

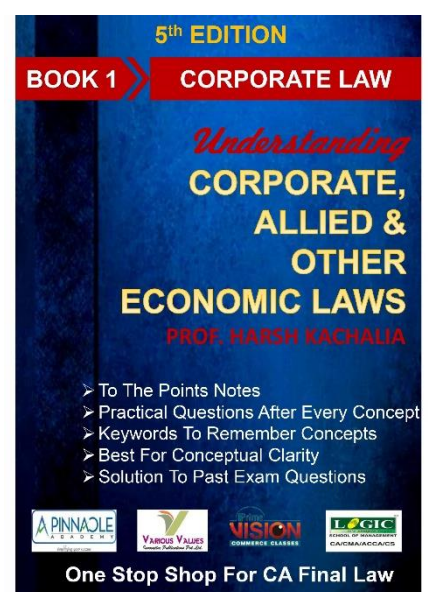
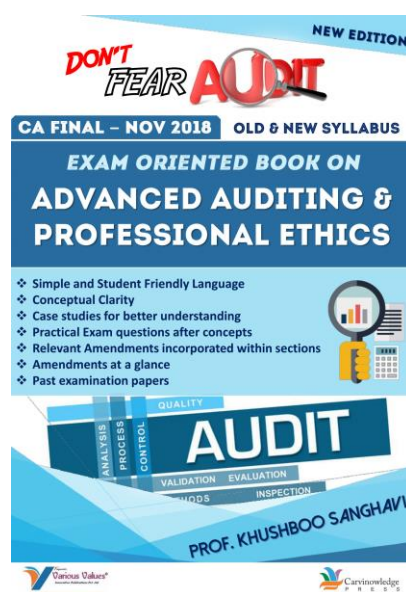
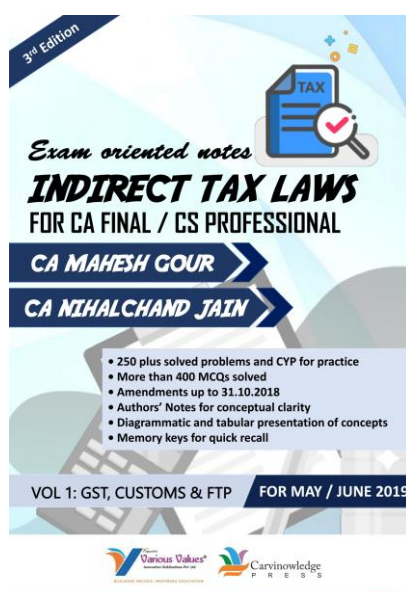
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# **PART I:**

# **GST**



## CHAPTER 2. TAXABLE EVENT - SUPPLY

### ADDITIONAL QUESTIONS:

**Problem 1: An electronics dealer sells a desktop for Rs. 50,000 to earn a profit. Does it qualify as a supply.**

**Solution:** Yes, it qualifies as a supply.

**Legal Justification:** As per Section 7(1)(a) of CGST Act, 2017, supply includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.

Hence, the above case will be treated as supply.

**Problem 2: Mr. A (an unregistered person) plans to pursue his higher education in Australia. He receives career consultancy services from an Australian based consultant for Rs. 5,00,000. Does it qualify as a supply?**

**Solution:** Yes, it qualifies as a supply

**Legal Justification:** As per Section 7(1)(b) of CGST Act, 2017, supply includes import of services for a consideration whether or not in the course of furtherance of business.

Hence, the above case will be treated as supply.

**Problem 3: ABC & Co. a manufacturer of goods donated old Laptops to Charitable Schools on account of relocation of office. The company has taken input tax credit on the Laptops so donated. Does it qualify as a supply?**

**Solution:** Yes, it qualifies as a supply

**Legal Justification:** A joint reading of Section 7(1)(c) and Schedule I of CGST Act, 2017, permanent transfer or disposal of business assets where input tax credit has been availed shall be treated as supply even made without consideration.

Hence donation of old laptops to charitable schools shall qualify as supply since input tax credit has been availed by ABC & Co.

**Problem 4: Sun Ltd. provides management consultancy services without charge to Moon Ltd in which Sun Ltd. has controlling rights. The said consultancy has been provided for benefit of entire group. Does it qualify as a supply?**

**Solution:** Yes, it qualifies as a supply

**Legal Justification:** Section 7(1)(c) read with Schedule I of CGST Act, 2017 says that supply of goods or services between related persons is treated as supply even if it is without consideration.

