table under baggage rules or otherwise. Also calculate the customs duty payable on baggage rounded off to the nearest rupee in accordance with law. Ignore agriculture infrastructure and development cess. **[May'23]**

Answer

Item	Taxability	Taxable Value under Baggage Rules
Used personal effects	<i>Duty Free</i>	NIL
Other articles carried on in person	<i>Taxable</i>	1,00,000
50 cartridges of fire arms		50,000 (50 x 1000)
125 gms of tobacco		1,250 (125 gm x 10)
Mobile phone		50,000
25 cigars of ` 100 each		2,500 (25 cigars x 100)
Used personal effects of his infant child		<i>Exempt</i>
Total		2,13,750
<u>Less:</u> General Free Allowance		15,000
Baggage on which duty is payable @ 38.50% (including 10% Social welfare surcharge)		1,98,750
Duty payable on baggage (1,98,750 x 38.5%)		76,519

Note: Cartridges of fire arms exceeding 50, tobacco exceeding 125 gms and cigars exceeding 25 are not chargeable to rate of 38.50% as applicable to baggage vide Notification No. 26/2016 Cus. dated 31.03.2016.

These items are charged @ 100% applicable to baggage under Heading 9803 of the Customs Tariff.

Chapter 8: FTP

Question 40: Two exporters namely, Red Sky Pvt. Ltd. and Black Night Pvt. Ltd. have achieved the status of Status Holders (One Star Export House) in the current financial year. Both the exporters have been regularly exporting goods (other than Gems and Jewellery) every year. What would have been the minimum export performance of the two exporters to achieve such status?

Both the exporters want to establish export warehouses in accordance with the applicable guidelines. What should be their export turnover to enable them to establish export warehouses?

Answer

Status Holders are exporter firms recognised 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 shall be eligible for recognition as a status holder. Status recognition depends upon export performance.

In order to be categorized as One Star Export House, an exporter needs to achieve the export performance of **3 million US \$** [FOB/ FOR (as converted)] during current and all the three preceding financial years.

Thus, export performance of Red Sky Pvt. Ltd. and Black Night Pvt. Ltd. would have been at least 3 million US \$ [FOB/ FOR (as converted)] during current and all the three preceding FYs.

Further, **Two Star Export Houses and above** are permitted to establish export warehouses. Therefore, Red Sky Pvt. Ltd. and Black Night Pvt. Ltd. can establish export warehouses in India **only if they achieve the status of Two Star Export House and above**. In order to achieve said status, export performance of the exporters during current and previous three financial years should be as indicated below:

- ⇒ **One Star:** 3 Million USD
- ⇒ **Two Star:** 15 Million USD
- ⇒ **Three Star:** 50 Million USD
- ⇒ **Four Star:** 200 Million USD
- ⇒ **Five Star:** 800 Million USD