
CHARTMASTER'S

Q&A & MCQ book

on

INDIRECT TAX LAWS

For

**CA, CMA Final & CS Professional
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On Indirect Tax Laws

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CHARTMASTER'S GST

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Coverage of our Q&A Book

The Questions have been compiled from

- ICAI study Material, CS and CMA institute study material & Past Papers.
- Revision Test Papers issued by ICAI (Includes latest RTP issued for May 23),
- Mock Test Papers, & Past Exam Papers of ICAI (Exam paper of Nov 22 has also been included).
- CBIC FAQs & IDTC FAQs.

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1. GST: Introduction, Overview & Administration

Basics

1. What is Goods and Services Tax (GST)? **(CBIC FAQ)**

Answer:

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:

- GST a tax:
- GST is tax on 'SUPPLY' of goods or services or both:
- GST is an indirect tax
- GST is a consumption tax
- GST is also a VALUE ADDED TAX
- GST is a destination-based tax.

2. Which of the existing taxes are proposed to be subsumed under GST? or List any four State levies, which are subsumed in GST. **(CBIC FAQ) & (CA Inter MTP-18)**

Answer:

The GST would replace the following taxes:

(i) Taxes currently levied by the Centre:

- (a) Central Excise duty
- (b) Central Sales Tax
- (c) Duties of Excise (Medicinal and Toilet Preparations)
- (d) Additional Duties of Customs (commonly known as CVD)
- (e) Special Additional Duty of Customs (SAD)
- (f) Service Tax
- (g) Central Surcharges and Cesses so far as they relate to supply of goods and services

(ii) State taxes that would be subsumed under the GST are:

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

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

Answer:

- (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).

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

(ICAI study material)

Answer:

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

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

5. What are the benefits which the Country will accrue from GST? or "The new GST regime is a boom for all". Comment on the rationale of GST in the light of the above statement. Or

(CBIC FAQ) & (ICAI study material)

Answers:

Benefits to Central/ State Government

- **Unified Common 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.
- **Boost to exports:**
The subsuming of major central and state taxes in GST, complete and comprehensive set-off of input taxes on goods as well as services would reduce the cost of locally manufactured goods and services. This will increase the competitiveness of Indian goods and services in the International market and give boost to Indian exports.
- **Boost to 'MAKE IN INDIA':**
GST will help to create a unified national market for India, giving boost to foreign investment and 'Make in India' campaign. It will also improve overall investment climate in the country.
- **Increase in revenue:**
GST is expected to bring buoyancy to the Government Revenue by widening the tax base and improving the taxpayer compliance.

Benefits to Trade

- **Simpler tax regime leading to easy tax compliances:**
Fewer rates with fewer exemptions will lead to simplification and uniformity.
- **Ease of doing business:**
GST will lead to reduction in compliance costs as multiple record-keeping for a variety of taxes will not be needed, therefore, lesser investment of resources and manpower in maintaining records.
GST will result in simplified and automated procedures for various processes such as registration, returns, refunds, tax payments. All interaction shall be through the common GSTN portal, therefore, less public interface between the taxpayer and the tax administration.

Benefits to Consumer

- Reduction in prices of goods due to elimination of cascading effect.

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

(CBIC FAQ) & (ICAI study material)

Answer:

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 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 GST Council shall decide the date from which they shall be included in GST.

7.
What type of GST is proposed to be implemented? Why is Dual GST required?
(CBIC FAQ) & (ICAI study material)

Answer:

It would be a dual GST with the Centre and States simultaneously levying it on a common tax base. The GST to be levied by the Centre on intra-State supply of goods and / or services would be called the Central GST (CGST) and that to be levied by the States/ Union territory would be called the State GST (SGST)/ UTGST. Similarly, Integrated GST (IGST) will be levied and administered by Centre on every inter-state supply of goods and services.

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.

8.
How a particular transaction of goods and services would be taxed simultaneously under Central GST (CGST) and State GST (SGST)? Or Explain with the help of examples how a particular transaction of goods and services is taxed simultaneously under Central GST (CGST) and State GST (SGST)?
(CBIC FAQ) & (ICAI study material)

Answer:

The Central GST and the State GST would be levied simultaneously on every transaction of supply of goods and services made by registered persons except the exempted goods and services, goods and services which are outside the purview of GST. Further, both would be levied on the same price or value unlike State VAT which is levied on the value of the goods inclusive of CENVAT. While the location of the supplier and the recipient within the country is immaterial for the purpose of CGST, SGST would be chargeable only when the supplier and the recipient are both located within the State.

Illustration I: Suppose hypothetically that the rate of CGST is 10% and that of SGST is 10%. When a wholesale dealer of steel in Uttar Pradesh supplies steel bars and rods to a construction company which is also located within the same State for, say Rs. 100, the dealer would charge CGST of Rs. 10 and SGST of Rs. 10 in addition to the basic price of the goods. He would be required to deposit the CGST component into a CG account while the SGST portion into the account of the concerned SG. Of course, he need not actually pay Rs. 20 (Rs. 10 + Rs. 10) in cash as he would be entitled to set- off this liability against the CGST or SGST paid on his purchases (say, inputs). But for paying CGST he would be allowed to use only the credit of CGST paid on his purchases while for SGST he can utilize the credit of SGST alone. In other words, CGST credit cannot, in general, be used for payment of SGST. Nor can SGST credit be used for payment of CGST.

Illustration II: Suppose, again hypothetically, that the rate of CGST is 10% and that of SGST is 10%. When an advertising company located in Mumbai supplies advertising services to a company manufacturing soap also located within the State of Maharashtra for, let us say Rs. 100, the ad company would charge CGST of Rs. 10 as well as SGST of Rs. 10 to the basic value of the service. He would be required to deposit the CGST component into a CG account while the SGST portion into the account of the concerned SG. Of course, he need not again actually pay Rs. 20 (Rs. 10+Rs. 10) in cash as it would be entitled to set- off this liability against the CGST or SGST paid on his purchase (say, of inputs such as stationery, office equipment, services of an artist etc.). But for paying CGST he would be allowed to use only the credit of CGST paid on its purchase while for SGST he can utilize the credit of SGST alone. In other words, CGST credit cannot, in general, be used for payment of SGST. Nor can SGST credit be used for payment of CGST.

9.
Write a short note on various Lists provided under Seventh Schedule to the Constitution of India.

Answer:

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 (CG) 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 CG & SGs have power to make laws.

10.

Discuss the leviability of GST or otherwise on the following:

- (a) Alcoholic liquor for human consumption**
- (b) Petroleum crude, diesel, petrol, ATF and natural gas**
- (c) Tobacco**
- (d) Opium, Indian hemp and other narcotic drugs and narcotics**

(ICAI study material)

Answer:

- (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. 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.
- (c) Tobacco:** Tobacco is within the purview of GST, i.e., GST is leviable on tobacco. However, Union Govt 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.
- (d) 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.

11.

Under Goods and Services Tax (GST), only value addition is taxed and burden of tax is to be borne by the final consumer. Examine the statement.

(ICAI study material)

Answer:

The statement is correct. Goods and Services Tax is a destination-based tax on consumption of goods and services. It is levied at all stages right from manufacture up to final consumption with credit of taxes paid at previous stages available as setoff. Resultantly, only value addition is taxed and burden of tax is to be borne by the final consumer.

Constitutional Provisions

12.

Why was there a need for making a constitutional amendment for introduction of GST? Discuss significant provisions of Constitution (101st Amendment) Act, 2016.

(CA Final Jan 21)

Answer:

There was a need for making constitutional amendment for introduction of GST so as to enable integration of the central excise duty, additional duties of customs, State VAT and certain State specific

taxes and service tax into a comprehensive Goods and Services Tax and to empower both Centre and the States to simultaneously levy and collect it.

The significant provisions of Constitution (101st Amendment) Act, 2016 are as under: -

- (i) Concurrent powers on Parliament and State Legislatures to make laws governing taxes on goods and services.
- (ii) Levy of IGST on inter-State transactions of goods and/or services to be levied and collected by the CG and apportioned between the Union and States in the manner provided by Parliament by law as per the recommendation of the GST Council.
- (iii) Principles for determining the place of supply and when a supply takes place in the course of inter-State trade/commerce shall be formulated by the Parliament, by law.
- (iv) GST will be levied on all supply of goods and services except alcoholic liquor for human consumption.
- (v) On the following products, GST shall not be levied till a date to be notified on the recommendations of the GST Council:
 - Petroleum Crude
 - High Speed Diesel
 - Motor Spirit (commonly known as Petrol)
 - Natural Gas
 - Aviation Turbine Fuel
- (vi) The Union Government shall retain the power to levy duties of excise on the aforesaid products besides tobacco and tobacco products manufactured or produced in India.
- (vii) President is empowered to constitute a joint forum of the Centre and States namely, Goods & Services Tax Council (GST Council).
- (viii) The Union Finance Minister is the Chairman of GST 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.
- (ix) The function of the GST Council is to make recommendations to the Union and the States on important issues like tax rates, exemptions, threshold limits, dispute resolution etc.
- (x) The provisions relating to GST Council came into force on 12th September, 2016. President constituted the GST Council on 15th September, 2016.

Note: Any three points may be mentioned.

13.

Why was the need to amend the Constitution of India before introducing the GST?

(CBIC FAQ) & (ICAI study material)

Answer:

Earlier, the fiscal powers between the Centre and the States are clearly demarcated in the Constitution with almost no overlap between the respective domains. The Centre has the powers to levy tax on the manufacture of goods (except alcoholic liquor for human consumption, opium, narcotics etc.) while the States have the powers to levy tax on the sale of goods. In the case of inter-State sales, the Centre has the power to levy a tax (the Central Sales Tax) but, the tax is collected and retained entirely by the States. As for services, it is the Centre alone that is empowered to levy service tax.

Introduction of the GST required amendments in the Constitution so as to simultaneously empower the Centre and the States to levy and collect this tax. The Constitution of India has been amended by the Constitution (one hundred and first amendments) Act, 2016 for this purpose. Article 246A of the Constitution empowers the Centre and the States to levy and collect the GST.

14.

Discuss Article 269A pertaining to levy and collection of GST on inter-State supply.

(ICAI study material)

Answer:

Article 269A of the Constitution stipulates that Goods and Services Tax 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.

Here, supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.

The amount so apportioned to a State shall not form part of the Consolidated Fund of India. Where an amount collected as IGST has been used for payment of SGST or vice versa, such amount shall not form part of the Consolidated Fund of India/State respectively. This is to facilitate transfer of funds between the Centre and the States.

Parliament is empowered to formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

15.

Discuss Article 246A which grants the power to make laws with respect to Goods and Services Tax.

(ICAI study material) & (CA Final Jan 21)

Answer:

Article 246A stipulates that Parliament, and, the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.

Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

However, in respect to petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel, the aforesaid provisions shall apply from the date to be notified by the Government on the recommendations by the GST Council.

GST Council

16.

