CA INTERMEDIATE

GOODS AND SERVICES TAX

CA Jasmeet Singh

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A plethora of CA Study Material is available in the market but CA Wallah professionals at PW are continuously working to provide supreme quality study material for the CA-Intermediate students.

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This book adopts a multi-faceted approach to mastering and understanding the concepts by having a rich diversity of questions asked in the CA-Intermediate examination and equipping the students with the knowledge for this highly competitive exam.

The main objective of this book is to provide an edge to your preparation with short & crisp yet high-quality content.

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This book, especially designed & amended for CA-Intermediate aspirants, contains:

- Syllabus coverage strictly as per ICAI study Material
- All ICAI Study Material Questions
- Detailed Theory with Exam prototype and Concept Applications Questions
- Short Notes and Solve Miscellaneous Examples
- Topic wise, Learning Plus and Advanced Level Questions covered in the Book
- Elaborated Solutions

ABOUT THE AUTHOR

Sir, CA Jasmeet Singh Arora is a highly qualified and experienced Chartered Accountant with a passion for teaching. With a strong academic background in both CA and B.Com, Jasmeet Sir has excelled in his field, passing his CA exams on the first attempt and receiving five exemptions in his CA Final exams. In addition to his impressive qualifications, he also possesses more than 10 years of experience in teaching, having mentored over 70,000 students both online and offline.

Jasmeet Sir is a firm believer in blended learning and adopts a learner-centric approach to his teaching. He understands that every student is unique and has different learning needs, and therefore aims to cater to those needs by providing a diverse range of teaching methods. With the use of real-life examples and innovative teaching techniques, he seeks to transform traditional pedagogical processes and make learning more accessible and enjoyable for his students.

Throughout his teaching career, Jasmeet Sir has been committed to providing high-quality education in subjects such as taxation and costing. His expertise in these areas has earned him a reputation as one of the best teachers in his field, and he has been recognized by the Institute of Company Secretaries of India (ICSI) and the Institute of Chartered Accountants of India (ICAI) Kanpur as a visiting faculty member. His dedication to his students is unwavering, and he strives to create a learning environment that is engaging, interactive, and challenging.

Jasmeet Sir's success as a teacher is due to his passion for his subject matter, his commitment to his students, and his ability to adapt to new teaching techniques and technologies. He believes that education is the key to unlocking the potential of young minds and creating a better future for all. His mission is to inspire and empower his students to achieve their full potential and to make a positive impact on society.

Jasmeet Singh Arora is a highly qualified and experienced Chartered Accountant with a passion for teaching. With a learner-centric approach to his teaching, he seeks to transform traditional pedagogical processes and make learning more accessible and enjoyable for his students. Through his expertise in subjects such as taxation and costing, he has earned a reputation as one of the best teachers in his field. His dedication to his students is unwavering, and he strives to create a learning environment that is engaging, interactive, and challenging. His mission is to inspire and empower his students to achieve their full potential and make a positive impact on society.

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CHAPTER 1

Introduction to GST

THEORY

TAX

It is a compulsory charge levied by the Government. Taxes are of two types:

(*a*) Direct Tax
(*b*) Indirect Tax

DIRECT AND INDIRECT TAXES

Taxes are broadly classified into direct and indirect taxes.

Direct Taxes

- A direct tax is a kind of charge, which is imposed directly on the taxpayer and paid directly to the Government by the persons on whom it is imposed.
- A direct tax is one that cannot be shifted by the taxpayer to someone else.
  E.g. Income Tax.

Indirect Taxes

- An indirect tax is one that can be shifted by the taxpayer to someone else.
- Its incidence is borne by the consumers who ultimately consume the product or the service, while the immediate liability to pay the tax may fall upon another person such as a manufacturer or provider of service or seller of goods.
- They are regressive in nature because they are not based on the principle of ability to pay.
- Indirect taxes are levied on consumption, expenditure, privilege, or right but not on income or property.
- E.g. GST, Custom Duty.

FEATURES OF INDIRECT TAXES

- **An important source of revenue:** Indirect taxes are a major source of tax revenues for Governments worldwide and continue to grow as more countries move to consumption oriented tax regimes. In India, indirect taxes contribute more than 50% of the total tax revenues of Central and State Governments.
- **Tax on commodities and services:** It is levied on commodities at the time of manufacture or purchase or sale or import/export thereof. Hence, it is also known as commodity taxation. It is also levied on provision of services.

- **Shifting of burden:** There is a clear shifting of tax burden in respect of indirect taxes. For example, GST paid by the supplier of the goods is recovered from the buyer by including the tax in the cost of the commodity.
- **No perception of direct pinch:** Since, the value of indirect taxes is generally inbuilt in the price of the commodity, most of the time the taxpayer pays the same without actually knowing that he is paying tax to the Government. Thus, the taxpayer does not perceive a direct pinch while paying indirect taxes.
- **Inflationary:** Tax imposed on commodities and services causes an all-round price spiral. In other words, indirect taxation directly affects the prices of commodities and services and leads to inflationary trend.
- **Wider tax base:** Unlike direct taxes, the indirect taxes have a wide tax base. Majority of the products or services are subject to indirect taxes with low thresholds.
- **Promotes social welfare:** High taxes are imposed on the consumption of harmful products (also known as 'sin goods') such as alcoholic products, tobacco products etc. This not only checks their consumption but also enables the State to collect substantial revenue.
- **Regressive in nature:** Generally, the indirect taxes are regressive in nature. The rich and the poor have to pay the same rate of indirect taxes on certain commodities of mass consumption. This may further increase the income disparities between the rich and the poor.

CONCEPT OF GST

- GST is a value added tax levied on manufacture, sale and consumption of goods and services.
- GST offers a comprehensive and continuous chain of tax credits from the producer's point/service provider's point up to the retailer's level/consumer's level thereby taxing only the value added at each stage of the supply chain.
- The supplier at each stage is permitted to avail credit of GST paid on the purchase of goods and/or services and can set off this credit against the GST payable on the supply of goods and services to be made by him. Thus, only the final consumer bears the GST charged by the last supplier in the supply chain, with set-off benefits at all the previous stages.
- Since, only the value added at each stage is taxed under GST, there is no tax on tax or cascading of taxes under the GST system. GST does not differentiate between goods and services and thus, the two are taxed at a single rate.

Why India Needed GST

Following reasons demanded implementation of GST:

- Double taxation of a transaction as both goods and services.
- Non-inclusion of several local levies in State VAT such as luxury tax, entertainment tax, etc.
- Cascading of taxes on account of (i) levy of Non-VAT able CST and (ii) inclusion of CENVAT in the value for imposing VAT.
- Non-integration of VAT & service tax
- No CENVAT after manufacturing stage

GST Working

Particulars	A Manufacturer Delhi	B Manufacturer Delhi	C Trader Kanpur	D Trader Bhopal	E Trader Bhopal
Input	**1,000**	**2,000**	**4,000**	**4,500**	**5,400**
Processing	**500**	**1000**	**—**	**—**	**—**
Profit	**500**	**1000**	**500**	**900**	**1000**
Selling Price	**2,000**	**4,000**	**4,500**	**5,400**	**6,400**
GST @ 12%	**240**	**480**	**540**	**648**	**768**
Invoice price	**2,240**	**4,480**	**5,040**	**6,048**	**7,168**
Output Tax Liability	**240**	**480**	**540**	**648**	**768**
Input Tax redit	**—**	**240**	**480**	**540**	**648**
Net Tax Liability	**240**	**240**	**60**	**108**	**120**

FRAMEWORK OF GST AS INTRODUCED IN INDIA

1. **Dual GST:** India has adopted a Dual GST model in view of the federal structure of the country.
   - Centre and States simultaneously levy GST on taxable supply of goods or services or both, which takes place within a State or Union Territory. Thus, tax is imposed concurrently by the Centre and States, i.e. Centre and States simultaneously tax goods and services.
   - GST is a destination based tax applicable on all transactions involving supply of goods and services for a consideration subject to exceptions thereof. GST in India comprises of:
     - On **intra-State supplies** of taxable goods and/or services
       (*a*) **Central Goods and Services Tax (CGST) -** levied and collected by Central Government,
       (*b*) **State Goods and Services Tax (SGST) -** levied and collected by State Governments/ Union Territories with Legislatures and
       (*c*) **Union Territory Goods and Services Tax (UTGST) -** levied and collected by Union Territories without Legislatures.

Union Territories	
Without State Legislature	**With State Legislature**
❍ Andaman & Nicobar islands ❍ Lakshadweep ❍ Ladakh ❍ Dadra and Nagar Haveli & Daman and Diu ❍ Chandigarh	❍ Delhi ❍ Jammu & Kashmir ❍ Puducherry

     - **Inter-State supplies** of taxable goods and/or services are subject to Integrated Goods and Services Tax (IGST). IGST is the sum total of CGST and SGST/UTGST and is levied by Centre on all inter-State supplies.

2. **GST – A tax on goods and services:** GST is levied on all goods and services, except alcoholic liquor for human consumption and petroleum crude, diesel, petrol, ATF and natural gas.
   (*a*) **Alcoholic liquor for human consumption:** is outside the realm of GST. The manufacture/production of alcoholic liquor continues to be subjected to State excise duty and inter-State/intra-State sale of the same is subject to CST/VAT respectively.
   (*b*) **Petroleum crude, diesel, petrol, ATF and natural gas:** As regards petroleum crude, diesel, petrol, ATF and natural gas are concerned, they are not presently leviable to GST. GST will be levied on these products from a date to be notified on the recommendations of the GST Council.
   (*c*) Till such date, central excise duty continues to be levied on manufacture/production of petroleum crude, diesel, petrol, ATF and natural gas and inter-State/intra-State sale of the same is subject to CST/VAT respectively.
   (*d*) **Tobacco:** Tobacco is within the purview of GST, i.e. GST is leviable on tobacco. However, Union Government has also retained the power to levy excise duties on tobacco and tobacco products manufactured in India. Resultantly, tobacco is subject to GST as well as central excise duty.
   (*e*) **Opium, Indian hemp and other narcotic drugs and narcotics:** Opium, Indian hemp and other narcotic drugs and narcotics are within the purview of GST, i.e. GST is leviable on them. However, State Governments have also retained the power to levy excise duties on such products manufactured in India. Resultantly, Opium, Indian hemp and other narcotic drugs and narcotics are subject to GST as well as State excise duties.
   (*f*) Further, real estate sector has been kept out of ambit of GST, i.e. GST will not be levied on sale/purchase of immovable property.

■ BENEFITS OF GST

GST is a win-win situation for the entire country. It brings benefits to all the stakeholders of industry, Government and the consumer. The significant benefits of GST are discussed hereunder:

Benefits to Economy

(*i*) **Creation of unified national market:** GST aims to make India a common market with common tax rates and procedures and remove the economic barriers thus paving the way for an integrated economy at the national level.

(*ii*) **Boost to 'Make in India' initiative:** GST gives a major boost to the 'Make in India' initiative of the Government of India by making goods and services produced in India competitive in the national as well as international market. This will create India as a — Manufacturing hub.

(*iii*) **Enhanced investment and employment:** The subsuming of major Central and State taxes in GST, complete and comprehensive setoff of input tax on goods and services and phasing out of Central Sales Tax (CST) reduces the cost of locally manufactured goods and services and increases the competitiveness of Indian goods and services in the international market and thus, gives boost to investments and Indian exports. With a boost in exports and manufacturing activity, more employment is generated and GDP is increased.

Simplified Tax Structure

(*i*) **Ease of doing business:** Simpler tax regime with fewer exemptions along with reduction in multiplicity of taxes under GST has led to simplification and uniformity. The uniformity in laws, procedures and tax rates across the country makes doing business easier.

(*ii*) **Certainty in tax administration:** Common system of classification of goods and services ensures certainty in tax administration across India.

Easy Tax Compliance

(*i*) **Automated procedures with greater use of IT:** There are simplified and automated procedures for various processes such as registration, returns, refunds, tax payments. All interaction is through the common GSTN portal, therefore, less public interface between the taxpayer and the tax administration.

(*ii*) **Reduction in compliance costs:** The compliance cost is lesser under GST as multiple record-keeping for a variety of taxes is not needed, therefore, there is lesser investment of resources and manpower in maintaining records. The uniformity in laws, procedures and tax rates across the country goes a long way in reducing the compliance cost.

Advantages for Trade and Industry

(*i*) **Benefits to agriculture and Industry:** GST has given more relief to industry, trade and agriculture through a more comprehensive and wider coverage of input tax set- off and service tax set-off, subsuming of several Central and State taxes in the GST and phasing out of CST. The transparent and complete chain of set-offs which results in widening of tax base and better tax compliance also leads to lowering of tax burden on an average dealer in industry, trade and agriculture.

(*ii*) **Mitigation of ill effects of cascading:** By subsuming most of the Central and State taxes into a single tax and by allowing a set-off of prior-stage taxes for the transactions across the entire value chain, it helps in mitigating the ill effects of cascading, improving competitiveness and improving liquidity of the businesses.

(*iii*) **Benefits to small traders and entrepreneurs:** GST has increased the threshold for GST registration for small businesses. Further, single registration is needed in one State. Small businesses have also been provided the additional benefit of composition scheme. With the creation of a seamless national market across the country, small enterprises have an opportunity to expand their national footprint with minimal investment.

Constitutional Provisions Regarding GST

The Constitution of India is the **Supreme law in India**. The Parliament can make law only with regard to the matters which are allowed as per the constituttion otherwise the law made by parliament shall be called Ultra vires i.e. it is not enforceable. The constitution consists of a preamble, 25 parts containing 448 articles and 12 Schedules.

India has a **three-tier federal structure**, comprising the Union Government, the State Governments and the local Government. The power to levy taxes and duties is distributed among the three tiers of Governments, in accordance with the provision of the Indian Constitution.

Power to levy taxes emerges from the Constitution of India.

Article 265: No tax shall be levied or collected except by authority of Law.

Article 245: Subject to the provisions of the Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State.

Article 246: It gives the respective authority to Union and state Governments for levying tax and such authority is given in Seventh Schedule of Indian Constitution and there are three lists in Seventh Schedule.

1. **Union List –** If any matter is mentioned in the Union List, parliament can make law with regard to such matter. (there are 97 entries)
2. **State List –** If matter is mentioned in the State List, the State legislature can make law with regard to such matter. (there are 66 entries)
3. **Concurrent List –** If matter is mentioned in Concurrent List, both of the governments can make law with regard to such matter. (there are 47 entries)

Some of the Important Entries in the Union List are as given below:

Union List No. 82: Taxes on income other than agricultural income.

Union List No. 83: Duties of customs including export duties.

Union List No. 84: Duties of excise on following goods manufactured or produced in India, namely

(*a*) petroleum crude;
(*b*) high speed diesel;
(*c*) motor spirit (commonly known as petrol);
(*d*) natural gas;
(*e*) aviation turbine fuel; and
(*f*) tobacco and tobacco products.

Some of the Important Entries in State List are as given below:

State List No. 46: Taxes on agricultural income

State List No. 51: Duties of excise on alcoholic liquors for human consumption; opium, Indian hemp and other narcotic drugs.

State List No. 53: Taxes on the consumption or sale of electricity.

State List No. 54: Taxes on sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural Gas, aviation turbine fuel and alcoholic liquor for human consumption, but not including sale in the course of international trade or commerce of such goods.

Amendment in the Constitution for the Purpose of GST (Constitution 101st Amendment act, 2016)

Article 246A: Power to make laws with respect to Goods and Services Tax:

1. This article grants power to Centre and State Governments to make laws with respect to Intra state supply of goods/services and GST imposed by Centre or such State for Intra state supply.
2. Centre has the exclusive power to make laws with respect to inter-state supply of goods/services and GST imposed by Centre on inter-state supply of goods/services.

Article 269A: Levy and Collection of GST on Inter-state supply

1. Article 269A stipulates that GST on supplies in the course of inter-state trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by parliament by law on the recommendations of the Goods and Services Tax Council.
2. Import of goods/services into India will also be deemed to be Inter State supply.

GST Council: Article 279A

- Article 279A of the Constitution empowers the President to constitute a joint forum of the Centre and States namely, Goods & Services Tax Council (GST Council).
- The provisions relating to the GST Council came into force on 12th September, 2016. The President constituted the GST Council on 15th September, 2016.

- The Union Finance minister is the Chairman of this Council and Ministers in charge of Finance/ Taxation or any other Minister nominated by each of the States & UTs with Legislatures are its members. Besides, the Union Minister of State in charge of revenue or Finance is also its member.
- The function of the Council is to make recommendations to the Union and the States on important issues like tax rates, exemptions, threshold limits, dispute resolution etc.
- It shall also recommend the date on which GST be levied on petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel.

Taxes to be Subsumed in GST

Central Levies to be Subsumed	State Levies to be Subsumed
(*i*) Central Excise Duty & Additional Excise Duty.	(*i*) State surcharges and Cesses in so far as they relate to supply of goods and services.
(*ii*) Service Tax.	(*ii*) Entertainment Tax (except those levied by local bodies)
(*iii*) Excise Duty under Medicinal and Toilet Preparation Act.	(*iii*) Tax on lottery, betting and gambling.
(*iv*) Countervailing Duty & Special Countervailing Duty.	(*iv*) Entry tax (All forms) & Purchase tax.
(*v*) Central Sales Tax	(*v*) VAT/Sales tax.
(*vi*) Central surcharges and Cesses in so far as they relate to supply of goods and services.	(*vi*) Luxury tax.
	(*vii*) Taxes on advertisements.

QUESTION BANK

1. Differentiate between direct and indirect taxes.

Sol.

Direct taxes	Indirect taxes
A direct tax is charge, which is imposed directly on the taxpayer and paid directly to the Government by the persons on whom it is imposed. The burden of this tax cannot be shifted by the taxpayer to someone else.	Indirect taxes are imposed on goods and services. Its incidence is borne by the consumers who ultimately consume the product or service. It is also called consumption taxes.
A significant direct tax imposed in India is Income tax.	Indirect taxation in India has witnessed a drastic change on July 01, 2017 and all indirect taxes have been amalgamated into – GST & Customs.
Direct taxes are progressive in nature. Hence a rich person pays more compared to a poor person. **Example:** Income tax is higher for higher income groups and lower for lower income groups.	Indirect taxes are regressive in nature because they equally impact the rich or the poor. **Example:** GST paid on food in restaurant is same whether a person is rich or poor.

2. Explain the salient features of indirect taxes.

Sol. (*i*) **An important source of revenue:** Indirect taxes are a major source of tax revenues for Governments worldwide and continue to grow as more countries move to consumption oriented tax regimes. In India, indirect taxes contribute more than 50% of the total tax revenues of Central and State Governments.

(*ii*) **Tax on commodities and services:** It is levied on commodities at the time of manufacture or purchase or sale or import/export thereof. Hence, it is also known as commodity taxation. It is also levied on provision of services.

(*iii*) **Shifting of burden:** There is a clear shifting of tax burden in respect of indirect taxes. For example, GST paid by the supplier of the goods is recovered from the buyer by including the tax in the cost of the commodity.

(*iv*) **No perception of direct pinch:** Since, value of indirect taxes is generally inbuilt in the price of the commodity, most of the time the taxpayer pays the same without actually knowing that he is paying tax to the Government. Thus, the taxpayer does not perceive a direct pinch while paying indirect taxes.

(*v*) **Inflationary:** Tax imposed on commodities and services causes an all-round price spiral. In other words, indirect taxation directly affects the prices of commodities and services and leads to inflationary trends.

(*vi*) **Wider tax base:** Unlike direct taxes, the indirect taxes have a wide tax base. Majority of the products or services are subject to indirect taxes with low thresholds.

(*vii*) **Promotes social welfare:** High taxes are imposed on the consumption of harmful products (also known as 'sin goods') such as alcoholic products, tobacco products etc. This not only checks their consumption but also enables the State to collect substantial revenue.

(*viii*) **Regressive in nature:** Generally, the indirect taxes are regressive in nature. The rich and the poor have to pay the same rate of indirect taxes on certain commodities of mass consumption. This may further increase the income disparities between the rich and the poor.

3. Write a short note on various Lists provided under Seventh Schedule to the Constitution of India.

Sol. Seventh Schedule to Article 246: It contains three lists which enumerate the matters under which the Union and the State Governments have the authority to make laws.

Union list – List I (Parliament)	State list – List II (State legislature)	Concurrent list - List III
It contains the matters in respect of which the Parliament (Central Government) has the exclusive right to make laws.	It contains the matters in respect of which the State Government has the exclusive right to make laws.	It contains the matters in respect of which both the Central & State Governments have power to make laws.

4. Enumerate the deficiencies of the existing indirect taxes which led to the need for ushering into the GST regime.

Sol. Under the earlier indirect tax regime, despite the introduction of the principle of taxation of value added in India – at the Central level in the form of CENVAT and at the State level in the form of State VAT – its application always remained piecemeal and fragmented on account of the following reasons:

(*i*) Double taxation of a transaction as both goods and services as the distinction between goods and services was often blurred, e.g. software was liable to both VAT and service tax.

(*ii*) CENVAT did not include a chain of value addition in the distributive trade below the stage of production. Similarly, in the State-level VAT, CENVAT load on the goods was not removed leading to the cascading of taxes. To illustrate, when the goods were manufactured and sold, both central excise duty (CENVAT) and State-Level VAT were levied.

(*iii*) Though CENVAT and State-Level VAT were essentially value added taxes, set-off of one against the credit of another was not possible as CENVAT was a central levy and State-Level VAT was a State levy.

(*iv*) There were several taxes in the States, such as, Luxury Tax, Entertainment Tax, etc. which were not subsumed in the VAT.

(*v*) VAT on goods was not integrated with tax on services, at the State level, to remove the cascading effect of the Service Tax. With the service sector being the fastest growing sector in the economy, the exclusion of services from the tax base of the States potentially eroded their tax-buoyancy.

(*vi*) CST was another source of distortion in terms of its cascading nature since it was non-VATABLE. Being an origin based tax; CST was also against one of the basic principles of consumption taxes that tax should accrue to the jurisdiction where consumption takes place.

5. Why is Dual GST required?

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

6. Which of the existing taxes are subsumed under GST? List any four State levies, which subsumed in GST.

Sol. The GST replaced the following taxes:

(*i*) Taxes which was levied and collected by the Centre:

(*a*) Central Excise duty
(*b*) Duties of Excise (Medicinal and Toilet Preparations)
(*c*) Additional Duties of Excise (Goods of Special Importance)
(*d*) Additional Duties of Excise (Textiles and Textile Products)
(*e*) Additional Duties of Customs (commonly known as CVD)
(*f*) Special Additional Duty of Customs (SAD)
(*g*) Service Tax
(*h*) Central Surcharges and Cess so far as they relate to supply of goods and services

(*ii*) State taxes which was subsumed under the GST:

(*a*) State VAT
(*b*) Central Sales Tax
(*c*) Luxury Tax
(*d*) Entry Tax (all forms)
(*e*) Entertainment and Amusement Tax (except when levied by the local bodies)
(*f*) Taxes on advertisements
(*g*) Purchase Tax
(*h*) Taxes on lotteries, betting and gambling
(*i*) State Surcharges and Cess so far as they relate to supply of goods and services

The GST Council made recommendations to the Union and States on the taxes, Cess and surcharges levied by the Centre, the States and the local bodies which were subsumed in the GST.

7. List the taxes, which are not subsumed in GST

Sol. (*a*) Basic Customs Tax
(*b*) Property tax and stamp duty
(*c*) Electricity duty
(*d*) Excise duty on alcohol
(*e*) Excise duty on petrol, diesel etc.
(*f*) Entertainment tax charged by Local Bodies (Municipality)

8. What is the Goods and Services Tax (GST)?

Sol. GST has been defined under Article 366(12-A) of the Constitution of India. GST has been defined to mean a tax on supply of goods or services or both except tax on supply of alcoholic liquor for human consumption.

Following are the broad features of this tax:

(1) GST a tax:

- Being a tax, it can be levied only under authority of law. (Article 265)
- Regarding GST, Article 246-A (not article 246) provides authority of law.

(2) GST is tax on 'SUPPLY' of goods or services or both:

- The taxable event for levy of GST is 'supply'.
- Supply is a word of wide meaning. GST law has defined the term 'supply' under Section 7 of CGST Act, 2017.

(3) GST is an indirect tax:

- GST taxes 'goods' and/or 'services', thus it is an indirect tax.
- Supplier making such supply have been made responsible to pay GST to the Government. Supplier is entitled to collect GST from the recipient of supply.
- Supplier liable to pay GST to the Government shall take registration.
- Such registered supplier now shall issue a specified document (tax invoice) for the supply made by him.
- The GST element collected from the recipient shall be separately indicated on such document.

(4) GST is a consumption tax:

- "Consumption tax" means, in economic terms, that the tax is ultimately borne by consumers, not by suppliers (producers, traders or service providers).
- Business Entity, in reality, acts as collector of tax for the Government. Ultimately, the burden of tax is to be borne by the final consumer.

(5) GST is also a VALUE ADDED TAX:

- It is levied at all stages right from manufacture up to final consumption with credit of taxes paid at previous stages available as setoff. In a nutshell, only value addition will be taxed and the burden of tax is to be borne by the final consumer.

(6) GST is a destination-based tax:

- Destination based tax is a tax that would accrue to the taxing authority which has jurisdiction over the place of consumption which is also termed as place of supply.
- Being a consumption tax, tax revenue arising out of GST shall belong to the destination territory. In other words, import into India will be subjected to GST, while export from India shall be kept free of GST.

9. Which are the commodities which have been kept outside the purview of GST?

Sol. Article 366(12A) of the Constitution as amended by 101st Constitutional Amendment Act, 2016 defines the Goods and Services Tax (GST) as a tax on supply of goods or services or both, except supply of alcoholic liquor for human consumption. So, alcohol for human consumption is kept out of GST by way of definition of GST in the Constitution. Five petroleum products viz. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel have temporarily been kept out and the GST Council shall decide the date from which they shall be included in GST.

(*a*) Supply of alcoholic for human consumption

(*b*) Petroleum products

(*i*) H- High speed diesel

(*ii*) P- Petroleum crude

(*iii*) M- Motor spirit

(*iv*) A- Aviation turbine fuel

(*v*) N- Natural gas

10. What is the status of Tobacco and Tobacco products under the GST regime?

Sol. Tobacco & tobacco products are taxable in GST. In addition, the Centre has the power to levy CED duty.

11. List of special category states under GST

Sol. H- Himachal Pradesh

U- Uttarakhand

M- Mizoram Manipur Meghalaya

A- Arunachal Pradesh Assam

N- Nagaland

S- Sikkim

T- Tripura

J- Jammu & Kashmir

12. What is IGST?

Sol. Under the GST regime, an Integrated GST (IGST) would be levied and collected by the Centre on Inter-State supply of goods and services. Under Article 269-A of the Constitution, the GST on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the GST Council.

13. What would be the role of the GST Council?

Alternative,

Enumerate any five matters on which the GST Council may make recommendations under Article 279A of the Constitution of India.

Sol. A GST Council would be constituted comprising the Union Finance Minister (who will be the Chairman of the Council), the Minister of State (Revenue) and the State Finance/Taxation Ministers to make recommendations to the Union and the States on:

(*i*) The taxes, cess and surcharges levied by the Centre, the States and the local bodies which may be subsumed under GST;

(*ii*) The goods and services that may be subjected to or exempted from the GST;

(*iii*) The date on which the GST shall be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel;

(*iv*) Model GST laws, principles of levy, apportionment of IGST and the principles that govern the place of supply;

(*v*) The threshold limit of turnover below which the goods and services may be exempted from GST;

(*vi*) The rates including floor rates with bands of GST;

(*vii*) Any special rate or rates for a specified period to raise additional resources during any natural calamity or disaster;

(*viii*) Special provision with respect to the North-East States, J&K, Himachal Pradesh and Uttarakhand; and any other matter relating to the GST, as the Council may decide.

14. How will decisions be taken by the GST Council?

Sol. Article 279-A of the Constitution of India makes provisions as to the GST Council. It provides that every decision of the GST Council shall be taken at a meeting by a majority of not less than $3/4^{th}$ of the weighted votes of the members present and voting.

- The vote of the Central Government shall have a weightage of 1/3rd of the votes cast and the votes of all the State Governments taken together shall have a weightage of 2/3rd of the total votes cast in that meeting.
- One half of the total number of members of the GST Council shall constitute the quorum at its meetings.

15. What is GSTN and its role in the GST regime? Discuss any two functions of GSTN.

Sol. GSTN stands for Goods and Services Tax Network (GSTN). It is a not-for Profit Company incorporated under provisions of Section 8 of Companies Act, 2013. GSTN has been set up to cater to the needs of GST. GSTN has made a site/portal which has been notified as a common GST electronic portal (under section 146 of CGST Act).

Thus, GSTN has provided IT infrastructure under GST law. The GST portal developed by it is used by the Central Government as well as by the State Governments. GST portal is referred as 'common portal'. This portal is the taxpayer interface with the Government.

GSTN is providing facilities to taxpayers as well as the Government. Following are some important functions which are performed by GSTN

(*i*) Facilitation of registration (as under GST, registration is online);

(*ii*) Payment of GST (Challan for GST payment is created online);

(*iii*) Returns filing (as under GST, all returns are online);

(*iv*) Maintenance of ledgers of taxpayers (e-liability, e-credit and e-cash ledger for each registered taxpayer);

(*v*) Running the matching engine for matching, reversal and reclaim of input tax credit (presently, it has been deferred);

(*vi*) Providing analysis of taxpayers' profile (based on such analysis, cases will be selected for scrutiny/audit);

(*vii*) Sharing of information in taxpayers returns with Centre and State Governments/tax authorities;

(*viii*) Providing various MIS reports to the Central and the State Governments based on the taxpayer return information;

(*ix*) Computation and settlement of IGST (transfer of funds in between Central Tax Account, State Tax Accounts and Integrated Tax Account)

2 CHAPTER

Supply Under GST

THEORY

Meaning of Goods Section 2(52)

"Goods" means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply. (As per schedule 3 actionable claims shall not be considered to be supplied except specified actionable claims.)

Actionable Claim: Means a claim to any debt, other than a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property, or to any beneficial interest in movable property not in the possession, either actual or constructive, of the claimant, which the civil courts recognise as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent [Section 2(1) of CGST Act read with Section 3 of the Transfer of Property Act, 1882].

Money: Means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognised by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value [Section 2(75) of CGST Act].

Meaning of Services Section 2(102)

"Services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.

Explanation—For the removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities.

Section 7 Meaning of Supply

Section 7(1)

(*a*) Supply includes all forms of supply (goods and/or services) and includes agreeing to supply when they are for a consideration and in the course or furtherance of business. It specifically includes

(*i*) Sale
(*ii*) Transfer
(*iii*) Barter
(*iv*) Exchange
(*v*) Licence
(*vi*) Rental
(*vii*) Lease
(*viii*) Disposal

Consideration

Consideration can be in money or in kind.

Further, a consideration need not always flow from the recipient of the supply. It can also be made by a third person.

However, any subsidy given by the Central Government or a State Government is not considered as consideration.

A deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply.

Business Includes:

Any trade/commerce, manufacture, profession etc. even if there is no monetary benefit.

Supply/acquisition of goods including capital goods & services – in connection with commencement/closure of business.

Provision of facilities by club/association etc.

Admission to any premises for consideration.

Services as holder of office accepted in course/furtherance of trade, profession.

Activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club.

Any activity by Government/local authority as public authorities.

For any trade, commerce, or any other similar activity to qualify as business, frequency, volume, continuity or regularity of such transaction is not a pre-requisite.

Examples

- Rishabh buys a car for his personal use and after a year sells it to a car dealer. Sale of car by Rishabh to car dealer is not a supply under CGST Act because said supply is not made by Rishabh in the course or furtherance of business.
- Manikarnika sold her old gold bangles and earrings to 'Aabhushan Jewellers'. Sale of old gold jewellery by an individual to a jeweller will not constitute supply as the same cannot be said to be in the course or furtherance of business of the individual.
- Sundaram Acharya, a famous actor, paints some paintings and sells them. The consideration from such a sale is to be donated to a Charitable Trust – 'Kind Human'. The sale of paintings by the actor qualifies as supply.
- A Resident Welfare Association provides the service of depositing the electricity bills of the residents in lieu of some nominal charges. Provision of service by a club or association or society to its members is treated as supply as this is included in the definition of 'business'.
- Services by way of admission to circus, cinema halls, amusement parks including theme parks, water parks, etc. are considered as supply as these are services by way of admission of persons to any premises for a consideration.
- Royal Turf Race Club is engaged in facilitating the wagering (betting) transactions on horses placed through totalisator 10. For providing the service of facilitating wagering transactions, Royal Turf Race Club gets commission which is deducted and retained by the club from the total bet value. Said services amount to supply as the activities of a race club are included in business.

(*a*) The activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment/other valuable consideration.

Explanation—For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another.

(*b*) Supply includes import of a service, made for a consideration and whether or not in the course or furtherance of business.

This implies that import of services even for personal consumption would qualify as 'supply' and therefore would be liable to tax. This would not be subject to the threshold limit as tax is expected to be payable on reverse charge basis, and the threshold limits do not apply in case of supplies attracting tax on reverse charge basis.

(*c*) The activities specified in Schedule I, made or agreed to be made without consideration.

Schedule I

1. **Permanent transfer of business assets where input tax credit has been availed:**

   The word 'transfer' in this clause suggests that there should be another person who would receive the business assets at the other end. The use of the words 'permanent transfer' implies that the goods should be transferred without any intention or requirement of having to receive the goods back. However, even in these types of transactions, it is essential that there is delivery of the business assets.

   E.g. Infosys limited upgraded their 1000 Laptops and donated their old laptops (ITC Claimed) to the Government Schools. In this case, such donation is treated as supply as per Schedule I.

2. **Supply of goods and/or services between related person, or between distinct persons:**

   Any supply of goods and/or services in the course of business or furtherance of business by a taxable person to a related person (as defined by way of explanation below Section 15(5)), or by one taxable person to another taxable person (as Provided in Section 25 of the Act), when made without consideration, would qualify as 'supply'.

   E.g. Free supplies to related persons, stock transfers to a unit outside the State/a different business vertical, etc. will be reckoned as supplies.

Meaning of Distinct Person

A person who has obtained/is required to obtain more than one registration, whether in one State/Union territory or more than one State/Union territory shall, in respect of each such registration, be treated as distinct persons [Section 25(4) of the CGST Act].

E.g. Mohan, a Chartered Accountant, has a registered head office in Delhi. He has also obtained registration in the State of West Bengal in respect of his newly opened branch office. Mohan shall be treated as distinct persons in respect of registrations in West Bengal and Delhi.

Further, where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons [Section 25(5) of the CGST Act].

Stock transfers or branch transfers qualify as supply provided the transfer of goods or services is between:

(*i*) Different locations (with separate GST registrations) of same legal entity as these are transactions between distinct persons, or

(*ii*) Establishments of distinct persons.

Examples

(*a*) Raghubir Fabrics transfers 1000 shirts from his factory located in Lucknow to his retail showroom in Delhi so that the same can be sold from there. The factory and retail showroom of Raghubir Fabrics are registered in the States where they are located. Although no consideration is charged, supply of goods from factory to retail showroom constitutes supply.

(*b*) Raghubir Fabrics transfers 1000 shirts from his factory located in Lucknow to his retail showroom in Kanpur so that the same can be sold from there. It has taken one registration in the State of Uttar Pradesh declaring Lucknow factory as its principal place of business and Kanpur showroom as its additional place of business. Since no consideration is charged, supply of goods from factory to retail showroom in the same State under single registration does not constitute supply.

Meaning of **Related Person** "**Related persons**" means

(*i*) Such persons are partners in business. Example – Mr. A and Mr. B are partners in a business. They will be considered to be related persons.

(*ii*) Any person holds twenty-five per cent or more of shares of both of them. Example – Mr. A has 25% shares in X limited and 25% shares in Y limited, in this case X ltd & Y ltd will be considered to be related persons.

(*iii*) One of them controls the other, E.g. A limited is holding 51% shares of X limited, they are related persons.

(*iv*) Together they directly or indirectly control a third person, E.g. ABC limited has 26% shares of X limited and PQR limited has 27% shares of X limited, in this case ABC & PQR shall be related person.

(*v*) Such persons are employer and employee;

(*vi*) They are members of the same family; As per Section 2(49) "family" means,—

(*a*) The spouse and children of the person, and

(*b*) The parents, grand–parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.

Note: Any perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are in lieu of the services provided by employee to the employer in relation to his employment. It follows therefrom that perquisites provided by the employer to the employee in terms of contractual agreement entered into between the employer and the employee will not be subjected to GST.

3. Supply of goods by a principal to his agent, where the agent undertakes to supply such goods on behalf of the principal.

E.g. A company is located in Nagpur and employs an agent in Mumbai to undertake sales on behalf of the company. Goods transferred by the company to the premises of the agent in Mumbai would qualify as a 'supply'.

4. **Supply of goods by an agent to his principal, where the agent undertakes to receive such goods on behalf of the principal.**

   E.g. A company is located in Kanpur and employs an agent in Jaipur to undertake purchases on behalf of the company. Goods procured and transferred by the agent to the company would qualify as a 'supply'.

   If agent has the authority to pass or receive the title of the goods on behalf of the principal i.e. where the invoice for further supply is being issued by the agent in his name then, any provision of goods from the principal to the agent would fall within the schedule I. However, where the invoice is issued by the agent to the customer in the name of the principal, such agent shall not fall within the schedule I. Similarly, where the goods being procured by the agent on behalf of the principal are invoiced in the name of the agent then further provision of the said goods by the agent to the principal would be covered by Schedule I.

5. **Import of services by a taxable person from a related person, or from any of his other establishments outside India, in the course or furtherance of business.**

   Note: Importation of services as covered by the definition does not include importation without consideration. Therefore, this clause is inserted to rope in such services that are received from related persons/their establishments outside India.

Examples

- Jhumroo Associates received legal consultancy services from its head office located in Malaysia. The head office has rendered such services free of cost to its branch office. Since Jhumroo Associates and the head office are related persons, services received by Jhumroo Associates will qualify as supply even though the head office has not charged anything from it.
- A ltd. India has Foreign Subsidiary company B ltd. of USA. A ltd. Received management consultancy services from B ltd. without consideration. In this case this supply will be covered under this clause of Schedule I.
- Chakmak, a proprietor registered in Delhi, has sought architect services from his son located in the US, with respect to his newly constructed house in Delhi. Although services have been received by Chakmak without consideration from his son – a related person, yet it will not qualify as supply since the same has not been received in course or furtherance of business.

Section 7(1A)

Where a transaction is considered as supply under sub Section (1), they shall be treated either as supply of goods or supply of service as referred in Schedule II.

Schedule II

S. No	Activity/ Transaction	Type	Nature of Supply
1.	Transfer	Any transfer of title in goods **E.g.** Rotomac Sells Pen To Customer	Goods
		Any transfer of right in goods/undivided share in goods without transfer of title in goods. **E.g.** Car given on rent by Zoom Car.	Services

S. No	Activity/ Transaction	Type	Nature of Supply
		Any transfer of title in goods under an agreement which stipulates that property shall pass at a future date upon payment of full consideration as agreed. **E.g.** Maruti Suzuki Sold car on Hire Purchase To Mr. X	Goods
2.	Land and Building	Any lease, tenancy, easement, licence to occupy land. **E.g.** Lease agreement for land	Services
		Any lease or letting out of a building including a commercial, industrial or residential complex for business or commerce, wholly or partly. **E.g.** Shop Is let-out in shopping mall	Services
3.	Treatment or Process	**Any treatment or process which** is applied to another person's goods. **E.g.** XYZ Printer does printing job for Rotomac Pens	Services
4.	Transfer of Business Assets	Goods forming part of business assets are transferred or disposed off by/under directions of person carrying on the business so as no longer to form part of those assets.	Goods
		Goods held/used for business are put to private use or are made available to any person for use for any purpose other than business, by/under directions of a person carrying on the business.	Services
		Goods forming part of assets of any business carried on by a person who ceases to be a taxable person, shall be deemed to be supplied by him, in the course or furtherance of his business, immediately before he ceases to be a taxable person.	Goods
	E.g. Mr. X, a Electronic trader, is winding up his business. Any goods left in stock shall be deemed to be supplied by him. Exception 1. Business is transferred as a going concern to another person 2. Business is carried on by a personal representative who is deemed to be a taxable person.		
5.	Following Supply shall be considered as supply of service.		
	(*a*) Renting of immovable property. **For E.g.:** • Renting of precincts of a religious place. • Renting of property to an educational institution.		

S. No	Activity/ Transaction	Type	Nature of Supply
	(*b*) Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. **E.g.** DLF has constructed individual residential units for agreed consideration of ₹2 crore per unit. ₹1 crore per unit were received before issuance of completion certificate by the competent authority and balance after completion		
	(*c*) Temporary transfer or permitting use or enjoyment of any intellectual property right		
	(*d*) Development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of IT software. **E.g.** XYZ software developers developed ERP software for A ltd.		
	(*e*) Agreeing to the obligation to refrain from an act, or to tolerate an act or situation, or to do an act. **E.g.** Late delivery charges recovered from supplier for non-fulfilment of contract within stipulated time		
6.	Following composite supplies: (*a*) Works contract services. Works contract: means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.		
	[Section 2(119) of CGST Act]. (*b*) Supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink.		

Section 7(2)

Certain supplies will be neither a supply of goods, nor a supply of services: The law lists down matters which shall not be considered as 'supply' for GST. This list includes:

A. Activities/transactions in Schedule III(Negative List)

(*a*) Services by an employee to an employer in the course or in relation to his employment.

(*b*) Services by any Court or Tribunal established under any law for the time being in force;

(*c*) Functions performed by MPs, MLAs, etc.; the duties performed by a person who holds any post in pursuance of the provisions of the Constitution in that capacity; the duties performed by specified persons in a body established by the Central State Government or local authority, not deemed as an employee;

(*d*) Sale of land and Sale of Building (except sale of under-construction premises where the part or full consideration is received before issuance of completion certificate or before its first occupation, whichever is earlier.

(*e*) Actionable claims, other than specified actionable claims.

Specified Actionable claim Includes betting, casino, gambling, horse racing, lottery & Online Money Gaming including virtual digital assets

(*f*) Services of funeral, burial, crematorium or mortuary including transportation of the deceased.

"Service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name it is called, shall be neither supply of Goods nor supply of Services"

It may be noted that services provided by the Government to business entities including by way of grant of privileges, licences, mining rights, natural resources such as spectrum etc. against payment of consideration in the form of fee, royalty etc. are taxable under GST. Tax is required to be paid by the business entities on such services under reverse charge.

B. An employer and employee are treated as "related persons" and hence any supply of goods or services by employer to employee without consideration would be considered as supply as per schedule I. However, gifts not exceeding ₹50,000 in value in a financial year by an employer to employees shall not be treated as supply of goods or services or both.

Section 7(3)

The Central Government or the State Government may notify such other transactions to either qualify as 'supply of goods' or as 'supply of services'. This notification must be issued only upon recommendations from the Council.

Section 8 Composite and Mixed Supplies

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

Principal supply means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

E.g. When a consumer buys a television set and he also gets a warranty and a maintenance contract with the TV, this supply is a composite supply. In this example, supply of TV is the principal supply, warranty and maintenance services are ancillary.

E.g. Charger supplied along with the mobile phone is a composite supply.

E.g. Poshaak Manufacturers entered into a contract with Cheeku Ltd. for supply of readymade shirts packed in designer boxes at Cheeku Ltd.'s outlet. Further, Poshaak Manufacturers would also get them insured during transit. In this case, supply of goods, packing materials, transport & insurance is a composite supply wherein supply of goods is principal supply.

As per Section 2(74), "mixed supply" means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply:

E.g. A gift pack comprising of chocolates and sweets is a mixed supply.

E.g. A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juices when supplied for a single price is a mixed supply.

The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:—

(*a*) A composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and

(*b*) A mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

Supplies Given Below Are The Composite Supplies. CBIC Has Clarified As To What Constitutes The Principal Supply In The Given Composite Supplies:

1. ***Supply of printed books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc., printed with design, logo, name, address or other contents supplied by the recipient of such printed goods.***

   In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service.

   In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wallpaper etc. 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.

2. **Retreading of tyres**

   Pre–dominant element is the process of retreading which is a supply of service. Rubber used for retreading is an ancillary supply.

   Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods.

Buy one get one free offer

It may appear at first glance that in case of offers like "Buy One, Get One Free", one item is being "supplied free of cost" without any consideration. In fact, it is not an individual supply of free goods, but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.

Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined accordingly.

More Than One Supply Made Together And Taxed At The Individual Rates

There can be a case where an activity/transaction involves more than one supply of goods or services or both, but neither they are composite supplies nor can be categorised as mixed supplies, that is, all supplies carry independent significance. In such a case, if separate consideration is indicated against each supply, each such supply shall be charged at the respective rate applicable to that particular supply.

Example

In case of servicing of cars involving supply of both goods (spare parts) and services (labour) where the value of goods and services are shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately.

CLARIFICATIONS

1. **Art works sent by artists to galleries for exhibition is not a supply**

   Artists give their work of art to galleries where it is exhibited for supply. However, no consideration flows from the gallery to the artist when the art works are sent to the gallery for exhibition and therefore, the same is not a supply. It is only when a buyer selects a particular art work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply. [Circular No. 22/22/2017 GST dated 21.12.2017].

2. **CBIC has clarified Taxability of 'tenancy rights'/pagadi under GST as under:**

   Pagadi system, i.e. transfer of tenancy rights against tenancy premium, is prevalent in some States. The activity of transfer of tenancy right against consideration [i.e. tenancy premium] is squarely covered under supply of service liable to GST. It is a form of lease or renting of property and such activity is specifically declared to be a service in of Schedule II i.e. any lease, tenancy, easement, licence to occupy land is a supply of services.

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

   The transfer of tenancy rights cannot be treated as sale of land/building. Thus, it is not a negative list activity and consequently, a consideration for the said activity shall attract levy of GST. To sum up, transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable. Further, services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of tenancy premium is liable to GST[Circular No.44/18/2018 CGST dated 02.05.2018]

3. **Inter-State movement of various modes of conveyance**

   Inter–State movement of various modes of conveyance, between distinct persons as Specified in Section 25(4) of the CGST Act, including-

   - Buses,
   - Trains,
   - Trucks,
   - Tankers,
   - Trailers,
   - Vessels,
   - Containers,
   - Aircrafts,

   (*i*) Carrying goods or passengers or both; or

   (*ii*) For repairs and maintenance, except in cases where such movement is for further supply of the same conveyance, such inter-State movement shall be treated 'neither as a supply of goods or supply of service' and therefore not be leviable to IGST. Thus, above activity may not be treated as supply and consequently IGST will not be payable on such supply.

   However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance.

4. **Donations/Charity/Gift**

   GST is not leviable where all the following three conditions are satisfied namely:

(*a*) Gift or donation is made to a charitable organisation

(*b*) Payment has the character of gift or donation

(*c*) Purpose is philanthropic (i.e., it leads to no commercial gain) and not advertisement

Examples

- Bhushan donated a blackboard to Yoganisht Sansthan – a charitable yoga institution. Yoganisht Sansthan printed underneath the blackboard so donated – "Good wishes from Mr. Bhushan".
- Smt. Durga Devi donated some money to a temple in the memory of her late father. The Temple Trust constructed a room in the temple complex from such donations and wrote "Donated by Smt. Durga Devi in the memory of her father" on the door floor of the room.

In above examples, it may be noticed that there is no reference or mention of any business activity of the donor which otherwise would have been advertised.

Clarification Of Issues Pertaining To Del-Credere Agent (DCA)

A DCA is a selling agent who is engaged by a principal to assist in supply of goods or services by contacting potential buyers on behalf of the principal. The factor that differentiates a DCA from other agents is that the DCA guarantees the payment to the supplier.

In such scenarios where the buyer fails to make payment to the principal by the due date, DCA makes the payment to the principal on behalf of the buyer (effectively providing an insurance against default by the buyer), and for this reason the commission paid to the DCA may be relatively higher than that paid to a normal agent.

Issue 1

Whether a DCA falls under the ambit of agent under Para 3 of Schedule I of the CGST Act?

Clarification

Whether or not the DCA will fall under the ambit of agent under Para 3 of Schedule I of the CGST Act depends on the following possible scenarios:

(*a*) In cases where the invoice for supply of goods is issued by the supplier to the customer, either himself or through DCA, the DCA does not fall under the ambit of the agent.

(*b*) In cases where the invoice for supply of goods is issued by the DCA in his own name, the DCA would fall under the ambit of the agent.

Issue 2

Whether the temporary short term transaction based loan extended by the DCA to the recipient (buyer), for which interest is charged by the DCA, is to be included in the value of goods being supplied by the supplier (principal) where DCA is not an agent under Para 3 of Schedule I of the CGST Act?

Clarification

In such a scenario, following activities are taking place:

1. Supply of goods from supplier (principal) to recipient;
2. Supply of agency services from DCA to the supplier or the recipient or both;
3. Supply of extension of loan services by the DCA to the recipient.

It is clarified that in cases where the DCA is not an agent under Para 3 of Schedule I of the CGST Act, the temporary short-term transaction based loan being provided by DCA to the buyer is a supply

of service by the DCA to the recipient on Principal to Principal basis and is an independent supply. Therefore, the interest being charged by the DCA would not form part of the value of supply of goods supplied (to the buyer) by the supplier.

Issue 3

Where DCA is an agent under Para 3 of Schedule I of the CGST Act and makes payment to the principal on behalf of the buyer and charges interest to the buyer for delayed payment along with the value of goods being supplied, whether the interest will form a part of the value of supply of goods also or not?

Clarification

In such a scenario following activities are taking place:

1. Supply of goods by the supplier (principal) to the DCA
2. Further supply of goods by the DCA to the recipient
3. Supply of agency services by the DCA to the supplier or the recipient or both
4. Extension of credit by the DCA to the recipient.

It is clarified that in cases where the DCA is an agent under Para 3 of Schedule I of the CGST Act, the temporary short-term transaction based credit being provided by DCA to the buyer no longer retains its character of an independent supply and is subsumed in the supply of the goods by the DCA to the recipient. It is emphasised that the activity of extension of credit by the DCA to the recipient would not be considered as a separate supply as it is in the context of the supply of goods made by the DCA to the recipient.

No supply of service by the insured to the insurance company in lieu of 'No Claim Bonus' offered by said insurance company to him

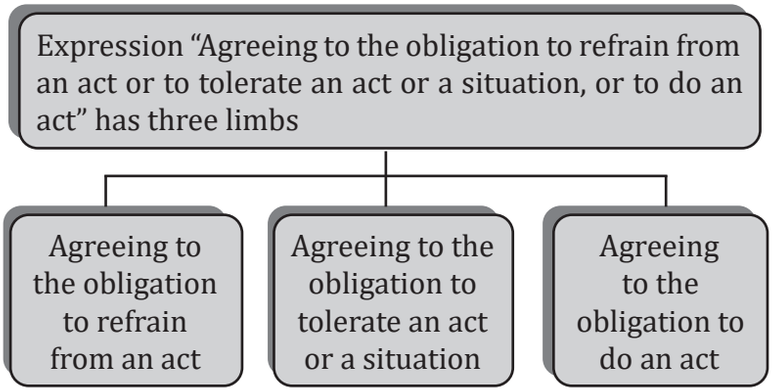
The issue which arose for consideration was whether the deduction on account of 'No Claim Bonus' (NCB) allowed by the insurance company from the insurance premium payable by the insured, can be considered as consideration for the supply provided by the insured to the insurance company, for agreeing to the obligation to refrain from the act of lodging insurance claim during the previous year(s).

As per practice prevailing in the insurance sector, the insurance companies deduct 'No Claim Bonus' from the gross insurance premium amount, when no claim is made by the insured person during the previous insurance period(s). The customer/insured procures insurance policy to indemnify himself from any loss/injury as per the terms of the policy and is not under any contractual obligation not to claim insurance claim during any period covered under the policy, in lieu of NCB.

It is, therefore, clarified that there is no supply provided by the insured to the insurance company in form of agreeing to the obligation to refrain from the act of lodging insurance claim during the previous year(s) and NCB cannot be considered as a consideration for any supply provided by the insured to the insurance company. [Circular No. 186/18/2022 GST dated 27.12.2022]

Applicability on liquidated damages, compensation and penalty arising out of breach of contract or other provisions of law

CBIC has clarified issues with respect to GST applicability on liquidated damages, compensation and penalty arising out of breach of contract or other provisions of law.



Clarification: "Agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act" has been specifically declared to be a supply of service in para 5(e) of Schedule II if the same constitutes a "supply" within the meaning of the CGST Act.

Agreeing to the obligation to REFRAIN from an act

Examples

- Example of activities that would be covered by this part of the expression would include non-complete agreements, where one party agrees not to compete with the other party in a product, service or geographical area against a consideration paid by the other party.
- Another example of such activities would be a builder refraining from constructing more than a certain number of floors, even though permitted to do so by the municipal authorities, against a compensation paid by the neighbouring housing project, which wants to protect its sunlight, or an industrial unit refraining from manufacturing activity during certain hours against an agreed compensation paid by a neighbouring school, which wants to avoid noise during those hours.

Agreeing to the obligation to tolerate an act or a situation

This would include activities such a shopkeeper allowing a hawker to operate from the common pavement in front of his shop against a monthly payment by the hawker, or an RWA tolerating the use of loud speakers for early morning prayers by a school located in the colony subject to the school paying an agreed sum to the RWA as compensation.

Agreeing to the obligation to do an act

This would include the case where an industrial unit agrees to install equipment for zero emission/ discharge at the behest of the RWA of a neighbouring residential complex against a consideration paid by such RWA, even though the emission/discharge from the industrial unit was within permissible limits and there was no legal obligation upon the individual unit to do so.

Above three activities must comply with the following conditions:

1. **There must be an expressed or implied agreement or contract must exist**

   Above three activities must be under an "agreement" or a "contract" (whether express or implied) to fall within the ambit of para 5(e) of Schedule II. In other words, one of the parties to such agreement/contract (the first party) must be under a contractual obligation to either (a) refrain or (b) tolerate or (c) do.

   Such contractual arrangement must be an independent arrangement in its own right. Such arrangement/agreement can take the form of an independent stand- alone contract or may form part of another contract.

Thus, a person (the first person) can be said to be making a supply by way of refraining from doing something or tolerating some act or situation to another person (the second person) if the first person was under an obligation to do so and then performed accordingly.

Such a contract cannot be imagined or presumed to exist just because there is a flow of money from one party to another. There must be an expressed or implied promise by the recipient of money to agree to do or abstain from doing something in return for the money paid to him.

2. **Consideration must flow in return to this contract/agreement**

Some "consideration" must flow in return from the other party to this contract/agreement (the second party) to the first party for such (a) refraining or (b) tolerating or (c) doing.

Taxability of some of the transactions has been discussed in detail as under:

- **Liquidated Damages**
  - 'Liquidated Damages' refers to cash compensation payable to aggrieved party for breach of contract.
  - Liquidated damages cannot be said to be a consideration received for tolerating the breach or non-performance of contract. They are rather payments for not tolerating the breach of contract.
  - A contract is entered into for execution and not for its breach. The liquidated damages or penalty are not the desired outcome of the contract.
  - Hence, where 'liquidated damages' is paid only to compensate for loss or damage suffered by the aggrieved party due to breach of the contract, and
    - There is no agreement, express or implied, by the aggrieved party receiving the liquidated damages, to refrain from or tolerate an act or to do anything for the party paying the liquidated damages,
    - Such payments do not constitute consideration for a supply & are not taxable.
  - Eg. Penalty stipulated in a contract for delayed construction of houses.
  - Eg. Forfeiture of earnest money by a seller in case of breach of 'an agreement to sell' an immovable property by the buyer.

Forfeiture of such earnest money is not a consideration for tolerating the breach of contract but as a compensation for the losses suffered and as a penalty for discouraging the non-serious buyers.

Such payments being merely flow of money are not a consideration for any supply and are not taxable.

- The main element in such cases is to consider whether payments constitute consideration for another independent contract envisaging tolerating an act or situation or refraining from doing any act or situation or simply doing an act. If the answer is yes, then it constitutes a 'supply' irrespective of by what name it is called.

Eg. A contract for package tour may stipulate forfeiture of security deposit in the event of cancellation of tour by the customer.

Eg. A contract for lease of movable or immovable property may stipulate that the lessee shall not terminate the lease before a certain period and if he does so he will have to pay certain amount as early termination fee or penalty.

- **Cheque dishonor fine/penalty**
  - The supplier wants payment to be received on time and does not want cheque to be dishonoured.

- There is never an implied or express offer or willingness on part of the supplier that he would tolerate deposit of an invalid, fake or unworthy instrument of payment against consideration in the form of cheque dishonour fine or penalty.
- Therefore, cheque dishonor fine or penalty is not a consideration for any service and not taxable.

- **Penalty imposed for violation of laws**
  - Penalty imposed for violation of laws such as traffic violations, or for violation of pollution norms or other laws are also not consideration for any supply received and are not taxable.
  - Laws are not framed for tolerating their violation. They stipulate penalty not for tolerating violation but for not tolerating, penalizing and deterring such violations.
  - There is no agreement between the Government and the violator specifying that violation would be allowed or permitted against payment of fine or penalty.
- **Forfeiture of salary or payment of bond amount in the event of employee leaving employment before the minimum agreed period.**
  - The said amounts are recovered by the employer not as a consideration for tolerating the act of such premature quitting of employment but as penalties for dissuading the non-serious employees from taking up employment and to discourage and deter such a situation.
  - Further, the employee does not get anything in return from the employer against payment of such amounts.
  - Therefore, such amounts recovered by the employer are not taxable as consideration for the service of agreeing to tolerate an act or a situation.
- **Late payment surcharge or fee**
  - Facility of accepting late payments with interest or late payment fee, fine or penalty is a facility granted by supplier naturally bundled with the main supply.
  - Almost all service providers across the world provide the facility of accepting late payments with late fine or penalty.
  - Since it is ancillary to and naturally bundled with the principal supply such as of electricity, water, telecommunication, cooking gas, insurance etc. it should be assessed at the same rate as the principal supply.
  - However, same cannot be said of cheque dishonor penalty as discussed earlier.
- **Fixed charges for power**
  - The price charged for electricity by the power generating companies from the State Electricity Boards (SEBs)/DISCOMS or by SEBs/DISCOMs from individual customers has 2 components namely,
    - Minimum fixed charge, and
    - Variable per unit charge
  - Are charged for sale of electricity and are thus not taxable, as electricity is exempt from GST.
- **Cancellation charges**
  - Suppliers of services such as hotel accommodation, tour and travel, transportation etc. provide the facility of cancellation of the intended supplies within a certain time period on payment of cancellation fee.
  - This cancellation facility against payment of charges is a natural part of supply.

- The amount forfeited in the case of non-refundable ticket for air travel or security deposit or earnest money forfeited in case of the customer failing to avail the travel, tour operator or hotel accommodation service or such other intended supplies should be assessed at the same rate as applicable to the service contract, say air transport or tour operator service, or other such services.

CLARIFICATION RELATED TO SUPPLY OF FOOD AND BEVERAGES AT CINEMA HALLS TAXABLE AS RESTAURANT SERVICE

It is hereby clarified that:

- Supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as:
  - The food or beverages are supplied by way of or as part of a service, and
  - Supplied independent of the cinema exhibition service.
- Where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

CLARIFICATION ON TAXABILITY OF SHARES HELD IN A SUBSIDIARY COMPANY BY HOLDING COMPANY

It is clarified that securities are considered neither as goods nor as services in terms of definition of goods under section 2(52) and the definition of services under section 2(102). Further, securities include 'shares' as per definition of securities.

Therefore, **the activity of holding of shares of subsidiary company by the holding company per se cannot be treated as a supply of services** by a holding company to the said subsidiary company and cannot be taxed under GST.

It is further clarified that the value of the interest charged for such credit would be required to be included in the value of supply of goods by DCA to the recipient as per Section 15(2)(d) of the CGST Act.

1. What is the taxable event under the GST?

Sol. Taxable event under the GST is supply of goods or services or both. CGST and SGST/UTGST will be levied on intra-State supplies. IGST will be levied on inter-State supplies.

2. Supply of all goods and/or services is taxable under the GST. Discuss the validity of the statement.

Sol. The statement is incorrect. Supplies of all goods and services are taxable except:

(*i*) Supply of alcoholic for human consumption

(*ii*) Petroleum products

- High speed diesel
- Petroleum crude
- Motor spirit
- Aviation turbine fuel
- Natural gas

Shall be taxable with effect from a future date. This date would be notified by the Government on the recommendations of the GST Council.

3. Explain the meaning of the term "recipient of supply of goods and/or services" under the CGST Act, 2017.

Sol. Recipient of supply of goods or services or both, means—

(*a*) Where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;

(*b*) Where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and

(*c*) Where no consideration is payable for the supply of a service, the person to whom the service is rendered, and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply, and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied.

4. Whether actionable claim liable to GST?

Sol. As per Section 2(52) of the CGST/SGST Act actionable claims are to be considered as goods. Schedule III read with Section 7 of the CGST/SGST Act lists the activities or transactions which shall be treated neither as supply of goods nor supply of services. The Schedule lists actionable claims other than lottery, betting and gambling as one of such transactions. Thus, only betting, gambling and lottery shall be treated as supplies under the GST regime. All the other actionable claims shall not be supplies.

5. Whether transaction in securities taxable in the GST?

Sol. Securities have been specifically excluded from the definition of goods as well as services. Thus, the transaction in securities shall not be liable to GST.

Section 7(1)(a)

6. "Exchange is a form of supply of goods or services or both, made or agreed to be made for a consideration by a person in the course or furtherance of business." — Explain it with the help of an example.

Sol. When two persons mutually transfer the ownership of one thing for the ownership of another, neither thing nor both things being money only, the transaction is called an exchange.

Exchange offers on products such as televisions, mobile phones and refrigerators are also taxable under the GST as these are also transactions for consideration in course or furtherance of business.

Example: Mr. Raju is a dealer of new cars. He sells new cars for ₹8,25,000 and agrees to reduce ₹1,25,000 on surrendering of an old car. Mr. Abin who intends to buy a new car worth ₹8,25,000 agreed to exchange his old car with a new car.

Under the GST law, it will be treated as Mr. Raju has supplied the goods (new car) to Mr. Abin. Consideration for this supply is an old car and some money.

It shall be noted that supply of an old car by Mr. Abin to Mr. Raju will not constitute supply if Mr. Abin is not a business entity, the reason being that any transaction for consideration amounts to supply only if it is made in course or furtherance of business.

7. Sahab Sales, an air-conditioner dealer in Janakpuri, Delhi, needs 4 air-conditioners for his newly constructed house in Safdarjung Enclave. Therefore, he transfers 4 air-conditioners [on which ITC has already been availed by it] from its stock, for the said purpose. Examine whether the said activity amounts to supply under Section 7 of the CGST Act, 2017.

Further, a Janakpuri resident, Aakash, approached Sahab Sales. He sold an air- conditioner to Sahab Sales for ₹5,000. Aakash had bought the said air-conditioner six months before, for his residence. Does sale of the air conditioner by Aakash to Sahab Sales amount to supply under Section 7 of the CGST Act, 2017.

Sol. Section 7 defines the scope of supply'. In general, supply covers those transactions where goods or services or both are supplied for consideration in the course of or furtherance of business (Section 7(1) (*a*)). Besides that, scope of supply has been extended to cover certain specified transactions which are undertaken even without any consideration (Section 7(1) (*c*) read with Schedule I). One such transaction without consideration is where business assets on which ITC has been availed are transferred or disposed-off permanently.

In view of said provisions, the Solution to given situations are as follows:

(*a*) Permanent transfer of air-conditioner (trading stock which is his business asset on which he has availed ITC): Permanent transfer of air conditioners by Sahab Sales from its stock for personal use at its residence, though without consideration, would amount to supply.

(*b*) Sale by Aakash (non-business entity) of his second-hand air-conditioner: Such sale will not qualify as supply under Section 7 of the CGST Act, 2017 as although it is made for a consideration, it's not in the course or furtherance of business.

Section 7(1)(b)

8. Whether import of services will be liable to tax under the GST regime? Alternative,

Will import of services without consideration be taxable under the GST?

Sol. The following import of service will qualify as supply under CGST Act, 2017:

(*i*) Import of service for a consideration: Such import will constitute 'supply' whether or not it is in the course or furtherance of business is a supply (Section 7(1)(b) of CGST Act, 2017).

(*ii*) Import of service without consideration: Such import will constitute 'supply' only if import of service has been made by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business (Section 7(1)(c) read with Schedule I of CGST Act, 2017).

9. Mrs. Pragati received legal advice for her personal problems & paid 1,000 pounds as a legal fee to Miss Unnati of U.K. (London). Explain whether the above activity of import of service would amount to supply under Section 7 of the CGST Act, 2017?

If in the above case both of them are real sisters & no consideration is paid then will it change your Solution? Further in the above case both of them are real sisters & Mrs. Pragati receives legal advice for her business & she didn't pay any consideration then what will be your Solution?

Sol. The given situation is a case of import of service (location of supplier outside India, recipient in India and place of supply of service determined as per Sec. 13 of IGST Act is in India)

Solutions to each given situation is as follows

(1) Import of legal service for consideration of 1,000 pound:

Importation of service for consideration is supply whether or not in the course or furtherance of business [Section 7(1) (b) of CGST Act]. Thus, even if Mrs Pragati has received such service for his personal purpose, import will qualify as supply as it is being made for consideration.

(2) Import of legal service without consideration:

(*a*) Import of legal service in personal matter

Import of any service without consideration amounts to supply in terms of Section 7(1) (c) read with Schedule I (Para 4)

Only if following conditions are fulfilled:

(*i*) Import is by a person;

(*ii*) Import is in course or furtherance of business of such taxable person;

(*iii*) Import is from related person or own establishment outside India.

Presuming Mrs Pragati is taxable person under GST, still import of legal service by will not amount to supply as such import it not in course or furtherance of business (as such advice is for personal matter)

(*b*) Import of legal service in business matter

If Mrs. Pragati is a person and import of service is for business matters, then such import without consideration would amount to supply if it is from a related person or his other establishment outside India.

Import from a real sister is not an import from 'related person'. GST law has defined a related person to include members of the same family. Sister is considered as a family member if she is wholly or mainly dependent upon the person. In given question, it seems Mrs Unnati in UK is quite independent and no way dependent upon Mrs Pragati and therefore, Mrs Pragti and Mrs Unnati are not 'related person' under GST law.

Since import of service without consideration is not from a related person or other establishment outside India, it will not amount to supply under GST law.

Section 7(1)(c) with Schedule I

10. Examine whether the following activities would be treated as supply under GST law?

(*i*) Mr. Sonu from Chandigarh purchased a water cooler from Malhotra Bros. of Hoshiarpur for 25,000 to donate it to a temple situated in Hoshiarpur. Mr. Sonu directed Malhotra Bros. to engrave the words on the water cooler- "Donated by Mr. Sonu from Chandigarh" and dispatch the water cooler directly to the temple.

(*ii*) Wesco Ltd, a registered person in Ahmedabad (Gujarat) having head office located in Singapore, received management consultancy services free of cost from its head office.

[PYQ Nov 23]

Sol. (*i*) Donations received by the charitable organisations are treated as consideration only if there exists, quid pro quo, i.e., there is an obligation on part of recipient of the donation or gift to do anything (supply a service).

Since the name of the donor, Mr. Sonu is displayed in temple as an expression of gratitude and public recognition of his act of philanthropy and is not aimed at advertising or promotion of his business, hence, donation of water cooler by Mr. Sonu to temple is without quid pro quo and is, thus, not a supply under GST law.

However, supply of water cooler by Malhotra Bros. to Mr. Sonu is supply as it is made for consideration in course or furtherance of business.

(*ii*) As per schedule I, in case of import of services by a person from a related person or from his establishments located outside India, without consideration, in the course or furtherance of business shall be treated as "supply".

Hence, services received by Wesco Ltd. qualify as supply even though such services have been provided free of cost by the head office.

11. Examine whether the following activities would amount to supply under Section 7 of the CGST Act:

(*a*) Sulekha Manufacturers have a factory in Delhi and a depot in Mumbai. Both these establishments are registered in respective States. Finished goods are sent from the factory in Delhi to the Mumbai depot without consideration so that the same can be sold.

(*b*) Raman is an architect in Chennai. His brother who is settled in London is a well-known lawyer. Raman has taken legal advice from him free of cost with regard to his family dispute.

(*c*) Would your Solution be different if in the above case, Raman has taken advice in respect of his business unit in Chennai?

Sol. (*a*) Schedule I of the CGST Act, inter alia, stipulates that supply of goods or services or both between related persons or between distinct persons as specified in Section 25, is supply even without consideration provided it is made in the course or furtherance of business. Further, where a person who has obtained or is required to obtain registration in a State in respect of an establishment, has an establishment in another State, then such establishments shall be treated as establishments of distinct persons [Section 25 of the CGST Act]. In view of the same, the factory and depot of Sulekha Manufacturers are establishments of two distinct persons. Therefore, supply of goods from Delhi factory of Sulekha Manufacturers to Mumbai Depot without consideration, but in course/furtherance of business, is supply under Section 7 of the CGST Act.

(*b*) Schedule I of the CGST Act, inter alia, stipulates that import of services by a taxable person from a related person located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business. Explanation to Section 15, inter alia, provides that persons shall be deemed to be "related persons" if they are members of the same family. Further, as per Section 2(49) of the CGST Act, 2017, family means,—

(*i*) The spouse and children of the person, and

(*ii*) The parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.

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

(*c*) In the above case, if Raman has taken advice with regard to his business unit, services provided by Raman's brother to him would still not be treated as supply under Section 7 of the CGST Act read with Schedule I as although the same are provided in course or furtherance of business, such services have not been received from a related person.

12. Examine whether the activity of import of service in the following independent cases would amount to supply under Section 7 of the CGST Act, 2017?

(*i*) Miss Shriniti Kaushik received vaastu consultancy services for her residence located at Bandra, Mumbai from Mr. Racheal of Sydney (Australia). The amount paid for the said service is 5,000 Australian dollars.

(*ii*) Miss Shriniti Kaushik received vaastu consultancy services for her residence located at Bandra, Mumbai from her son, Mr. Varun residing in Sydney (Australia). Further, Miss Shriniti did not pay any consideration for the said service.

(*iii*) Miss Shriniti Kaushik received vaastu consultancy services for her business premises located at Bandra, Mumbai from her son, Mr. Varun residing in Sydney (Australia). Further, Miss Shriniti did not pay any consideration for the said service.

Sol. (*i*) Supply, under Section 7 of the CGST Act, 2017, inter alia,

- Includes import of services for a consideration
- Even if it is not in the course or furtherance of business.

Thus, although the import of service for consideration by Miss. Shriniti Kaushik is not in the course or furtherance of business, as the vaastu consultancy service has been availed in respect of residence, it would amount to supply.

(*ii*) Section 7 of the CGST Act, 2017 read with Schedule I provide that import of services by a taxable person from a related person located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business.

In the given case, import of service without consideration by Miss Shriniti from her son – Mr. Varun [son, being a member of the same family, is a related person] will not be treated as supply as it is not in the course or furtherance of business.

(*iii*) Section 7 of the CGST Act, 2017 read with Schedule I provide that import of services by a taxable person from a related person located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business.

Thus, import of service without consideration by Miss Shriniti from her son – Mr. Varun (son, being member of the same family, is a related person) will be treated as supply as she receives vaastu consultancy service for her business premises, i.e. in course or furtherance of business.

13. National Electronics Ltd., registered in Kerala dealing in supply of electronic items, transferred some of its stock to its another unit located in Karnataka (inter-state transfer). Whether such self-supplies are taxable under the GST?

Sol. Yes, transfers of stocks made by National Electronics Ltd. are taxable under GST. The definition of supply given under Section 7 of the CGST Act, 2017 is an inclusive one. It does not specify that supply is to be made by one person to another. So, self-supplies are to be treated as supply in terms of Section 7 of the CGST Act. Further, Section 25(5) provides that where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons.

Clause (2) of Schedule I of the CGST Act, 2017 inter alia provides that supply of goods between distinct persons as specified in Section 25 made in the course or furtherance of business is to be treated as supply even if made without consideration.

Inter-state self-supplies such as stock transfers, branch transfers or consignment sales shall be taxable under IGST even though such transactions may not involve payment of consideration.

14. Every supplier is liable to register under the GST law in the State or Union Territory from where he makes a taxable supply of goods or services or both in terms of Section 22 of the CGST Act. However, intra-state self- supplies are not taxable subject to not opting for registration as a business vertical. Examine whether the following activity would amount to supply under Section 7 of the CGST Act: Happy Charitable Trust, a trust who gets the eye treatment of needy people done free of cost, donates clothes and toys to children living in slum areas.

Sol. Happy Charitable Trust is providing eye treatment services free of cost to the needy people (unrelated persons). Its activity does not fall within the scope of supply (as supply made for without consideration and not getting covered by Section 7(1)(c) read with Schedule I of CGST Act).

In view of the above, it is not a GST registered entity. Being an unregistered entity, it must not have availed any ITC of the tax paid clothes and toys purchased by it. Thus, free supply of such goods is not getting covered by Section 7(1)(c) read with Schedule I of CGST Act. Thus, even such a supply will not attract any GST in the hands of Happy Charitable trust.

15. Whether gifts given by employers to employees will also qualify as supply?

Sol. Section 7(1)(c) of the CGST Act defines scope of supply to include transactions specified in Schedule I of CGST Act which are made without consideration. One type of such transaction is supply of goods or services or both between related persons.

Explanation to Section 15 of the CGST Act defines 'related person'. The said definition covers employer and employee as related persons. Thus, a gift by an employer to an employee will be a supply and will attract a levy of GST.

However, any gifts for a value not exceeding ₹50,000 in a financial year will not qualify as supply and as such will not be liable to tax.

16. Gagan Engineering Pvt. Ltd., registered in Haryana, is engaged in providing maintenance and repair services for heavy steel machinery. For carrying out the repair work, Gagan Engineering Pvt. Ltd. sends its container trucks equipped with items like repair equipments, consumables, tools, parts

etc. from Haryana workshop to its own repairing centres (registered under GST law) located in other States across India where the clients' machinery are being brought and are being repaired. Discuss the leviability of GST on the inter-State movement of trucks from the workshop of Gagan Engineering Pvt. Ltd. in Haryana to its own repairing centres located in other States across India. **[MTP Nov 23]**

Sol. As per section 25(4) of the CGST Act, 2017, a person who has obtained 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'.

Schedule I to the CGST Act specifies situations where activities are to be treated as supply even if made without consideration. Supply of goods and/or services between 'distinct persons' as specified in section 25 of the CGST Act, 2017, when made in the course or furtherance of business is one such activity included in Schedule I under para 2.

However, as per CBIC circular, the inter-State movement of various modes of conveyance including, inter alia, trucks, carrying goods or passengers or both or for repairs and maintenance, between 'distinct persons' as specified in section 25(4) of the CGST Act, 2017, not involving further supply of such conveyance, may be treated 'neither as a supply of goods nor supply of service' and therefore, will not be leviable to IGST. Applicable CGST/SGST/IGST, however, shall be leviable on repairs and maintenance done for such conveyance

Thus, in the given case, inter-State movement of trucks from the workshop of Gagan Engineering Pvt. Ltd. located in Haryana to its repair centres located in other States is 'neither a supply of goods nor supply of service'.

Section 7(1A) – Schedule II

17. The goods supplied on hire purchase basis will be treated as supply of services. Examine the Validity of the statement. **[MTP May 23]**

Sol. The statement is not correct. Supply of goods on hire purchase shall be treated as supply of goods as there is transfer of title at a future date.

18. Examine the implications of GST on supply of food and beverages at cinema halls. **[RTP May 24]**

Sol. Eating joint is a wide term which includes refreshment or eating stalls/kiosks/counters or restaurant at a cinema also.

The cinema operator:

(*i*) may run these refreshment/eating stalls/kiosks/counters/restaurant themselves

or

(*ii*) they may give it on contract to a third party.

The customer may like to avail the services supplied by these refreshment/snack counters or choose not to avail these services. Further, the cinema operator can also install vending machines, or supply any other recreational service such as through coinoperated machines etc. which a customer may or may not avail.

It is hereby clarified vide Circular No. 201/13/2023 GST dated 01.08.2023 that:

(*i*) supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as:

(*a*) the food or beverages are supplied by way of or as part of a service, and

(*b*) supplied independent of the cinema exhibition service.

(*ii*) where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

19. Whether transfer of title and/or possession is necessary for a transaction to constitute supply of goods?

Sol. Title as well as possession both has to be transferred for a transaction to be considered as a supply of goods. In case title is not transferred, the transaction would be treated as supply of service in terms of Schedule II (1) (b) of the CGST Act. In some cases, possession may be transferred immediately but title may be transferred at a future date like in case of sale on approval basis or hire purchase arrangement. Such transactions will also be termed as supply of goods.

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

(*a*) Renting of immovable property.

(*b*) Goods forming part of business assets are transferred or disposed of by/under directions of the person carrying on the business, whether or not for consideration.

(*c*) Transfer of right in goods without transfer of title in goods.

(*d*) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date.

Sol. (*a*) Supply of services (*b*) Supply of goods

(*c*) Supply of services (*d*) Supply of goods

21. Whether goods supplied on hire purchase basis will be treated as supply of goods or supply of services? Give a reason.

Sol. Supply of goods on hire purchase shall be treated as supply of goods as there is transfer of title, albeit at a future date.

22. R-TECH Consultancy, registered in Bangalore, supplies technical consultancy services to its clients. It has been providing technical services to Tata Ltd., Bangalore since past two years. Consideration is settled by Tata Ltd. assignment wise. Tata Ltd. paid ₹66 lakh to R-TECH Consultancy on 10th September, 20XX on R-TECH consultancy agreeing to not provide similar technical services to any other business entity in India or abroad for a period of 8 years. R-TECH Consultancy is of the view that ₹66 lakh is not chargeable to GST.

You are required to examine whether the view taken by R-TECH Consultancy is valid in law. Calculate the GST liability of R-TECH Consultancy, if any. The technical services provided by R-TECH consultancy are otherwise chargeable to the GST at the rate of 18%. It may be noted that Tata Ltd. is not ready to pay any further amount to R-TECH Consultancy in addition to the amount already agreed.

Sol. The view taken by R-TECH Consultancy is not valid in law. The scope of supply is defined by Section 7(1) of the CGST Act, 2017. It includes deemed supply given under Schedule II. The paragraph 5(e) of Schedule II provides that agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act is treated as supply of service.

Thus, any consideration received for agreeing to the obligation to refrain from an act, is subject to the GST. Consideration received for non-compete agreement is deemed as consideration for supply of services Consideration of ₹66 lakh received on the promise of R-TECH consultancy of not providing similar services to any other person, is consideration for supply which is chargeable to the GST.

Since the GST is not separately collected, it will be assumed that it is included in ₹66 lakh. Rule 35 of the CGST Rules, 2017 provides that where the value of supply is inclusive of GST, the tax amount is determined in the following manner:

Tax amount = (Value inclusive of taxes × GST rate in %) [IGST or CGST, SGST/UTGST]/(100 + sum of GST rates in %)

Consequently, the value of taxable supply will be ₹55,93,220 (i.e., ₹66,00,000 × 100/118).

GST liability on ₹55,93,220 will be calculated as follows-

Particulars	₹
Taxable value of supply	55,93,220
Add: CGST @ 9% of ₹55,93,220	5,03,390
SGST @ 9% of ₹55,93,220	5,03,390
Total GST liability	10,06,780

Section 7(2) – Negative List

23. Examine the implications of GST on payment of honorarium to the Guest Anchors.

[RTP Nov 23]

Sol. Sansad TV and other TV channels invite guest anchors to participate in their shows and pay remuneration to them in the form of honorarium.

It is clarified that supply of all goods & services are taxable unless exempt or declared as 'neither a supply of goods nor a supply of service'. Services provided by the guest anchors in lieu of honorarium attract GST liability.

However, guest anchors whose aggregate turnover in a financial year does not exceed 20 lakh (10 lakh in case of specified Special Category States) shall not be liable to take registration and pay GST.

24. List any 5 (Five) activities/transactions specified under Schedule III of the CGST Act, 2017 which shall be neither treated as supply of goods nor as supply of services. Detailed explanations is not required. **[PYQ May 23]**

Sol. Activities or transactions which shall be treated neither as a supply of goods nor a supply of services are as under:-

1. Services by an employee to the employer in the course of or in relation to his employment.
2. Services by any court or Tribunal established under any law for the time being in force.
3. Functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities.
4. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
5. Sale of land and, subject to paragraph 5(b) of Schedule II, sale of building. (i.e. in case, where entire consideration for sale of building received after issuance of completion certificate or after its first occupation, whichever is earlier).

25. Discuss the applicability of GST in the following cases:

(*i*) Manu transfers 1,000 debentures of Chugg Ltd. to Naresh for a consideration of ₹5,94,000.

(*ii*) Taju transfers a plot of land situated in Mumbai to Babu for a consideration of ₹55 lakhs. Consideration is, however, payable in installments.

Sol. (*i*) Sale of debentures – GST is applicable on supply of goods and/or services. Debentures are securities. Under GST law, securities are neither 'goods' (as defined u/Section 2(52)) nor 'services' (as defined u/Section 2(102)). Thus, transfer of debentures (securities) is not subject to GST.

(ii) Sale of plot of land – Plot of land, being immovable property, is not 'goods' as defined u/Section 2(52) of CGST Act. However, it is covered by definition of 'service' as given u/Section 2(102) of CGST Act. However, transactions of sale of land are out of scope of supply under GST law (Section 7(2) of CGST Act read with Schedule III of CGST Act). Thus, sale consideration is not subject to GST.

26. Discuss the applicability of GST in the following cases:

(*i*) Mr. Amal deposits ₹1.5 lakh in cash in his savings account with ICICI bank, Delhi.

(*ii*) Sale of derivatives by Mr. Yash for a consideration of ₹8,60,000. Mr. Yash is a dealer in shares and security.

(*iii*) Mr. Zamir takes a housing loan from HDFC bank. Rate of interest is 7.5%. Loan is repayable after 7 years. ₹13,500, being documentation charges, is payable by Mr. Zamir at the time of taking loan. Interest would be part of EMI which will be payable on the 10th day of every month.

Sol. (*i*) Cash deposit in bank – It is a transaction in money. GST is not applicable on making a bank deposit.

(*ii*) Transfers of derivatives – Derivatives are securities. Securities are neither goods nor services. Thus, GST is not applicable on transfer of securities.

(*iii*) Housing loan – Supply of money by bank does not constitute supply of goods or services. Thus, GST is not applicable. However, document charges of ₹13,500 are subject to GST. Interest payable being for use of money constitutes 'supply of services'. However, GST on interest element is exempt (entry 27 of exemption notification).

27. What is outside the scope of the term supply as defined in CGST Act, 2017?

Sol. Section 7(2) of the CGST Act, 2017 provides exclusion of following from the scope of supply:

(*a*) The activities specified under Schedule III of the CGST Act;

B- Bond to bond transfer

E- Employee to the employer in the course of or in relation to his employment

N- Non-taxable territory to non-taxable territory without such goods entering to India

C- Court or tribunal established under any law

H- High seas sale

F- Funeral, burial, crematorium or mortuary including transportation of the deceased

L- Sale of land and completed building subjected to the clause (*b*) of para of schedule II

A- Actionable claims, other than Betting, gambling, and lottery (BGL)

G- Functions performed by the government officials

(*b*) Any activity undertaken by the Central Govt. or a State Govt. or any local authority in which they are engaged as public authority and which have been notified by Government (on recommendation of council). Presently,

- Services by way of any activity in relation to function entrusted to a Panchayat or a Municipality (as amended on 26th July, 2018) under Constitution of India and
- Services by way of grant of alcoholic liquor license, against consideration in the form of license fee or application fee or by whatever name it is called has been notified and thus, such activity is excluded from scope of supply.

Section 7(3)

28. "State Government has exclusive power to notify a transaction to be supply of goods or services." Discuss the correctness of the statement.