As per Explanation to Section 15 of CGST Act, 2017, persons shall be deemed to be "related persons" if "one of them directly or indirectly controls the other". Since, Sun Ltd. has controlling rights of Moon Ltd., it means it directly controls Moon Ltd. They will be treated as related persons and the said transaction will qualify as supply.

**Problem 5: PQR Ltd. gives gifts to employee worth Rs. 6,00,000. Does it qualify as a supply? Would your answer change if gifts of Rs. 40,000 have been given to employee.**

**Solution:** Yes, it qualifies as a supply

**Legal Justification:**

As per Section 7(1)(c) read with Schedule I of CGST Act, 2017, supply of goods or services between related person is treated as supply even if it is without consideration.

As per Explanation to Section 15 of CGST Act, 2017, persons shall be deemed to be "related persons" if such persons are employer and employee. Thus, gifts to employee worth Rs. 6,00,000 will qualify as supply and thus GST leviable.

If gift of Rs. 40,000 is given instead of Rs. 6,00,000, the same will not qualify as supply since it has been specifically provided that gifts not exceeding Rs. 50,000 in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

**Problem 6: Duster Ltd. owns a motor vehicles which is used to transport its workers to customers premises. During one weekend, one car was used by its managing director for his relatives for a family outing, Is it a supply?**

**Solution:** Yes, it qualifies as a supply

**Legal Justification:** As per Section 7(1)(d) read with Schedule II of CGST Act, 2017, when business assets are used for personal purpose, it shall be treated as supply of service and will be liable to tax even if made without consideration.

Thus, the said transaction will qualify as supply.

**Problem 7: JKL Ltd. engages True Ltd. as an agent to sell laptops on its behalf. For the purpose, JKL Ltd. has supplied 200 laptops to the showroom of True Ltd. located in Rajasthan. Does it qualify as supply.**

**Solution:** Yes, it qualifies as a supply

**Legal Justification:**

Section 7(1)(c) read with Schedule I of CGST Act, 2017 says that supply of goods by a principal to his agent where the agent undertakes to supply/receive such goods on behalf of the principal shall be treated as supply even if made without consideration.

In view of the same supply of laptops by JKL Ltd. to True Ltd. will qualify as supply.

**Problem 8: Class Associates received management consultancy services from its head office located in Malaysia. The head office has rendered such services free of cost to its branch office. Does it qualify as supply.**

**Solution:** Yes, it qualifies as a supply

**Legal Justification:** A combined reading of Section 7(1)(c) and Schedule I of CGST Act, 2017 says that import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business will be treated as supply even if made without consideration. Thus, management consultancy services received by Class Associates will qualify as supply even though the head office has not charged anything from it and will be liable to GST.

**Problem 9: Mulla Construction Ltd. (a registered taxable person) receives architectural design supplied by a foreign architect to design a residential house to be built in Mumbai for a consideration of Rs.. 50,00,000. Does it qualify as supply.**

**Solution:** Yes, it qualifies as a supply

**Legal Justification:** As per Section 7(1)(b) of CGST Act, 2017, supply includes importation of services for a consideration whether or not in the course or furtherance of business.

In the above case it will be treated as supply and will be liable to GST.

**Problem 10: Sun Ltd. was amalgamated with Moon Ltd. On account of amalgamation Mr. Star a shareholder received 10,000 shares of Sun Ltd. in exchange of 5000 shares of Moon Ltd. Does it qualify as supply.**

**Solution:** No, it does not qualify as a supply

**Legal Justification:** As per Section 2(52), goods mean every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;

As per Section 2(102), services means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged

Transaction in securities is neither covered as supply of goods nor as a supply of services as evident from the definition of goods as well as services.

Hence, the transaction by Mr. Star, the shareholder will not qualify as supply.

**Problem 11: Rain Ltd., an NBFC transfer bad loans (unsecured) to Munna Ltd. Does it qualify as supply.**

**Solution:** No, it does not qualify as a supply

**Legal Justification:** As per Section 2(52), goods mean every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;

Hence, actionable claims are covered in definition of goods. However, Schedule III specifically excludes actionable claims other than lottery, gambling and betting from the scope of supply. Therefore, transfer of unsecured loans would not amount to supply.