“The GST Council stands as the backbone of the whole GST law.” What is the role of GST Council under GST? Or

Enumerate any five matters on which the GST council may make recommendation under Article 279A of the constitution of India. or

Who are the members of the GST Council? Enumerate any two recommendations that can be made by the GST Council.

(CA final Nov 19 & Nov 2020)

Answer:

A GST Council would be constituted comprising

- the Union Finance Minister (who will be the Chairman of the Council),
- the Minister of State in charge of revenue and finance (Member) and
- the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government are the Members.

GST council may make recommendation to the Union and the States on the following:

- (i) the taxes, cesses 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;
- (ix) any other matter relating to GST, as the council may decide.

17.

List the special category States as prescribed in Article 279A of the Constitution of India.

(ICAI Study Material)

Answer:

There are 11 Special Category States, namely, States of Himachal Pradesh, Uttarakhand, Mizoram, Manipur, Meghalaya, Arunachal Pradesh, Assam, Nagaland, Sikkim, Tripura and Jammu & Kashmir.

18.

How will decisions be taken by GST Council?

Answer:

Article 279-A of the Constitution of India makes provisions as to GST Council. It provides that every decision of the GST Council shall be taken at a meeting by a majority of not less than 3/4th 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.

Administration under GST & GSTN

19.

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

(CA Inter MTP-18)

Answer:

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

Thus, GSTN has provided IT infrastructure under GST law. GST portal developed by it is used by 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 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);
- (v) Running the matching engine for matching, reversal and reclaim of input tax credit;
- (vi) Providing analysis of tax payers' profile;
- (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 tax payer return information;
- (ix) Computation and settlement of IGST.

20.

Home Furnisher, registered under GST, has been served a demand order under GST by Central GST Officer. Does Home Furnishers need to approach both the Central and State Appellate Authorities for exercising its right of appeal?

(MTP)

Answer:

GST law makes provisions for cross empowerment between CGST and SGST/UTGST officers so as to ensure that if a proper officer of one Act (say CGST) passes an order with respect to a transaction, he will also act as the proper officer of SGST for the same transaction and issue the order with respect to the CGST as well as the SGST/UTGST component of the same transaction.

The law further provides that where a proper officer (PO) under one Act (say CGST) has passed an order, any appeal/review/ revision/rectification against the said order will lie only with the proper officers of that Act only (CGST Act). Similarly, if any order is passed by the proper officer of SGST, any appeal/review/revision/rectification will lie with the PO of SGST only. Thus, Home Furnishers is required to file an appeal only with the Central Tax Appellate Authority [Section 6 of CGST Act].

1. GST: Introduction, Overview & Administration

Basics

1. The functions of Goods and Services Network (GSTN) include:

- (a) facilitating registration
- (b) forwarding the returns to Central and State authorities
- (c) computation and settlement of IGST
- (d) All of the above

2. Tobacco products are subject to:

- (a) Excise duty
- (b) Excise duty plus GST
- (c) Only GST
- (d) VAT

3. India has adopted its GST model from

- (a) US
- (b) UK
- (c) Europe
- (d) Canada

4. Which is known as the GST common portal?

- (a) www.cbic.gov.in
- (b) www.gstn.gov.in
- (c) www.gst.gov.in
- (d) all of the above

5. Which one of the following is/are correct?

- (a) Direct Taxes are regressive in nature; Indirect Taxes are progressive in nature.
- (b) Direct Taxes are progressive in nature; Indirect Taxes are regressive in nature.
- (c) Direct Taxes are progressive in nature; Indirect Taxes are progressive in nature.
- (d) Direct Taxes are regressive in nature; Indirect Taxes are regressive in nature.

6. Which of the following is not a feature of GST?

- (a) GST is a destination-based tax.
- (b) GST is a Value Added Tax.
- (c) GST is an Origin based tax.
- (d) None of the above.

7. India has adopted _____ of GST.

- (a) National Model.
- (b) Australian Model.
- (c) Dual Model.
- (d) None of the above.

8. The First Country to implement GST was

- (a) Canada.
- (b) India.
- (c) Australia.
- (d) France.

Taxes subsumed & not subsumed into GST

9. Which of the following taxes have not been subsumed in GST?

- (a) Entertainment Tax (except those levied by local bodies)
- (b) Entertainment tax charged by local bodies.
- (c) Both of the above.
- (d) None of the above.

10. Which of the following taxes have been subsumed in GST?

- (a) Central Sales Tax
- (b) Central Excise Duty
- (c) VAT
- (d) All of the above

11. Various taxes have been subsumed in GST to make one nation one tax one market for consumers. Out of the following, determine which taxes have been subsumed in GST.

- (i) Basic customs duty levied under Customs Act, 1962
- (ii) Taxes on lotteries
- (iii) Environment tax
- (a) (ii)
- (b) (ii) and (iii)
- (c) (iii)
- (d) (i), (ii) and (iii)

Constitutional Provisions

12. List-I of the Constitution contains matters in respect of which _____ has the exclusive right to make laws.

- (a) Central Government
- (b) State Government
- (c) Both Centre and State Governments
- (d) None of the above

13. According to Article 366(12A), GST means any tax on supply of goods or services or both except for taxes on the supply of:

- (a) The alcoholic liquor for human consumption
- (b) Tobacco & Tobacco products
- (c) Petroleum Crude, High Speed Diesel,

Motor Spirit, Natural Gas and Aviation Turbine Fuel

(d) All of the above

14. _____ of the Constitution provides that no tax shall be levied or collected except by authority of law?

- (a) Article 254
- (b) Article 245
- (c) Article 265
- (d) Article 256

Article 279A – GST Council

15. Which article of the Constitution outlines the composition & function of GST Council

- (a) 270
- (b) 279A
- (c) 246A
- (d) 269A

16. Provisions related to GST Council came into force with effect from

- (a) 17th July, 2017.
- (b) 12th September, 2016.
- (c) 15th September, 2016.
- (d) None of the above.

17. President constituted the GST Council on:

- (a) 17th July, 2017.
- (b) 12th September, 2016.
- (c) 15th September, 2016.
- (d) None of the above.

18. GST Council consist of ___ no of members.

- (a) 33
- (b) 34
- (c) 37
- (d) None of the above.

19. Which of the following is not the correct option?

- (a) Centre has a weightage of one-third of total votes cast and State government together have a weightage of two-thirds of the total votes cast.
- (b) Centre has a weightage of two-third of total votes cast and State government together have a weightage of one-thirds of the total votes cast.
- (c) Centre has a weightage of half of total votes cast and State govt. together have a weightage of half of the total votes cast.
- (d) Both (b) & (c).

20. On Petroleum Crude, High Speed Diesel,

Motor Spirit, Natural Gas & Aviation Turbine Fuel:

- (a) GST will not be levied at all
- (b) GST will be levied from a date to be notified on the recommendations of the GST Council
- (c) GST is levied, but exempted by notification in public interest.
- (d) None of the above

21. Choose the correct from the following with respect to Special Category States.

- (a) Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Andhra Pradesh and Uttarakhand
- (b) Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Telangana, Himachal Pradesh and Uttarakhand
- (c) Arunachal Pradesh, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand
- (d) Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand.

GSP/ASPs

22. Which of the following is/are correct?

- (a) GSPs will act as link between taxpayer and GSTN Portal and ASP will act as link between taxpayer and GSPs.
- (b) ASPs will act as link between taxpayer and GSTN Portal and GSP will act as link between taxpayer and GSPs.
- (c) GSPs will act as link between ASP and taxpayer and ASP will act as link between taxpayer and GSPs.
- (d) GSPs will act as link between taxpayer and GSTN Portal and ASP will act as link between GSTN Portal and GSPs.

23. Which of the following statement is/are incorrect:

- 1. Manufacture/production of alcoholic liquor for human consumption is subject to State excise duty and inter-State/intra-State sale of the same is subject to GST respectively.**
- 2. Central excise duty is levied on manufacture/production of petroleum crude, diesel, petrol, ATF and natural gas and inter-State/intra-State sale of**

GST: Introduction, Overview & Administration

the same is subject to CST/ VAT respectively.

3. Union Government retains the power to levy Central excise duties on tobacco and tobacco products manufactured in India. Tobacco is subject to GST as well as central excise duty.

4. Opium, Indian hemp and other narcotic drugs and narcotics are subject to VAT/CST as well as State excise duties.

- (a) (1), (2) & (3)
- (b) (1) & (4)
- (c) (1), (2), (3) & (4)
- (d), (3) & (4)

Answers:

Qs	Ans	Reason
1.	d	Functions of GSTN include Facilitating Registration, Providing MIS report, Computation & settlement of IGST, matching of tax payment details with banking network, forwarding returns to central & state authorities, providing analysis of taxpayer's profile.
2.	b	Both Central excise duty and GST are levied on Tobacco products.
3.	d	India has adopted the GST model from Canada.
4.	c	The following are the common portals: www.gst.gov.in, ewaybillgst.gov.in, einvoice1-10.gst.gov.in.
5.	b	Direct taxes are progressive in nature, as the rich pay more taxes compared to the poor. Indirect taxes are regressive in nature because they equally impact the rich and poor.
6.	c	Features of GST: It's a tax on supply of goods or service, it is a consumption tax, it is a destination-based tax , it is value added tax. GST is not origin-based tax.
7.	c	India has adopted the Dual model of GST which is imposed concurrently by the centre & the state.
8.	d	France was the first country to implement GST.
9.	b	Taxes not subsumed under GST: Basic custom duty, Entertainment tax levied by local bodies, property tax & stamp duty, electricity duty.
10.	d	Following are the taxes subsumed into GST. Central taxes subsumed - Central Excise duty, Service Tax, Central sales tax, CVD & Special CVD, Surcharges & cesses. State taxes subsumed – State surcharges & cesses, Tax on lottery, betting, gambling, entry tax, purchase tax, VAT & sales tax, Luxury tax. Since Central Sales Tax, Central Excise duty, VAT are subsumed, answer is D.
11.	a	(i) Basic customs duty: Not subsumed into GST (ii) Taxes on lotteries: Subsumed into GST (iii) Environment tax: Not subsumed into GST.
12.	a	Seventh Schedule to Article 246 divides legislative powers into List I - Union List, List II- State List, List III- Concurrent List, Matters enumerated in List I, the CG has the exclusive power to make law.
13.	a	According to Article 366(12A) , GST means any tax on supply of goods or services or both except Alcoholic Liquor for human consumption.
14.	c	Article 265 of the constitution provides that no tax shall be levied or collected except by authority of law.
15.	b	Article 279A of the constitution provides the outline of the composition and functions of the GST Council.
16.	b	GST Council came into force on 12th September, 2016
17.	c	The President constituted the GST Council on 15th September, 2016.
18.	a	Members of the GST Council consist of 33 members including 2 union members and 31 State finance ministers/ministers nominated by state.
19.	d	The Question is asking Which is not the correct option? B & C are not the correct option.
20.	b	GST on Petroleum crude, High speed diesel, Motor spirit, Natural gas and Aviation Turbine Fuel shall be levied from a date to be notified on the recommendations of GST Council.