Sol. The said statement is not correct. State Government can notify a transaction to be supply of goods or services but only on the recommendations of the GST Council. Further, Central Government or State Government, both on the recommendations of the GST Council, can notify an activity to be the supply of goods and not supply of services or supply of services and not supply of goods or neither a supply of goods nor a supply of services.

Section 8 – Composite and Mixed supplies

29. What is the tax treatment of composite supply and mixed supply under the GST?

Sol. Composite supply shall be treated as supply of the principal supply. Mixed supply would be treated as supply of that particular goods or services which attracts the highest rate of tax.

30. Determine whether the following supplies amount to composite supplies:

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

(*ii*) A toothpaste company has offered the scheme of free toothbrush along with the toothpaste.

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

In view of the same,

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

(*ii*) Since the supply of toothbrushes along with the toothpaste are not naturally bundled, said supplies do not qualify as 'composite supply'.

31. What is Mixed Supply? Illustrate with an example.

Sol. In terms of Section 2(74) of the CGST Act, mixed supply means two or more individual supplies of goods or services or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

The example of mixed supply is:

A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately.

32. Brishti Ltd. is manufacturer of cosmetic products: (1) Hair oil (GST Rate – 18%), (2) Sun screen cream (GST Rate - 28%), (3) Shampoo (GST rate – 28%), and (4) Hair comb (GST Rate – 12%). The said products are supplied in a single package and the Price per package is ₹500 (exclusive of taxes). 20,000 packages were supplied by the company to its dealer. Determine the nature of supply and its tax liability.

Sol. The treatment would be as follows:

Nature of Combination Supply: Each of the goods in the package has individual identity and can be supplied separately but are deliberately supplied conjointly for a single consolidated price. Hence, the supply would constitute a mixed supply.	Mixed supply
Treatment under GST: Highest tax rate applicable As per Section 8(b) of the CGST Act, tax rates applicable in case of mixed supply would be the rate of tax attributable to that one supply (goods, or services) which suffers the highest rate of tax from amongst the supplies forming part of the mixed supply. Therefore, entire package will be chargeable to 28% GST.	28% GST
Value of Supply: Value of taxable supply per package	500
No. of packages	20,000
Total Value	1,00,00,000
GST Liability @ 28%	28,00,000

Clarification Questions

33. Happy Constructions Ltd., a registered builder under GST in Bengaluru, Karnataka has got permission to build five floors from the

Municipal Projects for one of its projects at Suraj Nagar. Aditya Constructions, a neighbouring housing project approached Happy Constructions Limited to discuss regarding blockage of sun light issue arising out of construction of five floors and asked it to build only three floors for which 20 lakh was offered as compensation. Happy Constructions Limited agreed to the offer. It may be noted that Aditya Constructions is not ready to pay any further amount to Happy Constructions Ltd. in addition to the amount already agreed.

Briefly explain with correct legal provision whether the above amount received as compensation is liable to GST or not? And if considered as taxable, then calculate the total GST payable by Happy Constructions Ltd. Assume the applicable rate of CGST and SGST is 9% each.

Also state the conditions to be complied with. **[RTP May 24]**

Sol. Agreeing to obligation to refrain from an act, or to tolerate an act or situation, or to do an act has been specifically declared to be a supply of service vide para 5(e) of Schedule II of the CGST Act, 2017 if the same constitutes a supply as per the CGST Act, 2017.

In the given case, Happy Constructions Limited has agreed to build only three floors, even though it is permitted to construct five floors by the Municipal Authorities, for a compensation of 20 lakh. This results in supply of service.

The conditions to be complied with for the above supply will be

(a) There must be an expressed or implied agreement or contract must exist.

(b) Consideration must flow in return to this contract/agreement.

Since Aditya Constructions is not ready to pay any further amount to Happy Constructions Limited in addition to the amount already agreed, the amount received 20 lakh shall be treated as inclusive of GST and the GST payable will be 20,00,000 x 9/118 = 1,52,542.37 or 1,52,542 (rounded off) as CGST and SGST each.

34. The temple of the ancestral deity of Mr. Aman Goel and his family is located at Beri, Haryana. The temple is run by a charitable organization registered under Section 12AA of the Income Tax Act, 1961. The family has got unshakeable faith in their ancestral deity. Mr. Aman is a big entrepreneur having a flourishing business of tiles in Gurugram. Upon the birth of their first child, he donated ₹10 lakh to the said temple for construction of a sitting hall in the temple. On the main door of the sitting hall, a name plate was placed stating "Donated by Mr. Aman Goel upon birth of his first child".

You are required to examine the leviability of GST on the donation received from Mr. Aman Goel?

Sol. It has been clarified vide Circular No. 116/35/2019 GST dated 11.10.2019 that when the name of the donor is displayed in the religious institution premises, by placing a name plate or similar such acknowledgement, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation). There is no obligation (quid pro quo) on part of the recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration.

In the given case, there is no reference or mention of any business activity of the donor which otherwise would have got advertised. Thus, since the gift or donation is made to a charitable organization, the payment has the character of gift or donation and the purpose is philanthropic (i.e., it leads to no commercial gain) and not advertisement, hence GST is not leviable.

35. Mr A paid a penalty of ₹2,00,000 to the Government for contravention of certain provisions of the GST Law. Whether this payment can be considered as consideration towards service activity of tolerance of an act of Mr A by the Government and thus, a taxable supply? Give a reason.

Sol. Penalty under the GST law is statutory penalty which has been paid for contravention of law. Its payment is not arising out of any contract between Mr A and the Government. Thus, it is not contractual payment and hence, cannot be considered as 'consideration', that being so, there is no receipt of consideration by the Government. Thus, there is no supply transaction.

36. A professional training institute gets its training material printed from a printing press. The content of the material is provided by the training institute who owns the usage rights of the same while the physical inputs including paper used for printing belong to the printer.

Ascertain whether supply of training material by the printing press constitutes supply of goods or supply of services.

Sol. Supply of books printed with contents supplied by the recipient of such printed goods, is composite supply and the question, whether such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply.

Principal supply has been defined in Section 2(90) of the CGST Act as supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

In the case of printing of books where content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore, such supplies would constitute supply of service.

3A CHAPTER

Charge of GST

THEORY

Section 9(1)

Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

Section 9(2)

The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

Section 9(3)

The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

Section 2(98)

Reverse charge means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under section 9(3) or 9(4).

Reverse Charge on Services		
Service	**Service Provider**	**Service Recipient**
Sponsorship Services	Any Person	Any body corporate or partnership firm
Goods Transportation	Goods Transport Agency (GTA has not taken the Input Tax Credit (ITC) on goods and services used in supplying GTA service) Rate Applicable @ 5% (2.5% CGST+2.5% SGST/ UTGST or 5% IGST)	(*a*) any factory; (*b*) any society registered under Societies Registration Act, 1860; (*c*) any co-operative society; (*d*) any person registered under GST; (*e*) any body corporate; or (*f*) any partnership firm/AOP/BOI; (*g*) any casual taxable person.

Reverse Charge on Services		
Service	**Service Provider**	**Service Recipient**
		However, Services of GTA is exempt if provided to:- (*a*) Department/establishment of the Central Government/State Government/ Union territory; or (*b*) Local authority; or (*c*) Governmental agencies, which has taken registration under the CGST Act only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services **Note 1:** GST shall be paid by the consignor or consignee whosoever is liable to pay freight charges. **Note 2:** If GTA has given services to Unregistered persons, it will be exempt from GST. (Notification no. 32/2017 CT(R) dated 13-10-2017.)
Further, nothing contained in this entry shall apply where, - (*i*) The supplier has taken registration under the CGST Act, 2017 and exercised the option to pay tax on the services of GTA in relation to transport of goods supplied by him under forward charge; and (*ii*) The supplier has issued a tax invoice to the recipient charging CGST at the applicable rates (12%) and has made the prescribed declaration on such invoice issued by him.		
Legal Services	Tndividual advocate or firm of advocates	Any business entity located in the taxable territory if Turnover exceeds threshold limit.
Legal Services	Arbitral Tribunal	Any business entity located in the taxable territory if Turnover exceeds threshold limit.

Reverse Charge on Services		
Service	**Service Provider**	**Service Recipient**
Services by Government or local authority excluding, - ❑ Renting of immovable property, and ❑ Services ❑ Specified below- ❍ Services by the Department of Posts and the Ministry of Railways (Indian Railways) ❍ Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; ❍ Transport of goods or passengers.	Government or local authority	Any business entity located in the taxable territory.
Renting of immovable property	Central Government **excluding the Ministry of Railways (Indian Railways)**,, State Government, Union territory or local authority	Any person registered under the CGST Act, 2017
Service by way of renting of residential dwelling to a registered person	Any person	Any registered person

Reverse Charge on Services		
Service	**Service Provider**	**Service Recipient**
Services by Director	Director	Company/body corporate Note: (*a*) Remuneration paid to directors who are not employees of the company, shall be subject to levy of GST in the hands of the company under the reverse charge mechanism. (*b*) Remuneration on which tax is deducted at source under section 192 (TDS on salary) of the Income-tax Act, GST is not leviable as the said remuneration is paid in the course of or in relation to an employment contract. (*c*) Only those services supplied by director of company/body corporate, which are **supplied by him as or in the capacity of director of that company** or body corporate shall be **taxable under RCM.** services supplied by a director in his private/personal capacity such as services supplied by way of renting of immovable property **are not taxable under RCM.** (*d*) Remuneration which is paid over and above salaries and on which tax is deducted at source under section 194J (TDS on fees for professional or technical services) of the Income-tax Act, GST is payable on such remuneration by the company under the reverse charge mechanism.
Insurance Agent Services	An insurance agent	Any person carrying on an insurance business.
Recovery Agent Services	A recovery agent	A banking company or a financial institution or a nonbanking financial company
Transfer or permitting the use or enjoyment of a copyright	Music composer, photographer, artist or the like	A music company,producer or the like

Reverse Charge on Services		
Service	**Service Provider**	**Service Recipient**
Transfer or permitting the use or enjoyment of a copyright relating to the original literary work	Author	Publisher Located in taxable territory. **Note:** However, an author can choose to pay tax under forward charge if- (*a*) He has taken registration under the CGST Act (*b*) Filed a declaration that he exercises the option to pay GST on the said service under forward charge. (*c*) He shall not withdraw the said option within a period of 1 year from the date of exercising such option; (*d*) He makes a declaration on the invoice issued by him in prescribed form to the publisher
Transportation of goods by a vessel from a place outside India up to the customs station of clearance in India	A person located in non-taxable territory	Importer
Selling of financial products	Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm	Bank or Non-Banking financial company (NBFCs) located in Taxable Territory.
supply of services to RBI	Members of overseeing committee	RBI
Security services	Any person other than a body corporate	A registered person, located in the taxable territory. Except: (*a*) A Department or Establishment of the Central Government or State Government or Union territory; or (*b*) Local authority (*c*) Person deducting tax under section 51 of CGST Act (*d*) A registered person paying tax under section 10 of the said Act.
Services provided by an agent of business correspondent to business correspondent	Services provided by an agent of business correspondent to business correspondent	A business correspondent, located in the taxable territory.

Reverse Charge on Services		
Service	**Service Provider**	**Service Recipient**
Services provided by business facilitator to a banking company	Business facilitator	A banking company, located in the taxable territory.
Service by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient	Any person other than a body corporate (taken only the limited ITC (of input services in the same line of business)) Rate Applicable: 5% (2.5% CGST+2.5% SGST/UTGST or 5% IGST)	Any body corporate located in the taxable territory However No RCM shall be applicable if: Supplier of services opts to pay GST at 12%. In this case, there is no restriction on availing ITC on goods and services used in supplying renting of motor vehicles service by the supplier of service.
Services of lending of securities under Securities Lending Scheme, 1997 ("Scheme") of Securities and Exchange Board of India, as amended	Lender i.e., a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI	Borrower i.e., a person who borrows the securities under the Scheme through an approved intermediary of SEBI
Services from non-taxable territory to taxable territory	Any person who is located in a non-taxable territory	Any person located in the taxable territory. Except: No such reverse charge shall be applicable in case of OIDAR services received by an unregistered person.

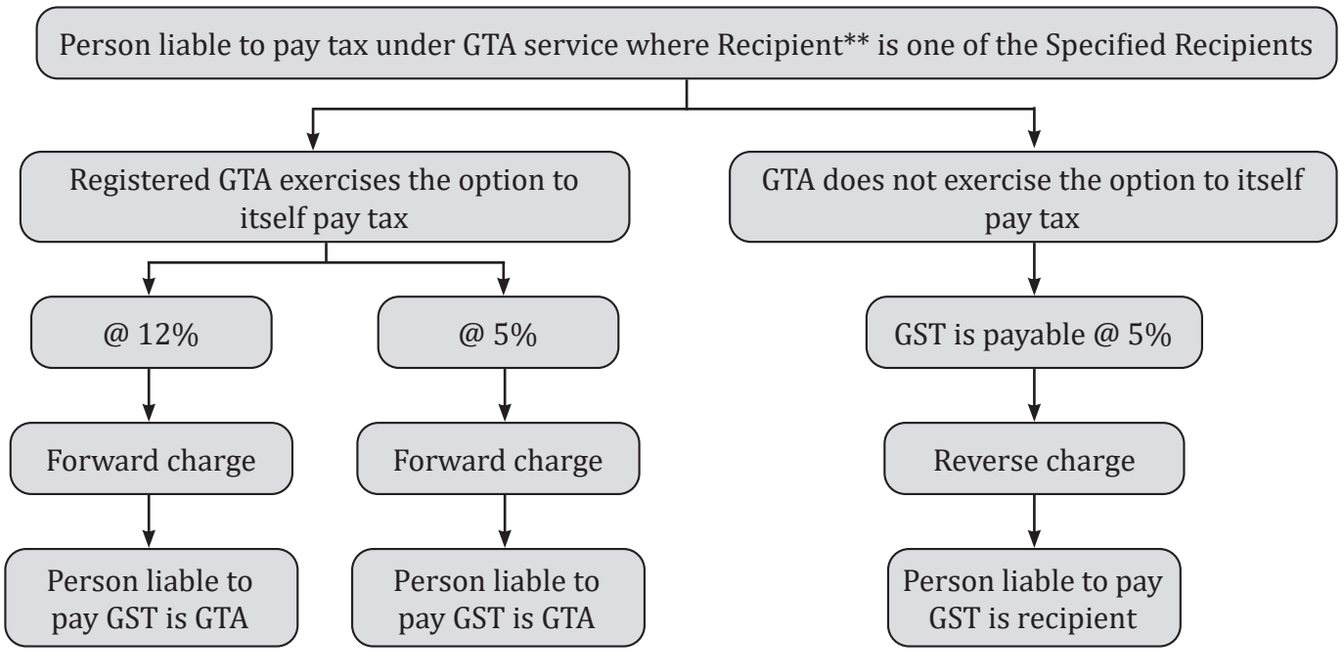
■ PERSON LIABLE TO PAY GST ON GTA SERVICE

GTA services are taxable at the following two rates:

(*i*) @ 5% (2.5% CGST+2.5% SGST/UTGST or 5% IGST) where GTA has not taken the Input Tax Credit (ITC) on goods or services used in supplying GTA service (there can be either of the cases - where GTA exercises the option to itself pay GST at said rate or /does not exercise the option to itself pay GST at said rate, on services supplied by it) or

(*ii*) @ 12% (6% CGST+6% SGST/UTGST or 12% IGST) where GTA exercises the option to itself pay GST at said rate on services supplied by it. In this case, there is no restriction on availing ITC on goods or services used in supplying GTA service by GTA.

In the following paras, we have explained as to who is the person liable to pay tax in case of each of the above two rates:



Note - Where recipient is other than the specified recipients (Unregistered individual end consumer or unregistered casual taxable person), GST will be exempt – Discussed in detail in Chapter 5 – Exemptions under GST in this Module of the Study Material.

** Recipient of GTA service is the person who pays/is liable to pay freight for transportation of goods by road in goods carriage, located in the taxable territory.

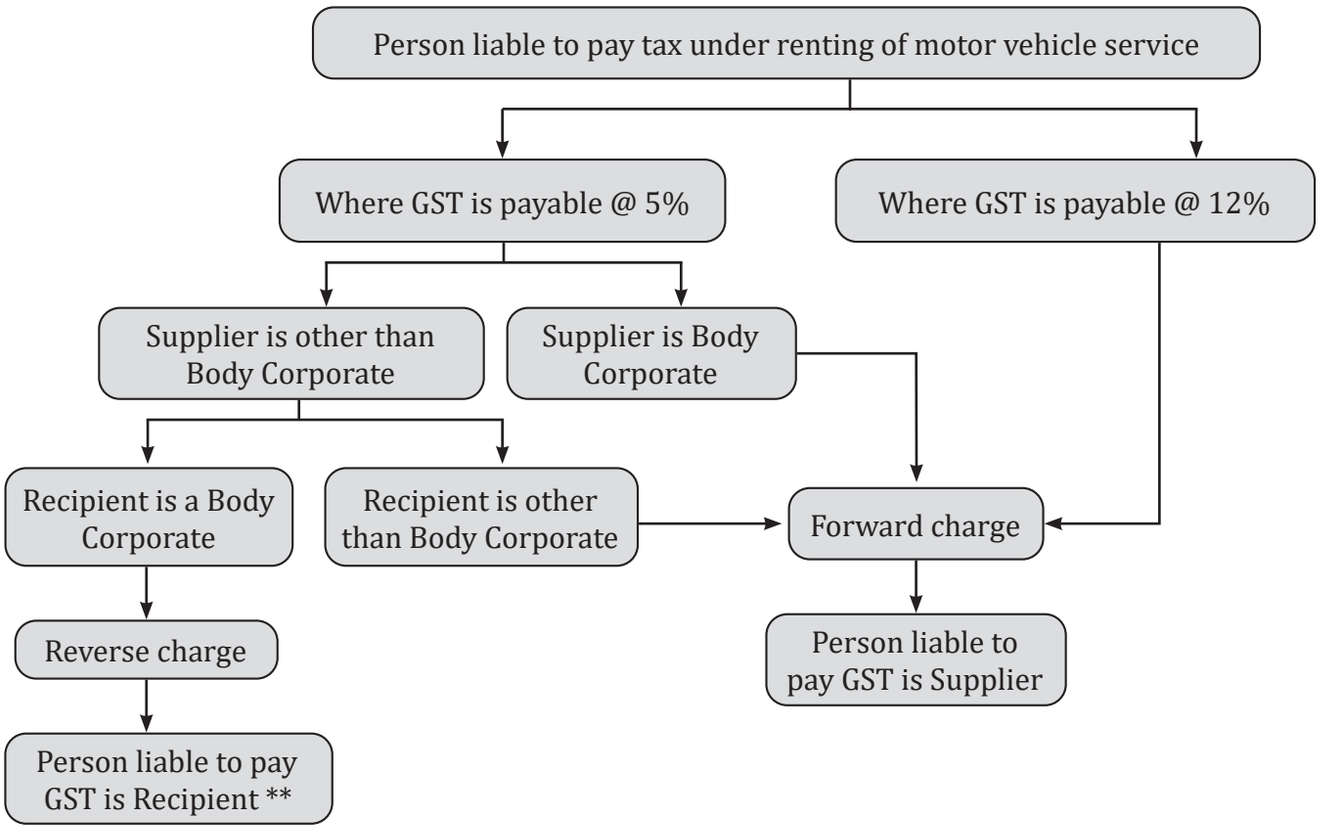
■ PERSON LIABLE TO PAY GST ON RENTING OF MOTOR VEHICLE SERVICE

Service by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient are taxable at the following two rates:

(*i*) @ 5% (2.5% CGST+2.5% SGST/UTGST or 5% IGST) provided supplier of services has taken only the limited ITC (of input services in the same line of business) or

(*ii*) @ 12% (6% CGST+6% SGST/UTGST or 12% IGST) where supplier of services opts to pay GST at said rate. In this case, there is no restriction on availing ITC on goods or services used in supplying renting of motor vehicles service by the supplier of service.

In the following paras, we have explained as to who is the person liable to pay tax in case of each of the above two rates:



**It is important to note here that when any service is placed under RCM, the supplier shall not charge any tax from the service recipient as this is the settled procedure under RCM. Thus, the notification specifies that RCM is applicable here only when the supplier does not issue an invoice charging GST @12% (6% CGST+6% SGST/UTGST or 12% IGST) from the service recipient.

■ TAX PAYABLE BY THE ECO ON NOTIFIED SERVICES

Electronic Commerce Operator (ECO) is any person who owns/operates/manages an electronic platform for supply of goods/services/both.

Sometimes, ECO itself supplies the goods or services or both through its electronic portal. However, many a times, the products/services displayed on the electronic portal are actually supplied by some other person to the consumer.

When a consumer places an order for a particular product/ service on this electronic portal, the actual supplier supplies the selected product/ service to the consumer. The price/ consideration for the product/ service is collected by the ECO from the consumer and passed on to the actual supplier after the deduction of commission by the ECO.

The Government may, on the recommendations of the GST Council, notify specific categories of services the tax [CGST/SGST/IGST] on supplies of which shall be paid by the electronic commerce operator (ECO) if such services are supplied through it. Such services shall be notified on the recommendations of the GST Council.

Notification No. 17/2017 CT (R) dated 28.06.2017/ Notification No. 14/2017 IT (R) dated 28.06.2017 as amended has notified the following categories of services supplied through ECO for this purpose –

(*a*) Services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motor cycle, or any other motor vehicle;

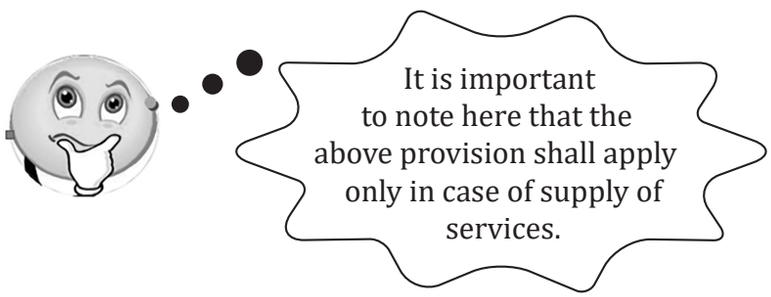
(*b*) Services by way of transportation of passengers by Omnibus except where service provider is company.

(c) Services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under section 22(1) of the CGST Act.

(*d*) Services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section 22(1) of the CGST Act.

(*e*) Supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.

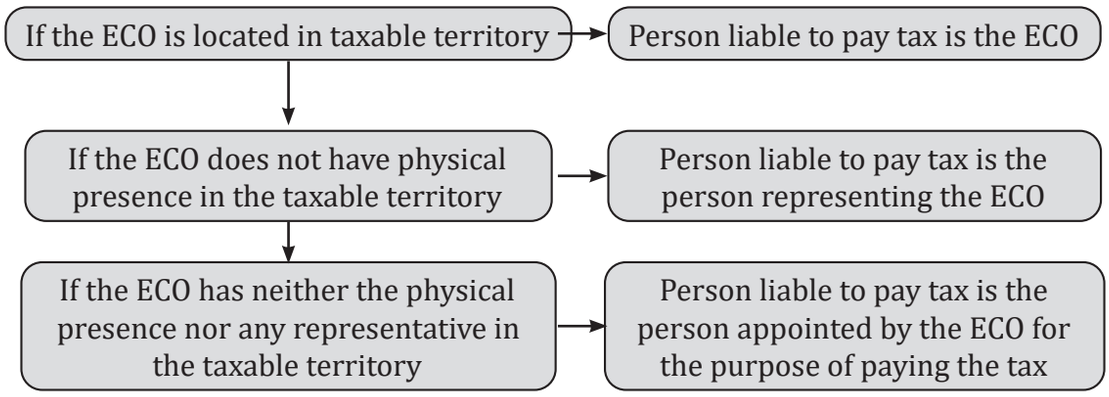
Meaning of various terms
(*i*) Radio taxi: Means a taxi including a radio cab, by whatever name called, which is in two- way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS).
(*ii*) Maxi cab: Means any motor vehicle constructed or adapted to carry more than 6 passengers, but not more than 12 passengers, excluding the driver, for hire or reward. **Motor cab:** Means any motor vehicle constructed or adapted to carry not more than 6 passengers excluding the driver for hire or reward. **Motor car:** Means any motor vehicle other than a transport vehicle, omnibus, road-roller, tractor, motor cycle or invalid carriage. Omnibus means any motor vehicle constructed or adapted to carry more than 6 persons excluding the driver.
(*iii*) 'Specified premises' would mean premises providing hotel accommodation service having declared tariff of any unit of accommodation above ₹ 7,500 per unit per day or equivalent.



Tax on above services supplied through ECO shall be paid by the ECO. All the provisions of the CGST/ IGST Act shall apply to such ECO as if he is the supplier liable for paying the tax in relation to the supply of above services.

Clarification regarding GST on Services Supplied by Restaurants Through ECO

Issue	Clarification
Does ECOs have to collect TCS in respect of restaurant services so notified?	No, ECOs will no longer be required to collect TCS and file Form GSTR-8 in respect of restaurant services on which ECO pays tax under section 9(5)
Is ECO required to take separate registration for paying tax on restaurant service supplied through them?	No, as ECOs are already registered as per section 24 (as a supplier of their own goods or services), there would be no mandatory requirement of taking separate registration by ECOs for payment of tax on restaurant service under section 9(5).
Are ECO to pay tax on any restaurant services supplied through them?	Yes, ECOs will be liable to pay GST on any restaurant service supplied through them including services supplied by an unregistered person.
Does Supply of restaurant services to be included in aggregate turnover of person supplying restaurant services through ECO	Yes, Such Supplies shall be include the aggregate value of supplies made by the restaurant through ECOs.
Restaurant services provided through ECO are to be considered as inward supply for ECOs liable to RCM ?	No, ECOs are not the recipient of restaurant service supplied through them. Since these are not input services to ECO, these are not to be reported as inward supply liable to reverse charge.
Is ECO Liable to raise invoice in respect of restaurant service supplied through ECO?	Yes, The invoice in respect of restaurant service supplied through ECO under section 9(5) will be issued by ECO.
Can ECO utilize ITC to pay tax with respect to "restaurant service" supplied through ECO?	No, the liability of payment of tax by ECO with respect to restaurant service shall be discharged in Cash.
Would restaurant service and goods or service other than restaurant service sold by a restaurant to a customer under the same order to be billed differently? Who shall be liable for raising invoices in such case?	Yes, the invoice in respect if restaurant service supplied through ECO will be issued by ECO. And for other supplies, supplier will be liable to issue invoice for the same and ECO shall be liable to deduct TCS from the amount collected for other supplies made through it.



GST Rates in Real Estate Sector [Section 9(4)]

The effective rate of GST on real estate sector for the new projects by promoters are as follows:

1. 1% without ITC on construction of affordable houses (area 60 sqm in metros/90 sqm in non-metros and value up to ₹45 lakh).
2. 5% without ITC is applicable on construction of:
   (*a*) All houses other than affordable houses, and
   (*b*) Commercial apartments such as shops, offices etc. in a residential real estate project (RREP) in which the carpet area of commercial apartments is not more than 15% of total carpet area of all apartments.

Conditions

Above tax rates shall be available subject to following conditions:

(*a*) ITC shall not be available.

(*b*) 80% of inputs and input services used in supplying the service shall be purchased from registered persons. Except (i.e Can be procured from Unregistered Person)

- Services by way of grant of development rights, long term lease of land or Floor Space Index (FSI) (including additional FSI)
- Electricity, high speed diesel, motor spirit, natural gas.

However, if value of inputs and input services purchased from registered supplier is less than 80% then,

- The promoter has to pay GST on reverse charge basis, under section 9(4) of the CGST Act, at the rate of 18% on all such inward supplies (to the extent short of 80% of the inward supplies from registered suppliers).
- Where cement is received from an unregistered person, the promoter shall pay tax on supply of such cement on reverse charge basis, under section 9(4), at the rate of 28% (CGST 14% + SGST 14%).

GST on capital goods shall be paid by the promoter on reverse charge basis, under section 9(4) of the CGST Act at the applicable rates.

3B CHAPTER

Composition Scheme

THEORY

Composition Scheme Section 10

The composition levy is an alternative method of levy of tax designed for small taxpayers whose turnover is up to a prescribed limit. The objective of the composition scheme is to bring simplicity and to reduce the compliance cost for the small taxpayers.

Section 10(1) & (2) Composition Scheme for Goods & Restaurant Services

Initially, the scheme was designed to benefit the small traders, manufacturers and restaurant service provide. So, the scheme was fundamentally for the supplier of goods and only for restaurant service provide. However, subsequently, suppliers availing the composition scheme were permitted to supply other services also, though only up to a small specified value.

Taxpayers with an aggregate turnover in a preceding financial year up to ₹1.5 crore shall be eligible for composition levy. However, Threshold limit is ₹75 lakh in respect of 8 of the Special Category States namely: [NUSTA-MA-ME-MI] OR [NUSTA-M3]:

Nagaland	Uttarakhand	Sikkim	Tripura
Arunachal Pradesh	Mizoram	Manipur	Meghalaya

Calculation of Aggregate Turnover

While computing the threshold limit of ₹1.5 crore, inclusions in and exclusions from 'aggregate turnover' are as follows:

Inclusions	Exclusions
Value of all outward supplies 1. Taxable supplies 2. Exempt supplies 3. Exports 4. Inter-State supplies of persons having the same PAN be computed on all India basis	❑ Value of inward supplies on which tax is payable under reverse charge ❑ Taxes Under GST (i.e. CGST/SGST/UTGST/IGST/ Compensation Cess) ❑ Value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

However as per second proviso to section 10(1), composition suppliers are permitted to supply other services up to:

(*a*) 10% of turnover in the state or union territory in the preceding financial year or

(*b*) ₹5,00,000 whichever is higher.

Note: while calculating 10% of Turnover in a State or UT in the preceeding FY, the interest or discount earned on loans or advances shall not be taken into consideration for determining turnover in a state or UT.

Example:

Chomu is engaged in supply of Goods. His Aggregate turnover in preceding FY is ₹90 Lakhs including ₹5 Lakhs by way of interest on loan. Determine the eligibility of Chomu for composition scheme as well as the value of other services he can provide during the current year while being in composition scheme.

As Turnover of last FY is not exceeding ₹1.5 Crore, therefore Chomu is eligible for composition scheme in current FY. Also he is eligible to provide services along with supply of goods subject to higher of following:

(a) 10% of turnover in the state in Last FY i.e. 10% of ₹85 Lakhs = ₹8.5 Lakhs or

(b) ₹ 5,00,000 whichever is higher.

Therefore is allowed to provide services upto ₹8.5 lakhs in Current FY.

Explanation 1 to section 10 clarifies that for the purposes of computing aggregate turnover of a registered person for determining his eligibility to pay tax under this section, aggregate turnover includes value of supplies from 1st April of a FY up to the date of his becoming liable for registration.

> As per Section 10(3), the option of a registered person to avail composition scheme for services shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the threshold limit of ₹150 Lakh /75 Lakh.

The Rate Shall be as Given Under Rule 7

S. No.	Category of Registered Person	Rate of Tax
1.	Manufacturer, other than manufacturer of Ice cream, Pan masala, Tobacco & Aerated Water	0.5% CGST + 0.5% SGST of Turnover in the State/Turnover in the Union Territory
2.	Person engaged in restaurant services	2.5% CGST & 2.5% SGST of Turnover in the State/Turnover in the Union Territory
3.	Any other Supplier of goods	0.5% CGST + 0.5% SGST of Taxable Supplies in the State/Turnover in the Union Territory

Further, explanation 2 to section 10 clarifies that for the purposes of determining the tax payable by a person under this section, the expression turnover in State or turnover in Union territory shall not include the value of following supplies, namely:

(*i*) Supplies from 1st April of a FY up to the date when such person becomes liable for registration under this Act; and

(*ii*) 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.

Note: While computing turnover in a State/UT of a supplier, other than manufacturer and restaurant service provider, eligible for composition levy for goods [eg.-trader], the exempt supplies will not be taken into consideration

As per Rule 3,

A person applying for registration may give option for composition scheme in part B of REG-01. Such intimation shall be considered only after the grant of registration to the applicant and his option to pay tax under composition levy shall be effective from the date from which registration is effective.

As per Rule 4,

A registered person who opts to pay tax under composition levy scheme shall electronically file an intimation in prescribed form on the GST Common Portal, prior to the commencement of the FY for which said option is exercised. Option to pay tax under section 10 shall be effective from the beginning of the next financial year but such person shall also furnish statement in ITC-03 for reversal of tax credit within a period of 90 days from the date of commencement of composition scheme.

As per Rule 5,

Such person should be neither casual taxable person nor non – resident taxable person.

As per Rule 6,

If turnover exceeds ₹1,50,00,000/75,00,000 he will be shifted to normal scheme with immediate effect and he will give an intimation in CMP-04 within 7 days of exceeding the limit.

Any person who is in the composition scheme may opt out of the scheme at any time and shall file an application in CMP-04 and he will get shifted to normal scheme with immediate effect. He shall be required to submit ITC-01 for availing ITC within 30 days from the date of withdrawal. Such withdrawal shall be applicable to all the places in all the states/UTs.

Section 10(2A) Composition Scheme for Service Provider

This section provides an option to a registered person whose aggregate turnover in the preceding financial year is up to ₹50 lakh and who is not eligible to pay tax under sub section (1), to pay tax @ 3% [Effective rate 6% (CGST & SGST/ UTGST)] on first supplies of goods and/or services up to an aggregate turnover of ₹50 lakh made on/after 1st April in any financial year, subject to specified conditions.

Section 10(2)/(2A) Conditions for Opting to Pay Tax under Composition Scheme

(*i*) **Restricted from making supply of goods or services which are not liable to GST:** Certain goods and services are not liable to GST, e.g. petroleum, alcohol for human consumption, etc. – a person opting for composition scheme shall not be entitled to make any supply of non-GST goods and services.

(*ii*) **Restricted from affecting inter-State outward supplies:** The taxable person should not affect any inter-State outward supplies. This means that even stock transfers to branches outside the State would not be permitted. However, insofar as it relates to inter-State inward procurements/receipts, there is no restriction.

(*iii*) **Restricted from making supplies through an e-commerce operator:** A person opting for composition scheme is not allowed to affect any supply of services through an ecommerce portal, unless such portal is owned by the same person.

(*iv*) **Restriction on manufacture of notified goods:** The person opting for the scheme should not be a manufacturer of certain goods as are notified in this regard. However, there is no restriction in case the person is engaged in trading of such goods.

Notified Goods:

(*i*) Ice cream and other edible ice, whether or not containing cocoa
(*ii*) Pan masala
(*iii*) Tobacco and manufactured tobacco substitutes
(*iv*) Manufacture of Aerated Water
(*v*) Fly ash bricks or fly ash aggregate with 90% or more fly ash content; Fly ash blocks
(*vi*) Bricks of fossil meals or similar siliceous earths
(*vii*) Building bricks
(*viii*) Earthen or roofing tiles
(*ix*) **Would be applicable for all transactions under the same PAN:** Composition scheme would become applicable for all the business verticals having separate registrations within the State and all other registrations outside the State which are held by the person with the same PAN.
(*x*) **Shall not collect tax:** Taxable person opting to pay tax under the composition scheme is prohibited from collecting tax on the outward supplies.
(*xi*) **Not entitled to input tax credit:** Taxable person opting to pay tax under the composition scheme will not be eligible to claim any input tax credits.
(*xii*) Such supplier shall mention the words "composition taxable person not eligible to collect tax on supplies" at the top of the bill of supply. (not allowed to issue tax invoice)

Example:

A photographer 'Champak' has commenced providing photography services in Delhi from April this year. His turnover for various quarters till December is as follows:

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

In the given case, since Champak has started the supply of services in the current financial year, his aggregate turnover in the preceding FY is Nil. Consequently, in the current FY, he is eligible for composition scheme for services. He becomes eligible for the registration when his aggregate turnover exceeds ₹20 lakh.

While registering under GST, he opted for a composition scheme for services.

For determining his turnover of the State for payment of tax under composition scheme for services, turnover of April-June quarter [₹20 lakh] 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.

On next ₹30 lakh [turnover of July–Sept quarter], he 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, his aggregate turnover reaches ₹50 lakh.

Consequently, his option to avail composition scheme for services shall lapse by the end of July–Sept quarter and thereafter, he is required to pay tax at the normal rate of 18%. Thus, the tax payable for Oct-Dec quarter is ₹20 lakh × 18%, i.e. ₹3,60,000.

Imposition of penalty in case of irregular availment of composition scheme [Section 10(5)]

If a taxable person has paid tax under the composition scheme though he was not eligible for the scheme, the person would be liable to penalty and the provisions of section 73 or 74 of the CGST Act shall be applicable for determination of tax and penalty.

QUESTION BANK

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

(*a*) Services provided by an arbitral tribunal to any business entity.

(*b*) Sponsorship services provided by a company to an individual.

(*c*) Renting of immovable property service provided by the Central Government to a business entity

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

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

(*c*) GST on services supplied by Central Government, State Government, Union territory/local authority by way of renting of immovable property to a person registered under CGST Act, 2017 is payable under reverse charge. Therefore, in the given case, GST is payable under reverse charge by the recipient – registered business entity

2. M/s Shakshi Associates a recovery agent (located in Chennai) empanelled by State Bank of India, Local Head Office, Nungambakkam, Chennai. The following service supplied M/s Shakshi Associates in the month of Nov 2018 are as follows:

(*i*) Fee of ₹2,25,825 for supply of services in relation to recovery of dues from the defaulting borrowers at the place of business/occupation and if such borrowers is/are unavailable at the place of business then at his/her residence.

(*ii*) Supply of services with regard to demand for recovery or taking possession of the security from defaulting Borrowers, for which separate fee charge from the bank ₹55,175/-

Solution the following:

(*a*) Is it supply of service?

(*b*) If so, who is liable to pay GST?

(*c*) What is the GST liability?

Note: Assume applicable rate of GST for recovery agent services @18%.

Sol. (*i*) Yes. It is taxable supply of service

(*ii*) State Bank of India being recipient of service is liable to pay GST under RCM. (c) GST liability = ₹50,580 [i.e. ₹2,25,825 + 55,175) × 18%]

Services by GTA under RCM

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

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

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

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

Sol. (*a*) In case of a GTA service, where GST is payable @ 5% and recipient is one of the specified recipients, tax is payable by the recipient of service under reverse charge.

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

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

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

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

Legal Services under RCM

4. Senior Advocate supplied services of ₹1,50,000/- to the business entity for Legal services. Business entity has an ITC of ₹7,000. Senior Advocate has registered office in Chennai. Business entity is located in Madurai.

Find the following:

(*a*) Who is liable to pay GST?

(*b*) Net GST liability? Note:

(*i*) All services rendered in the month of Oct 2018.

(*ii*) Turnover of business entity in the previous year ₹43 lakh.

(*iii*) Applicable rate of GST @18%

Sol. (*a*) Business entity being the recipient of service is liable to pay GST.

(*b*) Net GST liability of the business entity: CGST 9% on ₹1,50,000 = ₹13,500/- SGST 9% on ₹1,50,000 = ₹13,500/-

Note: Recipient is not allowed to utilise ITC against his GST liability. However, after payment of GST under RCM, the same can be availed as ITC against his outward supplies.

Services by Director under RCM

5. Mr. Shubh, director of Star Company Private Limited, provided service to the company for remuneration of ₹1,25,000. Briefly answer whether GST is applicable in the below mentioned independent cases? If yes, who is liable to pay GST?

(*i*) Mr. Shubh is an independent director of Star Company Private Limited and not an employee of the company.

(*ii*) Mr. Shubh is an executive director, i.e. an employee of Star Company Private Limited. Out of total remuneration amounting to 1,25,000, 60,000 has been declared as salaries in the books of Star Company Private Limited and subjected to TDS under section 192 of the Income-Tax Act (IT Act). However, ₹65,000 has been declared separately other than salaries in the Star Company Private Limited's accounts and subjected to TDS under section 194J of the IT Act as professional services. **[MTP May 24]**

Sol. (*i*) As per Para I of Schedule III of the CGST Act,2017 services by an employee to the employer in the course of or in relation to his employment are non-supplies, i.e. they are neither supply of goods nor supply of services. Services provided by the independent directors who are not employees of the said company to such company, in lieu of remuneration as the consideration for the said services, are clearly outside the scope of Schedule III of the CGST Act and are therefore taxable. Further, such remuneration paid to the directors is taxable in hands of the company, on reverse charge basis. Thus, GST is applicable in this case and Star Company Private Limited is liable to pay GST.

(*ii*) The part of director's remuneration which is declared as salaries in the books of a company and subjected to TDS under section 192 of the Income-tax Act (IT Act), is not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment in terms of Schedule III of the CGST Act,2017. Further, the part of employee director's remuneration which is declared separately other than salaries in the company's accounts and subjected to TDS under section 194J of the IT Act as fees for professional or technical services are treated as consideration for providing services which are outside the scope of Schedule III and is therefore, taxable. The recipient of the said services i.e. the company, is liable to discharge the applicable GST on it on reverse charge basis.

In lieu of the above provisions, 60,000 declared as salaries in the books of Star Company Private Limited and subjected to TDS under section 192 of the Income-Tax Act (IT Act), is not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment in terms of Schedule III of the CGST Act,2017.

Further, 65,000 declared separately other than salaries in the Star Company Private Limited's accounts and subjected to TDS under section 194J of the IT Act as professional services is treated as consideration for providing services which is outside the scope of Schedule III of the CGST Act,2017 and is therefore, taxable. The recipient of the said services i.e. the Star Company Private Limited, is liable to discharge the applicable GST on it on reverse charge basis

6. Mr. Priyam, director of Sun Moon Company Private Limited, provided service to the company for remuneration of

₹1,25,000. Briefly answer whether GST is applicable in the below mentioned independent cases? If yes, who is liable to pay GST?

(*a*) Mr. Priyam is an independent director of Sun Moon Company Private Limited and not an employee of the company.

(*b*) Mr. Priyam is an executive director, i.e. an employee of Sun Moon Company Private Limited. Out of total remuneration amounting to ₹1,25,000, ₹60,000 has been declared as salaries in the books of Sun Moon Company Private Limited and subjected to TDS under section 192 of the Income-Tax Act (IT Act). However, ₹65,000 has been declared separately other than salaries in the Sun Moon Company Private Limited's accounts and subjected to TDS under section 194J of the IT Act as professional services.

Sol. (*a*) As per Para I of Schedule III of the CGST Act, services by an employee to the employer in the course of or in relation to his employment are non-supplies, i.e. they are neither supply of goods nor supply of services. Services provided by the independent directors who are not employees of the said company to such company, in lieu of remuneration as the consideration for the said services, are clearly outside the scope of Schedule III of the CGST Act and are therefore taxable. Further, such remuneration paid to the directors is taxable in the hands of the company, on reverse charge basis.

Thus, GST is applicable in this case and Sun Moon Company Private Limited is liable to pay GST.

(*b*) The part of director's remuneration which is declared as salaries in the books of a company and subjected to TDS under section 192 of the Income-tax Act (IT Act), is not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment in terms of Schedule III.

Further, the part of employee director's remuneration which is declared separately other than salaries in the company's accounts and subjected to TDS under section 194J of the IT Act as fees for professional or technical services are treated as consideration for providing services which are outside the scope of Schedule III and is therefore, taxable. The recipient of the said services i.e. the company, is liable to discharge the applicable GST on it on reverse charge basis.

In lieu of the above provisions, ₹60,000 declared as salaries in the books of Sun Moon Company Private Limited and subjected to TDS under section 192 of the Income-Tax Act (IT Act), is not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment in terms of Schedule III.

Further, ₹65,000 declared separately other than salaries in the Sun Moon Company Private Limited's accounts and subjected to TDS under section 194J of the IT Act as professional services is treated as consideration for providing services which are outside the scope of Schedule III and is therefore, taxable. The recipient of the said services i.e. the Sun Moon Company Private Limited, is liable to discharge the applicable GST on it on reverse charge basis.

7. Mr. Vivek Goyal, director of A2Z Pvt. Ltd. Company has received a sitting fee amounting to ₹1 lakh from A2Z Pvt. Ltd for attending the Board meetings. Is GST payable in the present case? If yes, who is liable to pay the same?

Sol. Notification No. 13/2017 CT (R) dated 28.06.2017 inter alia provides that GST on supply of services by director of a company to the said company located in the taxable territory is payable on reverse charge basis.

Therefore, in the given case, the person liable to pay GST is the recipient of services, i.e., A2Z Pvt. Ltd. Company.

Services of Renting of Immovable Property

8. (*a*) State the person liable to pay GST in the following independent services provided:

(*i*) Sapna Builders, registered in Haryana, rented out 20 residential units owned by it in Jain Society to Anant Technologies, an IT based company registered in the State of Haryana, for accommodation of its employees.

(*ii*) M/s. Verma Consultants, a partnership firm registered in Delhi as a regular tax payer, paid sponsorship fees of ₹1,50,000 at a seminar organized by a private NGO (a partnership firm) in Delhi. **[MTP May 24 & RTP May 23]**

Sol. (*i*) Services provided by way of renting of residential dwelling for use as residence except where the residential dwelling is rented to a registered person is exempt from GST. Further, tax on service provided by way of renting of residential dwelling to a registered person is payable by the recipient under reverse charge.

Therefore, in the given case, Anant Technologies is liable to pay GST on the residential dwellings taken on rent by it from Sapna Builders, under reverse charge mechanism.

(*ii*) In case of services provided by any person by way of sponsorship to any body corporate or partnership firm, GST is liable to be paid under reverse charge by such body corporate or partnership firm located in the taxable territory.

Since in the given case, sponsorship services are being provided by the private NGO to a partnership firm – M/s. Verma Consultants, GST is payable by Verma Consultants on said services under reverse charge.

9. Income is received by Maharashtra Government from renting of immovable property to Ganpati Morya Pvt. Ltd., registered in Maharashtra (Turnover of the company was ₹18 lakh in the preceding financial year). Is GST payable in the present case? If yes, who is liable to pay the same?

Sol. Notification No. 12/2017 CT (R) dated 28.06.2017 has inter alia exempted the services provided by the State Government to a business entity with an aggregate turnover of up to ₹20 lakh (₹10 lakh in case of a Special Category States) in the preceding FY. However, the same shall not apply to services by way of renting of immovable property.

In the given case, a service by way of renting of immovable property is provided by Maharashtra Government to Ganpati Morya Pvt. Ltd, registered in Maharashtra. Therefore, the above exemption will not apply in this case even though the turnover of the company was less than ₹20 lakh in the preceding financial year. Thus, GST is payable in the given case.

Notification No. 13/2017 CT (R) dated 28.06.2017 as amended inter alia provides that reverse charge is applicable in case of services supplied by the State Government by way of renting of immovable property to a person registered under the Central Goods and Services Tax Act, 2017. Thus, GST is payable by Ganpati Morya Pvt. Ltd., being a registered person in the present case.

Services by Author under RCM

10. Mr. Anurag, a famous Author is engaged in supply of services by the way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a publisher. Explain in brief the conditions under which an Author can choose to pay tax under forward charge.

Sol. Mr. Anurag, an author, can choose to pay tax under forward charge provided he fulfils the following conditions:

(*i*) He has taken registration under the GST law.

(*ii*) He has filed a declaration, in the prescribed form, that he exercises the option to pay tax on the said service under forward charge and, to comply with all the provisions of the GST law as they apply to a person liable for paying the tax in relation to the supply of any goods and/or services and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option.

(*iii*) He makes a declaration on the invoice issued by him in prescribed form to the publisher.

11. Mr. Vicky Frankyn, an unregistered famous author, received ₹3 crore of consideration from Shiv Bhawan Publications (SBP) located in Indore for supply of services by way of temporary transfer of a copyright covered under Section 13(1)(a) of the Copyright Act, 1957 relating to original literary works of his new book. He finished his work & made available the book to the publisher, but has yet not raised the invoice.

Mr. Vicky Frankyn is of the view that SBP is liable to pay tax under reverse charge on services provided by him. SBP does not concur with his view and is not ready to deposit the tax under any circumstances.

Examine whether the view of Mr. Vicky Frankyn is correct. Further, if the view of Mr. Vicky Frankyn is correct, what is the recourse available with Mr. Vicky Frankyn to comply with the requirements of GST law as SBP has completely refused to deposit the tax?

Sol. Yes, the view of Mr. Vicky Frankyn is correct. GST is payable under reverse charge in case of supply of services by an author by way of transfer/permitting the use or enjoyment of a copyright covered under Section 13(1)(a) of the Copyright Act, 1957 relating to original literary work to a publisher located in the taxable territory in terms of reverse charge Notification No. 13/2017 CT(R) dated 28.06.2017. Therefore, in the given case, person liable to pay tax is the publisher – SBP.

However, since SBP has completely refused to deposit the tax on the given transaction, Mr. Vicky Frankyn has an option to pay tax under forward charge on the same. For the purpose, he needs to fulfil the following conditions:

(*i*) Since he is unregistered, he has to first take registration under the CGST Act, 2017

(*ii*) He needs to file a declaration, in the prescribed form, that he exercises the option to pay CGST on the said service under forward charge in accordance with section 9(1) of the CGST Act and to comply with all the provisions as they apply to a person liable for paying the tax in relation to the supply of any goods and/or services and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option;

(*iii*) He has to make a declaration on the invoice, which he would issue to SBP, in prescribed form.

Mixed Questions

12. Examine given cases and determine the persons liable to pay tax in each of the following independent cases:

(*i*) Dharam Shastri, an independent director of Universe Pvt. Ltd., has received sitting fee amounting to 1 lakh from Universe Pvt. Ltd. for attending the Board meetings.

(*ii*) Chandan Associates provided sponsorship services to Virat Cricket Academy, an LLP.

(*iii*) Legal Fees is received by Gaba, an advocate, from M/s. Naveen Consultants having turnover of 50 lakh in preceding financial year. [MTP Nov 22]

Sol. (*i*) GST on supply of services by director of a company to the said company located in the taxable territory is payable on reverse charge basis.

Therefore, in the given case, person liable to pay GST is the recipient of services, i.e., Universe Pvt. Ltd.

(*ii*) In case of services provided by any person by way of sponsorship to any body corporate or partnership firm, GST is liable to be paid under reverse charge by such body corporate or partnership firm located in the taxable territory.

Further, for the reverse charge purposes, Limited Liability Partnership formed and registered under the provisions of the Limited Liability Partnership Act, 2008 is also be considered as a partnership firm. Therefore, in the given case, Virat Cricket Academy is liable to pay GST under reverse charge.

(*iii*) GST on legal services supplied by an advocate [Mr. Gaba] to any business entity [M/s Naveen Consultants] located in the taxable territory is payable on reverse charge basis.

Therefore, in the given case, person liable to pay GST is the recipient of services, i.e., M/s. Naveen Consultants.

Eligibility for Composition Scheme

13. "Little Smiles", a photography firm, has commenced providing photoshoot services in Delhi from the beginning of current financial year 2023-2024. It has provided the following details of turnover for the various quarters till December, 2023:

S. No.	Quarter	Amount (in lakh)
1	April, 2023-June, 2023	20
2	July, 2023-September, 2023	30
3	October, 2023-December, 2023	40

You may assume the applicable tax rate as 18%. Little Smiles wishes to pay tax at a lower rate and opts for the composition scheme. You are required to advise whether it can do so and calculate the amount of tax payable for each quarter? **[MTP May 24]**

Sol. Section 10(2A) of the CGST Act, 2017 provides the turnover limit of 50 lakh in the preceding financial year for becoming eligible for composition levy for services. Little Smiles has started the supply of services in the current financial year (FY), thus, it's aggregate turnover in the preceding FY is Nil. Consequently, in the current FY, Little Smiles is eligible for composition scheme for services. A registered person opting for composition levy for services shall pay tax @ 3% [Effective rate 6% (CGST+ SGST/UTGST)] of the turnover of supplies of goods and services in the State.

Further, Little Smiles becomes eligible for the registration when the aggregate turnover exceeds 20 lakh (the threshold limit of obtaining registration). While registering under GST, Little Smiles can opt for composition scheme for services.

The option of a registered person to avail composition scheme for services shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the threshold limit of 50 lakh.

However, for the purposes of determining the tax payable under composition scheme, the expression "turnover in State" shall not include the value of supplies from the first day of April of a FY up to the date when such person becomes liable for registration under the CGST Act.

Thus, for determining the turnover of the State for payment of tax under composition scheme for services, turnover of April,2023 – June,2023 quarter [20 lakh] shall be excluded. On next 30 lakh [turnover of July,2023 – September, 2023 quarter], it shall pay tax @ 6% [3% CGST and 3% SGST].

For the purposes of computing aggregate turnover of a registered person for determining his eligibility to pay tax under this section, aggregate turnover includes value of supplies from the 1st April of a FY up to the date of his becoming liable for registration.

Thus, while computing aggregate turnover for determining Little Smiles's 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 it becomes liable for registration under this Act (i.e. turnover of April,2023 – June,2023 quarter), are included.

By the end of July, 2023 – September, 2023 quarter, the aggregate turnover reaches ₹ 50 lakh. Consequently, the option to avail composition scheme for services shall lapse by the end of July, 2023 – September, 2023 quarter and thereafter, it is required to pay tax at the normal rate of 18%.

Considering the above provisions, the tax payable for each quarter is as under:-

S. No.	Quarter	GST Rate [CGST + SGST]	Turnover (in lakh)	GST Payable
1	April, 2023-June, 2023	–	20	–
2	July, 2023-September, 2023	6%	30	1.8
3	October, 2023-December, 2023	18%	40	7.2

14. Determine whether the suppliers in the following cases are eligible for composition levy, under section 10(1) & 10(2) of the CGST Act, 2017, provided their turnover in preceding year does not exceed ₹1.5 crore:

(*i*) Mohan Enterprises is engaged only in trading of pan masala in Rajasthan and is registered in the same State.

(*ii*) Sugam Manufacturers has registered offices in Punjab and Haryana and sells goods manufactured by it in the neighbouring States **[MTP Nov 23]**

Sol. (*i*) A supplier engaged in the manufacture of goods as notified under section 10(2)(e) of the CGST Act, 2017, during the preceding FY is not eligible for composition scheme under section 10(1) and 10(2). Ice cream and other edible ice, whether or not containing cocoa, Pan masala, Tobacco and manufactured tobacco substitutes, aerated waters, fly ash bricks, fly ash aggregate, fly ash blocks, bricks of fossil meals or similar siliceous earths, building bricks, earthen or roofing tiles are notified under this category. However, in the given case, since Mohan Enterprises is engaged in trading of pan masala and not manufacture and his turnover does not exceed 1.5 crore, he is eligible for composition scheme subject to fulfilment of specified conditions.

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

15. M/s United Electronics, a registered dealer, is supplying all types of electronic appliances in the State of Karnataka. Its aggregate turnover in the preceding financial year by way of supply of appliances is ₹120 lakh.

The firm also expects to provide repair and maintenance service of such appliances from the current financial year.

With reference to the provisions of the CGST Act, 2017, examine:

(*i*) Whether the firm can opt for the composition scheme, under section 10(1) and 10(2), for the current financial year, as the turnover may include supply of both goods and services?

(*ii*) If yes, up to what amount, the services can be supplied? **[MTP May 23]**

Sol. (*i*) The registered person, whose aggregate turnover in the preceding financial year does not exceed 1.5 crore, may opt to pay tax under composition levy, under section 10(1) and 10(2). The scheme can be availed by an intra-State supplier of goods and supplier of restaurant service.

Thus, M/s United Electronics can opt for composition scheme for the current financial year as its aggregate turnover is less than 1.5 crore in the preceding financial year and it is not engaged in inter-State outward supplies.

(*ii*) The registered person opting for composition scheme, under section 10(1) and 10(2), can also supply services (other than restaurant services) for a value up to 10% of the turnover in the preceding year or 5 lakh, whichever is higher, in the current financial year.

Thus, M/s United Electronics can supply repair and maintenance services up to a value of 12 lakh [10% of 120 lakh or 5 lakh, whichever is higher] in the current financial year.

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

Sol. No. The option to pay tax under composition scheme lapses from the day on which the aggregate turnover of the person availing composition scheme during the financial year exceeds the specified limit (₹1.5 crore). Once he crosses the threshold, he is required to file an intimation for withdrawal from the scheme in prescribed form within 7 days of the occurrence of such event.

Every person who has furnished such an intimation, may electronically furnish at the common portal, a statement in prescribed form containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn, within a period of 30 days from the date from which the option is withdrawn.

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

(*i*) Mohan Enterprises is engaged in trading of pan masala in Rajasthan and is registered in the same State.

(*ii*) Sugam Manufacturers has registered offices in Punjab and Haryana and supplies goods in neighbouring States.

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

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

18. Subramanian Enterprises has two registered places of business in Delhi. Its aggregate turnover for the preceding year for both the places of business was ₹120 lakh. It wishes to pay tax under composition levy for one of the place of business in the current year while under normal levy for other. You are required to advise Subramanian Enterprises whether he can do so?

Sol. A registered person with an aggregate turnover in a preceding financial year up to ₹1.5 crore is eligible for composition levy in Delhi. Since the aggregate turnover of Subramanian Enterprises does not exceed ₹1.5 crore, it is eligible for composition levy in the current year. However, all registered persons having the same Permanent Account Number (PAN) have to opt for composition scheme. If one such registered person opts for a normal scheme, others become ineligible for the composition scheme. Thus, Subramanian Enterprises either have to opt for composition levy for both the places of business or under normal levy for both the places of business.

19. M/s Sai Trading Company, an eligible registered dealer in goods making intra-state supplies within the state of Andhra Pradesh, has reported an aggregate turnover of ₹78 Lakhs in the preceding financial year.

Determine whether Sai Trading Company will be eligible for composition levy, as on 31 10-2017. Will your Solution be different, if in the above scenario, M/s Sai Trading Company is making intra state supply within the state of Jammu and Kashmir?

Sol. Section 10 of CGST Act, 2017 provides that a registered person, whose aggregate turnover in the preceding financial year did not exceed ₹1.5 crores may opt for composition scheme. The turnover limit is ₹75 lakhs in case of some Special Category States namely,

In the given case, the applicable turnover limit for composition scheme will be ₹1.5 crore as Andhra Pradesh is not a Special Category State.

Further, since the aggregate turnover of the registered person in the given case does not exceed ₹1.5 crore and it satisfies other conditions of composition scheme namely, not making inter-State supplies of goods, it is eligible for composition levy.

Since the turnover limit for determining the eligibility for composition scheme in the State of Jammu and Kashmir is ₹1.5 crores, Sai Trading Company will be eligible for composition levy with other conditions of not making inter- State supplies of goods being fulfilled.

20. Mr. Rahim is dealer who is selling taxable goods, exempted goods and non-taxable goods (i.e. Liquor). His turnover in the preceding financial year is ₹35 lakh, ₹10 lakh, ₹15 lakh goods which are leviable to GST, exempted and non- taxable respectively. Whether MR. Rahim eligible for the Composition Scheme?

Sol. If a person is selling/supplying the goods, which are not leviable to tax under GST, then he is not eligible to opt for composition scheme.

In this case even though the aggregate turnover is not exceeding ₹1.5 crore, Mr. Rahim is not eligible for composition Scheme since he is in the business of supplying non-taxable supply.

21. Mr. H registered in Hyderabad, who is selling goods from Telangana to Tamil Nadu. Turnover of Mr. H is ₹73 Lakh in the preceding financial year. Whether Mr. H is eligible for Composition? Whether your Solution will change if Mr. H is making purchases from Tamil Nadu and selling goods in Telangana?

Sol. Mr. H is not eligible for composition as he is making interstate outward supply.

If Mr. H is making a purchase from Tamil Nadu then he is eligible for composition scheme as there is restriction on outward interstate supply not on inward interstate supply.

22. Examine whether the suppliers are eligible for the composition scheme in the following independent cases. Is there any other option available for concessional tax payment with any of these suppliers, wherever composition scheme cannot be availed?

(*a*) M/s Devlok, a registered dealer, is dealing in intra-State trading of electronic appliances in Jaipur (Rajasthan). It has turnover of ₹130 lakh in the preceding financial year. In the current financial year, it has also started providing repairing services of electronic appliances.

(*b*) M/s Narayan & Sons, a registered dealer, is running a "Khana Khazana" Restaurant near City Palace in Jaipur. It has turnover of ₹140 lakh in the preceding financial year. In the current financial year, it has also started dealing in intra-State trading of beverages in Jaipur (Rajasthan).

(*c*) M/s Indra & bro, a registered dealer, is providing restaurant services in Uttarakhand. It has turnover of ₹70 lakh in the preceding financial year. It has started providing intra-State interior designing services in the current financial year and discontinued rendering restaurant services.

(*d*) M/s Him Naresh, a registered dealer, is exclusively providing intra-state architect services in Uttarakhand. It has turnover of ₹40 lakh in the preceding financial year.

Sol. As per section 10 of the CGST Act, 2017, the following registered persons, whose aggregate turnover in the preceding financial year did not exceed ₹1.5 crore, may opt to pay tax under composition levy.

(*a*) Manufacturer,

(*b*) Persons engaged in making supplies referred to inclause(b) of paragraph 6 of Schedule II (restaurantservices), and

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

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

Further, the registered person should not be engaged in making any inter-State outward supplies of goods.

Furthermore, an option of availing benefit of concessional payment of tax has been provided to a registered person whose aggregate turnover in the preceding financial year is up to ₹50 lakh and who is not eligible to pay tax under composition scheme. Said person can pay tax @ 3% [Effective rate 6% (CGST+ SGST/UTGST)] on first supplies of goods and/or services up to an aggregate turnover of ₹50 lakh made on/after 1st April in any financial year (FY), subject to specified conditions vide Section 10(2A) as amended. One of such conditions is that the registered person should not be engaged in making any inter-state outward taxable supplies.

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

(*a*) The turnover limit for the composition scheme in case of Jaipur (Rajasthan) is ₹1.5 crore. Thus, M/s Devlok can opt for composition scheme as its aggregate turnover is less than ₹1.5 crore. Further, since the registered person opting for composition scheme can also supply services (other than restaurant services) for a value up to 10% of the turnover in the preceding year or ₹5 lakh, whichever is higher, in the current financial year, M/s Devlok can supply repair services up to a value of ₹13 lakh [10% of ₹130 lakh or ₹5 lakh, whichever is higher] in the current financial year.

(*b*) In the given case:

(*i*) The turnover in the preceding year is less than the eligible turnover limit, i.e. ₹1.5 crore.

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

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

Thus, M/s Narayan & Sons is eligible for composition scheme.

(*c*) The turnover limit for composition scheme in case of Uttarakhand is ₹75 lakh. Further, a registered person who is exclusively engaged in supplying services other than restaurant services are not eligible for composition scheme. Thus, M/s Indra & bro cannot opt for composition scheme.

Further, the benefit of concessional tax payment under Section 10(2A) isavailable in case of a registered person whose aggregate turnover in the preceding financial year does not exceed ₹50 lakh.

Thus, in view of the above-mentioned provisions, M/s Indra & bro cannot avail the benefit of concessional tax payment as its aggregate turnover in the preceding financial year is more than ₹50 lakh.

(*d*) An exclusive service provider can opt for the composition scheme only if he is engaged in supply of restaurant services. The composition scheme permits supply of marginal services for a specified value, but only when the same are supplied along with goods and/or restaurant service.

Since M/s Him Naresh is exclusively engaged in supply of services other than restaurant services, it is not eligible for composition scheme even though its turnover in the preceding year is less than ₹75 lakh, the eligible turnover limit for Uttarakhand.

However, since M/s Him Naresh is not eligible to opt for composition scheme, its aggregate turnover in the preceding financial year does not exceed ₹50 lakh and it is exclusively engaged in supply of services other than restaurant services, M/s Him Naresh is entitled to avail benefit of concessional payment of tax under U/s 10(2A).

23. Enumerate the persons who are not eligible to opt for Composition Scheme under Section 10(2) of the CGST Act, 2017.

Sol. A registered person shall not be eligible to opt for composition scheme if:

(*i*) He is engaged in supply of services other than supplies referred to in clause (b) of paragraph 6 of Schedule II.

(*ii*) He is engaged in supply of goods not leviable to tax.

(*iii*) He is engaged in inter-State outward supplies of goods.

(*iv*) He is engaged in supply of goods through an electronic commerce operator.

(*v*) He is a manufacturer of notified goods, namely, a manufacturer of Aerated water, ice cream, pan masala and tobacco.

24. Explain in brief the conditions to be fulfilled by a registered person under GST law for availing the option to pay concessional tax @ 3% (effective rate 6%) under GST as per the provisions of Section 10(2A) as amended, with effect from 1st April, 2019.

Sol. The registered person desirous of availing the option to pay concessional tax@ 3% (effective rate 6%) under section 10(2A) should–

(*i*) Not be engaged in making any supply which is not leviable to tax.

(*ii*) Not be engaged in making any inter-State outward supply of goods and/or services.

(*iii*) Neither be a casual taxable person nor a non-resident taxable person.

(*iv*) Not be engaged in making any supply through an electronic commerce operator who is required to collect tax at source.

(*v*) Not be engaged in making supplies of notified goods.

(*vi*) Neither collect any tax from the recipient nor be entitled to any input tax credit.

(*vii*) Issue a bill of supply instead of tax invoice.

(*viii*) Not have the aggregate turnover in the preceding financial year exceeding ₹50 lakh

(*ix*) Not be eligible for composition scheme.

Note: Any five conditions may be mentioned out of the above mentioned nine conditions.

Withdrawl from Composition Scheme

25. Is there any option for a registered taxable person to withdraw from the composition scheme?

Sol. The registered taxable person who intends to withdraw from the composition scheme shall, before the date of such withdrawal, file an application in FORM GST CMP-04.

Where the option of composition scheme is lapsed due to non-compliance of any of the eligibility conditions under Section 10 or rules made thereunder, then taxable person shall file an intimation of withdrawal in the same FORM GST CMP-04 within 7 days of the occurrence of event leading to disability under the scheme. Intimation for withdrawal or cancellation of permission in respect of any place of business in a State or UT shall be deemed to be intimation in respect of all other places of business registered on the same PAN.

26. Mr. Ajay has a registered repair centre where electronic goods are repaired/serviced. His repair centre is located in the State of Rajasthan and he is not engaged in making any inter-State supply of services. His aggregate turnover in the preceding financial year (FY) is ₹45 lakh.

With reference to the provisions of the CGST Act, 2017, examine whether Mr. Ajay can opt for the composition scheme in the current financial year (FY)? Is he eligible to avail benefit of concessional payment of tax under U/s 10(2A)? Considering the option of payment of tax available to Mr. Ajay, compute the amount of tax payable by him assuming that his aggregate turnover in the current financial year is ₹35 lakh.

Will your Solution be different if Mr. Ajay procures few items required for providing repair services from neighbouring State of Madhya Pradesh?

Sol. Section 10 of the CGST Act, 2017 provides that a registered person, whose aggregate turnover in the preceding financial year did not exceed ₹1.5 crore (₹75 lakh in Special Category States except Assam, Himachal Pradesh and Jammu and Kashmir), may opt to pay, in lieu of the tax payable by him, an amount calculated at the specified rates. However, if, inter alia, such registered person is engaged in the supply of services other than restaurant services, he shall not be eligible to opt for composition levy.

In the given case, since Mr. Ajay is a supplier of repair services, he is not eligible for composition scheme even though his aggregate turnover in the preceding FY does not exceed ₹1.5 crore.

Therefore, he has to discharge his tax liability under regular provisions at the applicable rates.

However, with effect from 01.04.2019, Section 10(2A) has provided an option to a registered person whose aggregate turnover in the preceding financial year is up-to ₹50 lakh and who is not eligible to pay tax under composition scheme, to pay tax @ 3% [Effective rate 6% (CGST+ SGST/ UTGST)] on first supplies of goods and/or services up-to an aggregate turnover of ₹50 lakh made on/after 1st April in any FY, subject to specified conditions.

Thus, in view of the above-mentioned provisions, Mr. Ajay is eligible to avail the benefit of concessional payment of tax under Section 10(2A) as his aggregate turnover in the preceding FY does not exceed ₹50 lakh and he is not eligible to opt for the composition scheme.

Thus, the amount of tax payable by him under Section 10(2A) is ₹2,10,000 [6% of ₹35 lakh].

A registered person cannot opt for U/s 10(2A), if inter alia, he is engaged in making any inter- State outward supplies. However, there is no restriction on inter-State procurement of goods. Hence, Solution will remain the same even if Mr. Ajay procures a few items from the neighbouring State of Madhya Pradesh.

27. (*a*) Chanchal started providing beauty and grooming services and inaugurated "Care & Care Beauty Centre" in Janak Puri, Delhi on 01st April, 20XX. She opted to pay tax under Section 10(2A) in the said financial year.

The aggregate turnover of Care & Care Beauty Centre for the quarter ending 30th June, 20XX was ₹20 lakh. Further, for the half year ending 30th September, 20XX, the turnover reached ₹50 lakh. Care & Care Beauty Centre recorded a rapid growth and the turnover reached ₹70 lakh by the end of October, 20XX. Determine the total tax liability of Care & Care Beauty Centre by the end of October, 20XX.

(*b*) Care & Care Beauty Centre wishes to opt for the composition scheme from the next financial year. You are required to advise it whether it can do so?

Note: Rate of GST applicable on such services is 18%.

Sol. (a) Section 10(2A) provides an option to a registered person to pay CGST @ 3% [Effective rate 6% (CGST+ SGST/ UTGST)] on first supplies of goods and/or services up-to an aggregate turnover of ₹50 lakh made on/after 1st April in any financial year, subject to specified conditions.

Period	Tax Rate	Turnover (₹)	Tax Liability
1st Quarter	Since turnover did not exceed ₹20 lakh, it was not required to obtain registration. Hence, no tax was required to be paid.	20 lakhs	Nil
2nd Quarter	Effective rate is 6% (CGST+ SGST/UTGST)] under Notification No. 2/2019 CT (R)	30 Lakhs [(50-20) Lakhs]	1,80,000
For the month of October, 20XX	Normal rate of GST of 18% is to be applied	20 lakh [(70-50) lakh]	3,60,000
Total Tax payable			5,40,000

It is clarified in the notification that first supplies of goods or services or both shall, for the purposes of determining eligibility of a person to pay tax under this notification, include the supplies from 1st April of a FY to the date from which he becomes liable for registration under the said Act, but for the purpose of determination of tax payable under this notification, shall not include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the Act.

Thus, Care & Care Beauty Centre is eligible to pay tax under this notification up-to the turnover of ₹50 lakh. The total tax payable by it is as under:

(*b*) No, Care & Care Beauty Centre cannot opt for the composition scheme from the next financial year. Fundamentally, the composition scheme can be availed in respect of goods and only one service namely, restaurant service. As regards services other than restaurant services are concerned, only marginal supply of such services for a specified value along with the supply of goods and/or restaurant service, as the case may be, is permitted under section 10(1) of CGST Act, 2017. Therefore, a person engaged exclusively in supply of services other than restaurant services is not eligible to opt for composition scheme.

28. "Wedding Bells", a wedding photographer, has commenced providing pre-wedding shoot services in jaipur from the beginning of current financial year 2020–2021. It has provided the following details of turnover for the various quarters till December, 2020:

S. No.	Quarter	Amount (₹ in lakh)
1.	April, 2020–June, 2020	20
2.	July, 2020–September, 2020	30
3.	October, 2020–December, 2020	40

You may assume the applicable tax rate as 18%. Wedding Bells wishes to pay tax at a lower rate and opts for the composition scheme. You are required to advise whether it can do so and calculate the amount of tax payable for each quarter?

Sol. Section 10(2A) of the CGST Act, 2017 provides the turnover limit of ₹50 lakh in the preceding financial year for becoming eligible for composition levy for services. Wedding Bells has started the supply of services in the current financial year (FY), thus, it's aggregate turnover in the preceding FY is Nil. Consequently, in the current FY, Wedding Bells is eligible for composition scheme for services. A registered person opting for composition levy for services shall pay tax @ 3% [Effective rate 6% (CGST+ SGST/UTGST)] of the turnover of supplies of goods and services in the State.

Further, Wedding Bells becomes eligible for the registration when the aggregate turnover exceeds ₹20 lakh (the threshold limit of obtaining registration). While registering under GST, Wedding Bells can opt for the composition scheme for services.

The option of a registered person to avail composition scheme for services shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the threshold limit of ₹50 lakh.

However, for the purposes of determining the tax payable under composition scheme, the expression "turnover in State" shall not include the value of supplies from the first day of April of a FY up to the date when such person becomes liable for registration under this Act.

Thus, for determining the turnover of the State for payment of tax under composition scheme for services, turnover of April, 2020 – June, 2020 quarter [₹20 lakh] shall be excluded. On next ₹30 lakh [turnover of July, 2020 – September, 2020 quarter], it shall pay tax @ 6% [3% CGST and 3% SGST].

For the purposes of computing aggregate turnover of a registered person for determining his eligibility to pay tax under this section, aggregate turnover includes the value of supplies from the 1st April of a FY up to the date of his becoming liable for registration.

Thus, while computing aggregate turnover for determining Wedding Bells's 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 it becomes liable for registration under this Act (i.e. turnover of April, 2020 – June, 2020 quarter), are included.

By the end of July, 2020 – September, 2020 quarter, the aggregate turnover reaches ₹50 lakh. Consequently, the option to avail composition scheme for services shall lapse by the end of July, 2020 – September, 2020 quarter and thereafter, it is required to pay tax at the normal rate of 18%.

Considering the above provisions, the tax payable for each quarter is as under:

S. No.	Quarter	GST Rate [CGST + SGST]	Turnover (₹ in lakh)	GST Payable (₹ in lakh)
1.	April, 2020 – June, 2020	—	20	—
2.	July, 2020 – September, 2020	6%	30	1.8
3.	October, 2020 – December, 2020	18%	40	7.2

29. Mr. Zafar of Assam, provides the following information for the preceding financial year 2018–19. You are required to find out the aggregate turnover for the purpose of eligibility of composition levy scheme and determine whether he is eligible for composition levy scheme or not, for the F.Y. 2019–20.

Particulars	Amount (₹ in lakh)
Value of taxable outward supplies (out of above, ₹10 lakh was in course of inter-state transactions).	50.00
Value of exempt supplies (which include ₹30 lakh received as interest on loans & advances).	70.00
Value of inward supplies on which he is liable to pay tax under reverse charge	5.00
Value of exports	5.00
All the amounts are exclusive of GST.	

Sol. Computation of aggregate turnover of Mr. Zafar for FY 2018–19 for the purpose of eligibility of composition levy scheme:

Particulars	Amount in lakh (₹)
Value of taxable outward supplies	50
[Value of all taxable supplies including inter-State supplies are includible in aggregate turnover]	
Value of exempt supplies	40
[Value of exempt supplies is includible in aggregate turnover. However, value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount,	
though exempt, is not includible in aggregate turnover for determining eligibility for composition scheme]	
Value of inward supplies on which Mr. Zafar is liable to pay tax under reverse charge	Nil
[Excludible from aggregate turnover]	
Value of exports	5
[Includible in aggregate turnover]	
Aggregate turno ver for determining eligibility for composition scheme	95

A registered person of Assam is eligible to opt for composition levy if his aggregate turnover does not exceed ₹1.5 crore in the preceding financial year provided he is not engaged in inter-State outward supplies of goods. Therefore, in the given case, assuming that he is not engaged in making any inter-State outward supply of goods in FY 2019–20, Mr. Zafar is eligible to opt for composition levy for FY 2019–20 since his aggregate turnover does not exceed ₹1.5 crore in FY 2018–19.

30. Swaminathan started the business of supplying shoes in the State of Kerala from 1st April. He makes only intra-State supplies. His turnover for April - June quarter was ₹20 lakh and for July - September quarter was 100 lakh. Further, one-fourth of his total turnover in each of the quarters was exempt from GST. Being eligible for composition scheme, Swaminathan got himself registered under the composition scheme with effect from 1st July.

You are required to compute the tax payable by Swaminathan under composition scheme assuming that he is a manufacturer. Will your answer be different if Swaminathan is trader

[MTP Nov 22]

Sol. A registered person opting for composition levy for goods pays tax at the rates mentioned below during the current FY, in lieu of the tax payable by him under regular scheme:

Particulars	Amount in lakh (₹)
Manufacturers, other than manufacture of notified goods	1% (½ % CGST+ ½% SGST/UTGST) of the turnover in the State/ Union territory
Trader	1% (½ % CGST+ ½% SGST/UTGST) of turnover of taxable supplies of goods & services in the State/Union territory

Turnover prior to obtaining registration will not be considered for determining the turnover in a State/Union Territory.

Tax payable by Swaminathan under composition scheme is as follows:

CGST = 100 lakh × 0.5% = 50,000

SGST = 100 lakh × 0.5% = 50,000

In case where Swaminathan is a trader, tax payable by him under composition scheme will be as follows:

CGST = 75 lakh (as 25% of turnover is exempt) × 0.5% = 37,500

SGST = 75 lakh (as 25% of turnover is exempt) × 0.5% = 37,500.

4 CHAPTER

Place of Supply

THEORY

GST is a destination-based tax, i.e the tax is levied at the place where the goods or services are consumed, rather than the place where they are produced.

The determination of 'place of supply' and the 'location of the supplier' is essential to ascertain the nature of supply, i.e. whether a supply is intra-State or inter- State.

In other words, these two factors are required to determine whether a supply is subject to SGST/UTGST plus CGST in a given State/ Union territory or else would attract IGST if it is an inter-State supply.

'place of supply' is the place where the supply is consumed. Thus, place of supply determines the jurisdiction where the tax revenue should reach.

The various elements used for determining the place of supply of a service are:

(*a*) location of service provider
(*b*) location of service receiver
(*c*) place where the activity takes place/ place of performance
(*d*) place where the service is consumed
(*e*) place/person to which/whom actual benefit flows

■ PLACE OF SUPPLY OF GOODS OTHER THAN SUPPLY OF GOODS IMPORTED INTO, OR EXPORTED FROM INDIA [SECTION 10]

Section 10 prescribes the provisions for determining the place of supply of goods in domestic transactions, i.e. within India.

(*i*) Supply involving movement of goods [Section 10(1)(*a*)]

In case of supply involving movement of goods, the place of supply is the location of the goods at the time when the movement of goods terminates (ends) for delivery to the recipient.

This movement, however, can be undertaken by the supplier or recipient or even any other person (like transporter) after having disclosed the destination of the movement of goods.

Example

(1) Babban Pvt. Ltd. of Nasik, Maharashtra sells 10 refrigerators to Chaggan Pvt. Ltd. of Pune, Maharashtra for delivery at place of business of Chaggan Pvt. Ltd. in Pune. The place of supply is Pune in Maharashtra.

(2) Babban Pvt. Ltd. of Nasik, Maharashtra sells 20 refrigerators to Dhakkan Pvt. Ltd. of Ahmedabad, Gujarat for delivery at place of business of Dhakkan Pvt. Ltd. in Ahmedabad. The place of supply is Ahmedabad.

(*ii*) Supply involving movement of goods where goods are delivered to recipient on the instruction of third person – 'Bill to Ship to' Supply [Section 10(1)(*b*)]

Where goods are delivered by the supplier to the recipient at the instruction of a third person, the place of supply is the principal place of business of such third person and not of the actual recipient.

It is important to identify the two supplies involved in this transaction– one supply is by supplier to third person and second supply is by third person to recipient. This provision deals only with the first limb of supply, i.e. supply by supplier to third person.

Second limb of supply, i.e. supply by third person to recipient will be governed by the provisions of section 10(1)(*a*), i.e. the place of supply will be the location of the goods at the time when the movement of goods terminates (ends) for delivery to the recipient.

(*iii*) Supply not involving movement of goods [Section 10(1)(*c*)]

If the supply does not involve movement of goods, the place of supply is the location of goods at the time of delivery to the recipient.

Example

1. Newton Pvt. Ltd. (New Delhi) has leased its machine (cost ₹8,00,000) to Gravity Pvt. Ltd. (Noida, Uttar Pradesh) for production of goods on a monthly rent of ₹35,000. After 12 months Gravity Pvt. Ltd. requested Newton Pvt. Ltd. to sell the machine to it for ₹5,00,000, which is agreed to by Newton Pvt. Ltd. In this case, there will be no movement of goods and the same will be sold on as is where is basis. Thus, the location of the machine at the time of such sale will be the place of supply, i.e. Noida.
2. Gangadhar Ltd. (Mumbai, Maharashtra) opens a new branch office at Gurugram, Haryana. It purchases a building for office from Gajodhar Builders (Gurugram). It also enters into a separate contract with Gajodhar Builders for purchase of pre-installed office furniture and fixtures in the building. Though there will be no GST liability on purchase of building (as sale of building is covered under Schedule III to CGST Act), office furniture and fixtures will be liable to GST. Since there is no movement of office furniture and fixtures, the place of supply of such goods is their location at the time of delivery to the recipient (Gangadhar Ltd.), i.e. Gurugram

(*iv*) Place of supply of goods purchased Over the Counter in one State and transported to another State by the buyer [Section 10(1)(*ca*)]

POS in case of OTC sales to unregistered persons is as follows:

- Where the address of the unregistered person is recorded in the invoice.
  POS is location as per address of unregistered person recorded in the invoice.
- Where the address of the unregistered person is not recorded in the invoice
  POS is location of the supplier

Note: For the purpose of this clause, recording of the name of the state of the said person in the invoice shall be deemed to be the recording of the address of the said person

Case	Location of Supplier	Location of Recipient	Delivery of Goods	Place of Supply	Tax Payable
1	Noida-UP	Delhi	Noida-UP	Delhi	IGST
2	Noida-UP	Not available	Noida-UP	Noida-UP	CGST + UP GST

(*v*) Supply involving installation or assembly of goods [Section 10(1)(*d*)]

If the supply involves goods which are to be installed or assembled at site, the place of supply is the place of such installation or assembly.

This is a case of composite supply of goods wherein two supplies are involved, supply of goods and ancillary supply of installation/assembling service. The principal supply is supply of goods which are being installed.

Example

1. Ghoomghoom Pvt. Ltd. (New Delhi) purchases a machine from Dhoom Pvt. Ltd. (New Delhi) for being installed in its factory at Noida, Uttar Pradesh. The place of supply is the site at which the machine is installed, i.e. Noida.
2. Pure Refineries (Mumbai, Maharashtra) gives a contract to Mowgli Ltd. (Ranchi, Jharkhand) to supply a machine which is required to be assembled in a power plant in its refinery located in Kutch, Gujarat. The place of supply is the site of assembly of machine, i.e. Kutch even though Pure refineries is located in Maharashtra.

(*vi*) Goods supplied on board a conveyance [Section 10(1)(e)]

Place of supply of goods supplied on a board a conveyance like aircraft, train, vessel, motor vehicle is the location where such goods have been taken on board.

Place of supply of goods supplied on board a conveyance is determined under this provision even if the supply has been made by any of the passenger on board the conveyance and not by the carrier of the conveyance.

Example

Maurya (New Delhi) boards the New Delhi-Kota train at New Delhi. He sells the goods taken on board by him (at New Delhi), in the train, at Jaipur during the journey. The place of supply of goods is the location at which the goods are taken on board, i.e. New Delhi and not Jaipur where they have been sold.

■ PLACE OF SUPPLY OF SERVICES WHERE LOCATION OF SUPPLIER OF SERVICE AND THE LOCATION OF THE RECIPIENT OF SERVICE IS IN INDIA [SECTION 12]

Section 12 contains the provisions for determining the place of supply of services where both the 'location of supplier of services' and the 'location of recipient of services' are in India

(*i*) General Rule [Section 12(2)]

place of supply of services made to a registered person is the location of the person receiving the services.

However, if the services is supplied to an unregistered person, the place of supply is:

(*a*) The location of such unregistered person, if the address of the unregistered person is available in the records of the supplier

(*b*) The location of the supplier of services in other cases.

Example

1. Mr. Aryabhatt (a Chartered Accountant registered in New Delhi) makes a supply of service to his client Champak Pvt. Ltd. of Noida, Uttar Pradesh (registered in Uttar Pradesh). In this case, since the supply is made to a registered person, the place of supply is the location of the registered recipient, i.e. Noida.
2. Mr. Heeralal, a Chartered Accountant in Gurugram, Haryana, (registered in Haryana) provides consultancy services to his client Mr. Pannalal who is a resident of New Delhi but is not registered

under GST. If the address of Mr. Pannalal is available in the records of Mr. Heeralal, location of Mr. Pannalal, i.e. New Delhi will be the place of supply, else the location of Mr. Heeralal, which is Gurugram, will be the place of supply.