**Problem 12: Chand Ltd. having head office in Punji (Goa) supplied goods worth Rs. 10,00,000 to its branch office in Jodhpur (Rajasthan). Does it qualify as supply.**

**Solution:** Yes, it qualifies as a supply

**Legal Justification:**

As per Section 7(1)(c) read with Schedule I of CGST Act, 2017, supply of goods or services or both between distinct persons as specified in section 25, when made in the course or furtherance of business will be treated as supply even if made without consideration.

As per Section 25(5) of CGST Act, 2017, where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.

Hence, branch transfer of goods worth Rs. 10,00,000 from Goa to Rajasthan will qualify as supply.

**Problem 13: From the following information determine the nature of supply and tax liability.**

**Zakme Ltd. is manufacturer of cosmetic products supplied a package consisting of hair oil (GST Rate – 18%), Sun screen cream (GST Rate – 28%), Shampoo (GST rate – 28%) and hair comb (GST Rate – 12%). The Price per package is 500 (exclusive of taxes). 5,000 packages were supplied by the company to its dealers. Determine the nature of supply and its tax liability.**

**Solution:** This supply would be regarded as mixed supply, since in this case of the goods in the package have individual identity and can be supplied separately, but are deliberately supplied conjointly for a single consolidated price.

As per Section 8, the tax rate applicable in case of mixed supply is the highest amongst the supplies. Therefore, the package will be chargeable to 28% GST.

**The tax liability will be arrived as under:**

Value per package	Rs. 500
No. of packages	5,000
Total Taxable Value	Rs. 25,00,000
Applicable GST Rate	28%
Total Tax liability	Rs. 7,00,000

## QUESTIONS ISSUED BY ICAI

### 1. What is the taxable event under GST?

**ANSWER:**

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

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

**ANSWER:**

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

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

**ANSWER:**

The statement is incorrect. Supplies of all goods and services are taxable except alcoholic liquor for human consumption. Supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas



and aviation turbine fuel shall be taxable with effect from a future date. This date would be notified by the Government on the recommendations of the GST Council.

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

**ANSWER:**

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

**5. Examine whether the following activities would amount to supply under section 7 of the CGST Act:**

- a) **Damodar Charitable Trust, a trust who gets the eye treatment of needy people done free of cost, donates clothes and toys to children living in slum area.**
- b) **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.**
- c) **Raman is an Electronic Commerce Operator 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.**
- d) **Would your answer be different if in the above case, Raman has taken advice in respect of his business unit in Chennai?**

**ANSWER:**

- a) Section 7 of the CGST Act, inter alia, provides that supply must be made for a consideration except the activities specified in Schedule I and in course or furtherance of business. Since, both these elements are missing, donation of clothes and toys to children living in slum area would not amount to supply under section 7 of the CGST Act.
- b) 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.
- c) Schedule I of CGST Act, inter alia, stipulates that import of services by a taxable person from a related person located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business. In the given case, Raman has received legal services from his brother free of cost in a personal matter and not in course or furtherance of business. Hence, services provided by Ramani's brother to him would not be treated as supply under section 7 of the CGST Act.
- d) In the above case, if Raman has taken advice with regard to his business unit, services provided by Ramani's brother to him would be treated as supply under section 7 of the CGST Act as the same are provided in course or furtherance of business though received from a related person.

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

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

**ANSWER:**

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

d) Supply of goods

**7. Determine whether the following supplies amount to composite supplies:**

- a) **A hotel provides 4 days-3 nights package wherein the facility of breakfast and dinner is provided alongwith the room accommodation.**
- b) **A toothpaste company has offered the scheme of free toothbrush alongwith the toothpaste.**

**ANSWER:**

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

- a) since, supply of breakfast and dinner with the accommodation in the hotel are naturally bundled, said supplies qualify as 'composite supply'.
- b) since supply of toothbrush alongwith the toothpaste are not naturally bundled, said supplies do not qualify as 'ecomposite supply'.