Qs	Ans	Reason
21.	d	Special Category States are with respect to the states of Arunachal Pradesh, Assam, Jammu & Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand.
22.	a	GSPs will act as link between taxpayer and GSTN Portal and ASP will act as link between taxpayer and GSPs.
23.	b	<u>Correct Sentences are stated below</u> <ol style="list-style-type: none">1. Manufacture/production of alcoholic liquor for human consumption is subject to State excise duty and inter-State/intra-State sale of the same is subject to CST/VAT respectively.2. Central excise duty is 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.3. Union Govt retains the power to levy Central excise duties on tobacco and tobacco products manufactured in India. Resultantly, tobacco is subject to GST as well as central excise duty.4. Opium, Indian hemp and other narcotic drugs and narcotics are subject to GST as well as State excise duties.

2. Supply

Goods/Services

- 1.
- Discuss the applicability of GST in the following cases: -**
- 1. Manu transfers 1,000 debentures of Chugg Ltd. to Naresh for a consideration of Rs. 5,94,000.**
 - 2. Mr. Amal deposits Rs 1.5 lakh in cash in his savings account with ICICI bank, Delhi.**
 - 3. Sale of derivatives by Mr. Yash for a consideration of Rs. 8,60,000. Mr. Yash is a dealer in shares and security.**
 - 4. Mr. Zamir takes a housing loan from HDFC bank. Rate of interest is 7.5%. Loan is repayable after 7 years. Rs. 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 10th day of every month.**

Answer:

- 1. 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.
- 2. Cash deposit in bank** – It is a transaction in money. GST is not applicable on making a bank deposit.
- 3. Transfers of derivatives** – Derivatives are securities. Securities are neither goods nor services. Thus, GST is not applicable on transfer of securities.
- 4. Housing loan** – Transaction in money does not constitute supply of goods or services. Thus, GST is not applicable. However, document charges of Rs. 13,500 are subject to GST. Interest payable being for use of money constitutes 'supply of services. Also, GST on interest element is exempt.

- 2.
- Vikramaditya is a salaried employee and is planning to invest in stocks. He has opened a trading account with Vaydaa Brokers. During the month, Vikramaditya undertook future contracts (without a physical delivery option, but are cash settled on the expiry of the contract date), amounting to Rs 35,00,000. Vikramaditya needs your advice whether such future contracts undertaken by him amount to supply and are liable to GST.**

(ICAI study material)

Answer:

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

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

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

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

Section 7(1)(a): All forms of supply for a consideration in the course / furtherance of Business

- 3.
- ABC Ltd (GST registered car manufacturer) has started canteen services exclusively for its employees. The canteen running expenses were recovered from its employees without any profit margin. Yours opinion is sought as to whether recovery of food expenses from**

employees for the canteen services provided by the company, it will be taxable under GST law. Critically examine.

(CMA Final MTP-Dec 18)

Answer:

ABC Ltd. is GST registered car manufacturer. It is into business of car. Now, it has started canteen services for its employee. It is providing food on cost-to-cost basis (without profit) but not free. **Further**, provisioning of food is not under contract of employment, i.e., it is not paid towards cost of employee to company (it is not payment of salary in kind). Such activity will amount to supply for following reasons:

- Such supply is in the course or furtherance of business. **"BUSINESS"** has been defined under Section 2(17) to include activities incidental or ancillary to main business. Thus, provisioning of food to employee merits treatment of business, it being an incidental or ancillary activity to main business of car manufacturing of ABC Ltd.
- Business activity may be carried out on cost-to-cost basis.
- Supply of food/ catering services if being done for consideration, such transaction falls under scope of supply as per Section 7(1) (a) of CGST Act.

Thus, recovery of food expenses from the employees for the canteen services provided by applicant would be taxable as a supply of service under GST.

4.

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 Rs 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 Rs 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 GST liability of R-TECH Consultancy, if any. Round off the tax amount if due in accordance with law. The technical services provided by R-TECH consultancy are otherwise chargeable to GST at the rate of 18%. Rate of Tax applicable on service of agreeing to the obligation to refrain from an act is 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.

(CA Final Nov 22-Similar) - updated

Answer:

The view taken by R-TECH Consultancy is not valid in law. The scope of supply is defined by section 7(1) of CGST Act, 2017. As per section 7(1)(a), it will be considered as supply since it is in the course or furtherance of business. **Further**, 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 GST. Consideration received for non-compete agreement is deemed as consideration for supply of services. Consideration of Rs. 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 GST.

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

Since GST is not separately collected, it will be assumed that it is included in Rs. 66 lakh. Rule 35 of 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 x GST rate in %) [IGST or CGST, SGST/UTGST] / (100 + sum of GST rates in %)

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

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

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

Section 7(1)(c): Activities/transactions specified in Schedule I

5.

Answer the following questions:

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

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

(b) **Prithvi Enterprises appoints Champak to procure certain goods from the market. Champak identifies various suppliers who can provide the goods as desired by Prithvi Enterprises, and asks a supplier – Satya Manufacturers to send the goods and issue the invoice directly to Prithvi Enterprises.**

You are required to determine whether Champak can be considered as an agent of Prithvi Enterprises in terms of Schedule I of the CGST Act.

(ICAI study material)

Answer:

(a) **As per section 7(1)(c) read with Schedule I of the CGST Act,** permanent transfer or disposal of business assets is treated as supply even though the same is made without consideration.

However, this provision would apply only if input tax credit has been availed on such assets.

Therefore, the disposal of computers by Sudama Associates is not a supply as the input tax credit has not been availed on the same.

(b) **As per section 7(1)(c) read with Schedule I of the CGST Act,** supply of goods by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal qualifies as supply even if the same is made without consideration.

Further, Circular No. 57/31/2018 GST dated 04.09.2018 clarifies that principal-agent relationship falls within the ambit of the Schedule I only where the goods being procured by the agent on behalf of the principal are invoiced in the name of the agent. In that case, further provision of the said goods by the agent to the principal without consideration, would be covered in Schedule I and thus would qualify as supply.

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

6.

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

(ICAI study material)

Answer:

As per section 7(1)(c) read with Schedule I of the CGST Act, supply of goods or services or both between related persons without consideration when made in the course or furtherance of business qualifies as supply.

Thus, the storage services provided by Punyabhumi Ltd. to Mokshabhumi Industries in course or furtherance of business qualifies as supply under GST even though no consideration has been charged for the same.

7.

Examine whether the following activities would amount to supply u/s 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 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 answer be different if in the above case, Raman has taken advice in respect of his business unit in Chennai?

(ICAI study material) - updated

Answer:

- (a) **Schedule I of 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, 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 CGST Act**, inter alia, stipulates that import of services 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.

8.

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 Rs. 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

(CA Inter RTP May 18)

Answer:

Section 7 defines the scope of 'supply'. In general, supply covers those transactions where goods or services or both are supplied for consideration in 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 answer 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, but it's not in the course or furtherance of business.

9.
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 vastu consultancy services for her residence located at Bandra, Mumbai from her brother, Mr. Varun residing in Sydney (Australia). Further, Miss Shriniti did not pay any consideration for the said service.**
- II. **Miss Shriniti Kaushik received vastu consultancy services for her business premises located at Bandra, Mumbai from her brother, Mr. Varun residing in Sydney (Australia). Further, Miss Shriniti did not pay any consideration for the said service.**

(CA Inter RTP – Nov 18)

Answer:

- I. **Import of service without Consideration:** not in course/furtherance of business – Would not amount to supply as per Section 7(1)(c) of CGST Act read with Schedule I (para 4).
- II. **Import of service without Consideration:** in course/furtherance of business but not from related person or from own establishment outside India – Would not amount supply as per Section 7(1)(c) of CGST Act read with Schedule I (para 4).

Note: Mr Varun, brother of Miss Shriniti, is not considered as 'related person' under GST law unless he is wholly or substantially dependent upon Miss Shriniti. In absence of any specific information in the question, it has been safely assumed that Mr Varun is not dependent upon Miss Shriniti.

10.
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 GST?

Answer:

Yes, transfers of stocks made by National Electronics Ltd. are taxable under GST. 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.

Para (2) of Schedule I of 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 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.

11.
Siddarth Transports Ltd., is running a regular tourist bus service, carrying passengers and goods from Coimbatore, Tamil Nadu to Trivandrum, Kerala, with effect from 1st August, 2017. Discuss whether such inter-state movement of various modes of conveyance carrying goods or passengers or both, between distinct persons as specified in section 25(4) of the CGST Act, 2017 [except in cases where such movement is for further supply of the same conveyance), is leviable to IGST.

(CS Prof Old June 18)

Answer:

The legal provisions in GST laws are as under:

- (a) **As per Section 24(1) of the CGST Act,** persons making any inter-State taxable supply shall be required to be registered under this Act.

- (b) **As per Section 25(4) of the said Act** 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.
- (c) **Schedule I of the said Act** specifies situations where activities are to be treated as supply even if made without consideration which also includes supply of goods or services or both between related persons or between distinct persons as specified in Section 25, when made in the course or furtherance of business.
- (d) **Section 7(2) of the CGST Act** envisages that activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.

The issue of inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the said Act, not involving further supply of such conveyance, including trucks, buses, etc., (a) carrying goods or passengers or both; or (b) for repairs and maintenance, [except in cases where such movement is for further supply of the same conveyance] was discussed in GST Council's meeting and the Council recommended that such inter-state movement shall be treated 'neither as a supply of goods or supply of service' and therefore not be leviable to IGST.

In view of above, the inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the CGST Act including TRUCKS, BUSES, TRAINS, TANKERS, TRAILERS, VESSELS, AIRCRAFT ETC., may not be treated as supply and consequently IGST will not be payable on such supply.

12.

What is the difference in tax consequence between intra-State (from HO to branch in same State) and inter-State stock transfers (from HO to branch in different State) of the same supplier, which is a private limited company? What kind of GST will be levied?

(CMA final June 18_Syllabus 16)

Answer:

GST will be leviable only where the supply is made by an entity having a GST number to another GST number. Where a supplier has branch within the same State, only one GST registration and GST number will be there. Hence transfer to a branch within the same State will not attract any GST.

Where the company has a branch in another State, separate registration is required in the said State, hence the GST number in that State will be different.

As a consequence, when the company transfers stock to its branch in different State, it will be treated as inter-State supply. As a consequence, IGST will be leviable.

Intra-state stock transfer is taxable only when entity has more than one registration in one state. In that case, CGST plus SGST will be levied.

Section 7(1A): Activities shall be Supply of goods or Supply of services

13.

Mr. Happy has a huge residential property located at a prime location in Mumbai, Maharashtra. He has let out the 1st and 2nd floor to Mr. Peace for residential purposes in April. Mr. Peace surrenders his tenancy rights to Mr. Serene for a tenancy premium of Rs. 10,00,000 on 1st June. Mr. Serene has also paid the applicable stamp duty and registration charges on transfer of tenancy rights. Moreover, Mr. Serene has agreed to pay a monthly rent of Rs. 1,00,000 to Mr. Happy from June. Determine the taxability of the transaction(s) involved in the given case, for the month of June.