(*ii*) Services in relation to an immovable property or lodging accommodation in a hotel/boat/vessel etc. [Section 12(3)]

Section 12(3) covers supplies of services which are

(*a*) Directly in relation to an immovable property,

(*b*) Including those by architects, interior decorators, surveyors, engineers and other related experts, estate agents

(*c*) By way of lodging accommodation in a hotel, etc. or a house-boat or vessel, or accommodation in any immovable property for organizing social, business functions etc.

(*d*) Services ancillary to the above-mentioned services.

In all above cases, location of the immovable property or the boat or the vessel or where such immovable property or the boat or the vessel is intended to be located, is the place of supply.

This provision is applicable on property already constructed/developed as well as on the property yet to be constructed/developed.

Note:

1. There may be a case wherein there is supply of space or supply (sale) of rights to use the space on the hoarding/structure (immovable property) belonging to vendor to the advertising company for display of their advertisement on the said hoarding/structure.

   Place of supply of service provided by way of supply of sale of space on hoarding/structure for advertising or for grant of rights to use the hoarding/structure for advertising in this case would be the location where such hoarding/structure is located.

2. There may be another case where the advertising company wants to display its advertisement on hoardings/billboards at a specific location availing the services of a vendor. The responsibility of arranging the hoardings/billboards lies with the vendor who may himself own such structure or may be taking it on rent or rights to use basis from another person. The vendor is responsible for display of the advertisement of the advertisement company at the said location. Such services provided by the vendor to advertising **company are purely in the nature of advertisement services in respect of which place of supply shall be determined in terms of section 12(2) of IGST Act.**

Example

1. Sunami Builders (Mumbai) is constructing a factory building for Skylab Pvt. Ltd. (Kolkata), in New Delhi. The place of supply is the location of immovable property, i.e. New Delhi.
2. Shah and Shah, an architectural firm at Kolkata, has been hired by Maurya Builders of Mumbai to draw up a plan for a high rise building to be constructed by them in Ahmedabad, Gujarat. The place of supply is the place where the immovable property is intended to be located, i.e. Ahmedabad.
3. Kautilya, a Chartered Accountant, (New Delhi) travels to Mumbai for business and stays in a hotel there. The place of supply of accommodation service is the place where the hotel is located, i.e. Mumbai.
4. Goluram, a consulting engineer based in Mumbai, Maharashtra renders professional services in respect of an immovable property of Bholuram of Bangalore located in Australia. Since the immovable property is located outside India, the place of supply of service is the location of recipient, i.e. Bangalore and not the place where the immovable property is located (Australia).

Immovable property/Boat/Vessel located in more than one State/Union Territory

Sometimes immovable property may extend to more than one location, for example, a railway line, a national highway or a bridge on a river may originate in one State and end in the other State or a house boat stay may traverse more than one State.

In such cases, i.e. where the immovable property or boat or vessel is located in more than one State/ Union territory, the service is deemed to have been supplied in each of the respective States/Union territories, in proportion to the value for the services determined in terms of the contract or agreement entered into in this regard.

Manner of determining proportionate value of service in the absence of a contract or agreement.

In the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of services supplied in different States/Union territories (where the immovable property or boat or vessel is located) is computed in accordance with rule 4 of the IGST Rules as under:

S. No.	Type of service in relation to immovable property	Factor which determines the proportionate value of service supplied in different States/Union territories
1.	Service provided by way of lodging accommodation by hotel, inn, guest house etc. and its ancillary services (other than the cases where such property is a single property located in 2 or more contiguous States/Union territories or both)	Number of nights stayed in such property
2.	All other services provided in relation to immovable property including services by way of accommodation in any immovable property for organising any marriage or reception etc. and in cases of supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called where such property is a single property located in 2 or more contiguous States or/and Union territories Services ancillary to services mentioned above	Area of the immovable property lying in each State/Union territories
3.	Services by way of lodging accommodation by a house boat or vessel and its ancillary services	Time spent by the boat or vessel in each such State/Union territories, to be determined on the basis of declaration made by the service provider

Exam. 1. Lodging accommodation by hotel/inn/guest house etc. and ancillary services excluding the property located in 2 or more contiguous States/Union territories or both

Dondrila Hotel chain charges a consolidated sum of ₹30,000/- for stay in its two establishments in Delhi and Agra, where the stay in Delhi is for 2 nights and the stay in Agra is for 1 night. The place of supply in this case is both Delhi and Uttar Pradesh and the service shall be deemed to have been provided in Delhi and Uttar Pradesh in the ratio of 2:1 respectively. The value of services provided will thus be apportioned as ₹20,000/- in Delhi and ₹10,000/- in Uttar Pradesh.

Exam. 2. Other services provided in relation to immovable property

There is a piece of land of area 20,000 square feet which is partly in State S1 say 12,000 square feet and partly in State S2, say 8000 square feet. Site preparation work has been entrusted to Munna Constructions. The ratio of land in the two States works out to 12:8 or 3:2 (simplified). The place of supply is in both S1 and S2. The service shall be deemed to have been provided in the ratio of 12:8 or 3:2 (simplified) in the States S1 and S2 respectively. The value of the service shall be accordingly apportioned between the States.

Exam. 3. Lodging accommodation by a house boat or vessel and its ancillary services

A company C provides the service of 24 hours accommodation in a houseboat, which will transit both in Kerala and Karnataka in as much as the guests board the house boat in Kerala and stay there for 22 hours but it also moves into Karnataka for 2 hours (as declared by the service provider). The place of supply of this service is in the States of Kerala and Karnataka. The service shall be deemed to have been provided in the ratio of 22:2 or 11:1 (simplified) in the States of Kerala and Karnataka, respectively. The value of the service shall be accordingly apportioned between the States.

(*iii*) Restaurant and catering service, personal grooming, fitness, beauty and health services [Section 12(4)]

The place of supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery is the location where such services are actually performed

Example

1. Mr. Dadlani, a businessman from Hyderabad dines in a restaurant at Mumbai while on a business trip. The place of supply of restaurant service is the location where such service is performed, i.e. Mumbai.
2. Timmy Ferreira, a makeup artist at Kolkata, goes to Jaipur, Rajasthan for doing the makeup of Ms. Simran Kapoor, a Bollywood actress based in Mumbai. The place of supply is the location where such service is performed, i.e. Jaipur.

(*iv*) Training and performance appraisal services [Section 12(5)]

In B2B supply, i.e. where the recipient of service is a registered person, the place of supply is the location of such person.

in case of B2C supply, i.e. where the recipient of service is unregistered, the place of supply is the place where the service is actually performed.

Example

Mr. Suresh (unregistered person based in Noida) signs up with Excellent Linguistics (New Delhi) for receiving training on English speaking at their New Delhi Centre. Since the recipient is unregistered, the place of supply is the location where services are provided, i.e. New Delhi.

(*v*) Services by way of ADMISSION to events/amusement park/other places [Section 12(6)]

The place of supply of following services-

(*a*) Services provided by way of ADMISSION to cultural, Sporting ,educational, scientific, entertainment & artistic event

(*b*) Services provided by way of ADMISSION to amusement park or any other place

(*c*) Services ancillary to the above-mentioned services is the place where the event is actually held or where the park or such other place is located.

Example

1. Virubhai Virani, a resident of Ghaziabad, Uttar Pradesh, buys a ticket for a circus organized at Gurugram, Haryana by a circus company based in New Delhi. The place of supply is the location where the circus is held, i.e. Gurugram.
2. Manasvi of New Delhi buys a ticket for an amusement park located in Noida, Uttar Pradesh. The place of the supply is the location where the park is located, i.e. Noida.

(*vi*) **ORGANISATION of events [Section 12(7)]**

When such service is provided to a registered person, the place of supply is location of recipient.

When it 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.

The event can be a cultural, artistic, sporting, scientific, educational or entertainment event. It can also be a conference, fair, exhibition, celebration or other similar event.

Place of supply of services ancillary to organisation of such type of events or assigning of sponsorship to such events is also determined under subsection (7) of section 12, i.e. in the manner described above.

Example

1. Mega Events, an event management company at New Delhi, organizes an award function for Shah Diamond Merchants of Ahmedabad (registered in Gujarat), at Mumbai. Since the recipient is a registered person, the place of supply is the location of the recipient, i.e. Ahmedabad.
2. Mega Events, an event management company at New Delhi, organizes an award function for Shah Diamond Merchants of Ahmedabad (registered in Gujarat), in Mauritius. Since the recipient is a registered person, the place of supply is the location of the recipient, i.e. Ahmedabad.

Event held in more than one State/Union territory

If the event is held in more than one State/Union territory and a consolidated amount is charged for services relating to such event, the place of supply of such services is deemed to be in each of the respective States/Union territories in proportion to the value for services determined in terms of the contract or agreement entered into in this regard.

The above provision is applicable only when the recipient is unregistered, as for a registered recipient, the place of supply is the location of such recipient.

Manner of Determining Proportionate Value of Service in the Absence of a Contract or Agreement

In the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of services made in different States/Union territories (where the event is held) is computed in accordance with rule 5 of the IGST Rules by the application of generally accepted accounting principles.

Example

An event management company - Moonlight Events Private Limited - has to organize some promotional events in States S1 and S2 for a recipient Mr. Atmaram (unregistered). 3 events are to be organized in S1 and 2 in S2. They charge a consolidated amount of ₹10,00,000 from Mr. Atmaram.

The place of supply of this service is in both the States S1 and S2. Say the proportion arrived at by the application of generally accepted accounting principles is 3:2. The service shall be deemed to have been provided in the ratio 3:2 in S1 and S2 respectively. The value of services provided will thus be apportioned as ₹6,00,000/- in S1 and ₹4,00,000/- in S2.

(*vii*) Transportation of goods including mail or courier [Section 12(8)]

The place of supply of services by way of transportation of goods, including by mail or courier, etc. provided to a registered person, is the location of such person. However, where such services are provided to an unregistered person, the place of supply is the location at which such goods are handed over for their transportation.

Example

1. M/s Sukhiram Pvt. Ltd. is a registered company in New Delhi. It sends its courier to Pune through M/s Brue Air Courier Service. The recipient being registered person, the place of supply is the location of recipient, i.e. New Delhi.
2. Mr. Bindisaar, an unregistered person, of New Delhi sends a courier to his brother in Amritsar, Punjab. The recipient being unregistered person, the place of supply is the location where goods are handed over for their transportation, i.e. New Delhi.
3. Pinelaps Pvt. Ltd., a Goods Transportation Agency based in Kanpur, Uttar Pradesh, is hired by Hezal Enterprises (registered supplier in Kanpur) to transport its consignment of goods to a buyer in New Delhi. The recipient being registered, the place of supply is the location of recipient, i.e. Kanpur.
4. Sukhwinder Transports Pvt. Ltd., a Goods Transportation Agency based in Noida, Uttar Pradesh, is hired by Chhaya Trade Links (registered supplier in New Delhi) to transport its consignment of goods to a buyer in Kanpur, Uttar Pradesh. The recipient being registered, the place of supply is the location of recipient, i.e. New Delhi.
5. Mr. Srikant, a manager in a Bank, is transferred from Bareilly, Uttar Pradesh to Bhopal, Madhya Pradesh. Mr. Srikant's family is stationed in Kanpur, Uttar Pradeh. He hires Goel Carriers of Lucknow, Uttar Pradesh (registered in Uttar Pradesh), to transport his household goods from Kanpur to Bhopal. The recipient being unregistered person, the place of supply is the location where goods are handed over for their transportation, i.e. Kanpur.

(*viii*) **Passenger transportation service [Section 12(9)]**

Nature of Supply	Place of Supply	
	Recipient is registered	Recipient is unregistered
Passenger transportation	Location of the recipient	Location where the passenger embarks on the conveyance for a continuous journey [See definition]
Issue of right to passage for future use and the point of boarding not known at the time of issue of right to passage		(a) If the address of the unregistered person is available in the records of the supplier, the location of such unregistered person. (b) In other cases, the location of the supplier of services

The return journey is treated as a separate journey, even if the tickets for onward and return journey are issued at the same time.

Example

1. Mr. Amar (registered person in New Delhi) travels from Mumbai to Bangalore in Airjet flight. Mr. Amar has bought the tickets for the journey from Airjet's office registered in New Delhi. The place of supply is the location of recipient, i.e. New Delhi.

2. Mr. Subramanian (unregistered person in Chennai) has come to Delhi on a vacation. He buys pre-paid Delhi Metro Card from Delhi Metro (New Delhi) for hassle free commute in the National Capital Region. Recipient being unregistered person, the place of supply is the address of Mr. Subramanian, i.e. Chennai. If address of Mr. Subramanian is not available with the Delhi Metro, the place of supply will be the location of the supplier of services, i.e. New Delhi.
3. Mr. Shyam, an unregistered person, based in Gurugram, Haryana books a two-way air journey ticket from New Delhi to Mumbai on 5th December. He leaves New Delhi on 10th December in a late-night flight and lands in Mumbai the next day. He leaves Mumbai on 14th December in a morning flight and lands in New Delhi the same day. The return journey is treated as a separate journey, even if the tickets for onward and return journey are issued at the same time. Thus, being an unregistered person, the place of supply for the outward and return journeys are the locations where the unregistered person embarks on the conveyance for the continuous journey, i.e. New Delhi and Mumbai respectively.
4. Examples of issue of right to passage for future use-point of boarding not known at the time of issue of right
   (*a*) An airline may issue seasonal tickets, containing say 10 vouchers which could be used for travel between any two locations in the country.
   (*b*) The card issued by New Delhi metro could be used by a person located in Noida, or New Delhi or Faridabad, without the New Delhi metro being able to distinguish the location or journeys at the time of receipt of payment.

(*ix*) Service supplied on board a conveyance [Section 12(10)]

Nature of Supply	Place of Supply
Service supplied on board a conveyance	Location of the first scheduled point of departure of that conveyance for the journey

*Note - Conveyance includes a vessel, an aircraft, a train or a motor vehicle.

Example

Mr. Raidhan is travelling from Delhi to Mumbai in an Airjet flight. He desires to watch an English movie during the journey by making the necessary payment. The place of supply of such service of showing 'movie on demand' is the first scheduled point of departure of the conveyance for the journey, i.e. Delhi.

(*x*) Telecommunication service [Section 12(11)]

Telecommunication services include the services of telephone, data transfer (internet), broadcasting, cable, DTH (Direct to home) services, etc. Section 12(11) classifies the telecommunication services into 3 categories for the purpose of determining the place of supply as under:

(*a*) Services provided using a fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna

(*b*) Post-paid mobile connection and post-paid internet services

(*c*) Pre-paid mobile connection and prepaid internet and DTH services

The place of supply of the various types of telecommunication services is tabulated as under:

Nature of Supply	Place of Supply
❑ Fixed telecommunication line ❑ Leased circuits ❑ Internet leased circuit ❑ Cable or dish antenna	❑ Location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services

❑ Post-paid mobile connection and internet services	❑ Location of billing address of the recipient of services in the records of the supplier of services ❑ Location of the supplier of services, if the address is not available
❑ Pre-paid mobile connection, internet services and DTH services (recharge coupon, vouchers, net pack etc.)	❑ Address of the selling agent/ re-seller/ distributor at the time of supply
❑ Services provided through ❑ A selling agent ❑ Re-seller ❑ Distributor of subscriber identity module card or recharge voucher Services provided by any person to final subscriber	❑ Location where such pre- payment is received or such vouchers are sold
❑ Pre-paid services, the payment for which is made through internet banking/other electronic mode of payment	❑ Location of the recipient of services in the records of the supplier of services
❑ Other Cases	❑ The address of the recipient as per the records of the supplier of services ❑ Location of the supplier of services, if the address is not available

Example

1. Mr. Samudragupta (Kolkata) gets a landline phone installed at his home in Kolkata from Skybel Ltd. The place of supply is the location where the telecommunication line is installed, i.e. Kolkata.
2. Mr. Rajkumar (Mumbai) gets a DTH installed at his home in his village in Uttar Pradesh from RT Ltd. The place of supply is the location where the DTH is installed, i.e. Uttar Pradesh.
3. Mr. Shastri (Mumbai) takes a post-paid mobile connection in Mumbai from Blubel Ltd. and gives his residence address at Mumbai as the address for billing with supplier. The place of supply is the location of billing address of the recipient, i.e. Mumbai.
4. Mr. George (New Delhi) gets his post-paid mobile bill (billing address New Delhi) paid online from Goa. The place of supply is the location of the billing address of the recipient, i.e. New Delhi.
5. Mr. Jhumroo (Pune) purchases a pre-paid card from a selling agent in Mumbai. The place of supply is the address of the selling agent or re-seller, i.e. Mumbai.
6. Mr. Freddy (Puducherry) gets a pre-paid mobile recharged from a grocery shop in Chennai. The place of supply is the location where such pre-payment is received, i.e. Chennai.

Leased Circuit is Installed in More Than One State/Union Territory

If the leased circuit is installed in more than one State/Union territory and a consolidated amount is charged for supply of services, the place of supply is deemed to be in each of the respective States/ Union territories in proportion to the value for services determined in terms of the contract or agreement entered into in this regard.

Manner of Determining Proportionate Value of Service in the Absence of a Contract or Agreement

In the absence of a contract or agreement between the supplier and recipient of services, the value of services supplied in different States/Union territories (where the leased circuit is installed) is determined in accordance with rule 6 of the IGST Rules in proportion to the number of points lying in each such State/ Union territory.

(*a*) The number of points in a circuit is determined in the following manner – In the case of a circuit between two points or places, the starting point or place of the circuit and the end point or place of the circuit will invariably constitute two points

Example

Trinity Ltd. installs a leased circuit between the Delhi and Mumbai offices of Inertia Pvt. Ltd. The starting point of this circuit is in Delhi and the end point of the circuit is in Mumbai. Hence, one point of this circuit is in Delhi and another in Maharashtra. The place of supply of this service is in the Union territory of Delhi and the State of Maharashtra. The service shall be deemed to have been provided in the ratio of 1:1 in the Union territory of Delhi and the State of Maharashtra, respectively.

(*b*) Any intermediate point or place in the circuit will also constitute a point provided that the benefit of the leased circuit is also available at that intermediate point

Example

1. Turbo Ltd. installs a leased circuit between the Chennai, Bengaluru and Mysuru offices of Rio Ltd. The starting point of this circuit is in Chennai and the end point of the circuit is in Mysuru. The circuit also connects Bengaluru. Hence, one point of this circuit is in Tamil Nadu and two points in Karnataka. The place of supply of this service is in the States of Tamil Nadu and Karnataka. The service shall be deemed to have been provided in the ratio of 1:2 in the States of Tamil Nadu and Karnataka, respectively.
2. Sriram Ltd. installs a leased circuit between the Kolkata, Patna and Guwahati offices of Srishyam Ltd. There are 3 points in this circuit in Kolkata, Patna and Guwahati. One point each of this circuit is, therefore, in West Bengal, Bihar and Assam. The place of supply of this service is in the States of West Bengal, Bihar and Assam. The service shall be deemed to have been provided in the ratio of 1:1:1 in the States of West Bengal, Bihar and Assam, respectively.

(*xi*) Financial and stock broking services [Section 12(12)]

The place of supply of banking and other financial services, including stock broking services to any person is the location of the recipient of services in the records of the supplier of services. However, if the location of recipient of services is not available in the records of the supplier, the place of supply is the location of the supplier of services.

Example

1. Mr. Debdas (Chennai) buys shares from a broker in BSE (Mumbai). The place of supply is the location of the recipient of services in the records of the supplier, i.e. Chennai.
2. Mr. Arihant (New Delhi) withdraws money from Best Bank's ATM in Amritsar. Mr. Arihant has crossed his limit of free ATM withdrawals. The place of supply is the location of the recipient of services in the records of the supplier, i.e. New Delhi.
3. Mr. Rishabh from Varanasi, Uttar Pradesh, visits a bank registered in New Delhi to get a demand draft made. Mr. Rishabh does not have any account with the said bank. Therefore, since the location of recipient is not available in the records of the supplier, the place of supply is the location of the supplier of services, i.e. New Delhi.

(*xii*) Insurance services [Section 12(13)]

The place of supply of insurance services is the location of recipient when provided to a registered recipient.

If such services are provided to a person other than a registered person, the place of supply is the location of the recipient of services in the records of the supplier of services.

Example

1. Mr. Shantaram, CEO of Shaurya Ltd., Mumbai (a company registered in Maharashtra) buys insurance cover for the inventory stored in company's factory located at Mumbai, from Excellent Insurers, Chennai (registered in Tamil Nadu). The place of supply is the location of the registered recipient, i.e. Mumbai.
2. Ms. Barbie (unregistered resident of Kolkata) goes to her native place Patna, Bihar and buys a medical insurance policy for her parents there from Safe Insurers, Patna (registered in Bihar). The place of supply is the location of the recipient of services in the records of the supplier, i.e. Patna.

(*xiii*) Advertisement service to the Government [Section 12(14)]

Nature of Supply	Place of Supply
Advertisement service to the Central Government/ State Government/ Statutory body/ Local authority meant for the State/Union territory identified in contract or agreement	Each of such States/ Union advertisement broadcasted/run/ played/ disseminated

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

Manner of determining proportionate value of service in the absence of a contract or agreement

S. No.	Type of advertisement	Value of service attributable to dissemination in different States/Union territories where the advertisement is broadcasted/ run /played/ disseminated
1.	Advertisements in newspapers and publications	Amount payable for publishing an advertisement in all the editions of a newspaper or publication, which are published in each State/Union territory
2.	Advertisements through printed material like pamphlets, leaflets, diaries, calendars, T- shirts, etc.	Amount payable for the distribution of a specific number of such material in each State/Union territory
3.	Advertisements in hoardings (other than those on trains)	Amount payable for the hoardings located in each State/ Union territory

4.	Advertisements on trains	Amount attributable to each State/Union territory calculated in the ratio of length of the railway track in each of such State/Union territory, for that train
5.	Advertisements on the back of utility bills of oil and gas companies, etc.	Amount payable to each State/Union territory for the advertisements on bills pertaining to consumers having billing addresses in each of such State/Union territory
6.	Advertisements on railway tickets	Amount attributable to each State/Union territory calculated in the ratio of number of Railway Stations in each of such State/Union territory
7.	Advertisements on radio stations	Amount payable to such radio station, which by virtue of its name is part of each State/Union territory
8.	Advertisement on television channels	Amount attributable to each State/Union territory calculated basis the viewership of such channel in each of such State/ Union territory which shall be derived as under. (*a*) Viewership can be ascertained from the channel viewership figures published by the Broadcast Audience Research Council. (*b*) Figures for the last week of a given quarter is used for calculating viewership for the succeeding quarter. (*c*) Where the channel viewership figures relate to a region comprising of more than one State/Union territory, the viewership figures for a State/ Union territory of that region, is calculated in ratio of the populations of that State/Union territory, as determined in the latest Census. (*d*) The ratio of the viewership figures for each State or Union territory so calculated, when applied to the amount payable for the service, shall represent the portion of the value attributable to the dissemination in that State or Union territory
9.	Advertisements in cinema halls	Amount payable to a cinema hall or screens in a multiplex in each State/ Union territory.

10.	Advertisements on internet It is deemed that such service is provided all over India.	Amount attributable to each State/Union territory calculated basis the internet subscribers in each of such State/ Union territory which shall be derived in the following manner: (*a*) Internet subscribers can be ascertained from the internet subscriber figures published by the Telecom Regulatory Authority of India (TRAI). (*b*) Figures for the last quarter of a given financial year will be used for calculating the number of internet subscribers for the succeeding financial year. (*c*) Where the internet subscriber figures relate to a region comprising of more than one State/Union territory, the State/Union territory of that region shall be calculated in the ratio of the populations of that State/Union territory, determined in the latest census. (*d*) The ratio of the subscriber figures for each State or Union territory so calculated, when applied to the amount payable for the service, shall represent the portion of the value attributable to the dissemination in that State or Union territory.
11.	Advertisements through SMS	Amount attributable to each State/Union territory calculated on the basis of the telecom subscribers in each of such State/ Union territory. (*a*) Telecom subscribers in a telecom circle can be ascertained from the telecom subscribers figures published by the TRAI. Figures for a given quarter will be used for calculating the subscribers for the succeeding quarter. (*b*) Where such figures relate to a telecom circle comprising of more than one State/Union territory, the subscriber fiqures for that State/Union territory shall be calculated in the ratio of the populations of that State/Union territory, as determined in the latest census.

Example

1. Advertisements in newspapers and publications

ABC is a government agency which deals with the all the advertisement and publicity of the Government. It has various wings dealing with various types of publicity. In furtherance thereof, it issues release orders to various agencies and entities. These agencies and entities thereafter provide the service and then issue invoices to ABC indicating the amount to be paid by them. ABC issues a release order to a newspaper for an advertisement on 'Beti bachao beti padhao', to be published in the newspaper DEF (whose head office is in Delhi) for the editions of Delhi, Pune, Mumbai, Lucknow and Jaipur. The release order will have details of the newspaper like the periodicity, language, size of the advertisement and the amount to be paid to such a newspaper.

The place of supply of this service shall be in the Union territory of Delhi, and the States of Maharashtra, Uttar Pradesh and Rajasthan. The amounts payable to the Pune and Mumbai editions would constitute the proportion of value for the State of Maharashtra which is attributable to the dissemination in Maharashtra. Likewise, the amount payable to the Delhi, Lucknow and Jaipur editions would constitute the proportion of value attributable to the dissemination in the Union territory of Delhi and States of Uttar Pradesh and Rajasthan respectively. DEF should issue separate State-wise and Union territory-wise invoices based on the editions.

2. **Advertisements through printed material like pamphlets, leaflets, diaries, calendars, T-shirts, etc.**

   As a part of the campaign 'Swachh Bharat', ABC has engaged a company GH for printing of 1,00,000 pamphlets (at a total cost of ₹1,00,000) to be distributed in the States of Haryana, Uttar Pradesh and Rajasthan. In such a case, ABC should ascertain the breakup of the pamphlets to be distributed in each of the three States, i.e. Haryana, Uttar Pradesh and Rajasthan, from the Ministry or department concerned at the time of giving the print order. Let us assume that this breakup is 20,000, 50,000 and 30,000 respectively. This breakup should be indicated in the print order.

   The place of supply of this service is in Haryana, Uttar Pradesh and Rajasthan. The ratio of this breakup, i.e. 2:5:3 will form the basis of value attributable to the dissemination in each of the three States. Separate invoices will have to be issued State-wise by GH to ABC indicating the value pertaining to that State, i.e. ₹20,000 - Haryana, ₹50,000 - Uttar Pradesh and ₹30,000 – Rajasthan

3. **Advertisements in hoardings (other than those on trains)**

   ABC as part of the campaign 'Saakshar Bharat' has engaged a firm IJ for putting up hoardings near the Airports in the 4 metros, i.e. Delhi, Mumbai, Chennai and Kolkata. The release order issued by ABC to IJ will have the city-wise, location-wise breakup of the amount payable for such hoardings.

   The place of supply of this service is in the Union territory of Delhi and the States of Maharashtra, Tamil Nadu and West Bengal. In such a case, the amount actually paid to IJ for the hoardings in each of the 4 metros will constitute the value attributable to the dissemination in the Union territory of Delhi and the States of Maharashtra, Tamil Nadu and West Bengal respectively. Separate invoices will have to be issued State-wise and Union territory-wise by IJ to ABC indicating the value pertaining to that State/UT.

4. **Advertisements on trains**

   ABC places an order on KL for advertisements to be placed on a train with regard to the 'Janani Suraksha Yojana'. The length of a track in a State will vary from train to train. Thus, for advertisements to be placed on the Hazrat Nizamuddin Vasco Da Gama Goa Express which runs through Delhi, Haryana, Uttar Pradesh, Madhya Pradesh, Maharashtra, Karnataka and Goa, KL may ascertain the total length of the track from Hazrat Nizamuddin to Vasco Da Gama as well as the length of the track in each of these States and Union territory from the website www.indianrail.gov.in

   The place of supply of this service is in the Union territory of Delhi and States of Haryana, Uttar Pradesh, Madhya Pradesh, Maharashtra Karnataka and Goa. The value of the supply in each of these States and Union territory attributable to the dissemination in these States will be in the ratio of the length of the track in each of these States and Union territory. If this ratio works out to say 0.5:0.5:2:2:3:3:1, and the amount to be paid to KL is ₹1,20,000, then KL will have to calculate the State-wise and Union territorywise breakup of the value of the service, which will be in the ratio of the length of the track in each State and Union territory.

In the given example, the State-wise and Union territory-wise breakup works out to Delhi (₹5,000), Haryana (₹5,000), Uttar Pradesh (₹20,000), Madhya Pradesh (₹20,000), Maharashtra (₹30,000), Karnataka (₹30,000) and Goa (₹10,000). Separate invoices will have to be issued State-wise and Union territory-wise by KL to ABC indicating the value pertaining to that State or Union territory.

5. Advertisements on railway tickets

ABC has issued a release order to MN for display of advertisements relating to the 'Ujjwala' scheme on the railway tickets that are sold from all the Stations in the States of Madhya Pradesh and Chhattisgarh.

The place of supply of this service is in Madhya Pradesh and Chhattisgarh. The value of advertisement service attributable to these two States will be in the ratio of the number of railway stations in each State as ascertained from the Railways or from the website www.indianrail.gov.in.

Let us assume that this ratio is 713:251 and the total bill is ₹9,640. The breakup of the amount between Madhya Pradesh and Chhattisgarh in this ratio of 713:251 works out to ₹7,130 and ₹2,510 respectively. Separate invoices will have to be issued State-wise by MN to ABC indicating the value pertaining to that state.

6. Advertisements on radio stations

For an advertisement on 'Pradhan Mantri Ujjwala Yojana', to be broadcast on a FM radio station OP, for the radio stations of OP Kolkata, OP Bhubaneswar, OP Patna, OP Ranchi and OP Delhi, the release order issued by ABC will show the breakup of the amount which is to be paid to each of these radio stations.

The place of supply of this service is in West Bengal, Odisha, Bihar, Jharkhand and Delhi. The place of supply of OP Delhi is in Delhi even though the studio may be physically located in another State. Separate invoices will have to be issued Statewise and Union territory-wise by MN to ABC based on the value pertaining to each State or Union territory.

7. Advertisement on television channels

ABC issues a release order with QR channel for telecasting an advertisement relating to the 'Pradhan Mantri Kaushal Vikas Yojana' in the month of November, 2017. In the first phase, this will be telecast in the Union territory of Delhi, States of Uttar Pradesh, Uttarakhand, Bihar and Jharkhand.

The place of supply of this service is in Delhi, Uttar Pradesh, Uttarakhand, Bihar and Jharkhand. In order to calculate the value of supply attributable to Delhi, Uttar Pradesh, Uttarakhand, Bihar and Jharkhand, QR has to proceed as under —

(*a*) QR will ascertain the viewership figures for their channel in the last week of September 2017 from the Broadcast Audience Research Council. Let us assume it is 1,00,000 for Delhi and 2,00,000 for the region comprising of Uttar Pradesh and Uttarakhand and 1,00,000 for the region comprising of Bihar and Jharkhand.

(*b*) Since the Broadcast Audience Research Council clubs Uttar Pradesh and Uttarakhand into one region and Bihar and Jharkhand into another region, QR will ascertain the population figures for Uttar Pradesh, Uttarakhand, Bihar and Jharkhand from the latest census.

(*c*) By applying the ratio of the populations of Uttar Pradesh and Uttarakhand, as so ascertained, to the Broadcast Audience Research Council viewership figures for their channel for this region, the viewership figures for Uttar Pradesh and Uttarakhand can be calculated. Let us assume that the ratio of the populations of Uttar Pradesh and Uttarakhand works out to 9:1.

When this ratio is applied to the viewership figures of 2,00,000 for this region, the viewership figures for Uttar Pradesh and Uttarakhand work out to 1,80,000 and 20,000 respectively.

(*d*) In a similar manner, the breakup of the viewership figures for Bihar and Jharkhand can be calculated. Let us assume that the ratio of populations is 4:1 and when this is applied to the viewership figure of 1,00,000 for this region, the viewership figure for Bihar and Jharkhand works out to 80,000 and 20,000 respectively.

(*e*) The viewership figure for each State works out to Delhi (1,00,000), Uttar Pradesh (1,80,000), Uttarakhand (20,000), Bihar (80,000) and Jharkhand (20,000). The ratio is thus 10:18:2:8:2 or 5:9:1:4:1 (simplification).

(*f*) This ratio has to be applied when indicating the breakup of the amount pertaining to each State. Thus, if the total amount payable to QR by ABC is ₹20,00,000, the State-wise breakup is ₹5,00,000 (Delhi), ₹9,00,000 (Uttar Pradesh) ₹1,00,000 (Uttarakhand), ₹4,00,000 (Bihar) and ₹1,00,000 (Jharkhand). Separate invoices will have to be issued State-wise and Union territory-wise by QR to ABC indicating the value pertaining to that State or Union territory.

8. Advertisements in cinema halls

ABC commissions ST for an advertisement on 'Pradhan Mantri Awas Yojana' to be displayed in the cinema halls in Chennai and Hyderabad. The place of supply of this service is in the States of Tamil Nadu and Telangana. The amount actually paid to the cinema hall or screens in a multiplex, in Tamil Nadu and Telangana as the case may be, is the value of advertisement service in Tamil Nadu and Telangana respectively. Separate invoices will have to be issued State-wise and Union territory-wise by ST to ABC indicating the value pertaining to that State.

9. Advertisements on internet

ABC issues a release order to WX for a campaign over internet regarding linking Aadhaar with one's bank account and mobile number. WX runs this campaign over certain websites. In order to ascertain the State-wise breakup of the value of this service which is to be reflected in the invoice issued by WX to ABC, WX has to first refer to the Telecom Regulatory Authority of India figures for quarter ending March, 2017, as indicated on their website www.trai.gov.in. These figures show the service area wise internet subscribers. There are 22 service areas. Some relate to individual States some to two or more States and some to part of one State and another complete State. Some of these areas are metropolitan areas.

In order to calculate the State-wise breakup, first the State-wise breakup of the number of internet subscribers is arrived at. (In case figures of internet subscribers of one or more States are clubbed, the subscribers in each State is to be arrived at by applying the ratio of the respective populations of these States as per the latest census.). Once the actual number of subscribers for each State has been determined, the second step for WX involves calculating the State-wise ratio of internet subscribers. Let us assume that this works out to 8:1:2..... and so on for Andhra Pradesh, Arunachal Pradesh, Assam... and so on. The third step for WX will be to apply these ratios to the total amount payable to WX so as to arrive at the value attributable to each State. Separate invoices will have to be issued State-wise and Union territory-wise by WX to ABC indicating the value pertaining to that State or Union territory.

■ INTER-STATE SUPPLY [SECTION 7 OF THE IGST ACT]

This section provides as to when the supplies of goods and/or services shall be treated as Supply in the course of inter-State trade/commerce.

(*a*) 'SUPPLY OF GOODS' in the course of inter-State trade/commerce [Section 7(1) of the IGST Act]

Supply of goods shall be considered as supply of goods in course of inter-State trade or commerce where the location of the supplier and the place of supply are in.

(*i*) two different States;

(*ii*) two different Union territories; or

(*iii*) a State and a Union territory,

(*b*) 'SUPPLY OF SERVICES' in the course of inter-State trade/commerce [Section 7(3) of the IGST Act]

Supply of services shall be considered as supply of services in course of inter-State trade or commerce where the location of the supplier and the place of supply are in–

(*i*) two different States;

(*ii*) two different Union territories; or

(*iii*) a State and a Union territory

(*c*) SUPPLY OF GOODS OR SERVICES OR BOTH in the course of inter-State trade or commerce [Section 7(5)(c) of the IGST Act]

Clause (c) of section 7(5) is a residuary clause and stipulates that supply of goods and/or services in the taxable territory, not being an intraState supply & not covered elsewhere in this section 7(5) are considered as inter-State supplies

■ INTRA-STATE SUPPLY [SECTION 8 OF THE IGST ACT]

Supply of goods/services where the location of the supplier and the place of supply of goods/services are in the same State or same Union territory shall be treated as intra-State supply. Such supplies are exigible to CGST and SGST/UTGST.

Establishments of distinct persons

Establishments of same entity shall be considered as establishments of distinct persons where a person has:

(*i*) an establishment in a State or Union territory and any other establishment outside that State or Union territory; or

(*ii*) an establishment in a State or Union territory and any other establishment registered within that State or Union territory.

Thus, any supply between any of the above establishments shall be treated as supply between establishments of distinct persons. Further, a person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory

■ SUPPLIES IN TERRITORIAL WATERS [SECTION 9 OF THE IGST ACT]

This section determines the location of supplier and/or the place of supply when such location of supplier and/or the place of supply is in territorial waters. Before that, let us understand the term "territorial waters".

As per United Nations Convention on the Law of the Sea, the term 'territorial sea' is a belt of coastal waters extending atmost 12 nautical miles from the baseline of a coastal state. Section 3(2) of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976 stipulates that the limit of territorial waters is the line every point of which is at a distance of 12 nautical miles from the nearest point of the appropriate base line.

Section 9 of the IGST Act provides that where the location of the supplier is in the territorial waters, it shall be deemed that location of such supplier is in the coastal State or Union Territory where the nearest point of the appropriate baseline is located. Similarly, in case where the place of supply is in territorial waters, the place of supply shall be deemed to be in the coastal State or Union Territory where the nearest point of the appropriate baseline is located.

TEST YOUR KNOWLEDGE

Place of Supply in case of Goods (Section 10)

1. In case of a domestic supply, what is the place of supply where goods are removed?

Sol. As per section 10(1)(*a*), the place of supply of goods is the location of the goods at the time at which the movement of goods terminates for deliveryto the recipient.

2. What will be the place of supply if the goods are delivered by the supplier to another person on the direction of a third person?

Sol. As per section 10(1)(*b*), it would be deemed that the third person has received the goods and the place of supply of such goods will be the principal placeof business of such person.

3. With reference to GST law, Determine the place of supply with reason in the following circumstances

   Mizu Machine Ltd., registered in the State of Andhra Pradesh, supplied a machinery to Keyan Wind Farms Ltd., registered in the State of Karnataka. However, this machinery was assembled and installed at the wind mill of Keyan Wind Farms Ltd., which was located in the State of Tamilnadu. **[RTP May 24]**

Sol. Section 10(1)(*d*) of the IGST Act, 2017 provides that if the supply involves goods which are to be installed or assembled at site, the place of supply is the place of such installation or assembly. Thus, the place of supply is the site of assembly of machine, i.e. Tamilnadu.

4. Discuss briefly the place of supply of goods purchased over the counter in one State and transported to another State by the buyer **[MTP May 24]**

Sol. There are cases where an unregistered person purchases goods over the counter (OTC) in one State and thereafter, transports the goods to another State (generally, the State where he resides). For instance, migrant workers, tourists, etc. who come to a State for work, tourism, etc. and purchase goods in that State to take it to their respective State. Similarly, in automobile sector, the residents of a State may travel to another State to purchase vehicle from that State to take advantage of lower registration charges and road tax, which vary from State to State and thereafter, take the vehicle to their State.

Where the supply of goods is made to a person other than a registered person, the place of supply shall be the location as per the address of the said person recorded in the invoice issued in respect of the said supply and the location of the supplier where the address of the said person is not recorded in the invoice.

For this purpose, recording of the name of the State of the said person in the invoice shall be deemed to be the recording of the address of the said person.

Place of Supply in case of Services (Section 12)

5. An event management company provided services for organizing a sporting event for a Sports Federation which is held in multiple States? **[MTP May 24]**

   What would be the place of supply of services in this case?

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

Since the event is being held in multiple states and a consolidated amount is charged for such services, the place of supply will be deemed to be in each State in proportion to the value for services determined in terms of the contract or agreement entered into in this regard.

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

6. With reference to GST law, Determine the place of supply with reasons in the following independent circumstances:-

   Miss Kanika of Kolkata (West Bengal) visited to Jodhpur Law University (Rajasthan) and paid her college fees by purchasing a demand draft from a bank located in the University campus. Miss Kanika did not have any account with the bank. **[RTP May 24]**

Sol. Section 12(12) of the IGST Act, 2017 provides that the place of supply of banking and other financial services, including stock broking services to any person is the location of the recipient of services in the records of the supplier of services. However, if the location of recipient of services is not available in the records of the supplier, the place of supply is the location of the supplier of services.

Therefore, since the location of recipient is not available in the records of the supplier, the place of supply is the location of the supplier of services, i.e. Rajasthan (or Jodhpur).

7. The place of supply in relation to immovable property (situated in India) is the location of immovable property. Suppose a road is constructed from Delhi to Mumbai covering multiple states.

   What will be the place of supply of construction services?

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

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

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

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

Since the event is being held in multiple states and a consolidated amount is charged for such services, the place of supply will be deemed to be in each State in proportion to the value for services determined in terms of the contract or agreement entered into in this regard [Explanation to section12(7)].

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

9. What is the place of supply of services by way of transportation of goods,including by mail or courier when both the supplier and the recipient of the services are located in India?

Sol. If the recipient is registered, the location of such person is the place of supply. However, if the recipient is not registered, the place of supply is the place where the goods are handed over for transportation. Further, if the goodsare transported outside India, the destination of such goods is the place of supply [Section 12(8)].

10. What will be the place of supply of passenger transportation service, if a person travels from Mumbai to Delhi and back to Mumbai?

Sol. If the person is registered, the place of supply of passenger transportation service will be the location of recipient. If the person is not registered, the place of supply for the forward journey from Mumbai to Delhi will be Mumbai, the place where he embarks [Section 12(9)].

However, for the return journey, the place of supply will be Delhi as the return journey has to be treated as separate journey [Explanation to section 12(9)].

11. What is the place of supply for mobile connection? Can it be the location of supplier?

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

The place of supply for mobile connection would depend on whether the connection is on postpaid or prepaid basis. In case of postpaid connections, the place of supply is the location of billing address of the recipient of services on the record of supplier of services.

In case of pre-paid connections, if the service is supplied:

(*i*) through a selling agent or a re-seller or a distributor of SIM card or re-charge voucher, the place of supply is the place address of the selling agent or re-seller or distributor as per the record of the supplier at the time of supply; or

(*ii*) by any person to the final subscriber, the place of supply is the location where such prepayment is received or such vouchers are sold;

(*iii*) in other cases, the place of supply is the address of the recipient as per the records of the supplier of services and where such address is not available, the place of supply shall be location of the supplier of services.

However, if the recharge is done through internet/e-payment, the location of recipient of service on record of the supplier will be taken as the place of supply

12. A person from Mumbai goes to Kullu-Manali and takes some services from ICICI Bank in Manali. What is the place of supply?

Sol. The place of supply in case of banking services to any person shall be the location of the recipient of services on the records of the supplier of services. However, if the location of recipient of services is not on the records of the supplier, the place of supply shall be the location of the supplier of services i.e. Kullu-Manali, Himachal Pradesh [Section 12(12)].

13. An unregistered person from Gurugram travels by Air India flight from Mumbai to Delhi and gets his travel insurance done in Mumbai.

    What is the place of supply of insurance services?

Sol. When insurance service is provided to an unregistered person, the locationof the recipient of services on the records of the supplier of insurance services is the place of supply. So Gurugram is the place of supply [Section 12(13)].

Mixed Questions

14. What is the place of supply where the goods or services are supplied on boarda conveyance, such as a vessel, an aircraft, a train or a motor vehicle?

Sol. As per section 10(1)(e), in respect of goods, the place of supply is the location at which such goods are taken on board.

However, in respect of services, the place of supply is the location of the first scheduled point of departure of that conveyance for the journey in terms of sections 12(10).

5 CHAPTER

Exemption from GST

THEORY

Section 2(47)

Exempt supply has been defined as supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax and includes non-taxable supply.

Section 2(78)

Non-taxable supply means a supply of goods or services or both which is not leviable to tax under CGST Act or under the IGST Act.

Thus, under GST, a supply not leviable to tax is also included within the purview of 'exempt supply'.

Power to grant exemption from GST has been granted vide section 11 of the CGST Act and vide section 6 of the IGST Act.

Section 11

- GST law empowers the Central Government or State Government as the case may be, on recommendation of the GST Council, grant exemption from tax.
- Exemption can be from the whole of the tax or part of the tax.
- It should be granted in public interest.
- Exemption can be granted to goods or services or both of any specified description, by way of issuance of notification:
  - Absolutely [i.e. unconditional exemption; exemption is not subject to any conditions (mandatory in nature)] or
  - Conditionally [i.e. exemption is subject to specified conditions]. Exemption may be granted by a special order in case of the circumstances of an exceptional nature.

■ LIST OF SERVICES EXEMPT FROM TAX

1. Services related to charitable and religious activities

(A) Services by an entity registered under section 12AA/12AB of the Income-tax Act, 1961 by way of charitable activities. 'Charitable Activities' mean activities relating to-

- PUBLIC HEALTH
- ADVANCEMENT OF RELIGION, spirituality or yoga;
- ADVANCEMENT OF EDUCATIONAL PROGRAMMES/SKILL DEVELOPMENT relating to,-
  - (*i*) abandoned, orphaned or homeless children;
  - (*ii*) physically or mentally abused and traumatised persons;

(*iii*) prisoners; or

(*iv*) persons over the age of 65 years residing in a rural area;

- PRESERVATION OF ENVIRONMENT

(B) Services by a person by way of-

(*i*) Conduct of any religious ceremony;

> Religious ceremonies are life-cycle rituals including special religious poojas conducted in terms of religious texts by a person so authorized by such religious texts. Occasions like birth, marriage, and death involve elaborate religious ceremonies

(*ii*) Renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section 12AA of the Income-tax Act, 1961 or a trust or an institution registered under section 10(23C)(v) of the Income-tax Act or a body or an authority covered under section 10(23BBA) of the said Income-tax Act.

However, nothing contained in entry (b) of this exemption shall apply to-

(*i*) Renting of rooms where charges are ₹1,000 or more per day;

(*ii*) Renting of premises, community halls, kalyana mandapam or open area, and the like where charges are ₹10,000 or more per day;

(*iii*) Renting of shops or other spaces for business or commerce where charges are ₹10,000 or more per month.

(C) Services by a specified organisation in respect of a religious pilgrimage facilitated by the Government of India, under bilateral arrangement.

Specified organisation

- Kumaon Mandal Vikas Nigam Limited (KMVN), a Government of Uttarakhand Undertaking;
- 'Haj Committee of India' or 'State Haj Committee including Joint State Committee'.

(D) Services by way of training or coaching in-

(*a*) Recreational activities relating to arts or culture, by an individual, or

(*b*) Sports by charitable entities registered under section 12AA of the Income-tax Act.

TEST YOUR KNOWLEDGE

JP Charitable institution, an entity registered under Section 12AA of Income Tax Act, 1961 and registered in GST, has furnished you the following details with respect to the activities undertaken by it during the month of January, 2020. You are required to compute its Taxable Value of GST from the information given below, assuming the rate of GST is 18%. Brief reasoning should be part of your answer.

Particulars	Amount
Membership fees received from members	10,00,000
Amount received for advancement of educational programs relating to abandoned or orphaned or homeless children	4,00,000
Amount received for renting of commercial property owned by Trust	5,00,000
Amount received for counselling of terminally ill person	3,50,000

Fees charged for Yoga Camp conducted by Trust	2,00,000
Amount received relating to preservation of Forest and Wildlife	6,00,000

Ans. Taxable Value 5,00,000; GST @ 18% 90,000

2. Agriculture related services

(*a*) Services by way of loading, unloading, packing, storage or warehousing of rice.

(*b*) Services by way of warehousing of minor forest produce.

(*c*) Services by way of storage/warehousing of Agricultural produce, rice, cereals, pulses, fruits and vegetables.

(*d*) Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of:

(*i*) Agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;

(*ii*) Supply of farm labour;

(*iii*) Processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;

(*iv*) Renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;

(*v*) Loading, unloading, packing, storage or warehousing of agricultural produce;

(*vi*) Agricultural extension services;

(*vii*) Services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.

(*e*) Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce.

(*f*) Services by way of artificial insemination of livestock (other than horses).

TEST YOUR KNOWLEDGE

'Big Agro Handlers' furnishes the following details with respect to the activities undertaken by them in the month of December, 2019:

Particulars	Amount
Supply of farm labour	58,000
Warehousing of biscuits	1,65,000
Commission on sale of paddy	68,000
Training of farmers on use of new pesticides and fertilisers developed through scientific research	10,000
Renting of vacant land to a stud farm	1,31,500
Testing undertaken for seeds	1,21,500
Leasing of vacant land to a poultry farm	83,500
Warehousing of Pulses, cereals, fruits etc	25,600

Compute the GST Payable by 'Big Agro Handlers' for the month of December, 2019. Rate of CGST @ 9% & SGST @ 9%.

Ans. Taxable Value 2,96,500

3. Education services Entry No. 66

Meaning Of Educational Institute:

Educational institution means an institution providing services by way of,-

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

(*ii*) Education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;

Note: Education as a part of a prescribed curriculum for obtaining a qualification recognized by a law of a foreign country is not covered here.

(*iii*) Education as a part of an approved vocational education course.

An approved vocational education course means

- A course run by an ITI/ITC (Industrial Training Institute/Industrial Training Centre) (including Private ITIs) affiliated to the National Council for Vocational Training (NCVT) or State Council for Vocational Training (SCVT) offering courses in designated trades notified under the Apprentices Act, 1961

Designated trade means any trade or occupation or any subject field in engineering or non-engineering or technology or any vocational course which the Central Government, after consultation with the Central Apprenticeship Council, may, by notification in the Official Gazette, specify as a designated trade for the purposes of Apprentices Act, 1961.

It is important to note that the Central and State Educational Boards shall be treated as 'Educational Institution' for the limited purpose of providing services by way of conduct of examination to the students.

Services provided:

(*a*) By an educational institution to its students, faculty and staff;

(*aa*) By an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee;

(*b*) To an educational institution, by way of:

(*i*) Transportation of students, faculty and staff;

(*ii*) Catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;

(*iii*) Security or cleaning or house-keeping services performed in such educational institution;

(*iv*) Services relating to admission to, or conduct of examination by, such institution;

(*v*) Supply of online educational journals or periodicals.

However, nothing contained in sub-items (*i*), (*ii*) and (*iii*) of item (*b*) shall apply to an educational institution other than an institution providing services by way of pre-school education (including aanganwadis) and education up to higher secondary school or equivalent.

Further, nothing contained in sub-item (*v*) of item (*b*) shall apply to an institution providing services by way of:

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

(*ii*) Education as a part of an approved vocational education course.

IIMs provide various long duration programs (1 year or more) for which they award diploma/ degree certificate duly recommended by Board of Governors as per the power vested in them under the IIM Act, 2017. Therefore, it is clarified that services provided by Indian Institutes of Managements to their students- in all such long duration programs (one year or more) are exempt from levy of GST.

IIMs also provide various short duration/short term programs (less than 1 year) for which they award participation certificate to the executives/professionals as they are considered as "participants" of the said programmes. These participation certificates are not any qualification recognized by law. Such participants are also not considered as students of IIM. Services provided by IIMs as an educational institution to such participants is not exempt from GST.

Any authority, board or body set up by the Central Government or State Government (including National Testing Agency) for conduct of entrance examination for admission to educational institutions shall be treated as educational institution for the limited purpose of providing services by way of conduct of entrance examination for admission to educational institutions.

Other Points

1. Output services of lodging/boarding in hostels provided by such educational institutions which are providing pre-school education and education up to higher secondary school or equivalent or education leading to a qualification recognised by law, are fully exempt from GST. Annual subscription/fees charged as lodging/boarding charges by such educational institutions from its students for hostel accommodation shall therefore, not attract GST
2. A course in a college which leads to dual qualification out of which if only one is recognized by law, would be a case of bundled supply, which is a mixed supply under GST. Hence such bundled supply shall be chargeable to tax at higher rate.
3. Any authority, board or body set up by the Central Government or State Government (including National Testing Agency) for conduct of entrance examination for admission to educational institutions shall be treated as educational institution for the limited purpose of providing services by way of conduct of entrance examination for admission to educational institutions.
4. The Central and State Educational Boards shall be treated as 'Educational Institution' for the limited purpose of providing services by way of conduct of examination to the students. In this regard, following is clarified:

(i) GST is exempt on services provided by Central or State Boards (including the boards such as NBE – National Board Of Examination) by way of conduct of examination for the students, including conduct of entrance examination for admission to educational institution. Therefore, GST shall not apply to any fee or any amount charged by such Boards for conduct of such examinations including entrance examinations.

(ii) GST is also exempt on input services relating to admission to, or conduct of examination, such as online testing service, result publication, printing of notification for examination, admit card and questions papers etc, when provided to such Boards.

(iii) GST is applicable to other services provided by such Boards, namely of providing accreditation to an institution or to a professional [accreditation fee or registration fee such as fee for FMGE (Foreign Medical Graduate Examination) screening test] so as to authorise them to provide their respective services.

5. Supply of food in a mess or canteen

- Educational institutions generally have mess facility for providing food to their students and staff. Such facility is either run by the institution/students themselves or outsourced to a third person.
- If the catering services is one of the services provided by an educational institution to its students, faculty and staff and the said educational institution is covered by the definition of 'educational institution' as given above, then the same is exempt.
- If the catering services, i.e., supply of food or drink in a mess or canteen, is provided by anyone other than the educational institution, i.e. the institution outsources the catering activity to an outside contractor, then it is a supply of service to the concerned educational institution by such outside caterer and attracts GST.
- However, said services when provided to an educational institution providing pre-school education or education up to higher secondary school or equivalent are exempt from tax.

6. Serving of Food to Anganwadi

An anganwadi, inter alia, provides pre-school non-formal education. Hence, anganwadi is covered by the definition of educational institution. Serving of food to anganwadi shall also be covered by said exemption, whether sponsored by government or through donation from corporates.

7. Entrance fee for conduct of entrance examination/fee for admission/issuance of migration certificate.

Services supplied by an educational institution by way of issuance of migration certificate to the leaving or ex-students are also covered by the exemption. Accordingly, such activities of educational institutions are also exempt.

8. Educational institutes such as IITs, IIMs charge a fee from prospective employers like corporate houses/MNCs, who come to the institutes for recruiting candidates through campus interviews in relation to campus recruitments. Such services shall also be liable to tax.

TEST YOUR KNOWLEDGE

(1) Sarvshiksha, an Educational Trust, runs a play school, 'Tiny Tots' and a higher secondary school, 'Pinnacle Academy'. It also runs a coaching centre which provides coaching for IIT JEE entrance examinations to meritorious students of economically weak background. It also provides coaching classes for examinations of Certified Public Accountant, USA. With reference to the provisions of GST, examine the leviability of GST in the above case.

(2) Industrial Training Institute (ITI), Manikpuri runs an approved vocational educational programme approved by prescribed authority. Revenue raised a demand for GST on the services provided by ITI Manikpuri.

4. Health care services

(*a*) Services by a veterinary clinic in relation to health care of animals or birds

(*b*) Services by way of:

(*i*) Health care services by a clinical establishment, an authorised medical practitioner or para-medics;

(*ii*) Services provided by way of transportation of a patient in an ambulance, other than those specified in (*a*) above.

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

Recognised system of medicine means Allopathy/Ayurveda/Homeopathy/Naturopathy/Yoga/Siddha/Unani. Naturopathy means a system for treating diseases or conditions using natural foods and herbs and various other techniques, rather than artificial drugs.

Reiki is not recognised system of medicine. (Reiki means a healing technique based on the principle that the therapist can transfer energy into the patient by means of touch, to activate the natural healing processes of the patient's body.)

Note:

- Rent of rooms provided to in-patients in hospitals.
- In respect of rent recovered for the Intensive Care Unit (ICU) or Critical Care Unit (CCU) or Intensive Cardiac Care Unit (ICCU) or Neo-Natal Intensive Care Unit (NICU), there would be full exemption irrespective of amount of rent.
- In case of other categories of rooms, Exemption is available only when rent charges do not exceed ₹ 5,000 per day. If the rent for such room exceeds ₹ 5,000 (let's say ₹ 6,000), GST would be payable on entire ₹ 6,000.
- Hospitals hire senior doctors/consultants/technicians independently. Such persons do not have any contract with the patient. Hospitals pay them consultancy charges and there is no employer-employee relationship between them. It is clarified by CBIC that services provided by such senior doctors/consultants/technicians, whether employees or not, are healthcare services which are exempt from GST.
- Health care services provided by the clinical establishments will include food supplied to the patients as advised by the doctor/nutritionists is a part of composite supply of healthcare and not separately taxable. However, other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable.
- Supply of services other than healthcare services such as renting of shops, auditoriums in the premises of the clinical establishment, display of advertisements etc. will be subject to GST.
- the abnormality/disease/ailment of infertility is treated using ART procedure such as IVF, it is clarified that services by way of IVF are also covered under the definition of health care services

TEST YOUR KNOWLEDGE

Well-Being Nursing Home has received the following amounts in the month of February, 2020 in lieu of various services rendered by it in the same month. You are required to determine its GST liability for February, 2020 from the details furnished below:

Particulars	Amount (in Lakhs)
Palliative care for terminally ill patients at patient's home (Palliative care is given to improve the quality of life of patients who have a serious disease)	20

Services provided by cord blood bank unit of the nursing home	24
Hair transplant services	100
Ambulance services to transport critically ill patients from various locations to nursing home	12
Naturopathy treatments.	80
Plastic surgery to restore anatomy of a child affected due to an accident.	30
Reiki healing treatments. Such treatment is not a recognized system of medicine	120
Mortuary services	10

Rate of Tax is CGST @ 9% and SGST @ 9%.

Ans. Taxable Value ₹220 Lakh

5. Services provided by Government

(*i*) Services by governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243 W of the Constitution are exempt.

(*ii*) Services by a governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution.

(*iii*) Services by the Central Government, State Government, Union territory or local authority excluding the following Specified Services—

(*a*) services by the Department of Posts by way of book post, Inland letter , Ordinary post (envelopes weighing less than 10 grams), post card services provided to a person other than the Central Government, State Government, Union territory;

(*b*) Services by Ministry of railways.

(*c*) Transport of goods or passengers; or

(*d*) Any service, other than services covered under entries (*a*) to (*c*) above, provided to business entities.

(*iv*) Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to such amount in the preceding financial year as makes it eligible for exemption from registration under the Central Goods and Services Tax Act, 2017.

Explanation: For the purposes of this entry, it is hereby clarified that the provisions of this entry shall not be applicable to following services:

(*i*) (i) Item (a), (b) (c) and (d) of Specified Services.

(*ii*) Services by way of renting of immovable property.

(*v*) Services provided by the Central Government, State Government, Union territory or local authority to another Central Government, State Government, Union territory or local authority. However, nothing contained in this entry shall apply to services referred in item (a), (b) (c) and (d) of Specified Services.

(*vi*) Services provided by Central Government, State Government, Union territory or a local authority where the consideration for such services does not exceed ₹5,000 (either individual or in aggregate during FY). However, nothing contained in this entry shall apply to services referred in item (a), (b) (c) and (d) of Specified Services.

(*vii*) Services by: an old age home run by: Central Government, State Government or an entity registered under section 12AA of the Income-tax Act, 1961 to its residents (aged 60 years or more) against consideration upto ₹25,000 per month per member, provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance.

(*viii*) Services supplied by Central Government, State Government, Union territory to their undertakings or Public Sector Undertakings (PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the banking companies and financial institutions.

(*ix*) Services provided by the Central Government, State Government, Union territory or local authority by way of issuance of passport, visa, driving license, birth certificate or death certificate.

(*x*) Services provided by the Central Government, State Government, Union territory or local authority by way of tolerating nonperformance of a contract for which consideration in the form of fines or liquidated damages is payable to the Central Government, State Government, Union territory or local authority under such contract.

(x*i*) Services provided by the Central Government, State Government, Union territory or local authority by way of assignment of right to use natural resources to an individual farmer for cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products.

Other Points

(*xii*) Services provided by the Central Government, State Government, Union territory or local authority by way of assignment of right to use natural resources to an individual farmer for cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products.

(*xiii*) Services provided by the Central Government, State Government, Union territory by way of deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo on payment of Merchant Overtime charges.

(*xiv*) Services provided by rehabilitation professionals recognised under the Rehabilitation Council of India Act, 1992 by way of rehabilitation, therapy or counselling and such other activity as covered by the said Act at medical establishments, educational institutions, rehabilitation centers established by Central Government, State Government or Union territory or an entity registered under section 12AA or 12AB of the Income-tax Act, 1961.

(*xv*) Services provided by Police/security agencies of Government to PSU/private business entities are not exempt from GST.

6. Construction services

(*i*) Services provided by way of pure labour contracts of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works pertaining to the beneficiary-led individual house construction or enhancement under the Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana.

(*ii*) Services supplied by Electricity Distribution Utilities by way of construction, erection, commissioning, or installation of infrastructure for extending electricity distribution network upto the tube well of the farmer or agriculturalist for agricultural use.

(*iii*) Services by way of pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex.

7. Passenger transportation services

(*a*) Transport of passengers, with/without accompanied belongings, by:

(*i*) Air, in economy class embarking from or terminating in an airport located in the State of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal;

(*ii*) Non-air conditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or

(*iii*) Stage carriage other than air- conditioned stage carriage.

However, nothing contained in items (*b*) and (*c*) above shall apply to services supplied through an electronic commerce operator, and notified under sub-section (5) of Section 9 of the CGST, 2017

(*b*) Service of transportation of passengers, with or without accompanied belongings, by:

(*i*) Railways in a class other than— (*i*) first class; or (*ii*) an air-conditioned coach;

(*ii*) Metro, monorail or tramway;

(*iii*) Inland waterways;

(*iv*) Public transport, other than predominantly for tourism purpose, in a vessel between places located in India

Clarification

Where such public transport is owned by private operators. For instance, private ferries are used as means of transport from one island to another in Andaman and Nicobar Islands. Exemption under Entry 17(d) would apply to tickets purchased for transportation from one point to another irrespective of whether the ferry is owned or operated by a private sector enterprise or by a PSU/government.

The expression 'public transport' used in this Entry only means that the transport should be open to public. It can be privately or publicly owned. Only exclusion is on transportation which is predominantly for tourism, such as services which may combine with transportation, sightseeing, food and beverages, music, accommodation such as in shikara, cruise etc.

(*v*) Metered cabs or auto rickshaws (including e-rickshaws).

However, nothing contained in item (v) above shall apply to services supplied through an electronic commerce operator, and notified under sub-section (5) of Section 9 of the CGST, 2017.

Hiring of non-air conditioned contract carriages by firms for transportation of their employees to and from work.

Exemption under this clause would apply to passenger transportation services by non-air conditioned contract carriages where transportation takes place over pre-determined route on a pre-determined schedule. The exemption shall not be applicable where contract carriage is hired for a period of time, during which the contract carriage is at the disposal of the service recipient and the recipient is thus free to decide the manner of usage (route and schedule) subject to conditions of agreement entered into with the service provider.

Other Points

Services provided to the Central Government, by way of transport of passengers by air, embarking from or terminating at a RCS airport, against consideration in the form of viability gap funding are exempt.

A Regional Connectivity Scheme is introduced to facilitate/stimulate regional air connectivity by making it affordable by supporting airline operators through.

1. concessions by Central Government/State Governments and airport operators to reduce the cost of airline operations on regional routes/other support measures and
2. financial (viability gap funding or VGF) support to meet the gap, if any, between the cost of airline operations and expected revenues on such routes.

Under RCS, the underserved airports of India are aimed to be connected to key airports through flights that will cost ₹2,500 for per hour flight.

8. Goods transportation services

(*i*) Services by way of transportation of goods-

(*a*) By road except the services of— (*i*) a goods transportation agency; (*ii*) a courier agency;

> Goods transport agency mean any person who: provides service in relation to transport of goods by road and issues consignment note, by whatever name called.

(*b*) By inland waterways.

(*ii*) Services by way of transportation by rail or a vessel from one place in India to another of the following goods:

(*a*) Relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;

(*b*) Defence or military equipments;

(*c*) Newspaper or magazines registered with the Registrar of Newspapers;

(*d*) Agricultural produce;

(*e*) Milk, salt and food grain including flours, pulses and rice; and

(*f*) Organic manure.

(*iii*) Services provided by a goods transport agency, by way of transport in a goods carriage of –

(*a*) Agricultural produce;

(*b*) Milk, salt and food grain including flour, pulses and rice;

(*c*) Organic manure;

(*d*) Newspaper or magazines registered with the Registrar of Newspapers;

(*e*) Relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or

(*f*) Defence or military equipment.

(*iv*) Services provided by a GTA to an unregistered person, including an unregistered casual taxable person, other than the following recipients, namely:

(*a*) Any factory registered under/governed by the Factories Act, 1948; or

(*b*) Any Society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or

(*c*) Any Co-operative Society established by or under any law for the time being in force; or

(*d*) Any body corporate established, by or under any law for the time being in force; or

(*e*) Any partnership firm whether registered or not under any law including association of persons;

(*f*) Any casual taxable person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act.

(*v*) Services provided by a GTA, by way of transport of goods in a goods carriage, to:

(*a*) A Department or Establishment of the Central Government or State Government or Union territory; or

(*b*) Local authority; or

(*c*) Governmental agencies, which have taken registration under the Central Goods and Services Tax Act, 2017 only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.

Other Points

Transport of minerals within a mining area by vehicles deployed with driver for a specific duration of time

- The issue which arose for consideration was whether transport of minerals within a mining area, say from mining pit head to railway siding, beneficiation plant etc., by vehicles deployed with driver for a specific duration of time would be covered under Entry 18 which exempts transport of goods by road except by a GTA.
- Usually in such cases the vehicles such as tippers, dumpers, loader, trucks etc., are given on hire to the mining lease operator. Expenses for fuel are generally borne by the recipient of service. The vehicles with driver are at the disposal of the mining lease operator for transport of minerals within the mine area (mining pit to railway siding, beneficiation plant etc.) as per his requirement during the period of contract.
- Such services are nothing but "rental services of transport vehicles with operator". The person who takes the vehicle on rent defines how and when the vehicles will be operated, determines schedules, routes and other operational considerations.
- The person who gives the vehicles on rent with operator cannot be said to be supplying the service by way of transport of goods.
- Accordingly, it is clarified that such renting of trucks and other freight vehicles with driver for a period of time is a service of renting of transport vehicles with operator and not service of transportation of goods by road. Consequently, it is not eligible for exemption.

9. Banking and financial services

(*i*) Services by way of:

(*a*) Extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services);

(*b*) Inter se sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers.

(*ii*) Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY).

(*iii*) Services by an acquiring bank, to any person in relation to settlement of an amount up to ₹2,000 in a single transaction transacted through credit card, debit card, charge card or other payment card service.

Explanation: For the purposes of this entry, "acquiring bank" means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such a card.

Note:

(1) Service charges/fees, documentation fees, broking charges, administrative charges, entry charges or such like fees or charges collected over and above interest on loan, advance or a deposit are not exempt and thus, represent taxable consideration.

(2) Invoice discounting/cheque discounting or any other similar form of discounting is covered only to the extent consideration is represented by way of discount as such discounting is a manner of extending a credit facility or a loan.

(3) Any interest/delayed payment charges charged to clients for delay in payment of brokerage amount/settlement obligations/margin trading facility: is exempt from GST since settlement obligations/margin trading facilities are transactions which are in the nature of extending loans or advances.

(4) Charges for late payment of outstanding dues on credit card: Interest charged on outstanding credit card balances has been specifically excluded from Entry 27. Hence, the same is liable to GST.

Robinson Bank Ltd. furnishes the following information relating to services provided and the gross amount received during the month of December, 2019. Compute the value of taxable service and GST payable:

Amount of commission received for debt collection service	10,00,000
Discount earned on bills discounted	4,50,000
Inter se sale or purchase of foreign currency amongst banks	5,70,000
Charges received on credit card and debit card facilities extended	3,80,000
Penal interest recovered from the customers for the delay in repayment of loan	2,60,000
Commission received for service rendered to Government for tax collection	6,00,000

Presume all the above amounts are inclusive of GST and also rate of CGST @ 9% and SGST @ 9%

Ans. Taxable Value 16,77,966.10

10. Life insurance business services Entry No 28, 29, 29A, 29B & 36 (Self)

(*a*) Services of life insurance business provided by way of annuity under the National Pension System regulated by the Pension Fund Regulatory and Development Authority of India under the Pension Fund Regulatory and Development Authority Act, 2013.

(*b*) Services of life insurance business provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government.

(*c*) Services of life insurance provided/agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the concerned Central Armed Police Force.

(*d*) Services of life insurance provided or agreed to be provided by the Naval Group Insurance Fund to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government.

(*e*) Services of life insurance business provided under following schemes-

- (*a*) Janashree Bima Yojana;
- (*b*) Aam Aadmi Bima Yojana;
- (*c*) Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of ₹2,00,000;
- (*d*) Varishtha Pension Bima Yojana;
- (*e*) Pradhan Mantri Jeevan Jyoti Bima Yojana;
- (*f*) Pradhan Mantri Jan Dhan Yogana;
- (*g*) Pradhan Mantri Vaya Vandan Yojana.

Life micro-insurance product means any term insurance contract with/without return of premium, any endowment insurance contract or health insurance contract, with/without an accident benefit rider, either on individual/group basis, as per terms stated in Schedule-II appended to the regulations.

11. Services provided by specified bodies Entry No. 30, 31, 31A, 31B, 32, 33 (Self)

(*a*) Services by the Employees' State Insurance Corporation to persons governed under the Employees' State Insurance Act, 1948.

(*b*) Services provided by the Employees Provident Fund Organisation to the persons governed under the Employees Provident Funds and the Miscellaneous Provisions Act, 1952.

(*c*) Services by Coal Mines Provident Fund Organisation to persons governed by the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948.

(*d*) Services by National Pension System (NPS) Trust to its members against consideration in the form of administrative fee.

(*e*) Services provided by the IRDAI (Insurance Regulatory and Development Authority of India) to insurers under IRDAI Act, 1999.

(*f*) Services provided by the SEBI (Securities and Exchange Board of India) set up under the SEBI Act, 1992 by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market.

12. General insurance business services Entry No 36, 36A (Self)

(*a*) Services of general insurance business provided under following schemes:

(*i*) Hut Insurance Scheme;

(*ii*) Cattle Insurance under Swarnajayanti Gram Swarozgar Yojana 22;

(*iii*) Scheme for Insurance of Tribals;

(*iv*) Janata Personal Accident Policy and Gramin Accident Policy;

(*v*) Group Personal Accident Policy for Self-Employed Women;

(*vi*) Agricultural Pumpset and Failed Well Insurance;

(*vii*) premia collected on export credit insurance;

(*viii*) Restructured Weather Based Crop Insurance Scheme (RWCIS), approved by the Government of India and implemented by the Ministry of Agriculture;

(*ix*) Jan Arogya Bima Policy;

(*x*) Pradhan Mantri Fasal Bima Yojana (PMFBY);

(*xi*) Pilot Scheme on Seed Crop Insurance;

(*xii*) Central Sector Scheme on Cattle Insurance;

(*xiii*) Universal Health Insurance Scheme;

(*xiv*) Rashtriya Swasthya Bima Yojana;

(*xv*) Coconut Palm Insurance Scheme;

(*xvi*) Pradhan Mantri Suraksha Bima Yojna;

(*xvii*) Niramaya Health Insurance Scheme implemented by the Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

(*xviii*) Bangla Shasya Bima

(*b*) Services by way of reinsurance of the insurance schemes specified in serial number 35 or 36.

13. Pension schemes Entry No 37 & 38 (self)

(*a*) Services by way of collection of contribution under the Atal Pension Yojana

(*b*) Services by way of collection of contribution under any pension scheme of the State Governments

14. Business facilitator/correspondent Entry No 39

Services by the following persons in respective capacities

(*a*) Business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch;

(*b*) Any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (*a*); or

(*c*) Business facilitator or a business correspondent to an insurance company in a rural area.

BCs/BFs help villagers to open bank accounts and provide other banking services to them. They act as an intermediary between the bank and its customers. Banks, in turn, pay commission/ fee to the BCs/BFs.

The BCs are permitted to carry out transactions on behalf of the bank as agents, the BFs can refer clients, pursue the clients' proposal and facilitate the bank to carry out its transactions, but cannot transact on behalf of the bank.

15. Services provided to Government

(*a*) Pure services provided TO Government:

(*i*) Pure services (excluding works contract service or other composite supplies involving supply of any goods)

(*ii*) Provided to the Central Government, State Government or Union territory or local authority

(*iii*) By way of any activity:

(✓) in relation to any function entrusted to a Panchayat under article 243G of the Constitution or

(✓) in relation to any function entrusted to a Municipality under article 243W of the Constitution

(*b*) Composite supply of goods and services to Government:

(*i*) Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply.

(*ii*) Provided to the Central Government, State Government or Union territory or local authority

(*iii*) By way of any activity:

(✓) in relation to any function entrusted to a Panchayat under article 243G of the Constitution or

(✓) in relation to any function entrusted to a Municipality under article 243W of the Constitution

(*c*) Service provided by Fair Price Shops to Central Government, State Government or Union territory by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System against consideration in the form of commission or margin.

(*d*) Services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory.

(*e*) Services provided to the Central Government, State Government, Union territory administration under any training programme for which 75% or more of the total expenditure is borne by the Central Government, State Government, Union territory administration.

16. Legal services Entry no. 45

Services provided by:

A. an arbitral tribunal to:

(*i*) Any person other than a business entity; or

(*ii*) A business entity with an aggregate turnover up to Registration threshold limit in the preceding financial year;

(*iii*) The Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.

B. A partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to:

(*i*) An advocate or partnership firm of advocates providing legal services;

(*ii*) Any person other than a business entity; or

(*iii*) A business entity with an aggregate turnover up to Registration threshold limit in the preceding financial year;

(*iv*) The Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.

C. A senior advocate by way of legal services to:

(*i*) Any person other than a business entity; or

(*ii*) A business entity with an aggregate turnover up to Registration threshold limit in the preceding financial year.

(*iii*) The Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.

Example

Pyarelal & Co. has obtained registration under GST in the preceding financial year. In the current FY, it sought legal consultancy services for its business from Nyay Advocates – a partnership firm of advocates. The legal services received by Pyarelal & Co. are not exempt because its aggregate turnover exceeds the threshold exemption limit of registration in the preceding financial year. Further, the tax on the said legal services is payable by Pyarelal & Co. under reverse charge.

17. Sponsorship of sports events:

Services by way of sponsorship of sporting events organised –

(*a*) By a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or Country;

(*b*) By Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;

(*c*) By the Central Civil Services Cultural and Sports Board

(*d*) As part of national games, by the Indian Olympic Association; or

(*e*) Under the Panchayat Yuva Kreeda Aur Khel Abhiyaan Scheme

18. Performance by an artist

Services by an artist by way of a performance in folk or classical art forms of

(*a*) Music, or (*b*) Dance, or (*c*) Theatre,

If the consideration charged for such performance is not more than ₹1,50,000 are exempt from GST.

Note:

(✓) The activities by a performing artist in folk or classical art forms of music, dance, or theatre are exempt if consideration does not exceed ₹1,50,000. However, if consideration from such activities exceeds ₹1,50,000, the entire consideration is subject to GST.

(✓) All other activities by an artist in other art forms e.g. western music or dance, modern theatres, performance of actors in films or television serials would be taxable. Similarly, activities of artists in still art forms e.g. painting, sculpture making etc. are taxable.

(✓) However, the exemption shall not apply to service provided by such an artist as a brand ambassador. 'Brand ambassador' means a person engaged for promotion or marketing of a brand of goods, service, property or actionable claim, event or endorsement of name, including a trade name, logo or house mark of any person.

Example

Determine the GST payable, if any, in each of the following independent cases, assuming that the rate of GST is 18% and that the service providers are registered:

(*a*) Bollywood dance performance by a film actor in a film and consideration charged is ₹1,45,000.

(*b*) Carnatic music performance by a classical singer to promote a brand of readymade garments and consideration charged is ₹1,30,000.

(*c*) Carnatic music performance by a classical singer in a music concert and consideration charged is ₹1,55,000.

(*d*) Kathak dance performance by a classical dancer in a cultural programme and consideration charged is ₹1,45,000.

19. Right to admission to various events

(*i*) Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo

(*ii*) Services by way of admission to a protected monument so declared under the Ancient Monuments and Archaeological Sites & Remains Act 1958 or any of the State Acts, for the time being in force

(*iii*) Services by way of right to admission to:

(*a*) Circus, dance, or theatrical performance including drama or ballet;

(*b*) Award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event

(*c*) Recognised sporting event;

(*d*) Planetarium,

where the consideration for right to admission to the events or places as referred to in items (*a*), (*b*), (*c*) or (*d*) above is not more than ₹500 per person.

20. Services by an unincorporated body or a non-profit entity

Service by an unincorporated body or a non-profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution:

(*i*) As a trade union

(*ii*) For the provision of carrying out any activity which is exempt from the levy of Goods and Services Tax; or

(*iii*) Up to an amount of ₹7,500 per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex.

Example

(✓) RWA of Chulbul Housing Society, registered under GST, collected the maintenance charges of ₹6,000 per month per member. In this case, no GST is to be charged by the RWA.

(✓) The RWA of Chulbul Housing Society collected the maintenance charges of ₹9,000 per month per member, GST @18% shall be payable on the entire amount of ₹9,000 and not on [₹9,000 – ₹7,500] = ₹1,500.

(✓) The turnover of RWA of Bulbul Housing Society located in New Delhi in a financial year is ₹15 lakh. It has collected the maintenance charges of ₹8,000 per month per member. RWA is not providing any other taxable service to its members. In this case, RWA is not required to take registration under GST since its aggregate turnover is less than the applicable threshold limit of ₹20 lakh.

(✓) Gareeb Chand owns two residential apartments in a residential complex and pays ₹15,000/- per month as maintenance charges towards maintenance of these two apartments to the RWA (₹7,500/- per month in respect of each residential apartment). In this case, the exemption from GST shall be available with respect to maintenance charges paid for each apartment

(✓) RWA of Tintin Housing Society, registered under GST, has collected the maintenance charges of ₹9,000 per month per member from 1,000 members of the society in the month of May. For paying the GST of ₹16,20,000 [payable @ 18% on the amount of ₹90,00,000], RWA can utilise the ITC of GST of ₹1,00,000 paid by it on purchase of swings for garden, ITC of ₹20,000 on electric cables and ITC of ₹15,000 on plumbing services.

21. Import of Services

Import of services in the following cases is exempt from GST.

(*a*) If services have been taken by the Central Government/State Government/Union territory/a local authority/a governmental authority.

(*b*) An individual for personal purpose.

(*c*) A charitable Trust.

If any of the above person have taken OIDAR services, exemption shall not be applicable rather the service provider shall collect tax from the recipient and shall pay it to the Government. If the recipient is registered under GST, Tax shall be payable by the recipient under reverse charge.

22. Tour Operator Services

Services provided by a tour operator shall be exempt from tax, if they are provided:

A. To a foreign tourist.

B. In relation to a tour conducted wholly outside India or Partly in India & Partly Outside India

However, in case of tour partly in India and Partly Outside India, exemption shall be restricted to the extent of the value of the tour operator service which is performed outside India.

Note 1: 'Foreign tourist' means a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.

Note 2: The value of the tour operator service performed outside India shall be lower of the following two figures:

A. Total consideration charged for the entire tour x Number of days for which the tour is performed outside India/Total number of days comprising the tour;

B. 50% of the total consideration charged for the entire tour.

Note 3: While making the above calculations, an y duration of time equal to or exceeding 12 hours shall be considered as one full day and any duration of time less than 12 hours shall be taken as half a day.

23. Other exempt services

A. Services by way of transfer of a going concern, as a whole or an independent part thereof.

Example: Royal Hotel Group is in the business of running a chain of restaurants. It intends to sell its business as a going concern. It would not be required to pay GST on such sale of its business.

B. Services by way of renting of residential dwelling for use as residence to unregistered Person.

Explanation — For the purpose of exemption under this entry, this entry shall cover services by way of renting of residential dwelling to a registered person where, –

(i) The registered person is proprietor of a proprietorship concern and rents the residential dwelling in his personal capacity for use as his own residence; and

(ii) Such renting is on his own account and not that of the proprietorship concern.

Thus, renting of residential dwelling either by a registered person or an unregistered person for use as residence to UNREGISTERED PERSON is exempt from GST.

Renting of residential dwelling for use as residence to a registered person (other than proprietor covered in explanation above) as well as renting of residential dwelling for commercial use to registered or unregistered person is liable to GST.

Further, tax on renting of residential dwelling to a registered person is payable by the registered person under reverse charge whether such residential dwelling is being used for commercial purposes or residential purposes.

C. Services by way of giving on hire (including renting of vehicle):

(*a*) To a state transport undertaking (STU), a motor vehicle meant to carry more than 12 passengers.

(*b*) To a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers.

(*c*) To a goods transport agency, a means of transportation of goods.

(*d*) Motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education up to higher secondary school or equivalent

D. Service by way of access to a road or a bridge on payment of toll charges.

E. With regard to said entry, following issues have been clarified:

(i) Ministry of Road Transport and Highways (MORTH) permitted the overloaded vehicles to ply on the national highways after payment of higher toll charges. It has been clarified that overloading charges at toll plazas would get the same treatment as given to toll charges.

(ii) MORTH has directed to collect additional amount from the users of the road to the extent of two times of the fees applicable to that category of vehicle which is not having a valid functional Fastag. Essentially, the additional amount collected from the users of the road not having a functional Fastag, is in the nature of toll charges and should be treated as additional toll charges.

Therefore, it is clarified that additional fee collected in the form of higher toll charges from vehicles not having Fastag is essentially payment of toll for allowing access to roads or bridges to such vehicles and may be given the same treatment as given to toll charges.

F. Services provided by an incubatee up to a total turnover of ₹50 lakh in a financial year subject to the following conditions, namely:
   (*i*) The total turnover had not exceeded ₹50 lakh during the preceding financial year; and
   (*ii*) A period of 3 years has not elapsed from the date of entering into an agreement as an incubatee.

G. Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India.

H. Services of public libraries by way of lending of books, publications or any other knowledge-enhancing content or material

I. Services by an organiser to any person in respect of a business exhibition held outside India.

J. Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.

K. Services by a foreign diplomatic mission located in India.

L. Services by way of providing information under the RTI Act (Right to Information Act, 2005).

M. Services provided to a recognised sports body by-
   (*a*) An individual as a player, referee, umpire, coach or team manager for participation in a sporting event organised by a recognized sports body;
   (*b*) Another recognised sports body

   Note:
   (1) Services by individuals such as selectors, commentators, curators, technical experts are taxable.
   (2) The service of a player to a franchisee which is not a recognized sports body is also taxable.

N. The service of a player to a franchisee which is not a recognized sports body is also taxable.

O. Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinals or toilets.

P. Services provided to the Central Government, State Government, Union territory administration under any training programme for which 75% or more of the total expenditure is borne by the Central Government, State Government, Union territory administration. It is clarified48 that free coaching services provided by coaching institutions and NGOs under the central scheme of "Scholarships for students with Disabilities" where 75% or more of the expenditure is borne by the Government to coaching institutions.

Q. Services by way of granting National Permit to a goods carriage to operate through-out India/ contiguous States.

R. Services provided to a Governmental Authority by way of —
   (1) Water supply;
   (2) Public health;
   (3) Sanitation conservancy;
   (4) Solid waste management; and
   (5) Slum improvement and upgradation

S. GST on payment of honorarium to the Guest Anchors

Circular No. 177/09/2022 GST dated 03.08.2022 clarifies the applicability of GST on honorarium paid to Guest Anchors. Sansad TV and other TV channels invite guest anchors to participate in their shows and pay remuneration to them in the form of honorarium.

It is clarified that supply of all goods & services are taxable unless exempt or declared as 'neither a supply of goods nor a supply of service'. Services provided by the guest anchors in lieu of honorarium attract GST liability.

However, guest anchors whose aggregate turnover in a financial year does not exceed ₹20 lakh (₹10 lakh in case of specified Special Category States) shall not be liable to take registration and pay GST.