**8. Whether goods supplied on hire purchase basis will be treated as supply of goods or supply of services?**

**Give reason.**

**ANSWER:**

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

## CHAPTER 3. CHARGES OF GST

### ADDITIONAL QUESTIONS:

**Problem 1:** Zee Ltd. is a manufacturing concern in Goa. In Financial Year 2017-18 total value of supplies including inward supplies taxed under reverse charge basis are Rs. 1,35,00,000. The break up of supplies are as follows –

Particulars	Rs.
(1) Intra State Supplies made under forward charge	35,00,000
(2) Intra State Supplies made which are chargeable to GST at Nil rate	30,00,000
(3) Intra state Supplies which are wholly exempt under section 11 of CGST Act, 2017	50,00,000
(4) Value of inward supplies on which tax payable under RCM	20,00,000

Briefly explain whether Zee Ltd. is eligible to opt for Composition scheme in Financial Year 2018-19.

**Solution:** A registered person, whose aggregate turnover in the preceding financial year did not exceed Rs. 1,00,00,000, may opt for payment of tax under Composition scheme.

As per Section 2(6) of the CGST Act, 2017, "Aggregate turnover" means the aggregate value of:

- All taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis),
- Exempt supplies,
- Export of goods or services or both, and
- Inter-state supplies of persons having the same Permanent Account Number, to be computed on all India basis, but excludes -
  - Central tax,
  - State tax,
  - Union territory tax,
  - Integrated tax, and
  - Cess.

**Thus, aggregate turnover shall be computed as under:**

#### **Option 1: Computation of Aggregate Turnover:**

Particulars	Rs.
(1) Supplies made under forward charge	35,00,000
(2) Supplies made which are chargeable to GST at Nil rate (covered under exempt supply)	30,00,000
(3) Supplies which are wholly exempt under section 11 of CGST Act, 2017	50,00,000
(4) Value of inward supplies on which tax payable under RCM (specifically excluded)	NIL
<b>Total</b>	<b>1,15,00,000</b>

**OR**

#### **Option 2: Computation of Aggregate Turnover:**

Particulars	Rs.
Total Value of supplies (as given)	1,35,00,000
Less: Value of supplies on which tax is paid under RCM	(20,00,000)

<b>Total</b>	<b>1,15,00,000</b>
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Since, Aggregate turnover exceeds Rs. 1,00,00,000 during the Financial Year 2017-18, Zee Ltd is not entitled for Composition Scheme for Financial Year 2018-19,

**Problem 2: True Ltd. a manufacturing concern in Mumbai has opted for composition scheme furnishes you with the following information for Financial Year 2018-19. It requires you to determine its composition tax liability and total tax liability. In Financial Year 2017-18 total value of supplies including inward supplies taxed under reverse charge basis are Rs. 1,24,00,000. The break up of supplies are as follows –**

Particulars	Rs.
(1) Intra State Supplies of Goods X chargeable @ 5% GST	60,00,000
(2) Intra State Supplies made which are chargeable to GST at Nil rate	18,00,000
(3) Intra state supplies which are wholly exempt under section 11 of CGST Act, 2017	12,00,000
(4) Value of inward supplies on which tax payable under RCM (GST Rate 12%)	25,00,000
(5) Intra State Supplies of Goods Y chargeable @ 18% GST	9,00,000

**Solution:** The composite tax liability of A Ltd. shall be as under:

**(1) Computation of Aggregate Turnover and composite tax:**

Particulars	Rs.
(1) Supplies made under forward charge	60,00,000
(2) Supplies made which are chargeable to GST at Nil rate	18,00,000
(3) Supplies which are wholly exempt under section 11 of CGST Act, 2017	12,00,000
(4) Value of inward supplies on which tax payable under RCM (GST Rate 5%) (not to be included)	
(5) Intra State Supplies of Goods Y chargeable @ 18% GST	NIL
Aggregate turnover	9,00,000
Rate of Composite tax	99,00,000
Total Composite tax	1%
	99,000

**(2) Tax payable under reverse charge basis:**

Particulars	Rs.
Value of inward supplies on which tax payable under RCM	25,00,000
Rate of GST	12%
Tax payable under RCM	3,00,000

Total Tax Payable = Rs. 99,000 + Rs. 3,00,000 = Rs. 3,99,000/-

**Problem 3: PQR Ltd., a manufacturing concern had effected intra-state taxable supply of Rs. 40,00,000 and interstate taxable supply of Rs. 5,00,000 in Financial Year 2017-18. The company wants to opt for composition scheme under Section 10 of CGST Act, 2017. As a GST consultant advise XYZ Ltd. whether it can opt for composition scheme.**

**Solution:** As per section 10(2) of CGST Act, 2017, a manufacturer cannot opt for composition scheme if he is engaged in making any inter-state outward supplies of goods. In this case since PQR Ltd. has effected interstate taxable supply of goods worth Rs. 5,00,000/- hence it cannot opt for composition scheme.