Note: Mr. Serene is not a registered person under GST.

(ICAI study material)

Answer:

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

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

The transfer of tenancy rights cannot be treated as sale of land/ building in Schedule III. Thus, it is not a non-supply under GST and consequently, a consideration for the said activity shall attract levy of GST. Services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is liable to GST. Hence, in the given case, the tenancy premium of Rs. 10,00,000 received by Mr. Peace for surrendering his tenancy rights to Mr. Serene is liable to GST.

The circular further clarifies that since renting of residential dwelling for use as a residence except where the residential dwelling is rented to a registered person is exempt, grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both is exempt. Consequently, monthly rent Rs. 1,00,000 received by Mr. Happy from Mr. Serene is exempt.

14.

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

(ICAI study material)

Answer:

No, the opinion of the job worker is not fully correct.

Section 7(1A) provides that when certain activities or transactions constitute a supply in accordance with the provisions of section 7(1), they shall be treated either as a supply of goods or supply of services as referred to in Schedule II of the CGST Act. Any processing activity carried on any other person's goods is treated as supply of service in terms of Schedule II. The job worker, in addition to the goods received from the principal, can use his own goods for providing the services of job work. These goods are not supply per se, but being used in the processing activity carried out by it.

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

15.

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

(a) Renting of immovable property

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

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

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

(ICAI study material)

Answer:

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

Section 7(2)(a): Activities or transactions specified in Schedule III

16.

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

(ICAI study material)

Answer:

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

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

17.

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

(ICAI study material)

Answer:

As per Schedule III of the CGST Act, high seas sale transactions i.e., supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption shall not be considered as supply under GST. Thus, the sale of goods by Mohandas International to Radhakrishnan Export House in high seas shall not be liable to GST.

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

18.

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

(ICAI study material)

Answer:

The transaction between Krishnadev and Christiano is in the nature of merchant trading.

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

Section 8: Tax liability on composite and mixed supplies

19.

Mangesh Enterprises, Goa, a registered supplier, has made the following supplies in the month of February 2022:

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

Assume rates of GST as under:

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

(CA Final May 22-2 marks) - modified

Answer:

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

20.

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

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

Assume rates of GST to be as under:-

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

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

Answer:

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

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

21.

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 Rs. 500 (exclusive of taxes). 20,000 packages were supplied by the company to its dealer. Determine the nature of supply and its tax liability.

(CMA Inter MTP Dec 18)

Answer:

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%	<u>28,00,000</u>

22.

Sharma Carriers is a Good Transport Agency engaged in transportation of goods by road. As per the general business practice, Sharma carriers also provides intermediary and ancillary services like loading /unloading, packing/unpacking, transshipment and temporary warehousing in relation to transportation of goods by road.

With reference to the provisions of GST law, analyse whether such services are to be treated as part of the GTA services, being a composite supply or as mixed supply.

(CA Final November 2018 - Old)

Answer:

Composite supply means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply [Section 2(30) of the CGST Act, 2017].

Mixed supply means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply [Section 2(74) of the CGST Act, 2017].

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

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

*** In case where incidental services are provided as separate services and are billed separately,** whether in the same invoice or separate invoices, it is also possible to take a view that they need not be treated as separate supply, but part of composite supply. Further, there being no single price, the supply will not be treated as mixed supply.

23.

"Diligent Force" a professional training institute gets its training material of "Aptitude Quotient" printed from "Durga printing House" a printing press. The content of the material is provided by the Diligent Force who owns the usage rights of the same while the physical inputs including paper used for printing belong to the Durga Printing House.

Ascertain whether supply of training material by the Durga Printing House constitutes supply of goods or supply of services.

(CA Final RTP Nov 19) & (CA Final MTP March 18)

Answer:

Circular No. 11/11/2017 GST dated 20.10.2017 has clarified that 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.

Thus, in view of the above-mentioned provisions, the supply of training material by the Durga Printing House would constitute supply of services.

24.

State which of the following is composite supply or mixed supply under the GST law:

(i) Sale of car with warranty coverage.

- (ii) Gift pack with chocolates and books.
- (iii) Sale of Refrigerator with power stabilizer.
- (iv) Hotel accommodation with complimentary breakfast.

(CS Prof New Dec 2019)

Answer:

- (i) **Composite Supply:** Sale of car with warranty coverage is a composite supply as both supplies are naturally bundled and sale of car is a principal supply.
- (ii) **Mixed Supply:** Gift pack with chocolates and books are not bundled due to natural necessities and hence they are mixed supply.
- (iii) **Mixed Supply:** Refrigerator and power stabilizer are not inseparable and are not bundled due to natural necessities. They are mixed supply.
- (iv) **Composite Supply:** Hotel accommodation with complimentary breakfast is a composite supply as the principal supply is supply of service i.e., accommodation.

25.

Sugandha Enterprises, dealers of Watches, Leather goods and other items is supplying a Kit containing a piece of Watch, a Wallet and a Pen bundled as a Combo Pack for Rs 12,500. The rate of GST on pen is 12%, on wallet is 18% and on watch is 28%. The selling price of individual items is Watch Rs 11,000, Wallet Rs 1,000 and Pen Rs 1,500.

Determine the nature of supply of the combo pack and the rate of GST to be charged.

(CS Prof Old June 2019)

Answer:

Each of the goods in the package has individual identity and can be supplied separately, but is deliberately supplied conjointly for a single consolidated price. Hence, the supply of all the three items in the combo pack would constitute mixed supply as per section 2(74) of CGST Act, 2017.

As per section 8(b) of CGST Act, 2017, the 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 GST @28%.

26.

Satyamev Printers is a printing house registered under GST. It receives an order for printing 5000 copies of a book on yoga and meditation authored by a well-known yoga guru. The content of the book is to be provided by the yoga guru to Satyamev Printers. It is agreed that Satyamev Printers will use its own paper to print the said books. You are required to determine the rate of GST applicable on supply of printed books by Satyamev Printers assuming that rate of GST applicable on printing services is 18% whereas the rate of GST applicable on supply of paper used in printing the books is 12%.

(ICAI study material)

Answer:

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

Circular issued by CBIC has clarified that supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc. printed with logo, design, name, address or other contents supplied by the recipient of such printed goods, are composite supplies.

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

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

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

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

Miscellaneous/Based on circulars

27.

PTL Pvt. Ltd. is a retail store of merchandise located in 25 States/UTs in the country. For the purpose of clearance of stock of merchandise and to attract consumers, PTL Pvt. Ltd. launched scheme of "Buy One Get One Free" for the same type of merchandise, for instance, one shirt to be given free with purchase of one shirt. Determine how the taxability of the goods supplied under "Buy One Get One Free" scheme is determined.

(ICAI study material – CA Inter)

Answer:

As per section 7(1)(a), the goods or services which are supplied free of cost (without any consideration) are not treated as "supply" except in case of activities mentioned in Schedule I of the CGST Act.

Under "Buy One Get One Free" scheme, 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. However, 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.

In the given case, when one shirt to be given free with purchase of one shirt, it's a case of two or more individual supplies where a single price is being charged for the entire supply. Hence it should be treated as mixed supply.

28.

The temple of ancestral deity of Mr. Aman goel and his family is located at Beri, Haryana. The temple is run by a charitable organisation registered under section 12AB of the Income Tax Act, 1961. The family has got unshakeable faith in their ancestral deity. Mr. Aman is a big entrepreneur having flourishing business of tiles in Gurugram. Upon the birth of their first child, he donated Rs. 10 lakhs 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 levability of GST on the donation received from Mr. Aman Goel?

(CA Inter RTP - May 20)

Answer:

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 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.**

29.

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

of the room so constructed. Examine whether the money donated by Rudraksh Kapoor is leviable to GST.

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

(ICAI study material)

Answer:

Circular No. 116/35/2019 GST dated 11.10.2019 has clarified that in case of donations received by a charitable institution, when the name of the donor is displayed in recipient institution's premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation). Donations received by the charitable organisations are treated as consideration only if there exists, quid pro quo, i.e., there is an obligation on part of recipient of the donation or gift to do anything (supply a service).

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

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

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

(b) **In the given case, since the name of Rudraksh Publishing House** has been displayed on the door of the room constructed in the school run by Divyaprakash Charitable Trust, it might be aimed at advertising or promoting his business. There is a direct mention of his publishing house which is being advertised. In such a case, it is a supply of service by Divyaprakash Charitable Trust for a consideration received in the form of donation.

30.

State whether the following are supply of goods/services, as per GST law, with brief reasons:

- (i) **Mr. X availed the architectural services of his son living in France (free of cost) for designing his residential building.**
- (ii) **Scrap of machinery destroyed by fire handed over to insurance company for settlement of claim.**
- (iii) **Lease of land for two-wheeler parking stand.**
- (iv) **Permitting use of registered patent for annual fee.**
- (v) **Transfer of tenancy right by executing and registering a document.**

(CS Prof New Dec 2019) - updated

Answer:

- (i) **In terms of Schedule I para 4,** import of service from related person or own establishment without consideration in the course of or furtherance of business is a supply.

Here, the services received by Mr X is without consideration is from related person but not in course of business, hence it **cannot be supply of service.**

- (ii) **As per Para 2 of Schedule I of the CGST Act,** Permanent transfer or disposal of business assets where input tax credit has been availed on such assets is considered as supply.

When the machinery destroyed by fire is handed over to insurance company in return for insurance compensation, it is a **supply of goods.**

- (iii) **As per Para 2(a) of Schedule II of the CGST Act,** any lease, tenancy, easement, licence to occupy land is a supply of services. Thus, lease of land for two-wheeler parking is a **supply of service.**

- (iv) **As per Clause 5(c) of Schedule II of the CGST Act** provides that Temporary transfer or permitting the use or enjoyment of any intellectual property right is supply of service.
Hence, permitting use of registered patent/ trade mark shall amount to **supply of service**.
- (v) The activity of transfer of tenancy rights is squarely covered under the scope of supply of service in terms of Section 7. It's a **supply of service**.
However, renting of residential dwelling unit for use as a residence except where the residential dwelling is rented to a registered person is exempt.

Complete Illustrations

31.

Power Engineering Pvt. Ltd., a registered supplier, is engaged in providing expert maintenance and repair services for large power plants that are in the nature of immovable property, situated all over India. The company has its Head Office at Bangalore, Karnataka and branch offices in other States. The work is done in the following manner.

The company has self-contained mobile workshops, which are container trucks fitted out for carrying out the repairs. The trucks are equipped with items like repair equipments, consumables, tools, parts etc. to handle a wide variety of repair work.

The truck is sent to the client location for carrying out the repair work. Depending upon the repairs to be done, the equipment, consumables, tools, parts etc. are used from the stock of such items carried in the truck.

In some cases, a stand-alone machine is also sent to the client's premises in such truck for carrying out the repair work.

The customer is billed after the completion of the repair work depending upon the nature of the work and the actual quantity of consumables, parts etc. used in the repair work.

Sometimes the truck is sent to the company's own location in other State(s) from where it is further sent to client locations for repairs.