QUESTION BANK

Services by Recognized Sports Body

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

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

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

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

Services by an Artist

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

Whether Ms. Ahana Kapoor will be required to pay any GST?

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

Since Ms. Ahana Kapoor is the brand ambassador of 'Forever Young' soap manufactured by RXL Pvt. Ltd., the services rendered by her by way of a classical dance performance in the concert organized by RXL Pvt. Ltd. to promote its brand will not be eligible for the above-mentioned exemption and thus, be liable to GST. The fact that the proceeds of the concert will be donated to a charitable organization will not have any bearing on the eligibility or otherwise to the above-mentioned exemption.

3. Decide with reason whether the following independent services are exempt under CGST Act, 2017:

(*i*) Gokul Residents' Welfare Association received ₹9,000 per month as contribution from each member for sourcing of goods and services from third persons for common use of its members.

(*ii*) Mr. Vikalp, a performing artist, has received ₹1,58,000 from performance of classical dance and ₹90,000 from acting in TV Serial during the month of June 2018.

Sol. (*i*) Service by an unincorporated body or a registered non-profit entity, to its own members by way of share of contribution up to an amount of ₹7,500 per month per member for sourcing of goods/services from a third person for the common use of its members in a housing society or residential complex, is exempt.

In the given case, monthly contribution per month per member received by Gokul Residents' Welfare Association exceeds ₹ 7,500.

Therefore, exemption will be available up to ₹7,500 and GST would be payable on the amount in excess of ₹7,500 (viz. ₹1,500 in this case).

Therefore, it is fully taxable.

(*ii*) Services by an artist by way of a performance in folk or classical art forms of music, dance, or theatre, if the consideration charged for such performance is not more than ₹1,50,000 are exempt from GST.

In the given case, since the consideration received by the performing artist – Mr. Vikalp for performance of classical dance is more than ₹1,50,000, said services are not exempt.

Further, consideration received for acting in TV serial is also not exempt since said performance is not in folk/classical art forms of theatre.

4. XYZ Pvt. Ltd. manufactures beauty soap with the brand name 'Forever beauty'. XYZ Pvt. Ltd. has organized a concert to promote its brand. Ms. Mahima, its brand ambassador, who is a leading film actress, has given a classical dance performance in the said concert.

The proceeds of the concert is ₹1,25,000.

(*i*) Explain with relevant provisions of GST, whether Ms. Mahima will be required to pay any GST.

(*ii*) What will be the answer if the proceeds of the concert is donated to a charitable organization?

Sol. (*i*) Services by an artist by way of a performance in classical art forms of, inter alia, dance, are exempt from GST, if the consideration charged for such performance is not more than ₹1,50,000.

However, such exemption is not available in respect of service provided by such artist as a brand ambassador.

Since Ms. Mahima is the brand ambassador of 'Forever Beauty' soap manufactured by XYZ Pvt. Ltd., the services rendered by her by way of a classical dance performance in the concert organised by XYZ Pvt. Ltd. to promote its brand will not be eligible for the above-mentioned exemption and thus, be liable to GST.

(*ii*) Even if the proceeds of the concert will be donated to a charitable organisation, she will be liable to GST.

Services by Resident Welfare Association

5. GSatya Sai Residents Welfare Association, a registered person under GST has 30 members each paying ₹8,000 as maintenance charges per month for sourcing of goods and services from third persons for common use of its members.

The Association purchased a water pump for ₹59,000 (inclusive of GST of ₹9,000) and availed input services for ₹23,600 (inclusive of GST of ₹3,600) for common use of its members during February 2020.

Compute the total GST payable, if any, by Satya Sai Residents Welfare Association, for February 2020. GST rate is 18%. All transactions are intra-State.

There is no opening ITC and all conditions for ITC are fulfilled.

Sol. Computation of total GST payable by Satya Sai Residents Welfare Association

Particulars	Value (₹)	GST@ 18% (₹)
Maintenance charges received	2,40,000	
[₹8,000 × 30 members]		

[Services by RWA to its members for sourcing of goods or services from a third person for the common use of its members in a housing society are exempt provided the share of contribution per month per member is upto ₹7,500. Otherwise, entire amount is taxable.]		
Total GST payable [It has been logically presumed that maintenance charges are exclusive of GST.]		43,200

Note: Residents Welfare Association is entitled to take ITC of GST paid by them on capital goods, goods and input services, used by it for making supplies to its members and use such ITC for discharge of GST liability on such supplies where the amount charged for such supplies is more than ₹7,500 per month per member. Thus, Satya Sai Residents Welfare Association can avail ITC of GST paid on water pump purchased (₹9,000) and input services availed (₹3,600). Net GST payable in that case will come out ₹30,600.

Services by Commercial Banks

6. M/s. Apna Bank Limited, a Scheduled Commercial Bank has furnished the following details for the month of August, 2018:

Compute the value of taxable supply. Give reasons with suitable assumptions.

Sol. Computation of value of taxable supply of M/s. Apna Bank Limited for the month of August, 2018

Particulars	Amount (in Cr)
Extended Housing Loan to its customers [Since money does not constitute goods, extending a housing loan is not a supply]	Nil
Processing fees collected from its customers on sanction of loan [Interest does not include processing fee on sanction of the loan. Hence, the same is taxable]	20
Commission collected from its customers on bank guarantee [Any commission collected over and above interest on loan, advance or deposit are not exempt]	30
Interest income on credit card issued by the bank [Services by way of extending loans in so far as the consideration is represented by way of interest are exempt from tax. However, interest involved in credit card services is not exempt]	40
Interest received on housing loan extended by the bank [Services by way of extending loans in so far as the consideration is represented by way of interest are exempt from tax]	Nil
Minimum balance charges collected from current account and saving account holder [Any charges collected over and above interest on loan, advance or deposit are not exempt]	01
Value of taxable supply	91

Agricultural Services

7. Green Agro Services, a registered person provides the following information relating to its activities during the month of February, 2020:

Gross Receipts from	(₹)
Services relating to rearing of sheeps	6,00,000
Services by way of artificial insemination of horses	4,00,000
Processing of sugarcane into jaggery	8,00,000
Milling of paddy into rice	7,50,000
Services by way of fumigation in a warehouse of agricultural produce	1,80,000

All the above receipts are exclusive of GST.

Compute the value of taxable supplies under GST laws for the month of February, 2020.

Sol. Computation of value of taxable supplies

Particulars	Amount (₹)
Services relating to rearing of sheeps	Nil
[Exempt since services relating to rearing of all life forms of animals, except horses, for food etc. are exempt.]	
Services by way of artificial insemination of horses	4,00,000
[Not exempt since services of artificial insemination are exempt only of livestock other than horses.]	
Processing of sugarcane into jaggery	8,00,000
[Not exempt, since processes which alter the essential characteristics of agricultural produce are not exempt and processing of sugarcane into jaggery changes the essential characteristics of sugarcane.]	
Milling of paddy into rice [Not exempt, since this process, being carried out after cultivation is over, is not an intermediate production process in relation to cultivation of plants and it also changes the essential characteristics of paddy.]	7,50,000
Services by way of fumigation in a warehouse of agricultural produce	1,80,000
Value of taxable supplies	21,30,000

Accomodation Services

8. (*a*) Holiday Guest House, situated at Shimla, provides boarding & lodging services to tourists at economical cost. The charges of a single deluxe room per day are ₹999. Mr. X has booked one deluxe room for two days during Christmas holidays. You are required to determine whether GST is payable by Holiday Guest House on the above booking. If yes, determine the amount of GST so payable.

Will your Solution change, if the charges of a single deluxe room per day charged by Holiday Guest House are ₹1,000?

(*b*) M/s Damodar Ltd. provides services by way of storage of seasonal fruits and vegetables in Bhatinda, Punjab. The monthly rental for a godown is ₹15,000. Examine whether GST is payable by M/s Damodar Ltd.

Sol. (a) Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation are taxable.

Thus, in view of the above-mentioned provisions, GST is payable by Holiday Guest House on the booking done by Mr. X

The Solution will remain the same even if the charges of a single deluxe room per day is ₹1,000 as the exemption is not available Thus, GST is payable by Holiday Guest House on the booking done by Mr. X even if the charges of a single deluxe room per day is ₹1,000.

(*b*) Services by way of storage/warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea have been exempted from GST under an exemption notification under GST.

Thus, no GST is payable on the services provided by M/s Damodar Ltd. by way of storage of seasonal fruits and vegetables in Bhatinda, Punjab.

Charitable Activity

9. Services provided by an entity registered under section 12AB of the Income-tax Act, 1961 are exempt from GST if such services are provided by way of charitable activities. Elaborate the term charitable activities' **[MTP Nov 23]**

Sol. The term 'charitable activities' mean activities relating to-

(*i*) public health by way of-

(*a*) care or counseling of

(*i*) terminally ill persons or persons with severe physical or mental disability

(*ii*) persons afflicted with HIV or AIDS

(*iii*) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or

(*b*) public awareness of preventive health, family planning or prevention of HIV infection

(*ii*) advancement of religion, spirituality or yoga

(*iii*) advancement of educational programmes/skill development relating to,-

(*a*) abandoned, orphaned or homeless children;

(*b*) physically or mentally abused and traumatized persons;

(*c*) prisoners; or

(*d*) persons over the age of 65 years residing in a rural area

(*iv*) preservation of environment including watershed, forests & wildlife.

10. Sarva Sugam Charitable Trust, a trust registered under section 12AA of the Income Tax Act, 1961 provides the following information relating to supply of its services for the month of August 2017:

Particulars	Amount
Renting of residential dwelling for use as a residence	18,00,000
Renting of rooms for pilgrims (Charges per day ₹1,200)	8,00,000
Renting of rooms for devotees (Charges per day ₹750)	6,00,000
Renting of kalyana mandapam (Charges per day ₹15,000)	12,00,000
Renting of halls and open space (Charges per day ₹7,500)	10,75,000
Renting of shops for business (Charges per month ₹9,500)	4,75,000
Renting of shops for business (Charges per month ₹12,000)	7,50,000

Compute the total taxable value of supply for the month of August 2017 assuming that the above amounts are exclusive of GST.

Sol. Notification No. 12/2017 CT (R) dated 28.06.2017/Notification No. 9/2017 IT (R) dated 28.06.2017 [exemption notification] provides exemption to renting of precincts of a religious place meant for general public, owned/managed by, inter alia, an entity registered as a charitable trust under section 12AA of the Income-tax Act are exempt. However, exemption is not available if:

(*i*) Charges for rented rooms are ₹1,000 per day or more;

(*ii*) Charges for rented community halls, Kalyan mandapam, open area are ₹10,000 per day or more;

(*iii*) Charges for rented shops are ₹10,000 per month or more.

In view of the aforesaid provisions, value of supply of Sarva Sugam Charitable Trust for August, 2017 has been computed as under:

Computation of value of supply of Sarva Sugam Charitable Trust for August, 2017

Particulars	Amount (₹)
Renting of residential dwelling for use as residence [Exempt]	Nil
Renting of rooms for pilgrims	8,00,000
[Since charges per day are not below ₹1,000]	
Renting of rooms for devotees	Nil
[Since charges per day are below ₹1,000]	
Renting of Kalyana Mandapam	12,00,000
[Since charges per day are not below ₹10,000]	
Renting of halls and open spaces	Nil
[Since charges per day are below ₹10,000]	
Renting of shops for business	Nil

[Since charges per month are below ₹10,000]	
Renting of shops for business	7,50,000
[Since charges per month are not below ₹10,000]	
Value of taxable supply	27,50,000

Note: The question does not specify whether the rooms/Kalyan Mandapam/Halls/Open space/ shops owned by a trust registered under section 12AA of the Income-tax Act, 1961 are located within the precincts of the religious place meant for general public or not. In the above Solution, it has been assumed that the immovable properties are situated inside the precincts of the religious place meant for general public.

However, the question can also be Solutioned by assuming the various immovable properties to be situated outside the precincts of the religious place meant for the general public.

11. RSS ProCorp Registered under section 12 AA of income tax 1961, conducted educational programme for homeless children in Pune. Will it fall under exemption notification?

Sol. Yes, GST is exempt on services provided by registered person under Section 12 AA of Income tax Act 1961 by way of educational programme conducted for homeless children.

Transportation Services

12. Discuss whether GST is payable in respect of transportation services provided by Raghav Goods Transport Agency in each of the following independent cases:

Customer	Nature of Service Provided	Amount Charged
A	Transportation of milk	20,000
B	Transportation of books on a consignment transported in a single goods carriage	3,000
C	Transportation of chairs for a single consignee in the goods carriage	600

Sol.

Customer	Nature of Service Provided	Amount Charged	Taxability
A	Transportation of milk	20,000	Exempt. Transportation of milk by goods the transport agency is exempt.
B	Transportation of books on a Consignment transported in a single goods carriage	3,000	Taxable
C	Transportation of chairs for a single consignee in the goods carriage	600	Taxable

13. Examine whether GST is exempted on the following independent supplies of services:

(*i*) Ramesh travelled by Air India for the purpose of business to the USA.

(*ii*) Misbah who is an article assistant in RS and Associates during the audit period he visited the client place by A/C Volvo bus.

(*iii*) Suraj is working in Bangalore, during the Christmas vacation he booked one sleeper ticket for travelling to Bihar.

Sol. (i) No, Transport of passengers, with or without accompanied belongings, by– air, embarking from or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal. Since Ramesh booked for International ticket the exemption shall not be applicable.

(*ii*) No, Transport of passengers, with or without accompanied belongings, by– Stage carriage other than air- conditioned stage carriage is exempted under the exemption notification. In the given case as Misbah has travelled in the A/C Volvo bus the exemption not available to him.

(*iii*) Yes, Service of transportation of passengers, with or without accompanied belongings, by—

(*a*) Railways in a class other than—

(*i*) First class; or

(*ii*) An air-conditioned coach;

are exempt. Therefore, Suraj will be allowed the exemption.

Services by Hospital

14. Mr. Shyam Das was admitted to Suraksha Hospital in Mumbai for 2 days in relation to diagnosis of removal of stones from his kidney. For the said services, Surkasha hospital charged following from Mr. Das:

1. Room rent 7,000 per day for 2 days.
2. Operation theatre charges 5,000
3. Doctors Consultation Charges 8,000
4. Other services 4,000

In each of the above scenario explain whether Suraksha Hospital should levy GST or not in line with the relevant provisions of the GST laws. **[PYQ May 23]**

Sol. Health care services by a clinical establishment are exempt from GST.

However, services provided by a clinical establishment by way of providing room having room charges exceeding 5,000 per day to a person receiving health care services are not exempt.

In view of the same, only the room rent of 14,000 (7,000 per day × 2 days) is liable to GST. Other than room rent, all other nature of services provided by Suraksha Hospital are exempt from GST**.**

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

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

Further, Shiva Medical Centre has its own canteen – Annapurna Bhawan – which supplies food to the in-patients as advised by the doctor/nutritionists as also to other patients (who are not admitted) or their attendants or visitors.

The Department took a stand that senior doctors and consultants are providing services to Shiva Medical Centre and not to the patients. Hence, their services are not the health care services and must be subject to GST. Further, GST is applicable on the retention money kept by Shiva Medical Centre as well as on the services provided by its canteen – Annapurna Bhawan alleging that such services are not the health care services.

You are required to examine whether the stand taken by the Department is correct provided the services provided by Shiva Medical Centre are intra-State services.

Sol. As per Notification No. 12/2017 CT (R) dated 28.06.2017, services by way of health care services by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST. Health care services have been defined to mean any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.

Circular No. 32/06/2018 GST dated 12.02.2018 has clarified that in view of the above definition, it can be inferred that hospitals also provide healthcare services. The entire amount charged by them from the patients including the retention money and the fee/payments made to the doctors etc., is towards the healthcare services provided by the hospitals to the patients and is exempt from GST. In view of the same, GST is not applicable on the retention money kept by Shiva Medical Centre.

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

The circular further explained that food supplied by the hospital canteen to the in-patients as advised by the doctor/nutritionists is a part of composite supply of healthcare services and is not separately taxable. Thus, it is exempt from GST. However, other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable. In view of the same, GST is not applicable on the food supplied by Annapurna Bhawan to in-patients as advised by doctors/ nutritionists while other supplies of food by it to patients (not admitted) or their attendants/ visitors are taxable.

Services to and from Educational Institutions

16. Wisdom Public School, a higher secondary school in Delhi, is of the view that no tax is payable on the education provided by it to its students as education plays a significant and remedial role in balancing the socio-economic fabric of the country.

Examine whether GST law provides any scope of exemption to supply of goods or services with particular reference to the contention raised by school?

Sol. Yes, GST law provides the scope of exemption to supply of goods and services. Section 11 of CGST Act, 2017 provides that in the public interest, the Central or the State Government can exempt either wholly or partly, on the recommendations of the GST council, the supplies of goods or services or both from the levy of GST either absolutely or subject to conditions.

Further, the Government can exempt, under circumstances of an exceptional nature, by special order any goods or services or both.

As regards the contention raised by Wisdom Public School, the same is valid in law since Notification No. 12/2017 CT (R) dated 28.06.2017 specifically wholly exempts services provided by an educational institution to its students, faculty and staff.

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

(1) Fees charged from office staff for in-house personality development course conducted by Markanday College – ₹80,000. Markanday College provides education as a part of a curriculum for obtaining an engineering degree recognised by law.

(2) Bus fees collected from students by Starward College – ₹3,500 per month. Starward College provides education as a part of a curriculum for obtaining an engineering degree recognised by law.

(3) Housekeeping service provided in the Smart Kids school, a play school by M/s. Spick & Span – ₹25,000 per month.

(4) Global link supplied ''Tracing Alphabets", an online educational journal, to Kidzee School – ₹4,000. The Kidzee School used the same for its students of UKG class.

Sol. (1) As per Notification No. 12/2017 CT (R) dated 28.06.2017, services provided by an educational institution to its students, faculty and staff are exempt from GST. Educational Institution has been defined to mean, inter alia, an institution providing services by way of education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force.

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

(2) As Starward College is an educational institution, the transport services provided by it to its students would be exempt from GST.

(3) As per Notification No. 12/2017 CT (R) dated 28.06.2017, services provided to an educational institution, by way of, inter alia, house-keeping services performed in such educational institution are exempt from GST. However, such an exemption is available only when the said services are provided to a pre-school education and a higher secondary school or equivalent. Therefore, house-keeping services provided to Smart Kids Play School would be exempt from GST.

(4) As per Notification No. 12/2017 CT (R) dated 28.06.2017, services provided to an educational institution by way of supply of online educational journals or periodicals is exempt from GST. However, such an exemption is available only when the said services are provided to an educational institution providing education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force. Therefore, GST is payable in case of supply of online journal to students of UKG class of Kidzee School.

18. Determine taxable value of supply under the GST law with respect to each of the following independent services provided by the registered persons:

(1) Fees charged from office staff for in-house personality development course conducted by M.V. College – ₹10,000.

(2) Bus fees collected from students by M.V. College – ₹2,500 per month.

(3) Housekeeping service provided by M/s. Clean well to Himavarsha Montessori school, a play school – ₹25,000 per month.

(4) Info link supplied ''Tracing Alphabets", an online educational journal, to students of UKG class of Sydney Montessori School – ₹2,000.

Sol. (1) As per Notification No. 12/2017 CT (R) dated 28.06.2017, services provided by an educational institution to its students, faculty and staff are exempt from GST. Educational Institution has been defined to mean, inter alia, an institution providing services by way of education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force.

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

(2) As assumed above that M. V. College provides education as a part of a curriculum for obtaining a qualification recognised by a law, the transport services provided by it to its students would be exempt from GST.

(3) As per Notification No. 12/2017 CT (R) dated 28.06.2017, services provided to an educational institution, by way of, inter alia, house-keeping services performed in such educational institution are exempt from GST. However, such an exemption is available only when the said services are provided to a pre-school education and a higher secondary school or equivalent. Therefore, house-keeping services provided to Himavarsha Montessori Play School would be exempt from GST on the presumption that housekeeping services have been performed in such play school itself.

(4) As per Notification No. 12/2017 CT (R) dated 28.06.2017, services provided to an educational institution by way of supply of online educational journals or periodicals is exempt from GST. However, such an exemption is available only when the said services are provided to an educational institution providing education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force.

Therefore, supply of online journal to students of UKG class of Sydney Montessori School will not be exempt from GST. Hence, the taxable value in this case will be ₹2,000.

19. Mutiservices Private Ltd., registered in Punjab, is engaged in supplying a variety of services. Its turnover was ₹35 lakh in the preceding financial year. It has provided the following information for the month of April:

Particulars	Amount (₹)
Fee for the coaching provided to students for competitive exams. The coaching centre is run by Mutiservices Private Ltd. in Punjab (Intra-State transaction)	6,24,000
Receipts for services provided in relation to conduct of examination in Pureit University, Delhi (providing education recognized by Indian law), being an inter-State transaction	19,200
Amount received for transportation of students and faculty from their residence to Lotus Public School – a higher secondary school – and back (Intra-State transaction)	24,000
Amount received for providing the security and housekeeping services in Dhaani Public School – a pre-school (Intra-State transaction)	36,000

Note: Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively. All the amounts given above are exclusive of taxes.

Compute the total GST liability of Multiservices Private Ltd. for the month of April.

Sol. Computation of net GST liability of Multiservices Private Ltd. for the month of April:

Particulars	Value of supply (₹)	CGST@ 9% (₹)	SGST @ 9% (₹)	IGST@ 18% (₹)
Fee for the coaching provided to students for competitive exams [Note-1]	6,24,000	56,160	56,160	
Services towards conduct of examination in Pureit University, Delhi [Note-2]	19,200			–
Services of transportation of students and faculty from their residence to Lotus Public School and back [Note-3]	24,000			–
Security and housekeeping services in Dhaani Public School [Note-4]	36,000	–	–	
Total GST liability		56,160	56,160	

Notes:

(1) Coaching centre run by Multiservices Private Ltd. is not an educational institution since competitive exam coaching does not lead to grant of a qualification recognized by law. Therefore, fee received for coaching provided at such coaching centre is taxable.

(2) Since Pureit University provides qualification recognized by law, it is an educational institution and services provided to an educational institution, in relation to conduct of examination by such institution are exempt from GST.

(3) Since Lotus Public School provides education up to higher secondary school, it is an educational institution and services of transportation of students, faculty and staff provided to an educational institution are exempt.

(4) Since Dhaani Public School provides pre-school education, it is an educational institution. Security and housekeeping services provided within the premises of an educational institution are exempt.

Mixed Concepts Questions

20. State with reasons, whether GST is payable in the following independent cases:-

(i) Food supplied by the canteen run by a hospital to the in-patients as advised by the doctors.

(ii) An RWA in a housing society, registered under GST, collects the maintenance charges of ₹6,500 per month per member. **[MTP May 23]**

Sol. (i) Services by way of health care services by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST. Food supplied to the in-patients by a canteen run by the hospital, as advised by the doctor/nutritionists, is a part of composite supply of healthcare and not separately taxable. Thus, said services are exempt from GST.

(ii) Supply of service by a RWA (unincorporated body or a non-profit entity registered under any law) to its own members by way of reimbursement of charges or share of contribution up to an amount of 7500 per month per member for providing services and goods for the common

use of its members in a housing society/a residential complex are exempt from GST. Hence, in the given case, services provided by the RWA are exempt from GST since the maintenance charges collected per month per member do not exceed 7500.

21. Determine whether GST is payable in each of the following independent transactions:

(i) Dhruv Developers sold a plot of land in Greater Noida after levelling, laying down of drainage lines, water lines and electricity lines.

(ii) Deccan Shipping Pvt. Ltd., registered under GST in Andaman and Nicobar islands, provided the passenger transportation services to the local residents in the ferries owned by it from Neil Island to Havelock Island. **[RTP May 23]**

Sol. (i) GST is not payable by Dhruv Developers on sale of plot of land. 'sale of land' is neither a supply of goods nor a supply of services. Therefore, the sale of land does not attract GST. Land may be sold either as it is or after some development such as levelling, laying down of drainage lines, water lines, electricity lines, etc. It is clarified that sale of such developed land is also sale of land and is covered by Para 5 of Schedule III and accordingly, does not attract GST.

Transportation of passenger services provided by the private operator - Deccan Shipping Pvt. Ltd. - are exempt from GST. Transportation of passengers by public transport, other than predominantly for tourism purpose, in a vessel between places located in India is exempt from GST.It is clarified that this exemption would apply to tickets purchased for transportation from one point to another irrespective of whether the ferry is owned or operated by a private sector enterprise or by a PSU/Government.

22. Determine the GST payable @ 18% with respect to each of the following independent services provided by the registered persons: **[MTP Nov 22]**

Particulars	Gross amount charged
Fees charged for 'Swasthya Yoga Camp' conducted by Chandra Prakash Charitable Trust, registered under section 12AB of the Income-tax Act, 1961	98,000
Amount charged by business correspondent from Wealthy Banking Company for the services provided to the rural branch of a bank with respect to Savings Bank Accounts	1,00,000
Amount charged by cord blood bank for preservation of stem cells	5,00,000
Amount charged for service provided by selectors to a recognized sports body	5,20,000

Sol.

Particulars	Amount	Gross amount charged
Fees charged for 'Swasthya Yoga Camp' conducted by Chandra Prakash Charitable Trust, registered under section 12AB of the Income-tax Act, 1961 [Note-1]	Nil	Nil
Amount charged by business correspondent from Wealthy Banking Company for the services provided to the rural branch of a bank with respect to Savings Bank Accounts [Note-2]	Nil	Nil

Amount charged by cord blood bank for preservation of stem cells [Note-3]	5,00,000	5,00,000
Service provided by selectors to a recognized sports body [Note-4]	5,20,000	5,20,000

Notes:

Services by an entity registered under section 12AB of the Income-tax Act, 1961 by way of charitable activities are exempt from GST. The activities relating to advancement of yoga are included in the definition of charitable activities. So, such activities are exempt from GST.

Services by business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch have been exempted from GST.

Services provided by cord blood banks by way of preservation of stem cells/any other service in relation to such preservation are now taxable under GST.

Services provided to a recognized sports body only by an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body are exempt from GST. Thus, services provided by selectors are liable to GST.

23. State with reasons, whether GST is payable in the following independent cases:-

(i) Services provided to recognized sports body as selector of national team.

(ii) Services provided by way of transportation of passengers in metered cab, through an electronic commerce operator. **[MTP Nov 22]**

Sol. (i) Services provided to a recognized sports body by an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body are exempt from GST. Thus, GST is payable in case of services provided to a recognized sports body as selector of national team.

(ii) Service of transportation of passengers, with or without accompanied belongings, inter alia, by metered cabs are specifically exempt from GST. However, where such services are supplied though an electronic commerce operator, said services are not exempt. Thus, GST is payable in the given case.

24. Miss. P, a registered supplier of Rajasthan, has received the following amounts in respect of the activities undertaken by her during the month of April:

S. No.	Particulars	Amount
1.	Amount received for warehousing of sugarcane	50,000
2.	Commission received as business facilitator for the services provided to the urban branch of a nationalized bank with respect to savings bank accounts	20,000
3.	Amount received for services by way of labour contracts for repairing a single residential unit otherwise than as a part of residential complex	10,000

All the transactions stated above are inter-State transactions and all amounts are exclusive of GST. You are required to compute total GST payable by Miss. P for the month of April assuming the rate of GST to be 18%. **[MTP May 23]**

Sol. Computation of value of taxable supply on which GST is to be paid by Miss. P

Particulars	IGST
Amount received for warehousing of sugarcane [Warehousing of agricultural produce is exempt from GST.]	Nil
Commission received as business facilitator [Services provided by a business facilitator to a banking company with respect to accounts only in its rural area branch are exempt from GST. In the given case since services are being provided to urban branch of the bank, they are taxable. However, the tax payable thereon is to be paid by the recipient of services i.e. banking company, under reverse charge. Hence, Miss P will not be liable to pay GST on commission received for said services.]	Nil
Amount received for services by way of labour contracts [Services by way of pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex are exempt from GST. Since such services are being provided for repairing the residential unit, they are not eligible for exemption.]	1,800 [10,000 × 18%]
Total IGST payable	**1,800**

25. Nath Services Limited, registered under GST, is engaged in providing various services to Government. The company provides the following information in respect of services provided during the month of April:

S. No	Description of Services provided
(i)	Supply of manpower for cleanliness of roads not involving any supply of goods.
(ii)	Service provided by Fair Price Shops owned by Nath Services Limited by way of sale of sugar under Public
	Distribution System against consideration in the form of commission.
(iii)	Service of maintenance of street lights in a Municipal area involving replacement of defunct lights and other spares alongwith maintenance. Generally replacement of defunct lights and other spares constitutes 35% of the supply of service.
(iv)	Service of brochure distribution provided under a training programme for which 70% of the total expenditure is borne by the Government.

Comment on the taxability or otherwise of the above transactions under GST law. Also state the correct legal provisions for the same **[MTP May 24 & RTP May 22]**

Sol.

S. No.	Particulars	Taxability
(i)	Supply of manpower for cleanliness of roads not involving any supply of goods. [Pure services provided to Government are exempt.]	Exempt

(ii)	Service provided by Fair Price Shops by way of sale of sugar under Public Distribution System [Service provided by Fair Price Shops to Government by way of sale of sugar under Public Distribution System against consideration in the form of commission is exempt.]	Exempt
(iii)	Service of maintenance of street lights in a Municipal area involving replacement of defunct lights and other spares constituting 35% of the supply of service. [Composite supply of goods and services to Government in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply is exempt. Since, in this case value of supply of goods constitutes 35% of the supply of composite service, same is taxable.]	Taxable
(iv)	Service of brochure distribution provided under a training programme. [Services provided to the Government under any training programme for which 75% or more of the total expenditure is borne by the Government is exempt. Since in the given case, 70% of the total expenditure is borne by the Government, it is taxable.]	Taxable

26. Determine taxable value of supply under GST law with respect to each of the following independent services provided by the registered persons:

Particulars	Gross Amount Charged
Fee charged for yoga camp conducted by a charitable trust	50,000
Amount charged by business correspondent for the services provided to the rural branch of a bank with respect to Savings Bank Accounts	1,00,000
Amount charged by cord blood bank for preservation of stem cells	5,00,000
Amount charged for service provided by commentator to a recognized sports body	5,20,000

Sol. Computation of value of taxable

Particulars	Amount
Fees charged for yoga camp conducted by a charitable trust [Note-1]	NIL
Amount charged by business correspondent for the services provided to the rural branch of a bank with respect to Savings Bank Accounts [Note-2]	NIL
Amount charged by cord blood bank for preservation of stem cells [Note-3]	NIL
Service provided by commentator to a recognized sports body [Note-4]	5,20,000

Notes:

1. Services by an entity registered under section 12AA of the Income-tax Act, 1961 by way of charitable activities are exempt from GST. The activities relating to advancement of yoga are included in the definition of charitable activities. So, such activities are exempt from GST.
2. Services by business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch have been exempted from GST.
3. Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation are exempt from GST.
4. Services provided to a recognized sports body only by an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body are exempt from GST. Thus, services provided by commentators are liable to GST.

27. Examine whether GST is exempted on the following independent supplies of services:

(*i*) Service provided by a private transport operator to Scholar Boys Higher Secondary School in relation to transportation of students to and from the school.

(*ii*) Services provided by way of vehicle parking to general public in a shopping mall.

Sol. (*i*) Yes. Services provided TO an educational institution by way of transportation of students are exempted from GST.

(*ii*) No. Services provided by way of vehicle parking to the general public are not exempted from GST. Therefore, GST is payable on the same.

28. Examine whether GST is payable in the following independent supply of services:

(*i*) Indiana Engineering College, a recognised educational institution, has conducted an entrance test examination for various courses run by it and charged entrance fees from the applicants.

(*ii*) Ramfal Lalaji, an agriculturist, has stored sugarcane in a warehouse. He has taken fumigation services in the said warehouse from Gupta Pest Control Co. for which he paid the consideration of ₹6,000.

Sol. (*i*) Services provided by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee is exempt from GST vide Notification No. 12/2017 CT (R) dated 28.06.2017 as amended.

Since in the given case, services provided by Indiana Engineering College, an educational institution are by way of conduct of entrance examination against entrance fee, the same is exempt and thus, GST is not payable in this case.

(*ii*) Services by way of fumigation in a warehouse of agricultural produce are Taxable.

29. Examine whether supply of food and drink in the following independent cases is exempt from GST:

(*i*) "Smart Kids" is a Play School located in Delhi. Smart Kids has outsourced the catering services for supply of food and drink in the canteen of Play School to BTV Caterers, Delhi for a consideration of ₹8,00,000 per annum.

(*ii*) Wellness Hospital, a clinical establishment located in Tirupati, is specialised in diabetic treatment. The hospital has its own canteen – Tasty Foods. The canteen serves the food and drink to the in-patients as advised by the doctors/nutritionists of the hospital. Apart from this, other patients (who are not admitted) or attendants or visitors of the in-patients also take food and drink from the canteen.

Sol. (*i*) Services provided to an educational institution providing services by way of pre-school education and education up to higher secondary school or equivalent, by way of catering is exempt from GST vide Notification No. 12/2017 CT (R) dated 28.06.2017 as amended. Thus, in the given case, services provided by BTV Caterers to Smart Kids are exempt from GST.

(*ii*) Services by way of health care services provided by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST vide Notification No. 12/2017 CT (R) dated 28.06.2017 as amended.

In this regard, CBIC has clarified that food supplied by the hospital canteen to the in-Patients as advised by the doctor/nutritionists is a part of composite supply of healthcare services and is not separately taxable. Thus, it is exempt from GST. However, other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable.

In view of the same, GST is exempt on the food supplied by Tasty Foods to the in-patients as advised by doctors/nutritionists while other supplies of food by it to patients (not admitted) or attendants/visitors of the in-patients is taxable.

30. Examine whether GST is exempted on the following independent supply of services:

(*i*) Relax & Co, a tour operator, provides services to a foreign tourist for a tour conducted in Kerala and receives a sum of ₹1,50,000.

(*ii*) Ms. Sneha acts as a Coach for Indian Sports League (ISL), a recognised sports body, for a Tennis tournament organised by Superb retail company and received a remuneration of ₹4,00,000.

Sol. (i) Services provided by a tour operator to a foreign tourist are exempt from GST provided such services are in relation to a tour conducted wholly outside India. Thus, since in the given case, services provided by Relax & Co. are in relation to a tour conducted within India, the same are not exempt from GST.

(*ii*) Services provided by a coach to a recognised sports body for participation in a sporting event are exempt from GST provided said sporting event is organised by a recognized sports body. Thus, since in the given case, the sporting event is not organised by a recognised sports body, the services provided by Ms. Sneha are not exempt from GST.

31. Examine whether GST is exempted on the following independent supply of services:

(*i*) Teja & Co, a tour operator, provides services to a foreign tourist for a tour conducted in Jammu & Kashmir and receives a sum of ₹3,00,000.

(*ii*) Ms. Poorva acts as a Team Manager for Indian Sports League (ISL), a recognised sports body, for a Tennis tournament organised by Multi brand retail company and received a remuneration of ₹2,00,000.

Sol. (*i*) Services provided by a tour operator to a foreign tourist are exempt from GST provided such services are in relation to a tour conducted wholly outside India. Thus, since in the given case, services provided by Teja & Co. are in relation to a tour conducted within India, the same are not exempt from GST.

(*ii*) Services provided by a team manager to a recognised sports body for participation in a sporting event are exempt from GST provided said sporting event is organised by a recognized sports body. Thus, since in the given case, the sporting event is not organised by a recognised sports body, the services provided by Ms. Poorva are not exempt from GST.

32. Examine whether GST is payable in the following independent cases:

(*i*) Amar Jyoti Charitable trust, registered under section 10(23C) (*v*) of the Income- tax Act, manages a temple in Shahdara, Delhi. It has given on rent a community hall, located within temple premises, to the public for celebration of New Year evening. Rent charged is ₹9,500.

(*ii*) Speed post services by the Department of Post to the Union Territory of Lakshadweep.

(*iii*) XY Ltd. has given on hire 7 trucks to Jaggi Transporters of Delhi (a goods transport agency) for transporting goods in Central and West Delhi. The hiring charges for the trucks are ₹6,200 per truck per day.

Sol. (i) Renting of a community hall by Amar Jyoti charitable trust is exempt from GST, as rent is less than ₹10,000 per day. The Exemption Notification No. 12/2017 CT (R) dated 28.06.2017/ Notification No. 9/2017 IT (R) dated 28.06.2017 has exempted the said service wholly from GST.

The said notification provides exemption to services by a person inter alia by way of renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a trust or an institution under section 10(23C)(v) of the Income-tax Act. However, this exemption does not apply where renting charges of premises, community halls, Kalyan mandapam or open area are ₹10,000 or more per day.

(*ii*) GST is payable in case of speed post services by Department of Post to Union territory of Lakshadweep. The Exemption has now been withdrawn.

Exemption Notification inter alia provides exemption to services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to the Central Government, State Government, Union territory. Therefore, GST is payable, if such service is provided to a person other than Central Government/State Government/Union Territory.

(*iii*) GST is not payable in case of hiring of trucks to Jaggi Transporters. The Exemption Notification No. 12/2017 CT (R) dated 28.06.2017/Notification No. 9/2017 IT (R) dated 28.06.2017 provides exemption to services by way of giving on hire inter alia to a goods transport agency, a means of transportation of goods.

33. State with reasons, whether GST is payable in the following independent cases:

(*i*) Services provided to recognized sports body as curator of national team.

(*ii*) Services provided by way of transportation of passenger in Metered Cab.

(*iii*) Services by way of public conveniences such as provision of facilities of washrooms.

(*iv*) Services provided by a player to a franchisee which is not a recognized sports body.

Sol. (*i*) Services provided to a recognized sports body by an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organised by a recognized sports body are exempt from GST vide Notification No. 12/2017 CT(R) dated 28.06.2017. Thus, GST is payable in case of services provided to a recognized sports body as curator of the national team.

(*ii*) Service of transportation of passengers, with or without accompanied belongings, inter alia, by metered cabs are specifically exempt from GST vide Notification No. 12/2017 CT(R) dated 28.06.2017. Thus, GST is not payable in this case.

(*iii*) Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets are not liable to GST as it is specifically exempt as per Notification No. 12/2017 CT(R) dated 28.06.2017. Thus, GST is not payable in this case.

(*iv*) Services provided by a player to a franchisee which is not a recognized sports body is taxable as it is not exempt under Notification No. 12/2017 CT(R) dated 28.06.2017. Thus, GST is payable in this case.

Sol. Computation of value of taxable supplies

Particulars	Amount (₹)
Services relating to rearing of sheeps	Nil
[Exempt since services relating to rearing of all life forms of animals, except horses, for food etc. are exempt.]	
Services by way of artificial insemination of horses	4,00,000
[Not exempt since services of artificial insemination are exempt only of livestock other than horses.]	
Processing of sugarcane into jaggery	8,00,000
[Not exempt, since processes which alter the essential characteristics of agricultural produce are not exempt and processing of sugarcane into jaggery changes the essential characteristics of sugarcane.]	
Milling of paddy into rice [Not exempt, since this process, being carried out after cultivation is over, is not an intermediate production process in relation to cultivation of plants and it also changes the essential characteristics of paddy.]	7,50,000
Services by way of fumigation in a warehouse of agricultural produce	1,80,000
Value of taxable supplies	21,30,000

6 CHAPTER

Time of Supply

THEORY

■ INTRODUCTION

GST is payable on supply of goods or services. A supply consists of various elements that can be separated in time, like purchase, dispatch (of goods), delivery (of goods) or provision or performance of service, entry in the records, payment, deposit in the bank. So, at which of these points of time does GST become payable?

Does it become payable when an agreement to supply goods or services is made, or when the goods are shipped or the services are provided, or when the invoice is issued or when payment is made?

What if the goods are shipped over a period of time? What if the service is provided over a period of time?

Provisions relating to 'time of supply' provide answer to all such and other questions that arise on the timing of the liability to pay CGST and SGST/UTGST (intra-State supply) and IGST (inter-State supply) as time of supply fixes the point in time when the liability to pay tax arises.

Time of Supply of Goods

Section 12 (1) provides for the determination of time of supply in the following situations:

- Supply of goods where supplier is liable to pay tax;
- Supply of goods that are taxable under reverse charge;
- Supply of vouchers that can be used to pay for goods;
- Residual cases
- Addition to value of supply of goods by way of interest or late fee or penalty for delayed payment.

Supply of goods where supplier is liable to pay tax (forward charge) [Section 12(2)

As per section 12(2), the time of supply of goods that are taxable under forward charge, is the earlier of the following two dates:

(*i*) Date of issue of invoice by the supplier or the last date on which the invoice ought to have been issued in terms of section 31, to the extent the invoice covers the supply of goods; or

(*ii*) Date of receipt of payment by the supplier, to the extent the payment covers the supply of goods.

Exemption To Pay Tax on advance payment received for supply of goods [NN 66/2017]

- All taxpayers (except composition suppliers) are exempted from paying GST at the time of receipt of advance in relation to supply of goods.
- The entire GST shall be payable only when the invoice for the supply of such goods is issued or ought to have been issued.

Time limit for issuance of invoice for supply of goods

As per section 31(1), the invoice needs to be issued either before or at the time of removal of goods (**where supply involves movement of goods**) or delivery of goods/making goods available to recipient (**in any other case**).

In case of **continuous supply of goods**, the invoice should be issued before or at the time of issuance of periodical statement/receipt of periodical payment [Section 31(4)].

In case of **goods sent or taken on approval for sale or return**, invoice should be issued before or at the time of supply or 6 months from the date of removal, whichever is earlier [Section 31(7)].

TEST YOUR KNOWLEDGE

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

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

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

2. Gas is supplied by a pipeline. Monthly payments are made by the recipient as per contract. Every quarter, an invoice is issued by the supplier supported by a statement of the goods dispatched and payments made, and the recipient has to pay the differential amount, if any. The details of the various events are:

- August 5, September 5, October 6: Payments of ₹2 lakh made in each month
- October 3: Statement of accounts issued by supplier, with invoice for the quarter July–September
- October 17: Differential payment of ₹56,000 received by supplier for the quarter July–September as per statement of accounts-

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

TEST YOUR KNOWLEDGE

3. Determine the time of supply from the given information.

- May 4 Supplier invoices goods taxable on reverse charge basis to Bridge & Co. (30 days from the date of issuance of invoice elapse on June 3)
- May 12 Bridge & Co receives the goods
- May 30 Bridge & Co makes the payment

4. Determine the time of supply from the given information.

May 4 Supplier invoices goods taxable on reverse charge basis to Pillar & Co. (30 days from the date of issuance of invoice elapse on June 3)

June 12 Pillar & Co receives the goods, which were held up in transit July 3 Payment made for the goods

5. Determine the time of supply in each of the following independent cases in accordance with provisions of section 12 of the CGST Act, 2018 in case the recipient of goods is liable to pay tax under reverse charge mechanism.

S. No.	Date of Invoice	Date of Receipt of Goods	Date of Payment in Books	Date When Payment Debited in Bank Account
1.	01-10-2024	05-10-2024	10-10-2024	12-10-2024
2.	01-10-2024	15-10-2024	10-10-2024	12-10-2024
3.	01-10-2024	15-11-2024	18-11-2024	20-11-2024

Vouchers [Section 12(4)]

As commonly understood, vouchers are instruments that can be exchanged as payment for goods or services of the designated value. As per the definition, they are instruments that certain persons (potential suppliers) are obliged to accept as consideration, part or full, for goods and/or services.

The time of supply of vouchers exchangeable for goods is:

- Date of issue of the voucher, if the supply that it covers is identifiable at that point, or
- Date of redemption of the voucher in other cases.

TEST YOUR KNOWLEDGE

6. XYZ Ltd. has purchased for its customers 100 vouchers dated 24-12-2018 worth ₹1,000 each from ABC Ltd, a footwear manufacturing company. The vouchers were issued by ABC Ltd. on 25-12-2018. The vouchers can be encashed at retail outlets of ABC Ltd. The employees of XYZ Ltd. encashed the same on 01-01-2019. Determine time of supply of vouchers.

Residual case [Section 12(5)]

7. Ms Reema purchased a gift voucher from Shoppers Stop (a departmental store) worth ₹1,500 on 30-10-2018 and gifted it to her friend on the occasion of her birthday on 04-11-2018. Her friend encashed the same on 01-01-2019 for purchase of a handbag. Determine the time of supply.

If the situation is not covered by any of the provisions discussed above, the time of supply is fixed under sub-section (5) of section 12, in the following manner:

- Due date for filing of the periodical return, or
- In any other case, date on which GST is paid.

Enhancement in value on account of interest/late fee etc. for delayed payment of consideration [Section 12(6)]

Section 12(6) prescribes that time of supply in case of addition in value by way of interest/late fee/ penalty for delayed payment of consideration for goods is the date on which the supplier receives such addition in value.

TEST YOUR KNOWLEDGE

8. Mr. X, a registered supplier, supplied certain goods to Mr. Y on 6 months credit with a penalty clause in the agreement levying a penalty of 5% of the invoice value in case of delayed payment. The invoice was dated 01-11-2018. Mr. Y could not make the payment on the due date due to unavoidable reasons. He however made the payment of the invoice value on 05-05-2019.

Mr. X raised a debit note for the penalty amount. There being dispute on this, the matter was in arbitration which was finally resolved with Mr. Y agreeing to pay half of the penalty amount. The amount was paid by Mr. Y on 12-12- 2019. Determine the time of supply in light of the GST law.

Time of Supply of Services

Section 13 provides for the determination of the time of supply in the following situations:

- Supply of service on which the supplier is liable to pay tax,
- Supply of service that is taxable under reverse charge basis,
- Supply of vouchers that can be used to pay for services,
- Residual cases,
- Addition to value of supply of services by way of interest or late fee or penalty for delayed payment.

SUPPLY OF SERVICE

(*a*) **If the invoice is issued within the time prescribed under section 31**

Date of invoice or date of receipt of payment (to the extent the invoice or payment covers the supply of services), whichever is earlier

(*b*) **If the invoice is not issued within the time prescribed under section 31,**

Date of provision of service or date of receipt of payment (to the extent the payment covers the supply of services)

If the above two methods [(*a*) and (*b*)] are not applicable, the time of supply will be the date on which the recipient of service shows receipt of the service in his books of account.

"Date of receipt of payment" refers to the

- Date on which the payment is recorded in the books of account of the entity (supplier of service) that receives the payment, or
- The date on which the payment is credited to the entity's bank account, whichever is earlier

"To the extent the invoice or payment covers the supply of services"

Suppose, a part of the consideration is paid in advance or invoice is issued for part payment, the time of supply will not cover the full supply. The supply shall be deemed to have been made to the extent it is covered by the invoice or the part payment.

Excess Payment Up to ₹1,000

In terms of proviso to section 10(2), for payment up to ₹1,000 in excess of invoice value, suppliers can choose to take the date of invoice issued with respect to such excess amount as the time of supply of services in relation to the excess value.

Time limit for issuance of invoice for supply of services

(*i*) As per Section 31(2) read with rule 47 of CGST Rules, the tax invoice needs to be issued either before the provision of service or within 30 days (45 days in case of insurance companies/ banking companies/financial institutions including NBFCs) from the date of supply of service.

(*ii*) As per Section 31(5), In case of continuous supply of services, the invoice should be issued either

(*a*) On/before the due date of payment or

(*b*) Before/at the time when the supplier of service receives the payment, if the due date of payment is not known

(*c*) On/before the date of completion of the milestone event when the payment is linked to completion of an event.

(*iii*) Case of cessation of supply of services before completion of supply, the invoice (to the extent of the supply made before such cessation) should be issued at the time when the supply ceases [Section 31(6)].

(*iv*) In case of insurance companies/banking companies/financial institutions including NBFCs/ telecom companies/ notified supplier of services making taxable supplies between distinct persons as specified in Section 25(4) , invoice may be issued before or at the time of recording such supply in the books of account or before the expiry of the quarter during which the supply was made [Second proviso to rule 47].

The time of supply of service on which GST is payable on reverse charge basis (except on services received from associated enterprises located outside India) is determined as follows:

Receipt of services that are taxable under reverse charge [Section 13(3)]

Time of supply shall be as follows

If supply is received from registered supplier, time of supply shall be earlier of:

- Date of payment as per books of recipient or debit in bank whichever is earlier
- Date immediately following 60 days of the date of issue of invoice by the supplier in all cases where supplier is required to issue invoices.

If supply is received from unregistered supplier, time of supply shall be earlier of:

- Date of payment as per books of recipient or debit in bank whichever is earlier
- Date of issue of invoice where invoice is to be issued by recipient

> "Date of payment" in the above situation refers to the date on which the payment is recorded in the books of account of the entity that receives the service (recipient of service), or the date on which the payment is debited from the entity's bank account, whichever is earlier.

Import of services between associated enterprises

In the case of service received from an associated enterprise located outside India, the time of supply will be

(*a*) The date of payment for the service, or

(*b*) The date of entry of the service in the books of account of the recipient, whichever is earlier.

TEST YOUR KNOWLEDGE

9. Determine the time of supply from the given information under reverse charge May 4: The supplier of service issues invoice for service provided. There is a dispute about the amount payable, and payment is delayed.

August 21: Payment made to the supplier of service

10. Determine the time of supply from the given information.

May 4: A German company issues email informing its associated company ABC Ltd. of the cost of technical services provided to it.

July 2: ABC Ltd transfers the amount to the account of the German company.

Vouchers [Section 13(4)]

The time of supply of vouchers that are exchangeable for services is stipulated as

- The date of issue of the voucher if the supply is identifiable at that point, or
- The date of redemption of the voucher in other cases.

Residual case [Section 13(5)]

If the situation is not covered by any of the provisions discussed above, the time of supply is fixed under sub-section (5) of section 13, in the following manner:

- Date on which periodical return for the period is required to be filed, or
- In any other case, date on which GST is paid.

Enhancement of value on account of interest/late fee etc. for delayed payment of consideration [Section 13(6)]

It prescribes that time of supply in case of addition in value by way of interest/late fee/penalty for delayed payment of consideration for a service is the date on which the supplier receives such addition in value.

QUESTION BANK

Section 12(2)

1. Investigation shows that 150 cartons of ceramic capacitors were dispatched on 2nd August but no invoice was made and the cartons were not entered in the accounts. There was no evidence of receipt of payment. What is the time of supply of 150 cartons for the purpose of payment of tax?

Sol. As per Notification No. 66/2017 CT dated 15.11.2017, a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a) i.e., date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

In this case since the invoice has not been issued, the time of supply will be the last date on which the invoice is required to be issued.

The invoice for supply of goods must be issued on or before the dispatch of goods i.e., on 2nd August. Therefore, the time of supply of the goods will be 2nd August, the date when the invoice should have been issued.

2. An order was placed on Ram & Co. on 18th August for supply of a consignment of customized shoes. Ram & Co. gets the consignment ready and informs the customer and issues the invoice on 2nd December. The customer collects the consignment from the premises of Ram & Co. on 7th December and electronically transfers the payment on the same date, which is entered in the accounts on the next day, 8th December.

What is the time of supply of the shoes for the purpose of payment of tax?

Sol. As per Notification No. 66/2017 CT dated 15.11.2017, a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a) i.e., date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

In this case, the invoice is issued before the removal of the goods and is thus, within the time limit prescribed under section 31(1). Therefore, time of supply is the date of issue of invoice, which is 2nd December.

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

Determine the time of supply (ies) in the above scenario.

Sol. As per Notification No. 66/2017 CT dated 15.11.2017, a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(*a*) i.e., date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

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

4. Gas is supplied by a pipeline. Monthly payments are made by the recipient as per contract. Every quarter, an invoice is issued by the supplier supported by a statement of the goods dispatched and payments made, and the recipient has to pay the differential amount, if any. The details of the various events are:

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

Sol. As per Notification No. 66/2017 CT dated 15.11.2017, a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a) i.e., date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

As per section 31(4), in case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice is issued before or at the time of each such statement is issued or, as the case may be, each such payment is received. Therefore, invoice should be issued on August 5, September 5 and October 6 when monthly payments of ₹2 lakh are received.

Thus, time of supply will be August 5, September 5 and October 6 respectively for goods valued at ₹2 lakh each. Time of supply for goods valued at ₹56,000 will be October 3, the date of issuance of invoice.

5. Gupta & Sons, a registered supplier, paying tax under normal scheme is a wholesale supplier of ready-made garments located in Bandra, Mumbai. On 5th September, 20XX, Mohini, owner of Charming Boutique located in Dadar, Mumbai, approached Gupta & Sons for supply of a consignment of customized dresses for ladies and kids.

Gupta & Sons gets the consignment ready by 2nd December, 20XX and informs Mohini about the same. The invoice for the consignment was issued the next day, 3rd December, 20XX.

Due to some reasons, Mohini could not collect the consignment immediately. So, she collects the consignment from the premises of Gupta & Sons on 18th December, 20XX and hands over the cheque for payment on the same date. The said payment is entered in the accounts on 20th December, 20XX and the amount is credited in the bank account on 21st December, 20XX.

Sol. As per Notification No. 66/2017 CT dated 15.11.2017, a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a) of CGST Act, 2017 i.e., date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

Therefore, the time of supply of goods is 3rd December which is the date on which the invoice for the consignment was issued.

6. M/s Mansh & Vansh Trading Company, a registered supplier, is liable to pay GST under forward charge. Determine the time of supply from the following information furnished by it:

(*i*) Goods were supplied on 03-10-2017

(*ii*) Invoice was issued on 05-10-2017

(*iii*) Payment received on 09-10-2017

Sol. As per section 12 of CGST Act, 2017, the time of supply of goods, tax on which is payable under forward charge, is the earlier of the following two dates:

(*i*) Date of issue of invoice/last date on which the invoice is required to be issued

(*ii*) Date of receipt of payment i.e., the date on which the payment is recorded in the books of account of the supplier or date on which the payment is credited to the supplier's bank account, whichever is earlier

Further, a registered person is required to issue a tax invoice before or at the time of removal of goods for supply to the recipient. Thus, in the given case, the invoice for supply of goods should have been issued on or before the removal of goods i.e., on 03-10-2017.

However, since the invoice has not been issued within the prescribed time, the time of supply will be the last date on which the invoice is required to be issued (03-10-2017) or date of receipt of payment (09-10-2017), whichever is earlier.

Thus, the time of supply of the goods will be 03-10-2017.

7. Mr. Ram sold goods to Mr. Ravi worth ₹5,00,000. The invoice was issued on 15th November. The payment was received on 31st October. The goods were supplied on 20th November. Find the time of supply of goods. Previous year turnover of Mr. Ram was ₹72 lakhs.

Sol. Time of supply of goods = 15th November.

Continuous Supply of Goods

8. M/s AB Oil Corporation entered into a contract with Mr. B to supply oil throughout the year. M/s AB Oil Corporation issues monthly statement for the oil supplied to Mr. B. Determine the time of supply of goods in following independent cases:

(*i*) Mr. B made payment for the month of July on 31st July 2017 and M/s AB Oil Corporation issued a statement for the month of July on 8th August 2017.

(*ii*) M/s AB Oil Corporation issued a statement for the month of August on 5th September 2017, the payment of which was not received till 30th September 2017.

Sol. (*i*) 31st July 2017 will be the time of supply. Earliest of the following:

- Date of Invoice: 8th August 2017
- Last date on which invoice has to be issued in case of continuous supply:
  - Date of payment (31.07.2017) or
  - Statement (08.08.2017), whichever is earlier i.e. 31st July 2017.

(*ii*) 5th September 2017 will be the time of supply. Earliest of the following:

- Date of Invoice: 5th September 2017.
- Last date on which invoice has to be issued:
  - Date of payment (not known) or
  - Statement (05.09.2017), whichever is earlier i.e. 5th September 2017.

Section 12(3)

9. Determine the time of supply in the following cases assuming that GST is payable under reverse charge:

S. No.	Date of receipt of goods	Date of payment by recipient for supply of services	Date of issue of invoice by supplier of services
(*i*)	July 1	August 10	June 29
(*ii*)	July 1	August 10	June 1
(*iii*)	July 1	Part payment made on June 30 and balance amount paid on September 1	June 29
(*iv*)	July 5	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1

(*v*)	July 1	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29
(*vi*)	August 1	August 10	June 29

Sol.

S. No.	Date of receipt of goods	Date of payment by recipient of goods	Date of issue of invoice by supplier of services	Date immediately following 30 days from date of invoice	Time of supply of goods [Earlier of (1), (2) & (4)]
	(1)	(2)	(3)	(4)	(5)
(*i*)	July 1	August 10	June 29	July 30	July 1
(*ii*)	July 1	June 25	June 29	July 30	June 25
(*iii*)	July 1	Part payment made on June 30 and balance amount paid on July 20	June 29	July 30	June 30 for part payment made and July 1 for balance amount
(*iv*)	July 5	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1	July 2	June 28 (i.e., when payment is entered in the books of account of the recipient)
(*v*)	July 1	Payment is entered in books of account on June 30 & debited in recipient's bank account on June 26	June 29	July 30	June 26 (i.e., when payment is debited in the recipient's bank account)
(*vi*)	August 1	August 10	June 29	July 30	July 30 (i.e., 31st day from issuance of invoice)

10. Determine the time of supply from the given information.

May 4	Supplier invoices goods taxable on reverse charge basis to Bridge & Co. (30 days from the date of issuance of invoice elapse on June 3)
May 12	Bridge & Co receives the goods
May 30	Bridge & Co makes the payment

Sol. Here, May 12 will be the time of supply, being the earliest of the three stipulated dates namely, receipt of goods, date of payment and date immediately following 30 days of issuance of invoice [Section 12(3)]. (Here, the date of invoice is relevant only for calculating thirty days from that date.)

11. Determine the time of supply from the given information.

May 4	Supplier invoices goods taxable on reverse charge basis to Pillar & Co. (30 days from the date of issuance of invoice elapse on June 3)
June 12	Pillar & Co receives the goods, which were held up in transit
July 3	Payment made for the goods

Sol. Here, June 4, 31st day from the date of supplier's invoice, will be the time of supply, being the earliest of the three stipulated dates namely, receipt of goods, date of payment and date immediately following 30 days of issuance of invoice [Section 12(3)].

12. MS. ANTIRA, a RP, supplied certain goods to Mr. G, also a RP. The tax in respect of the said goods is liable to be paid on Reverse Charges basis. Other details of the transaction are as under:

You are required to determine the time of supply of goods under reverse charge basis

Sol. Time of supply of Goods in the given case, shall be earlier of the following dates

Date of receipt of goods by Mr. G	26.11.17
Date on which the payment is made entered in the books of accounts by Mr. G	22.12.17
Date when the payment is debited in bank account of Mr. G	24.12.17
Date immediately following 30 days from the date of issue of invoice by the supplier	21.12.17

Thus, the time of supply of goods shall be 26.11.2017 being the earliest of four stipulated dates specified above.

Section 12(4)

13. From the following information provided by M/s Sasta Bazaar. Determine the time of supply for the purpose of payment of GST:

(i) It issued coupon on 20.06.2023, worth 2,000 redeemable against purchase of specific plastic items. This coupon was redeemed on 31.07.2023.

(ii) It issued coupon on 01.08.2023 worth 3,000 which is redeemable against purchase of any item. This coupon was redeemed on 18.08.2023.

(iii) It received interest of 10,000 for late payment from a customer on 11.11.2023 for supply of goods which was originally made on 24.06.2023. **[RTP May 24]**

Sol. As per section 12(4) of the CGST Act, 2017, the time of supply of vouchers exchangeable for goods is-

- Date of issue of the voucher, if the supply that it covers is identifiable at that point, or
- Date of redemption of the voucher in other cases.

(i) In the given case, supply can be identified at the time of purchase of the coupons. Therefore, the time of supply of the coupons is the date of their issue i.e. 20.06.2023.

(ii) In the given case, supply cannot be identified at the time of purchase of the coupons. Therefore, the time of supply of the coupons is the date of their redemption i.e. 18.08.2023.

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

What is the date of supply of the coupons?

Sol. As the coupons can be used for a variety of food items, which are taxed at different rates, the supply cannot be identified at the time of purchase of the coupons. Therefore, the time of supply of the coupons is the date of their redemption in terms of section 12(4).

15. Reliable Industries, a readymade garment manufacturer issued the voucher on 10-07-2017 to their prospective customer for enabling them to buy readymade garments manufactured by them from their shop. Customer purchased readymade garments on 20th Aug 2017.

Find the time of supply of goods?

Sol. Time of supply of goods = 10-07-2017

Note: time of supply will be the issuance of the voucher. Since, the voucher is identifiable with the goods.

16. Shoppers Stop store, a large retailer who sells various types of products like readymade garment, jewellery, cosmetics, fabrics, shoes etc., issued the voucher on 10-07-2017 to their prospective customer for enabling them to buy any product from their shop. Customer purchased readymade garments on 20th Aug 2017. Find the time of supply of goods?

Sol. Time of supply of goods = 20-08-2017

Note: time of supply will be the date of encashment of voucher (i.e. Redemption of voucher). Since, the voucher is not identifiable with any specific product.

Section 13(2)

17. Raju Pvt Ltd. received the order and advance payment on 5th January for carrying out an architectural design job. It delivers the designs on 23rd April. By oversight, no invoice is issued at that time, and it is issued much later, after the expiry of the prescribed period for issue of invoice. When is the time of supply of service?

Sol. Since the invoice has not been issued within the prescribed time period, time of supply of service will be the earlier of the following two dates in terms of Section 13(2)(b):

- Date of provision of service
- Date of receipt of payment

The payment was received on 5th January and the service was provided on 23rd April. Therefore, the date of payment, i.e., 5th January is the time of supply of the service in this case.

18. Modern Security Co. provides service of testing electronic devices. In one case, it tested a batch of devices on 4th and 5th September but could not raise invoice till 19th November because of some dispute about the condition of the devices on return. The payment was made in December.

What is the method to fix the time of supply of the service?

Sol. The time of supply of services, if the invoice is not issued in time, is the date of payment or the date of provision of service, whichever is earlier [Section 13(2) (b)]. In this case, the service is provided on 5th September but not invoiced within the prescribed time limit. Therefore, the date of provision of service, i.e., 5th September, will be the time of supply.

19. Determine the time of supply from the following particulars:

6th May	Booking of convention hall, sum agreed ₹15000, advance of ₹3000 received
15th Sep	Function held in convention hall
27th October	Invoice issued for ₹15000, indicating balance of ₹12000 Payable
3rd November	Balance payment of ₹12000 received

Sol. As per section 31(2) read with rule 47 of CGST Rules, the tax invoice is to be issued within 30 days of supply of service. In the given case, the invoice is not issued within the prescribed time limit. As per section 13(2)(b), in a case where the invoice is not issued within the prescribed time, the time of supply of service is the date of provision of service or receipt of payment, whichever is earlier. Therefore, the time of supply of service to the extent of 3,000 is 6th May as the date of payment of 3000 is earlier than the date of provision of service. The time of supply of service to the extent of the balance 12,000 is 15th September which is the date of provision of service.

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

Sol. The time of supply cannot be determined vide the provisions of clauses (a) and (b) of section 13(2) as neither the invoice has been issued nor the date of provision of service is available as also the date of receipt of payment in the books of the supplier is also not available. Therefore, the time of supply will be determined vide clause (c) of section 13(2) i.e., the date on which the recipient of service shows receipt of the service in his books of account.

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

21. Explain the meaning of the term "date of receipt of payment" as per section 13 of the CGST Act, 2017.

Sol. "Date of receipt of payment" in terms of section 13 of CGST Act, 2017 refers to the (a) date on which the payment is recorded in the books of account of the entity (supplier of service) that receives the payment, or (b) the date on which the payment is credited to the entity's bank account, whichever is earlier.

22. Determine the time of supply from the following particulars:

8th September	Community hall booked for a marriage, sum agreed ₹1,20,000, advance ₹20,000 recorded in the books of account.
10th September	Advance amount credited in bank account.
2nd November	Marriage held in the Community hall.

18th December	Invoice issued for ₹1,20,000 indicating the balance of ₹1,00,000 payable
22nd December	Balance ₹1,00,000 recorded in the books of account.
24th December	Payment ₹1,00,000 credited to the bank account

Sol. As per section 31(2) of the CGST Act, 2017 read with rule 47 of CGST Rules, 2017 a tax invoice is to be issued within 30 days of supply of service. In the given case, the invoice is not issued within the prescribed time limit. As per section 13(2) (b) of CGST Act, 2017, in a case where the invoice is not issued within the prescribed time, the time of supply of service is –

(*i*) date of provision of service or

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

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

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

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

23. ABC & Co., a Cost Accountants firm issued invoice for services rendered to Mr. Ram on 5th August 2017. Determine the time of supply in following independent cases:

(*i*) The provisions of services were completed on 1st July 2017.

(*ii*) The provisions of services were completed on 15th July 2017.

(*iii*) Mr. Ram made the payment on 3rd July 2017, where provisions of services were remaining to be completed.

(*iv*) Mr. Ram made the payment on 15th August 2017, where provisions of services were remaining to be completed.

Sol. (*i*) 1st July 2017 will be the time of supply of services as invoice is not issued within the time frame of 30 days.

(*ii*) 5th August 2017 will be the time of supply of services as invoice is issued within the time frame.

(*iii*) 3rd July 2017 will be the time of supply of services as payment received before invoice date.

(*iv*) 5th August 2017 will be the time of supply of services as invoice is issued before the completion of provisions of services.

Section 13(3)

24. Determine the time of supply in the following cases assuming that GST is payable under reverse charge:

S. No.	Date of payment by recipient for supply of services	Date of issue of invoice by supplier of services
(*i*)	August 10	June 29
(*ii*)	August 10	June 1

(*iii*)	Part payment made on June 30 and balance amount paid on September 1	June 29
(*iv*)	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1
(*v*)	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29

Sol.

S.No.	Date of payment by recipient for supply of services	Date of issue of invoice by supplier of services	Date immediately following 60 days from invoice	Time of Supply of goods [Earlier of (1) & (3)]
	(1)	(2)	(3)	
(*i*)	August 10	June 29	August 29	August 10
(*ii*)	August 10	June 1	August 1	August 1
(*iii*)	Part payment made on June 30 and balance amount paid on September 1	June 29	August 29	June 30 for part payment and August 29 for balance amount
(*iv*)	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1	August 1	June 28 (i.e. when payment is entered in the books of account of the recipient)
(*v*)	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29	August 29	June 26 (i.e. when payment is debited in the recipient's bank account)

25. Kabira Industries Ltd engaged the services of a transporter for road transport of a consignment on 17th June and made advance payment for the transport on the same date, i.e., 17th June. However, the consignment could not be sent immediately on account of a strike in the factory, and instead was sent on 20th July. Invoice was received from the transporter on 22nd July.

What is the time of supply of the transporter's service? Note: Transporter's service is taxed on reverse charge basis.

Sol. Time of supply of service taxable under reverse charge is the earlier of the following two dates in terms of section 13(3):

- Date of payment
- 61st day from the date of issue of invoice

In this case, the date of payment precedes 61st day from the date of issue of invoice by the supplier of service. Hence, the date of payment, that is 17th June, will be treated as the time of supply of service [Section 13(3)(a)].

26. A firm of lawyers' issues invoice for services to ABC Ltd. on 17th Feb. The payment is contested by ABC Ltd. on the ground that on account of negligence of the firm, the company's case was dismissed by the Court for non-appearance, which necessitated further appearance for which the the firm is billing the company. The dispute drags on and finally payment is made on 3rd November. Identify the time of supply of the legal services.

Note: Legal services are taxable on a reverse charge basis.

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

- Date of payment [3rd November]
- 61st day from the date of issue of invoice [19th April]

The date of payment comes subsequent to the 61st day from the issue of invoice by the supplier of service. Therefore, the 61st day from the supplier's invoice has to be taken as the time of supply. This fixes 19th April as the time of supply.

27. Determine the time of supply from the given information. (Assuming that service being supplied is taxable under reverse charge)

May 4	The supplier of service issues an invoice for service provided. There is a dispute about the amount payable, and payment is delayed.
August 21	Payment made to the supplier of service

Sol. Here, July 4 will be the time of supply, being the earlier of the two stipulated dates namely, date of payment and date immediately following 60 days since issue of invoice.

28. Determine the time of supply from the given information.

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

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

29. C Ltd., a registered firm, received services from Raman & Co., an Advocate firm., an unregistered person. The firm issued an invoice to C Ltd. on 1st July 2017. Determine the time of supply of services in the following independent cases:

(*i*) C Ltd. made the payments to the firm on 15th August 2017.

(*ii*) C Ltd. made the payments to the firm on 11th September 2017.

Note: C Ltd turnover in the preceding financial year was ₹2 crore

Sol. (*i*) Time of supply of service = 15-08-2017

Note: as payment made earlier than the date immediately following 60 days from the date of issue of invoice.

(*ii*) Time of supply of service = 30-08-2017

Note: as payment made after the date immediately following 60 days from the date of issue of invoice.

30. X Ltd. & Y Ltd. (London) is associated with enterprises. X Ltd., a registered firm received the services of Y Ltd., an unregistered firm. Determine the time of supply in following cases:

(*i*) X Ltd. recorded the liability in the books on 15th July 2017 and payment will be made in the next month.

(*ii*) X Ltd. made advance payment to Y Ltd. on 10th July and recorded liability in the books on 15th Aug 2017.

Sol. (*i*) Time of supply = 15-07-2017

Note: as the date of entry in the books is prior to the date of payment.

(*ii*) Time of supply = 10-07-2017

Note: as the payment is made earlier to the date of entry in the books.

CHAPTER 7

Value of Supply

THEORY

GST is payable (*i*) on supply of goods and/or services for a consideration in the course of or furtherance of business; (*ii*) on certain supplies made without a consideration as specified in Schedule I to the CGST Act.

As GST is an *ad valorem* levy, i.e. it is levied as a percentage of the value of supply of goods and/or services, it becomes important to know how to arrive at the value on which tax is to be paid. Provisions relating to 'value of supply' set out the mechanism to compute such a value basis which CGST and SGST/UTGST (intra-State supply) and IGST (inter-State supply) should be paid.

Section 15(1) Transaction value

Transaction value is the price actually paid or payable for the said supply of goods or services or both.

Transaction value shall be accepted as Value of Supply if following two conditions are satisfied:

1. Supply is between two unrelated persons, and
2. Price is the sole consideration.

Section 15(2) Inclusions In Value Of Supply

The value of supply includes Following Elements:

1. Taxes, duties, cesses, fees and charges other than CGST, SGST, UTGST, GST Compensation Cess, if charged separately.

   Note: TCS under Income-Tax Act, 1961 not includible in the taxable value for the purpose of GST
2. Any amount that the supplier is liable to pay in relation to supply but which has been incurred by the recipient of the supply and not already included in the price.
3. Incidental expenses, such as, commission and packing, charged by the supplier to the recipient of a supply.

   Outward freight, transit insurance

   Where the supplier agrees to deliver the goods at the buyer's premises and arranges for transport and insurance, the contract of supply becomes a composite supply; the principal supply being the supply of goods. Therefore, outward freight and transit insurance become part of the value of the composite supply and GST is payable thereon at the same rate as applicable for the relevant goods. However, if the contract for supply is on ex-factory basis where buyer pays the outward freight and insurance, thesame will not be included in the value of supply of goods.
4. Any amount charged for anything done by the supplier in respect of the supply of goods and/or services at the time of, or before delivery of goods/supply of services.

5. Interest or late fee or penalty for delayed payment of consideration.

6. Subsidies, directly linked to the price, other than subsidies given by the State or Central Governments. It must be noted that only subsidies directly linked to the price of goods/services are added to the value. Blanket subsidy/donation received are not includible in the value. Note that if the subsidy is given by the State or Central Government, it is not to be added to the value of supply.

Section 15(3) Exclusion of discounts from Value Of Supply

The value of the supply shall not include any discount which is given—

1. Before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply;

2. After the supply has been effected, if—
   (*i*) Such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and
   (*ii*) Input tax credit as is attributable to the discount on the basis of a document issued by the supplier has been reversed by the recipient of the supply.

Allowability of certain specific types of discounts offered by the suppliers

(*i*) Staggered discounts ('Buy more, Save more' offers): In case of staggered discounts, rate of discount increases with increase in purchase volume. For example– One may get a 10% discount for purchases above ₹5,000/-, 20% discount for purchases above ₹10,000/- and 30% discount for purchases above ₹20,000/-. Such discounts are shown on the invoice itself.

Such discounts are excluded to determine the value of supply.

(*ii*) Periodic/year ending discounts/volume discounts: These discounts are offered by the suppliers to their stockists, etc. For example – Get an additional discount of 1% if you purchase 10,000 pieces in a year, get an additional discount of 2% if you purchase 15,000 pieces in a year. Such discounts are established in terms of an agreement entered into at or before the time of supply though not shown on the invoice as the actual quantum of such discounts gets determined after the supply has been effected and generally at the year end. In commercial parlance, such discounts are colloquially referred to as "volume discounts". Such discounts are passed on by the supplier through credit notes.

Such discounts are excluded to determine the value of supply provided they satisfy the parameters laid down in section 15(3), including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document (s) issued by the supplier.

(*iii*) Secondary discounts: These are the discounts which are not known at the time of supply or are offered after the supply is already over. For example, M/s A supplies 10,000 packets of biscuits to M/s B at ₹10/- per packet. Afterwards, M/s A re-values it at ₹9/- per packet. Subsequently, M/s A issues a credit note to M/s B for ₹1/-per packet.

Such secondary discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply and the conditions laid down in section 15(3)(b) are not satisfied. It may be noted that financial/commercial credit note(s) can be issued by the supplier even if the conditions mentioned in section 15(3)(b) are not satisfied. Such credit notes do not include GST, and do not have any impact on value of supply for the purposes of GST.

Example

1. Pink and Blue Pvt. Ltd. (PBPL) sold goods to Orange Pvt. Ltd. (OPL) on 15th January at ₹50,000 (exclusive of taxes and discounts) and charged ₹9,000 as IGST @18%. The terms of supply stipulated that discount @2% will be given to OPL if it makes the payment within one month of the supply. OPL avails the input tax credit of ₹9,000 in the month of Januaryand makes the payment for the goods on 10th February. PBPL issues credit note for ₹1180 [₹1,000 for value of discount and ₹180 for proportionate IGST leviable thereon] to OPL on 11th February. After receiving credit note, OPL reverses the input tax credit of ₹180 attributable to the discount given by the PBPL. PBPL can reduce its GST liability of the month of February by ₹180. OPL would have paid ₹57,820 (₹50,000 + ₹9,000 – ₹1,000 – ₹180) to PBPL on 10th February
2. In the above example, if the terms of supply did not provide for discount @2% for payment within one month but PBPL offers such discount to OPL at the time of payment after negotiation, the discount will not be allowed as a deduction from the value. PBPL will issue a commercial credit note for only the value of discount, i.e. for ₹1,000. OPL will not reverse any input tax credit and PBPL will also not be able to reduce its GST liability for the month of February. In this case, OPL would pay ₹58,000 (₹50,000 + ₹9,000 – ₹1,000) to PBPL on 10th February.
3. The agreement of Raju Electrical Appliances with its dealers is that purchase of rice cookers over 1000 pieces in the Diwali month will entitle them to a discount of 5% per cooker. Therefore, the quantum of discount can be determined only at the end of Diwali month. However, since the agreement relating to discount was in existence at the time of supply, and the discount can be worked out for each invoice, such post supply discount will be allowed as a deduction from the value of supply of rice cookers.

   Raju Electrical Appliances can issue credit note for 5% of the value of goods along with GST and claim adjustment of excess tax paid. The dealer must reverse the proportionate input tax credit on the relevant stock to bring it in line with the reduced tax.
4. A company announces turnover discounts after reviewing dealer performance during the year. The discounts are based on performance slabs and are given as cash-back. As these discounts were not known at the time of supply of the goods, they will not be deducted from the value of those goods. Hence, the company will not be able to adjust excess tax paid from its tax liability.

QUESTION BANK

1. LSP Ltd., a registered supplier, sold a machine to Balwant Ltd. It provides the following information in this regard:

S. No.	Particulars	₹
(*i*)	Price of the machine [excluding taxes and other charges mentioned at S. Nos. (ii) and (iii)]	20,000
(*ii*)	Third party inspection charges	6,000
	[Such charges were payable by LSP Ltd. but the same have been directly paid by Balwant Ltd. to the inspection agency. These charges were not recorded in the invoice issued by LSP Ltd.]	
(*iii*)	Freight charges for delivery of the machine [LSP Ltd. has agreed to deliver the goods at Balwant Ltd.'s premises]	1,000
(*iv*)	Subsidy received from the State Government on sale of machine under Skill Development Programme [Subsidy is directly linked to the price]	5,000
(*v*)	Discount of 2% is offered to Balwant Ltd. on the price mentioned at S. No. (i) above and recorded in the invoice	

Notes: Price of the machine is net of the subsidy received.

Determine the value of taxable supply made by LSP Ltd. to Balwant Ltd. **[MTP May 24]**

Sol.

Computation of value of taxable supply made by M/s. LSP to Balwant Ltd.

Particulars	Amount
Price of the machine [Since the price linked subsidy is received from the State Government, the same is not includible in the value of supply]	20,000
Third party inspection charges [Any amount that the supplier is liable to pay in relation to the supply but has been incurred by the recipient and not included in the price actually paid or payable for the goods, is includible in the value of supply]	6,000
Freight charges for delivery of the machine [Since arranging freight is the liability of supplier, it is a case of composite supply and thus, freight charges are added in the value of principal supply.]	1,000
Total	**27,000**
Less: Discount @ 2% on 20,000 being price charged to Balwant Ltd. [Discount given before or at the time of supply if duly recorded in the invoice is deductible from the value of supply]	400
Value of taxable supply	**26,600**

2. Shri Krishna Pvt. Ltd., a registered supplier, furnishes the following information relating to goods sold by it to Shri Balram Pvt. Ltd.

S. No.	Particulars	₹
(*i*)	Price of the goods [excluding taxes and other charges mentioned at S. Nos. (iii), (v) and (vi)]	1,00,000
(*ii*)	Municipal tax	2,000
(*iii*)	Inspection charges	15,000
(*iv*)	Subsidy received from Shri Ram Trust [Subsidy is directly linked to the goods supplied]	50,000
(*v*)	Late fees for delayed payment inclusive of GST [Shri Balram Pvt. Ltd. paid the late fees. However, these charges were ultimately waived by Shri Krishna Pvt. Ltd. and the amount was refunded to Shri Balram Pvt. Ltd. during the same month]	1,000
(*vi*)	Weighment charges [Such charges were paid by Shri Balram Pvt. Ltd. to Radhe Pvt. Ltd. on behalf of Shri Krishna Pvt. Ltd.]	2,000

Notes: Price of the goods is net of the subsidy received.

Determine the value of taxable supply made by Shri Krishna Pvt. Ltd. to Shri Balram Pvt. Ltd.

[MTP Nov 23]

Sol. **Computation of value of taxable supply made by Shri Krishna Pvt. Ltd. to Shri Balram Pvt. Ltd.**

Particulars	Amount
Price of the goods	1,00,000
Municipal tax [Includible in the value as per section 15(2)(a) of the CGST Act, 2017]	2,000
Inspection charges [Any amount charged for anything done by the supplier in respect of the supply of goods at the time of/before delivery of goods is includible in the value as per section 15(2)(c) of the CGST Act, 2017]	15,000
Subsidy received from Shri Ram Trust [Since the subsidy is received from a non-Government body and directly linked to the supply, the same is includible in the value in terms of section 15(2)(e) of the CGST Act, 2017]	50,000
Late fees for delayed payment [Not includible since the same is waived off]	Nil
Weighment charges paid to Radhe Pvt. Ltd. on behalf of Shri Krishna Pvt. Ltd. [Any amount that the supplier is liable to pay in relation to the supply but has been incurred by the recipient and not included in the price actually paid or payable for the goods, is includible in the value of supply in terms of section 15(2)(b) of the CGST Act, 2017]	2,000
Value of taxable supply	**1,69,000**

3. Red Pepper Ltd., Delhi, a registered supplier, manufactures taxable goods. It provides the following details of taxable inter-State supply made by it during the month of March.

S. No.	Particulars	₹
(*i*)	List price of taxable goods supplied inter-State (exclusive of taxes)	15,00,000
(*ii*)	Subsidy received from the Central Government for supply of taxable goods to Government School (exclusively related to supply of goods included at S. No. 1)	2,10,000
(*iii*)	Subsidy received from an NGO for supply of taxable goods to an old age home (exclusively related to supply of goods included at S. No. 1)	50,000
(*iv*)	Tax levied by Municipal Authority	20,000
(*v*)	Packing charges	15,000
(*vi*)	Late fee paid by the recipient of supply for delayed payment of consideration (Recipient has agreed to pay 6,000 in lump sum and no additional amount is payable by him over and above such amount)	6,000

The list price of the goods is net of the two subsidies received. However, the other charges/taxes/ fee are charged to the customers over and above the list price.

Calculate the total value of taxable supplies made by Red Pepper Ltd. during the month of March. Rate of IGST is 18%. **[MTP Nov 23]**

Sol.

Computation of total value of taxable supplies made by Red Pepper Ltd. during the month of March

Particulars	Amount
List price of the goods	15,00,000
Subsidy amounting to 2,10,000 received from the Central Government [Since the subsidy is received from the Government, the same is not includible in the value in terms of section 15(2)(e) of the CGST Act, 2017]	NIL
Subsidy received from NGO [Since the subsidy is received from a non-Government body and directly linked to the supply, the same is includible in the value in terms of section 15(2)(e) of the CGST Act, 2017]	50,000
Tax levied by the Municipal Authority [Includible in the value as per section 15(2)(a) of the CGST Act, 2017]	20,000
Packing charges [Being incidental expenses, the same are includible in the value as per section 15(2)(c) of the CGST Act, 2017]	15,000
Late fees paid by recipient of supply for delayed payment [Includible in the value as per section 15(2)(d) of the CGST Act, 2017 - As the amount of interest received is a lump sum amount, the same has to be taken as inclusive of GST] [6,000 x 100/118] rounded off	5,085
Total value of taxable supplies	**15,90,085**

4. Guru Enterprises (Delhi), a registered taxpayer, made a taxable supply to Y Ltd. (Delhi). The details of the said supply are as follows:

Particulars	Amount
Price of the goods (excluding any tax or discounts)	10,00,000
Tax levied by the Municipal Authority	10,000
Subsidy received from Jiva Enterprises Pvt Ltd. (The price above is af-ter consideration of such subsidy amount)	1,00,000
Amount incurred by Y Ltd. for post delivery inspection. (Charges in-curred post receipt of goods by Y Ltd.)	5,000

In respect of above supply, Guru Enterprises had procured some raw material from X Ltd., for which it owed ₹25,000. The said amount was directly paid by Y Ltd. to X Ltd. and was not included in the price of goods of 10,00,000 mentioned above.

The payment of consideration for above supply was delayed by Y Ltd. Hence, an interest amount of ₹ 20,000 (in lumpsum) was also charged by Guru Enterprises.

The applicable tax rates are - CGST - 6%, SGST - 6% and IGST - 12%. You are required to determine the taxable value as well as the applicable tax liability for the said supply transaction.

[MTP May 23]

Sol.

Computation of taxable value and tax liability

Particulars	Amount
Price of goods (exclusive of tax and discounts)	10,00,000
Add: Tax levied by Municipal Authority [Tax other than GST, if charged separately, are includible in the value.]	10,000
Add: Subsidy received from Jiva Enterprises Pvt. Ltd. [Subsidy provided by non-Government bodies and which is directly linked to the price is includible.]	1,00,000
Add: Post-delivery inspection charges [Anything done by the supplier in respect of the supply of goods after the delivery of goods is not includible in value.]	–
Add: Amount directly paid by Y Ltd. to X Ltd. [Liability of the supplier, in relation to the supply being valued, if dis-charged by the recipient of supply and not included in the price, is includi-ble in the value.]	25,000
Add: Interest [Interest for delayed payment of consideration is includible in the value. Since interest is received in lumpsum, amount is inclusive of GST [20,000 x 100/112] (rounded off).]	17,857
Value of taxable supply	**11,52,857**
CGST @ 6%	**69,171**
SGST @ 6%	**69,171**

5. Mr. Dhanwan, an individual registered supplier of Ahmedabad (Gujarat), received the following amount towards rendering of the intra-state supply of various services in the month of January 2023:

S. No.	Particulars	₹
(*i*)	Consideration received from security and housekeeping services provided to "Holy Foundation", an educational institution providing services by way of pre-school educa-tion, outside the school premises on its annual day function.	60,000
(*ii*)	Amount received as an honorarium for participation as guest anchor on "Apna TV" in relation to a debate.	2,25,000
(*iii*)	Sum received as hiring charges for provision of non-air conditioned contract carriage for transportation of employees to and from the work to M/s. Siddhi Pvt. Ltd, a registered person under the GST. Such hiring is for 3 months. Use of the contract carriage is at the disposal of the company.	1,50,000
(*iv*)	Amount received for provision of training in recreation activities of music.	90,000
(*v*)	Renting of residential flat to Mr. Sahil, proprietor of M/s. Dayaram & Sons, a registered person under GST for the purpose of his own residence (in personal capacity)	30,000

You are required to compute the value of supply on which GST is to be paid by Mr. Dhanwan for the month of January, 2023. All the amounts stated above are exclusive of GST, wherever applicable.

[PYQ Nov 23]

Sol.

Computation of value of supply on which GST is to be paid by Mr. Dhanwan

S. No.	Particulars	₹
(*i*)	Security and housekeeping services provided to an educational institution [Not exempted, since security and housekeeping services are performed outside the educational institution.]	60,000
(*ii*)	Honorarium for participation as guest anchor [Liable to GST since it is not specifically exempt and it is also not covered in Schedule III of the CGST Act, 2017 (neither supply of good nor supply of service).]	2,25,000
(*iii*)	Hiring charges for non-air conditioned contract carriage [Not exempt, since exemption available only where transportation take place over pre-determined route and pre-determined schedule and contract carriage is hired for a period of time, during which the contract carriage is at the disposal of the recipient]	1,50,000
(*iv*)	Training in recreational activities of music [Services by way of training in recreational activities relating to arts or culture, by an individual are exempt.]	–

(*v*)	Renting of residential flat to Mr. Sahil [Renting of residential dwelling to a proprietor (registered under GST) of a proprietorship concern in his personal capacity for use as his own residence and on his own account is exempt.]	–
(*vi*)	Value of taxable supply on which GST is to be paid by Mr. Dhanwan	4,35,000

6. Mr. Jayesh, a registered supplier of Mumbai, received the following amounts in respect of the various activities undertaken by him during the month of October, 2022.

S. No.	Particulars	₹
(*i*)	Commission received as a recovery agent from a Non-Banking Finance Company (NBFC)	80,000
(*ii*)	Actionable claim received from normal business debtors	10,50,000
(*iii*)	Amount received from ABC Ltd. for performance of classical dance in one program.	1,74,500
(*iv*)	Business assets (old computers) given to a friend free of cost, the market value of all the computers was 51,000. No input tax credit has been availed on such computers when used for business.	No amount Charged
(*v*)	Consideration received for one month rent from a registered individual person for renting of resi-dential dwelling for use as residence.	15,200

Details of Input services:

S. No.	Particulars	₹
	Paid to an unregistered Goods Transport agency for various consignments of transportation of goods by road. (Each individual consignment in a single carriage was of less than 1,450.)	15,100

Notes:

(a) All the amount stated above in both the tables are exclusive of GST, wherever applicable.

(b) Aggregate turnover of Mr. Jayesh in previous year was 42,00,000.

You are required to compute Gross value of supplies, on which GST to be paid by Mr. Jayesh for the month of October, 2022. **[PYQ May 23]**

Sol.

Computation of gross value of taxable supply on which GST is to be paid by Mr. Jayesh

Particulars	Amount
Commission received as a recovery agent from Non-Banking Financial Company [Tax is payable by NBFC under reverse charge.]	–

Actionable claim received from normal business debtors [No tax is payable as actionable claims other than lottery, betting and gambling are covered under Schedule III, i.e. they are neither supply of goods nor supply of services.]	–
Amount received from ABC Ltd. for performance of classical dance [Taxable since consideration for classical dance performance exceeds 1,50,000.]	1,74,500
Business assets given free of cost [Not a supply as it is made without consideration and not covered in Schedule I because ITC is not availed on the same.]	–
Rent from registered individual person [Tax is payable by the registered individual person under reverse charge]	–
Services from unregistered GTA [Tax on services provided by unregistered GTA is payable under reverse charge by Mr. Jayesh being a registered person.]	15,100
Gross value of taxable supply on which GST is to be paid by Mr. Jayesh	**1,89,600**

7. Black and White Pvt. Ltd. has provided the following particulars relating to goods sold by it to Colorful Pvt. Ltd.

Particulars	Amount
List price of the goods (exclusive of taxes and discounts)	50,000
Tax levied by Municipal Authority on the sale of such goods	5,000
CGST and SGST chargeable on the goods	10,440
Packing charges (not included in price above)	1,000

Black and White Pvt. Ltd. received ₹2000 as a subsidy from an NGO on sale of such goods. The price of ₹50,000 of the goods is after considering such subsidy.

Black and White Ltd. offers a 2% discount on the list price of the goods which is recorded in the invoice for the goods. supply made by Black and White Pvt. Ltd.

Sol.

Computation of Value of taxable supply

Particulars	Amount
List price of the goods (exclusive of taxes and discounts)	50,000
Tax levied by Municipal Authority on sale of such goods [Includible in value - sec 15(2)(a)]	5,000
CGST & SGST chargeable on the goods [Not includible in the value as per section 15(2)(a)]	
Packing charges [Includible in the value as per section 15(2)(c)]	1,000

Subsidy received from a non-Government body [Since subsidy is received from a non-Government body, the same is included in the value in terms of section 15(2)(e)]	2,000
Total	**58,000**
Less: Discount @ 2% on ₹50,000 [Since discount is known at the time of supply, it is deductible from the value in terms of section 15(3)(a)]	1,000
Value of Taxable supply	57,000

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

Sol. **Computation of value of taxable supply**

Particulars	Amount
Service Charges	5,00,000
Payment made by New Moon Pvt. Ltd to vendor of Samriddhi Advertisers [Liability of the supplier being discharged by recipient, is includible in the value in terms of sec 15(2)(b)]	20,000
Interest for delay in payment of consideration [Includible in the value in terms of section 15(2)(d)–Refer note below] (rounded off)	12,712
Value of taxable Supply	5,32,712

Note:

The interest for delay in payment of consideration will be includible in the value of supply but the time of supply of such interest will be the date when such interest is received in terms of section 13(6). Such interest will be taken to be inclusive of GST and the value will be computed by making back calculations [Interest /100 + tax rate) x 100].

9. AKJ Foods Pvt. Ltd. gets an order for supply of processed food from a customer. The customer wants the consignment tested for gluten or specified chemical residues. AKJ Foods Pvt. Ltd. does the testing and charges a testing fee for the same from the customer. AKJ Foods Pvt. Ltd. argues that such testing fess should not form part of the consideration for the sale as it is a separate activity.

Is his argument correct in the light of section 15?

Sol. Section 15(2) mandates the addition of certain elements to transaction value to arrive at taxable value. Clause (c) of section 15(2) specifies that the amount charged for anything done by the supplier in respect of the supply at the time of or before delivery of goods or supply of services shall be included in taxable value.

Since AKJ Foods Pvt. Ltd. does the testing before the delivery of goods, the charges therefore will be included in the taxable value. Therefore, AKJ Foods Pvt. Ltd. Rs argument is not correct. The testing fee should be added to the price to arrive at the taxable value of the consignment.

10. A philanthropic association makes a substantial donation each year to a reputed private management institution to subsidize the education of low income group students who have gained admission there. The fee for these individuals is reduced thereby, coming to ₹3 lakh a year compared to ₹5 lakh a year for other students.

What would be the taxable value of the service of coaching and instruction provided by the institution?

Sol. As per section 15(2)(*e*), the value of a supply includes subsidies directly linked to the price, excluding State Government and Central Government subsidies. In this case, the subsidy is not from the Government but is from a philanthropic association. Therefore, the subsidy is to be added back to the price to arrive at the taxable value, which comes to ₹5 lakh a year.

11. Mezda Banners, an advertising firm, gives an interest-free credit period of 30 days for payment by the customer. Its customer ABC paid for the supply 32 days after the supply of service. Mezda Banners waived the interest payable for a delay of two days.

The Department wants to add interest for two days as per contract. Should notional interest be added to the taxable value?

Sol. This is a supply that is valued as per transaction value under section 15(1) as the price is the sole consideration for the supply and the supply is made to an unrelated person. The concept of transaction value has been expanded to include certain elements like interest which are actually payable. Once waived, the interest is not payable and is therefore, not to be added to transaction value.

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

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

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

13. Red Pepper Ltd., Delhi, a registered supplier, is manufacturing taxable goods. It provides the following details of taxable inter-State supply made by it for the month of March, 20XX.

Particulars	Amount (₹)
List price of goods supplied inter-state (exclusive of taxes)	15,00,000
Subsidy received from Central Government for supply of taxable goods to Government School.	2,10,000
Subsidy received from a NGO for supply of taxable goods to an old age home	50,000
Tax levied by Municipal Authority	20,000
Packing charges	15,000
Late fee paid by the recipient of supply for delayed payment of invoice	6,000

The list price of the goods takes into account the two subsidies received. However, the other charges/taxes/fee are charged to the customers over and above the list price. Calculate the value of taxable supply made by M/s Red Pepper Ltd. for the month of March, 20XX. Rate of IGST is 18%.

Sol. Computation of value of taxable supply made by Red Pepper Ltd. for the month of March, 20XX

Particulars	₹
List price of the goods Add: Subsidy amounting to ₹2,10,000 received from Central Government [Since subsidy is received from Government, the same is not includible in the value in terms of section 15 of the CGST Act, 2017] Subsidy received from NGO [Since subsidy is received from a non-Government body, the same is includible in the value in terms of section 15 of the CGST Act, 2017]	15,00,000 NIL 50,000
Tax levied by the Municipal Authority [Includible in the value as per section 15 of the CGST Act, 2017]	20,000
Packing charges [Being incidental expenses, the same are includible in the value as per section 15 of the CGST Act, 2017]	15,000
Late fees paid by recipient of supply for delayed payment [Includible in the value as per section 15 of the CGST Act, 2017] (assumed to be inclusive of taxes) [₹6,000 x 100/118] rounded off	5,085
Value of taxable supply	**15,90,085**

14. A manufacturer of machinery supplied a special machine to Modern Furnishers. Following details are provided in relation to amounts charged:

S. No.	Particulars	₹
(*i*)	Price of machinery excluding taxes (before cash discount)	5,00,000
	Additional charges not included above:	
(*ii*)	Freight	13,000
(*iii*)	Packing charges	10,000
(*iv*)	Charges for designing the machine	17,000

Other information furnished is:

(*a*) Cash discount @ 2% on price of machinery has been allowed to the customer at the time of supply and also recorded in invoice.

(*b*) GST rate – 18%.

Calculate value of supply of the special machine.

Sol.

Particulars	₹
Price of machinery	5,00,000
Add: Freight	13,000
Packing charges	10,000
Designing charges	17,000
Total	**5,40,000**

Less: 2% cash discount on price of machinery [₹5,00,000 x 2%] [Note 4]	10,000
Value of taxable supply	5,30,000

Notes:

1. Supply of machinery (goods) with supply of ancillary services like freight is a composite supply, the principle supply of which is the supply of machinery. Thus, value of such ancillary supply is includible in the value of composite supply.
2. All incidental expenses including packing charged by the supplier to the recipient of a supply are includible in the value of supply in terms of section 15(2)(c) of CGST Act, 2017.
3. Designing charges are includible in the value of supply as 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 so includible in terms of section 15(2)(c) of CGST Act, 2017.
4. Cash discount was given at the time of supply and also recorded in invoice, so the same is not to be included while computing value of supply in terms of section 15(3)(a) of CGST Act, 2017.

15. Candy Blue Ltd., Mumbai, a registered supplier, is manufacturing Chocolates and Biscuits. It provides the following details of taxable inter-state supply made by it for the month of October, 2017.

Particulars	Amount in (₹)
List price of goods supplied inter-state	12,40,000
Items already adjusted in the price given in (i) above:	1,20,000
(*i*) Subsidy from CG for supply of biscuits to Government School.	30,000
(*ii*) Subsidy from Trade Association for supply of quality biscuits.	
Items not adjusted in the price given in (i) above:	24,000
(*iii*) Tax levied by Municipal Authority	12,000
(*iv*) Packing Charges	5,000
(*v*) Late fee paid by the recipient of supply for delayed payment of invoice	

Calculate the value of taxable supply made by M/s Candy Blue Ltd. for the month of October, 2017.

Sol. Computation of value of taxable supply made by Candy Blue Ltd. for the month of October, 2017

Particulars	₹
List Price of the goods	12,40,000
Add: Subsidy amounting to ₹1,20,000 received from Central Government [Since subsidy is received from the Government, the same is not includible in the value in terms of section 15 of the CGST Act, 2017.]	NIL
Subsidy received from Trade Association [Since subsidy is received from a non-Government body, the same is includible in the value in terms of section 15 of the CGST Act, 2017.]	30,000
Tax levied by the Municipal Authority [Includible in the value as per section 15 of the CGST Act, 2017]	24,000

Packing charges [Being incidental expenses, the same are includible in the value as per section 15 of the CGST Act, 2017]	12,000
Late fees paid by recipient of supply for delayed payment [Includible in the value as per section 15 of the CGST Act, 2017]	5,000
Value of taxable supply	**13,11,000**

Note: In the above solution, list price of the goods and late fee for delayed payment of invoice have been assumed to be exclusive of taxes.

16. Laxmi Ltd. of Bhopal (Madhya Pradesh) is a supplier of machinery. Laxmi Ltd. has supplied machinery to PQR Enterprises in Indore (Madhya Pradesh) on 1st October, 2017. The invoice for supply has been issued on 1st October, 2017. Thus, the time of supply of machinery is 1st October, 2017. Laxmi Ltd. and PQR Enterprise are not related. Following information is provided:

- Basic price of machinery excluding all taxes but including design and engineering charges of ₹10,000 and loading charges of ₹20,000 –₹20,00,000.
- Laxmi Ltd. provides 2 years free warranty for the machinery. Laxmi Ltd. also provides an extended one-year warranty on payment of additional charges of ₹1,00,000. PQR Enterprises opted for a one-year warranty.
- Laxmi Ltd. has collected consultancy charges in relation to pre-installation planning of ₹10,000 and freight and insurance charges from place of removal to buyer's premises of ₹20,000.
- Laxmi Ltd. received a subsidy of ₹50,000 from the Central Government for supplying the machinery to backward regions since the receiver was located in a backward region. Laxmi Ltd. also received ₹50,000 from the joint venture partner of PQR Enterprises for making timely supply of machinery to the recipient.
- A cash discount of 1% on the basic price of the machinery is offered at the time of supply, if PQR Enterprises agrees to make the payment within 30 days of the receipt of the machinery at his premises. Discount @ 1% was given to PQR Enterprises as it agreed to make the payment within 30 days.
- The machinery attracts CGST and SGST @ 18% (9% + 9%) and IGST @18%. Compute the CGST and SGST or IGST payable, as the case may be, on the machinery.

Sol.

Computation of GST payable

Particulars	₹
Price of the machinery [Note 1]	20,00,000
Add: Extended warranty cost [Note 2]	1,00,000
Consultancy charges in relation to pre-installation planning [Note 4]	10,000
Freight and insurance charges [Note 3]	20,000
Subsidy received from Central Government [Note 5]	Nil
Receipts from Joint Venture of PQR Enterprises [Note 5]	50,000
Less: 1% discount on basic price* = ₹20,00,000 × 1% [Note 6]	(20,000)
Value of supply	21,60,000

CGST @ 9% [Note 7]	1,94,400
SGST @ 9% [Note 7]	1,94,400

Notes:

1. Laxmi Ltd. and PQR Enterprises are not related and price is assumed to be the sole consideration for the supply. Therefore, in terms of section 15(1) of the CGST Act, 2017, the value of the supply is the transaction value i.e., price actually paid or payable for the machinery by PQR Enterprises.

   Design and engineering charges are includible in the value of supply as 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 so includible in terms of section 15(2)(c) of CGST Act, 2017.

   Further, loading charges being incidental expenses charged by the supplier to the recipient of supply, are includible in the value as per section 15 (2)(c) of the CGST Act, 2017.

2. Supply of machinery (goods) with supply of ancillary services like extended warranty is a composite supply, the principle supply of which is the supply of machinery. [Section 2(30) of the CGST Act, 2017 read with section 2(90) of that Act]. Thus, value of such ancillary supply is includible in the value of composite supply.
3. Supply of machinery (goods) with supply of ancillary services like freight and insurance is a composite supply, the principle supply of which is the supply of machinery [Section 2(30) of the CGST Act, 2017 read with section 2(90) of that Act]. Thus, value of such ancillary supply is includible in the value of composite supply.
4. Any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is includible in the value of supply in terms of section 15(2)(c) of CGST Act, 2017.
5. Subsidies provided by the Central Government and State Governments are not includible in the value of supply in terms of section 15(2) (e) of the CGST Act, 2017. However, subsidy directly linked to the price received from a non-Government body is includible in the value in terms of section 15.
6. Cash discount has been given to PQR Enterprises upfront at the time of supply and thus would have been recorded in the invoice and hence, the same is excluded from the value of supply in terms of section 15(3)(a) of the CGST Act, 2017.
7. In the given case-
   - the location of the supplier is in Bhopal (Madhya Pradesh); and
   - the place of supply of machinery is the location of the machinery at the time at which the movement of the same terminates for delivery to the recipient i.e., Indore (Madhya Pradesh) vide section 10(1)(a) of IGST Act, 2017.

Therefore, as per section 8(1) of IGST Act, 2017, the given supply is an intra-State supply as the location of the supplier and the places of supply are in the same State.

Thus, the supply will be leviable to CGST and SGST.

***Note:** It is also possible to take a view that the basic price of the machinery is ₹19,70,000 [₹20,00,000– ₹10,000 – ₹20,000] and design and engineering charges and loading charges are added to such price.

In that case, 1% of discount amount will come out to be ₹19,700, value of supply would be ₹21,60,300 and CGST and SGST would be ₹1,94,427 each.

17. Vayu Ltd. provides you the following particulars relating to goods supplied by it to Agni Ltd.

Particulars	₹
List price of the goods (exclusive of Taxes and discounts).	76,000
Special packing at the request of the customer to be charged to the customer.	5,000
Duty levied by local authority on the sale of such goods.	4,000
CGST and SGST charged in invoice.	14,400
Subsidy received from an NGO (The price of ₹76,000 given above is	5,000
After considering the subsidy	

Vayu Ltd. offers 3% discount of the list price of the goods which is recorded in the invoice for the goods. supplies made by Vayu Ltd.

Sol.

Particulars	₹
List price of the goods	76,000
Add: Special packing [Note 1]	5,000
Duty levied by local authority on sale of goods [Note 2]	4,000
CGST and SGST charged [Note 2]	–
Subsidy received from an NGO [Note 3]	5,000
Less: Discount offered	2,280
= 3% of List price = ₹76,000 × 3% [Note-4]	
Value of taxable supplies	**87,720**

Notes:

1. Being incidental expenses charged by the supplier to the recipient of supply, packing charges are includible in the value as per section 15(2)(c) of the CGST Act, 2017.
2. Taxes, duties, etc. levied under any law for the time being in force other than CGST, SGST/UTGST, IGST are includible in the value as per section 15(2)(a) of CGST Act, 2017. Duty levied by local authority on sale of goods has been assumed to be recovered from Agni Ltd. and not included in the list price of the goods.
3. Subsidy directly linked to the price received from a non-Government body is includible in the value in terms of section 15(2) (e) of CGST Act, 2017.

4. Since discount is known at the time of supply, it is deductible from the value in terms of section 15(3) (*a*) of CGST Act, 2017.

18. M/s. Flow Pro sold a machine to BP Ltd. It provides the following particulars in this regard:

S. No.	Particulars	₹
(*i*)	Price of the machine (excluding taxes and incidental charges)	30,000
(*ii*)	Machine was subject to third party inspection. The inspection charges have been directly paid by BP Ltd. to the inspection agency	5,000
(*iii*)	Freight charges for delivery of the machine (M/s Flow Pro has agreed to deliver the goods at BP Ltd.'s premises)	2,000
(*iv*)	Subsidy received from State Government on sale of machine under skill Development Programme. [The subsidy is directly linked to the price].	5,000
(*v*)	Discount of 2% is offered to BP Ltd. on the price and recorded in the invoice	

Note: Items given in S. No. (*ii*) to (*v*) have not been considered in the price at S. No. (*i*). supply made by M/s Flow Pro to BP Ltd.

Sol.

Particulars	₹
Price of the machine (Price ₹30,000 – ₹5,000 subsidy) [Note-1]	25,000
Third party inspection charges [Note-2]	5,000
Freight charges for delivery of the machine value [Note-3]	2,000
Total	32,000
Less: Discount @ 2% on ₹30,000 being price charged to BP Ltd. [Note-4]	600
Value of taxable supply	**31,400**

Notes:

1. Since subsidy is received from the State Government, the same is deductible to arrive at taxable value under section 15 of the CGST Act, 2017.
2. Any amount that the supplier is liable to pay in relation to such supply but has been incurred by the recipient is includible in the value of supply under section 15 of the CGST Act, 2017.
3. Since arranging freight is the liability of the supplier, it is a case of composite supply and thus, freight charges are added to the value of principal supply.

Discount given before or at the time of supply if duly recorded in the invoice is deductible from the value of supply under section 15 of the CGST Act, 2017.

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

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

Additional information:

1. SQM Ltd. normally gives an interest-free credit period of 30 days for payment, after that it charges interest @ 1% p.m. or part thereof on list price.

ACD Ltd. paid for the supply after 45 days, but SQM Ltd. waived the interest payable.

2. SQM Ltd. received ₹50,000 as subsidy, from one non-government organization (NGO) on sale of such machines. This subsidy was not linked to the price of the machine and also not considered in the list price of ₹9,50,000.
3. ACD Ltd. deducted a discount of ₹15,000 at the time of final payment, which was not as per agreement.
4. SQM Ltd. collected ₹9,500 as TCS (tax collected at source) under the provisions of the Income Tax Act, 1961.

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

Notes: Correct legal provision should form part of your answer.

Sol. **Computation of value of taxable supply**

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

Notes:

1. Taxes other than GST, if charged separately, are includible in the value in terms of section 15.
2. Since the contract is to deliver machines at the buyer's factory, it is a composite supply wherein the freight charges will be added to the value of principal supply of the machine.
3. Value of supply includes interest charged for delayed payment. However, since the interest on delayed payment has been waived off, the same has not been added to the value.
4. Subsidy provided by non-Government bodies is includible in the value in terms of section 15 provided the same is directly linked to the price. Since the subsidy received from NGO is not directly linked to the price of the machine, the same has not been added to the value.
5. Since the discount was not known or agreed to at the time of supply of goods to the buyers, such discount cannot be reduced from the price, in terms of section 15.
6. TCS is not includible in the value of supply as it is an interim levy not having the character of tax.

CHAPTER 8

Input Tax Credit

THEORY

Scheme of ITC

- The scheme is designed to avoid the cascading effect of taxes and make GST a destination-based tax.
- Broadly, ITC is available on all inputs, input services and capital goods used for purposes of business of a taxable person. The exception is 'blocked credit', where ITC is not available even when these goods or services are used for purposes of business.
- ITC is used for payment of tax on taxable output supply to avoid cascading effect of taxes.
- GST law does not require 'one to one' correlation between inputs/input services and final products/ services. Any eligible ITC can be used for payment of tax on any taxable output supply.

Important Definition

1. Capital goods means goods, the value of which is capitalised in the books of account of the person claiming the ITC and which are used or intended to be used in the course or furtherance of business [Section 2(19)].
2. Exempt supply means supply of any goods or services or both which attracts a nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the IGST Act, and includes non-taxable supply [Section 2(47)].
3. Input means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business [Section 2(59)].
4. Input service means any service used or intended to be used by a supplier in the course or furtherance of business [Section 2(60)].
5. Zero-rated supply means any of the following supplies of goods or services or both, namely:
   (*a*) Export of goods or services or both; or
   (*b*) Supply of goods or services or both to a Special Economic Zone (SEZ) developer or a Special Economic Zone unit [Section 16(1) of the IGST Act].
6. Non-resident taxable person means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India [Section 2(77)].

Section 16 Eligibility For Taking ITC

1. **Registered person to take credit:** Every registered person subject to Section 49, shall be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business. The input tax credit is credited to the electronic credit ledger.

Input tax credit can be taken on the basis of any of the following documents:

Invoice issued under section 31

Debit note issued under section 34

Bill of entry

Invoice prepared in respect of reverse charge basis u/s 9(3) and 9(4)

Document issued by ISD u/r 7(1) for distribution of credit referred u/r 4(1)(g)

2. **Conditions for availment of credit by registered person:** Subject to section 41, input tax credit is available only if –

(*a*) The said goods or services or both are used or intended to be used in the course or in the furtherance of his business;

(*b*) He is in possession of tax invoice/debit note/tax-paying document issued by a supplier registered under this Act (listed above);

(*c*) He has received the said goods or services

"Bill to Ship to" Model:

Goods delivered to another person on the direction of the registered person by way of transfer of documents of title or otherwise, either before or during the movement, are deemed to have been received by such registered person. So, ITC will be available to the registered person, on whose order the goods are delivered to a third person.

(*d*) The supplier has paid the said amount of tax (as charged in the invoice) to appropriate Government in cash or by way of utilisation of input tax credit, as admissible;

(*e*) He – claimant of input tax credit – has furnished return under section 39 in FORM- GSTR 3B;

Rule 36(4)

No input tax credit shall be availed by a registered person in respect of invoices or debit notes the details of which are,-

Not furnished by the supplier in the statement of outward supplies in FORM GSTR-1 or using the invoice furnishing facility; or the details of such invoices or debit notes have been not communicated to the registered person in FORM GSTR-2B.

Reversal of ITC by Recipient [Rule 37A]

(a) Supplier has filed the GSTR-1 but has not filed GSTR-3B till 30th September of next FY

(b) Then Recipient has to reverse the ITC for the same till 30th November of succeeding FY to which such ITC relates.

However, Recipient is eligible to take ITC as and when Supplier files GSTR-3B

3. **Goods received in instalments:** If goods are received in instalments against a single invoice, credit can be taken upon receipt of last instalment of goods [Section 16(2)].

4. If recipient of goods or service or both has not paid the supplier within 180 days from date of invoice (except in case of reverse charge), the amount equal to input tax credit availed along with the interest will be added to output liability of the recipient. The said input tax credit can be re-availed on payment of value of supply and tax payable thereon [Section Proviso to Section 16(2)].

Exceptions

This condition of payment of value of supply plus tax within 180 days does not apply in the following situations:

(*a*) Supplies on which tax is payable under reverse charge

(*b*) Deemed supplies without consideration

(*c*) Additions made to the value of supplies on account of supplier's liability,in relation to such supplies, being incurred by the recipient of the supply.

Under situations given in points (*b*) & (*c*), the value of supply is deemed to have been paid.

5. Claim of depreciation on tax component disqualifies a recipient of Capital goods from availment of input tax credit [Section 16 (3)].

6. Time limit for availment of ITC extended – Sec 16(4)

ITC on invoices relating to a FY or debit notes issued in any FY) can be availed on or before:

(*a*) 30th November of the succeeding FY (after end of FY to which such invoice or debit note pertains)

(*b*) Actual Date of filing of annual return (GSTR-9) for the relevant year.

Eg. X ltd. has received invoice dated 10th December, 2023, In this case last date for taking ITC shall be 30/11/2024 but if annual return has been filed on 31st July 2023, last date shall be 31st July 2023.

If any debit note has been issued in connection with any invoice, date of debit note shall be taken into consideration for the purpose of determining the time limit and not the date of invoice to which it relates, eg. Invoice is issued on 12/02/2024 and debit note is issued on 28/05/2025 in this case ITC can be taken maximum upto 20/11/2026 or the date of filing annual return whichever is earlier.

Restrictions on use of amount available in electronic credit ledger [Rule 86B]

A registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of 99% of such tax liability, in cases where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds ₹50 lakh.

Example

The total value of inter-State supply of Raman & Sons for the month of February 2021 is of ₹100 lakh. Said supply is taxable @ 18% IGST. Thus, total output tax liability of Raman & Sons is ₹18 lakh. Amount available in the electronic credit ledger is ₹20 lakh (IGST).

In terms of restriction imposed by rule 86B, Raman & Sons can discharge 99% of its output tax liability, i.e. ₹17,82,000 (99% of ₹18,00,000) from the amount available in electronic credit ledger. However, it has to mandatorily discharge the balance 1% of the output tax liability i.e. ₹18,000 (1% of ₹18,00,000) through electronic cash ledger only.

Exceptions

This restriction shall not apply in following cases:

(*a*) Where the said person/proprietor/karta/managing director/any of its two partners, whole-time directors, members of Managing Committee of Associations or Board of Trustees, as the case may be, have paid more than ₹1 lakh as income tax1 in each of the last 2 financial years.

(*b*) Where the registered person has received a refund of more than ₹1 lakh in the preceding FY on account of unutilised ITC in case of (*i*) zero rated supplies made without payment of tax or (*ii*) inverted duty structure.

(*c*) Where the registered person has discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, up to the said month in the current financial year.

(*d*) Where the registered person is:

- Government Department
- Public Sector Undertaking
- Local authority
- Statutory body

However, the Commissioner or an officer authorised by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit.

Section 17: Apportionment of Credit and Blocked credit

1. Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.

2. Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act, and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

3. The value of exempt supply shall be computed as per rule 42 and 43. Exempt supplies shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and building. If Goods/Services have been supplied by a person and GST is to be paid by the recipient under reverse charge, it will be considered to be exempt supply for the supplier and tax credit is not allowed.

> 'Explanation-For the purposes of this sub section, the expression ''value of exempt supply'' shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule.'

Section 17(5)

4. Not with standing anything contained in sub-section (1) of section 16 and subsection (1) of section 18, input tax credit shall not be available in respect of the following namely:

1. (*a*) Motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely:—

(*a*) Further supply of such motor vehicles; or

(*b*) Transportation of passengers; or

(*c*) Imparting training on driving such motor vehicles;

> Motor vehicles exclude –
>
> Vehicle running upon fixed rails
>
> Special purpose vehicles for being used in a factory or any enclosed premises
>
> Vehicle with less than 4 wheels fitted with engine capacity of upto 25cc – (Thus, railways, two/three wheelers with engine capacity of upto 25cc, bicycle etc. do not fall in the definition of motor vehicle.)

(*aa*) Vessels and aircraft except when they are used—

(*i*) For making the following taxable supplies, namely:

(*a*) Further supply of such vessels or aircraft; or

(*b*) Transportation of passengers; or

(c) Imparting training on navigating such vessels; or

(*d*) Imparting training on flying such aircraft;

(*ii*) For transportation of goods;

(*ab*) Services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (*a*) or clause (*aa*):

Provided that the input tax credit in respect of such services shall be available—

(*i*) Where the motor vehicles, vessels or aircraft referred to in clause (*a*) or clause (*aa*) are used for the purposes specified therein;

(*ii*) where received by a taxable person engaged—

(*I*) In the manufacture of such motor vehicles, vessels or aircraft; or

(*II*) In the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;

(*b*) The following supply of goods or services or both—

(*i*) Food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (*a*) or clause (*aa*) except when used for the purposes specified therein, life insurance and health insurance:

Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply; or Such goods and/or services when provided by an employer to its employees under a statutory obligation

(*ii*) Membership of a club, health and fitness centre; and

(*iii*) Travel benefits extended to employees on vacation such as leave or home travel concession:

Provided that the input tax credit in respect of such goods or services or both shall be available. Where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.

2. Works contract services when supplied for construction of immovable property, other than plant and machinery, except where it is for further supply of works contract service;

Section 2(119) "Works Contract" means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.

Meaning of plant and machinery

"Plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural supports that are used for making outward supply of goods and/or services and includes such foundation or structural support but excludes land, building or other civil structures, telecommunication towers, and pipelines laid outside the factory premises.

3. Goods or services received by a taxable person for construction of an immovable property on his own account, other than plant and machinery, even though it is used in course or furtherance of business;
4. Goods or services or both on which the tax is paid under composition scheme.
5. Goods or services or both received by a non-resident taxable person except on goods imported by him.
6. Goods or services or both used for personal consumption.
7. Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples.
8. Tax paid in terms of sections 74, 129 and 130.
9. Goods or Service or both received by a taxable person which are used or intended to be used for Corporate Social Responsibility.

Conditions of use of amount available in electronic credit ledger [Rule 86A]

Rule 86A of the GST Rules provides Provisions to restrict the use of input tax credit (ITC) in the electronic credit ledger of a taxpayer. This rule allows commissioner or an authorized officer not below the rank of assistant commissioner to block ITC if there are reasons to believe that the ITC has been fraudulently availed or is ineligible. The conditions under which the ITC can be restricted include:

1. **Non-Existent Supplier:** ITC has been availed on the basis of invoices issued by a registered person who is found non-existent or not conducting any business from their registered place of business.
2. **Non-Receipt of Goods/Services:** ITC has been availed without the actual receipt of goods or services.
3. **Fake Invoices:** ITC has been availed based on invoices from a person without payment of tax to the government.
4. **Contravention of GST Laws:** The registered person availing ITC is found to be in contravention of the provisions of the GST Act or rules.
5. **Tax Not Paid to the Government:** ITC has been availed based on the tax invoices or debit notes where the tax charged in respect of such invoices or debit notes has not been paid to the government.

These restrictions can be imposed for a maximum period of one year from the date of imposing such restrictions.

Return of time-expired goods by treating the same as fresh supply

In case the person returning the time expired goods is a registered person (other than a composition taxpayer), he may, at his option, return the said goods by treating it is as a fresh supply and thereby issuing an invoice for the same (hereinafter referred to as the, "return supply"). The value of the said goods as shown in the invoice on the basis of which the goods were supplied earlier may be taken as the value of such return supply. The wholesaler or manufacturer, as the case may be, who is the recipient of such return supply, shall be eligible to avail ITC of the tax levied on the said return supply subject to the fulfilment of the conditions specified in section 16.

In case the person returning the time-expired goods is a composition taxpayer, he may return the said goods by issuing a bill of supply and pay tax at the rate applicable to a composition taxpayer. In this scenario there will not be any availability of ITC to the recipient of return supply. In case the person returning the time-expired goods is an unregistered person, he may return the said goods by issuing any commercial document wihout charging any tax on the same.

Where the goods returned by the retailer/wholesaler as a fresh supply, are destroyed by the manufacturer, he/she is required to reverse the ITC availed on the return supply in terms of section 17(5)(h). It is pertinent to mention here that the ITC which is required to be reversed in such scenario is the ITC availed on the return supply and not the ITC that is attributable to the manufacture of such time expired goods.

The clarification may also be applicable to return of goods for reasons other than being time expired.

Section 18: Availability of credit in special circumstances

1. (*a*) **Compulsory Registration:**

As per section 18(1)(*a*)/Rule 40, A person who has applied for registration under this Act within 30 days from the date on which he becomes liable to registration and has been granted such registration shall be entitled to take credit of input tax in respect of inputs/semi-finished/finished goods on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act. No tax credit shall be allowed for capital goods.

Note: If any person has applied for registration after expiry of 30 days, tax credit shall not be allowed of inputs or capital goods

(*b*) **Voluntary Registration:**

As per section 18(1)(*b*)/Rule 40, A person who takes voluntary registration shall be entitled to take credit of input tax in respect of inputs held in stock and inputs/semi-finished/finished goods on the day immediately preceding the date of grant of registration. No tax credit shall be allowed for capital goods.

(*c*) **Shifting from composition scheme to normal scheme:**

As per Section 18 (1) (*c*)/Rule 40. If any registered person has shifted from composition scheme to normal scheme, such person shall be entitled to take credit of input tax in respect of inputs held in stock/semi-finished/finished goods and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax. The credit on capital goods shall be reduced by 5% per quarter of a year or part thereof from the date of invoice.

(*d*) **Exempt supply becomes taxable supply.**

As per Section 18 (1) (*d*)/Rule 40. If any exempt supply becomes taxable supply, in that case, the registered person shall be entitled to take credit of input tax in respect of inputs held in stock/semi-finished/finished goods and on capital goods on the day immediately preceding the date from which it becomes taxable. The credit on capital goods shall be reduced by 5% per quarter of a year or part thereof from the date of invoice.

For this purpose the applicant has to submit form no. ITC-01 within 30 days from the date on which he becomes eligible to avail ITC. Further ITC-01 should be verified by Chartered Accountant/Cost Accountant if the total amount of ITC is exceeding ₹2,00,000.

2. A registered person shall not be entitled to take input tax credit under sub-section (1), in respect of any supply of goods or services or both to him after the expiry of one year from the date of issue of tax invoice relating to such supply.

Example: Mr. Shyam purchased goods vide invoice dated 01/07/2019 ₹10,00,000 plus GST ₹2,00,000 and he is unregistered. Limit of ₹20,00,000 has crossed on 01/08/2020 and he applied for registration on 01/08/2020 and was granted registration on 10/08/2020, in this case as per section 18(2) tax credit for the goods lying in the stock is not allowed because one year has elapsed from the date of invoice.

3. ITC in case of Amalgamation/Demerger etc. Section 18 (3)/Rule 41

Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, in such cases, the said registered person shall be allowed to transfer the input tax credit which remains unutilised in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed. For this purpose information shall be submitted in Form No. ITC-02 by the transferor and the transferee shall accept it on the common portal and ITC shall be credited to the electronic credit ledger of the transferee.

4. Tax credit in case of shifting from normal scheme to composition scheme section 18 (4)/18(5)/ Rule 44

Where any registered person who has availed of input tax credit opts to pay tax under composition scheme or, where taxable supply becomes exempt supply, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of stock.

In case of capital goods, the remaining tax credit has to be reversed taking the life to be 60 months and part of the month shall be ignored. After payment of such an amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse. For this purpose the applicant has to submit form no. ITC-03.

5. Reversal of Tax credit in case of supply of capital goods on which tax credit has been taken Section 18 (6)/Rule 44

In case of supply of capital goods, on which input tax credit has been taken, the registered person shall pay an amount

(*a*) ITC taken on such goods reduced by 5% per quarter of a year or part thereof from the date of issue of invoice for such goods (i.e., ITC pertaining to remaining useful life of the capital goods), or

(*b*) The tax on the transaction value of such capital goods, whichever is higher.

However, if refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may directly pay tax on the transaction value.

QUESTION BANK

1. What are the conditions necessary for obtaining ITC?

Sol. Following four conditions are to be satisfied by the registered taxable person for obtaining ITC:

(*a*) He is in possession of tax invoice or debit note or such other tax paying documents as may be prescribed;

(*b*) He has received the goods or services or both;

(*c*) The supplier has actually paid the tax charged in respect of the supply to the Government;

(*d*) He has furnished the return under section 39.

2. Can a person take ITC without payment of consideration for the supply along with tax to the supplier?

Sol. Yes, the recipient can take ITC. However, he is required to pay the consideration along with tax within 180 days from the date of issue of invoice. This condition is not applicable where tax is payable on reverse charge basis. Further, in case of deemed supplies without consideration and additions made to the value of supplies on account of supplier's liability, in relation to such supplies, being incurred by the recipient of the supply, consideration is deemed to have been paid.

3. M/s Jay Ltd. being a manufacturer purchased machinery worth ₹10,00,000 on which GST ₹1,80,000 is paid. What are the options available to Mr. Jay with respect to availing ITC on GST paid?

Sol. The manufacturer has following two options:

Option 1: claim depreciation on the entire value of machinery inclusive of GST (i.e. ₹11,80,000) by forgoing ITC on capital goods.

Option 2: claim depreciation on the cost of machine (i.e. ₹10,00,000) and avail the ITC of GST portion (i.e. 1,80,000).

4. (a) Enumerate the conditions necessary for availing ITC under GST law.

(b) Elaborate the provisions relating to annual return contained under section 44 of the CGST Act, 2017 **[MTP Nov 22]**

Sol. (a) No registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless:

(a) He is in possession of tax invoice or debit note or such other tax paying documents as may be prescribed;

(b) He has received the goods or services or both;

(c) Subject to section 41 of the CGST Act, the supplier has actually paid the tax charged in respect of the supply to the Government;

(d) He has furnished the return under section 39; and

(e) The details of the invoice/debit note in respect of said supply has been furnished by the supplier in the statement of outward supplies (GSTR-1) and such details have been communicated to the recipient of such invoice/debit note in the manner specified under section 37.

(b)Every registered person, other than an input service distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person shall furnish an annual return which may include a self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement for every financial year electronically, within prescribed time, form and manner.

However, the Commissioner may exempt any class of registered persons from filing annual return. Further, any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India, or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force, is not required to furnish annual return.

5. Discuss the ITC entitlement of a newly registered person under GST law **[MTP Nov 22]**

Sol. A person applying for registration can take input tax credit of inputs held in stock and inputs contained in semi- finished or finished goods held in stock on the day immediately preceding the date of grant of registration. If the person was liable to take registration and he has applied for registration within thirty days from the date on which he became liable to registration, then ITC of inputs held in stock and inputs contained in semi- finished or finished goods held in stock on the day immediately preceding the date on which he became liable to pay tax can be taken.

In case of voluntary registration, ITC of such goods held in stock on the day immediately preceding the date of registration can be taken

6. Rajul is a registered software consultant. On account of her ill health, she could not provide any services during the month of October. However, she had to incur all the expenses relating to her office. She paid 75,000 to various vendors. The total input tax involved on the goods and services procured by her is 13,500. Out of the total bills paid by her, one bill for 15,000 relates to security services availed for security of her office, tax on which is payable under reverse charge. Input tax involved in such bill is 2,700.

Rajul is of the opinion that for the month of October, no GST is payable from electronic cash ledger as she has sufficient balance of ITC for payment of GST under reverse charge on security services.

Do you think Rajul is right? Explain with reasons. **[MTP Nov 22]**

Sol. The amount available in the electronic credit ledger, i.e. ITC may be used for making any payment towards output tax. Output tax in relation to a taxable person, means the tax chargeable on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis.

Therefore, ITC cannot be used to pay the tax liability under reverse charge. The same is always required to be paid through electronic cash ledger and not electronic credit ledger. Thus, Rajul is wrong and she will need to pay the GST of 2,700 on security service through electronic cash ledger.

7. "Rule 86A of the CGST Rules, 2017 provides that in certain specified circumstances, Commissioner on the basis of reasonable belief may not allow debit of an amount equivalent to such credit in electronic credit ledger."

State the grounds (as guided by CBIC) on which the reasons for such belief must be based on. **[PYQ May 23]**

Sol. The reasons for such belief must be based on one or more of the following grounds:

1. The credit is availed by the registered person on the invoices/debit notes issued by a supplier, who is found to be non-existent or is found not to be conducting any business from the place declared in registration.
2. The credit is availed by the registered person on invoices/debit notes, without actually receiving any goods and/or services.
3. The credit is availed by the registered person on invoices/debit notes, the tax in respect of which has not been paid to the Government.
4. The registered person claiming the credit is found to be non-existent or is found not to be conducting any business from the place declared in registration.
5. The credit is availed by the registered person without having any invoice/debit note or any other valid document for it.

Section 17(5) Questions

8. A taxable person is in the business of information technology. He buys a car (maximum seating capacity –5 persons) for use by his Executive Directors. Can he avail the ITC in respect of GST paid on purchase of such car?

Sol. No. As per section 17(5)(*a*), ITC on motor vehicles for transportation of persons with seating capacity of up to 13 persons (including driver), can be availed only if the taxable person is in the business of transport of passengers or is providing the services of imparting training on driving such motor vehicles or is in the business of supply of such motor vehicles.

9. A flying school imports an aircraft for use in its training activity and takes ITC of the IGST paid on the import. The departmental audit raises an objection that ITC is not allowed on aircrafts. Offer your comments.

Sol. Under section 17(5) of the CGST Act, ITC is allowed on aircraft if they are used to make the taxable supply of imparting training on flying an aircraft. Therefore, the credit is correctly taken.

10. Krishna Motors is a car dealer selling cars of an international car company. It also provides maintenance and repair services of the cars sold by it as well as other cars. It seeks your advice on availability of input tax credit in respect of the following expenses incurred by it during the course of its business operations:

(*i*) Cars purchased from the manufacturer for making further supply of such cars. Two of such cars are destroyed in accidents while being used for test drive by potential customers.

(*ii*) Works contract services availed for constructing a car shed in its premises.

Sol. As per section 16(1) of the CGST Act, 2017, every registered person can take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business. However, section 17(5) of CGST Act, 2017 specifies certain goods and services on which the input tax credit is not available.

In the light of the foregoing provisions, the availability of input tax credit (ITC) in respect of the various expenses incurred by Krishna Motors is discussed below:

(*i*) Section 17(5) specifically blocks ITC on motor vehicles used for transportation of person with seating capacity up to 13 including driver. However, the same is allowed when the motor vehicles are used, inter alia, for further supply of such vehicles. Thus, ITC on cars purchased from the manufacturer for making further supply of such cars will be allowed.

However, ITC on the cars destroyed in accident will not be allowed as the ITC on goods destroyed for whichever reason is specifically blocked under section 17(5) (*h*) of CGST Act.

(*ii*) Section 17(5)(*c*) specifically blocks ITC on works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service. Since, in this case the car shed is not a plant and machinery and the works contract service is not used for further supply of works contract service, ITC thereon will not be allowed.

11. Mr. Ram is a school van driver and also a registered person under GST law. He purchased an Omni vehicle for ₹ 8 lacs plus GST 28%. Mr. Ram is eligible for ITC on this vehicle. Explain.

Sol. Since, Mr. Ram is a registered person supplying taxable services in the nature of transportation of passengers, he is eligible to avail the ITC on motor vehicle.

12. Guideline Academy organises parents meetings and provides meals during meetings to students and their parents. The supplier of food charged ₹72,500 plus GST 18%, under the category of outdoor catering. Explain Guideline Academy being a provider of taxable supply of services namely commercial training and coaching services is eligible to avail the credit of GST paid on outdoor catering service.

Sol. GST paid on outdoor catering is not allowed as ITC even though such services are used for business purposes. Such credit is blocked as per provisions of Section 17(5) of the CGST Act, 2017.

13. Course completion certificate/training offered M/s Sky Ltd. (Flying Training Institute) purchased aircraft for ₹ 22 crores plus GST 28%. Whether the flying institute is eligible for input tax credit on purchase of aircraft.

Sol. Yes. M/s Sky Ltd. (Flying Training Institute) is eligible to avail ITC.

14. Sky Ltd. is engaged in the supply of service of transport of passengers by air. The company avails outdoor catering services of M/s Anna Caterers in order to provide food and beverages to the passengers. M/s Anna Caterers raises an invoice on Sky Ltd charging GST. Sky Ltd. wants to avail the ITC on outdoor catering services supplied by M/s Anna Caterers. Advice.

Sol. ITC shall be available where an inward supply of goods or services or both of a particular category is used by a registered person as an element of a taxable composite or mixed supply.

Advise: In the given case, Sky Ltd will be entitled to avail the ITC of the GST paid to M/s Anna Caterers since outdoor catering services forms part of taxable composite supply of passengers by air services.

15. M/s MRFL Ltd. being a manufacturer of taxable goods paid a general insurance premium to cover loss of stock of finished goods. Company wants to avail the GST paid on such a premium as input tax credit. Advice.

Sol. GST paid on general insurance premium to cover loss of stock of finished goods is well allowed as input tax credit. Hence, M/s MRFL Ltd. is eligible to avail the tax paid on general insurance premium as ITC.

16. Mr. D, a director of company PQR Ltd. obtains a membership of a club located in Maharashtra. Mr. D is there for the business promotion activity of his company. PQR Ltd. pays 10,00,000/annum to such a club for the membership of Mr. D in such a club. Whether PQR Ltd. will be eligible for the input tax credit of GST paid on membership fees?

Sol. The input tax credit of the same will not be eligible to PQR Ltd. in terms of Section 17(5) of the CGST Act.

17. M/s A Ltd. being a manufacturer of laptops registered under GST. M/s A Ltd. appointed M/s B Ltd. for construction of factory building in the factory premises. Contract price is ₹120 lacs plus GST 18%. M/s B Ltd., supplied cement, steel and labour while executing the contract. Whether M/s A Ltd is eligible to avail the input tax credit on such works contract service.

Sol. GST paid on works contract services which are used for land, building or any other civil structures specifically excluded from availing input tax credit under section 17(5) read with explanation of the CGST Act, 2017. Therefore, in the given case M/s A Ltd. is not eligible for input tax credit.

18. M/s Bharti Airtel Limited purchased antennas, towers and parts thereof by paying GST. Company also received works contract service from M/s B Ltd. for its installation by paying GST thereon. Finally towers and parts thereof are fastened and are fixed to the earth and after their erection become Immovable. Find the eligibility of input tax credit to M/s Bharti Airtel Limited.

Sol. GST Paid on works contract service ITC not allowed GST paid on Antenna allowed as ITC GST paid on purchase of towers and parts of towers not allowed as ITC (since not plant & machinery).

19. M/s. X Ltd. supplied taxable goods from the factory after manufacture in the month of Oct 20XX for sale to a distributor for ₹8,00,000. M/s X Ltd has suppressed this transaction. However, he deposited the GST @12% on these goods on 10-1-20X1 against show cause notice issued under Section 74 (when there is fraud) of the CGST Act, 2017 by the Central Tax Officer and passed the order accordingly. Whether distributor namely recipient of these goods is eligible to take input tax credit.

Sol. As per Sec 17(5) of the CGST Act 2017*, No credit on payment of tax due to fraud, willful-misstatement or suppression of fact etc. shall be allowed.

In the given case no input tax credit was available to registered persons if the supplier has paid tax in pursuance of order where any demand has been confirmed on account of any fraud, willful-misstatement or suppression of facts and so on under Sec. 74 of the CGST Act, 2017.

Hence, input tax credit is not allowed to the recipient of these goods (i.e. distributor in the given case).

20. With reference to the provisions of section 17 of the CGST Act, 2017, examine the availability of input tax credit under the CGST Act, 2017 in the following independent cases: -

(*i*) MBF Ltd., an automobile company, has availed works contract service for construction of a foundation on which a machinery (to be used in the production process) is to be mounted permanently.

(*ii*) Shah & Constructions procured cement, paint, iron rods and services of architects and interior designers for construction of a commercial complex for one of its clients.

(*iii*) ABC Ltd. availed maintenance & repair services from "Jaggi Motors" for a truck used for transporting its finished goods.

Sol. (*i*) Section 17(5)(c) of the CGST Act, 2017 blocks input tax credit in respect of works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service. Further, the term "plant and machinery" means apparatus, equipment and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods and/or services and includes such foundation or structural support but excludes land, building or other civil structures, telecommunication towers, and pipelines laid outside the factory premises.

Thus, in view of the above-mentioned provisions, ITC is available in respect of works contract service availed by MBF Ltd. as the same is used for construction of plant and machinery which is not blocked under section 17(5)(c) of the CGST Act, 2017.

(*ii*) Section 17(5)(d) of the CGST Act, 2017 blocks ITC on goods and/or services received by a taxable person for construction of an immovable property (other than plant and machinery) on his own account even though such goods and/or services are used in the course or furtherance of business. Thus, ITC on goods and/or services used in the construction of an immovable property is blocked only in those cases where the taxable person constructs the immovable property for his own use even if the immovable property being constructed is used in the course or furtherance of his business.

In the given case, the taxable person has used the goods and services for construction of immovable property for some other person and not on its own account. Hence, ITC in this case will be allowed.

(*iii*) As per section 17(5) of the CGST Act, 2017, ITC is allowed on repair and maintenance services relating to motor vehicles, which are eligible for input tax credit. Further, as per section 17(5)(a) ITC is allowed on motor vehicles which are used for transportation of goods.

Thus, ITC on maintenance & repair services availed from "Jaggi Motors" for a truck used for transporting its finished goods is allowed to ABC Ltd.

21. Advise regarding availability of input tax credit (ITC) under the CGST Act, 2017 in the following independent cases:

(*i*) AMT Co. Ltd. purchased a mini bus having seating capacity of 16 persons for transportation of its employees from their residence to office and back.

(*ii*) Bangur Ceramics Ltd., a manufacturing company purchased two trucks for transportation of its finished goods from the factory to dealers located in various locations within the country.

(*iii*) "Hans premium" dealing in luxury cars in Chankyapuri, Delhi purchased five Skoda VRS cars for sale to customers.

(*iv*) Sun & Moon Packers Pvt. Ltd. availed outdoor catering service to run a canteen in its factory. The Factories Act, 1948 requires the company to set up a canteen in its factory.

Sol. Section 17(5) of the CGST Act, 2017, inter alia, blocks input tax credit in respect of motor vehicles for transportation of persons having approved seating capacity of not more than 13 persons (including the driver), except when they are used for certain specified purposes.

Since in the given case, the mini bus has a seating capacity of 16 persons, the ITC thereon will not be blocked.

(*i*) Section 17(5) of the CGST Act, 2017, inter alia, blocks input tax credit in respect of motor vehicles for transportation of persons with certain exceptions. Thus, ITC on motor vehicles for transportation of goods is allowed unconditionally.

Therefore, ITC on trucks purchased by Bangur Ceramics Ltd for transportation of its finished goods from the factory to dealers located in various locations within the country is allowed.

(*ii*) Section 17(5) of the CGST Act, 2017, inter alia, blocks input tax credit in respect of motor vehicles for transportation of persons having approved seating capacity of not more than 13 persons (including the driver), except when they are used for making further supply of such motor vehicles.

Being a dealer of cars, "Hans Premium" has purchased the cars for further supply. Therefore, ITC on such cars is allowed even though seating capacity is less than 13.

(*iii*) Section 17(5) of the CGST Act, 2017 inter alia, blocks input tax credit in respect of outdoor catering services. However, ITC is available on such services, when the same are provided by an employer to its employees under a statutory obligation.

(*iv*) Thus, in view of the above- mentioned provisions, Sun & Moon packers Pvt. Ltd. can avail ITC in respect of outdoor catering services availed by it as the same is being provided under a statutory obligation.

22. What is the ITC entitlement of a newly registered person?

Sol. A person applying for registration can take input tax credit of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of grant of registration. If the person was liable to take registration and he has applied for registration within thirty days from the date on which he became liable to registration, then ITC of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date on which he became liable to pay tax can be taken.

23. M/s X Ltd. becomes liable to pay tax on 1st December and has obtained registration on 15th December. The GST paid goods lying in the premises of M/s X Ltd. as on 30th November are as follows:

Particulars	Value in ₹ (Excluding tax)	GST (₹)
Raw material	2,00,000	36,000
Capital goods	5,00,000	1,40,000
Raw material lying work in progress	3,00,000	54,000
Raw material lying in Finished Goods	12,00,000	2,16,000

You are required to Solution the following:

(*a*) Eligible amount of input tax credit.

(*b*) Time limit to submit declaration on common portal.

(*c*) Whether any certification required while availing the credit, if so from whom.

Sol. (*a*) Eligible input tax credit is ₹3,06,000/- (36000 + 54000 + 216000)

(*b*) Declaration in Form GST ITC-01 on or before 14th January should be submitted on common portal of GSTN

(*c*) Declaration regarding inputs tax credit shall be duly certified by a practicing Chartered Accountant or a Cost Accountant if the aggregate value of the claim on account of central tax, State tax, Union territory tax and integrated tax exceeds ₹2,00,000.

In the given case, the input tax credit declared is ₹3,06,000. Therefore, a certificate from a practising Chartered Accountant or a Cost Accountant is required.

Note: M/s X Ltd. cannot take ITC on capital goods.

Section 18(1)(b)

24. Mr. A applied for voluntary registration on 22nd November and obtained registration on 25th November. Mr. A has stock on the following two dates:

Date	Opening Balance (units)	Purchased (units)	Sold (units)
21st November	12,000	20,000	8,000

On 24th November, Mr. A purchased 5,000 units and sold 15,000 units.

On 24th November, Mr. A also purchased plant and machinery for ₹2,00,000 plus GST 28%. Mr. A purchased goods at uniform rate throughout the year at ₹100 per unit plus GST paid 18%. You are required to find the eligible input tax credit to Mr. A.

Sol. Stock as on 24th November = 14,000 units

Value of stock = ₹14,00,000 (i.e. 14,000 units × ₹100 per unit). Input tax credit eligible is ₹2,52,000/-.

Note: ITC on capital goods not allowed.

Section 18(1)(c)

25. Mr. C, a registered taxable person, was paying tax at composition scheme upto 30th July. However, w.e.f. 31st July, Mr. C becomes liable to pay tax under the regular scheme. Other information:

(*a*) Input as on 30th July for ₹3,54,000 (inclusive of GST paid @18%).

(*b*) Capital goods purchased for ₹5,00,000 (invoice date 22nd April 2017, GST 18%). Find the eligible ITC to Mr. C.

Note: Mr. C did not avail depreciation on the GST paid on capital goods.

Sol. ITC allowed on inputs = ₹54,000

- ITC allowed on capital goods = [90,000 (–) 5% for two quarters/part] = 81,000
- Thus, total ITC allowed to Mr. C as on 31st July = ₹1,35,000

26. Mr. A, a registered person, was paying tax under the Composition Scheme up to 30th July. However, w.e.f. 31st July, Mr. A becomes liable to pay tax under the regular scheme. Is he eligible for ITC?

Sol. Mr. A is eligible for ITC on inputs held in stock and inputs contained in semi-finished or finished goods held in stock and capital goods as on 30th July. ITC on capital goods will be reduced by 5% per quarter or part thereof from the date of invoice [Section 18(1)(c)].

Section 18(6)

27. What is the tax implication of supply of capital goods by a registered person who had taken ITC on such capital goods?

Sol. In case of supply of capital goods or plant and machinery on which ITC has been taken, the registered person shall pay an amount equal to the ITC taken on the said capital goods or plant & machinery reduced by 5% per quarter or part thereof from the date of invoice or the tax on the transaction value of such capital goods, whichever is higher.

However, in case of refractory bricks, moulds and dies, jigs and fixtures when these are supplied as scrap, the person can pay tax on the transaction value.

28. Granites Textiles Ltd. purchased a needle detecting machine on 8th July, 2017 from Makhija Engineering Works Ltd. for ₹10,00,000 (excluding GST) paying GST @ 18% on the same. It availed the ITC of the GST paid on the machine and started using it for manufacture of goods. The machine was sold on 22nd October, 2018 for ₹7,50,000 (excluding GST), as a second hand machine to LT. Pvt. Ltd. The GST rate on the supply of machine is 18%.

State the action which Granites Textiles Ltd. is required to take, if any, in accordance with the statutory GST provisions on the sale of the second-hand machine.

Sol. Section 18 of the CGST Act, 2017 read with the CGST Rules, 2017 provides that if capital goods or plant and machinery on which input tax credit has been taken are supplied outward by the registered person, he must pay an amount that is the higher of the following:

(*a*) input tax credit taken on such goods reduced by 5% per quarter of a year or part thereof from the date of issue of invoice for such goods (i.e., input tax credit pertaining to remaining useful life of the capital goods), or

(*b*) tax on transaction value.

Accordingly, the amount payable on supply of needle detecting machine shall be computed as follows:

Particulars	₹	₹
Input tax credit taken on the machine (₹10,00,000 × 18%)		1,80,000
Less: Input tax credit to be reversed @ 5% per quarter for the period of use of machine	27,000 27,000	
(*i*) For the year 2017-18 = (₹1,80,000 × 5%) × 3 quarters		
(*ii*) For the year 2018-19 = (₹1,80,000 × 5%) × 3 quarters		54,000
Amount required to be paid (A)		1,26,000
Duty leviable on transaction value (₹7,50,000 × 18%) (B)		1,35,000
Amount payable towards disposal of machine is higher of (A) and (B)		1,35,000

29. M/s A Ltd. sold plant and machinery after being used in the manufacture of taxable goods for ₹4,00,000 on 1st November 20X1. GST is payable on transaction value of plant and machinery 18%. M/s A Ltd. had purchased this machine vide invoice dated 22nd November 20X0 for ₹5,50,000/- plus GST 18%.

M/s A Ltd. availed the credit on said plant and machinery. Find the amount payable by M/s A Ltd. under section 18(6) of the CGST Act, 2017.

Sol.

Particulars	Amount
ITC taken on capital goods (5,50,000 × 18%)	99,000
Less: 25% reduction (5 quarters) – 5 × 5% = 25%	(24,750)
Balance ITC	74,250
Tax on Transaction value (4,00,000 × 18%)	72,000

Note: M/s A Ltd. shall pay amount equal to the input tax credit taken on the said capital goods reduced by 5% per quarter or part thereof from the date of the issue of the invoice for such goods or the tax on the transaction value of such capital goods u/s 15 of the CGST Act, 2017 whichever is higher.

Therefore, M/s A Ltd. is liable to pay an amount of ₹74,250.

Restrictions on utilization of ITC

30. Who can impose restrictions on utilisation of input tax credit (ITC) available in the electronic credit ledger and under what circumstances can restrictions be imposed under the CGST Rules 2017?

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

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

(*i*) ITC has been availed on the basis of tax invoices/valid documents -

- issued by a non-existent supplier or by a person not conducting any business from the registered place of business; or
- without receipt of goods and/or services; or
- the tax in relation to which has not been paid to the Government.

(*ii*) Registered person availing ITC has been found non-existent or not to be conducting any business from the registered place of business; or

(*iii*) Registered person availing ITC is not in possession of a tax invoice/valid document.

31. A registered person must pay to the supplier, the value of the goods and/or services along with the tax within 180 days from the date of issue of invoice. State the exceptions to said rule **[MTP May 23]**

Sol. The condition of payment of value of supply plus tax within 180 days does not apply in the following situations:

(a) Supplies on which tax is payable under reverse charge

(b) Deemed supplies without consideration

(c) Additions made to the value of supplies on account of supplier's liability, in relation to such supplies, being incurred by the recipient of the supply.

32. Restrictions have been imposed on the use of amount available in the electronic credit ledger vide rule 86B of the CGST Rules, 2017. Is there any exceptions to rule 86B? If yes, state the exceptions. **[RTP May 22]**

Sol. Restrictions have been imposed on the use of amount available in electronic credit ledger vide rule 86B of the CGST Rules, 2017. Yes, there are exceptions to rule 86B. The exceptions to rule 86B are as under:-

(i) Payment of Income Tax more than 1 lakh

Rule 86B may not apply in cases whereby person mentioned below have deposited sum of more than 1 lakh as income tax under the Income-tax Act, 1961 in each of the last 2 financial years for which the time limit to file return of income under section 139(1) of the said Act has expired

1. The registered person or
2. The karta/proprietor/the managing director of the registered person;
3. Any of the two partners, whole-time directors, members of Managing Committee of Associations or Board of Trustees of the registered person, as the case may be.

(ii) Receipt of refund of input tax credit of more than 1 lakh

Rule 86B may not apply whereby registered person has received a refund amount of more than lakh on account of unutilized input tax credit under the following:

1. zero-rated supplies made without payment of tax
2. Inverted duty structure

It is pertinent to note that refund should have been received in the preceding financial year.

(iii) Payment of total output tax liability through electronic cash ledger in excess of 1% of total output tax liability

If the registered person has paid more than 1% of total output tax liability using electronic cash ledger upto the said month in the current financial year, the restrictions as specified in Rule 86B shall not apply.

It is pertinent to note that GST liability paid under reverse charge mechanism should not be taken into account while calculating the total output liability paid through electronic cash ledger.

(iv) Specified registered person:

Rule 86B would not be applicable in case of below-mentioned registered person:

1. Government Department; or
2. a public sector undertaking; or
3. a local authority; or a statutory body.

However, Commissioner or an officer authorised by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit.

Time limit to Avail ITC and Reversal

33. M/s X Ltd. delivered a machine to M/s Y Ltd. in January 2023 under Invoice No. 180 dated 21st January for ₹5,00,000 plus GST, and undertook trial runs and calibration of the same machine as per the requirements of M/s Y Ltd. The amount chargeable for the past delivery activities were covered in a debit note raised in May 2023 for ₹1,25,000 plus GST. M/s Y Ltd did not file its annual return till November 2023. Find the time limit u/s 16(4) of the CGST Act, 2017 within which input tax credit can be availed by M/s Y Ltd.

Sol. Time limit for availing ITC: 30th November of succeeding financial year or date of filing of annual return, whichever is earlier.

Therefore, Time limit to avail the ITC on machine (vide Invoice No. 180 dt. 21.01.2023) is 30th November 2023. Time limit to avail the ITC on debit note shall be 30th November 2024.

34. Briefly explain the provisions relating to reversal of input tax credit in case of non-payment of tax by the supplier and re-availment thereof? **[PYQ Nov 23]**

Sol. Where a registered person (recipient) avails ITC in GSTR-3B for a tax period in respect of an invoice/debit note details of which have been furnished by supplier in GSTR-1/using IFF, but supplier does not furnish his return till 30th September following the end of FY in which the ITC in respect of invoice/debit note has been availed, then the amount of ITC shall be reversed by recipient, while furnishing a return in Form GSTR-3B on or before 30th November following the end of such FY during which such ITC has been availed.

However, where the said amount of ITC is not so reversed by recipient, such amount shall be payable by the said person along with interest.

Further, where the said supplier subsequently furnishes the return in Form GSTR-3B for the said tax period, the said registered person may re-avail the amount of such credit in the return in Form GSTR-3B for a tax period thereafter.

Section 16(2)

35. M/s A Ltd. of Aluva (Kerala) receives the input service from M/s B Ltd. of Bengaluru who raises the invoice for supply of service on 17th Dec 2018 and availed the credit on the same date.

Find the time limit within which M/s A Ltd. is required to pay the bill amount inclusive of tax to the supplier of service.

Also explain consequences if payment is not made within the stipulated time period as mentioned in 2nd proviso to section 16(2) of the CGST Act, 2017.

Sol. In the given case M/s A Ltd. must pay to M/s B Ltd. the value of services and GST payable thereon by 15th June 2019.

From	To	No. of Days
18th Dec 2018	15th June 2019	180

In case M/s A Ltd. does not pay by 15th June 2019, the credit availed by it will be added to his output liability. The amount will be added to their output tax liability with interest.

36. M/s X Ltd. has an establishment in Chennai, and an establishment in Hyderabad. Supply of goods (open market value of ₹5,00,000) made by M/s X Ltd. Chennai to M/s X Ltd. Hyderabad. M/s X Ltd. Chennai paid IGST of ₹60,000. Accordingly, M/s X Ltd. Hyderabad availed the input tax credit of ₹60,000. 2nd Proviso to Section 16(2) of CGST Act, 2017 is applicable in the given case (i.e. to reverse the credit where payment is not made within 180 days from the date of invoice). Advise.

Sol. As per proviso to Rule 37(1) of the CGST Rules, 2017, the value of supplies made without consideration as specified in Schedule I of the said Act shall be deemed to have been paid for the purposes of the second proviso to section 16(2).

In the given case M/s X Ltd. Hyderabad is not required to reverse the input tax credit. Since, as per Section 25(5) of the CGST Act, 2017 two establishments are considered as establishments of distinct persons and accordingly, supply made by one establishment to another establishment will be covered under Schedule I without consideration.

Calculation of Eligible ITC & Tax Payable

37. ABC Co. Ltd. is engaged in the manufacture of heavy machinery. It procured the following items during the month of July.

Determine the amount of ITC available with ABC Co. Ltd., for the month of July by giving necessary explanations for treatment of various items.

Note:

(*i*) All the conditions necessary for availing the ITC have been fulfilled.

(*ii*) ABC Co. Ltd. is not eligible for any threshold exemption.

Sol.

S. No.	Items	ITC
(*i*)	Electrical transformers	5,20,000
(*ii*)	Trucks used for the transport of raw material	1,00,000
(*iii*)	Raw material	2,00,000
(*iv*)	Confectionery items for consumption of employees working in the factory	4,00,000

38. XYZ Ltd., is engaged in manufacture of taxable goods. Compute the ITC available with XYZ Ltd. for the month of October, 2023 from the following particulars:

S. No.	Inward Supplies	GST	Remarks
(*i*)	Inputs 'A'	1,00,000	One invoice on which GST payable was ₹10,000 is missing
(*ii*)	Inputs 'B'	50,000	Inputs are to be received in two instalments. First instalment has been received in October, 2018.
(*iii*)	Capital Goods	1,20,000	XYZ Ltd. has capitalised the capital goods at full invoice value inclusive of GST as it will avail depreciation on the full invoice value.
(*iv*)	Input Services	2,25,000	One invoice dated 20.01.2023 on which GST payable was ₹50,000 has been received in October, 2023.

Note:

(*i*) All the conditions necessary for availing the ITC have been fulfilled.

(*ii*) ABC Co. Ltd. is not eligible for any threshold exemption.

(*iii*) The annual return for the financial year 2022-23 was filed on 15.09.2023.

Sol.

Inward Supplies	ITC
Inputs 'A' [ITC cannot be taken on a missing invoice. The registered person should have the invoice in its possession to claim ITC-Section 16(2)(*a*)]	90,000
Inputs 'B' [When inputs are received in instalments, ITC can be availed only on receipt of last instalment-First proviso to section 16(2)]	Nil

Inward Supplies	ITC
Capital goods [Input tax paid on capital goods cannot be availed as ITC, if depreciation has been claimed on such tax component – Section 16(3)]	Nil
Input services [As per section 16(4), ITC on an invoice cannot be availed after 30th November of next financial year to which such invoice pertains or the date of filing annual return, whichever is earlier. Since the annual return for the FY 2022-23 has been filed on 15th September, 2023, ITC on the invoice pertaining to FY 2022-23 cannot be availed after 15th September, 2023.	1,75,000
Total	2,65,000

39. Shipra Traders is a registered supplier of goods in Assam. It purchased goods valued at ₹10,000 from Kartik Suppliers located within the same State. Kartik Suppliers charged CGST & SGST separately in its invoice. Subsequently, Shipra Traders sold goods valuing ₹9,500 to Rabina Manufacturers located in Assam. 20% of the inputs purchased are still lying in stock and there was no opening stock of goods. Rate of CGST and SGST on supply and purchase of goods is 9% each. Calculate the net GST payable by Shipra Traders and input tax credit (ITC) to be carried forward, if any.

Sol. **Computation of net GST payable by Shipra Traders**

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)
GST payable on intra-State supply of goods [Being an intra-State supply, CGST and CGST is payable on the same]	855 [9,500 × 9%]	855 [9,500 × 9%]
Less: ITC on intra-State purchase of goods	900	900
[ITC of CGST and SGST paid on intra-State purchase is available in full, even if some inputs are lying in stock]	[10,000 × 9%]	[10,000 × 9%]
Net GST payable	Nil	Nil
Input tax credit carried forward in Electronic Credit Ledger	45	45

40. Cloud Seven Private Limited, a registered supplier, is engaged in the manufacture of taxable goods. The company provides the following information pertaining to GST paid on the purchases made/ input services availed by it during February 20XX:,

S. No.	Particulars	GST Paid (₹)
(*i*)	Trucks used for the transport of raw material	1,20,000
(*ii*)	Foods & beverages for consumption of employees in the factory	40,000
(*iii*)	Inputs are to be received in five lots, out of which third lot was received during the month	80,000

S. No.	Particulars	GST Paid (₹)
(*iv*)	Membership of a club availed for employees working in the factory	1,50,000
(*v*)	Capital goods (out of five items, invoice for one item was missing and GST paid on that item was ₹50,000)	4,00,000
(*vi*)	Raw material (to be received in March, 20XX)	1,50,000

Determine the amount of input tax credit available with Cloud Seven Private Limited for the month of February, 20XX by giving necessary explanations for treatment of various items. All the conditions necessary for availing the input tax credit have been fulfilled.

Sol.

Particulars	GST Paid (₹)
Trucks used for the transport of raw material [Note-1]	1,20,000
Foods & beverages for consumption of employees in the factory [Note-2] Inputs are to be received in five lots, out of which third lot was received during the month [Note-3]	Nil Nil
Membership of a club availed for employees working in the factory [Note-4] Capital goods (out of five items, invoice for one item was missing and GST paid on that item was ₹50,000) [Note-5]	Nil 3,50,000
Raw material to be received in March, 20XX [Note-6]	Nil
Total ITC	4,70,000

Notes:

(1) ITC on motor vehicles is disallowed in terms of section 17(5) of the CGST Act, 2017, except when they are used inter alia, for transportation of goods.

(2) ITC on food or beverages is specifically disallowed unless the same is used for making outward taxable supply of the same category or as an element of the taxable composite or mixed supply- [Section 17(5)].

(3) When inputs are received in instalments, ITC can be availed only on receipt of the last instalment- [Section 16(2)].

(4) Membership of a club is specifically disallowed under section 17(5) of the CGST Act, 2017.

(5) ITC cannot be taken on a missing invoice. The registered person should have the invoice in its possession to claim ITC [Section 16(2) of CGST Act, 2017].

(6) Input tax credit is available only upon the receipt of goods in terms of section 16(2) of CGST Act, 2017.

41. Le Marc Ltd. of Nashik, Maharashtra, a registered supplier, is engaged in manufacturing taxable goods provides the following details of items purchased and services availed by it from Gujarat, for the month of March, 20XX:

Calculate the amount of eligible input tax credit for the month of March, 20XX.

Sol.

Computation of eligible input tax credit

Particulars	Eligible **ITC (₹)**
Motor vehicle purchased for employees to be used for personal as well as business purposes	2,50,000
Motor vehicle purchased for transportation of goods within the factory	2,00,000
Food items for consumption of employees	50,000
Rent-a-cab facility given to employees	36,000

Notes:

As per section 17(5) of the CGST Act, 2017:

(1) ITC on motor vehicles and other conveyances is blocked except when they are used—

(*i*) for making the following taxable supplies, namely:—

(A) further supply of such vehicles or conveyances; or

(B) transportation of passengers; or

(C) imparting training on driving, flying, navigating such vehicles or conveyances;

(*ii*) for transportation of goods.

Thus, in the given case, ITC on motor vehicle purchased for transportation of goods within the factory will only be allowed

(2) ITC in respect of food and beverages is blocked unless the same is used for making outward taxable supply of the same category or as an element of the taxable composite or mixed supply. Thus, in the given case, ITC of taxes paid on food for employees is not allowed.

(3) ITC on supply of rent-a cab services is not blocked where the Government notifies the services which are obligatory for an employer to provide such service to its employees. Thus, ITC is available on said service.

42. Ramoplast Soap Factory, a registered supplier, is engaged in manufacturing beauty soaps – 'Forever Glow' in Mumbai. It has provided the following information pertaining to purchases made/services availed in the month of January, 20XX:

Particulars	**GST Paid (₹)**
Soap making machine	50,000
Motor vehicles for transportation of inputs	70,000
Membership of 'Fit and Fine' health and fitness centre for its employees	25,000
Inputs purchased, but stolen from the factory	40,000

You are required to compute the input tax credit (ITC) available with Ramoplast Soap Factory for the month of January, 20XX assuming that all the other conditions for availing ITC, wherever applicable, have been fulfilled.

Sol.

Computation of ITC available with Ramoplast Soap Factory

Particulars	GST Paid (₹)
Soap making machine [ITC in respect of goods used in course/furtherance of business is available in terms of section 16 of the CGST Act]	50,000
Motor vehicles for transportation of inputs [ITC in respect of motor vehicles and conveyances is blocked, except when used, inter alia, for transportation of goods, in terms of section 17 (5) of the CGST Act]	70,000
Membership of 'Fit and Fine' health and fitness centre for its employees [ITC in respect of membership of a club, health and fitness centre is blocked in terms of section 17(5) of the CGST Act]	Nil
Inputs stolen from the factory [ITC in respect of goods stolen is blocked in terms of section 17 (5) of the CGST Act]	Nil
Total ITC available	1,20,000

43. Fun Pharma Private Limited, a registered supplier is engaged in the manufacture of taxable goods. The company provides the following information of GST paid on the purchases made/ input services availed by it during the month of September 2017:

S. No.	Particulars	GST Paid (₹)
(*i*)	Purchase of cabs used for the transportation of its employees	3,30,000
(*ii*)	Inputs consisting of three lots, out of which first lot was received during the month	1,25,000
(*iii*)	Capital Goods (out of three items, invoice for one item was missing and GST paid on that item was ₹25,000)	2,50,000
(*iv*)	Outdoor catering service availed on Women's day	72,000

Determine the amount of input tax credit available with M/s Fun Pharma Private Limited for the month of September, 2017 by giving necessary explanations for treatment of various items. All the conditions necessary for availing the input tax credit have been fulfilled.

Sol. Computation of input tax credit (ITC) available with Fun Pharma Private Limited for the month of September, 2017

Particulars	(₹)
Purchase of cabs used for the transportation of its employees [Note-1]	Nil
Inputs consisting of three lots, out of which first lot was received during the month [Note-2]	Nil
Capital goods [Note-3]	2,25,000
Outdoor catering service availed on Women's day [Note-4]	Nil
Total ITC	2,25,000

Notes:

1. Section 17 of CGST Act, 2017 provides that ITC on motor vehicles can be availed, inter alia, when they are used for making the taxable supply of transportation of passengers i.e., if the taxable person is in the business of transport of passengers. In the given case, since the supplier is a manufacturer, it cannot avail credit on cabs used for transportation of its employees.
2. When inputs are received in instalments, ITC can be availed only on receipt of the last instalment in terms of section 16 of CGST Act, 2017.
3. ITC cannot be taken on a missing invoice. The registered person should have the invoice in its possession to claim ITC vide section 16 of CGST Act, 2017.
4. ITC on outdoor catering is specifically disallowed unless the same is used for making outward taxable supply of the same category or as an element of the taxable composite or mixed supply in terms of section 17 of CGST Act, 2017.

44. M/s A Ltd. a registered person under GST law and purchased 10 cars for ₹45 lakhs plus 28% GST. M/s A Ltd sold 8 cars for ₹55 Lakh plus 28% GST.

Find the GST liability in the following two independent cases: M/s A Ltd is a dealer of motor vehicles

M/s A Ltd is not a dealer of motor vehicles

Sol. Statement showing net GST liability of M/s A Ltd.

Particulars	M/s A Ltd. is a dealer in motor vehicles (₹ In lacs)	M/s A Ltd. is not a dealer in motor vehicles (₹ In lacs)	Remarks
GST on Supply of goods	15.40	15.40	₹55 lacs × 28%
Less: ITC	(12.60)	Not allowed	₹45 lacs × 28%
Net GST liability	2.80	15.40	

45. M/s Maruti Driving School Pvt. Ltd. supplied taxable services in the month of October 20XX for ₹15 lacs (plus GST 18%) to provide training on driving. Company purchased two vehicles for this purpose namely passenger vehicle for ₹20 lacs plus GST 28% and goods vehicle for ₹33 lacs plus GST 28%. Find the net GST liability of M/s Maruti Driving School Pvt. Ltd.

Sol. Computation of Net GST Liability:

Particulars	Amount (₹)
GST on output supply	2,70,000
Less: ITC	
On passenger vehicle	5,60,000
On goods vehicle	9,24,000
Net Excess ITC c/f	12,14,000

46. Annapoorna caterings supply outdoor catering services to its customers by sub-contracting the same. Sub- contractor supplied food items like ice creams, North Indian Meals, South Indian Meals and so on to Annapoorna caterings. Sub-contractor raised an invoice on Annapoorna caterings for supply of outdoor catering services ₹2,00,000 plus GST 18%. Annapoorna Caterings supplied

outdoor catering to its customers for ₹2,10,000 plus GST 18%. Find the Net GST liability of Annapoorna caterings.

Sol. Statement showing net GST liability of Annapoorna caterings:

Particulars	GST (₹)	Remarks
GST on outward supply	37,800	₹2,10,000 × 18%
Less: ITC from similar line of business	(36,000)	₹2,00,000 × 18%
Net GST liability	1,800	

47. Hotel King Pvt Ltd. provider of short-term accommodation services and also provides picking up guests from the airport. Accordingly, Hotel King Pvt. Ltd availed rent-a-cab services from M/s X & Co. Rent-a-cab services provided by M/s X & Co to Hotel King Pvt Ltd. during Nov 20XX for ₹2,00,000 plus GST 18%. Hotel King Pvt Ltd. provided short-term accommodation services to its customers (i.e. guests) during Nov 20XX for ₹15,75,250 plus GST 18%. Find the Net GST liability of Hotel King Pvt Ltd. during the month of Nov 20XX.

Sol. Statement showing Net GST liability of Hotel King Pvt. Ltd for the month of Nov 20XX

Particulars	GST (₹)	Remarks
GST on outward supplies	2,83,545	15,75,250 × 18%
Less: ITC on rent-a-cab service	(36,000)	2,00,000 × 18%
Net GST liability	2,47,545	

Note: In the given case Hotel King Pvt. Ltd. is providing a composite supply of rent-a-cab and accommodation service. The principal supply of service is accommodation service. Hence, GST paid on rent-a-cab will be available as a credit to Hotel King Pvt. Ltd.

48. Ramesh a taxpayer receives 100 invoices (for inward supply of goods/services) involving ITC of ₹10 lakhs, from various suppliers during the month of Nov, 2019 and has to claim ITC in his FORM GSTR-3B of November, to be filed by 20th Dec, 2019. Suppliers have furnished in FORM GSTR-1, 80 invoices involving ITC of ₹6 lakhs as on the due date of furnishing of the details of outward supplies by the suppliers.

Sol.

Particulars	Amount (₹)
Eligible ITC as per details uploaded by the supplier	6,00,000
Total Credit can be availed in 3B	6,00,000

49. A Ltd. procured the following goods in the month of December, 2020.

Inward Supplies	GST (₹)
(1) Goods used in constructing an additional floor of office building	18,450
(2) Goods given as free sample to prospective customers	15,000
(3) Trucks used for transportation of inputs in the factory	11,000
(4) Inputs used in trial runs	9,850

Inward Supplies	GST (₹)
(5) Confectionery items for consumption of employees working in the factory	3,250
(6) Cement used for making foundation and structural support to plant and machinery	8,050

Compute the amount of ITC available with A Ltd. for the month of December 2020 by giving necessary explanations. Assume that all the other conditions necessary for availing ITC have been fulfilled.

Sol. Computation of amount of ITC available for the month of December 2020

S. No.	Particulars	GST (₹)
(1)	Goods used in construction of additional floor of office building [ITC on goods received by a taxable person for construction of an immovable property on his own account is blocked even if the same is used in the course or furtherance of business. It has been assumed that the cost of construction of an additional floor has been capitalised.]	Nil
(2)	Goods given as free samples to prospective customers [ITC on goods disposed of by way of free samples is blocked.]	Nil
(3)	Trucks used for transportation of inputs in the factory [ITC on motor vehicles used for transportation of goods is not blocked[3].]	11,000
(4)	Inputs used in trial runs [Being used in trial runs, inputs are used in the course or furtherance of business and hence ITC thereon is allowed.]	9,850
(5)	Confectionary items for consumption of employees working in the factory [ITC on food or beverages is blocked unless the same is used in the same line of business or as an element of the taxable composite or mixed supply. Further, ITC on goods and/or service used for personal consumption is blocked.]	Nil
(6)	Cement used for making foundation and structural support to plant and machinery [ITC on goods used for construction of plants and machinery is not blocked. Plant and machinery includes foundation and structural supports through which the same is fixed to earth.]	8,050
	Total eligible ITC	28,900

50. Rimjhim Sales, a registered supplier, receives 100 invoices (for inward supply of goods/services) involving GST of 10 lakh, from various suppliers during the month of January, 2022. Out of 100 invoices, details of 80 invoices involving GST of 6 lakh have been furnished by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor and such details have also been duly communicated to the recipients of such invoices in Form GSTR-2B.

Compute the ITC that can be claimed by Rimjhim Sales in its GSTR-3B for the month of January, 2022 to be filed by 20th February assuming that GST of 10 lakh is otherwise eligible for ITC.