Work out the GST liability [CGST & SGST or IGST, as the case may be] of Power Engineering Pvt. Ltd., Bangalore on the basis of the facts as described, read with the following data for the month of November 20XX.

S. No.	Particulars	Rs
A.	Truck sent to own location in Tamil Nadu for delivering items Value of items contained in the truck - Rs 3,00,000 Value of truck - Rs 25,00,000	
B.	Truck sent to a client location in Tamil Nadu for carrying out repairs. Stand - alone machine is also sent in the truck to client location for repairs Value of items contained in the truck - Rs 2,85,000 Value of stand-alone machine - Rs 4,00,000 Value of truck - Rs 20,00,000 (Billing for repairs to be done afterwards depending upon the actual items used)	
C.	Truck sent to a client location in Karnataka for carrying out repairs Value of items contained in the truck - Rs 1,06,000 Value of truck - Rs 20,00,000 (Billing for repairs to be done afterwards depending upon the actual items used)	
D.	Invoices raised for repair work carried out in Tamil Nadu [including the invoice for repair work done in 'B'] -	70,00,000
E.	Invoices raised for repair work carried out in Karnataka [including the invoice for repair work done in 'C']	12,00,000

Also, specify the document(s), if any, which need to be issued by Power Engineering Pvt. Ltd., Bangalore for the above transactions.

All the given amounts are exclusive of GST, wherever applicable. Assume the rates of taxes to be as under:

Items used for repairs		
CGST – 6%	SGST – 6%	IGST – 12%
Container truck, Stand-alone machines		
CGST – 2.5%	SGST – 2.5%	IGST – 5%
Works contract for repairs and maintenance of immovable property		
CGST – 9%	SGST – 9%	IGST – 18%

You are required to make suitable assumptions, wherever necessary.

(CA Final RTP May 18)

Answer:

Computation of GST Liability of Power Engineering Pvt. Ltd., Bangalore for the month of November 20XX

SN.	Particulars	Rs
A.	Items sent in container truck to own location in Tamil Nadu - IGST @ 12% [Note 1]	36,000
	Container truck sent to own location in Tamil Nadu [Note 2]	-
B.	Stand-alone machine sent in container truck to client location in Tamil Nadu, for carrying out repairs [Note 3]	-
	Container truck sent to client location in Tamil Nadu [Note 3]	-
	Items sent in container truck to client location in Tamil Nadu, for carrying out repairs [Note 4]	-
C.	Container truck sent to client location in Karnataka [Note 3]	-
	Items sent in container truck to client location in Karnataka, for carrying out repairs [Note 4]	-
D.	Invoices raised for repair work carried out in Tamil Nadu: IGST @ 18% [Note 5 and Note 6]	12,60,000
E.	Invoices raised for repair work carried out in Karnataka: CGST 9% + SGST 9% [Note 5 and Note 7]	2,16,000
Total GST liability		15,12,000

Notes:

(1) Movement of goods without any consideration to a 'distinct person' as specified in section 25(4) of the CGST Act, 2017 is deemed to be a supply in terms of Schedule I of the said Act. The purchase value is taken as taxable value, being the open market value in terms of rule 28(a) of the CGST Rules 2017. (However, if the regional office is eligible to take full input tax credit, any value may be declared in the tax invoice and that will be taken to be the open market value in terms of the second proviso to the same rule.)

In the given case-

- the location of the supplier is in Bangalore (Karnataka); and
- the place of supply of items contained in the truck is the location of such goods at the time at which the movement of goods terminates for delivery to the recipient i.e., Tamil Nadu in terms of section 10(1) (a) of the IGST Act, 2017.

Therefore, the given supply of items is an inter-State supply as the location of the supplier and the places of supply are in two different States [Section 7(1)(a) of IGST Act, 2017]. Thus, the supply is leviable to IGST in terms of section 5(1) of the IGST Act, 2017.

Since the activity is a supply, a tax invoice is to be issued by Power Engineering Pvt. Ltd. in terms of section 31(1)(a) of the CGST Act, 2017 for sending the items to its own location in Tamil Nadu.

(2) **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 person'.

Schedule I to the CGST Act, 2017 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, in view of the GST Council's recommendation, it has been clarified that the inter-State movement of various modes of conveyance between 'distinct persons' as specified in section 25(4), not involving further supply of such conveyance, including trucks carrying goods or passengers or

both; or for repairs and maintenance, may be treated 'neither as a supply of goods nor supply of service' and therefore, will not be leviable to IGST. Applicable CGST/SGST/IGST, however, shall be leviable on repairs and maintenance done for such conveyance [Circular No. 1/1/2017 IGST dated 07.07.2017].

Since the activity is not a supply, tax invoice is not required to be issued by Power Engineering Pvt. Ltd. However, a delivery challan is to be issued by the company in terms of rule 55(1)(c) of CGST Rules, for sending the truck to its own location in Tamil Nadu.

- (3) Supply of goods without consideration is deemed to be a supply inter alia when the goods are supplied to a 'distinct person'. However, in this case, stand-alone machine and container truck are moved to client location and not between 'distinct person'. Hence, the same will fall outside the scope of definition of supply and will not be leviable to GST.

Here again, a delivery challan is to be issued in terms of rule 55(1) (c) of CGST Rules, 2017 for sending the stand-alone machines and container truck to client location.

- (4) **As per section 2(119) of the CGST Act, 2017**, 'works contract' means a contract for, inter alia, repair, maintenance of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.

In this case, the supplier provides maintenance and repair services for power plants that are in the nature of immovable property and uses consumables and parts, wherever necessary, for the repairs. Hence, the contract is that of a works contract.

Further, as per section 2(30) of the CGST Act, 2017 a works contract is a 'composite supply' as it consists of taxable supplies of both goods and services which are naturally bundled and supplied in conjunction with each other. The composite supply of works contract is treated as supply of service in terms of para 6(a) of Schedule II to the CGST Act, 2017.

The items used in relation to the repair and maintenance work could be consumables or could be identifiable items/parts. In either case, the transfer of property in goods is incidental to a composite supply of works contract service. Thus, the value of the items actually used in the repairs will be included in the invoice raised for the service and will be charged to tax at that point of time.

Here again, a delivery challan is to be issued in terms of rule 55(1) (c) of CGST Rules, 2017 for sending the items for carrying out the repairs.

- (5) The activity is a composite supply of works contract, which is treated as supply of service. 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.

Since the activity is a supply of service, a tax invoice is to be issued by Power Engineering Pvt. Ltd. in terms of section 31(2) of the CGST Act, 2017.

- (6) **In the given case-**

- the location of the supplier is in Bangalore (Karnataka); and
- the place of supply of works contract services relating to the power plant (immovable property) is the location at which the immovable property is located i.e., Tamil Nadu in terms of section 12(3) (a) of the IGST Act, 2017.

Therefore, the given supply is an inter-State supply as the location of the supplier and the places of supply are in two different States [Section 7(1) (a) of IGST Act, 2017]. Thus, the supply will be leviable to IGST in terms of section 5(1) of the IGST Act, 2017.

- (7) **In the given case**, the location of the supplier and the place of supply of works contract services are within the same State. Therefore, the given supply is an intra- State supply in terms of section 8(1) of IGST Act, 2017 and thus, chargeable to CGST and SGST.

2. Supply

Goods & services

- Goods as per section 2(52) of the CGST Act, 2017 includes:**
 - Actionable claims**
 - Growing crops attached to the land agreed to be severed before supply.**
 - Money**
 - Securities**
 - (i) and (iii)
 - (iii) and (iv)
 - (i) and (ii)
 - (ii) and (iii)
- Which of the following is not considered as 'goods' under the CGST Act, 2017?**
 - Ten-paisa coin having sale value of ` 100.**
 - Shares of unlisted company**
 - Lottery tickets**
 - (i)
 - (ii)
 - (ii) and (iii)
 - (i), (ii) and (iii)
- Ram a stock broker charges some service charges or service fees or documentation fees or broking charges or such like fees or charges are charged in relation to transactions in securities, the same would be a consideration for provision of service. Will such brokerage/service fees be service and chargeable to GST?**
 - Yes
 - No
- Which one of the following is/are correct?**
 - Currency held for its numismatic value falls under Goods.
 - Currency held for its numismatic value doesn't fall under Goods.
 - Money shall include currency held for its numismatic value.
 - Both a & c
- Which one of the following is/are correct?**
 - Priority Sector Lending Certificates are securities and not taxable as goods.
 - Priority Sector Lending Certificates are not securities and taxable as goods.
 - Priority Sector Lending Certificates are not

securities and taxable as services.
(d) Both A&C

- Which one of the following is/are correct?**
 - PSLC are securities and IGST is applicable.
 - PSLC are securities and CGST & SGST are applicable.
 - PSLC are goods and IGST is leviable.
 - PSLC are goods and CGST & SGST are applicable.
- Activities related to the use of money or its conversion by cash or any other mode by charging a separate consideration is Services?**
 - False.
 - True.

Section 7(1)(a): All forms of supply for a consideration in the course / furtherance of Business

- Mr. Manubhai and Mr. Anubhai are two brothers running a business of supplying lubricants located in the State of Gujarat in their company, M/s. Ambani Lubricants (P) Ltd. On the death of their respected father, the two brothers have divided their business. However, they have signed an agreement that Mr. Anubhai will not enter into the business of supplying lubricants similar to the business done by M/s. Ambani Lubricants (P) Ltd. run by Mr. Manubhai, for which Mr. Manubhai will pay him Rs. 2.5 crores as a lump sum payment. State whether transaction entered through the above agreement constitutes supply under CGST Act, 2017 or not.**
 - Yes, supply of goods by Mr. Manubhai.
 - Yes, supply of goods by Mr. Anubhai.
 - Yes, supply of services by Mr. Manubhai.
 - Yes, supply of services by Mr. Anubhai.
- Which one of the following is not considered as Consideration in relation to the supply of goods or services?**
 - A deposit given in respect of the supply of goods or services or both.
 - Any subsidy given by the Central Government or a State Government.
 - Any subsidy other than subsidy given by the

Central Government or a State Government.

(d) Both (a) & (b)

Section 7(1)(b): Importation of services for a consideration

10. Mr. Rupesh Patel, is voluntarily registered under GST having turnover of Rs. 15,00,000/-. He is a practicing Company Secretary providing professional services from his partnership firm located in Chandigarh to its various clients. He has taken some interior decoration services from abroad for a residential home owned in the name of the firm which is under construction in Chandigarh. He has paid Rs. 2,00,000/- for the same. In view of the above information, state the correct option-

- (a) GST is payable on the interior decoration services received from abroad.
- (b) Interior decoration services received from abroad are not taxable, since not in the course or furtherance of business.
- (c) Interior decoration services received from abroad are exempt in terms of section 6 of IGST Act, 2017
- (d) Interior decoration services received from abroad are not taxable, since below threshold limit.