[RTP Nov 22]

Sol. ITC to be claimed by Rimjhim Sales in its GSTR-3B for the month of January to be filed by 20th February will be computed as under-

Invoices	Amount of ITC involved in the invoices	Amount of ITC that can be availed
80 invoices furnished in GSTR-1	6 lakh	6 lakh [Refer Note1]
20 invoices not furnished in GSTR-1	4 lakh	Nil [Refer Note 2]
Total	10 lakh	6 lakh

Notes:

1. 100% ITC can be availed on invoices furnished by the suppliers in their GSTR-1.
2. Input tax credit in respect of any supply of goods or services or both is available to a registered person only, inter alia, if the details of the invoice/debit note in respect of said supply has been furnished by the supplier in the statement of outward supplies (GSTR-1) and such details have been communicated to the recipient of such invoice/debit note in the manner specified under section 37. Thus, in respect of 20 invoices not furnished in GSTR-1s, no ITC is available.

CHAPTER 9

Registration

THEORY

Background

- Under GST law, a supplier is required to obtain State-wise registration. There is no concept of a centralized registration under GST like the erstwhile service tax regime.
- A supplier has to obtain registration in every State/UT from where he makes a taxable supply provided his aggregate turnover exceeds a specified threshold limit. Thus, he is not required to obtain registration from a State/UT from where he makes a non-taxable supply.
- Registration in GST is PAN based, once a supplier is liable to register, he has to obtain registration in each of the States/UTs in which he operates under the same PAN.
- Supplier is normally required to obtain single registration in a State/UT. However, where he has multiple places of business in a State/UT, he has the option either to get a single registration for said State/UT or to get separate registrations for each place of business in such State/UT.
- Registration under GST is not tax specific, which means that there is single registration for all the taxes i.e. CGST, SGST/UTGST, IGST and GST compensation cess.

SECTION 22 REGISTRATION UNDER

<table>
<tr><th>SUPPLIER</th><th colspan="2">Registration Requirement</th></tr>
<tr><td>Exclusive Supply of Service
Or
Supply of Notified Goods
Or
Supply Both Goods & Services</td><td colspan="2">Shall be liable to be registered in the State/Union Territory if his aggregate turnover in a financial year exceeds ₹20,00,000. However for following specified states, the threshold limit is ₹10,00,000.</td></tr>
<tr><td><u>Exclusive Supply of Goods Except Notified Goods.</u></td><td colspan="2">Registration shall be required if turnover has exceeded ₹40,00,000.</td></tr>
<tr><td rowspan="2"></td><td>Limit Shall Be ₹20,00,000 in Following States:</td><td>Limit Shall Be ₹10,00,000 in Following States:</td></tr>
<tr><td>❑ Arunachal Pradesh
❑ Telangana
❑ Uttrakhand
❑ Meghalya
❑ Puducherry
❑ Sikkim</td><td>❑ Manipur
❑ Mizoram
❑ Nagaland
❑ Tripura</td></tr>
</table>

Notified Goods: Ice-Cream and other edible ice, Pan Masala, Tobacco and manufactured tobacco substitutes. Fly ash bricks; fly ash aggregate, fly ash blocks; bricks of fossil meals; building bricks; earthen or roofing tiles

As per section 2(6), **"aggregate turnover"** (To be calculated on all India basis)

Particulars	Amount
Value of all taxable outward supplies (FCM/RCM)	xx
exempt supplies	xx
exports of goods or services or both	xx
inter-State supplies of persons having the same Permanent Account Number	xx
Total	xx

Exclusions

(*a*) central tax, State tax, Union territory tax, integrated tax and cess.

(*b*) value of inward supplies on which tax is payable by a person on reverse charge basis.

> Aggregate turnover shall include all supplies made by the taxable person whether on his own account or on behalf of all his principals.
>
> If a business is carried by a taxable person who is registered under this Act has transferred his business to any other person, the transferee shall obtain fresh registration from the date of transfer of business provided transferee is not a registered entity.

Registration required only for a place of business from where taxable supply takes place

A person is required to obtain registration with respect to his each place of business in India from where a taxable supply has taken place. However, a supplier is not liable to obtain registration in a State/UT from where he makes an exempt/non-taxable supply Further, the threshold limit of a person having places of business in more than one State/UT in India gets reduced to ₹10 lakh only when such person makes taxable supplies of goods or services or both from any of the Special Category States as per section 22.

However, in case he makes exempt/non-taxable supply from a Special Category State and taxable supplies from a State other than Special Category State, the threshold limit shall not be so reduced.

Example

Uday Enterprises is engaged in supply of taxable goods in Maharashtra. It also supplies alcoholic liquor for human consumption from Nagaland. Its turnover in the current financial year is ₹34 lakh in Maharashtra and ₹8 lakh in Nagaland Since Uday Enterprises is exclusively engaged in making taxable supplies of goods from Maharashtra, the applicable threshold limit for obtaining registration is `40 lakh. However, the threshold limit will not be reduced to ₹10 lakh in this case, as supply of alcoholic liquor for human consumption from Nagaland (one of the Special Category States) are non-taxable supplies.

In the given case, since the aggregate turnover of Uday Enterprises exceeds the applicable threshold limit of ₹40 lakh, it is liable to obtain registration. It will obtain registration in Maharashtra, but is not required to obtain registration in Nagaland as he is not making any taxable supplies from said State.

Section 23 Persons not liable for registration

1. The following persons shall not be liable to registration, namely:—

(*a*) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act;

(*b*) An agriculturist, to the extent of supply of produce out of cultivation of land.

The term agriculturist has been defined under section 2(7) as an individual/Hindu Undivided Family (HUF) who undertakes cultivation of land

(*a*) by own labour, or

(*b*) by the labour of family, or

(*c*) by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family.

Example

Deshbandhu is an agriculturist engaged in cultivation of wheat in his field in the State of Punjab. He was exclusively engaged in the supply of wheat cultivated in his field in the previous year. Thus, he was not liable to registration as he was exclusively engaged in supply of produce out of cultivation of land.

In the current year, he decides to start trading in rice apart from supplying his wheat produce. His turnover in the current year is ₹32 lakh from supply of wheat produced and ₹9 lakh from trading of rice. Since he is engaged in trading of rice also, he is not covered under section 23 above. The threshold limit for registration applicable to a person exclusively engaged in supply of goods in the State of Punjab is ₹40 lakh. The aggregate turnover of Deshbandhu in the current year is ₹41 lakh [₹32 lakh + ₹9 lakh] which exceeds the threshold limit. Thus, he will be liable to registration.

2. The Government may, on the recommendations of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act.

Following category of persons have been notified as being exempted from obtaining registration under GST law:

(a) Persons making only reverse charge supplies.

(b) Persons making inter-State supplies of taxable services up to ₹20 lakh.

(c) Persons making inter-State taxable supplies of notified handicraft goods/notified products up to ₹20 lakh.

(d) Casual Taxable Persons making inter-State taxable supplies of notified handicraft goods/notified products up to ₹20 lakh.

Note: Some of the notified products are leather articles, carved wood products, wood turning and lacquer ware, bamboo products, textiles hand printing, theatre costumes, musical instruments, dolls and toys, etc. These examples are only for the purpose of knowledge and are not relevant for examination purpose.

Section 24 Compulsory Registration

Not with standing any thing contained in section 22, following persons must take registration irrespective of their turnover:

1. Persons making any inter-State taxable supply of goods except Inter State supply of handicrafts goods (section 22 shall be applicable) provided supplier has obtained PAN and also e-way bill has to be generated.

2. Casual taxable persons making taxable supply

As per section 2 (20), "casual taxable person" means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business.

3. Persons who are required to pay tax under reverse charge
4. Non-resident taxable persons making taxable supply
5. Persons who make taxable supply of goods/services on behalf of other taxable persons whether as an agent or otherwise.
6. Every electronic commerce operator.
7. Persons supplying goods through electronic commerce operator shall also be required to take registration.
8. Every person supplying online money gaming from a place outside India to a person in India.

Unregistered persons with aggregate turnover upto threshold limit permitted to supply goods through an ECO.

The persons making supplies of goods through an ECO who is required to collect TCS under section 52 and having an aggregate turnover in the preceding financial year and in the current financial year not exceeding the threshold limit in accordance with the provisions of section 22(1), are exempted from obtaining registration, subject to the following conditions, namely:

(i) Such persons shall **not make any inter-State supply** of goods;

(ii) Such persons shall **not make supply** of goods through ECO **in more than one State/Union territory;**

(iii) Such persons shall be required to have a **PAN issued** under the Income- tax Act, 1961;

(iv) Such persons shall, before making any supply of goods through ECO, **declare on the common portal:**

(a) Their **PAN**

(b) **Address** of their place of business and

(c) **State/UT in which such persons seek to make such supply,** which shall be subjected to validation on the common portal;

(v) Such persons have been **granted an enrolment number** on the common portal on successful validation of the PAN declared above;

(vi) Such persons shall **not be granted more than one enrolment number** in a State/UT;

(vii) No supply of goods shall be made by such persons through ECO unless such persons have been granted an enrolment number on the common portal; and

(viii) Ehere such persons are subsequently granted registration under section 25, the enrolment number shall cease to be valid from the effective date of registration.

The ECO who is required to collect tax at source under section 52 has been notified as the class of persons who shall follow the following special procedure in respect of supply of goods made through it by said unregistered persons:

(i) ECO shall allow the supply of goods through it by the unregistered person only if enrolment number has been allotted on the common portal to the said person;

(ii) ECO shall not allow any inter-State supply of goods through it by the unregistered person;

(iii) ECO shall not collect tax at source under section 52(1) in respect of supply of goods made through it by the said person; and

(iv) ECO shall furnish the details of supplies of goods made through it by the said person in the statement in Form GSTR-8 electronically on the common portal.

Where multiple ECOs are involved in a single supply of goods through ECO platform, "ECO" shall mean the ECO who finally releases the payment to the said person for the said supply made by the said person through him.

Special procedure to be followed by ECOs in respect of supplies of goods through them by composition taxpayers

Composition suppliers to make supply of goods through such ECOs. Supply of services by composition suppliers through ECO is still not permitted.

ECO who is required to collect tax at source under section 52 has been notified as the class of persons who shall follow the following special procedure in respect of supply of goods made through it by the composition suppliers, namely:–

(i) The ECO shall not allow any inter-State supply of goods through it by the said person;

(ii) The ECO shall collect tax at source under section 52(1) in respect of supply of goods made through it by the said person and pay to the Government as per provisions of section 52(3); and

(iii) The ECO shall furnish the details of supplies of goods made through it by the said person in the statement in Form GSTR-8 electronically on the common portal.

Section 25 Procedure For Registration

1. Every person liable to be registered shall apply for registration in every such State/UT in which he is so liable within 30 days from the date on which he becomes liable for registration.

Provided that a casual taxable person or a non-resident taxable person shall apply for registration at least five days prior to the commencement of business.

2. State-wise registration

(*a*) Registration needs to be taken State-wise, i.e. there is no centralised registration under GST. A business entity having its branches in multiple States will have to take separate State-wise registration for its branches in different States.

(*b*) Further, within a State, an entity with different branches shall be granted single registration wherein it can declare one place as principal place of business (PPoB) and other branches as additional places of business (APoB).

(*c*) Although a taxpayer having multiple places of business in one State is not mandatorily required to obtain separate registration for each such place of business in the State, he has an option to obtain independent registrations with respect to each such separate place of business.

3. However, as per section 25(3) any person can take voluntary registration and the procedure for registration shall be the same.

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.

5. Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.

6. Every person shall have a Permanent Account Number issued under the Income-tax Act, 1961 in order to be eligible for grant of registration.

7. Unique Identity Number (UIN) [Section 25(9) & (10) read with rule 17]

Any specialised agency of the United Nations Organization or any Multilateral Financial institution and organisation as notified under the United Nations (Privileges and Immunities) Act, 1947, consulate or embassy of foreign countries and any other person notified by the Commissioner, is required to obtain a UIN from the GSTN portal.

This UIN is needed for claiming refund of taxes paid on notified supplies of goods and/or services received by them, and for such other purpose as may be notified. UIN granted is a centralised UIN i.e. it shall be applicable to the territory of India. A person having UIN is not registered person and thus, is not a taxable person.

The proper officer may, upon submission of an application in prescribed form or after filling up the said form or after receiving a recommendation from the Ministry of External Affairs, Government of India, assign a UIN to the said person and issue a certificate in Form GST REG 06 within 3 working days from the date of submission of application.

8. Suo-motu registration by the proper officer [Section 25(8) read with rule 16]

Where, pursuant to any survey, enquiry, inspection, search or any other proceedings under the Act, the proper officer finds that a person liable to registration under the Act has failed to apply for such registration, such officer may register the said person on a temporary basis and issue an order in prescribed form.

Such person shall either:

(*i*) Submit an application for registration in prescribed form within 90 days from the date of grant of temporary registration, or

(*ii*) File an appeal against such temporary registration.

In case (ii), if the Appellate Authority upholds the liability to registration, application for registration shall be submitted within 30 days from the date of issuance of such order of the Appellate Authority.

GSTIN thereafter granted shall be effective from the date of order of the proper officer granting temporary registration.

Procedure of Registration

Rule 8, Every person applying for registration shall declare his Permanent account number, mobile number, e-mail address, authentication of Aadhaar, State or Union territory in Part A of form GST REG-01 and it is to be applied on the common portal. The particulars so given shall be verified by the GST Authority and a temporary reference number (TRN) shall be generated simultaneously.

Using the TRN the applicant shall submit Part-B of REG-01 along with specified documents. On receipt of application an acknowledgement shall be given in REG-02.

Date of submission of the application in shall be earlier of:

(*a*) The date of authentication of the Aadhaar number, or

(*b*) 15 days from the submission of the application in Part B of Form GST REG-01.

Rule 9, GST authority shall forward the application to the proper officer and if it is in order, a registration certificate shall be issued within 7 working days from the date of submission of application (Part-B).

Proviso to rule 9(1)

However where:

(i) a person fails to undergo authentication of aadhaar number or does not opt for authentication of Aadhaar number, or

(ii) a person, who has undergone authentication of Aadhaar number, is identified on the common portal, based on data analysis and risk parameters (presently in case pilot project in Gujarat, puducherry or Andhra Pradesh), for carrying out physical verification of places of business.

(iii) the proper officer, with the approval of an officer authorised by the Commissioner not below the rank of Assistant Commissioner, deems it fit to carry out physical verification of places of business the registration shall be granted within 30 days of submission of application only after physical verification of the principal place of business in the presence of the said person, in the manner prescribed in rule 25 and verification of such documents as the proper officer may deem fit.

Rule 9(2)

Where the application submitted under rule 8 is found to be deficient, either in terms of any information or any document required to be furnished under the said rule, or where the proper officer requires any clarification with regard to any information provided in the application or documents furnished therewith, he may issue a notice to the applicant electronically in within a period of 7 working days from the date of submission of the application and the applicant shall furnish such clarification, information or documents electronically within a period of 7 working days from the date of the receipt of such notice However where:

(i) a person fails to undergo Aadhaar authentication/does not opt for Aadhaar authentication or

(ii) a person, who has undergone authentication of Aadhaar number, is identified on the common portal, based on data analysis and risk parameters , for carrying out physical verification of places of business; or

(iii) PO deems it fit to carry out site verification, the notice (in prescribed form) seeking clarifications/ information/documents from the applicant may be issued by the proper officer not later than 30 days from the submission of the application for registration.

Deemed Approval [Rule 9(5)]

If the PO fails to take any action:

(a) within 7 working days from the date of submission of the application in cases where the person is not covered under Proviso to rule 9(1)

(b) within a period of 30 days from the date of submission of the application in cases where person is covered under Proviso to rule 9(1)

(c) within 7 working days from the date of the receipt of clarification, information or documents furnished by the applicant under Rule 9(2)

The application for grant of registration shall be deemed to have been approved.

Aadhar authentication [Section 25(6A),(6B),(6C) & 6(D)]

A. Section 25(6A)

Every registered person shall undergo authentication, or furnish proof of possession of Aadhaar number, in such form and manner and within such time as may be prescribed.

Provided that if an Aadhaar number is not assigned to the registered person, such person shall furnish the following documents

(a) Aadhar enrolment id slip and any of the following documents

(b) (i) bank passbook with photograph,0r

(ii) Voter Id, or

(iii) passport, or

(iv) Driving License

B. Section 25 (6B & 6C) Registration

every individual, Karta, Managing Director, whole time Director, such number of partners, Members of Managing Committee of Association, Board of Trustees, authorised representative, authorised signatory and such other class of personsshall, in order to be eligible for grant of registration, undergo authentication.

However is aadhar number is not assigned to such person, then registration shall be granted only after the physical verification of the principal place of business in the presence of said person. The said physical verification shall be completed within 60 days from the date of registration application, in the manner prescribed in rule 25. further, the provisions of deemed approval of registration is not applicable.

C. Section 25 (6D)

Persons/class of persons exempt from aadhaar authentication

Following persons have been notified in this regard:

- A person who is not a citizen of India
- Department or establishment of State Government or Central Government
- Local authority
- Statutory body
- Public Sector Undertaking
- A person applying for Unique Identity Number under section 25(9)

Physical verification of business premises in certain cases [Rule 25]

Where the proper officer is satisfied that the physical verification of the place of business of a person is required due to failure of Aadhaar authentication or due to not opting for Aadhaar authentication before the grant of registration, or due to any other reason after the grant of registration, he may get such verification of the place of business, in the presence of the said person, done. The verification report along with the other documents, including photographs, shall be uploaded in prescribed form on the common portal within a period of 15 working days following the date of such verification.

As per Rule 10, Certificate of registration shall be granted in form no. REG-06 and if the supplier has more than one branch in a State or Union Territory, he will get one registration certificate and all the places of the supplier shall be mentioned in the certificate. The supplier shall be allotted goods and service tax identification number and it will consist of

(*a*) Two characters for the State code.

(*b*) Ten characters for the Permanent Account Number or the Tax Deduction and Collection Account Number.

(*c*) Two characters for the entity code and

(*d*) One checksum character.

GSTIN Format

State Code		PAN										Entity Code		Check sum character

Display of registration certificate and GSTIN on the name board [Rule 18]

Every registered person shall display his registration certificate in a prominent location at his PPoB and at every APoB. Further, his GSTIN also has to be displayed on the name board exhibited at the entry of his PPoB and at every APoB.

Rule 10A, a registered person has an option to give his bank account details after obtaining registration, within 45 days from the date of grant of registration or the due date of furnishing return, whichever is earlier.

This option is not available for those who have been granted registration as TDS deductor/TCS collector or who have obtained suo-motu registration.

However, if a person violates the provisions of rule 10A, his GST registration is liable to be cancelled [Rule 21].

Effective Date of Registration

1. Mandatory Registration

   If applicant has submitted application within a period of 30 days, he will be considered to be registered from the date on which he becomes liable to registration and if application is given after 30 days, effective date of registration shall be the date of granting registration.
2. Voluntary Registration

   In this case, the effective date of registration shall be the date of granting registration.

Registration of casual taxable person and Non-Resident taxable

Section 24, Every casual taxable person and Non-Resident taxable person shall also be required to take registration irrespective of the turnover and procedure shall be the same.

Section 25, they should apply for registration at least 5 days prior to commencement of business. Also, along with registration application they have to deposit GST in advance by estimating their tax liability.

Section 27, Certificate shall be valid for the specified period but maximum 90 days however proper officer may extend it further but for maximum 90 days. Such person shall make advance deposit of GST as estimated by him for the extended period as well along with extension application.

Rule 13, A non-resident taxable person shall electronically submit an application, along with a self attested copy of his valid passport. In the case of a business entity incorporated or established outside India, the application for registration shall be submitted along with its tax identification number or unique number on the basis of which the entity is identified by the Government of that country or its Permanent Account Number, if available.

Extension in period of operation by Casual taxable person and Non-Resident taxable person

As per Rule 15, Where a registered casual taxable person intends to extend the period of registration indicated in his application of registration, an application in FORM GST REG-11 shall be submitted by such person before the end of the validity of registration granted to him.

Section 28/Rule 19 Amendment of Registration

If any person has taken registration, subsequent amendment is allowed with regard to the following:

Core areas (Amendment is allowed only after approval of proper officer)

- Name of business
- Address of the business
- Addition/deletion of partners/directors of business which does not warrant cancellation of registration

Non-core areas (Approval of proper officer not required however, e-verification shall be done)

- Change in mobile number or e-mail address of the authorised signatory.

Procedure for Amendment in core areas

1. Every registered person shall apply online for amendment in core areas in form no. REG – 14 within 15 days of any change along with the documents relating to such change.
2. The proper officer approves the amendment in core areas within 15 working days from the date of receipt of application and issues an order in form REG-15 and such amendment shall take effect from the date of such change. Further such amendments shall be applicable for all the registration with the same PAN.
3. If the proper officer is of the opinion that the document is incomplete or incorrect, the proper officer shall serve a show cause notice why application for amendment is not to be rejected in REG-03 within 15 working days from the date of receipt of application. And the registered person shall furnish a reply in REG-04 within 7 working days from the date of service of notice.
4. Where reply furnished is satisfactory then Proper officer shall allow the amendment on the other hand if reply is not satisfactory or where no reply is furnished, the proper officer shall reject the application and pass an order in REG-05.

> Where a change in constitution of any business results in change of the PAN, certificate shall be cancelled and the person shall apply for fresh registration in REG-01.

Section 29/Rule 20 to 22 Cancellation of Registration

1. Cancellation at the request of the applicant

   In the following cases a registered person or successor shall file an application for cancellation of registration-

   1. The business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or transferred as a going concern.
   2. There is any change in the constitution of the business.
   3. The taxable person is no longer liable to be registered u/s 22 or 24.

2. Cancellation by GST officer own his own motion

   The Registration certificate can be cancelled by proper officer on his own motion in the following cases:

   1. A registered person does not conduct any business from the declared place of business.
   2. A registered person issues invoice or bill without supply of goods or services in violation of the Act.
   3. Violation of conditions of taking ITC as prescribed u/s 16, mismatch of GSTR-1 and GSTR- 3B, or violation of rule 86B
   4. A registered person violates the provisions of section 171 of the Act i.e. if rate of GST has been decreased, benefit should be given to the customer.
   5. A Composition Dealer paying tax u/s 10 has not furnished the return for a FY beyond 3 months from the due date of furnishing the said return.
   6. Any Registered person (other than Composition Dealer) has not furnished return for such continuous tax period, as may be prescribed

QRMP Taxpayers	Default in furnishing continuous 2 Quarterly returns
Non-QRMP Taxpayers	Default in furnishing continuous 6 monthly returns

   7. Any person who has taken voluntary registration and has not commenced business within 6 months from the date of registration.
   8. registration has been obtained by means of fraud, wilful misstatement or suppression of facts.

Suspension of registration Rule 21A

1. Where a registered person has applied for cancellation of registration, the registration shall be deemed to be suspended from the date of submission of the application or the date from which the cancellation is sought, whichever is later, pending the completion of proceedings for cancellation of registration.

2. Where the proper officer has reasons to believe on his own that the registration of a person is liable to be cancelled, he may, without affording the said person a reasonable opportunity of being heard, suspend the registration of such person with effect from a date to be determined by him, pending the completion of the proceedings for cancellation of registration.

2A. Where, a comparison of the returns furnished by a registered person under section 39 with:

(*a*) the details of outward supplies furnished in Form GSTR-1; or

(*b*) the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their Form GSTR-1, or such other analysis, as may be carried out on the recommendations of the Council, show that there are significant differences or anomalies indicating contravention of the provisions of the CGST Act or the rules made thereunder, leading to cancellation of registration of the said person, his registration shall be suspended.

(c) there is contravention of provisions of rule 10A by the registered person.

Said person shall be intimated in prescribed form by sending a communication to his e-mail address provided at the time of registration or as amended from time to time.

In this intimation for suspension and notice for cancellation of registration, the said differences and anomalies are highlighted and said person is asked to explain, within a period of 30 days, as to why his registration shall not be cancelled [New sub-rule (2A)].

3. A registered person, whose registration has been suspended, shall not make any taxable supply during the period of suspension and shall not be required to furnish any return under section 39.

It means that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension.

3A. In a case where the cancellation is initiated by the Department on its own and registration of a person has been suspended, such person shall not be granted any refund under section 54 of the CGST Act, during the period of suspension of his registration [New sub-rule (3A)].

4. The suspension of registration shall be deemed to be revoked upon completion of the proceedings by the proper officer and such revocation shall be effective from the date on which the suspension had come into effect.

Proviso, The suspension of registration may be revoked by the proper officer, anytime during the pendency of the proceedings for cancellation, if he deems fit.

Where the registration has been suspended due to non-furnishing of returns by the regular or composition supplier or due to contravention of rule 10A and the registration has not already been cancelled by the PO then suspension of the registration shall be deemed to have been revoked upon furnishing the return or upon compliance of rule 10A.

5. Where any order having the effect of revocation of suspension of registration has been passed, the provisions of section 31(3)(*a*) [revised tax invoices] and section 40 [first return] in respect of the supplies made during the period of suspension and the procedure specified therein shall apply.

Amount payable on cancellation of registration [Section 29(5) & (6)]

The cancellation of registration shall be effective from a date to be determined by the proper officer and mentioned in the cancellation order. He will direct the taxable person to pay arrears of any tax, interest or penalty including the amount liable to be paid under section 29(5).

A registered person whose registration is cancelled will have to debit the electronic credit or cash ledger by an amount equivalent to:

(*a*) input tax credit (ITC) in respect of:

(*i*) Stock of inputs and inputs contained in semi-finished/finished goods' stock or

(*ii*) Capital goods or plant and machinery on the day immediately preceding the date of cancellation,

(*b*) The output tax payable on such goods whichever is higher

Amount of credit to be reversed in respect of INPUTS

ITC on inputs computed proportionately on the basis of corresponding invoices on which credit had been availed on such inputs, Or

Output tax payable on such goods Whichever is higher.

Amount of credit to be reversed in respect of CAPITAL GOODS OR PLANT & MACHINERY

As per Rule 44, ITC involved in the remaining useful life in months of the capital goods computed on pro-rata basis, taking the useful life as 5 years, or

Tax on the transaction value of such capital goods or plant and machinery under section 15

Whichever is higher.

Other Points

1. The cancellation of registration will not affect liability of registered person to pay tax and other dues under the Act for any period prior to the date of cancellation [Section 29(3)]
2. The cancellation of registration under either SGST Act/UTGST Act shall be deemed to be a cancellation of registration under CGST Act [Section 29(4)].
3. Once registration is cancelled by the tax authority, the taxpayer will be intimated about the same via sms and email. Order for cancellation of registration will be issued and intimated to the primary authorised signatory by email and sms.
4. Taxpayer would not be allowed to file a return for the period after the date of cancellation mentioned in the cancellation order. However, he can submit returns of the earlier period (i.e. for the period before the date of cancellation mentioned in the cancellation order for which registration was active).

Revocation of cancellation of registration Section 30/Rule 23

1. Where the registration of a person is cancelled suo-motu by the proper officer, such registered person may apply for revocation of the cancellation to such proper officer, within 90 days from the date of service of the order of cancellation of registration.

   Provided that such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended by the Commissioner or an officer authorised by him in this behalf, not below the rank of Additional Commissioner or Joint Commissioner, as the case may be, for a further period not exceeding 180 days. (i.e. 90d + 180d)

However, in case registration was canceled for failure of registered person to furnish the returns, before applying for revocation of registration the person has to rectify the default (i.e. file the returns and deposit all the pending dues) for which registration was cancelled by the PO.

2. If the proper officer is satisfied that there are sufficient grounds for revocation of cancellation, he may revoke the cancellation of registration, by an order within 30 days of receipt of application and communicate the same to the applicant.

3. Otherwise, he may reject the revocation application. However, before rejecting the application, he has to first issue SCN to the applicant who shall furnish the clarification within 7 working days of service of SCN. The proper officer shall dispose the application (accept/reject the same) within 30 days of receipt of clarification.

4. In case of revocation of cancellation order, the registered person shall furnish all the returns relating to the tax period from the effective date of cancellation of registration till the date of order of revocation of cancellation order within a period of 30 days from the date of order of revocation.

Note: Revocation of cancellation order under SGST Act / UTGST Act as the case may be, shall be deemed to be revoked under CGST Act.

QUESTION BANK

1. Examine whether the supplier of goods is liable to get registered in the following independent cases: **[MTP May 24 & RTP Nov 22]**

(i) Om Sai Builders of Rohini, Delhi is exclusively engaged in intra-

State taxable supply of building bricks. It's aggregate turnover in the current financial year is ₹23 lakh.

(ii) Hukum Chand of Himachal Pradesh is exclusively engaged in intra State taxable supply of footwear. His turnover in the current financial year (FY) from Himachal Pradesh showroom is ₹32 lakh. He has another showroom in Nagaland with a turnover of ₹11 lakh in the current FY.

Sol. As per section 22 of the CGST Act, 2017, a supplier is liable to get registered in the State/Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold limit for a person making exclusive intraState taxable supplies of goods is as under:-

(a) 10 lakh for the Special Category States of Mizoram, Tripura, Manipur and Nagaland.

(b) 20 lakh for the States, namely, States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.

(c) 40 lakh for rest of India except persons engaged in making supplies of fly ash bricks/blocks, building bricks, bricks of fossil meals, earthen/roofing tiles, ice cream and other edible ice, whether or not containing cocoa, Pan masala and Tobacco and manufactured tobacco substitutes.

In the light of the afore-mentioned provisions, the answer to the independent cases is as under:

(i) The benefit of enhanced threshold limit of registration of 40 lakh is not applicable for Om Sai brothers even though it is exclusively engaged in intra-State taxable supply of goods in Delhi as it is engaged in making supplies of building bricks. Thus, the applicable threshold limit for registration for Om Sai Builders in the given case is 20 lakh. Thus, it is liable to get registered under GST as it's turnover is more than the threshold limit.

Hukum Chand could have been eligible for enhanced threshold limit of turnover for registration, i.e. 40 lakh as he is exclusively engaged in intra-State supply of goods. However, since Hukum Chand is engaged in supplying footwear from a Special Category State i.e. Nagaland, the threshold limit gets reduced to 10 lakh. Thus, Hukum Chand is liable to get registered under GST as his turnover exceeds 10 lakh. Further, he is required to obtain registration in both Himachal Pradesh and Nagaland as he is making taxable supplies from both the States

2. Examine whether the supplier of goods is liable to get registered in the following independent cases:- **[MTP Nov 23 & MTP Nov 22]**

(i) Raghav of Assam is exclusively engaged in intra-State taxable supply of readymade garments. His turnover in the current financial year (FY) from Assam showroom is ₹33 lakh. He has another showroom in Tripura with a turnover of ₹11 lakh in the current FY.

(ii) Prince of Panjim, Goa is exclusively engaged in intra-State taxable supply of shoes. His aggregate turnover in the current financial year is ₹22 lakh.

(iii) Heera of Himachal Pradesh is exclusively engaged in intra-State supply of pan masala. His aggregate turnover in the current financial year is ₹24 lakh.

Sol. As per section 22, supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold limit for a person making exclusive intra-State taxable supplies of goods is as under:-

(a) 10 lakh for the Special Category States of Mizoram, Tripura, Manipur and Nagaland.

(b) 20 lakh for the States, namely, States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.

(c) 40 lakh for rest of India except persons engaged in making supplies of ice cream and other edible ice, whether or not containing cocoa, pan masala and tobacco and manufactured tobacco substitutes, fly ash bricks; fly ash aggregates; fly ash blocks, bricks of fossil meals or similar siliceous earths, building bricks, earthen or roofing tiles.

In the light of the afore-mentioned provisions, the answer to the independent cases is as under:-

(i) Raghav is eligible for higher threshold limit of turnover for registration, i.e. 40 lakh as he is exclusively engaged in intra-State supply of goods. However, since Raghav is engaged in supplying readymade garments from a Special Category State i.e. Tripura, the threshold limit gets reduced to 10 lakh. Thus, Raghav is liable to get registered under GST as his turnover has exceeded limit of 10 lakh. Further, he is required to obtain registration in both Assam and Tripura as he is making taxable supplies from both the States.

(ii) The applicable threshold limit for registration for Prince in the given case is 40 lakh as he is exclusively engaged in intra-State taxable supply of goods in Goa. Thus, he is not liable to get registered under GST as his turnover is less than the threshold limit.

(iii) Heera being exclusively engaged in supply of pan masala is not eligible for higher threshold limit of 40 lakh. The applicable threshold limit for registration in this case is 20 lakh. Thus, Heera is liable to get registered under GST.

3. State which of the following suppliers are liable to be registered:

(*a*) Agent supplying goods on behalf of some other taxable person and its aggregate turnover does not exceed ₹20 lakh during the financial year.

(*b*) An agriculturist who is only engaged in supply of produce out of cultivation of land.

Sol. (*a*) Section 22 stipulates that every supplier becomes liable to registration if his turnover exceeds ₹20 lakhs in a State/UT [₹10 lakhs in Special Category States Manipur, Mizoram, Nagaland and Tripura] in a financial year. However, as per section 24, a person supplying goods/services or both on behalf of other taxable persons whether as an agent or not is liable to be compulsorily registered even if its aggregate turnover does not exceed ₹20 lakhs during the financial year.

(*b*) As per section 23, an agriculturist who is only engaged in supply of produce out of cultivation of land is not required to obtain registration.

4. Madhav Oils, Delhi has supplied machine oil and high-speed diesel in the month of April as per the details given in table below. Madhav Oils is not yet registered.

Particulars	Amount
Supply of machine oil in Delhi	**15,00,000**
Supply of high-speed diesel in Delhi	**10,00,000**
Supply of machine oil made in Punjab by Madhav Oils from its branch located in Punjab	**10,00,000**

excluding GST

Determine whether Madhav Oils is liable for registration. **[MTP Nov 22]**

Sol. A supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold limit for a person making exclusive intra-State taxable supplies of goods is as under:-

(a) 10 lakh for the Special Category States of Mizoram, Tripura, Manipur and Nagaland.

(b) 20 lakh for the States, namely, States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.

(c) 40 lakh for rest of India except persons engaged in making supplies of notified products.

Aggregate turnover includes the aggregate value of:

(i) all taxable supplies,

(ii) all exempt supplies,

(iii) exports of goods and/or services and

(iv) all inter-State supplies of persons having the same PAN.

CGST is not leviable on five petroleum products i.e. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel. Exempt supply includes non-taxable supply. Thus, supply of high-speed diesel in Delhi, being a non-taxable supply, is an exempt supply and is, therefore, includible while computing the aggregate turnover.

In the backdrop of the above-mentioned discussion, the aggregate turnover of Madhav Oils for the month of April is computed as under:

Particulars	Amount
Supply of machine oils in Delhi	**15,00,000**
Add: Supply of high speed diesel in Delhi	**10,00,000**
Add: Supply of machine oil made by Madhav Oils from its branch located in Punjab	**10,00,000**
Aggregate Turnover	**35,00,000**

Madhav Oils is making exclusive supply of goods and hence the threshold limit for registration would be 40,00,000. Since the aggregate turnover does not exceed 40,00,000, Madhav Oils is not liable to be registered.

5. What could be the liabilities (in so far as registration is concerned) on transfer of a business?

Sol. The transferee or the successor shall be liable to be registered with effect from such transfer or succession and he will have to obtain a fresh registration with effect from the date of such transfer or succession [Section 22(3)].

6. Pure Oils, Delhi has started the supply of machine oils and high speed diesel in the month of April, 20XX. The following details have been furnished by it for the said month:

S. No.	Particulars	₹
(*i*)	Supply of machine oils in Delhi	2,00,000
(*ii*)	Supply of high speed diesel in Delhi	4,00,000
(*iii*)	Supply made through Fortis Lubricants – an agent of Pure Oils in Delhi	1,75,000
(*iv*)	Supply made by Pure Oils from its branch located in Punjab	1,80,000

Excluding GST

Determine whether Pure Oils is liable for registration. Will your Solution change, if Pure Oils supplies machine oils amounting to ₹2,50,000 from its branch located in tripura in addition to the above-mentioned supplies?

Sol. As per section 22 of the CGST Act, 2017, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods, if his aggregate turnover in a financial year exceeds ₹40 lakh.

However, if such taxable supplies are made from a special category States, namely Manipur, Mizoram, Nagaland, Tripura, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ₹10 lakh.

As per section 2(6) of the CGST Act, 2017, aggregate turnover includes the aggregate value of:

(*i*) all taxable supplies,

(*ii*) all exempt supplies,

(*iii*) exports of goods and/or services and

(*iv*) all inter-State supplies of persons having the same PAN. The above is computed on an all India basis.

Further, the aggregate turnover excludes central tax, State tax, Union territory tax, integrated tax and cess. Moreover, the value of inward supplies on which tax is payable under reverse charge is not taken into account for calculation of 'aggregate turnover'.

Section 9 of the CGST Act, 2017 provides that CGST is not leviable on five petroleum products i.e. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel. As per section 2(47) of the CGST Act, 2017, exempt supply includes non-taxable supply. Thus, supply of high speed diesel in Delhi, being a non-taxable supply, is an exempt supply and is, therefore, includible while computing the aggregate turnover.

In the backdrop of the above-mentioned discussion, the aggregate turnover for the month of April, 20XX is computed as under:

S. No.	Particulars	Amount (in ₹)
(*i*)	Supply of machine oils in Delhi	2,00,000
(*ii*)	Add: Supply of high-speed diesel in Delhi	4,00,000
(*iii*)	Add: Supply made through Fortis Lubricants – an agent of Pure Oils in Delhi	1,75,000
(*iv*)	Add: Supply made by Pure Oils from its branch located in Punjab	1,80,000
	Aggregate Turnover	9,55,000

Since the aggregate turnover does not exceed ₹40 lakh, Pure Oils is not liable to be registered. If Pure Oils made a supply of machine oils amounting to ₹2,50,000 from its branch in Himachal Pradesh in addition to the above supply, then the threshold limit of registration will be reduced to ₹10 lakh as Tripura is one of the specified Special Category States.

Aggregate Turnover in that case would be ₹9,55,000 + ₹2,50,000 = ₹12,05,000. So, if Pure Oils supplies machine oils amounting to ₹2,50,000 from its branch in Tripuira, then it is liable to be registered.

7. State with brief reason, whether following suppliers of taxable goods are required to register under the GST Law:

(*i*) Mr. Raghav is engaged in wholesale cum retail trading of medicines in the State of Assam. His aggregate turnover during the financial year is ₹9,00,000 which consists of ₹8,00,000 as Intra-State supply and ₹1,00,000 as Inter-State supply.

(*ii*) Mr. S.N. Gupta of Rajasthan is engaged in trading of taxable goods on his own account and also acting as an agent of Mr. Rishi of Delhi. His turnover in the preceding financial year is `12 lakhs on his own account and ₹9 lakhs on behalf of principal. Both turnovers are Intra-State supply.

Sol. (*i*) Person making any inter-State taxable supply of goods is required to obtain registration compulsorily under GST laws irrespective of the quantum of aggregate turnover.

Thus, in the given case Mr. Raghav is required to obtain registration compulsorily under GST laws even though his aggregate turnover does not exceed the threshold limit in the financial year.

(*ii*) Persons who make taxable supply of goods on behalf of other taxable persons whether as an agent or otherwise are required to obtain registration compulsorily under GST laws irrespective of the quantum of aggregate turnover.

Aggregate turnover includes all supplies made by the taxable person, whether on his own account or made on behalf of all his principals.

Since Mr. S.N. Gupta is also acting as an agent of Mr. Rishi of Delhi, he is required to obtain registration compulsorily under GST laws.

8. M/s Siya Ram is a trader of decorative items in Hauz Khas, Delhi. His aggregate turnover exceeds ₹20 lakh in the month of October, 20XX. He applied for registration on the GST portal, but failed to submit the details of his bank account. His tax consultant advised him that prior submission of bank details is mandatory to obtain registration. Examine whether the advice of Mr. Siya Ram's tax consultant is correct.

Sol. The advice of Mr. Siya Ram's consultant that prior submission of bank details is mandatory to obtain registration is no longer valid in law.

A new rule 10A has been inserted in the CGST Rules, 2017 vide Notification No. 31/2019 CT dated 28.06.2019 which allows the registered person to furnish information with respect to details of bank account, or any other information, as may be required on the common portal in order to comply with any other provision, soon after obtaining certificate of registration and a GSTIN, but not later than 45 days from the date of grant of registration or the date on which the return required under section 39 is due to be furnished, whichever is earlier.

This relaxation is however not available for those who have been granted registration as TDS deductor/TCS collector under rule 12 or who have obtained suo-motu registration under rule 16.

Section 23 Questions

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

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

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

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

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

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

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

Section 24 (Compulsory Registration)

10. Examine whether the liability to register compulsorily under section 24 of the CGST Act, 2017 arises in each of the independent cases mentioned below:

(*a*) Heera, a supplier in Haryana, is exclusively engaged in supply of potatoes produced out of cultivation of his own land, within Haryana and also outside Haryana.

(*b*) Aanya of Telangana is exclusively engaged in intra-State supply of toys. Its aggregate turnover in the current financial year is ₹22 lakh.

Sol. (*a*) Section 24 of the CGST Act, 2017 provides that persons making any inter -State taxable supply of goods are required to obtain registration compulsorily under GST laws irrespective of the quantum of aggregate turnover.

However, as per section 23 of the CGST Act, 2017, an agriculturist, to the extent of supply of produce out of cultivation of land, is not liable to registration.

Heera is exclusively engaged in cultivation and supply of potatoes. Thus, he is not liable to registration irrespective of the fact that he is engaged in making inter -State supply of goods. Further, Heera will not be liable to registration, in the given case, even if his turnover exceeds the threshold limit.

(*b*) As per section 22 of the CGST Act, 2017 read with Notification No. 10/2019 CT dated 07.03.2019, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold limit for a person making exclusive intra-State taxable supplies of goods is as under:

(*i*) ₹10 lakh for the Special Category States of Mizoram, Tripura, Manipur and Nagaland.

(*ii*) ₹20 lakh for the States, namely, States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.

(*iii*) ₹40 lakh for rest of India except persons engaged in making supplies of ice cream and other edible ice, whether or not containing cocoa, Pan masala and Tobacco and manufactured tobacco substitutes.

Since Aanya is making taxable supplies from Telangana, she will not be eligible for higher threshold limit available in case of exclusive supply of goods. The applicable threshold limit for registration for Aanya in the given case is ₹20 lakh. Thus, she is liable to get registered under GST.

11. Explain the registration requirements under GST law in the following independent cases:

(*a*) Mr. Ahmad of Jammu engaged in the business of supplying tobacco based Pan Masala with an aggregate turnover of ₹24 lacs.

(*b*) Mr. Lepcha of Mizoram is engaged in the supply of papers with an aggregate turnover of ₹13 lacs.

Will your answer be different if Mr. Lepcha is located in Meghalaya?

Sol. (*a*) A person is eligible for enhanced threshold limit of ₹40 lakh in the State of Jammu and Kashmir if he is engaged exclusively in intra-State supply of goods.

However, the enhanced threshold limit is not applicable if the person is engaged, inter alia, in the supply of pan masala and all goods of chapter 24 i.e. Tobacco and manufactured tobacco substitutes. In that case, the normal threshold limit of ₹20 lakh will be applicable.

In view of said provisions, in the given case, Mr. Ahmad is liable to register since his aggregate turnover (₹24 lakh) exceeds the applicable threshold limit for registration of ₹20 lakh.

(*b*) The enhanced threshold limit of ₹40 lakh as applicable to a person engaged exclusively in intra-State supply of goods, is not applicable to Mizoram [a specified Special Category State]. Instead, a lower threshold limit of ₹10 lakh for registration is applicable for Mizoram.

Thus, in the given case, Mr. Lepcha of Mizoram is liable to register since his aggregate turnover (₹13 lakh) exceeds the applicable threshold limit for registration of ₹10 lakh.

The enhanced threshold limit of ₹40 lakh is also specifically not applicable in the State of Meghalaya. Instead, the normal threshold limit of ₹20 lakh for registration is applicable to it.

Therefore, if Mr. Lepcha is located in Meghalaya, he is not liable to register since his aggregate turnover (₹13 lakh) does not exceed the applicable threshold limit for registration of ₹20 lakh.

12. Examine the following cases and explain with reasons whether the supplier of goods is liable to get registered in GST:

(*a*) Krishna of Himachal Pradesh is exclusively engaged in intra-State taxable supply of readymade suits. His turnover in the current financial year from Himachal Pradesh showroom is ₹25 lakh. He has two more showrooms one in Manipur & another in Sikkim with a turnover of ₹15 lakh and ₹18 lakh respectively in the current financial year.

(*b*) Ankit of Telangana is exclusively engaged in intra-State taxable supply of footwears. His aggregate turnover in the current financial year is ₹25 lakh:

(*c*) Aakash of Uttar Pradesh is exclusively engaged in intra-State supply of pan masala. His aggregate turnover in the current financial year is ₹30 lakh.

Sol. Every person engaged in making a taxable supply is required to obtain registration if his aggregate turnover exceeds ₹20 lakh in a financial year. An enhanced threshold limit for registration of ₹40 lakh is available to persons engaged exclusively in intra-State supply of goods in specified States.

(*i*) The applicable threshold limit for registration gets reduced to ₹10 lakh in case a person is engaged in making taxable supply from a Special Category State.

Since Krishna is making taxable supply from Manipur – a Special Category State, the applicable threshold limit will get reduced to ₹10 lakh. Thus, it is liable to be registered under GST as its aggregate turnover exceeds the said threshold limit.

(*ii*) Since Ankit is exclusively engaged in intra-State supply of goods in Telangana, which is not a specified State for enhanced threshold limit, the applicable threshold limit for registration is ₹20 lakh.

Thus, Ankit is liable to be registered under GST as its aggregate turnover exceeds the said threshold limit.

(*iii*) Though the enhanced threshold limit for registration of ₹40 lakh is available to Uttar Pradesh, the same will not be applicable if the person is engaged in supply of pan masala.

In view of the same, the applicable threshold limit for Aakash is ₹20 lakh. Thus, it is liable to be registered under GST as its aggregate turnover exceeds the said threshold limit.

Section 25 Questions

13. Is there a provision for a person to get himself voluntarily registered though he may not be liable to pay GST?

Sol. Yes. In terms of sub-section (3) of section 25, a person, though not liable to be registered under sections 22 or 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered taxable person, shall apply to such person.

14. Can the Department, through the proper officer, Suo-moto proceed to register a person?

Sol. Yes. In terms of sub-section (8) of section 25, where a person who is liable to be registered under GST law fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under CGST Act, or under any other law for the time being in force, proceed to register such person in the manner as is prescribed in the CGST Rules, 2017.

15. At the time of registration, will the assesses have to declare all his places of business?

Sol. Yes. The taxpayer will have to declare the principal place of business as well as the details of additional places of business in the registration form.

16. What will be the time limit for the decision on the on-line registration application?

Sol. If the information and the uploaded documents are found in order, the proper officer has to respond to the application within 3 common working days. If he communicates any deficiency or discrepancy in the application within such time, then the applicant will have to remove the discrepancy/deficiency within 7 days of such communication. Thereafter, for either approving the application or rejecting it, the proper officer has 7 days' time from the date when the taxable person communicates removal of deficiencies. In case no response is given by the proper officer within the said time line, the portal shall automatically generate the registration.

17. What will be the time of response by the applicant if any query is raised in the online application?

Sol. If during the process of verification, one of the tax authorities raises some query or notices some error, the same shall be communicated to the applicant and to the other tax authority through the GST Common Portal within 3 common working days. The applicant will reply to the query/ rectify the error/Solution the query within a period of 7 days from the date of receipt of deficiency intimation.

On receipt of additional document or clarification, the relevant tax authority will respond within 7 common working days from the date of receipt of clarification.

Registration of CTP & NRTP

18. What is the validity period of the registration certificate issued to a casual taxable person and non-resident taxable person?

Sol. In terms of section 27(1) read with proviso thereto, the certificate of registration issued to a "casual taxable person" or a "non-resident taxable person" shall be valid for a period specified

in the application for registration or 90 days from the effective date of registration, whichever is earlier. However, the proper officer, at the request of the said taxable person, may extend the validity of the aforesaid period of 90 days by a further period not exceeding 90 days.

19. Mr. Akash Malhotra of Gujarat often participates in the jewellery exhibition at the Trade Fair in Delhi, which is organised every year in the month of February. Mr. Akash Malhotra applied for registration in January. The proper officer demanded an advance deposit of tax in an amount equivalent to the estimated tax liability of Mr. Akash Malhotra.

You are required to examine whether any advance tax is to be paid by Mr. Akash Malhotra at the time of obtaining registration?

Sol. Yes, advance tax is to be paid by Mr. Akash Malhotra at the time of obtaining registration. Since Mr. Akash Malhotra occasionally undertakes supply of goods in the course or furtherance of business in a State where he has no fixed place of business, thus he qualifies as a casual taxable person in terms of section 2(20) of CGST Act, 2017.

While a normal taxable person does not have to make any advance deposit of tax to obtain registration, a casual taxable person shall, at the time of submission of application for registration is required, in terms of section 27(2) read with proviso thereto, to make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought. If registration is to be extended beyond the initial period of 90 days, an advance additional amount of tax equivalent to the estimated tax liability is to be deposited for the period for which the extension beyond 90 days is being sought.

20. Who is a Casual Taxable Person?

Sol. Casual Taxable Person has been defined in Section 2 (20) of the CGST Act meaning a person who occasionally undertakes transactions involving supply of goods and/or services in the course or furtherance of business, whether as principal, or agent or in any other capacity, in a State or a Union territory where he has no fixed place of business.

21. Who is a Non-resident Taxable Person?

Sol. In terms of Section 2(77) of the CGST Act, a non- resident taxable person means any person who occasionally undertakes transactions involving supply of goods and/or services whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India.

22. Solution the following questions with respect to casual taxable person under the CGST Act, 2017:

(*a*) Who is a casual taxable person?

(*b*) Can a casual taxable person opt for the composition scheme?

(*c*) When is the casual taxable person liable to get registered?

(*d*) What is the validity period of the registration certificate issued to a casual taxable person?

(*e*) Can the validity of registration certificate issued to a casual taxable person be extended? If yes, what will be the period of extension.

Sol. (*a*) Casual taxable person means a person who occasionally undertakes transactions involving supply of goods and/or services in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State/UT where he has no fixed place of business.

(*b*) No, a casual taxable person cannot opt for the composition scheme.

(*c*) A casual taxable person (CTP) is liable to obtain registration compulsorily under GST laws, at least 5 days prior to commencement of business.

However, a threshold limit of ₹20 lakh (₹10 lakh in case of Special Category States other than Jammu & Kashmir) is available in case of CTP making taxable supplies of specified handicraft goods.

(*d*) The registration certificate issued to a casual taxable person will be valid for:

(*i*) the period specified in the registration application, or

(*ii*) 90 days from the effective date of registration whichever is earlier.

(*e*) Yes, the validity of registration certificate issued to a casual taxable person can be extended. It can be extended by a further period not exceeding 90 days.

Effective Date of Registration

23. Determine the effective date of registration in following cases:

(i) The aggregate turnover of Dhampur Footwear Industries of Delhi has exceeded the applicable threshold limit of ₹40 lakh on 1st September. It submits the application for registration on 20th September. Registration certificate is granted to it on 25th September.

(ii) Mehta Teleservices is an architect in Lucknow. Its aggregate turnover exceeds ₹20 lakh on 25th October. It submits the application for registration on 27th November. Registration certificate is granted to it on 5th December **[MTP May 23]**

Sol. (a) Every supplier becomes liable to registration if his turnover exceeds the applicable threshold limit [40 lakh in this case] in a finacial year. Since in the given case, the turnover of Dhampur Industries exceeded 40 lakh on 1st September, it becomes liable to registration on said date.

Further, since the application for registration has been submitted within 30 days from such date, the registration shall be effective from the date on which the person becomes liable to registration. Therefore, the effective date of registration is 1st September.

(b) Since in the given case, the turnover of Mehta Teleservices exceeds the applicable threshold limit [20 lakh] on 25th October, it becomes liable to registration on said date.

Further, since the application for registration has been submitted after 30 days from the date such person becomes liable to registration, the registration shall be effective from the date of grant of registration. Therefore, the effective date of registration is 5 th December.

24. What will be the effective date of registration?

Sol. Date of effectiveness in case of person required to take registration

Where the application for registration has been submitted within thirty days from the date on which the person becomes liable to registration, the effective date of registration shall be the date on which he became liable for registration.

Where an application for registration has been submitted by the applicant after thirty days from the date of his becoming liable to registration, the effective date of registration shall be the date of grant of registration.

Date of effectiveness in case of person opting for voluntarily registration

In case of a person taking registration voluntarily while being within the threshold exemption limit for paying tax, the effective date of registration shall be the date of grant of registration.

25. Determine the effective date of registration in the following instances:

(*a*) The aggregate turnover of Ganesh Ltd., engaged in taxable supply of services in the state of Punjab, exceeded ₹20 lakh on 25th August, 20XX. It applied for registration on 19th September, 20XX and was granted registration certificate on 29th September, 20XX.

(*b*) What will be your Solution, if in the above scenario; Ganesh Ltd. submits the application for registration on 27th September, 20XX and is granted registration on 5th October, 20XX?

Sol. A supplier whose aggregate turnover in a financial year exceeds ₹20 lakh in a State/UT [₹10 lakh in Special Category States except Jammu and Kashmir] is liable to apply for registration within 30 days from the date of becoming liable to registration (i.e., the date of crossing the threshold limit of ₹20 lakh/₹40 Lakh/₹10 lakh).

Where the application is submitted within the said period, the effective date of registration is the date on which the person becomes liable to registration; otherwise it is the date of grant of registration.

In the given case, the applicable turnover limit for registration will be ₹20 lakh as Punjab is not a Special Category State.

(*a*) Since Ganesh Ltd. applied for registration within 30 days of becoming liable to registration, the effective date of registration is 25th August, 20XX.

(*b*) In this case, since Ganesh Ltd. applies for registration after the expiry of 30 days from the date of becoming liable to registration, the effective date of registration is 5th October, 20XX.

26. Determine the effective date of registration in following cases:

(*a*) The aggregate turnover of Mr. A, a service provider in Delhi has exceeded ₹20 lakhs on 1st September. It submits the application for registration on 20th September. Registration certificate is granted to it on 25th September.

(*b*) Mr. Ram is a service provider in Lucknow. Its aggregate turnover exceeds ₹20 lakhs on 25th October. It submits the application for registration on 27th November. Registration certificate is granted to it on 5th December.

Sol. (*a*) Every supplier becomes liable to registration if his turnover exceeds ₹20 lakh [in a State/UT other than Special Category States except Manipur, Mizoram, Nagaland, Tripura (M2NT)] in a financial year [Section 22]. Since in the given case, the turnover of Mr. A exceeded ₹20 lakh on 1st September, it becomes liable to registration on said date. Further, since the application for registration has been submitted within 30 days from such date, the registration shall be effective from the date on which the person becomes liable to registration. Therefore, the effective date of registration is 1st September.

(*b*) Since in the given case, the turnover of Mr. Ram exceeds ₹20 lakh on 25th October, it becomes liable to registration on said date.

Further, since the application for registration has been submitted after 30 days from the date such person becomes liable to registration, the registration shall be effective from the date of grant of registration. Therefore, the effective date of registration is 5th December.

Amendment of Registration

27. Discuss the procedure for amendment of registration under CGST Act and rules thereto?

Sol. The procedures for amendment of registration are contained in section 28 read with rule 19 of CGST Rules. The significant aspects of the same are discussed hereunder:

1. Where there is any change in the particulars furnished in registration application/UIN application, registered person shall submit an application in prescribed manner, within 15 days of such change, along with documents relating to such change at the Common Portal.

2. In case of amendment of core fields of information, the proper officer may, on the basis of information furnished or as ascertained by him, approve or reject amendments in the

registration particulars in the prescribed manner. Such amendment shall take effect from the date of occurrence of event warranting such amendment.

3. However, where change relates to non-core fields of information, registration certificate shall stand amended upon submission of the application for amendment on the Common Portal.
4. Where a change in the constitution of any business results in change of PAN of a registered person, the said person shall apply for fresh registration. The reason for the same is that GSTIN is PAN based. Any change in PAN would warrant a new registration.

28. Whether Amendments to the Registration Certificate is permissible?

Sol. Yes. In terms of Section 28, the proper officer may, on the basis of such information furnished either by the registrant or as ascertained by him, approve or reject amendments in the registration particulars within a period of 15 working days from the date of receipt of application for amendment.

It is to be noted that permission of the proper officer for making amendments will be required for only certain core fields of information [Change in legal name of business, Change in address of place of business, Addition, deletion or retirement of partners, directors, karta, board of trustees, CEO or equivalent, responsible for day to day affairs of the company], whereas for the other fields, the certificate of registration shall stand amended upon submission of application in the GST common portal.

Cancellation of Registration

29. What happens when the registration is obtained by means of willful mis-statement, fraud or suppression of facts?

Sol. In such cases, the registration may be cancelled with retrospective effect by the proper officer [Section 29(2)(e)].

30. Briefly enumerate the contraventions which make a registered person liable to cancellation of registration, as prescribed under rule 21 of the CGST Rules, 2017. **[RTP May 23]**

Sol. Rule 21 of the CGST Rules, 2017 prescribes the contraventions which make a registered person liable to cancellation of registration. As per said rule, the registration granted to a person is liable to be cancelled, if the said person -

(a) does not conduct any business from the declared place of business.
(b) issues invoice/bill without supply of goods/services in violation of the provisions of this Act, or the rules made thereunder.
(c) violates the provisions of section 171 of the CGST Act. Section 171 contains provisions relating to anti-profeetering measure.
(d) violates the provision of rule 10A of the CGST Rules relating to furnishing of bank account details.
(e) avails input tax credit in violation of the provisions of section 16 of the CGST Act or the rules made thereunder.
(f) furnishes the details of outward supplies in Form GSTR-1 under section 37 of the CGST Act for one or more tax periods which is in excess of the outward supplies declared by him in his valid return under section 39 for the said tax periods.
(g) being a registered person required to file return under section 39(1) of the CGST Act for each month or part thereof (i.e. monthly return filer), has not furnished returns for a continuous period of 6 months.
(h) being a registered person required to file return under proviso to section 39(1) of the CGST Act for each quarter or part thereof (i.e. quarterly return filer), has not furnished returns for a continuous period of 2 tax periods.

31. Does cancellation of registration impose any tax obligations on the person whose registration is so cancelled?

Sol. Yes, as per section 29(5) of the CGST Act, every registered taxable person whose registration is cancelled shall pay an amount, by way of debit in the electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher.

32. Discuss the circumstances where registration is liable to be cancelled

Sol. Section 29(1) of the CGST Act, 2017 provides that the proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where:

(*a*) The business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or

(*b*) There is any change in the constitution of the business; or

(*c*) The taxable person, other than the person voluntarily registered u/Sec 25(3), is no longer liable to be registered under section 22 or section 24

Further, section 29(2) of the CGST Act, 2017 provides that the proper officer can cancel the registration on his own. Such circumstances include following:

1. contravention of any of the following prescribed provisions of the CGST Act or the rules made there under;

(*a*) The registered person did not conduct any business from the declared place of business; or

(*b*) The registered person issued invoice or bill without supply of goods or services in violation of the provisions of this Act, or the rules made thereunder; or

(*c*) The registered person violated the provisions of section 171 of the Act or the rules made thereunder (Anti-profiteering measures)

(*d*) The RP violates the provisions of rule 10A.

2. Composition Supplier becoming a consistent non-return filer for 3 consecutive tax periods;

3. Regular Supplier becoming a consistent non-return filer for 6 consecutive tax periods;

4. Voluntarily registered person failed to commence business within 6 months from the date of registration;

5. Registered person who has obtained registration fraudulently.

However, before cancelling the registration, the proper officer has to follow the principles of natural justice (i.e., after grant of opportunity of being heard).

33. Explain the circumstances under which a proper officer can cancel the registration on his own of a registered person under CGST Act, 2017.

Sol. The circumstances under which proper officer can cancel the registration on his own of a registered person under the CGST Act, 2017 are as under:

(*i*) A registered person has contravened any of the following prescribed provisions of the GST law:

(*a*) he does not conduct any business from the declared place of business.

(*b*) he issues invoice/bill without supply of goods/services in violation of the provisions of GST law.

(*c*) he violates the provisions of anti-profiteering.

(*d*) he violates the provisions relating to furnishing of bank details.

(*ii*) A person paying tax under composition levy has not furnished returns for 3 consecutive tax periods.

(*iii*) A registered person paying tax under a regular scheme has not furnished returns for a continuous period of 6 months.

(*iv*) Voluntarily registered person has not commenced the business within 6 months from the date of registration.

(*v*) Registration was obtained by means of fraud, wilful misstatement or suppression of facts.

[**Note:** Any 5 points out of the above 8 points may be mentioned].

Suspension of Registration

34. Under the provision of section 29(1) of CGST Act, 2017 read with rule 21A of CGST Rules, 2017 related to suspension of registration if the registered person has applied for cancellation of registration, what is the period and manner of suspension of registration?

Sol. Where a registered person has applied for cancellation of registration, the registration shall be deemed to be suspended from:

(*a*) the date of submission of the application or

(*b*) the date from which the cancellation is sought, whichever is later, pending the completion of proceedings for cancellation of registration.

Such person shall not make any taxable supply during the period of suspension and shall not be required to furnish any return.

The expression "shall not make any taxable supply" means that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the suspension period.

Revocation of Cancellation of Registration

35. Mr. Raj of Rajasthan intends to start business of supply of building material to various construction sites in Rajasthan. He has taken voluntary registration under GST in the month of April. However, he has not commenced the business till December due to lack of working capital. The proper officer suo-motu cancelled the registration of Mr. Raj. You are required to examine whether the action taken by proper officer is valid in law?

Mr. Raj has applied for revocation of cancellation of registration after 40 days from the date of service of the order of cancellation of registration. Department contends that application for revocation of cancellation of registration can only be made within 30 days from the date of service of the order of cancellation of registration. You are required to comment upon the validity of contentions raised by Department. **[MTP May 24 & RTP May 22]**

Sol. The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,-

(a) a registered person has contravened the prescribed provisions; or

(b) a person paying tax under composition scheme has not furnished returns for a financial year beyond 3 months from due date of furnishing retun; or

(c) any registered person, other than a person specified in clause (b), has not furnished returns for a prescribed period; or

(d) any person who has taken voluntary registration has not commenced business within six months from the date of registration; or

(e) registration has been obtained by means of fraud, wilful misstatement, or suppression of facts:

Thus, in view of the above-mentioned provisions, suo-motu cancellation of registration of Mr. Raj by proper officer is valid in law since Mr. Raj, a voluntarily registered person, has not commenced his business within 6 months from the date of registration.

Further, where the registration of a person is cancelled suo-motu by the proper officer, such registered person may, subject to the provisions of rule 10B, apply for revocation of the cancellation of registration to such proper officer, within 90 days from the date of service of the order of cancellation of registration.

However, the said period of 90 days may, on sufficient cause being shown and for reasons to be recorded in writing, be extended by the Commissioner or an officer authorised by him in this behalf, not below the rank of Additional Commissioner or Joint Commissioner, as the case may be, for a further period not exceeding 180 days.

Thus, considering the above provisions, the contention of Department is not valid in law as he has applied for revocation within the time limit of 90 days.

36. Can cancellation of registration order be revoked?

Sol. Yes, but only in cases where the initial cancellation has been done by the proper officer Suo moto, and not on the request of the taxable person or his legal heirs. A person whose registration has been cancelled 'Suo moto' can apply to the proper officer for revocation of cancellation of registration within 30 days from the date of communication of the cancellation order. The proper officer may within a period of 30 days from the date of receipt of application for revocation of cancellation or receipt of information/clarification, either revoke the cancellation or reject the application for revocation of cancellation of registration.

UIN Questions

37. Is it necessary for the UN bodies to get registration under GST?

Sol. Yes. In terms of section 25(9) of the CGST Act, all notified UN bodies, Consulate or Embassy of foreign countries and any other class of persons so notified would be required to obtain a unique identification number (UIN) from the GST portal.

The structure of the said ID would be uniform across the States in conformity with GSTIN structure and the same will be common for the Centre and the States. This UIN will be needed for claiming refund of taxes paid on notified supplies of goods and services received by them, and for any other purpose as may be notified.

38. What is the responsibility of the taxable person making supplies to UN bodies?

Sol. The taxable supplier making supplies to UN bodies is expected to mention the UIN on the invoices and treat such supplies as supplies to another registered person (B2B) and the invoices of the same will be uploaded by the supplier.

General Theory Questions

39. In order to be eligible for grant of registration, a person must have a Permanent Account Number issued under the Income-tax Act, 1961. State one exception to it.

Sol. A Permanent Account Number is mandatory to be eligible for grant of registration. One exception to this is a non-resident taxable person. A non-resident taxable person may be granted registration

on the basis of other prescribed documents instead of PAN. He has to submit a self-attested copy of his valid passport along with the application signed by his authorized signatory who is an Indian Resident having valid PAN and application will be submitted in a different prescribed form [Section 25(6) & (7)].

40. What are the advantages of taking registration in GST?

Sol. Registration will confer following advantages to the business:

- Legally recognized as supplier of goods or services.
- Proper accounting of taxes paid on the input goods or services which can be utilized for payment of GST due on supply of goods or services or both by the business.
- Legally authorized to collect tax from his purchasers and pass on the credit of the taxes paid on the goods or services supplied to purchasers or recipients.
- Become eligible to avail various other benefits and privileges rendered under the GST laws.

41. Can a person without GST registration collect GST and claim ITC?

Sol. No, a person without GST registration can neither collect GST from his customers nor can claim any input tax credit of GST paid by him.

42. If a person is operating in different States, with the same PAN number, can he operate with a single registration?

Sol. No. Every person who is liable to take a registration will have to get registered separately for each of the States where he has a business operation and is liable to pay GST.

43. Whether the registration granted to any person is permanent?

Sol. Yes, the registration certificate once granted is permanent unless surrendered, cancelled, suspended or revoked.

44. Is there an option to take centralised registration for services under GST Law?

Sol. No, the tax paper has to take separate registration in every State from where he makes taxable supplies.

45. State with reason whether following statement is true or false—

"When there is change in the constitution of business results in a change in PAN, the business entity can apply for amendment of registration in prescribed manner within 15 days."

Sol. No. If PAN number changes, fresh registration is required under GST Law (Rule 19 of CGST Rules).

Computation of Aggregate Turnover

46. B. Enterprises started its business activities in the month of January, in the State of Karnataka. It provides the following information:

Particulars	Amount
Value of intra-State outward taxable supply of goods	7,00,000
Value of inter-State outward taxable supply of services	6,00,000
Value of intra-State outward supply on which tax is payable under reverse charge mechanism.	1,00,000
Value of intra-State outward supply of exempted good from its other place of business in the State of Manipur (under same PAN)	5,00,000

From the information given above, you are required to calculate the aggregate turnover of B Enterprises with necessary explanations and also, specify with reason whether it is liable to get registered under CGST Act or not. **[MTP May 23]**

Sol. Computation of aggregate turnover of B Enterprises, Karnataka, for January

Particulars	Amount
Intra-State outward taxable supply of goods [Aggregate turnover includes value of all taxable supplies.]	7,00,000
Inter-State outward taxable supply of services [Aggregate turnover includes value of inter-State supplies.]	6,00,000
Intra-State outward supply on which tax is payable under reverse charge mechanism [Aggregate turnover includes value of all taxable supplies whether taxable under reverse charge or forward charge.]	1,00,000
Intra-State outward supply of exempted goods from Manipur [Aggregate turnover includes value of exempt supplies made in all the States under the same PAN]	5,00,000
Aggregate turnover	19,00,000
Persons making any inter-State taxable supply of goods are required to obtain compulsory registration, but in case of inter-State supply of taxable services, threshold limit of 20 lakh is available. Such threshold limit gets reduced to 10 lakh in case of specified Special Category State provided taxable supply is being made therefrom. Since B Enterprises is making exempt supplies from Manipur - a specified Special Category State, the applicable threshold limit of registration for B Enterprises is 20 lakh. Thus, it is not liable to be registered as its aggregate turnover does not exceed the threshold limit.	

47. Rajesh Dynamics, having its head office in Chennai, carries on the following activities with respective turnovers in a financial year

Particulars	₹
Supply of petrol at Chennai	18,00,000
Value of inward supplies on which tax is payable on reverse charge basis	9,00,000
Supply of transformer oil at Chennai	2,00,000
Value of branch transfer from Chennai to Bengaluru without payment of consideration	1,50,000
Value of taxable supplies at Manipur branch	11,50,000

Decide based on the above facts: The aggregate turnover of Rajesh Dynamics.

Sol. Computation of aggregate turnover of Rajesh Dynamics

Particulars	₹
Supply of petrol at Chennai [Being a non-taxable supply, it is an exempt supply & thus, includible in aggregate turnover vide section 2(6) of CGST Act, 2017]	18,00,000

Value of inward supplies on which tax is payable on reverse charge basis	Nil
Supply of transformer oil at Chennai	2,00,000
Value of branch transfer from Chennai to Bengaluru without payment of consideration [Being a taxable supply, it is includible in aggregate turnover]	1,50,000
Value of taxable supplies of Manipur Branch	11,50,000
Aggregate turnover	33,00,000

48. Mr. X a dealer (situated in Delhi) dealing with Intra State supply of goods and services has place of business in India furnished the following information in the financial year 20XX-X1:

(*a*) Sale of taxable goods by Head Office located in Chennai for ₹1,00,000

(*b*) Supply of taxable services by Branch office at Bengaluru for ₹50,000

(*c*) Supply of goods exempted from GST ₹10,000

(*d*) Export of goods for ₹2,00,000. Whether Mr. X is liable for Registration?

Sol. Statement showing computation of aggregate turnover in a Financial Year 20X1

Particulars	Value in ₹
Sale of taxable goods by Head Office located in Chennai (presumed to be intra-state supply)	1,00,000
Supply of taxable services by Branch office at Bengaluru (presumed to be intra-state supply)	50,000
Supply of goods exempted from GST (*presumed to be intra-state supply)	10,000
Export of goods (Export is considered as inter-state supply under GST law)	2,00,000
Aggregate turnover	3,60,000

Though aggregate turnover is not exceeding ₹40 lakhs, but since he is engaged in exports which are inter-state supplies, his registration falls under section 24 which provides for compulsory registration (i.e., no threshold limit of 40 Lakhs).

49. P Ltd, a registered person provided following information for the month of October, 2020:

Particulars	Amount (₹)
Intra-State outward supply	8,00,000
Inter-State exempt outward supply	4,00,000
Turnover of exported goods	20,00,000
Payment of IGST	1,20,000
Payment of CGST and SGST	45,000 each
Payment of custom duty on export	40,000
Payment made for availing GTA services	3,00,000

GST is payable on Reverse Charge for GTA services.

Explain the meaning of aggregate turnover u/s 2(6) of the CGST Act and compute the aggregate turnover of P Ltd. for the month of October, 2020. All amounts are exclusive of GST.

Sol. The term aggregate turnover means the aggregate value of:

(*i*) all taxable supplies,

(*ii*) exempt supplies,

(*iii*) exports of goods or services or both and

(*iv*) inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excluding

(*a*) central tax, State tax, Union territory tax, integrated tax and cess.

(*b*) the value of inward supplies on which tax is payable by a person on reverse charge basis

Computation of aggregate turnover of P Ltd. for the month of October, 2020

Particulars	Amount (₹)
In terms of the definition of the aggregate turnover given above, the aggregate turnover of P Ltd. has been computed as follows:	
Intra-State outward supply	8,00,000
Inter-State exempt outward supply	4,00,000
Turnover of exported goods	20,00,000
Payment of IGST	Nil
Payment of CGST and SGST	Nil
Payment of customs duty on export	40,000
Payment made under reverse charge for availing GTA services	Nil
Aggregate turnover	32,40,000

10 CHAPTER

Tax Invoice, Credit Note and Debit Note

THEORY

■ TAX INVOICE ISSUED BY A SUPPLIER OF TAXABLE GOODS/TAXABLE SERVICES

<table>
<tr><th colspan="3">Time limit for issuance of invoice [Sections 31(1), (2), (4) & (5) read with rule 47]</th></tr>
<tr><th colspan="3">In Case of Goods</th></tr>
<tr><td>Supply Involves Movement of Goods</td><td colspan="2">Invoice shall be issued before or at the time of removal of goods for supply to the recipient</td></tr>
<tr><td>Supply Doesn't Involves Movement of Goods</td><td colspan="2">Invoice shall be issued before or at the time of delivery of goods or making available thereof to the recipient</td></tr>
<tr><td>In case of Continuous Supply of Goods</td><td colspan="2">Where successive statements of accounts/successive payments are involved, the invoice shall be issued before/at the time each such statement is issued or each such payment is received.</td></tr>
<tr><td>Goods sent on Sale or Return Basis [Section 31(7)]</td><td colspan="2">Where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued:
(i) before/at the time of supply or
(ii) 6 months from the date of removal whichever is earlier</td></tr>
<tr><th colspan="3">In Case of Services</th></tr>
<tr><td>Generally</td><td colspan="2">Invoice shall be issued before or after the provision of service, but within a period of 30 days* from the date of supply of service.
*45 days in case of an insurer or banking company or financial institution, including a Non-Banking Financial Company (NBFC)</td></tr>
<tr><td rowspan="4">In case of Continuous Supply of Services</td><th>Case</th><th>The invoice shall be issued</th></tr>
<tr><td>due date of payment is ascertainable from the contract</td><td>on or before the due date of payment</td></tr>
<tr><td>due date of payment is not ascertainable from the contract</td><td>before or at the time when the supplier of service receives the payment</td></tr>
<tr><td>payment is linked to the completion of an event</td><td>on or before the date of completion of that event.</td></tr>
<tr><td>Where Supply of Services ceases Before its Completion [Section 31(6)]</td><td colspan="2">In a case where the supply of services ceases under a contract before the completion of the supply, the invoice shall be issued at the time when the supply ceases and such invoice shall be issued to the extent of the supply made before such cessation.</td></tr>
</table>

Manner of Issuing the Invoice	Supply of Goods Triplicate	Supply of Services Duplicate
	❑ Original copy for recipient ❑ Duplicate copy for transporter; and ❑ Triplicate copy for supplier	❑ Original copy for recipient; and ❑ Duplicate copy for supplier
	The serial number of invoices issued during a month/quarter shall be furnished electronically in FORM GSTR-1.	
Revised Tax Invoice [Section 31(3)(a) Read with Rule 53] **When to be Issued?**	❑ Every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue Revised Tax Invoices. Such invoices shall be issued against the invoices already issued during said period. ❑ Shall be issued within 1 month from the date of issuance of certificate of registration. The words "Revised Invoice" shall be indicated prominently on such invoices	
Consolidated Revised Tax Invoices in Certain Cases	❑ A registered person may issue a Consolidated Revised Tax Invoice in respect of all taxable supplies made to an unregistered recipient during such period.	
	❑ However, in case of inter-State supplies, a consolidated Revised Tax Invoice cannot be issued in respect of all unregistered recipients if the value of a supply exceeds ₹2,50,000.	
No Tax Invoice Required to be Issued if Value < ₹200 **[Section 31(3)(b) Read with Fourth Proviso to Rule 46]**	Registered person may not issue a Tax Invoice if: (*i*) Value of the goods/services/both supplied < ₹200, (*ii*) The recipient is unregistered; and (*iii*) The recipient does not require such invoice. Instead such registered person shall issue a Consolidated Tax Invoice for such supplies at the close of each day in respect of all such supplies. However, they need to issue an invoice when the customer demands. **Exception** *As per proviso to rule 46,* *Section 31(3)(b) is not available to a supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens.*	
	Rule 54(4A) *A registered person who is supplying services by way of admission to exhibition of cinematograph films in multiplex screens shall be required to issue an electronic ticket. The said electronic ticket is deemed to be a tax invoice, even if such ticket does not contain the details of the recipient of service but contains the other information as mentioned under rule 46.*	

Bill of Supply [Section 31(3)(c) read with rule 49]	Following Persons are required to issue Bill of supply Instead of Tax invoice ❑ Registered person supplying exempted goods or services or both or ❑ Registered person paying tax under composition levy (or Sec 10(2A)) **Note:** Any tax invoice or any other similar document issued under any other Act for the time being in force in respect of any non-taxable supply shall be treated as bill of supply for the purposes of the Act.	
Receipt Voucher [Section 31(3)(d) read with rule 50]	A registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue a Receipt Voucher evidencing receipt of such payment. Where at the time of receipt of advance, rate of tax and/or nature of supply is not determinable	
	Where at the time of receipt of advance	Applicable
	Rate of tax is not determinable	18%
	Nature of supply is not determinable	inter-State supply
Refund Voucher [Section 31(3)(e) read with rule 51]	Where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a Receipt Voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a Refund Voucher against such payment.	
Invoice and Payment Voucher [Section 31(3)(f) & (g) read with second proviso to rule 46 and rule 52]	❑ A registered person who is liable to pay tax under reverse charge [under section 9(3)/9(4) of the CGST Act] shall issue an Invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both. ❑ Besides, a registered person who is liable to pay tax under reverse charge [under section 9(3)/9(4) of the CGST Act] shall issue a Payment Voucher at the time of making payment to the supplier.	

Tax Invoice in special cases Rule 54

Banking/Financial Institutions	Where the supplier of taxable service is an insurer or a banking company or a financial institution, the said supplier may issue a consolidated tax invoice or any other document in lieu thereof, by whatever name called for the supply of services made during a month at the end of the month, whether issued or made available, physically or electronically whether or not serially numbered, and whether or not containing the address of the recipient of taxable service.

Goods Transport Agency	Where the supplier of taxable service is a goods transport agency, the said supplier may issue a tax invoice or any other document in lieu thereof, by whatever name called, containing ❑ The gross weight of the consignment, ❑ Name of the consigner and the consignee, ❑ Registration number of goods carriage in which the goods are transported, ❑ Details of goods transported, ❑ Details of place of origin and destination, ❑ Goods and Services Tax Identification Number of the person liable for paying tax whether as consigner, consignee or goods transport agency
Passenger Transportation Service	Where the supplier of taxable service is supplying passenger transportation service, a tax invoice shall include ticket in any form, by whatever name called, whether or not serially numbered, and whether or not containing the address of the recipient of service.
Online Money Gaming/ service provided by/ through ECO or by supplier of OIDAR services to unregistered recipient,	❑ Where recipient is registered, tax invoice shall contain the name, address and GSTIN/UIN of the recipient ❑ Where the recipient is unregistered: (i) Tax invoice shall contain name and address of the recipient and the address of delivery, along with the name of the State and its code, only where the value of taxable supply ≥ ₹ 50,000 (ii) In case where the value of taxable supply < ₹ 50,000, invoice shall contain the name and address of the recipient and the address of delivery, along with the name of the State and its code only when the recipient requests that such details be recorded in the tax invoice In **cases involving supply of online money gaming** or in cases where any taxable service is supplied by or through an ECO or by a supplier of OIDAR services to a recipient who is unregistered, irrespective of the value of such supply, a tax invoice issued by the registered person shall contain the **name of the State of the recipient and the same shall be deemed to be the address on record of the recipient.**

E-Invoicing

The transportation of goods from one place to another is facilitated by the filing of 'e-Way Bills' on the common GST portal. Similarly, in its 35th meeting, the GST Council had decided to implement a system of e-Invoicing, which will apply to specific categories of persons. e-Invoicing does not imply the generation of invoices on the GST portal. That would be a myth. Instead, e-invoicing involves the submission of an already generated standard invoice on a common e-invoice portal. Thus, it automates multi-purpose reporting with a one-time input of invoice details.

What is e-invoicing under GST?

'e-Invoicing' or 'electronic invoicing' is a system in which B2B invoices are authenticated electronically by GSTN for further use on the common GST portal. Under the electronic invoicing system, an identification number will be issued against every invoice by the Invoice Registration Portal (IRP), managed by the GST Network (GSTN).

All invoice information will be transferred from this portal to both the GST portal and e-way bill portal in real-time. Therefore, it will eliminate the need for manual data entry while filing GSTR-1 returns and generation of part-A of the e-way bills, as the information is passed directly by the IRP to the GST portal.

To whom is e-invoicing applicable?

Taxpayers with an aggregate turnover exceeding ₹5 crore in any financial year from 2017-18 to 2022-23. The aggregate turnover will include the turnover of all GSTINs under a single PAN across India.

If the invoice is issued by a notified person in respect of supplies covered under RCM, e-invoicing is applicable.

Exception

e-Invoicing shall not be applicable to the following categories of registered persons irrespective of their turnovers:

1. An insurer or a banking company or a financial institution, including an NBFC
2. A Goods Transport Agency (GTA)
3. A registered person supplying passenger transportation services
4. A registered person supplying services by way of admission to the exhibition of cinematographic films in multiplex services
5. An SEZ unit (SEZ developer gets covered under e-invoicing provisions)
6. A government department and Local authority

Applicability of e-invoicing to Government Departments/PSUs etc. registered solely for the purpose of deduction of tax at source as per provisions of section 51

the registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, is required to issue e-invoices for the supplies made TO Government Departments or establishments/ Government agencies/local authorities/PSUs

Process of getting an e-invoice

The following are the stages involved in generating or raising an e-invoice.

1. The taxpayer must raise a regular invoice on Accounting software. He must give all the necessary details like billing name and address, GSTN of the supplier, transaction value, item rate, GST rate applicable, tax amount, etc.
2. Thereafter, upload the details of the invoice, especially mandatory fields, onto the IRP. The IRP will act as the central registrar for e-invoicing and its authentication.
3. IRP will validate the key details of the B2B invoice, check for any duplications and generate an invoice reference number (hash) for reference. There are four parameters based on which IRN is generated: Seller GSTIN, invoice number, FY in YYYY-YY, and document type (INV/DN/CN).
4. IRP generates the invoice reference number (IRN), digitally signs the invoice and creates a QR code for the supplier. On the other hand, the seller of the supply will get intimated of the e-invoice generation through email (if provided in the invoice).
5. IRP will send the authenticated payload to the GST portal for GST returns. Additionally, details will be forwarded to the e-way bill portal, if applicable. The GSTR-1 of the seller gets auto-filled for the relevant tax period. In turn, it determines the tax liability.

Cancellation of Reported Invoice

Wherever needed, the seller can cancel the IRN for an e-invoice already generated within the specified time. Amendment of e-invoices already uploaded on IRP will be done on GST Portal, there is no option to amend e-invoice on IRP Portal.

Benefits of e-invoicing to businesses

Businesses will have the following benefits by using e-invoice initiated by GSTN:

1. e-Invoice resolves and plugs a major gap in data reconciliation under GST to reduce mismatch errors.
2. e-Invoices created on one software can be read by another, allowing interoperability and help reduce data entry errors.
3. Real-time tracking of invoices prepared by the supplier is enabled by e-invoice.
4. Backward integration and automation of the tax return filing process – the relevant details of the invoices would be auto-populated in the various returns, especially for generating the part-A of e-way bills.
5. Faster availability of genuine input tax credit.
6. Lesser possibility of audits/surveys by the tax authorities since the information they require is available at a transaction level.

How will e-invoicing curb tax evasion?

It will help in curbing tax evasion in the following ways:

1. Tax authorities will have access to transactions as they take place in real-time since the e-invoice will have to be compulsorily generated through the GST portal.
2. There will be less scope for manipulating invoices since the invoice gets generated before carrying out a transaction.

It will reduce the chances of fake GST invoices, and the only genuine input tax credit can be claimed as all invoices need to be generated through the GST portal. Since the input credit can be matched with output tax details, it becomes easier for GSTN to track fake tax credit claims.

Dynamic QR code on B2C invoices

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

- The purpose of this provision is to enable and encourage digital payments where buyer can scan the dynamic QR code and make payment from mobile wallet directly.
- Any person, who has obtained a Unique Identity Number (UIN), is not a "registered person" Therefore, any invoice, issued to such person having a UIN, shall be considered as invoice issued for a B2C supply and shall be required to comply with the requirement of Dynamic QR Code.
- Dynamic QR code is not applicable to an invoice issued to an unregistered person by following suppliers:
  - (i) Insurer or banking company or financial institution including NBFC
  - (ii) GTA
  - (iii) Supplier of passenger transportation service
  - (iv) Services by way of admission to exhibition of cinematograph films in multiplex screens
  - (v) Supplier of OIDAR services
- No Dynamic QR code in case of exports.
- Parameters/details to be captured in the Dynamic QR Code Dynamic QR Code, inter-alia, shall contain the following information: -
  - Supplier GSTIN number
  - Supplier UPI ID
  - Payee's Bank A/c number and IFSC
  - Invoice number & invoice date,
  - Total invoice value and
  - GST amount along with breakup i.e. CGST, SGST, IGST, Cess, etc.

Compliance with the Dynamic QR Code requirements in certain cases

The purpose of dynamic QR Code is to enable the recipient/customer to scan and pay the amount to be paid to the merchant/supplier in respect of the said supply. If the supplier has issued invoice having Dynamic QR Code for payment, the said invoice shall be deemed to have complied with Dynamic QR Code requirements. Compliance with the Dynamic QR Code requirements has been examined in the following cases:

Case-l: If a supplier provides/displays Dynamic QR Code, but the customer opts to make payment without using Dynamic QR Code and supplier provides the cross reference of such payment made without use of Dynamic QR Code, on the invoice

In cases where the supplier, has digitally displayed the Dynamic QR Code and the customer pays for the invoice: -

(i) using any mode like UPI, credit/debit card or online banking or cash or combination of various modes of payment, with or without using Dynamic QR Code, and the supplier provides a cross reference of the payment (transaction id along with date, time and amount of payment. mode of payment like UPI, Credit card, Debit card, online banking etc.) on the invoice; or

(ii) in cash, without using Dynamic QR Code and the supplier provides a cross reference of the amount paid in cash, along with date of such payment on the invoice;

The said invoice shall be deemed to have complied with the requirement of having Dynamic QR Code.

Case-II: If a supplier makes available to customers an electronic mode of payment like UPI Collect, UPI Intent or similar other modes of payment, through mobile applications or computer-based applications, where though Dynamic QR Code is not displayed, but the details of merchant as well as transaction are displayed/captured otherwise.

In such cases, if the cross reference of the payment made using such electronic modes of payment is made on the invoice, the invoice shall be deemed to comply with the requirement of Dynamic QR Code.

However, if payment is made after generation/issuance of invoice, the supplier shall provide Dynamic QR Code on the invoice.

Case-III: In case of pre-paid invoices i.e. where payment has been made before issuance of the invoice.

If cross reference of the payment received either through electronic mode or through cash or combination thereof is made on the invoice, then the invoice would be deemed to have complied with the requirement of Dynamic QR Code.

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

Case-IV: In case where the e-commerce operator (ECO)/online application has complied with the Dynamic QR Code requirements, whether the suppliers using such e-commerce portal or application will still be required to comply with the requirement of Dynamic QR Code?

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

In case, the supplier is making supply through the e-commerce portal or application, and the said supplier gives cross references of the payment received in respect of the said supply on the invoice, then such invoices would be deemed to have complied with the requirements of Dynamic QR Code. In cases other than pre-paid supply i.e. where payment is made after generation/issuance of invoice, the supplier shall provide Dynamic QR Code on the invoice.

Case-V: In case of retail sales over the counter, the payment from the customer is received on the payment counter by displaying dynamic QR code on digital display, whereas the invoice, along with invoice number, is generated on the processing system being used by supplier/merchant after receiving the payment.

In such cases, it may not be possible for the merchant/supplier to provide details of invoice number in the dynamic QR code displayed to the customer on payment counter. However, each transaction i.e. receipt of payment from a customer is having a unique Order ID/sales reference number, which is linked with the invoice for the said transaction.

In such cases, the unique order ID/unique sales reference number, which is uniquely linked to the invoice issued for the said transaction, may be provided in the Dynamic QR Code for digital display, as long as the details of such unique order ID/sales reference number linkage with the invoice are available on the processing system of the merchant/supplier and the cross reference of such payment along with unique order ID/sales reference number are also provided on the invoice.

Case VI: In case part-payment is received before dynamic QR code is generated.

When the part-payment for any supply has already been received from the customer/recipient, either in advance or by adjustment (e.g. using a voucher, discount coupon etc), before the dynamic QR Code is generated, then the dynamic QR code may provide only the remaining amount payable by the customer/recipient against "invoice value". The details of total invoice value, along with details/ cross reference of the part payment/advance/adjustment done, and the remaining amount to be paid, should be provided on the invoice.

PROHIBITION OF UNAUTHORISED COLLECTION OF TAX [SECTION 32]

A person who is not a registered person shall not collect in respect of any supply of goods or services or both any amount by way of tax under this Act.

No registered person shall collect tax except in accordance with the provisions of this Act or the rules made there under.

Not with standing anything contained in this Act or any other law for the time being in force, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made.

CREDIT AND DEBIT NOTES [SECTION 34]

Credit Note

During the course of trade or commerce, after the invoice has been issued, there can be situations like:

- The supplier has erroneously declared a value which is more than the actual value of the goods or services provided.
- The supplier has erroneously declared a higher tax rate than what is applicable for the kind of the goods or services or both supplied.
- The quantity received by the recipient is less than what has been declared in the tax invoice.
- The quality of the goods or services or both supplied is not to the satisfaction of the recipient thereby necessitating a partial or total reimbursement on the invoice value.
- Any other similar reasons.

The credit note is a convenient and legal method by which the value of the goods or services in the original tax invoice can be amended or revised. The issuance of the credit note easily allows the supplier to decrease his tax liability in his returns without requiring him to undertake any tedious process of refunds.

It is important to note that credit note(s) are not permitted to be issued in case secondary discounts2 are allowed by the supplier since the tax liability of the supplier does not get reduced in such case. However, supplier can issue financial/commercial credit note(s) to reduce the value of supply payable by the recipient to the supplier [Circular 92/11/2019 GST dated 07.03.2019]

Credit Note shall be issued earlier of:

(*a*) 30th November of the succeeding financial year

(*b*) the actual date of furnishing of annual return of the relevant financial year

Debit Note

There can be situations when after the invoice has been issued:

- The supplier has erroneously declared a value which is less than the actual value of the goods or services or both provided.
- The supplier has erroneously declared a lower tax rate than what is applicable for the kind of the goods or services or both supplied.
- The quantity received by the recipient is more than what has been θ declared in the tax invoice.
- Any other similar reasons.

The debit note/supplementary invoice is a convenient and legal method by which the value of the goods and/or services in the original tax invoice can be enhanced. The issuance of the debit note allows the supplier to pay his enhanced tax liability in his returns without requiring him to undertake any other tedious process.

Note: There is no time limit for issuance of Debit Note in GST Law

QUESTION BANK

1. Jain & Sons is a trader dealing in stationery items. It is registered under GST and has undertaken following sales during the day:

S. No.	Recipient of Supply	Amount (₹)
1.	Raghav Traders – a registered retail dealer	190
2.	Dhruv Enterprise – an unregistered trader	358
3.	Gaurav – a Painter [unregistered]	500
4.	Oberoi Orphanage – an unregistered entity	188
5.	Aaradhya – a Student [unregistered]	158

None of the recipients require a tax invoice [Raghav Traders being a composition dealer]. Determine in respect of which of the above supplies, Jain & Sons may issue a Consolidated Tax Invoice instead of Tax Invoice, at the end of the day?

Sol. In the given illustration, Jain & Sons can issue a Consolidated Tax Invoice only with respect to supplies made to Oberoi Orphanage [worth ₹188] and Aaradhya [worth ₹158] as the value of goods supplied to these recipients is less than ₹200 as also these recipients are unregistered and don't require a tax invoice.

As regards the supply made to Raghav Traders, although the value of goods supplied to it is less than ₹200, Raghav Traders is registered under GST. So, Consolidated Tax Invoice cannot be issued.

Consolidated Tax Invoice can also not be issued for supplies of goods made to Dhruv Enterprises and Gaurav although both of them are unregistered. The reason for the same is that the value of goods supplied is not less than ₹200.

2. Sultan Industries Ltd., Delhi, entered into a contract with Prakash Entrepreneurs, Delhi, for supply of spare parts of a machine on 7th September. The spare parts were to be delivered on 30th September. Sultan Industries Ltd. removed the finished spare parts from its factory on 29th September. Determine the date by which invoice must be issued by Sultan Industries Ltd. under GST law.

Sol. As per the provisions of section 31, invoice shall be issued before or at the time of removal of goods for supply to the recipient, where the supply involves movement of goods. Accordingly, in the given case, the invoice must be issued on or before 29th September.

3. MBM Caretakers, a registered person, provides the services of repair and maintenance of electrical appliances. On April 1, it has entered into an annual maintenance contract with P for its Air Conditioner and Washing Machine. As per the terms of contract, maintenance services will be provided on the first day of each quarter of the relevant financial year and payment for the same will also be due on the date on which service is rendered. During the year, it provided the services on April 1, July 1, October 1, and January 1 in accordance with the terms of contract. When should MBM Caretakers issue the invoice for the services rendered?

Sol. Continuous supply of service means, inter alia, supply of any service which is provided, or agreed to be provided continuously or on recurrent basis, under a contract, for a period exceeding 3 months with the periodic payment obligations.

Therefore, the given situation is a case of continuous supply of service as repair and maintenance services have been provided by MBM Caretakers on a quarterly basis, under a contract, for a period of one year with the obligation for quarterly payment.

In terms of section 31, in case of continuous supply of service, where the due date of payment is ascertainable from the contract (as in the given case), invoice shall be issued on or before the due date of payment.

Therefore, in the given case, MBM Caretakers should issue quarterly invoices on or before April 1, July 1, October 1, and January 1.

4. The aggregate turnover of Sangri Services Ltd. exceeded ₹20 lakh on 12th August. He applied for registration on 3rd September and was granted the registration certificate on 6th September. You are required to advice Sangri Services Ltd. as to what is the effective date of registration in its case. It has also sought your advice regarding the period for issuance of Revised Tax Invoices.

Sol. As per section 25 read with CGST Rules, 2017, where an applicant submits application for registration within 30 days from the date he becomes liable to registration, effective date of registration is the date on which he becomes liable to registration. Since, Sangri Services Ltd.'s turnover exceeded ₹20 lakh on 12th August; it became liable to registration on the same day. Further, it applied for registration within 30 days of becoming liable to registration, the effective date of registration is the date on which he becomes liable to registration, i.e. 12th August.

As per section 31 read with CGST Rules, 2017, every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue Revised Tax Invoices. Revised Tax Invoices shall be issued within 1 month from the date of issuance of certificate of registration. Revised Tax Invoices shall be issued within 1 month from the date of issuance of registration in respect of taxable supplies effected during the period starting from the effective date of registration till the date of issuance of certificate of registration.

Therefore, in the given case, Sangri Services Ltd. has to issue the Revised Tax Invoices in respect of taxable supplies affected during the period starting from the effective date of registration (12th August) till the date of issuance of certificate of registration (6th September) within 1 month from the date of issuance of certificate of registration, i.e. on or before 6th October.

5. Shyam Fabrics has opted for composition levy scheme in the current financial year. It has approached you for advice on whether it is mandatory for it to issue a tax invoice. You are required to advise him regarding the same.

Sol. A registered person paying tax under the provisions of section 10 [composition levy] shall issue, instead of a tax invoice, a bill of supply containing such particulars and, in such manner, as may be prescribed [Section 31(3) (c) read with CGST Rules, 2017].

Therefore, in the given case, Shyam Fabrics cannot issue a tax invoice. Instead, it shall issue a Bill of Supply.

6. Royal Fashions, a registered supplier of designer outfits in Delhi, decides to exhibit its products in a Fashion Show being organised at Hotel Park Royal, Delhi on 4th January, 20XX. For the occasion, it gets the makeover of its models done by Aura Beauty Services Ltd., Ashok Vihar, for which a consideration is ₹5,00,000 (excluding GST) has been charged. Aura Beauty Services Ltd. issued a duly signed tax invoice on 10th February, 20XX showing the lump sum amount of ₹5,90,000 inclusive of CGST and SGST @ 9% each. Royal Fashions made the payment the very next day.

Solution the following questions:

(*i*) Examine whether the tax invoice has been issued within the time limit prescribed under law?

(*ii*) Tax consultant of Royal Fashions objected to the invoice raised suggesting that the amount of tax charged in respect of the taxable supply should be shown separately in the invoice raised by Aura Beauty Services Ltd. However, Aura Beauty Services Ltd. contended that there is no mandatory requirement of showing tax component separately in the invoice. You are required to examine the validity of the objection raised by the tax consultant of Royal Fashions?

Sol. (*i*) As per section 31 of the CGST Act, 2017 read with the CGST Rules, 2017, in case of taxable supply of services, invoices should be issued before or after the provision of service, but within a period of 30 days [45 days in case of insurer/banking company or financial institutions including NBFCs] from the date of supply of service.

In view of said provisions, in the present case, the tax invoice should have been issued in the prescribed time limit of 30 days from the date of supply of service i.e. up to 03.02.20XX. However, the invoice has been issued on 10.02.20XX.

In such a case, the time of supply as per section 13 of the CGST Act, 2017 would be 04.01.20XX i.e. earliest of the following:

(*a*) Date of provision of service (04.01.20XX)

(*b*) Date of receipt of payment (11.02.20XX)

(*ii*) Section 31 of the CGST Act, 2017 read with the CGST Rules, 2017, inter alia, provides that tax invoice shall contain the following particulars-

(*a*) Total value of supply of goods or services or both;

(*b*) Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);

(*c*) Amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);

The objection raised by the tax consultant of Royal Fashions suggesting that the amount of tax charged in respect of the taxable supply should be shown separately in the invoice raised by Aura Beauty Services Ltd., is valid in law. In the present case, the tax amount has not been shown separately in the invoice.

7. Luv & Kush Pvt. Ltd. of Srinagar, Jammu & Kashmir engaged in the supply of gifts items provides you the following details:

S. No.	Particulars	Date
1.	Commencement of the business of supplying goods	01.08.20XX
2.	Turnover exceeds ₹30,00,000 on	15.08.20XX
3.	Turnover exceeds ₹40,00,000 on	05.09.20XX
4.	Application for registration made on	28.09.20XX
5.	Registration certificate granted on	06.10.20XX

The company seeks your advice as to how it should raise revised tax invoices for supplies made. Is there any specific provision for issuance of revised tax invoices to unregistered customers?

Explain.

Sol. A supplier whose aggregate turnover in a financial year exceeds ₹40 lakh in a State/UT is liable to apply for registration within 30 days from the date of becoming liable to registration.

Where the application is submitted within said period, the effective date of registration is the date on which the person becomes liable to registration; otherwise it is the date of grant of registration.

Every registered person who has been granted registration with effect from a date earlier than the date of issuance of registration certificate to him, may issue revised tax invoices in respect of taxable supplies affected during this period within 1 month from the date of issuance of registration certificate.

Since Luv & Kush Pvt. Ltd. has made the application for registration within 30 days of becoming liable for registration, the effective date of registration becomes the date on which the company becomes liable to registration i.e. 05.09.20XX.

Thus, Luv & Kush Pvt. Ltd. may issue revised tax invoices against the invoices already issued during the period between effective date of registration (05.09.20XX) and the date of issuance of registration certificate (06.10.20XX), within 1 month from 06.10.20XX.

Further, Luv & Kush Pvt. Ltd may issue a consolidated revised tax invoice in respect of all taxable supplies made to unregistered dealers during such period. However, in case of inter-State supplies made to unregistered dealers, a consolidated revised tax invoice cannot be issued if the value of a supply exceeds ₹2,50,000.

8. Under what circumstances does the need for issuance of debit note and credit note arise under section 34 of CGST Act, 2017?

Sol. Debit note is required to be issued

(*i*) if taxable value charged in the tax invoice is found to be less than the taxable value in respect of supply of goods and/or services or

(*ii*) if tax charged in the tax invoice is found to be less than the tax payable in respect of supply of goods and/or services

Credit note is required to be issued

(*i*) If taxable value charged in the tax invoice is found to exceed the taxable value in respect of supply of goods and/or services, or

(*ii*) If tax charged in the tax invoice is found to exceed the tax payable in respect of supply of goods and/or services, or

(*iii*) if goods supplied are returned by the recipient, or

(*iv*) if goods and/or services supplied are found to be deficient.

9. Determine with reason whether the following statements are true or false:

(*i*) A registered person shall issue separate invoices for taxable and exempted goods when supplying both taxable as well as exempted goods to an unregistered person.

(*ii*) A Non-banking financial company can issue a consolidated tax invoice at the end of every month for the supply made during that month. (Mock Test Paper October 2018 4 Marks) & (CA Intermediate May 2018 3 Marks)

Sol. (*i*) The given statement is false.

Where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single "invoice-cum-bill of supply" may be issued for all such supplies.

(*ii*) The said statement is true.

By virtue of an amendment, a non-banking financial company has been allowed to issue a consolidated tax invoice or any other document in lieu thereof for the supply of services made during a month at the end of the month.

10. Jai, a registered supplier, runs a general store in Ludhiana, Punjab. Some of the goods sold by him are exempt whereas some are taxable. You are required to advise him on the following issues:

(*i*) Whether Jai is required to issue a tax invoices in all cases, even if he is selling the goods to the end consumers?

(*ii*) Jai sells some exempted as well as taxable goods valuing ₹5,000 to a school student. Is he mandatorily required to issue two separate GST documents?

(*iii*) Jai wishes to know whether it's necessary to show tax amount separately in the tax invoices issued to the customers. You are required to advise him.

Sol. (*i*) No, he is not required to issue a tax invoice in all cases. As per section 31(1) of the CGST Act, 2017, every registered person supplying taxable goods is required to issue a 'tax invoice'. Section 31(3)(c) of the CGST Act, 2017 stipulates that every registered person supplying exempted goods is required to issue a bill of supply instead of tax invoice.

Further, rule 46A of the CGST Rules, 2017 provides that a registered person supplying taxable as well as exempted goods or services or both to an unregistered person may issue a single 'invoice-cum-bill of supply' for all such supplies.

However, as per section 31(3)(b) of the CGST Act, 2017 read with rule 46 of the CGST Rules, 2017, a registered person may not issue a tax invoice if:

(*a*) value of the goods supplied < ₹200,

(*b*) the recipient is unregistered; and

(*c*) the recipient does not require such invoice.

Instead, such registered person shall issue a Consolidated Tax Invoice for such supplies at the close of each day in respect of all such supplies.

(*ii*) As per rule 46A of the CGST Rules, 2017, where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single "invoice-cum-bill of supply" may be issued for all such supplies. Thus, there is no need to issue a tax invoice and a bill of supply separately to the school student in respect of supply of the taxable and exempted goods respectively.

(*iii*) As per section 33 of the CGST Act, 2017, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made. Hence, Jai has to show the tax amount separately in the tax invoices issued to customers.

11. Discuss the provisions relating to issue of an invoice/document in the following circumstances:

(*i*) Advance payment is received against a supply, but subsequently no supplies are made.

(*ii*) Goods are sent on approval for sale or return and are removed before the supply takes place.

(*iii*) Malcolm provides continuous supply of services to his client, where the due date of payment for such services is not ascertainable. No advance has been received on this behalf.

Sol. (*i*) As per section 31(3)(e) of CGST Act, 2017, where advance payment is received against a supply for which receipt voucher has been issued, but subsequently no supplies are made and no tax invoice is issued in pursuance thereof, a refund voucher has to be issued to the person who had made the advance payment.

(*ii*) As per section 31(7) of CGST Act, 2017, where the goods are sent on approval for sale or return and are removed before the supply takes place, the invoice shall be issued before or at the time of supply or 6 months from the date of removal, whichever is earlier.

(*iii*) As per section 31(5)(b) of CGST Act, 2017, in case of continuous supply of services, where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment.

12. When should a Tax Invoice be issued for supply of Goods?

Sol.

- If movement of goods is involved, then the tax invoice has to be issued before or at the time of removal of the goods for supply to the recipient.
- If movement of goods is not involved, then the tax invoice has to be issued before or at the time of the goods are delivered to the recipient or when the goods are made available to the recipient.

13. Examine the following independent cases of supply of goods and services and determine the time of issue of invoice under each of the cases as per the provisions of CGST Act, 2017:

(*i*) Sakthi Enterprises, Kolkata entered into a contract with Suraj Enterprises, Surat for supply of goods on 31st October, 2018. The goods were removed from the factory at Kolkata on 11th October, 2018. As per the agreement, the goods were to be delivered by 31st October, 2018. Suraj Enterprises received the goods on 14th October, 2018.

(*ii*) Trust and Fun Ltd, an event management company, has provided its services for an event at Kapoor Film Agencies, Mumbai on 5th June, 2018. Payment for the event was made on 19th June, 2018.

Sol. (*i*) A registered person supplying taxable goods shall issue a tax invoice, before or at the time of removal of goods for supply to the recipient, where the supply involves movement of goods.

Therefore, in the given case, invoice has to be issued on or before 11th October 2018 (the time of removal of goods).

(*ii*) A registered person [other than an insurer/banking company/financial institution, including an NBFC] supplying taxable services shall issue a tax invoice before or after the provision of service, but within a period of 30 days from the date of supply of service.

Thus, in the given case, invoice has to be issued within 30 days of 5th June 2018 (date of supply of service), i.e. on or before 5th July 2018.

14. ABC Ltd., a registered supplier has made following taxable supplies to its customer Mr. P in the quarter ending 30th June, 20XX.

Date	Bill No.	Particulars	Invoice Value (including GST)
5th April, 20XX	102	Notebooks [10 in numbers]	1200
10th May, 20XX	197	Chart Paper [4 in number]	600
20th May, 20XX	230	Crayon colors [2 packets]	500
2nd June, 20XX	254	Poster colors [5 packets]	900
22nd June, 20XX	304	Pencil box [4 sets]	700

Goods in respect of bill no. 102, 230 and 254 have been returned by Mr. P. You are required to advise ABC Ltd. whether it can issue consolidated credit note against all the three invoices?

Sol. Where one or more tax invoices have been issued for supply of any goods and/or services and

(*a*) the taxable value/tax charged in that tax invoice is found to exceed the taxable value/tax payable in respect of such supply, or

(*b*) where the goods supplied are returned by the recipient, or

(*c*) where goods and/or services supplied are found to be deficient, the registered person, who has supplied such goods and/or services, may issue to the recipient one or more credit notes for supplies made in a financial year containing prescribed particulars. Thus, one (consolidated) or more credit notes can be issued in respect of multiple invoices issued in a financial year without linking the same to individual invoices.

Hence, in view of the above-mentioned provisions, M/s ABC Ltd. can issue a consolidated credit note for the goods returned in respect of all the three invoices.

15. Bali Limited, a registered taxpayer, provides security services to registered persons from Mumbai office and Delhi office. The aggregate turnover of Mumbai office and Delhi office in the preceding financial year is ₹30 crore and ₹25 crore respectively. For the month of November in the current financial year, Bali Limited prepares duplicate invoices and does not issue e-invoice as it is of the view that it's aggregate turnover does not cross the threshold limit to make it liable for issuing e- invoices.

Briefly explain whether the view taken by Bali Limited is correct in law? Also explain the advantages of e-invoicing, if any.

Sol. The view taken by Bali Limited is not correct in law.

All notified registered businesses (except specified class of persons) with an aggregate turnover (based on PAN) in the preceding financial year greater than ₹5 crore are required to issue e-invoices.

The eligibility is based on aggregate annual turnover on the common PAN. Thus, the aggregate total turnover of Bali Limited is more than ₹5 crores (considering both the GSTINs) and is required to issue e-invoices.

Further, where e-invoicing is applicable, there is no need of issuing invoice copies in triplicate/ duplicate.

E-invoice has many advantages for businesses, which have been given as under:

1. Auto-reporting of invoices into GST return and auto-generation of e-way bill (wherever required). Under e-invoicing, business has to report the B2B invoice data only once in the e- invoice form and the same is reported in multiple forms (GSTR-1, e-way bill etc.). E-way bill can be auto-generated using e-invoice data. GSTR-1 can also be auto-populated with the e-invoice data. It will become part of the business process of the taxpayer.

2. Accuracy/Reconciliation. Since same data is reported to tax department as well as to the buyer to prepare his inward supplies (purchase) register, transcription errors are reduced. On receipt of information through GST System, buyer can do reconciliation with his Purchase Order.

3. Early payment. E-invoicing facilitates standardisation and inter-operability leading to reduction of disputes among transacting parties and thus, improving payment cycles.

4. Cost reduction. E-invoicing helps in reducing processing costs and thus, leads to improvement of overall business efficiency.

5. Reduction of tax evasion. Since a complete trail of B2B invoices is available with the Department, it will enable the system-level matching of input tax credit and output tax thereby reducing the tax evasion.

6. Elimination of fake invoices. E-invoicing eliminates the fake invoices. Claiming fictitious input tax credit (ITC) by raising fake invoices is also one of the biggest challenges currently faced by tax-authorities. The e-invoice system helps to curb the actions of unscrupulous taxpayers and reduce the number of fraud cases as the tax authorities have access to data in real-time.
7. Paper Elimination. E-invoicing helps in paper elimination and thereby it is eco-friendly.

16. Determine in which of the following independent cases, e-invoicing is applicable?

(*i*) Harnam & Co., dealing in interior decoration products made supplies to various registered and unregistered persons in the preceding financial year. The aggregate turnover of Harnam & Co. in the preceding financial year is ₹60 crore.

(*ii*) Rich & Poor Bank, registered under GST has an aggregate turnover of ₹75 crore in the preceding financial year.

Sol. All registered businesses with an aggregate turnover (based on PAN) in any preceding financial year from 2017-18 onwards greater than ₹5 crore are required to issue e- invoices in respect of B2B supplies (supply of goods and/or services to a registered person).

Further, following entities are exempt from the mandatory requirement of e-invoicing:

(*a*) Special Economic Zone units

(*b*) Insurer or banking company or financial institution including NBFC

(*c*) GTA supplying services in relation to transportation of goods by road in a goods carriage

(*d*) Supplier of passenger transportation service

(*e*) Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens

(*f*) A government department and Local authority

Thus, above mentioned entities are not required to issue e-invoices even if their turnover exceeds ₹5 crore in the preceding financial year from 2017-18 onwards.

In view of the above mentioned provisions, the answer to the independent cases are as under:

(*i*) The aggregate turnover of Harnam & Co. exceeds the threshold limit of aggregate turnover applicable for e-invoicing. Thus, Harnam & Co. is mandatorily required to issue e-invoices in respect of supplies made to registered persons.

(*ii*) Banking company is specifically exempt from mandatory requirement of e-invoicing even if the turnover exceeds ₹5 crore in the preceding financial year. Thus, e-invoicing is not applicable to Rich & Poor Bank

17. Answer the Following Questions

(*a*) ABC Cinemas, a registered person engaged in making supply of services by way of admission to exhibition of cinematographic films in multiplex screens was issuing consolidated tax invoice for supplies at the close of each day in terms of section 31(3)(b) of CGST Act, 2017 read with fourth proviso to rule 46 of CGST Rules, 2017.

During the month of October, 2019, the Department raised an objection for this practice and asked to issue separate tax invoices for each ticket.

Advise ABC Cinemas for the procedure to be followed in the light of recent notification.

Sol. (*a*) The procedure to be followed by ABC Cinemas, a registered person engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens, is as under:

The option to issue consolidated tax invoice is not available to a supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens. Thus, ABC Cinemas cannot issue consolidated tax invoice for supplies made by it at the close of each day.

ABC Cinemas is required to issue an electronic ticket.

The said electronic ticket shall be deemed to be a tax invoice, even if such ticket does not contain the details of the recipient of service but contains the other information as prescribed to be mentioned.

CHAPTER 11

Accounts and Records (Section 35)

THEORY

The provisions relating to accounts and records required to be maintained under GST are contained in sections 35 and 36 read along with Chapter VII - Accounts and Records of CGST Rules, 2017. Relevant provisions of CGST Rules, 2017 have been incorporated at relevant places.

■ WHO IS REQUIRED TO MAINTAIN BOOKS OF ACCOUNTS AND AT WHICH PLACE?

Every registered person shall keep and maintain, books of accounts at his principal place of business (hereinafter referred to as PPoB) and books of account relating to additional place of business (hereinafter referred to as APoB) [as mentioned in the certificate of registration].

Where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business.

Unless proved otherwise, if any documents, registers, or any books of account belonging to a registered person are found at any premises other than those mentioned in the certificate of registration, they shall be presumed to be maintained by the said registered person.

■ WHICH ACCOUNTS AND RECORDS ARE REQUIRED TO BE MAINTAINED?

A true and correct account of following is to be maintained:

(*a*) production or manufacture of goods;
(*b*) inward and outward supply of goods or services or both;
(*c*) stock of goods;
(*d*) input tax credit availed;
(*e*) output tax payable and paid
(*f*) such other particulars as may be prescribed2

The Commissioner may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified therein.

Where the Commissioner considers that any class of taxable persons is not in a position to keep and maintain accounts in accordance with the provisions of this section, he may, for reasons to be recorded in writing, permit such class of taxable persons to maintain accounts in such manner as may be prescribed.

The additional records to be maintained by specified persons are as under:

(*i*) *Registered person*

In addition to the particulars mentioned in section 35(1), the rules also provide that the registered person5 is required to maintain a true and correct account of:

- The goods/services imported/exported,
- Supplies attracting payment of tax on reverse charge along with relevant documents, including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers6.
- Separate account of advances received, paid and adjustments made thereto.
- Particulars of:
  - Names and complete addresses of suppliers from whom he has received the goods or services chargeable to tax under the Act;
  - Names and complete addresses of the persons to whom he has supplied goods or services, where required under the provisions of this Chapter.
- Particulars of the complete address of the premises where goods are stored by him, including goods stored during transit along with the particulars of the stock stored therein.

  However, if any taxable goods are found to be stored at any place(s) other than those so declared without the cover of any valid documents, the proper officer shall determine the amount of tax payable on such goods as if such goods have been supplied by the registered person.

  A supplier is required to maintain following records relating to stock of goods and tax details. However, a supplier who has opted for composition scheme is not required to maintain such records.

  (*a*) Stock of goods: Accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.

  (*b*) Details of tax: Account, containing the details of tax payable (including tax payable under reverse charge), tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period

(*ii*) *Agent*

Every agent shall maintain accounts depicting the-

(*a*) Particulars of authorisation received by him from each principal to receive/supply goods/ services on behalf of such principal separately;

(*b*) Particulars including description, value and quantity (wherever applicable) of goods/services received on behalf of every principal;

(*c*) Particulars including description, value and quantity (wherever applicable) of goods/services supplied on behalf of every principal;

(*d*) Details of accounts furnished to every principal; and

(*e*) Tax paid on receipts/supply of goods/services effected on behalf of every principal.

(*iii*) *Manufacturer*

Apart from other records, every registered person manufacturing goods has to maintain monthly production accounts showing quantitative details of raw materials/services used in the manufacture and quantitative details of the goods so manufactured including the waste and by products thereof.

(*iv*) *Service Provider*

Every registered person supplying services has to additionally maintain the accounts showing quantitative details of goods used in the provision of services, details of input services utilised and the services supplied.

(*v*) *Person executing works contract*

Every registered person executing works contract shall keep separate accounts for works contract showing-

- the names and addresses of the persons on whose behalf the works contract is executed;
- description, value and quantity (wherever applicable) of goods/services received for the execution of works contract;
- description, value and quantity (wherever applicable) of goods/services utilized in the execution of works contract;
- the details of payment received in respect of each works contract; and
- the names and addresses of suppliers from whom he received goods or services.

(*vi*) *Custodian/clearing and forwarding agent*

Any person having custody over the goods in the capacity of a carrier or a clearing and forwarding agent for delivery or dispatch thereof to a recipient on behalf of any registered person shall maintain true and correct records in respect of such goods handled by him on behalf of such registered person and shall produce the details thereof as and when required by the proper officer.

(*vii*) *Owner/operator of a warehouse/godown and transporter*

Every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter, irrespective of whether he is a registered person or not, shall maintain records of the consigner, consignee and other relevant details of the goods in such manner as may be prescribed Enrolment, if not already registered in GST14: If such persons are not already registered, they shall obtain a unique enrollment number by applying electronically [In Form GST ENR-01] at the GST Common Portal.

The person enrolled as aforesaid in any other State or Union territory shall be deemed to be enrolled in the State or Union territory.

Such person may also amend the details furnished in the prescribed form.

Such person, once obtained unique enrollment number, shall not be eligible to use any of the GSTIN.

Transporter: Any person engaged in the business of transporting goods shall maintain records of goods transported, delivered and goods stored in transit by him along with GSTIN of the registered consignor and consignee for each of his branches.

Owner/operator of a warehouse/godown

Every owner or operator of a warehouse or godown shall maintain books of accounts with respect to the period for which particular goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt, and disposal of such goods.

The owner or the operator of the godown shall store the goods in such manner that they can be identified item-wise and owner-wise and shall facilitate any physical verification or inspection by the proper officer on demand.

■ HOW THE ACCOUNTS AND RECORDS WILL BE MAINTAINED? RECORDS MAY BE MAINTAINED MANUALLY

- Each volume of books of account maintained manually by the registered person shall be serially numbered.
  - Records may be maintained in electronic form

- Books of account include any electronic form of data stored on any electronic device.
  - The registered person may keep and maintain such accounts and other particulars in electronic form stored on any electronic device and record so maintained shall be authenticated by means of a digital signature.
  - Proper electronic back-up of records shall be maintained and preserved in such manner that, in the event of destruction of such records due to accidents or natural causes, the information can be restored within a reasonable period of time.
  - The registered person maintaining electronic records shall produce, on demand, the relevant records or documents, duly authenticated by him, in hard copy or in any electronically readable format.
  - Where the accounts and records are stored electronically by any registered person, he shall, on demand, provide the details of such files, passwords of such files and explanation for codes used, where necessary, for access and any other information which is required for such access along with a sample copy in print form of the information stored in such files.
- No entry to be erased/overwritten
  - Any entry in registers, accounts and documents shall not be erased, effaced or overwritten.
  - All incorrect entries, otherwise than those of clerical nature, shall be scored out under attestation and there after correct entry shall be recorded.
  - Where the registers and other documents are maintained electronically, a log of every entry edited or deleted shall be maintained.
- Accounts maintained by the registered person together with all the invoices, bills of supply, credit and debit notes, and delivery challans relating to stocks, deliveries, inward supply and outward supply shall be preserved for the period as provided in section 36 and shall, where such accounts and documents are maintained manually, be kept at every related place of business mentioned in the certificate of registration and shall be accessible at every related place of business where such accounts and documents are maintained digitally.
- Every registered person shall, on demand, produce the books of accounts which he is required to maintain under any law for the time being in force.

WHAT ARE THE CONSEQUENCES OF FAILURE TO MAINTAIN THE ACCOUNTS18 ?

Where the registered person fails to account for the goods and/or services in accordance with the provisions of section 35(1), the proper officer shall determine the amount of tax payable on the goods or services or both that

are not accounted for, as if such goods or services or both had been supplied by such person and the provisions of section 73/section 74, as the case may be, shall, mutatis mutandis, apply for determination of such tax.

Period of Retention of Accounts [Section 36]

Every registered person required to keep and maintain books of account or other records in accordance with the provisions of section 35(1) shall retain them until the expiry of 72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records.

However, a registered person, who is a party to an appeal or revision20 or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or Court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of one year after final disposal of such appeal or revision or proceedings or investigation, or for the period specified above, whichever is later.

QUESTION BANK

1. Who is required to maintain books of accounts and at which place in terms of Section 35 read with relevant rules?

Sol. Every registered person shall keep and maintain, his books of accounts at his principal place of business and books of account relating to additional place of business as mentioned in the certificate of registration. Where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business.

2. Mr. Sky is engaged in the business of trading of mobiles. He is eligible for composition scheme and has opted for the same. He seeks your advice for records which are not required to be maintained by him as composition taxable person.

Sol. A supplier who has opted for composition scheme is not required to maintain records relating to;

(*a*) **Stock of goods:** Accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of the opening balance, receipt, supply, goods lost stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.

(*b*) **Details of tax:** Account, containing the details of tax payable (including tax payable under reverse charge), tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.

Thus, Mr. Sky is not required to maintain above mentioned records.

3. Mr. Harsh Manjula is engaged in the business of works contract services and request your guidance as to specific records required to be maintained by him under GST law, if any.

Sol. Mr. Harsh Manjula, executing works contract shall keep separate accounts for works contract showing -

- the names and addresses of the persons on whose behalf the works contract is executed;
- description, value and quantity (wherever applicable) of goods/services received for the execution of works contract;
- description, value and quantity (wherever applicable) of goods/services utilized in the execution of works contract;
- the details of payment received in respect of each works contract; and

the names and addresses of suppliers from whom he received goods or services.

4. Chill Chain Cold is operating cold storage warehouse and seeks your guidance on the GST accounts and records to be maintained by them in terms of Section 35.

Sol. Chill Chain Cold shall maintain records of the consigner, consignee and other relevant details of the goods in the prescribed manner.

Chill Chain Cold shall also maintain books of accounts with respect to the period for which particular goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt, and disposal of such goods.

Chill Chain Cold shall store the goods in such manner that they can be identified item-wise and owner-wise and shall facilitate any physical verification or inspection by the proper officer on demand.

5. Mr. X is of the view that records are to be mandatorily maintained manually only. You are required to examine the view taken by Mr. X?

Sol. The view taken by Mr. X is not valid in law. Books of account include any electronic form of data stored on any electronic device. The registered person may keep and maintain such accounts and other particulars in electronic form stored on any electronic device and record so maintained shall be authenticated by means of a digital signature. The registered person maintaining electronic records shall produce, on demand, the relevant records or documents, duly authenticated by him, in hard copy or in any electronically readable format.

Where the accounts and records are stored electronically by any registered person, he shall, on demand, provide the details of such files, passwords of such files and explanation for codes used, where necessary, for access and any other information which is required for such access along with a sample copy in print form of the information stored in such files.

12

CHAPTER

E-Way Bill

THEORY

E-Way Bill

Meaning of e-way bill and why is it required?	E-way bill is an electronic document generated on the GST portal evidencing movement of goods. Section 68 mandates that the Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed. Rule 138 of CGST Rules, 2017 prescribes e-way bill as the document to be carried for the consignment of goods in certain prescribed cases.
When is it required to be generated?	E-way Bill is mandatory in case of movement of goods of consignment value exceeding ₹50,000. Movement should be:
	(*a*) in relation to a supply; or (*b*) for reasons other than supply; or (*c*) due to inward supply from an unregistered person, registered person causing movement of goods shall furnish the information relating to the said goods in Part A of Form GST EWB-01 before commencement of such movement. Exceptions to minimum consignment value of ₹50,000 (i.e. Mandatory to Generate E-Way Bill) ❑ Inter-State transfer of goods by principal to job worker ❑ Inter-State transfer of handicraft goods by a person exempted from obtaining registration
Consignment value	Consignment value of goods shall be: (*a*) Determined in accordance with the provisions of Section 15 (*b*) Declared in an invoice, a bill of supply or delivery challan, as the case may be, issued in respect of the said consignment (*c*) It also includes Taxes under GST (*d*) It shall not include the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

Who causes movement of goods?	If a supplier is registered and undertakes to transport the goods, movement of goods is caused by the supplier. If the recipient arranges transport, movement would be caused by him. If goods are supplied by an unregistered supplier to a registered known recipient, movement shall be caused by such recipient.
Information to be furnished in e-way bill	Part A: to be furnished by the registered person** who is causing movement of goods. Part B: to be furnished by the person who is transporting the goods. However, information in Part-A may be furnished: (*a*) by the transporter if so authorised or (*b*) by the e-commerce operator/courier agency, where the goods are supplied through them. However, e-way bill generation facility is blocked in respect of any outward movement of goods of the registered person where: ❑ A person paying tax under composition scheme or under S.10 (2A) has not furnished the statement for payment of self-assessed tax for 2 consecutive quarters, or ❑ A person paying tax under regular scheme has not furnished the returns for 2 consecutive months, or ❑ A person paying tax under a regular scheme has not furnished GSTR-1 (Statement of outward supplies) for any 2 months or quarters, as the case may be. ❑ A person whose registration has been Suspended However, Commissioner (jurisdictional commissioner) may, on receipt of an application from a registered person in prescribed form, on sufficient cause being shown and for reasons to be recorded in writing, by order, in prescribed form allow furnishing of the said information in Part A of Form GST EWB-01, subject to prescribed conditions and restrictions. An order rejecting said request shall not be passed without giving the said person a reasonable opportunity of being heard. The permission granted or rejected by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be granted or, as the case may be, rejected by the Commissioner.
Who can generate the e- way bill?	E-way bill is to be generated by the registered consignor or consignee (if the transportation is being done in own/hired conveyance or by railways by air or by vessel) or the transporter (if the goods are handed over to a transporter for transportation by road). Where neither the consignor nor consignee generates the e-way bill and the value of goods is more than ₹50,000/- it shall be the responsibility of the transporter to generate it
Other points	(*a*) Goods transported by railways shall be delivered only on production of e-way bill. (*b*) E-way bill can be generated even if consignment value is less than ₹50,000.

<table>
<tr><td>Details of conveyance may not be furnished in Part B</td><td>In case of intra-State movement of goods up to 50 km distance:
(a) from place of business (PoB) of consignor to PoB of transporter for further transportation or
(b) from PoB of transporter finally to PoB of the consignee.</td></tr>
<tr><td>Transfer of goods to another conveyance</td><td>In such cases, the transporter or generator of the e-way bill shall update the new vehicle number in Part B of the EWB before such transfer and further movement of goods.</td></tr>
<tr><td>Consolidated E-way Bill in case of road transport</td><td>After e-way bill has been generated, where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill in Form GST EWB-02 may be generated by him on the said common portal prior to the movement of goods.
Where the consignor/consignee has not generated the e-way bill in Form GST EWB-01 and the aggregate of the consignment value of goods carried in the conveyance is more than ₹50,000, the transporter shall generate individual Form GST EWB-01 on the basis of invoice or bill of supply or delivery challan and may also generate a consolidated e-way bill in Form GST EWB-02 prior to the movement of goods [This provision is not yet effective].</td></tr>
<tr><td>Cancellation of e-way bill</td><td>E-way bill can be cancelled if either goods are not transported or are not transported as per the details furnished in the e-way bill. The e-way bill can be cancelled within 24 hours from the time of generation.</td></tr>
<tr><td>Validity period of e-way bill/ consolidated e-way bill</td><td>
<table>
<tr><th>Shipment By</th><th>Time Limit</th></tr>
<tr><td>Normal Cargo</td><td>One day For every 200 km or part thereof</td></tr>
<tr><td>Over Dimensional Cargo</td><td>One day For every 20 km or part thereof</td></tr>
</table>

Multimodal shipment in which at least one leg involves transport by ship
The period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as the period expiring at midnight of the day immediately following the date of generation of eway bill

Extension of Validity Period

Provided that the Commissioner may, on the recommendations of the Council, by notification, extend the validity period of an e-way bill for certain categories of goods as may be specified therein.
Provided further that where, under circumstances of an exceptional nature, including trans-shipment, the goods cannot be transported within the validity period of the e-way bill, the transporter may extend the validity period after updating the details in Part B of FORM GST EWB-01, if required.
Provided also that the validity of the e-way bill may be extended within eight hours from the time of its expiry.

</td></tr>
</table>

Acceptance/ rejection of e-way bill	The person causing movement of goods shall generate the e- way bill specifying the details of other person as a recipient who can communicate the acceptance or rejection of such consignment specified in the e-way bill. If the acceptance or rejection is not communicated within 72 hours from the time of generation of e-way Bill or the time of delivery of goods whichever is earlier, it will be deemed that he has accepted the details.
Documents/ devices to be carried by a person-in-charge of a conveyance	❑ Invoice or bill of supply or delivery challan ❑ Copy of the e-way bill in physical form or the e-way θ bill number in electronic form or mapped to a RFID embedded on to the conveyance
Verification of documents and conveyances	Commissioner or an officer empowered by him in this behalf may authorise the proper officer to intercept any conveyance to verify the e-way bill or the e-way bill number in physical form for all inter-State and intra-State movement of goods. Physical verification of a specific conveyance can also be carried out by any officer, on receipt of specific information on evasion of tax, after obtaining necessary approval of the Commissioner or an officer authorised by him in this behalf.
Inspection and verification of goods	A summary report of every inspection of goods in transit shall be recorded online on the common portal by the proper officer within 24 hours of inspection and the final report shall be recorded within 3 days of such inspection. Once physical verification of goods being transported on any conveyance has been done during transit at one place within the State or in any other State, no further physical verification of the said conveyance shall be carried out again in the State, unless a specific information relating to evasion of tax is made available subsequently. Where a vehicle has been intercepted and detained for a period exceeding 30 minutes, the transporter may upload the said information in on the common portal.
	Situations where E-way Bill is not required to be generated (*a*) where the goods being transported are the ones given below: 1. Liquefied petroleum gas for supply to household and non-domestic exempted category (NDEC) customers 2. Kerosene oil sold under PDS 3. Postal baggage transported by Department of Posts 4. Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal (Chapter 71) 5. Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71) 6. Currency 7. Used personal and household effects 8. Coral, unworked (0508) and worked coral (9601). (*b*) Where the goods are being transported by a non-motorised conveyance (*c*) Where the goods are being transported from the customs port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs

	(*d*) In respect of movement of goods within such areas as are notified under of rule 138(14)(d) of the State or Union territory GST Rules in that particular State or Union territory (*e*) Where the goods [other than de-oiled cake], being transported, are exempt from tax vide Notification No. 2/2017 CT(R) dated 28.06.2017 (*f*) Where the goods being transported are alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel (*g*) Where the supply of goods being transported is treated as no supply under Schedule III of the Act.
	(*h*) where the goods are being transported – 1. Under customs bond from an inland container depot or a container freight station to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port, or 2. Under customs supervision or under customs seal. (*i*) Where the goods being transported are transit cargo from or to Nepal or Bhutan (*j*) Where the goods being transported are exempt from tax under Notification No. 7/2017 CT (R) 28.06.2017 [Supply of goods by the CSD to the Unit Run Canteens or to the authorised customers and supply of goods by the Unit Run Canteens to the authorised customers] and Notification No. 26/2017 CT (R) 21.09.2017 [Supply of heavy water and nuclear fuels by Department of Atomic Energy to Nuclear Power Corporation of India Ltd. (NPCIL)] (*k*) Any movement of goods caused by defence formation under Ministry of defence as a consignor or consignee (*l*) Where the consignor of goods is the Central Government, Government of any State or a local authority for transport of goods by rail
	(*m*) Where empty cargo containers are being transported (*n*) Where the goods are being transported up to a distance of 20 km from the place of the business of the consignor to a weighbridge for weighment or from the weighbridge back to the place of the business of the said consignor subject to the condition that the movement of goods is accompanied by a delivery challan issued in accordance with rule 55. (*o*) Where empty cylinders for packing of liquefied petroleum gas are being moved for reasons other than supply

QUESTION BANK

1. With reference to the provisions relating to the electronic way bill (E-way bill) as prescribed under the GST laws, Solution the following questions:

(*i*) Sindhi Toys Manufacturers, registered in Punjab, sold electronic toys to a retail seller in Gujarat, at a value of ₹48,000 (excluding GST leviable @ 18%). Now, it wants to send the consignment of such toys to the retail seller in Gujarat.

You are required to advise Sindhi Toys Manufacturers on the following issues:

(*a*) Whether e-way bill is mandatorily required to be generated in respect of such movement of goods?

(*b*) If yes, who is required to generate the e-way bill?

(*c*) What will be the consequences for non-issuance of e-way bill?

(*ii*) Power Electricals Ltd., a registered supplier of air-conditioners, is required to send from Mumbai (Maharashtra), a consignment of parts of air-conditioner to be replaced under warranty at various client locations in Gujarat. The value of consignment declared in the delivery challan accompanying the goods is ₹70,000. Power Electricals Ltd. claims that since movement of goods to Gujarat is caused due to reasons other than supply, e-way bill is not mandatorily required to be generated in this case.

You are required to examine the technical veracity of the claim made by Power Electricals Ltd.

(*iii*) Beauty Cosmetics Ltd. has multiple wholesale outlets of cosmetic products in Mumbai, Maharashtra. It receives an order for cosmetics worth ₹1,20,000 (inclusive of GST leviable @ 18%) from Prasannaa, owner of a retail cosmetic store in Delhi. While checking the stock, it is found that order worth ₹55,000 can be fulfilled from the company's Dadar (Mumbai) store and remaining goods worth ₹65,000 can be sent from its Malad (Mumbai) store. Both the stores are instructed to issue separate invoices for the goods sent to Prasannaa. The goods are transported to Prasanna in Delhi, in a single conveyance owned by Radhey Transporters.

You are required to advise Beauty Cosmetics Ltd. with regard to issuance of e-way bill(s).

Sol. (*i*)

(*a*) Rule 138(1) of the CGST Rules, 2017 provides that e-way Bill is mandatorily required to be generated if the goods are moved, inter alia, in relation to supply and the consignment value exceeds ₹50,000. Further, explanation 2 to rule 138(1) stipulates that the consignment value of goods shall be the value, determined in accordance with the provisions of section 15, declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and also includes CGST, SGST/UTGST, IGST and cess charged, if any, in the document and shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

Accordingly, in the given case, the consignment value will be as follows:

= ₹48,000 × 118%

= ₹56,640.

Since the movement of goods is in relation to supply of goods and the consignment value exceeds ₹50,000, e-way bill is mandatorily required to be issued in the given case.

(*b*) An e-way bill contains two parts namely, Part A to be furnished by the registered person who is causing movement of goods of consignment value exceeding ₹50,000/- and part B (transport details) is to be furnished by the person who is transporting the goods.

Where the goods are transported by the registered person as a consignor or the recipient of supply as the consignee, whether in his own conveyance or a hired one or a public conveyance, by road, the said person shall generate the e-way bill on the common portal after furnishing information in Part B [Rule 138(2)].

Where the goods are transported by railways or by air or vessel, the e-way bill shall be generated by the registered person, being the supplier or the recipient, who shall, either before or after the commencement of movement, furnish, on the common portal, the information in Part B [Rule 138(2A)].

Where the goods are handed over to a transporter for transportation by road, the registered person shall furnish the information relating to the transporter on the common portal and the e-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in Part A [Rule 138(3)].

Where the consignor or the consignee has not generated the e-way bill and the aggregate of the consignment value of goods carried in the conveyance is more than ₹50,000/, the transporter, except in case of transportation of goods by railways, air and vessel, shall, in respect of inter-State supply, generate the e-way bill on the basis of invoice or bill of supply or delivery challan, as the case may be, and may also generate a consolidated e-way bill on the common portal prior to the movement of goods [Rule 138(7)].

(*c*) It is mandatory to generate e-way bill in all cases where the value of consignment of goods being transported is more than ₹50,000/- and it is not otherwise exempted in terms of rule 138(14) of CGST Rules, 2017.

If e-way bills, wherever required, are not issued in accordance with the provisions contained in rule 138, the same will be considered as contravention of rules. All such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure.

(*ii*) The goods to be moved to another State for replacement under warranty is not a 'supply'. However, rule 138(1) of the CGST Act, 2017, inter alia, stipulates that every registered person who causes movement of goods of consignment value exceeding ₹50,000:

(*a*) In relation to a supply; or

(*b*) For reasons other than supply; or

(*c*) Due to inward supply from an unregistered person, shall, generate an electronic way bill (E-way Bill) before commencement of such movement.

CBIC via FAQs on E-way Bill has also clarified that even if the movement of goods is caused due to reasons others than supply [including replacement of goods under warranty], e-way bill is required to be issued.

Thus, in the given case, since the consignment value exceeds ₹50,000, e-way bill is required to be mandatorily generated. Therefore, the claim of Power Electricals Ltd. that e-way bill is not mandatorily required to be generated as the movement of goods is caused due to reasons other than supply, is not correct.

(*iii*) Beauty Cosmetics Ltd. would be required to prepare two separate e-way bills since each invoice value exceeds ₹50,000 and each invoice is considered as one consignment for the purpose of generating e-way bills.

The FAQs on E-way Bill issued by CBIC clarify that if multiple invoices are issued by the supplier to one recipient, that is, for movement of goods of more than one invoice of same consignor and consignee, multiple e-way bills have to be generated. In other words, for each invoice, one e-way bill has to be generated, irrespective of the fact whether same or different consignors or consignees are involved. Multiple invoices cannot be clubbed to generate one e-way bill. However, after generating all these e-way bills, one consolidated e-way bill can be prepared for transportation purpose, if goods are going in one vehicle.

2. Happy Company is a registered supplier of electric goods. It has three stores for electric goods in Jodhpur (Rajasthan) namely Ram Store, Shyam Store, Mohan Store. It receives an order for supply of electric goods worth ₹1,40,000 (exclusive of GST @ 18%) from Kishan Sons of Bhopal (Madhya Pradesh). Happy Company found that order worth ₹43,000 can be fulfilled from the company's Ram Store, order worth ₹45,000 can be fulfilled from its Shyam Store and remaining goods worth ₹52,000 can be sent from its Mohan Store. All three stores are instructed to issue separate invoices for the goods sent to Kishan Sons. The goods are transported to Kishan Sons in Bhopal in a single conveyance owned by Shiv Transporters.

You are required to advise Happy Company with regard to issuance of e-way bills as per the provisions of the CGST Act, 2017.

Sol. Rule 138 of the CGST Rules, 2018 stipulates that e-way Bill is mandatorily required to be generated if the goods are moved, inter alia, in relation to a supply and the consignment value [including CGST, SGST/UTGST, IGST and cess charged] exceeds ₹50,000.

Further, the FAQs on E-way Bill issued by CBIC clarify that if multiple invoices are issued by the supplier to one recipient, multiple e-way bills have to be generated – one e-way bill for each invoice. Each invoice is considered as separate consignment for the purpose of generating e-way bills.

In the given case, consignment value of goods supplied against separate invoices from Ram Store, Shyam Store and Mohan Store is ₹50,740 [₹43,000 × 118%], ₹53,100 [₹45,000 × 118%] and ₹61,360 [₹52,000 × 118%] respectively.

Thus, Happy Company is required to prepare 3 separate e-way bills since value of each invoice exceeds ₹50,000.

3. Discuss the correctness of the following statements:

(*i*) Once generated, an e-way bill cannot be cancelled.

(*ii*) E-way bill generated in one State is valid in another State.

Sol. (*i*) The said statement is partially correct. Where an e-way bill has been generated, but goods are either not transported at all or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal within 24 hours of generation of the e-way bill.

However, an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B of the CGST Rules, 2017.

(*ii*) The said statement is correct. The e-way bill generated under Goods and Services Tax Rules of any State or Union territory shall be valid in every State and Union territory.

4. Mr. Shah, a consignor is required to move goods from Ahmedabad (Gujarat) to Nadiad (Gujarat). He appoints Mehta Transporter for movement of goods. Mehta Transporter moves the goods from Ahmedabad (Gujarat) to Kheda (Gujarat). For completing the movement of goods from Kheda (Gujarat) to Nadiad (Gujarat), Mehta Transporter now hands over the goods to Parikh Transporter. Explain the procedure regarding e-way bill to be followed by consignor and transporter as per provisions of GST law and rules made there under.

Sol. In the given scenario, only one e-way bill is required to be issued.

Part A can be filled by either Mr. Shah or recipient of goods or Mehta Transporter on the appropriate authorisation.

Where the goods are transferred from one conveyance to another, the consignor or the recipient, who has provided information in Part A, or the transporter shall, before such transfer and further movement of goods, update the details of conveyance in the e-way bill on the common portal in Part B.

Thus, on reaching Kheda, Mr. Shah or the recipient of the goods, who has filled Part A of the e-way bill, or Mehta Transporter can, before the transfer and further movement of goods, update the details of conveyance in Part B of the e-way bill.

Further, the consignor or the recipient, who has furnished the information in Part A, or the transporter, may assign the e-way bill number to another registered or enrolled transporter for updating the information in Part B for further movement of the consignment.

Thus, on reaching Kheda, Mr. Shah or the recipient of the goods, or Mehta Transporter can assign the said e-way bill to Parikh Transporter who will thereafter update the details of conveyance in Part B.

However, upon updation of the details of the conveyance by Parikh transporter in Part B, Mr. Shah or recipient, as the case may be, who has furnished the information in Part A shall not be allowed to assign the e-way bill number to another transporter.

5. Agni Ltd. a registered supplier wishes to transport cargo by road between two cities situated at a distance of 368 kilometres. Calculate the validity period of e-way bill under rule 138(10) of CGST Rules, 2017 for transport of the said cargo, if it is over dimensional cargo or otherwise.

(*b*) The validity period of e-way bill under rule 138(10) of the CGST Rules, 2017 for transport of cargo by road between two cities situated at a distance of 368 km is as under:

Sol. (i) If it is over dimensional cargo: the validity period of the e-way bill is one day from relevant date up to 20 km and one additinal day for every 20 km or part thereof thereafter.

Thus, validity period in given case:

= 1 day + 18 days

= 19 days

(*ii*) If it is a cargo other than over dimensional cargo: the validity period of the e-way bill is one day from relevant date upto 200 km and one additional day for every 200 km or part thereof thereafter.

Thus, validity period in given case:

= 1 day + 1 day

= 2 days

6. "It is mandatory to furnish the details of conveyance in Part-B of E-way Bill."

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

Sol. The given statement is partially valid.

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

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

(*i*) From the place of business of the consignor to the place of business of the transporter for further transportation or

(*ii*) From the place of business of the transporter finally to the place of business of the consignee.

13 CHAPTER

Payment of Tax

THEORY

Section 49 Payment of Tax, Interest, Penalty and other Amounts

1. Every deposit made towards tax, interest, penalty, fee or any other amount by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or UPI or IMPS or by such other mode and subject to such conditions and restrictions as may be prescribed, shall be credited to the electronic cash ledger of such person to be maintained in such manner as may be prescribed. Over the Counter payment (OTC) through authorised banks for deposits up to 10,000 rupees per challan per tax period, by cash, cheque or demand draft. This amount restriction is not applicable to remittances by
   - Government Departments
   - Proper Officer or any other Officer recovering outstanding dues or during any investigation or enforcement activity or ad hoc deposit
   - Proper officer or any other officer authorised to recover outstanding dues from any person, whether registered or not, including recovery made through attachment or sale of movable or immovable properties;
2. The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with section 41, to be maintained in such manner as may be prescribed.
3. The amount available in the electroni c cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of the Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.
4. The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions and within such time as may be prescribed.
5. The amount of input tax credit available in the electronic credit ledger of the registered person Shall be utilised as follows

1st Preference: Credit of IGST

First towards Output IGST
Balance If any, shall be adjusted Towards output CGST or output SGST @ the option of Assessee

Note: First of all ITC of IGST shall be utilised completely and then, ITC of CGST or SGST/UTGST shall be used.

2nd Preference

Credit of CGST	Credit of SGST
First towards Output CGST Balance If any, shall be adjusted Towards output IGST (If Exists)	First towards Output SGST Balance If any, shall be adjusted Towards output IGST (If Exists)

Note: If there is output IGST and also ITC of CGST and SGST/UTGST, ITC of CGST shall be used first and only after that ITC of SGST/UTGST shall be used.

6. The balance in the electronic cash ledger or electronic credit ledger after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made thereunder may be refunded in accordance with the provisions of section 54.

7. All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic liability register as may be prescribed.

8. Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order, namely:

(*a*) Self-assessed tax, and other dues related to returns of previous tax periods;

(*b*) Self-assessed tax, and other dues related to the return of current tax period;

(*c*) Any other amount payable under the Act or the rules made thereunder including the demand determined under Section 73 or 74.

9. Every person who has paid the tax on goods and/or services under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.

Explanation- For the purposes of this section,

(*a*) The date of credit to the account of the Government in the authorised bank shall be deemed to be the date of deposit in the electronic cash ledger;

(*b*) The expression "tax dues" means the tax payable under this Act and does not include interest, fee and penalty; and "other dues" means interest, penalty, fee or any other amount payable under this Act or the rules made thereunder.

What are E-Ledgers/register

Electronic Ledgers or E-Ledgers are statements of cash and input tax credit in respect of each registered taxpayer. In addition, each taxpayer shall also have an electronic tax liability register.

Rule 87 Electronic Cash Ledger

1. The electronic cash ledger shall be maintained in FORM GST PMT-05 for each person, liable to pay tax, interest, penalty, late fee or any other amount, on the common portal for crediting the amount deposited and debiting the payment therefrom towards tax, interest, penalty, fee or any other amount.

2. Any person shall generate a challan in FORM GST PMT-06 on the common portal and enter the details of the amount to be deposited by him towards tax, interest, penalty, fees or any other amount

3. The deposit shall be made through any of the following modes, namely:—

(*a*) Internet Banking through authorised banks;

(*b*) Credit card or Debit card through the authorised bank;

(*c*) National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or

(*d*) Over the Counter payment through authorised banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft

Payment by Challan

- What is CPIN, CIN, BRN and E-FPB?

  CPIN: stands for Common Portal Identification Number. It is created for every Challan successfully generated by the taxpayer. It is a 14-digit unique number to identify the challan. CPIN remains valid for a period of 15 days.

  CIN or Challan Identification Number is generated by the banks, once payment in lieu of a generated Challan is successful. It is a 17-digit number that is 14-digit CPIN plus 3-digit Bank Code.

  CIN is generated by the authorised banks/Reserve Bank of India (RBI) when payment is actually received by such authorised banks or RBI and credited in the relevant Government account held with them. It is an indication that the payment has been realised and credited to the appropriate Government account. CIN is communicated by the authorised bank to the taxpayer as well as to GSTN.

  BRN or Bank Reference Number is the transaction number given by the bank for a payment against a Challan

  E-FPB stands for Electronic Focal Point Branch. These are branches of authorised banks which are authorised to collect payment of GST. Each authorised bank will nominate only one branch as its E-FPB for PAN India transaction.

  The E-FPB will have to open accounts under each major head for all governments. Any amount received by such E-FPB towards GST will be credited to the appropriate account held by such E-FPB. For NEFT/RTGS Transactions, RBI will act as E-FPB

- Are manual Challans applicable as allowed earlier under the VAT regimes?

  Manual or physical Challans are not allowed under the GST regime. It is mandatory to generate Challans online on the GST Portal.

- How many types of Challans are prescribed for various taxes and payments to be paid under the GST regime?

  There is single Challan prescribed for all taxes, fees, penalty, interest, and other payments to be made under the GST regime.

- E-challan validity is for 15 days. The commission for making payment through e-challan has to be borne by the person making the payment.

- Any unregistered person has to make payment on the basis of a temporary identification number generated through a common portal.

Electronic Cash Ledger

Liability Payment	Cash Receipt
❑ Tax ❑ Interest ❑ Penalty ❑ Fee ❑ Other Amount	❑ Online Payments or Over the counter payments ❑ TDS ❑ TCS

Major and Minor Heads of Payment

Major Heads	Minor Heads (Each major head have following minor head)
❑ IGST ❑ CGST ❑ SGST/UTGST ❑ Cess	❑ Tax ❑ Interest ❑ Penalty ❑ Fee ❑ Other Amount

Note: Cross utilisation of funds across major or minor heads is Allowed.

The amount available in the electronic cash ledger can be utilised for payment of any liability for the major and minor heads.

For instance, if the registered person has made a deposit of tax erroneously i.e. by virtue of human error, under a particular head instead of a specific head, the same can be transferred to the respective intended head vide Form GST PMT-09.

This Form can be used either for

(*a*) transfer of erroneous deposits under any minor head of a major head to any other minor head of same or other major heads or

(*b*) for any of the amounts already lying unutilised under any of the minor heads in Electronic Cash ledger

Transfer of E-cash Ledger Balance to E-cash Ledger of Deemed Distinct Person – Sec 49(10)

Sec 49(10) read with Rule 87(14) have been amended w.e.f. 5th July 2022 to provide that a registered person may, transfer any amount of tax, interest, penalty, fee or any other amount available in his E-cash ledger to E-cash ledger of Deemed distinct person as per Sec 25. (registered branch in another state or same state if opted for separate GSTIN).

The above transfer can be done through Form GST PMT-09 on the common portal.

However, no such transfer shall be allowed if the said registered person has any unpaid liability in his E-liability ledger.

Rule 85 Electronic Liability Register

1. The electronic liability register shall be maintained in FORM GST PMT-01 for each person liable to pay tax, interest, penalty, late fee or any other amount on the common portal and all amounts payable by him shall be debited to the said register.

2. The electronic liability register of the person shall be debited by—

(*a*) the amount payable towards tax, interest, late fee or any other amount payable as per the return furnished by the said person;

(*b*) any amount of interest that may accrue from time to time.

3. Payment of every liability by a registered person as per his return shall be made by debiting the electronic credit ledger or the electronic cash ledger and the electronic liability register shall be credited accordingly.

4. The amount payable on reverse charge basis, or the amount payable under composition scheme, any amount payable towards interest, penalty, fee or any other amount under the Act shall be paid by debiting the electronic cash ledger and the electronic liability register shall be credited accordingly.

Electronic Liability Ledger

Debit (Due)	Credit (Paid)
❑ All amounts payable towards tax, interest, late fee and any other amount as per return filed; ❑ All amounts payable towards tax, interest, penalty and any other amount determined in a proceeding by an Assessing authority or as ascertained by the taxable person;	❑ Electronic cash ledger for any amount payable under GST ❑ Electronic credit ledger for Tax payable under GST

Electronic Credit Ledger Rule 86

1. The electronic credit ledger shall be maintained in FORM GST PMT-02 for each registered person eligible for input tax credit under the Act on the common portal and every claim of input tax credit under the Act shall be credited to the said ledger.
2. The electronic credit ledger shall be debited to the extent of discharge of any liability.
3. ITC cannot be utilised for tax payable under reverse charge mechanism.
4. where a registered person has claimed refund of any tax that has been paid wrongly or in excess through electronic credit ledger, the said refund, if found admissible, will be credited to the electronic credit ledger.

Common Points for Electronic Cash & Credit Ledger

1. Where a person has claimed a refund of any amount from the electronic cash or credit ledger, the said amount shall be debited to the electronic cash or credit ledger.
2. If the refund so claimed is rejected, either fully or partly, the amount debited earlier, to the extent of rejection, shall be credited to the electronic cash or credit ledger by the proper officer by an order made in prescribed form.

Interest on delayed payment of tax Section 50

(a) In case of belated payment of tax

Interest @ 18% p.a. shall be payable in respect of supplies made during the tax period and declared in the return of the said period furnished after the due date in accordance with the provisions of section 39, shall be payable on that portion of the tax which is paid by through electronic cash ledger i.e. only on net tax liability after adjusting ITC.

However, if return is furnished after the commencement of any proceedings u/s 73 or 74 or where tax is paid in respect of any earlier tax period then interest @ 18% shall be levied on the amount of output tax liability i.e. benefit of ITC shall not be allowed.

Period of interest shall be from the date following the due date of payment to the actual date of payment.

(b) In case of wrong utilisation of ITC

Interest @ 18% shall be levied on the ITC wrongly availed and utilised i.e. if ITC is only wrongly availed but not utilised then interest shall not be levied.

ITC shall be considered as wrongly utilised when the balance in credit ledger falls below the amount of ITC wrongly availed and the extent of such utilisation of ITC shall be the amount by which the balance in the credit ledger falls below the amount of ITC wrongly availed.

Further, the date of utilisation shall be taken to be

(a) due date of the return or the actual date of filling the return whichever is earlier, or

(b) in other cases, date of debit in the credit ledger.

Interest shall be payable on the amount by which the balance in the credit ledger falls below the amount of ITC wrongly availed from the date of utilisation of wrongly availed ITC till the date of reversal.

Example 1:

Mr. Alok, a registered supplier of taxable goods, filed GSTR 3B for the month of January, 2023 on 15th April, 2023. The prescribed due date to file the said GSTR3B was 20th February, 2023. The amount of net GST payable, in Cash i.e. Electronic Cash Ledger on supplies made by him for the said month worked out to be ₹36,500 which was paid on 15th April, 2023.

Briefly explain the related provisions and compute the amount of interest payable under the CGST Act, 2017 by Mr. Alok. Ignore the effect of leap year, if applicable in this case.

Answer:

Interest is payable in case of delayed payment of tax @ 18% per annum from the date following the due date of payment to the actual date of payment of tax

Thus, the amount of interest payable by Mr. Alok is as under:

Period of delay = 21st February, 2023 to 15th April, 2023 = 54 days.

Hence, amount of interest = ₹36,500 × 18% × 54/365 = ₹972

Example 2:

ABC Ltd., have filed their GSTR3B for the month of July, 2023 within the due date prescribed under Section 39 i.e. 20.08.2023. Post filing of the return, the registered person has noticed during September 2023 that tax dues for the month of July, 2023 have been short paid for ₹40,000. ABC Ltd., has paid the above shortfall of ₹40,000, through GSTR3B of September 2023, filed on 20.10.2023 [payment through Cash ledger– ₹30,000 and Credit ledger ₹10,000]. Examine the Interest payable under the CGST Act, 2017.

What would be your answer if, GSTR-3B for the month of July 2023 has been filed belatedly on 20.10.2021 and the self-assessed tax of ₹40,000/- has been paid on 20.10.2023 [payment through electronic cash ledger - ₹30,000 and electronic credit ledger ₹10,000]

Notes:

(*a*) There exists adequate balance in Electronic Cash & Credit ledger as on 31.07.2021 for the above short fall

(*b*) No other supply has been made nor tax payable for the month of July, 2021 other than ₹40,000/- missed out to be paid on forward charge basis

(*c*) Ignore the effect of leap year, if applicable in this case.

Answer:

Interest is payable under Section 50 of the CGST Act, 2017 in case of delayed payment of tax @ 18% per annum from the date following the due date of payment to the actual date of payment of tax.

As per proviso to sub-section (1) of Section 50, interest is payable on the net tax liability paid in cash, only if the return to be filed for a tax period under Section 39, has been filed after the due date to furnish such return.

In the above scenario, ABC Ltd., has defaulted in making the payment for ₹40,000 on self-assessment basis in the return for the month of July, 2023. Accordingly, interest is payable on the gross liability and proviso of sub-section 50(1) shall not be applicable.

Thus, the amount of interest payable by ABC Ltd., is as under:

Period of delay = 21st August, 2023 to 20th October, 2023 = 61 days.

Hence, amount of interest = ₹40,000 × 18% × 61/365 = ₹1,203

Alternatively, if ABC Ltd., have filed the return for the month of July, 2023 on 20.10.2023, beyond the stipulated due date of 20.08.2023 and if the self-assessed tax for July, 2023 has been paid on 20.10.2023, Interest under proviso to Section 50(1) shall be payable on the tax paid through Electronic Cash Ledger only.

Hence Interest is payable from 21st August 2023 till 20th October 2023 = 61 days

Amount of Interest = ₹30,000 × 18% × 61/365 = ₹902

Transfer of Input Tax Credit [Section 53 of Cgst Act & Section 18 of IGST Act]

If the amount of CGST is utilised towards dues of IGST then, in terms of section 53 of the CGST Act, there shall be reduction in the amount of CGST, equal to the credit so utilized, and the Central Government shall transfer such amount equivalent to the amount so reduced in CGST account to the IGST account.

Similarly, if the amount of IGST is utilised towards dues of CGST/UTGST then, in terms of section 18 of the IGST Act, there shall be reduction in the amount of IGST, equal to the credit so utilized, and the Central Government shall transfer such amount equivalent to the amount so reduced in IGST account to the CGST/UTGST account.

However, if the amount of IGST is utilised towards dues of SGST then, in terms of section 18 of the IGST Act, there shall be reduction in the amount of IGST, equal to the credit so utilized, and will be apportioned to the 'appropriate State' Government and the Central Government shall transfer the amount so apportioned to the account of the respective State Government. Here, "appropriate State" in relation to a taxable person, means the State or Union territory where taxable person is registered or is liable to be registered under the provisions of the Central Goods and Services Tax Act.

QUESTION BANK

1. How many types of electronic ledger are there?

Sol. (*a*) Electronic cash ledger
(*b*) Electronic credit ledger
(*c*) Electronic liability register

2. What are the main features of the GST payment process?

Sol. The payment processes under GST Act(*s*) have the following features:

- Electronically generated challan from GSTN Common Portal in all modes of payment and no use of manually prepared challan;
- Facilitation for the taxpayer by providing hassle free, anytime, anywhere mode of payment of tax;
- Convenience of making payment online;
- Logical tax collection data in electronic format;
- Faster remittance of tax revenue to the Government Account;
- Paperless transactions;
- Speedy Accounting and reporting;
- Electronic reconciliation of all receipts;
- Simplified procedure for bank
- Warehousing of challan

3. What is a CPIN?

Sol. CPIN stands for Common Portal Identification Number (CPIN) given at the time of generation of challan. It is a 14-digit unique number to identify the challan. As stated above, the CPIN remains valid for a period of 15 days.

4. What is a CIN and what is its relevance?

Sol. CIN stands for Challan Identification Number. CIN is generated by the authorized banks/Reserve Bank of India (RBI) when payment is actually received by such authorized banks or RBI and credited in the relevant government account held with them. It is an indication that the payment has been realized and credited to the appropriate government account. CIN is communicated by the authorized bank to the taxpayer as well as to GSTN.

5. What is an E-FPB?

Sol. E-FPB stands for Electronic Focal Point Branch. These are branches of authorized banks which are authorized to collect payment of GST. Each authorized bank will nominate only one branch as its E-FPB for pan India Transactions. The E-FPB will have to open accounts under each major head for all governments. Total 38 accounts (one each for CGST, IGST and one each for SGST for each State/UT Govt.) will have to be opened. Any amount received by such E-FPB towards GST will be credited to the appropriate account held by such EFPB. For NEFT/RTGS Transactions, RBI will act as E-FPB.

6. State the name of output tax under GST, where any of the input tax credit under GST can be availed?

Sol. IGST. IGST, CGST, SGST, UTGST i.e. all input tax credit can be availed against output tax liability known as IGST.

7. You are required to determine the time of supply of the readymade garments supplied by Gupta & Sons to Mohini elaborating the relevant provisions under the GST Law.

Sol. As per section 50 of the CGST Act, 2017, interest is payable in the following cases:

- failure to pay tax, in full or in part within the prescribed period,
- undue or excess claim of input tax credit,
- undue or excess reduction in output tax liability.

The maximum rate of interest chargeable for the same is as under-

(*i*) 18% p.a. in case of failure to pay full/part tax within the prescribed period.

(*ii*) 24% p.a. in case of undue or excess claim of input tax credit or undue or excess reduction in output tax liability. However Notified rate is 18% p.a.

8. Sangam Ltd., obtains registration for paying taxes under section 9 of CGST Act. He asked his tax manager to pay taxes on a quarterly basis. However, Sangam Ltd.'s tax manager advised the Company to pay taxes on a monthly basis. You are required to examine the validity of the advice given by the tax manager?

Sol. The advice given by the tax manager is valid in law. Payment of taxes by the normal tax payer is to be done on a monthly basis by the 20th of the succeeding month. Cash payments will be first deposited in the Cash Ledger and the taxpayer shall debit the ledger while making payment in the monthly returns and shall reflect the relevant debit entry number in his return. However, payment can also be debited from the Credit Ledger. Payment of taxes for the month of March shall be paid by the 20th of April. Composition tax payers will need to pay tax on a quarterly basis.

9. How does the new payment system benefit the taxpayer & the Commercial Tax Department?

Sol. The new payment system benefits the taxpayer and the commercial tax department in the following ways:

Benefits to Taxpayer:

- No more queues and waiting for making payments as payments can be made online 24 × 7.
- Electronically generated challan from GSTN common portal in all modes of payment and no use of manually prepared challan. Paperless transactions.
- Instant online receipts for payments made online.
- Tax consultants can make payments on behalf of the clients.
- Single challan form to be created online, replacing the three or four copy Challan.
- Greater transparency.

Benefits to the Commercial Tax Department:

- Revenue will come earlier into the Government Treasury as compared to the old system.
- Logical tax collection data in electronic format.
- Speedy accounting and reporting.
- Electronic reconciliation of all receipts.
- Warehousing of digital challan.

10. Sahil is a supplier of taxable goods in Karnataka. He got registered under GST in the month of September, 20XX and wishes to pay his IGST liability for the month. Since he's making the GST payment for the first time, he is of the view that he needs to mandatorily have the online banking facility to make payment of GST; offline payment is not permitted under GST. You are required to apprise Sahil regarding the various modes of deposit in the electronic cash ledger. Further, advise him with regard to following issues:

(*a*) Are manual challans allowed under GST?

(*b*) What is the validity period of the challan?

(*c*) Is cross utilization among Major and Minor heads of the electronic cash ledger permitted?

Sol. Section 49(1) of CGST Act, 2017 read with rule 87 of CGST Rules, 2017 provides that the deposit in electronic cash ledger can be made through any of the following modes, namely:

(*a*) Internet Banking through authorised banks;

(*b*) Credit card or Debit card through the authorised bank;

(*c*) National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or (*iv*) Over the Counter payment through authorised banks.

Thus, offline mode is also permitted under GST.

(*a*) Manual or physical Challans are not allowed under the GST regime. It is mandatory to generate Challans online on the GST Portal.

(*b*) E-challan is valid for a period of 15 days.

(*c*) Amount entered under any Minor head (Tax, Interest, Penalty, etc.) and Major Head (CGST, IGST, SGST/UTGST) of the Electronic Cash Ledger can be utilised for payment of any other amount. Hence cross utilisation is allowed.

11. ABC limited filed the return for GST under section 39(1) for the month of November on 20th, December showing self-assessed tax of ₹2,50,000 which was not paid.

Explain what are the implications for ABC limited as per relevant provisions?

Sol. As per section 2(117) of CGST Act, "valid return" means a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full.

Hence, in such a case, the return is not considered as a valid return and also input tax credit will not be allowed to the recipient of supplies.

12. Can one use input tax credit for payment of interest, penalty, and payment under reverse charge?

Sol. No, as per Section 49 (4) of the CGST Act, 2017 the amount available in the electronic credit ledger may be used for making any payment towards 'output tax'.

As per Section 2 (82) of the CGST Act, 2017, output tax means, the CGST/SGST chargeable under this Act on taxable supply of goods and/or services made by him or by his agent and excludes tax payable by him on reverse charge basis. Therefore, input tax credit cannot be used for payment of interest, penalty, and payment under reverse charge.

13. What happens if the taxable person files the return but does not make payment of tax?

Sol. In such cases, the return is not considered as a valid return. Section 2(117) defines a valid return to mean a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full. It is only the valid return that would be used for allowing input tax credit (ITC) to the recipient. In other words, unless the supplier has paid the entire self-assessed tax and filed his return and the recipient has filed his return, the ITC of the recipient would not be confirmed.

14. Which date is considered as the date of deposit of the tax dues – Date of presentation of cheque or Date of payment or Date of credit of amount in the account of government?

Sol. It is the date of credit to the Government account.

15. What is a Cash Ledger?

Sol. The cash ledger will reflect all deposits made in cash, and TDS/TCS made on account of the taxpayer. The information will be reflected on a real time basis. This ledger can be used for making any payment on account of GST.

16. What is an ITC Ledger?

Sol. Input Tax Credit as self-assessed in monthly returns will be reflected in the ITC Ledger. The credit in this ledger can be used to make payment of TAX ONLY and no other amounts such as interest, penalty, fees etc.

17. What is the linkage between GSTN and the authorised Banks?

Sol. There will be real time two-way linkage between the GSTN and the Core Banking Solution (CBS) of the Bank. CPIN is automatically routed to the Bank via electronic string for verification and receiving payment and a challan identification number (CIN) is automatically sent by the Bank to the Common Portal confirming payment receipt. No manual intervention will be involved in the process by anyone including bank cashier or teller or the taxpayer.

18. Is there a validity period of challan?

Sol. Yes, a challan will be valid for fifteen days after its generation and thereafter it will be purged from the System. However, the taxpayer can generate another challan at his convenience.

19. What is the sequence of payment of tax where that taxpayer has liabilities for previous months also?

Sol. Section 49(8) prescribes an order of payment where the taxpayer has tax liability beyond the current return period. In such a situation, the order of payment to be followed is: First self-assessed tax and other dues for the previous period; thereafter self-assessed tax and other dues for the current period; and thereafter any other amounts payable including any confirmed demands under section 73 or 74. This sequence has to be mandatorily followed.

20. What should be done in case the registered person notices some discrepancies in his electronic cash ledger?

Sol. A registered person shall, upon noticing any discrepancy in his electronic cash ledger, communicate the same to the officer exercising jurisdiction in the matter, through the Common Portal in FORM GST PMT-04.

21. To whom the restriction of deposits up to ₹10,000/- per challan per tax period, by cash, cheque or demand draft is not applicable?

Sol. The restriction of deposits up to ₹10,000/- per challan per tax period, by cash, cheque or demand draft is not applicable to the deposit made by:

(*a*) Government Departments or any other deposit to be made by persons as may be notified by the Commissioner in this behalf;

(*b*) Proper officer or any other officer authorised to recover outstanding dues from any person, whether registered or not, including recovery made through attachment or sale of movable or immovable properties;

(*c*) Proper officer or any other officer authorised for the amounts collected by way of cash or cheque, demand draft during any investigation or enforcement activity or any ad hoc deposit:

22. What is the manner/order of utilisation of input tax credit?

Sol. The manner/order of utilisation of input tax credit is as follows:

- IGST credit should first be utilised towards payment of IGST.
- Remaining IGST credit, if any, can be utilised towards payment of CGST and SGST/UTGST in any order and in any proportion.
- Entire ITC of IGST should be fully utilised before utilising the ITC of CGST or SGST/UTGST.
- ITC of CGST should be utilised for payment of CGST and IGST in that order.
- ITC of SGST/UTGST should be utilised for payment of SGST/UTGST and IGST in that order. However, ITC of SGST/UTGST should be utilised for payment of IGST, only after ITC of CGST has been utilised fully.

23. Where tax is paid at 11:00 P.M. on 20th October 2020 and filed returns on the same day. If for any reason the amount is credited to the account of the appropriate Government on 21st October 2020, will it amount to default? (without considering actual extension dates)

Sol. The date of credit to the account of the appropriate Government in the authorised bank shall be deemed to be the date of deposit in the electronic cash ledger. Therefore, in this case the date of payment/deposit of tax shall be 21st October 2017, which means a delay of one day in payment of tax.

24. M/s. Daksha Enterprises has made a cash deposit of ₹10,000 under minor head 'tax' of major head 'SGST'. It has a liability of ₹2,000 for minor head "Interest" under the major head "SGST". State whether M/s. Daksha Enterprises can utilise the amount available for payment of interest.

Sol. The cash available in any minor head of a major head can be utilised for any other minor head of the same major head.

Therefore, in the given case, the amount of ₹10,000 available under minor head 'tax' of major head 'SGST' can be utilised for payment of liability of ₹2,000 under minor head 'interest' of the same major head.

25. Mr. Ram Narayan, a registered supplier under GST, wants to first discharge his self-assessed tax liability for the current period before settling the dues for the previous tax period. Examine briefly whether he can do so?

Sol. As per section 49(8) of the CGST Act, 2017, the liability of a taxable person has to be discharged in a chronological order as under:

(*a*) self-assessed tax and other dues for the previous tax periods have to be discharged first;

(*b*) the self-assessed tax and other dues for the current period have to be discharged next;

(*c*) Once these two steps are exhausted, thereafter any other amount payable including demand determined under section 73 or section 74 of the CGST Act, 2017 to be discharged. In other words, the liability if any, arising out of demand notice and adjudication proceedings comes last. This sequence has to be mandatorily followed.

Thus, in view of the above-mentioned provisions, Mr. Ram Narayan cannot discharge his self-assessed tax liability for the current period before settling the dues for the previous tax period.

26. R Ltd., a registered supplier in Mumbai (Maharashtra), has supplied goods to Sahil Traders and Jaggi Motors Ltd. located in Ahmedabad (Gujarat) and Pune (Maharashtra) respectively. Raman Ltd. has furnished the following details for the current month:

S. No.	Particulars	Sahil Traders (₹)	Jaggi Motors Ltd. (₹)
(*i*)	Price of the goods (excluding GST)	20,000	15,000
(*ii*)	Packing charges	600	
(*iii*)	Commission	400	
(*iv*)	Weighment charges		1,000
(*v*)	Discount for prompt payment (recorded in the invoice)		500

Items given in points (*ii*) to (*v*) have not been considered while arriving at the price of the goods given in point (*i*) above.