11. P an Individual took Amazon Prime subscription for personal purpose; is it supply and subject to GST?

- (a) No, since it's for personal purpose it is not considered as supply and will not attract GST.
- (b) Yes, it's considered as supply and will attract GST, payable under Reverse charge mechanism.
- (c) Yes, it's considered as supply and will attract GST, payable under Forward charge mechanism.
- (d) None of the above.

Section 7(1)(c): Activities/transactions specified in Schedule I

12. Determine which of the following independent cases will be deemed as supply even if made without consideration in terms of Schedule I of the CGST Act, 2017?

(i) AB & Associates transfers stock of goods from its Mumbai branch to Kolkata depot for sale of such goods at the depot.

(ii) Mr. Raghuveer, a dealer of air-conditioners permanently transfers the motor vehicle free of cost. ITC on said motor vehicle was blocked and therefore, was not availed.

(iii) Mrs. Riddhi, an employee of Sun Ltd., received gift from her employer on the occasion of Diwali worth Rs. 21,000.

- (a) (i)
- (b) (ii)
- (c) (iii)
- (d) Both (i) and (ii)

13. _____ specifies the activities to be treated as supply even if made without consideration.

- (a) Schedule I of CGST Act
- (b) Schedule II of CGST Act
- (c) Schedule III of CGST Act
- (d) All of the above

14. Which of the given activities does not amount to supply?

- (a) An architect in India seeks legal advice from his son settled in London free of cost with regard to his family dispute.
- (b) A Resident Welfare Association provides the service of depositing the electricity bills of the residents in lieu of some nominal charges.
- (c) A dealer of air-conditioners permanently transfers an air conditioner from his stock in trade, for personal use at his residence.
- (d) An electronic commerce operator in India seeks legal advice for its business from its head office in the US free of cost.

15. In which of the following cases, import of services by an individual is supply under GST?

- (1) Import of service with consideration in course or furtherance of business.**
- (2) Import of service with consideration not in course or furtherance of business.**
- (3) Import of service without consideration from a related person in course or furtherance of business.**
- (4) Import of service without consideration from a related person not in course or furtherance of business.**

- (a) (1) and (3)
- (b) (2) and (4)
- (c) (1), (2) and (3)
- (d) (4)

16. Which of the following transactions does not qualify as supply under GST law?

- Disposal of car without consideration and where the supplier has not claimed ITC on such car.
- When a principal makes supplies to his agent who is also registered under GST and is situated within the same State and the invoice for further supply is issued by the agent in his name.
- When the Head Office makes a supply of services to its own branch outside the State.
- A person imports services without consideration for the purposes of his business from his elder son living outside India.

17. Mr. James Bond is a registered person under GST in the State of Maharashtra who sells footwear to his customers locally within the same State. He has been appointed as an agent by M/s. Toto Shoes Ltd., a company registered under GST in the State of Karnataka. During a financial year, M/s. Toto Shoes Ltd., sends taxable goods worth Rs 5.00 crore from its Bengaluru store to Mr. James Bond who sells such goods for Rs 5.00 crore by raising invoices using the GSTIN of M/s. Toto Shoes Ltd. Mr. James Bond receives a commission of Rs 60.00 lakh from M/s. Toto Shoes (P) Ltd., during the said financial year.

Compute the value of supply of Toto Shoes (P) Ltd. and Mr. James Bond for the FY.

- M/s. Toto Shoes (P) Ltd.: Nil and James Bond: Rs 5.6 crore
- M/s. Toto Shoes (P) Ltd.: Rs 5 crore and James Bond: Rs 5.6 crore
- M/s. Toto Shoes (P) Ltd.: Rs 5 crore and James Bond: Rs 60 lakh
- None of the above

18. Mr. Palliwal Desai, a registered practicing Chartered Accountant, located in Jaipur, in the State of Rajasthan, is providing professional and consultancy services to its various clients from his firm.

He has taken some professional consultancy services from another establishment of its firm in UK. He has not paid any consideration for the same.

Such services would have been taxable @ 18% (9% under CGST + 9% under SGST and 18% under IGST), had they been received in

India. Also, Mr. Palliwal Desai would have paid Rs. 4.00 Lakh, had he not received the said services from the UK establishment.

State the liability of Mr. Palliwal Desai, under CGST/ IGST Act, 2017, out of the following options-

- Rs. 72,000/- as Integrated Tax
- CGST Rs. 36,000/- & SGST Rs. 36,000/-, since POS is in India
- Nil, since no foreign exchange was paid
- Nil, since such services are exempt

19. Which of the following is not considered as a supply under the CGST Act, 2017?

- Importation of architectural services for Rs.1,00,000/- for construction of residential property used for personal purposes from an unrelated person.
- Importation of architectural services free of cost for construction of office used for business purposes from related person.
- Importation of architectural services free of cost for construction of office used for business purposes from unrelated person.
- Both (a) and (c)

20. Which of the following is not a supply under the CGST Act, 2017?

- Goods supplied free of cost by X & Sons to its agent for further supply to customers at Rs. 5,000 for which invoice will be issued by the agent in his own name.
- Importation of accounting services (for business purposes) free of cost from a dependent father residing in the US.
- An expensive watch gifted to an employee for Rs. 50,000. No other gifts provided to such employee during the entire financial year.
- A machinery disposed off free of cost on which input tax credit has been availed.

21. M/s. XYZ, a banking company, appoints Mr. B (auctioneer) to auction certain goods. The auctioneer arranges for the auction and identifies the potential bidders. The highest bid is accepted and the goods are sold to the highest bidder by M/s. XYZ. The invoice for the supply of the goods is issued by M/s. XYZ to the successful bidder.

Is Mr. B an agent of M/s XYZ for the supply of goods in terms of Schedule I para 3?

- Yes
- No

22. When will a del-credere agent fall under the ambit of agent under Para 3 of Schedule I of the CGST Act?

- (a) where the invoice for further supply of goods is issued by the DCA in his own name
- (b) where the invoice for further supply of goods is issued by the DCA in his name of principal
- (c) where the invoice for further supply of goods is issued by Principal
- (d) where the invoice for further supply of goods is not issued at all

23. Which of the following services received, in the course or furtherance of business, without consideration amount to supply?

- (i) **Import of services by a person in India from his son well-settled in USA**
- (ii) **Import of services by a person in India from his brother well-settled in Germany**
- (iii) **Import of services by a person in India from his brother (wholly dependent on such person in India) in France**
- (iv) **Import of services by a person in India from his daughter (wholly dependent on such person in India) in Russia**

- (a) i, iii and iv
- (b) ii, iii and iv
- (c) ii and iii
- (d) i and ii

24. Which of the following statements is true under GST law?

- (a) Grand-parents are never considered as related persons to their grand-son/grand-daughter
- (b) Grand-parents are always considered as related persons to their grand-son/grand-daughter
- (c) Grand-parents are considered as related persons to their grand-son/grand-daughter only if they are wholly dependent on their grand-son/grand-daughter
- (d) Grand-parents are considered as related persons to their grand-son/grand-daughter only if they are not dependent on their grand-son/grand-daughter.

Section 7(1A): Activities shall be Supply of goods or Supply of services

25. Assuming that all the activities given below CA Ramesh Soni

are undertaken for a consideration, state which of the following is not a supply of service?

- (a) Renting of commercial office complex
- (b) An employee agreeing to not work for the competitor organization after leaving the current employment
- (c) Repairing of mobile phone
- (d) Provision of services by an employee to the employer in the course of employment

26. Which of the following activities is a supply of services?

- (a) Transfer of right in goods/ undivided share in goods without transfer of title in goods
- (b) Transfer of title in goods
- (c) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date.
- (d) All of the above

27. Happy Singh is the lawful owner of a residential house situated in Chandigarh. The property has four floors constructed on it. Out of the four floors in his house, the first and second floor are self-occupied and the third and fourth floor have been let out for residential purposes. Ratanjot Singh, who is a tenant on the third floor, has surrendered his tenancy rights to Parminder Singh for a tenancy premium of RS. 5,00,000 on 1st June. Parminder Singh has paid the applicable stamp duty and registration charges on transfer of tenancy rights. Moreover, Parminder Singh will pay a monthly rent of RS. 50,000 to Happy Singh from June.

Determine the value of taxable supply, in the given case, for the month of June.

- (a) Happy Singh: Rs.5,50,000; Ratanjot Singh: Nil
- (b) Happy Singh: Nil; Ratanjot Singh: RS. 5,00,000
- (c) Happy Singh: Rs.50,000; Ratanjot Singh: Nil
- (d) Happy Singh: Rs.50,000; Ratanjot Singh: RS. 5,00,000

Section 7(2)(a): Activities or transactions specified in Schedule III

28. Which of the following activities shall be treated neither as supply of goods nor supply of services?

- (i) Permanent transfer of business assets

where input tax credit has been availed on such assets

(ii) Temporary transfer of intellectual property right

(iii) Transportation of the deceased

(iv) Services by an employee to the employer in the course of employment

- (a) (i) & (iii)
- (b) (ii) & (iv)
- (c) (i) & (ii)
- (d) (iii) & (iv)

29. Which of the following activities is outside the scope of supply & not taxable under GST?

- (a) Services by an employee to the employer in the course of or in relation to his employment
- (b) Services of funeral
- (c) Actionable claims, other than lottery, betting and gambling.
- (d) All of the above

30. Aircool Ltd., a supplier of air conditioners, is registered under GST in the State of Maharashtra. It has a policy to gift an air conditioner to its employees [residing in Gujarat] at the end of a financial year in terms of the employment contract. The company installs such air conditioners at the residence of the employees.

During the current financial year, the company gifted its employees 150 air conditioners and got the air conditioners installed at the residence of these employees. The total open market value of such air conditioners is Rs. 52.50 lakh (excluding GST). The tax rate on such air conditioners is 28% (14% CGST, 14% SGST and 28% IGST).

Compute the GST liability of M/s. Aircool Ltd., if any.

- (a) Rs. 7,35,000 - CGST, Rs. 7,35,000- SGST
- (b) Rs. 14,70,000 - IGST
- (c) Nil
- (d) Rs. 7,35,000 - IGST

31. Mr. A purchased goods from China and sold it to Mr. John in Canada without bringing the goods in India.

- (a) This transaction is supply of goods
- (b) This transaction is neither supply of goods nor supply of services.
- (c) This transaction is a supply of services.
- (d) None of the above

32. Mr. X imported some goods in India, but kept the goods in a custom bonded warehouse without clearing it for home consumption. In the meantime, Mr. X sold these goods to Mr. Y while they were in the warehouse.

- (a) This transaction is supply of goods
- (b) This transaction is neither supply of goods nor supply of services.
- (c) This transaction is a supply of services.
- (d) None of the above

33. Mr. P of India imported some goods from Japan. While the goods were on the high seas, Mr. P sold the goods to Mr. Q in India by way of endorsement of documents of title of goods.