Compute the GST liability [CGST & SGST or IGST, as the case may be] of Raman Ltd. for the given month. Assume the rates of taxes to be as under:

Particulars	Rate of Tax
Central tax (CGST)	9%
State Tax (SGST)	9%
Integrated tax (IGST)	18%

Make suitable assumptions, wherever necessary.

Note: The supply made to Sahil Traders is an inter-State supply.

Sol. Computation of GST liability

S. No.	Particulars	Sahil Traders (₹)	Jaggi motors Ltd. (₹)
(*i*)	Price of goods	20,000	15,000
(*ii*)	Add: Packing charges (Note-1)	600	
(*iii*)	Add: Commission (Note-1)	400	
(*iv*)	Add: Weighment charges (Note-1)	—	1,000
(*v*)	Less: Discount for prompt		
	payment (Note-2) Value of taxable supply	—	500
		21,000	15,500
	IGST payable @ 18% (Note-3)	3,780	
	CGST payable @ 9% (Note-4)		1,395
	SGST payable @ 9% (Note-4)		1,395

Notes:

(*a*) Incidental expenses, including commission and packing, charged by supplier to recipient of supply is includible in the value of supply. Weighment charges are also incidental expenses, hence includible in the value of supply [Section 15 of the CGST Act, 2017].

(*b*) Since discount is known at the time of supply, it is deductible from the value in terms of section 15 of the CGST Act, 2017.

(*c*) Since supply made to Sahil Traders is an inter-State supply, IGST is payable in terms of section 5 of the IGST Act, 2017.

(*d*) Since supply made to Jaggi Motors Ltd. is an intra-State supply, CGST & SGST is payable on the same.

27. (*i*) Tirupati Traders, a registered supplier of goods, pays GST [CGST & SGST or IGST, as the case may be] under a regular scheme. It has furnished the following particulars for a tax period:

Particulars	₹
Value of intra-State supply of goods	12,000
Value of intra-State purchase of goods	10,000

Note:

(*i*) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively.

(*ii*) Both inward and outward supplies are exclusive of taxes, wherever applicable.

(*iii*) All the conditions necessary for availing the input tax credit have been fulfilled.

Compute the net GST payable by Tirupati Traders during the given tax period assuming that there is no opening balance of input tax credit (ITC). Make suitable assumptions wherever required.

(*ii*) Govind, a registered supplier, is engaged in providing services in the neighbouring States from his registered office located in Mumbai. He has furnished the following details in respect of the inward and outward supplies made during a tax period:

Particulars	(₹)
Inter-State supply of services	1,80,000
Receipt of goods and services within the State	1,00,000

Assume the rates of taxes to be as under:

Particulars	Rate
CGST	9%
SGST	9%
IGST	18%

Note:

(*i*) Both inward and outward supplies are exclusive of taxes, wherever applicable.

(*ii*) All the conditions necessary for availing the input tax credit have been fulfilled. Compute the net GST payable by Govind during the given tax period. Make suitable assumptions if required.

Sol. (*i*) Computation of Net GST payable

Particulars	CGST (₹)	SGST (₹)
GST payable on intra-State supply of goods	1,080	1,080
[Being an intra-State supply, CGST and SGST is payable on the same]	(₹12,000 × 9%)	(₹12,000 × 9%)
Less: Input tax credit (ITC) on intra-State purchase of goods	900	900
[CGST and SGST paid on the intra-State purchases of goods]	(₹10,000 × 9%)	(₹10,000 × 9%)
Net GST payable	180	180

(*ii*) Computation of net GST payable by Govind

Particulars	(₹)
IGST @ 18% payable on inter-State supply of services [Being an inter-State supply, IGST is payable on the same in terms of section 5 of the IGST Act, 2017]	32,400 [1,80,000 × 18%]

Particulars	(₹)
Less: ITC of CGST @ 9% paid on intra-State receipt of goods and services [Cross utilisation of CGST towards IGST]	9,000 [1,00,000 × 9%]
Less: ITC of SGST @ 9% paid on intra-State receipt of goods and services	9,000 [1,00,000 × 9%]
[Cross utilisation of SGST towards IGST] Net GST payable in cash	14,400

Note:

1. CGST shall first be utilised towards payment of CGST and the amount remaining, if any, be utilised towards the payment of IGST [Section 49 of the CGST Act, 2017].
2. SGST shall first be utilised towards payment of SGST and the amount remaining, if any, may be utilised towards the payment of IGST [Section 49 of the CGST Act, 2017].

28. Royal Sweet Co., Delhi, a registered supplier, has furnished the details of the following few transactions which took place in November, 20XX:

S. No.	Date	Particulars	Date of Invoice	Amount (₹)
(*i*)	11.11.20XX	Payment made to an advocate in Delhi	07.07.20XX	1,25,000
(*ii*)	20.11.20XX	Paid sitting fee to Director from Haryana for meeting held in Delhi on 15.10.20XX [Inter-State supply]	15.10.20XX	75,000

Assume the rates of taxes to be as under:

Particulars	Rate
CGST	9%
SGST	9%
IGST	18%

You are required to compute GST [CGST & SGST/IGST, as the case may be] payable for the month of November, 20XX along with time of supply of the aforementioned activities.

Sol. Computation of GST payable for the month of November, 20XX

S. No.	Particulars	Time of Supply of services	CGST (₹)	SGST (₹)	IGST (₹)	Interest (₹)
(*i*)	Services from an advocate in Delhi	06.09.20XX [Note-1 and 3]	11,250	11,250	–	244 [Note-4]
(*ii*)	Director's Sitting fee	20.11.20XX [Note-2 and 3]	–	–	13,500	

Notes:

1. Services supplied by an individual advocate to any business entity located in the taxable territory is a notified service on which tax is payable on reverse charge basis by the recipient of services.
2. Services supplied by a director of a company to the said company is a notified service on which tax is payable on reverse charge basis by the recipient of services.
3. As per section 13 of the CGST Act, 2017, the time of supply of services in case of reverse charge is earliest of the following:

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

   (*b*) Date immediately following 60 days since the date of issue of invoice.

   Provisions of time of supply as provided under section 13 of the CGST Act are also applicable for inter-State supply vide section 20 of the IGST Act.

   In view of the aforesaid provisions, the time of supply and due date for payment of tax in the given cases would be determined as under:

   (*i*) Time of supply of the services is the date immediately following 60 days since the date of issue of invoice, i.e. 06.09.20XX. The due date for payment of tax is 20.10.20XX with return of September, 20XX.

   (*ii*) Time of supply of service is 20.11.20XX and due date for payment of tax is 20.12.20XX with the return of December, 20XX.
4. The due date for payment of tax in case (*i*) is 20.10.20XX with return of September, 20XX. However, the payment of tax is actually made on 11.11.20XX. Thus, payment of tax is delayed by 22 days.

   In case of delayed payment of tax, interest @ 18% per annum is payable for the period for which the tax remains unpaid starting from the day succeeding the day on which such tax was due to be paid [Section 50 of the CGST Act, 2017 read with Notification No. 13/2017 CT dated 28.06.2017]. In view of the same, in the given case, interest payable would be as follows:

   Amount of interest payable = ₹22,500 × 18% × 22/365 = ₹244 (rounded off).

29. M/s. Shri Durga Corporation Pvt. Ltd. is a supplier of goods and services at Kolkata. It has furnished the following information for the month of February, 20XX:

S. No.	Particulars	Amount (₹)
(*i*)	Intra-State sale of taxable goods including ₹1,00,000 received as advance in January, 20XX, the invoice for the entire sale value is issued on 15th February, 20XX	4,00,000
(*ii*)	Goods purchased from unregistered dealer on 20th February, 20XX (Inter-State purchases are worth ₹30,000 and balance purchases are intra-State)	1,00,000
(*iii*)	Services provided by way of labour contracts for repairing a single residential unit otherwise than as a part of residential complex (It is an intra-State transaction)	1,00,000

S. No.	Particulars	Amount (₹)
(*iv*)	Goods transport services received from a GTA. GTA is paying tax @12% (It is an inter-State transaction)	2,00,000

Compute net GST liability (CGST, SGST or IGST, as the case may be) of M/s Shri Durga Corporation Pvt. Ltd. for the month of February, 20XX.
Assume the rates of GST, unless otherwise specified, as under:

CGST	9%
SGST	9%
lGST	18%

Note:

(*i*) The turnover of M/s. Shri Durga Corporation Pvt. Ltd. was ₹2.5 crore in the previous financial year.

(*ii*) All the amounts given above are exclusive of taxes.

Sol. Computation of GST liability of M/s. Shri Durga Corporation Pvt. Ltd. for the month of February, 20XX

Particulars	Value of Supply	CGST (₹)	SGST (₹)	IGST (₹)
Intra-State sale of taxable goods [Note-1]	4,00,000	36,000	36,000	
Goods purchased from unregistered dealer on 20th February, 20XX [Note-2]	Nil	Nil	Nil	
Services rendered by way of labour contracts for repairing a single residential unit otherwise than as a part of residential complex [Note-3]	1,00,000	9,000	9,000	
Goods transport services received from GTA [Note-4]	2,00,000			Nil
Total GST liability for the month of February, 20XX	45,000	45,000	Nil	
Less: Input tax credit available [Note-5] (₹2,00,000 × 12%)	24,000			
Net GST liability for the month of February, 20XX	21,000	45,000	Nil	

Notes:

1. Section 12 of CGST Act, 2017 read with Notification No. 66/2017 CT dated 15.11.2017 provides that the time of supply for all suppliers of goods (excluding composition suppliers) is the time of issue of invoice, without any turnover limit. Thus, liability to pay tax on the advance received in January, 20XX will also arise in the month of February, when the invoice for the supply is issued.
2. All intra-State and inter-State procurements made by a registered person from an unregistered person have been exempted from reverse charge liability, without any upper limit for daily procurements up to 30.06.2018. [Notification No. 8/2017 CT (R) dated 28.06.2017 as amended and Notification No. 32/2017 IT(R) dated 13.10.2017 as amended]

3. Services by way of pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex are exempt vide Notification No. 12/2017 CT(R) dated 28.06.2017. Labour contracts for repairing are thus taxable.
4. As per Notification No. 13/2017 CT(R) dated 28.06.2017, GST is payable by the recipient on reverse charge basis on the receipt of services of transportation of goods by road from a goods transport agency (GTA) provided such GTA has not paid GST @ 12%. Since in the given case, services have been received from a GTA who has paid GST @ 12%, reverse charge provisions will not be applicable.

Input tax credit is available for the services received from GTA. The input tax credit of IGST shall be used against IGST and then against CGST and SGST in any order of any proportion.

30. Kamal Book Depot, a wholesaler of stationery items, registered in Mumbai, has received an order for supply of stationery items worth ₹2,00,000/- on 12th November, 20XX from another local registered dealer, Mr. Mehta, Mumbai. Kamal Book Depot charged the following additional expenses from Mr. Mehta:

S. No	Particulars	Amount (₹)
(*i*)	Packing charges	5,000
(*ii*)	Freight & Cartage	2,000
(*iii*)	Transit insurance	1,500
(*iv*)	Extra designing charges	6,000
(*v*)	Taxes by Municipal Authority	500

The goods were delivered to Mr. Mehta on 14th November, 20XX. Since Mr. Mehta was satisfied wi th the quality of the goods, he made the payment of goods the same day and simultaneously placed another order on Kamal Book Depot of stationery items amounting to ₹10,00,000 to be delivered in the month of December, 20XX**. On receipt of the second order, Kamal Book Depot allowed a discount of ₹20,000 on the first order placed by Mr. Mehta.

Compute the GST liability of Kamal Book Depot for the month of November, 20XX assuming the rates of GST on the goods supplied as under:

CGST 9% & SGST 9%

Would your Solution be different if expenses (*i*) to (*v*) given in above table are already included in the price of ₹2,00,000?

Note:

(*a*) All the amounts given above are exclusive of GST.

(*b*) Kamal Book Depot and Mr. Mehta are not related persons and price is the sole consideration of the supply.

Payment and invoice for the second order will also be made in the month of December, 20XX only.

Sol. Computation of value of taxable supply and tax liability

S. No.	Particulas	Amount (₹)
	Price of the goods [Note-1]	2,00,000
(*i*)	Packing charges [Note-2]	5,000

(*ii*)	Freight & Cartage [Note-3]	2,000
(*iii*)	Transit Insurance [Note-3]	1,500
(*iv*)	Extra Designing charges [Note-4]	6,000
(*v*)	Taxes by Municipal Authority [Note-5]	500
	Value of taxable supply	2,15,000
	CGST @ 9%	19,350
	SGST @ 9%	19,350

Notes:

1. As per section 15(1) of the CGST Act, 2017, the value of a supply is the transaction value i.e. the price actually paid or payable for the said supply.
2. All incidental expenses including packing charged by the supplier to the recipient are includible in the value of supply in terms of section 15(2) of the CGST Act, 2017.
3. The given supply is a composite supply involving supply of goods (stationery items) and services (transit insurance and freight) where the principal supply is the supply of goods. As per section 8(*a*) of the CGST Act, 2017, a composite supply is treated as a supply of the principal supply involved therein and charged to tax accordingly.
4. Any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services; is includible in the value of supply vide section 15(2) of the CGST Act, 2017. Thus, extra designing charges are to be included in the value of supply.
5. The taxes by Municipal Authorities are includible in the value of supply in terms of section 15(2) of the CGST Act, 2017.
6. In the given case, Mr. Mehta is allowed a discount of ₹20,000 on the goods supplied to him in the month of November, 20XX. Since the said goods have already been delivered by Kamal Book Depot, this discount will be a post-supply discount.

Further, value of supply shall not include any discount which is given after the supply has been effected, if—

(*i*) Such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and

(*ii*) Input tax credit as is attributable to the discount on the basis of a document issued by the supplier has been reversed by the recipient of the supply [Section 15(3) of the CGST Act, 2017].

However, in the given case, post-supply discount given to Mr. Mehta will not be allowed as a deduction from the value of supply since the discount policy was not known before the time of such supply although the discount can be specifically linked to relevant invoice (invoice pertaining to stationery items supplied to Mr. Mehta in November, 20XX).

In case the expenses (*i*) to (*v*) given in above table are already included in the price of ₹2,00,000: Since these expenses are includible in the value of supply by virtue of the reasons mentioned in explanatory Notes above, no further addition will be required. Resultantly, the value of taxable supply will be ₹2,00,000 and CGST and SGST will be ₹18,000 and ₹18,000 respectively.

31. Mr. Ekaant, a supplier registered in Delhi, is engaged in the business of sale and purchase of plastic raincoats. He furnishes the following information pertaining to inward/outward supply made by him for the month of July, 20XX:

Particulars	Amount (₹ in lakh)
Value of inter-State outward supply to registered persons	30
Value of intra-State outward supply to registered persons	50
Value of intra-State outward supply to unregistered persons	15
Value of intra-State inward supply from registered persons	10
Value of inter-State inward supply from registered persons	5
Value of intra-State inward supply from unregistered persons	2

Following additional information is also provided by Mr. Ekaant:

Particulars	Amount (₹ in lakh)
IGST credit on capital goods purchased in the month of July	1.5
CGST/SGST credit on other inward supplies [including credit of ₹5,000 (CGST and SGST each) on account of membership of a club]	0.5 (CGST and SGST each)
Availed consultancy services from Mr. Sujit, lawyer located in Delhi [Intra-State services]	1

The amount of ITC brought forward in the month of July, 20XX is as under:

CGST: ₹2 lakh
SGST: ₹2 lakh
IGST: ₹5 lakh

Calculate the net GST liability (CGST and SGST or IGST, as the case may be) to be paid in cash for the month of July, 20XX by assuming the rates of GST as under:

CGST	9%
SGST	9%
IGST	18%

Notes:

(*a*) All the amounts given above are exclusive of taxes.
(*b*) All the conditions necessary for availing the ITC have been fulfilled.

Sol. Computation of net GST liability of Mr. Ekaant

Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
Total tax liability				
Value of intra-State legal consultancy services i.e. inward supplies liable to reverse charge mechanism (to be paid in cash) (A) [Note-1]	1,00,000	9,000	9,000	–

Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
Value of inter-State outward supplies (B1)	30,00,000	–	–	5,40,000
Value of intra-State outward supplies to registered as well as unregistered persons (B2) (₹50,00,000+ ₹15,00,000)	65,00,000	5,85,000	5,85,000	–
Total (B) = (B1) +(B2)		5,85,000	5,85,000	5,40,000
Input tax Credit				
Brought forward ITC		2,00,000	2,00,000	5,00,000
Value of intra-State inward supplies from registered person [Note-2]	10,00,000	90,000	90,000	
Value of inter-State inward supplies from registered person [Note-2]	5,00,000	–	–	90,000
Value of intra-State inward supplies from unregistered person [Note-3]	2,00,000	–	–	–
IGST credit of capital goods [Note-2]				1,50,000
Credit on other inward supplies purchased in the month of July less credit on membership of a club [Note-2 & 4]		45,000	45,000	–
Credit of legal consultancy services [Note-2]		9,000	9,000	–
Total ITC		3,44,000	3,44,000	7,40,000

Set off and Computation of Net GST Liability

Particulars	IGST	CGST	SGST
Output Tax Liability	5,40,000	5,85,000	5,85,000
Less: ITC of IGST	(5,40,000)	(2,00,000)	0
Less: ITC of CGST		(3,44,000)	
Less: ITC of SGST			(3,44,000)
Liability after set off	Nil	41,000	2,41,000
RCM liability payable in cash		9,000	9,000
Net GST liability to be paid in cash	Nil	50,000	2,50,000

Notes:

1. Services supplied by an individual advocate to any business entity located in the taxable territory by way of legal services, directly or indirectly are taxable under reverse charge mechanism. Thus, tax is payable by the recipient (Mr. Ekaant) on said services to the Government.
   Further, as per section 49(4) of the CGST Act, 2017, the amount available in the electronic credit ledger [ITC amount] may be used for making payment towards output tax. However, tax payable under reverse charge is not an output tax in terms of section 2(82) of the CGST Act, 2017. Therefore, tax payable under reverse charge cannot be set off against the input tax credit and thus, will have to be paid in cash.

2. Every registered person is entitled to take credit of input tax charged on any inward supply of goods and/or services which are used or intended to be used in the course or furtherance of his business in terms of section 16 of CGST Act, 2017. Further "input tax" in relation to a registered person includes the tax payable under reverse charge mechanism in terms of section 2(62) of the CGST Act, 2017.
3. Intra-State supplies received by a registered person from any unregistered supplier, are exempt from the whole of the central tax leviable thereon under section 9(4) till 30.09.2019 [Notification No.8/2017 CT (R) dated 28.06.2017]. Since no tax has been paid, so no credit is available.
4. Input tax credit is not allowed in respect of membership of a club in terms of section 17(5) of CGST Act, 2017.

32. Mr. Bholenath, a registered supplier of goods, pays GST under regular scheme and provides the following information for the month of January, 20XX:

S. No.	Particulars	(₹)
(*i*)	Inter-state taxable supply of goods	10,00,000
(*ii*)	Intra state taxable supply of goods	2,00,000
(*iii*)	Intra state purchase of taxable goods	5,00,000

He has the following input tax credit at the beginning of January 20XX:

Nature	ITC Amount in (₹)
CGST	20,000
SGST	30,000
lGST	25,000

Rate of CGST, SGST and IGST are 9%, 9% and 18% respectively.
Both inward and outward supplies are exclusive of taxes wherever applicable.
All the conditions necessary for availing the ITC have been fulfilled. Compute the net GST payable by Mr. Bholenath for the month of January, 20XX.

Sol. Computation of net GST payable by Mr. Bholenath for the month of January, 20XX Working of GST payable on Outward supplies

S. No.	Particulars	(₹)	GST (₹)
(*i*)	Inter-State taxable supply of goods IGST @ 18% on ₹ 10,00,000	18,000	1,80,000
(*ii*)	Intra-State taxable supply of goods CGST @ 9% on ₹2,00,000 SGST @ 9% on ₹2,00,000	18,000	36,000

Computation of total ITC

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)
Opening ITC	20,000	30,000	25,000
Add: ITC on Intra-State purchases of taxable goods valuing ₹5,00,000	45,000	45,000	
Total ITC	65,000	75,000	25,000

Computation of GST payable from cash ledger

Particulars	IGST @ 18%	CGST @ 9% (₹)	SGST @ 9% (₹)
GST payable	1,80,000	18,000	18,000
Less: ITC of IGST	(25,000)		
Less: ITC of CGST	(47,000)	(18,000)	
Less: ITC of SGST	(57,000)		(18,000)
Net GST Payable	51,000	Nil	Nil

33. Mr. Kanhaiya, a supplier of goods, pays GST under a regular scheme. He is not eligible for any threshold exemption. He has made the following outward taxable supplies in the month of January, 2018:

Particulars	Amount
Intra-state supplies of goods	6,00,000
Inter-state supplies of goods	2,00,000

He has also furnished following information in respect of purchases made by him from registered dealers during January, 2018:

Particulars	Amount
Intra-state purchase of goods	4,00,000
Inter-state purchase of goods	50,000

Balance of ITC available at the beginning of the January 2018:

CGST	15000
SGST	35000
IGST	20000

Note:

(*a*) Rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively, on both inward and outward supplies.

(*b*) Both inward and outward supplies given above are exclusive of taxes, wherever applicable.

(*c*) All the conditions necessary for availing the ITC have been fulfilled. Compute the net GST payable by Mr. Kanhaiya for the month of January, 2018.

Sol. Computation of net GST payable by Mr. Kanhaiya for the month of January, 2018

S. No.	Particulars	(₹)	GST (₹)
(*i*)	Intra-State supply of goods CGST @ 9% on ₹6,00,000	54,000	
	SGST @ 9% on ₹6,00,000	54,000	1,08,000
(*ii*)	Inter-State supply of goods IGST @ 18% on ₹2,00,000		36,000

Computation of total ITC

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST@18% (₹)
Opening ITC	15,000	35,000	20,000
Add: ITC on Intra-State purchases of goods valuing	36,000	36,000	
₹4,00,000			
Add: ITC on Inter-State purchases of goods valuing			
₹50,000			9,000
Total ITC	51,000	71,000	29,000

Computation of GST payable from cash ledger

Particulars	IGST @ 18%	CGST @ 9%	SGST @ 9%
GST payable	36,000	54,000	54,000
Less: ITC of IGST	(29,000)		
Less: ITC of CGST		(51,000)	
Less: ITC of SGST	(7,000)		(54,000)
Net GST payable	Nil	3,000	Nil

34. Namo Shankar Ltd., a registered supplier in Mumbai (Maharashtra), has supplied goods to Narad Traders and Nandi Motors Ltd. located in Ahmedabad (Gujarat) and Pune (Maharashtra) respectively. Namo Shankar Ltd. has furnished the following details for the current month:

S. No.	Particulars	Narad Traders (₹)	Nandi Motors Ltd. (₹)
(*i*)	Price of the goods (excluding GST)	10,000	30,000
(*ii*)	Packing charges	500	
(*iii*)	Commission	500	
(*iv*)	Weighment charges		2,000
(*v*)	Discount for prompt payment (recorded in the invoice)		1,000

Items given in points (*ii*) to (*v*) have not been considered while arriving at the price of the goods given in point (*i*) above.

Compute the GST liability [CGST & SGST or IGST, as the case may be] of Namo Shankar Ltd. for the given month. Assume the rates of taxes to be as under:

Particulars	Rate of tax
Central tax (CGST)	9%
State Tax (SGST)	9%
Integrated tax (IGST)	18%

Make suitable assumptions, wherever necessary.

Note: The supply made to Narad Traders is an inter-State supply.

Sol. Computation of GST liability

S. No.	Particulars	Narad Traders (₹)	Nandi Motors Ltd. (₹)
(*i*)	Price of goods	10,000	30,000
(*ii*)	Add: Packing charges (Note-1)	500	
(*iii*)	Add: Commission (Note-1)	500	
(*iv*)	Add: Weighment charges (Note-1)	–	2,000
(*v*)	Less: Discount for prompt payment (Note-2)	–	1,000
	Value of taxable supply	11,000	31,000
	IGST payable @ 18% (Note-3)	1,980	
	CGST payable @ 9% (Note-4)		2,790
	SGST payable @ 9% (Note-4)		2,790

Notes:

1. Incidental expenses, including commission and packing, charged by supplier to recipient of supply is includible in the value of supply. Weighment charges are also incidental expenses, hence includible in the value of supply [Section 15 of the CGST Act, 2017].
2. Since discount is known at the time of supply, it is deductible from the value in terms of section 15 of the CGST Act, 2017.
3. Since supply made to Narad Traders is an inter-State supply, IGST is payable in terms of section 5 of the IGST Act, 2017.
4. Since supply made to Nandi Motors Ltd. is an intra-State supply, CGST & SGST is payable on the same.

35. M/s. Grey, a registered taxable person under regular scheme provides following information in respect of supplies made by it during the month of April, 2019:

Particulars	(All amount in rupees)
(*i*) Inter-state supply of goods	1,00,000
(*ii*) Intra-state supply of 500 packets of detergent @ ₹400 each along with a plastic bucket worth ₹100 each with each packet being a mixed supply. (Rate of GST on detergent is 18% and on plastic bucket is 28%)	
(*iii*) Supply of online educational journals to M/s. Pinnacle, a private coaching centre providing tuition to students of Class X-XII, being intra-state supply.	50,000
M/s. Grey has also received the following inward supplies:	

Particulars	(All amount in rupees)
(*iv*) Inter-state supply of goods (out of which invoice for goods worth ₹20,000 is missing and no other tax paying document is available)	70,000
(*v*) Repairing of a bus with seating capacity of 20 passengers used to transport its employees from their residence, being intra-state supply.	50,000

Details of opening balances of ITC as on 1-4-2019 are as follows:

CGST	5,000
SGST	5,000
IGST	40,000

Following additional information is provided:

(*a*) Rate of GST in respect of all inward and outward supplies except item (*ii*) above is 18%. i.e. CGST and SGST @ 9% and IGST @ 18%.

(*b*) All figures mentioned above are exclusive of taxes.

(*c*) All the conditions for availing the ITC have been fulfilled except specifically given and M/s. Grey is not eligible for any threshold exemption.

Sol. Computation of minimum net GST payable in cash by M/s. Grey for the month of April, 2019

Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
Total tax liability				
Inter-State supply of goods	1,00,000			18,000
Intra-State supply of 500 packets of detergents along with a plastic bucket	2,00,000	28,000	28,000	
[Note-1]	(500 × 400)	(2,00,000× 14%)	(2,00,000× 14%)	
Supply of online educational journal to	50,000	4,500	4,500	
private coaching centre [Note-2]		(50,000 × 9%)	(50,000 × 9%)	
Total tax liability (A)		32,500	32,500	18,000
Input tax credit (ITC)				
Brought forward ITC		5,000	5,000	40,000
Inter-State purchase of goods [Note-3]	50,000			9,000
Repairing of bus with seating capacity of 20 passengers [Note-4]	50,000	4,500	4,500	

Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
Total ITC (B)		9,500	9,500	49,000
Minimum net GST payable in cash				
Total tax liability		32,500	32,500	18,000
Less: Set off of IGST liability from IGST credit				(18,000)
Set off IGST credit against CGST and SGST liability in any order and in any proportion		(23,000)	(8,000)	
Set off of CGST and SGST credit against CGST and SGST liability respectively		(9,500) CGST	(9,500) SGST	
Minimum net GST payable in cash		Nil	15,000	Nil

Notes:

1. Supply of detergent and bucket together with a single price of ₹400 is a mixed supply. Being a mixed supply comprising of two supplies, it shall be treated as supply of that particular supply that attracts highest rate of tax (28%).
2. Supply of online educational journal is exempt only when the same is provided to an educational institution which provides a qualification recognised by law. Since, the private coaching centre does not provide any recognised qualification, the supply of online educational journals to the same will be taxable.
3. ITC can be taken only on the basis of a valid tax paying document. Thus, ITC will not be available on goods for which the invoice is missing.
4. ITC on motor vehicles for transportation of persons with seating capacity > 13 persons (including the driver) used for any purpose is allowed. Further, ITC is allowed on repair and maintenance services relating to motor vehicles, ITC on which is allowed.

   Note: Under the amended position of law, the IGST credit, after being set off against IGST liability, can be utilised against CGST and SGST liability in any order and in any proportion. Thus, there cannot be one answer for the minimum net CGST and SGST payable in cash [i.e. GST liability] as the amount of CGST and SGST liabilities are the same as also the amount of ITC for CGST and SGST is also the same.

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

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

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

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

Additional Information:

(*i*) There is no opening balance of any input tax credit and all the conditions necessary for availing the input tax credit (ITC) have been fulfilled.

(*ii*) Details of GST paid on inward supplies are available in GSTR-2A except for item (*i*) i.e. Raw Material A, for which supplier has not filed its GSTR-1 for the month of January 2020, hence corresponding input tax credit (ITC) is not reflected in GSTR-2A of KNK Ltd. in January, 2020.

Compute the following:

(*i*) Amount of eligible input tax credit (ITC) available for the month of January, 2020.

(*ii*) Minimum net GST payable in cash, for the month of January, 2020 after using available input tax credit.

Working notes should form part of your answer.

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

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

S. No.	Particulars	CGST (₹)	SGST (₹)
	Total eligible ITC	1,00,000	1,00,000

Notes:

(*a*) ITC on goods destroyed is blocked under section 17 of the CGST Act, 2017.

(*b*) ITC on works contract services availed for construction of plant and machinery is allowed but pipelines laid outside the factory premises are excluded from the definition of plant and machinery and hence, ITC thereon is blocked.

(*c*) ITC on motor vehicles used for transportation of goods is allowed. Further, ITC is also allowed on insurance services relating to motor vehicles, ITC on which is allowed.

(*d*) Where invoice has not been uploaded by the supplier in its GSTR-1, ITC shall not be allowed.

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

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

37. X Electronics is a registered manufacturer of electrical appliances.

It made a contract with dealers, that purchase of air conditioners of capacity 1.5 ton in the month of October, 2020 of quantity of more than 50 units will entitle them for 10% discount. Inter-State supply made during the month of October 2020 is ₹50,00,000 Details of Intra-State supply:

Particulars	Amount (₹)
Supply of Microwave Oven	15,00,000
Supply of Refrigerators with Stabilizers being a mixed supply, rate of GST on Refrigerator is 28% (14% CGST & 14% SGST), rate of GST on Stabiliser is 18% (9% CGST & 9% SGST)	40,00,000
Supply of Air Conditioners of capacity 1.5 Ton @ ₹50,000 per AirConditioner	50,00,000

Intra-State inward supplies are:

Particulars	Amount (₹)
Raw material	20,00,000

Particulars	Amount (₹)
Paid Gym membership for employees	50,000
Truck purchased for transportation of goods	30,00,000

X Electronics made supply of Air Conditioners (capacity 1.5 ton) to only one dealer named Mr. L. Gym membership for employees is not obligatory for X Electronics under any law.

Opening Balance of ITC is as under:

CGST: ₹58,000

SGST: ₹70,000

IGST: ₹10,00,000

Note:

(*i*) Rate of CGST, SGST and IGST are 9%, 9% and 18% respectively for both inward and outward supplies except where specifically provided.

(*ii*) Both inward and outward supplies are exclusive of taxes.

(*iii*) All the conditions for availing the ITC have been fulfilled.

Compute the Net GST payable in cash by X Electronics for the month of October, 2020.

Sol. Computation of net GST payable in cash by X Electronics for October 2020

S. No.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
I	Intra-State supply				
	Supply of microwave oven	15,00,000	1,35,000	1,35,000	
	Supply of refrigerators with stabilisers	40,00,000	5,60,000	5,60,000	
	[Being mixed supply, the supply shall be treated as a supply of that particular supply which attracts the highest rate of tax and taxed accordingly. Thus, it will be taxed @ 14% CGST and 14% SGST.]				
	Supply of 100 (₹50 lakh/₹50,000) air conditioners	45,00,000	4,05,000	4,05,000	
	[Since 100 air conditioners have been supplied, discount @ 10% will be available.][1]	[₹50,00,000 × 90%]			
II	Inter-State supply @ 18%	50,00,000			9,00,000
	Total outward tax liability		11,00,000	11,00,000	9,00,000
	Less: Input Tax Credit (Refer Working Note below)				

S. No.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
	IGST credit first utilised towards payment of IGST. Remaining amount can be utilised towards CGST and SGST in any order and in any proportion	3 pt	1,00,000 (IGST)		9,00,000 (IGST)
	CGST credit set off against CGST liability and SGST credit set off against SGST liability as CGST credit cannot be utilised towards payment of SGST and vice versa.		5,08,000 (CGST)	5,20,000 (SGST)	
	Net GST liability payable in cash		4,92,000	5,80,000	Nil

Working Note

Computation of ITC available with X Electronics

Particulars		CGST (₹)	SGST (₹)	IGST (₹)
Opening balance of ITC		58,000	70,000	10,00,000
Intra-State inward supplies				
Raw material	20,00,000	1,80,000	1,80,000	
Gym membership for employees	50,000	Nil	Nil	
[ITC on membership of a health and fitness centre is blocked if there is no statutory obligation for the employer to provide the same.]				
Truck purchased for transportation of goods	30,00,000	2,70,000	2,70,000	
[ITC on motor vehicles used for transportation of goods is not blocked2.]				
Total ITC		5,08,000	5,20,000	10,00,000

Note: In the above answer, tax payable in cash has been computed by setting off the IGST credit against CGST liability. However, since IGST credit can be set off against CGST and SGST liability in any order and in any proportion, the same can be set off against CGST and/or SGST liabilities in different other ways as well. In all such cases, net CGST and net SGST payable in cash will differ though the total amount of net GST payable (₹10,72,000) in cash will remain the same.

38. Star Ltd., a registered supplier in Karnataka has provided the following details for supply of one machine:

	Particulars	Amount in (₹)
(1)	List price of machine supplied [exclusive of items given below from (2) to (4)]	80,000
(2)	Tax levied by Local Authority on sale of such machine	6,000
(3)	Discount of 2% on the list price of machine was provided (recorded in the invoice of machine)	
(4)	Packing expenses for safe transportation charged separately in the invoice	4,000

Star Ltd. received ₹5,000 as subsidy from a NGO on sale of each such machine, The Price of ₹80,000 of the machine is after considering such subsidy.

During the month of February, 2020, Star Ltd. supplied three machines to Intra-State customers and one machine to Inter-State customer.

Star Ltd. purchased inputs (intra-State) for ₹1,20,000 exclusive of GST for supplying the above four machines during the month.

The Balance of ITC at the beginning of February, 2020 was:

CGST	SGST	IGST
₹18,000	₹4,000	₹26,000

Note:

(*i*) Rate of CGST, SGST and IGST to be 9%,9% and 18% respectively for both inward and outward supplies.

(*ii*) All the amounts given above are exclusive of GST.

(*iii*) All the conditions necessary for availing the ITC have been fulfilled.

Compute the minimum net GST payable in cash by Star Ltd. for the month of February, 2020.

Sol. Computation of value of taxable supply

Particulars	Amount (₹)
List price of the machine	80,000
Add: Tax levied by Local Authority on the sale of machine [Tax other than GST, if charged separately, are includible in the value in terms of section 15 of the CGST Act, 2017.]	6,000
Add: Packing expenses for safe transportation [Includible in the value as per section 15 of the CGST Act, 2017.]	4,000
Add: Subsidy received from a NGO on sale of each machine [Subsidy received from a non-Government body and which is directly linked to the price, the same is included in the value in terms of section 15 of the CGST Act, 2017.]	5,000
Total	95,000

Particulars	Amount (₹)
Less: Discount @ 2% on ₹80,000 [Since discount is known at the time of supply and recorded in invoice, it is deductible from the value in terms of section 15 of the CGST Act, 2017.]	1,600
Value of taxable supply	93,400

Computation of minimum net GST payable in cash by Star Ltd.

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Sale of machine	25,218	25,218	16,812
[Intra-State sales = ₹93,400 × 3 machines = ₹2,80,200 Inter-State sales = ₹93,400 × 1 machine = ₹93,400]	2,80,200 × 9%	2,80,200 × 9%	93,400 × 18%
Total output tax	25,218	25,218	16,812
Less: Set off of IGST against IGST and SGST		(9,188)	(16,812)
[IGST credit first be utilised towards payment of IGST, remaining amount can be utilised towards CGST and SGST in any order and in any proportion]			
Less: Set off of CGST against CGST and SGST against SGST [CGST credit cannot be utilised towards payment of SGST and vice versa.]	(25,218)	(14,800)	
Minimum net GST payable in cash	Nil	1,230	

Working Note:

Computation of total ITC available

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Opening balance of ITC	18,000	4,000	26,000
Add: Inputs purchased during the month	10,800 [₹1,20,000 × 9%]	10,800 [₹1,20,000 × 9%]	
Total ITC available	28,800	14,800	26,000

39. XY' of Kolkata is engaged in the supply of various goods and services. It pays GST under a regular scheme. The following information is provided by it for the month of July:

Payments	Amount (₹)	Receipts	Amount (₹)
Inter-State purchases of office stationery	1,40,000	Inter-State supply of office stationery	2,00,000
Repairing of lorry used to transport goods from warehouse to clients' location [Intra-State supply]	1,00,000	Intra-State supply of 500 combi packs containing one calculator and one diary	4,00,000

Payments	Amount (₹)	Receipts	Amount (₹)
		Intra-State supply of services of business correspondent to Shubhvidhi Bank with respect to accounts in its urban area branch	1,00,000

The following additional information is provided by 'XY' in relation to the above receipts and payments:

(*a*) 10% of the inter-State supply of office stationery are made to unregistered persons.

(*b*) Each combi pack (containing a calculator and a diary) is priced at ₹800. The calculator and the diary are individually priced at ₹700 and ₹200 respectively.

(*c*) An invoice of ₹40,000 towards purchase of office stationery is missing and no other tax paying document is available in respect of such goods.

(*d*) All the figures mentioned above are exclusive of taxes, wherever applicable.

(*e*) Rates of CGST, SGST and IGST for all services, office stationery and calculator are 9%, 9% and 18% respectively. Rates of CGST, SGST and IGST for diary are 14%, 14% and 28% respectively.

(*f*) Subject to the information given above, all the necessary conditions for availing input tax credit have been fulfilled.

Details of opening balances of input tax credit as on 1st July is given here under:

Tax	Amount (₹)
CGST	5,000
SGST	5,000
IGST	80,000

Compute the minimum net GST [CGST, SGST or IGST, as the case may be] payable in cash by 'XY' for the month of July.

Sol. Computation of minimum net GST payable in cash by 'XY' for the month of July

Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
Total tax liability				
Inter-State supply of stationery [Note1]	2,00,000			36,000
Intra-State supply of 500 combi packs of calculators and diaries [Note-2]	4,00,000 (500 × 800)	56,000 (4,00,000 × 14%)	56,000 (4,00,000 × 14%)	
Intra-State supply of services of business correspondent to a Shubhvidhi Bank with respect to accounts in its urban area branch [Note-3]	1,00,000	9,000 (1,00,000 × 9%)	9,000 (1,00,000 × 9%)	
Total tax liability		65,000	65,000	36,000
Input tax credit (ITC)				

Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
Brought forward ITC		5,000	5,000	80,000
Inter-State purchase of office stationery [Note-4]	1,00,000			18,000
Intra-State repairing of lorry used for transportation of goods [Note-5]	1,00,000	9,000	9,000	
Total ITC		14,000	14,000	98,000
Minimum net GST payable in cash				
Total tax liability		65,000	65,000	36,000
IGST credit being set off against IGST liability				(36,000)
IGST credit being used to pay CGST and SGST liability in any order and in any proportion		(11,000)	(51,000)	
CGST and SGST credit being used to pay CGST and SGST liability respectively		(14,000) CGST	(14,000) SGST	
Minimum net GST payable in cash		40,000	Nil	Nil

Notes:

1. Taxable supplies made by a registered person are liable to tax irrespective of whether they are made to a registered person or to an unregistered person.
2. Supply of calculator and diary as a combi pack with a single price of ₹800 is a mixed supply. Being a mixed supply comprising of two supplies, it shall be treated as supply of that particular supply which attracts highest rate of tax.
3. Services provided by a business facilitator/business correspondent to a banking company only with respect to accounts in its rural area branch are exempt and not with respect to accounts in its urban area branch.
4. ITC can be taken only on the basis of a valid tax paying document. Thus, ITC will not be available on goods for which the invoice is missing.
5. ITC on motor vehicles used for transportation of goods is allowed. Further, ITC is allowed on repair and maintenance services relating to motor vehicles, ITC on which is allowed.

Note: IGST credit, after being set off against IGST liability, can be utilised against CGST and SGST liability in any order and in any proportion. Thus, there cannot be one answer for the minimum net CGST and SGST payable in cash as the amount of CGST and SGST liabilities are the same as also the amount of ITC for CGST and SGST is also the same.

CHAPTER 14

Tax Deduction at Source and Collection of Tax at Source

THEORY

■ TAX DEDUCTION @ SOURCE (SECTION 51 OF CGST ACT)

Deductor of tax at source

Under the GST regime, section 51 of the CGST Act, 2017 prescribes the authority and procedure for 'tax deduction at source'. The TDS provisions empower the Central Government to make it mandatory for the following Persons (the deductor) to deduct tax at source from payments made to the suppliers of taxable goods and/or services.

Central/State Government department or establishment [Section 51(1)(a)]	Local Authority [Section 51(1)(b)]	Governmental Agencies [Section 51(1)(c)]	Notified Persons/ category of persons [Section 51(1)(d)]

The following persons have been notified under clause (d) of sub-section (1) of section 51 of the CGST Act by the Central Government:

(*a*) an authority or a board or any other body, -

(*i*) set up by an Act of Parliament or a State Legislature; or

(*ii*) established by any Government,

with 51% or more participation by way of equity or control, to carry out any function;

It has been clarified vide Circular No. 76/50/2018 GST dated 31.12.2018 that the rider of 51% or more participation by way of equity or control is applicable to both the items (*i*) and (*ii*). Thus, the provisions of section 51 of the CGST Act are applicable only to such authority or a board or any other body set up by an Act of parliament or a State legislature or established by any Government in which 51% or more participation by way of equity or control is with the Government.

(*b*) society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860;

(*c*) public sector undertakings:

■ CATEGORIES OF PERSONS NOT LIABLE TO DEDUCT TDS

Tax is not liable to be deducted at source in the following cases:

(*i*) When goods and/or services are supplied from a public sector undertaking (PSU) to another PSU, whether or not a distinct person.

(*ii*) When supply of goods and/or services takes place between one person to another person specified in clauses (*a*), (*b*), (*c*) and (*d*) of section 51(1) of the CGST Act.

DEDUCTEES

The deductees are the suppliers whose total value of supply of taxable goods and/or services under a contract exceeds ₹ 2,50,000 exclusive of tax & cess as per the invoice.

STANDARD RATE OF DEDUCTION

The tax would be deducted @ 1% under CGST Act, 2017 of the payment made to the supplier (the deductee) of taxable goods and/or services, where the total value of such supply, under a contract, exceeds ₹ 2,50,000 (excluding the amount of Central tax, State tax, Union Territory tax, Integrated tax and cess indicated in the invoice). Thus, individual supplies may be less than ₹ 2,50,000/-, but if total value of supplies under a contract is more than ₹ 2,50,000/-, TDS has to be deducted.

TDS-1% +1% [CGST + SGST] on net value of taxable supplies

The deductors have to deduct tax at the rate of 1% from the payment made or credited to the supplier of taxable goods and/or services under CGST Act, 2017.

It may be noted that Section 20 of IGST Act provides that in the case of tax deducted at source, the deductor shall deduct tax at the rate of 2% from the payment made or credited to the supplier.

NO TDS

The Proviso to Section 51(1) lays down that when the location of the supplier and the place of supply is in a State/ Union territory which is different from the State/ Union territory of registration of the recipient, there will be no TDS.

The above statement can be explained in the following situations:

(*a*) Supplier, place of supply and recipient are in the same state.

It would be intra-State supply and TDS (Central plus State tax) shall be deducted. It would be possible for the supplier (i.e. the deductee) to take credit of TDS in his electronic cash ledger.

(*b*) Supplier as well as the place of supply are in different states.

In such cases, Integrated tax would be levied. TDS to be deducted would be TDS (Integrated tax) and it would be possible for the supplier (i.e. the deductee) to take credit of TDS in his electronic cash ledger.

(*c*) Supplier as well as the place of supply are in State A and the recipient is located in State B.

The supply would be intra-State supply and Central tax and State tax would be levied. In such case, transfer of TDS (Central tax + State tax of State B) to the cash ledger of the supplier (Central tax + State tax of State A) would be difficult. So, in such cases, TDS would not be deducted.

Thus, when both the supplier as well as the place of supply are different from that of the recipient, no tax deduction at source would be made.

Location of Supplier	Place of Supply	Registration of Recipient	TDS u/s 51
State A	State A	State A	Yes
State A	State A	State B	No
State A	State B	State B	Yes
UT1	UT1	UT1	Yes
UT1	UT2	UT2	Yes
UT1	UT1	UT2	No

VALUE OF SUPPLY

The amount indicated in the invoice excluding the Central tax, State tax, Union territory tax, Integrated tax and cess element, is the value of supply for the purpose of TDS under Section 51 of CGST Act, 2017.

> Value of supply shall exclude tax & cess

DEPOSIT OF TDS WITH THE GOVERNMENT

The amount of tax deducted at source should be deposited to the Government account by deductor by 10th of the succeeding month.

TDS CERTIFICATE

A TDS certificate is required to be issued by deductor (the person who is deducting tax) in prescribed form to the deductee (the supplier from whose payment TDS is deducted).

The content of Form GSTR 7A (TDS Certificate) are given below:

1. TDS Certificate No.
2. GSTIN of deductor
3. Name of deductor
4. GSTIN of deductee
5. (*a*) Legal name of the deductee
   (*b*) Trade name, if any
6. Tax period in which tax deducted and accounted for in GSTR-7
7. Details of supplies
8. Amount of tax deducted

NON- REMITTANCE BY THE DEDUCTOR

If the deductor has not remitted the amount deducted as TDS to the Government within the prescribed time limit, he is liable to pay penal interest under Section 50 in addition to the amount of tax deducted.

REFLECTION OF AMOUNT OF TDS

The amount of tax deducted is reflected in

- Electronic Cash Ledger of deductee.

- Return filed by deductor under section 39(3). [GSTR-7].

  The deductee can claim credit of the tax deducted, in his electronic cash ledger. This provision enables the Government to cross check whether the amount deducted by the deductor is correct and that there is no mis-match between the amount reflected in the electronic cash ledger and the amount shown in the return filed by deductor.

  This is similar to existing practice in income tax relating to E-TDS returns filed by deductor and 26AS statement available for viewing the TDS remitted in respect of transactions by deductee.

DETERMINATION OF AMOUNT IN DEFAULT

Any default in determination of the amount under Section 51 shall be made in the manner specified in Section 73 or section 74, as the case may be.

REFUND ON EXCESS/ERRONEOUS DEDUCTION

The deductor or the deductee can claim refund of excess deduction or erroneous deduction. The provisions of section 54 relating to refunds would apply in such cases.

REGISTRATION 7 [RULE 12 OF CGST RULES, 2017]

Any person required to deduct tax in accordance with the provisions of section 51 shall electronically submit a registration application in prescribed form through the common portal. The proper officer shall, after due verification, grant registration within 3 working days from the date of the application. Also, on a request or upon an enquiry or pursuant to any other proceeding under the Act, if the proper officer is satisfied that a person is no longer liable to deduct tax at source under section 51, then the said officer may cancel the said registration, following procedures as provided in Rule 22 of the CGST Rules for the cancellation of registration.

Example

1. Supplier makes a supply worth ₹ 20 lakh to a recipient and the GST at the rate of 18% is required to be paid. The recipient, while making the payment of ₹ 20 lakh to the supplier, shall deduct 2% [CGST 1% + SGST 1%] viz ₹ 4 lakh as TDS.

   The value for TDS purpose shall not include 18% GST. The TDS, so deducted, shall be deposited in the account of Government by 10th of the succeeding month.

   The TDS so deposited in the Government account shall be reflected in the electronic cash ledger of the supplier (i.e. deductee) who would be able to use the same for payment of tax or any other amount.

TAX COLLECTION @ SOURCE (SECTION 52 OF CGST ACT)

Overview of TCS

TCS refers to the tax which is collected by the electronic commerce operator when a supplier supplies taxable goods or services through portal of e-commerce operator and the payment for that supply is collected by said electronic commerce operator. The nature of working of electronic commerce operator can be better understood with the following example.

Example

2. There are many e-Commerce operators [hereinafter referred to as an Operator], like Amazon, Flipkart, Urban clap etc. operating in India. These operators display on their portal products as well as services which are actually supplied by some other person to the consumer.

The goods or services belonging to other suppliers are displayed on the portals of the operators and consumers buy such goods/services through these portals. On placing the order for a particular product/service, the actual supplier supplies the selected product/service through the Operator to the consumer.

The price/consideration for the product/ service is collected by the Operator from the consumer and passed on to the actual supplier after the deduction of commission and incidental expenses mutually agreed upon by the Operator.

Let us now have a look at the statutory provisions relating to TCS.

WHO IS LIABLE TO COLLECT TCS ?

Every Electronic Commerce Operator (ECO), not being an agent, has been mandated to collect tax at source (TCS) on the net value of taxable supplies [supplies net of returns if any] made through it by suppliers, where the ECO collects the consideration on behalf of the supplier for such supplies.

RATE OF TCS

0.5% of Net Value of Supplies

Example

3. Suppose a certain product is sold at ₹ 1,120 [including GST @12%] through an Operator by a supplier. The operator would collect tax @ 0.5% of the net value of ₹ 1,000 i.e. ₹ 5 in case of inter-State supplies.

Net Value of Taxable Supplies

+ Aggregate value of taxable supplies of goods and / or services

− taxable supplies returned to suppliers

other than notified services under section 9(5) by all registered persons supplied through operator

DEPOSIT OF TCS BY ECO TO GOVERNMENT

The TCS amount collected by the ECO has to be remitted to the Government Treasury within 10 days after the end of the month in which the collection was made.

Example

4. If the TCS has been collected in the month of July, the amount has to be remitted into the Government Treasury on or before 10th August.

Illustration 1

Mr. X is a supplier selling his own products through a web site hosted by him. Does he fall under the definition of an "electronic commerce operator"? Whether he is required to collect TCS on such supplies?

Ans. As per the definitions in Section 2(44) and 2(45) of the CGST Act, 2017, Mr. X will come under the definition of an "electronic commerce operator". However, according to Section 52 of the Act ibid, TCS is required to be collected on the net value of taxable supplies made through it by other suppliers where the consideration is to be collected by the ECO. In cases, where someone is selling

their own products through a website, there is no requirement to collect tax at source as per the provisions of this Section. These transactions will be liable to GST at the prevailing rates.

Illustration 2

> If Mr. A purchase goods from different vendors and in turn Mr. A, is selling them on his own website under his own billing, Is TCS required to be collected on such supplies?

Ans. No. According to Section 52 of the CGST Act, 2017, TCS is required to be collected on the net value of taxable supplies made through E-commerce operator by other suppliers where the consideration is to be collected by the ECO. In this case, there are two transactions - Mr. A purchase the goods from the vendors, and those goods are sold through his own website. For the first transaction, GST is leviable, and will need to be paid to vendor, on which credit is available to Mr. A. The second transaction is a supply on own account of Mr. A, and not by other suppliers and there is no requirement to collect tax at source. The transaction will attract GST at the prevailing rates.

REGISTRATION 10 [RULE 12 OF CGST RULES, 2017]

Any person required to deduct tax in accordance with the provisions of section 52 shall electronically submit a registration application in prescribed form through the common portal. The proper officer shall, after due verification, grant registration within 3 working days from the date of the application.

Also, on a request or upon an enquiry or pursuant to any other proceeding under the Act, if the proper officer is satisfied that a person is no longer liable to deduct tax at source under section 52 then the said officer may cancel the said registration, following procedures as provided in Rule 22 of the CGST Rules for the cancellation of registration.

FILING OF MONTHLY & ANNUAL STATEMENTS BY ECO

- An electronic statement [Form GSTR 8] has to be filed by the ECO containing details of the outward supplies of goods and/ or services effected through it, including the supplies returned through it and the amount collected by it as TCS during the month within 10 days after the end of the each month in which supplies are made.
- Additionally, the ECO is also mandated to file an Annual Statement [Form GSTR 9B] on or before 31st day of December following the end of the financial year.
- The Commissioner has been empowered to extend the due date for furnishing of monthly and annual statement by the person collecting tax at source.

NOTICE TO THE OPERATOR SEEKING DETAILS

- An officer not below the rank of Deputy Commissioner can issue notice to an operator, asking him to furnish details relating to volume of the goods/services supplied, stock of goods lying in warehouses/godowns etc.
- The operator is required to furnish such details within 15 working days.
- In case an operator fails to furnish the information, besides being liable for penal action under section 122, it shall also be liable for penalty up to ₹ 25,000.

QUESTION BANK

1. Whether the rate of tax of 1% notified under section 52 is CGST or SGST or a combination of both CGST and SGST?

Sol. The rate of TCS as notified under CGST Act is payable under CGST and the equal rate of TCS is expected under the SGST Act also, in effect aggregating to 1%.

2. Is every e-commerce operator required to collect tax on behalf of actual supplier?

Sol. Yes, every e-commerce operator is required to collect tax where consideration with respect to the supply is being collected by the e-commerce operator.

However, no TCS is required to be collected in the following cases:

(*i*) on supply of services notified under section 9(5) of the CGST Act, 2017.

(*ii*) on exempt supplies

(*iii*) on supplies on which the recipient is required to pay tax on reverse charge basis.

3. State whether the provisions pertaining to tax collected at source under section 52 of CGST Act, will be applicable, if Fitan Ltd. sells watch on its own through its own website?

Sol. As per Section 52, every electronic commerce operator not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.

Hence, if the person sells on his own, provisions pertaining to tax collected at source (TCS) won't be applicable.

4. There is no onus of filing any monthly & annual statements by ECO. Examine the technical veracity of the statement by explaining relevant provisions.

Sol. The given statement is invalid. An electronic statement has to be filed by the ECO containing details of the outward supplies of goods and/ or services effected through it, including the supplies returned through it and the amount collected by it as TCS during the month within 10 days after the end of the each month in which supplies are made.

Additionally, the ECO is also mandated to file an Annual Statement on or before 31st day of December following the end of the financial year.

The Commissioner has been empowered to extend the due date for furnishing of monthly and annual statement by the person collecting tax at source.

5. State whether the provisions pertaining to tax collected at source under section 52 of CGST Act, will be applicable, if ABC limited who is dealer of Royul brand sells watches through Slipkart, an electronic commerce operator?

Sol. As per Section 52, every electronic commerce operator not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator. If ABC limited who is dealer of Royul brand sells watches through Slipkart, then the provision of TCS will be applicable to Slipkart.

15 CHAPTER

Returns Under GST

THEORY

■ SECTION 139(1) COMPULSORY FILING OF RETURN OF INCOME

(a) It is compulsory for companies and firms to file a return of income or loss for every previous year.

(b) For other assesses return filling is mandatory if GTI without giving effect to the provisions of section 54/54B/54D/54EC/54F exceeds BEL.

(c) For Following Person Return Filling is Mandatory

1. ROR – Individual if at any time during the PY,
   (i) Is a beneficial owner of any asset (including any financial interest in any entity) located outside India or has a signing authority in any account located outside India.
   (ii) Is a beneficiary of any asset (including any financial interest in any entity) located outside India

   Note: where income is already includes in the income of person referred in (i), then person in (ii) is not required to file the return.

   "**Beneficial Owner**" means An individual who has provided, directly or indirectly, consideration for the asset for the immediate or future benefit, of himself or any other person.

   "**Beneficiary**" means An individual who derives benefit from the asset during the previous year and the consideration for such asset has been provided by any person, other than such beneficiary.
2. has deposited an amount or aggregate of the amounts exceeding ₹1 crore in one or more current accounts or 50 lakhs or more in one or more saving accounts.
3. has incurred Foreign travel expenditure of aggregate amount exceeding ₹2 lakh for himself or any other person.
4. has incurred expenditure of aggregate amount exceeding ₹1 lakh towards consumption of electricity.
5. if his total sales, turnover or gross receipts, as the case may be, in the business exceeds ₹60 lakhs or total gross receipts in profession exceeds ₹10 lakhs, during the previous year.
6. if the aggregate of TDS and TCS during the previous year, in the case of the person, is ₹25,000 or more (50,000 in case of Senior citizen).

(d) Due Date

(a) A company (b) A person (other than a company) whose accounts are required to be audited any law; or (c) A partner of a firm whose accounts are required to be audited under any law	31st October of AY
An assessee including the partners of the firm being such assessee who is required to furnish a report referred to in section 92E	30th Nov Of AY
In the case of any other assessee	31st July

SECTION 234F FEE FOR DEFAULT IN FURNISHING RETURN OF INCOME

Where a person, who is required to furnish a return of income fails to do so upto due date as per Section 139 (1), he shall pay, by way of fee, a sum of ₹5,000.

However, if the total income of the person does not exceed ₹5 lakhs, the fees payable shall not exceed ₹1,000.

SECTION 139(3) RETURN OF LOSS

1. Section 80 requires mandatory filing of return of loss u/s 139 (3) on or before the due date specified u/s 139 (1) for carry forward of the following losses –

(a) Business loss u/s 72 (1)
(b) Speculation business loss u/s 73 (2)
(c) Loss from specified business u/s 73A (2)
(d) Loss under the head "Capital Gains" u/s 74 (1)
(e) Loss from the activity of owning and maintaining race horses u/s 74A (3)

If return is not filed upto the due date as per section 139(1) then, above losses are not allowed to be carried forward.

Note: restriction is on carried forward and not on set-off i.e. if return is filed late, then set-off of above losses are allowed but not allowed to C/F.

2. However, loss under the head "Income from house property" u/s 71B and unabsorbed depreciation u/s 32 can be carried forward for set-off even though return of loss has not been filed before the due date.

SECTION 139(4) BELATED RETURN

Any person who has not furnished a return within the time allowed to him under section 139 (1) may furnish the return for any previous year at any time –

(i) before 31/12/AY
(ii) before the completion of the assessment, whichever is earlier

consequences of Belated return

(a) Not allowed to C/F losses as per section 80
(b) Interest u/s 234A @ 1% pm or part thereof
(c) Late fees u/s 234F.

SECTION 139(5) REVISED RETURN

If any person having furnished a return under section 139(1) or a belated return under section 139(4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time

(i) before 31/12/AY

(ii) before the completion of the assessment, whichever is earlier

Note:

(a) Revised return substitutes original return from the date original return was filed

(b) Assessee can revise the belated return as well

(c) Assessee can revise return any no. of times within the time limit.

SECTION 139(9) DEFECTIVE RETURN

1. Return shall be considered as defective, if –

(a) Return is not filed in prescribed form

(b) Tax proof is not provided along with return filed.

(c) Audit report u/s 44AB is not submitted.

2. If return is defective then AO may intimate the defect to the assessee and give him an opportunity to rectify the defect within a period of 15 days or extended period at the discretion of AO.
3. If the defect is not rectified within the time allowed, then the return would be treated as an invalid return.

SECTION 139(8A) OPTION TO FILE UPDATED RETURN OF INCOME

1. Any person may furnish an updated return of his income or the income of any other person in respect of which he is assessable whether or not he has furnished a return under section 139(1) or belated return or revised return for that AY.
2. Updated return is to be filed within 24 months from the end of the relevant assessment year.
3. Not allow to file the updated return if –

(a) It is a loss return.

(b) has the effect of decreasing the total tax liability determined on the basis of return furnished under section 139(1)/(4)/(5).

(c) results in refund or increases the refund due on the basis of return furnished under section 139(1)/(4)/(5).

(d) An updated return has been filed earlier.

(e) any proceeding for assessment or reassessment or recomputation or revision of income is pending or has been completed for the relevant assessment year.

4. If the loss or any part thereof carried forward or unabsorbed depreciation carried forward or AMT credit carried forward is to be reduced for any subsequent previous year as a result of furnishing of updated return of income for a previous year, an updated return is required to be furnished for each such subsequent previous year.
5. Additional Income Tax Payable at the time of Updated Return.

(a) If such return is furnished after the expiry of time limit u/s 139(4)/(5) of the AY and before the expiry of 12 months from the end of Relevant AY

Additional Tax = 25% of (Tax + Interest)

(b) If such return is furnished after the expiry of 12 months from the end of Relevant AY but before the end of 24 months from the end of Relevant AY

Additional Tax = 50% of (Tax + Interest)

PERMANENT ACCOUNT NUMBER (PAN) [SECTION 139A]

It is mandatory to furnish PAN in the following transactions:-

S.No.	Nature of Transaction	Value of Transaction
1.	Sale or purchase of a motor vehicle or vehicle	All such transactions
2.	Opening an account [other than a time-deposit and a Basic Savings Bank Deposit Account]	All such transactions
3.	Opening of a demat account with a depository, participant, custodian of securities	All such transactions
4.	Payment to a hotel or restaurant against a bill or bills at any one time	Payment in cash of an amount exceeding ₹50,000
5.	Payment in connection with travel to any foreign country or payment for purchase of any foreign currency at any one time	Payment in cash of an amount exceeding ₹50,000
6.	Payment to a Mutual Fund for purchase of its units	Amount exceeding ₹50,000
7.	Payment to a company or an institution for acquiring debentures or bonds issued by it	Amount exceeding ₹50,000
8.	Payment to the Reserve Bank of India for acquiring bonds issued by it	Amount exceeding ₹50,000
9.	Deposit with a banking company or a co-operative bank	Cash deposits exceeding ₹50,000 during any one day
10.	Purchase of bank drafts or pay orders or banker's cheques from a banking company or a co-operative bank	Payment in cash of an amount exceeding ₹50,000 during any one day
11.	Time Deposit with Banking company , post office or NBFC	Amount exceeding ₹50,000 or aggregating to more than ₹5 lakh during a financial year
12.	Payment as life insurance premium to an insurer	Amount aggregating to more than ₹50,000 in a financial year
13.	A contract for sale or purchase of securities (other than shares)	Amount exceeding ₹1 lakh per transaction
14.	Sale or purchase, by any person, of shares of a company not listed in a recognised stock exchange	Amount exceeding ₹1 lakh per transaction
15.	Sale or purchase of any immovable property.	Amount exceeding ₹10 lakh or valued by stamp valuation authority referred to in section 50C at an amount exceeding ₹10 lakh

Minor to quote PAN of parent or guardian

Minor shall quote the PAN of his father or mother or guardian, as the case may be, in the document while entering into the transactions mentioned above

Declaration by a person not having PAN

Any person who does not have a PAN and who enters into any transaction specified in this rule, shall make a declaration in Form No.60 giving therein the particulars of such transaction either in paper form or electronically under the electronic verification code

VERIFICATION OF RETURN [SECTION 140]

Assessee	Cases	Verified by
Individual	In General	Individual Himself
	Where the individual concerned is absent from India	Individual himself or by the duly authorized person of such individual
	Where the individual is mentally incapacitated	Guardian of such individual or any other person competent to act on his behalf
	Where by any other reason it is not possible for the individual to verify the return	Any person duly authorised by him
HUF	In general	Karta
	Where the 'karta' is absent from India or is mentally incapacitated	Any adult member of the family
Firm	In General	Managing partner
	If due to any reason it is not possible for managing partner to verify or where there is no managing partner	Any adult partner
Limited liability partnership	In General	Designated partner
	If due to any unavoidable reason such designated partner is not able to verify the return, or where there is no designated partner as such	Any partner or any other prescribed person
Local authority	Principal Officer	
Political Party	Chief Executive Officer	
Company	In General	Managing Director (MD)
	If due to any reason it is not possible for MD to verify or where there is no MD	Any director or any other prescribed person
	Where an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under Insolvency and Bankruptcy Code, 2016	Insolvency professional appointed by such Adjudicating Authority

	Non-resident company	A person holding a valid power of attorney. Copy of such power of attorney must be attached with the return
	Company in process of winding up	Liquidator of the company
	Where the management of the company has been taken over by the Central or State Government	Principal officer
Any other association	Any member or principal officer	
Any other person	Such person or any other person competent to act on its behalf	

■ QUOTING OF AADHAAR NUMBER [SECTION 139AA]

1. Mandatory quoting of Aadhaar Number

   Every person who is eligible to obtain Aadhaar Number is required to mandatorily quote Aadhaar Number:

   (a) in the application form for allotment of Permanent Account Number (PAN)

   (b) in the return of income

Note:CBDT has clarified that it is mandatory to quote Aadhaar number while filing the return of income unless specifically exempted. Thus, returns being filed either electronically or manually on or after 1.4.2019 cannot be filed without quoting the Aadhaar number.

2. Mandatory quoting of Enrolment Id, where person does not have Aadhaar Number.

   If a person does not have Aadhaar Number, he is required to quote Enrolment ID of Aadhaar application form issued to him at the time of enrolment in the application form for allotment of Permanent Account Number (PAN) or in the return of income furnished by him.

   Enrolment ID means a 28 digit Enrolment Identification Number issued to a resident at the time of enrolment.

3. Intimation of Aadhaar Number to prescribed Authority

   Every person who has been allotted Permanent Account Number (PAN) as on 1st July, 2017, and who is eligible to obtain Aadhaar Number, shall intimate his Aadhaar Number to prescribed authority on or before 31st March, 2022.

4. Consequences of failure to intimate Aadhaar Number

   If a person fails to intimate the Aadhaar Number, the permanent account Number (PAN) allotted to such person shall be made inoperative and he would be liable for payment of fee in accordance with section 234H (₹1000)

   Where such person who has not intimated his Aadhaar number on or before 31st March, 2022, has intimated his Aadhaar number under section 139AA(2) after 31st March, 2022, after payment of fee specified in section 234H read with Rule 114(5A), his PAN would become operative within 30 days from the date of intimation of Aadhaar number.

A person, whose PAN has become inoperative, would be liable for following further consequences: -

(i) no refund of any amount of tax or part thereof, due under the provisions of the Act.

(ii) interest would not be payable on such refund.

(iii) where tax is deductible at source in case of such person, such tax shall be deducted at higher rate, in accordance with provisions of section 206AA.

(iv) where tax is collectible at source in case of such person, such tax shall be collected at higher rate, in accordance with provisions of section 206CC.

EXCEPTIONS TO SECTION 139AA

Provisions of section 139AA relating to quoting of Aadhaar Number would not apply to an individual who does not possess the Aadhaar number or Enrolment ID and is:

(i) residing in Assam, Jammu & Kashmir and Meghalaya

(ii) a non-resident as per Income-tax Act, 1961

(iii) of the age of 80 years or more at any time during the previous year

(iv) not a citizen of India

QUESTION BANK

1. State with reasons whether you agree or disagree with the following statements:

(a) Return of income of Limited Liability Partnership (LLP) could be verified by any partner.

(b) Time limit for filing return under section 139(1) in the case of Mr. A having total turnover of ₹160 lakhs (₹100 lakhs received in cash) for the year ended 31.03.2024 whether or not declaring presumptive income under section 44AD, is 31st October, 2024.

Sol. (a) Disagree

The return of income of LLP should be verified by a designated partner.

Any other partner can verify the Return of Income of LLP only in the following cases:-

(i) where for any unavoidable reason such designated partner is not able to verify the return, or,

(ii) where there is no designated partner.

(b) Disagree

In case Mr. A offers his business income as per the presumptive taxation provisions of section 44AD (₹11.60 lakhs or more), then, the due date under section 139(1) for filing of return of income for the year ended 31.03.2024, shall be 31st July, 2024.

In case, Mr. A wants to declare business income lower than ₹11.60 lakhs, he has to get his accounts audited under section 44AB, since his turnover exceeds ₹1 crore, in which case, the due date for filing return would be 31st October, 2024.

2. Mr. Vineet exercised the option of shifting out of the default tax regime provided under section 115BAC(1A) and submits his return of income under the optional tax regime (i.e., the normal provisions of the Act) on 12-09-2025 for A.Y 2025- 26 consisting of income under the head "Salaries", "Income from house property" and bank interest. On 21-12-2025, he realized that he had not claimed deduction under section 80TTA in respect of his interest income on the Savings Bank Account. He wants to revise his return of income. Can he do so? Examine. Would your answer be different if he discovered this omission on 21- 03-2026?

Sol. Since Mr. Vineet has income only under the heads "Salaries", "Income from house property" and "Income from other sources", he does not fall under the category of a person whose accounts are required to be audited under the Income-tax Act, 1961 or any other law in force. Therefore, the due date of filing return for A.Y.2025-26 under section 139(1), in his case, is 31st July, 2025. Since Mr. Vineet had submitted his return only on 12.9.2025, the said return is a belated return under section 139(4).

As per section 139(5), a return furnished under section 139(1) or a belated return u/s 139(4) can be revised. Thus, a belated return under section 139(4) can also be revised. Therefore, Mr. Vineet can revise the return of income filed by him under section 139(4) in December 2025, to claim deduction under section 80TTA, since the time limit for filing a revised return is three months prior to the end of the relevant assessment year, which is 31.12.2025. However, he cannot revise return had he discovered this omission only on 21- 03-2026, since it is beyond 31.12.2025.

3. Examine with reasons, whether the following statements are true or false, with regard to the provisions of the Income-tax Act, 1961:

The Assessing Officer has the power, inter alia, to allot PAN to any person by whom no tax is payable.

Where the Karta of a HUF is absent from India, the return of income can be verified by any male member of the family.

Sol. True: Section 139A(2) provides that the Assessing Officer may, having regard to the nature of transactions as may be prescribed, also allot a PAN to any other person, whether any tax is payable by him or not, in the manner and in accordance with the procedure as may be prescribed.

False: Section 140(b) provides that where the Karta of a HUF is absent from India, the return of income can be verified by any other adult member of the family; such member can be a male or female member.

4. Explain the term "return of loss" under the Income-tax Act, 1961. Can any loss be carried forward even if return of loss has not been filed as required?

Sol. A return of loss is a return which shows certain losses. Section 80 provides that the losses specified therein cannot be carried forward, unless such losses are determined in pursuance of return filed under the provisions of section 139(3).

Section 139(3) states that to carry forward the losses specified therein, the return should be filed within the time specified in section 139(1).

Following losses are covered by section 139(3):

- business loss to be carried forward under section 72(1),
- speculation business loss to be carried forward under section 73(2),
- loss from specified business to be carried forward under section 73A(2), in case the assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A),
- loss under the head "Capital Gains" to be carried forward under section 74(1); and
- loss incurred in the activity of owning and maintaining race horses to be carried forward under section 74A(3).

However, loss from house property to be carried forward under section 71B and unabsorbed depreciation under section 32 can be carried forward even if return of loss has not been filed as required under section 139(3).

5. Mr. Aakash has undertaken certain transactions during the F.Y.2024-25, which are listed below. You are required to identify the transactions in respect of which quoting of PAN is mandatory in the related documents –

S. No.	Transaction
1.	Payment of life insurance premium of ₹45,000 in the F.Y.2024-25 by account payee cheque to LIC for insuring life of self and spouse.
2.	Payment of ₹1,00,000 to a five-star hotel for stay for 5 days with family, out of which ₹60,000 was paid in cash.

3.	Payment of ₹80,000 by ECS through bank account for acquiring the debentures of A Ltd., an Indian company.
4.	Payment of ₹95,000 by account payee cheque to Thomas Cook for travel to Dubai for 3 days to visit relatives.
5.	Applied to SBI for issue of credit card.

Sol.

S.No.	Transaction	Is quoting of PAN mandatory in related documents?
1.	Payment of life insurance premium of ₹45,000 in the F.Y.2024-25 by account payee cheque to LIC for insuring life of self and spouse.	No, since the amount paid does not exceed ₹50,000 in the F.Y.2024-25.
2.	Payment of ₹1,00,000 to a five-star hotel for stay for 5 days with family, out of which ₹60,000 was paid in cash.	Yes, since the amount paid in cash exceeds ₹50,000.
3.	Payment of ₹80,000, by ECS through bank account, for acquiring the debentures of A Ltd., an Indian company.	Yes, since the amount paid for acquiring debentures exceeds ₹50,000. Mode of payment is not relevant in this case.
4.	Payment of ₹95,000 by account payee cheque to Thomas Cook for travel to Dubai for 3 days to visit relatives.	No, since the amount was paid by account payee cheque, quoting of PAN is not mandatory even though the payment exceeds ₹50,000.
5.	Applied to SBI for issue of credit card.	Yes, quoting of PAN is mandatory on making an application to a banking company for issue of credit card.

6. Mr. Rahul, an Indian citizen residing in Mumbai, files his return of income every year on time. He has Aadhaar number as well. He has not intimated his Aadhaar number to the prescribed authority till August 2024. He approached you on 1.9.2024 and asked you the consequences for not doing so and the effective date form which those consequences would become effective?

What would be your answer if Mr. Rahul wants to intimate his Aadhaar number to the prescribed authority now? **[RTP May 24]**

Sol. Where a person, who has been allotted PAN and is required to intimate his Aadhaar number, has failed to intimate the same on or before the 31.3.2022, the PAN of such person shall become inoperative.

Consequences of failure to intimate Aadhar Number A person, whose PAN has become inoperative, would be liable for further consequences for the period commencing from the date specified by the Board till the date it becomes operative, namely –

- refund of any amount of tax or part thereof, due under the provisions of the Act shall not be made;
- interest shall not be payable on such refund for the period, beginning with the date specified and ending with the date on which it becomes operative;
- where tax is deductible under Chapter XVIIB in case of such person, such tax shall be deducted at higher rate, in accordance with provisions of section 206AA;

- where tax is collectible at source under Chapter XVII-BB in case of such person, such tax shall be collected at higher rate, in accordance with provisions of section 206CC.

The consequences specified above will be effective from 1.7.2023.

If Mr. Rahul wants to intimate his Aadhaar number to the prescribed authority on 1.9.2024, he would be liable to pay a fee of ₹1,000 as specified under section 234H. His PAN would become operative within 30 days from the date of intimation of Aadhaar number and would not be liable for the above consequences once his PAN becomes operative.

7. Who is authorized to verify the return of income of the following assessees? **[RTP Nov 23]**

1. HUF whose Karta is absent from India
2. Company where the company is being wound up
3. Local authority
4. Individual who is mentally incapacitated from attending to his affairs

Sol. Person authorized to verify return of income

S.No.	Assessee	Authorised Persons
1.	HUF whose karta is absent from India	Any other adult member of the HUF
2.	Company where the company is being wound up	Liquidator
3.	Local authority	The principal officer
4.	Individual who is mentally incapacitated from attending to his affairs	His guardian or any other person competent to act on his behalf

8. Mr. Vikas, a resident in India aged 80 years, is having a house property in Mumbai. He has let out the house property to ABC Ltd. for a rent of ₹50,000 per month from 1.4.2024. He does not have any other source of income. Is Mr. Vikas required to file his return of income for A.Y. 2025-26. If yes, why? **[RTP Nov 22]**

Sol. An individual whose total income exceeds the maximum amount not chargeable to tax i.e., ₹5,00,000 in this case since Mr. Vikas is of 80 years, is required to file a return of income on or before the due date under section 139(1) i.e., 31st July, 2025.

Clause (iv) of seventh proviso to section 139(1) provides that a person (other than a company or a firm) who is not required to furnish a return u/s 139(1) has to furnish return on or before the due date if the person fulfills such other conditions as may be prescribed.

In case of resident individual who is aged 60 years or more at any time during the relevant P.Y. is required to file his return of income if the aggregate of tax deducted at source and tax collected at source, in his case, during the P.Y. is ₹50,000 or more.

In this case, Mr. Vikas's total income would comprise of only income from house property from let out of house property in Mumbai. His total income would be ₹4,20,000 [₹6,00,000 – 30% under section 24(a)], which is below the basic exemption limit of ₹5,00,000.

ABC Ltd. is required to deduct tax at source u/s 194-I @10% of ₹6,00,000. Tax deductible would be ₹60,000. Since tax deducted at source in case of Mr. Vikas is more than ₹50,000, he has to furnish his return of income for A.Y. 2025-26 on or before 31.07.2025, even though his total income is below the basic exemption limit of ₹5,00,000.

9. Mr. Aakash has undertaken certain transactions during the F.Y.2024-26, which are listed below. You are required to identify the transactions in respect of which quoting of PAN is mandatory in the related documents. **[RTP May 23]**

S.No.	Transaction
1.	Opening a current account with HDFC Bank.
2.	Sale of shares of ABC (P) Ltd. for ₹1,50,000.
3.	Purchase of two wheeler motor vehicle of ₹1 lakh.
4.	Purchase of a professional laptop of ₹3 lakhs.

Sol.

S.No.	Transaction	Is quoting of PAN mandatory in related documents?
1.	Opening a current account with HDFC Bank.	Yes, quoting of PAN is mandatory on opening of a current account by a person with bank.
2.	Sale of shares of ABC (P) Ltd. for ₹1,50,000.	Yes, since the amount for sale of unlisted shares exceeds ₹1,00,000.
3.	Purchase of two wheeler motor vehicle of ₹1 lakh.	Since the purchase is of two wheeler motor vehicle, quoting of PAN is not mandatory.
4.	Purchase of a professional laptop of ₹3 lakhs.	Yes, since the amount paid exceeds ₹2,00,000.

10. Mrs. Shivani is a US Citizen. She got married to Mr. Sriram, an Indian citizen and resident of India, in the year 2018. Since then, she has been staying in India. She has a Bank account in US. She sold a residential house in US and earned a long term capital gain of ₹2 lakhs. She invested the whole sales consideration in Capital Gain bonds under section 54EC so that no long term capital gain is taxable. She does not have any source of income in India during the P.Y. 2024-25. Is she required to furnish her return of income? If yes, can she furnish a belated return? **[RTP May 22]**

Sol. An individual whose total income without giving effect to, inter alia, section 54EC exceeds the maximum amount not chargeable to tax i.e., ₹2,50,000, is required to file a return of income on or before the due date under section 139(1) i.e., 31st July, 2025.

Every person, being a resident other than not ordinarily resident in India, would be required to file a return of income or loss for the previous year, even if his total income does not exceed the basic exemption limit, if such person, at any time during the previous year, inter alia, holds any asset located outside India or has a signing authority in any account located outside India.

In this case, Mrs. Shivani is a resident and ordinarily resident in India for A.Y. 2025-26 since she has been staying in India since the year 2018. Total income of Mrs. Shivani without giving effect to, inter alia, section 54EC is ₹2 lakhs, which is below the basic exemption limit. However, since she has a bank account in US, she has to furnish her return of income for A.Y. 2025-26 on or before 31.07.2025.

Yes, she can furnish a belated return under section 139(4), if she has not furnished her return on or before 31.7.2025, at any time before the –

1. three months prior to the end of the relevant assessment year i.e., 31.12.2025;
2. completion of the assessment whichever is earlier.

11. Explain with brief reasons, whether the return of income can be revised under Section 139(5) of the Income-tax Act, 1961 in the following cases: **[PYQ May 22]**

1. Belated return filed under Section 139(4)
2. Return already revised twice under Section 139(5)
3. Return of loss filed under Section 139(3)

Sol. Any person who has furnished a return under section 139(1) or 139(4) can file a revised return at any time

- before three months prior to the end of the relevant assessment year or
- before the completion of assessment,

whichever is earlier, if he discovers any omission or any wrong statement in the return filed earlier. Accordingly,

1. A belated return filed under section 139(4) can be revised.
2. A return revised earlier can be revised again as the first revised return replaces the original return; and the second revised return replaces the earlier return filed.
3. A return of loss filed under section 139(3) is deemed to be return filed under section 139(1), and therefore, can be revised under section 139(5).

12. What is the time limit within which an updated return can be filed? Also enumerate the circumstances in which updated return cannot be furnished. **[PYQ May 23]**

Sol. Any person may furnish an updated return of his income or the income of any other person in respect of which he is assessable, for the previous year relevant to the assessment year at any time within 24 months from the end of the relevant assessment year.

Circumstances in which updated return cannot be furnished.

No updated return can be furnished by any person for the relevant assessment year, where

(a) an updated return has been furnished by him for the relevant assessment year.

(b) any proceeding for assessment or reassessment or recomputation or revision of income is pending or has been completed for the relevant assessment year in his case;

(c) he is such person or belongs to such class of persons, as may be notified by the CBDT.

(d) an updated return is a loss return.

(e) the updated return has the effect of decreasing the total tax liability determined on the basis of return furnished under section 139(1)/(4)/(5)/original or revised return.

(f) the updated return results in refund or increases the refund due on the basis of return furnished under section 139(1)/(4)/(5)/original or revised return.

13. State with reason whether the following persons are required to file their return of income as per the provisions of the Income Tax Act, 1961 for the assessment year 2025-26:

(a) Mr. Aneesh aged 31 years, who opted for default tax regime u/s 115BAC(1A) had a total income of ₹2,90,000 for the previous year 2024-25.

(b) Smt. Patel, aged 65 years, has a TDS credit of ₹55,000 during the previous year 2024-25.

(c) The gross receipts of Mr. Ajit, aged 45 years, an architect for the previous year 2024-25 was ₹12,00,000, but his profit from profession was only ₹2,25,000 and he has no other income.

[PYQ May 24]

Sol. In this case, Mr. Aneesh is not required to file return of income, since his total income does not exceed ₹3,00,000, being the basic exemption limit as per the default tax regime u/s 115BAC, assuming Mr. Aneesh has not claimed any deduction u/s 54/54D/54EC or 54F and deduction allowable under Chapter VI-A.

In the present case, since Smt. Patel, a senior citizen has a TDS credit of ₹55,000, which exceeds the threshold limit of ₹50,000, she is required to file her return of income even if it is assumed that her total income does not exceed the basic exemption limit.

In this case, since Mr. Ajit's gross receipts from the profession of architect was ₹12,00,000 for the P.Y. 2024-25, which is in excess of ₹10 lakhs, hence, he is required to file his return of income though his total income is ₹2,25,000 which does not exceed the basic exemption limit.

14. CBDT has vide Notification No. 37/2022 dated 21.04.2022, inserted Rule 12AB, notified which are all the person other than a company or firm who is not required to file return of income under Section 139(1) must file the return of Income. State who are required compulsorily to file return of Income. **[PYQ May 24]**

Sol. The CBDT has, vide Notification No. 37/2022 dated 21.4.2022, inserted Rule 12AB to provide that a person, other than a company or a firm, who is not required to furnish a return under section 139(1), and who fulfils any of the following conditions during the previous year has to file their return of income on or before the due date in the prescribed form and manner.

(a) if his total sales, turnover or gross receipts, as the case may be, in the business > ₹60 lakhs during the previous year; or

(b) if his total gross receipts in profession > ₹10 lakhs during the previous year; or

(c) if the aggregate of TDS and TCS during the previous year, in the case of the person, is ₹25,000 or more; or

However, a resident individual who is of the age of 60 years or more, at any time during the relevant previous year (or senior citizen) would be required to file return of income only, if the aggregate of TDS and TCS during the previous year, in his case, is ₹50,000 or more

(d) the deposit in one or more savings bank account of the person, in aggregate, is ₹50 lakhs or more during the previous year.

15. In the context of Tax Return Preparer Scheme, 2006, explain the following: **[PYQ Nov 23]**

(a) Eligible Persons

(b) Educational Qualifications of Tax Return Preparer

(c) Persons not entitled to act as return preparer

Sol. In the context of Tax Return Preparer scheme, 2006

(a) Eligible Persons

Any person being an individual or a Hindu undivided family

(b) Educational Qualifications of Tax Return Preparer

An individual, who

- holds a bachelor degree from a recognised Indian University or institution, or
- has passed the intermediate level examination conducted by
  - the Institute of Chartered Accountants of India (ICAI) or
  - the Institute of Company Secretaries of India (ICSI) or
  - the Institute of Cost Accountants of India (ICWAI)

(c) Person not entitled to act as return preparer

An individual who is–

- any officer of a scheduled bank with which the assessee maintains a current account or has other regular dealings
- a legal practitioner, entitled to practice in any civil court in India
- an accountant
- an employee of the "specified class or classes of persons" i.e., any person other than a company or a person whose accounts are required to be audited under section 44AB (tax audit) or under any other existing law, who is required to furnish a return of income under the Act.