- (a) This transaction is supply of goods
- (b) This transaction is a supply of services.
- (c) This transaction is neither supply of goods nor supply of services.
- (d) None of the above

34. Which is not considered as supply under GST Law?

- (a) Stock transferred from one establishment in Delhi to another establishment in Gurgaon, Haryana registered under the same PAN.
- (b) CA Ram supplies accounting services to CA Radha in lieu of taxation services received from CA Radha.
- (c) A Health club supplies lunch to its members at its annual meeting against a nominal charge.
- (d) Mr. A sells a flat to Mr. B
 - (i) Date of completion certificate - 31/01/20XX
 - (ii) Date of agreement with buyer - 01/02/20XX
 - (iii) Consideration received - 05/02/20XX

35. Which of the following activities shall be treated neither as a supply of goods nor supply of services?

- (i) Permanent transfer of business assets where ITC has been availed on such assets
 - (ii) temporary transfer of intellectual property right
 - (iii) transportation of deceased
 - (iv) services by an employee to the employer in the course of employment
- (a) (i) & (iii)
 - (b) (ii) & (iv)

- (c) (i) & (ii)
(d) (iii) & (iv)

- (b) ii, iii
(c) ii, iii, iv
(d) None of the above

Section 8: Tax liability on composite and mixed supplies

36. Which of the following supplies are naturally bundled?

- (a) Rent deed executed for renting of two different floors of a building—one for residential and another for commercial purpose to same person
(b) Pack of watch, tie and belt
(c) Package of canned food such as burger, chocolates, sweets, cake etc.
(d) None of the above

37. A _____ supply comprising of two or more supplies shall be treated as the supply of that particular supply that attracts the highest rate of tax.

- (a) Composite
(b) Mixed
(c) Both (a) and (b)
(d) None of the above

38. There is a difference in taxability of goods forming part of composite supply and mixed supply. Here are a few examples from which you need to identify which is correct example of composite supply and mixed supply.

- (i) **Mr. A buys a car and purchases the warranty and maintenance of the car by paying a nominal amount. Car, warranty and maintenance here are a mixed supply.**
(ii) **Mr. A buys a car and purchases the warranty and maintenance of the car by paying a nominal amount. Car, warranty and maintenance here are a composite supply.**
(iii) **Mrs. A buys a microwave oven and some utensils for use in the microwave oven. Both microwave ovens and utensils are sold at a single price. Microwave oven and its utensils here are a mixed supply.**
(iv) **Mrs. A buys chocolates, juices and biscuits from a shop. All items have different prices. Chocolates, juices and biscuits are a mixed supply.**

The correct examples of composite and mixed supply are: -

- (a) i, iv

39. M/s. Jolly Electronics (P) Ltd., is an authorized dealer of M/s. GG Micro Ltd., located and registered in Lucknow, Uttar Pradesh. It has sold following items to Mr. Rakesh (a consumer)

Product	Amount
Refrigerator (500 litres) taxable @ 18%	40,000
Stabilizer for refrigerator taxable @ 12%	5,000
LED television (42 inches) taxable @ 12%	30,000
Split air conditioner (2 Tons) taxable @ 28%	35,000
Stabilizer for air conditioner taxable @ 12%	5,000
Total value	1,15,000

M/s. Jolly Electronics (P) Ltd. has given a single invoice, indicating price of each item separately to Mr. Rakesh. Mr. Rakesh, has given a single cheque of Rs. 1,00,000/- for all the items as a composite discounted price. State the type of supply and the tax rate applicable on the same.

- (a) Composite supply; Highest tax rate applicable to split air conditioner, i.e., 28%
(b) Mixed supply; Highest tax rate applicable to split air conditioner, i.e., 28%
(c) Supply other than composite and mixed supply; Highest tax rate applicable to split air conditioner i.e., 28%
(d) Supply other than composite and mixed supply; respective tax rate applicable to each item

40. M/s. Vishu Megamart, operating a store located and registered in Rajasthan, has come out with big discount offers at the time of Diwali on various gift items. In order to attract more customers, it has decided to supply a gift pack containing 5 packets of Haldiram's Namkeen (200 gram each) taxable @ 12%, 1 packet of Roasted Smoked Almonds (100 gram) taxable @ 18%, 1 packet of Bournville Chocolate (50 mg) taxable @ 28% and 1 bottle of Real Fresh Juice (1 litre) taxable @ 18% in a single basket for a single price of Rs. 1,000/-.

State the type of supply and the tax rate applicable on the same.

- (a) Composite supply; Tax rate of the principal item, i.e., Namkeen @18%
 (b) Composite supply; Highest tax rate out of all items, i.e., 28% applicable to chocolates
 (c) Mixed supply; Tax rate of principal item, i.e., Namkeen @18%
 (d) Mixed supply; Highest tax rate out of all items, i.e., 28% applicable to chocolates

41. What are the factors differentiating composite supply & mixed supply?

- (a) Nature of bundling i.e., artificial or natural
 (b) Existence of principal supply
 (c) Both of the above
 (d) None of the above

42. Booking of Air Tickets with meal on board during travel will be taxed as & at the rate of?

- (a) Composite supply & principal supply
 (b) Mixed supply & principal supply
 (c) Composite supply & highest rate
 (d) Any of the above

43. Under GST Act a supply of assortment of sweets, chocolates and firecrackers packed in a gift hamper is

- (a) Joint supply
 (b) Composite supply
 (c) Mixed supply
 (d) Assorted supply

Answers:

Qs	Ans	Reason
1.	c	<p>Goods means every kind of movable property</p> <ul style="list-style-type: none"> • Other than money and Securities <p>But includes</p> <ul style="list-style-type: none"> • 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. <p>From the above definition it is clear than money and securities are not goods.</p>
2.	b	<p>Goods means every kind of movable property</p> <ul style="list-style-type: none"> • Other than money and Securities <p>But includes</p> <ul style="list-style-type: none"> • 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. <p>Money means</p> <ul style="list-style-type: none"> • the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveler cheque, money order, postal or electronic remittance or any other instrument recognised by the RBI 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; <p>Applying the above definition:</p> <p>(i) Ten-paisa coin having sale value of Rs. 100: Currency held for numismatic value is not money and hence goods.</p> <p>(ii) Shares of unlisted company: Shares are securities and hence not goods.</p> <p>(iii) Lottery tickets: They are actionable claims and hence goods.</p>
3.	a	<p>Securities are neither goods nor services but explanation to definition of services provides that "services" includes facilitating or arranging transactions in securities. Hence, if a stock broker charges a commission/brokerage charges/portfolio maintenance charges /investment management fees/demat charges those fall under services and chargeable to GST.</p>
4.	a	<p>Goods means every kind of movable property Other than money and Securities</p> <p>Money means</p> <ul style="list-style-type: none"> • the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveler cheque, money order, postal or electronic remittance

Qs	Ans	Reason
		<p>or any other instrument recognised by the RBI when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination</p> <ul style="list-style-type: none"> • but shall not include any currency that is held for its numismatic value; <p>Since money does not include any currency that is held for its numismatic value, Currency held for its numismatic value shall fall under goods.</p>
5.	b	Priority Sector Lending certificates are goods and not securities and sale of PSLC by bank is supply of goods u/s 7(1)(a) of the CGST act and taxable.
6.	c	Sale of PSLC by bank is supply of goods u/s 7(1)(a) and Nature of Supply of PSLC is interstate and IGST is leviable.
7.	b	Services means anything other than goods, money and securities but includes activities related to the use of money or its conversion by cash or any other mode for which a separate consideration is charged.
8.	d	<p>As per section 7(1)(a): Supply includes all forms 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. Hence agreeing to the obligation not to do something is also a supply.</p> <p>Further Schedule II Para 5(e) classifies agreeing to obligation to refrain from an act, as a supply of service.</p> <p>Hence, yes, it's a supply and supply of service by Anubhai.</p>
9.	d	Any subsidy given by the Central Government or a State Government & a deposit given in respect of the supply of g/s/b shall not be considered as consideration.
10.	a	<p>Section 7(1)(b): Importation of services for a consideration for the purpose of business is supply and taxable under reverse charge mechanism.</p> <p>Here, the interior decoration services has been taken in the name of the firm hence it is in the course of business & it's a supply, GST is payable by the firm under RCM.</p>
11.	c	Supply of service by OIDAR from outside India to a Non-taxable online recipient, OIDAR shall be liable to register in India and pay GST under Forward charge mechanism.
12.	a	<p>(i) AB & Associates transfers stock of goods from its Mumbai branch to Kolkata depot for sale of such goods at the depot: Supply between distinct person is a supply as per schedule I.</p> <p>(ii) Mr. Raghveer, a dealer of air-conditioners permanently transfers the motor vehicle free of cost. ITC on said motor vehicle was blocked and therefore, was not availed: Since ITC is blocked & hence not availed, It is not a supply as per Para I schedule I.</p> <p>(iii) Mrs. Riddhi, an employee of Sun Ltd., received gift from her employer on the occasion of Diwali worth Rs. 21,000: Gift to employee up to Rs. 50,000 per annum per employee is not a supply as per schedule I.</p>
13.	a	As per Section 7(1)(c), activities specified in Schedule I made without a consideration shall be treated as deemed supply.
14.	a	<p>Section 7(1)(c): As per Schedule I, Importation of service from a related person or own establishment for the purpose of business is supply.</p> <p>In option A, the service has not been taken for the purpose of business and hence not supply.</p>
15.	c	<p>As per Section 7(1)(b), Importation of services for a consideration is Supply, whether for the business or non-business purpose but non business purpose and</p> <p>As per 7(1)(C) read with Schedule I, Importation of services without a consideration for the purpose of business from a related person or own establishment is supply.</p> <p>Applying the above, Answer shall be (c).</p> <p>Note: Point no. (4) is not covered in the answer because it is not covered under supply.</p>
16.	a	<p>Section 7(1)(C), Schedule I Para I, Permanent transfer or disposal of business assets where ITC has been availed on such assets qualifies as supply.</p> <p>Since the supplier has not claimed ITC on such car, it does not qualify as supply.</p>
17.	c	Section 7: Since the invoice for further supply of goods by James Bond is in the GSTN of Toto Shoes Ltd, the sales made by James bond shall be included in the turnover of Toto Shoes Ltd.

Qs	Ans	Reason
		Further, the commission earned by James Bond shall be included his turnover. Hence , the VOS of Toto Shoes Ltd = Rs 5 Crore since invoice was raised in his name & The turnover of James Bond shall be the commission earned = Rs 60 lakhs.
18.	a	Another establishment of its firm in UK is an own establishment outside India. Professional consultancy services received from another establishment of its firm in UK is Import of service. As per Section 7(1)(c), Schedule I Para 4: Import of services by a person from any of his other establishments outside India, in the course or furtherance of business is a supply. As per section 5(3) of IGST act read with RCM notification: In case any services are supplied by any person located in a non-taxable territory (NTT) to any person other than NTOR: Recipient shall pay IGST under RCM. Hence in the given case , Mr. Palliwal Desai is required to pay IGST of Rs. 72,000 and that too under RCM.
19.	c	As per Section 7(1)(b): Importation of services, for a consideration whether or not in the course or furtherance of business is supply. As per Section 7(1)(c), Schedule I Para 4: Import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business without consideration shall also be considered as supply. Let us analyze each point: a) It's a supply under 7(1)(b) b) It's a supply under 7(1)(C) c) Import of service, Free of cost from Unrelated person: It's not covered under 7(1)(b)/(C), hence not considered as supply.
20.	c	Gifts not exceeding Rs.50,000 in value in a FY by an employer to an employee shall not be treated as supply of goods or services or both. Therefore, there will be no GST Liability.
21.	b	The auctioneer is merely providing the auctioneering services with no role played in the supply of the goods. Therefore Mr. B is not an agent for the supply of goods as per Schedule I.
22.	a	Where the invoice for further supply is being issued by agent in his name then, any provision of goods from the principal to the agent would fall within the ambit of Schedule I of CGST Act.
23.	a	Schedule I, Para 4. 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 Related party definition under GST included family Section 2(49): 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. Applying the above: (i) Import of services by a person in India from his son well-settled in USA: Son is a related person, hence it's a supply. (ii) Import of services by a person in India from his brother well-settled in Germany: Brother well-settled in Germany is not a related person, hence it is not a supply. (iii) Import of services by a person in India from his brother (wholly dependent on such person in India) in France: Dependent brother is a related person, hence it's a supply. (iv) Import of services by a person in India from his daughter (wholly dependent on such person in India) in Russia: Daughter is a related person, hence supply.
24.	c	Schedule I, Para 4. Related party definition under GST included family Section 2(49): Family means, – (i) the spouse and children of the person, and

Qs	Ans	Reason
		(ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person. <u>Hence Grand-parents are considered as related persons to their grand-son/grand-daughter only if they are wholly dependent on their grand-son/grand-daughter</u>
25.	d	(a) Renting of commercial office complex: as per Schedule II para 2, letting out of building including a commercial, industrial or residential complex is a supply of service. (b) An employee agreeing to not work for the competitor organization after leaving the current employment: as per para 5(e) of schedule II, not to do/refrain from doing something is a supply of service. (c) Repairing of mobile phone: as per para 5(e) of schedule II, to do an act is a supply of service. (d) Provision of services by an employee to the employer in the course of employment: As per schedule III, It's neither supply of goods nor supply of service.
26.	a	As per Schedule II any transfer of right in goods/of undivided share in goods without transfer of title thereof, is a supply of services.
27.	b	The activity of transfer of tenancy rights is covered under the scope of supply and taxable, However , grant of tenancy right in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both is exempt. Services provided by outgoing tenants by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is taxable & liable to GST.
28.	d	(iii) Permanent transfer of business assets where ITC has been availed on such assets: It's a supply, Supply of goods (iv) Temporary transfer of intellectual property right: It's a supply, Supply of service. (v) Transportation of the deceased: Section 7(2)(a) read with schedule III: neither as supply of goods nor supply of services. (vi) Services by an employee to the employer in the course of employment: Section 7(2)(a) read with schedule III: neither as supply of goods nor supply of services.
29.	d	Schedule III specifies activities or transaction that shall be treated as neither supply of goods nor supply of services
30.	c	As per Schedule III , activities or transactions shall be treated as neither supply of goods nor supply of services includes services by an employee to the employer in the course of or in relation to his employment. Therefore, the GST Liability shall be Nil.
31.	b	As per Schedule III , High seas sale is neither supply of goods nor supply of service.
32.	b	Supply of warehoused goods to any person before clearance for home consumption is covered under Schedule III. Therefore, it is Neither supply of goods nor supply of services.
33.	c	As per Schedule III , Supply of goods by the consignee to any other person, by endorsement of documents of title of goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption is high seas sale, which is neither supply of goods nor supply of service.
34.	d	As per Schedule III , sale of building where the entire consideration received after the issuance of completion certificate or after first occupancy is neither supply of goods nor service.
35.	d	As per Schedule III , Transportation of deceased and services provided by employees to the employer in the course of employment is neither supply of goods nor supply of service.
36.	d	None of the above are naturally bundled , Naturally bundled are normally advertised as a package, different elements are not available separately and different elements are integral to one overall supply.
37.	b	Mixed supply means two or more individual supplies of goods or services, made in conjunction with each other for a single price. It shall be treated as supply of that particular supply which attracts the highest rate of tax.
38.	b	(i) Mr. A buys a car and purchases the warranty and maintenance of the car by paying a nominal amount. Car, warranty and maintenance here are a mixed supply – it's a composite supply.

Qs	Ans	Reason
		<p>(ii) Mr. A buys a car and purchases the warranty and maintenance of the car by paying a nominal amount. Car, warranty and maintenance here are a composite supply – True, it's a composite supply.</p> <p>(iii) Mrs. A buys a microwave oven and some utensils for use in the microwave oven. Both microwave ovens and utensils are sold at a single price. Microwave oven and its utensils here are a mixed supply – It's a mixed supply individual supplies are supplied for a since supplied for a single price.</p> <p>(iv) Mrs. A buys chocolates, juices and biscuits from a shop. All items have different prices. Chocolates, juices and biscuits are a mixed supply – Its neither mixed nor composite.</p>
39.	d	<p>The given supply is not composite since in composite supply there should be a single principal supply.</p> <p>The given supply is not Mixed as single price is not charged.</p> <p>Since Jolly Electronics has given a single invoice, indicating price of each item separately, it's supply other than composite and mixed supply and respective tax rate shall apply.</p>
40.	d	Section 8: It is a mixed supply; It shall be treated as supply of that particular supply which attracts the highest rate of tax.
41.	c	Composite supply comprises two or more taxable supplies, naturally bundled and supplied in conjunction, one of which is a principal supply.
42.	a	It is a composite supply and taxable at the rate of principal supply.
43.	c	It is a mixed supply. Mixed supply means two or more individual supplies of goods or services, made in conjunction with each other for a single price. It shall be treated as supply of that particular supply which attracts the highest rate of tax.

3. Nature of Supply

1.
Whether services of short-term accommodation, conferencing, banqueting etc. provided to a SEZ unit/developer by a supplier located in the same State as that of the SEZ unit/developer should be treated as an inter-State supply under section 7(5)(b) or an intra-State supply in terms of section 8(2) read with section 12(3)(c)? Explain.

(ICAI study material)

Answer:

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

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

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

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

3. Nature of supply

Section 7 of IGST Act: Inter-State supply

1. **IGST is levied on:**
 - (a) Inter-State supplies
 - (b) Intra-State Supplies
 - (c) Both (a) and (b)
 - (d) None of the above
2. **___ is levied on the import of goods/services.**
 - (a) IGST
 - (b) CGST and SGST
 - (c) CGST and UTGST
 - (d) None of the above

Section 8 of IGST Act: Intra-State supply

3. **Which of the following taxes levied on an intra-State supply?**
 - (a) CGST
 - (b) SGST/UTGST
 - (c) Both (a) & (b)
 - (d) IGST
4. **Following is an intra-State supply:**
 - (a) Goods sent from Delhi to another dealer in Delhi.
 - (b) Goods sent from Delhi to a SEZ in Noida, Uttar Pradesh.
 - (c) Goods sent from Delhi to Chandigarh branch (Haryana) of the same supplier.
 - (d) None of the above

Section 9 of IGST Act: Supplies in TWI

5. **Where the location of the supplier is in the territorial waters (TWI)/POS is in TWI, then location of supplier/POS shall be**
 - (a) Territorial waters.
 - (b) Deemed to be in the coastal state where the nearest point of appropriate baseline is located.
 - (c) Deemed to be in the UT where the nearest point of appropriate baseline is located.
 - (d) Both B OR C

6. **Sukhamani Traders, registered in Maharashtra, purchased machinery two years back worth Rs. 2,00,00,000 and did not avail ITC on said machinery at the time of its purchase. After using the machinery for two years, it gave said machinery free of cost in the month of September (in the current year) to an unrelated person in Punjab. On the date of transfer, open market value of the machinery was Rs. 1,25,00,000 and the written down value was Rs. 1,53,00,530. In the month of September, it also supplied taxable goods worth Rs. 50,00,000 to Royal Oil Corporation Limited in the territorial waters. The said territorial waters are located at a distance of 5 nautical miles from the baseline of the State of Maharashtra and 7 nautical miles from the baseline of the State of Kerala.**

All above amounts are exclusive of GST and rates of applicable CGST, SGST and IGST in above cases are 9%, 9% and 18%.

You are required to determine the amount of net CGST and SGST and/or IGST payable in the month of September.

- (a) CGST: Rs. 4,50,000; SGST: Rs. 4,50,000; IGST: Nil
- (b) CGST: Nil; SGST: Nil; IGST: Rs. 9,00,000
- (c) CGST: Nil; SGST: Nil; IGST: Nil
- (d) CGST: Rs. 4,50,000; SGST: Rs. 4,50,000; IGST: Rs. 22,50,000

Circular

7. **Services of short-term accommodation, conferencing, banqueting etc. provided to a SEZ unit, whether it is to be treated as Inter-State/Intra-State supply?**
 - (a) Intra-state supply
 - (b) Inter-state supply
 - (c) None of the above
 - (d) Can be both of the above

Answers:

Qs	Ans	Reason
1.	a	As per Section 7 of IGST Act, Supply of goods/services between different states/UTs be treated as Inter-state supply and IGST shall be levied.
2.	a	As per Section 7 of IGST Act, Importation of goods/services be treated as Inter-state supply and IGST shall be levied.
3.	c	As per Section 8 of IGST Act, Supply of goods/services within the same state or UT is called Intra-state supply. CGST & SGST/UTGST shall be levied.

Qs	Ans	Reason
4.	a	As per Section 8 of IGST Act , Supply of goods/services within the same state or UT is called Intra-state supply. CGST & SGST/UTGST shall be levied.
5.	d	Where the Location of supplier is in territorial waters or POS is in territorial waters , then location of supplier/POS shall be deemed to be in the coastal state or Union territory where the nearest point of the appropriate baseline is located .
6.	a	<p>Let us analyze the 2 transactions in the given question:</p> <p>1. Giving of Machine Free of cost: which is not a supply since ITC has not been availed on the machine. (Refer section 7(1)(c) read with schedule I, Para 1). Hence, no GST is payable on this transaction.</p> <p>2. Supply of taxable goods worth Rs. 50,00,000 to Royal Oil Corporation Limited in the territorial waters:</p> <ul style="list-style-type: none"> • As per section 9 of IGST act, when place of supply is in the TWI, the place of supply is deemed to be in the nearest coastal state. Royal oil fields are located close to Maharashtra and hence POS is Maharashtra, • Sukhamani Traders, are registered in Maharashtra, i.e. the location of supplier. • Since location of supplier and place of supply are in Maharashtra, CGST and SGST shall be payable on the transaction. <p>Computation of applicable tax: <u>CGST:</u> Rs 50 lakhs x 9% = Rs. 4,50,000 <u>SGST:</u> Rs. 50 lakhs x 9% = Rs. 4,50,000.</p>
7.	b	Services of short-term accommodation, conferencing, banqueting etc., provided to a SEZ developer or by a SEZ unit shall be treated as an Inter-State supply.