**Problem 4: Mr. A, a manufacturer who keeps no inventories, presents the following expected information for the year –**

**(1) Purchase of goods: Rs. 70 lakhs (GST @ 5%)**

**(2) Sales (at fixed selling price inclusive of all taxes) : Rs. 75 lakhs (GST on sales @ 5%)**

**Discuss whether he should opt for composition scheme if composite tax is 2% of turnover.**

**Expenses of keeping detailed statutory records required under the GST Laws will be Rs. 2,20,000 p.a., The cost of maintaining fewer records shall cost Rs. 80,000 under composition scheme. Other expenses are Rs. 2,00,000 p.a. irrespective of the method of paying tax.**

**Solution: The cost to the ultimate consumer under two schemes is as under:**

Particulars	Normal GST scheme	Composition Scheme*
Cost of goods sold (Since no inventory is maintain, goods purchased are equal to goods sold)	70,00,000	73,50,000
(*No credit under composition scheme, hence, cost of goods sold will be higher)		80,000
<b>Add:</b> Costs of maintaining records		2,00,000
<b>Add:</b> Normal Expenses	2,20,000	76,30,000
Total Costs (A)	2,00,000	
	74,20,000	
Sales (inclusive of all taxes)	75,00,000	75,00,000
<b>Less:</b> Tax (GST = $75 \text{ lakh} \times 5 \div 105$ ); (Composite Tax = $75 \text{ lakh} \times 1\%$ )	3,57,143	75,000
Sales (net of taxes) (B)	71,42,857	74,25,000
<b>Loss of the dealer (Sales, net of taxes – Total Costs) (B-A)</b>	<b>(2,77,143)</b>	<b>(2,05,000)</b>

**Conclusion:** It is now clear that while cost to ultimate consumer under both cases remains same (due to the product being sold at MRP), the loss of the dealer is higher if the dealer opts for normal GST scheme. Hence, composition scheme should be opted.

**Problem 5: Class Ltd. is having two factories. One factory is located in Goa is manufacturing readymade garments and another factory located in Kerala is engaged in manufacture of auto components. The turnover details of Financial Year 2017-18 are as under:**

Particulars	Rs.
(1) Inter-State supply of readymade garments in Goa	28,00,000
(2) Intra-State supply of auto-components in Kerala	18,00,000
<b>Total Value of taxable supplies</b>	<b>46,00,000</b>

**The company wants to opt for composition scheme for factory in Goa and tax at normal rates in Kerala. Advice.**

**Solution:** According to Section 10(2) of CGST Act, 2017, All Registered person having same PAN have to opt for Composition Scheme. If one opts for regular levy for one registered place, others become ineligible for composition levy. Thus, Class Ltd cannot opt for composition scheme in Goa and pay normal tax in Kerala.



**QUESTIONS ISSUED BY ICAI**

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

- a) **Services provided by an arbitral tribunal to any business entity.**
- b) **Sponsorship services provided by a company to an individual.**
- c) **Renting of immovable property service provided by the Central Government to a business entity.**

**ANSWER:**

- a) Since GST on services provided or agreed to be provided by an arbitral tribunal to any business entity located in the taxable territory is payable under reverse charge, in the given case, GST is payable by the recipient - business entity.
- b) GST on sponsorship services provided by any person to any body corporate or partnership firm located in the taxable territory is payable under reverse charge. Since in the given case, services have been provided to an individual, reverse charge provisions will not be attracted. GST is payable under forward charge by the supplier ñ company.
- c) GST on services provided or agreed to be provided by the Central Government, State Government, Union Territory, or local authority to any business entity located in the taxable territory is payable under reverse charge. However, renting of immovable property service is an exception to it. Therefore, in the given case, reverse charge provisions will not be attracted. GST is payable under forward charge by the supplier - Central Government.

**2. Can any person other than the supplier or recipient be liable to pay tax under GST?**

**ANSWER:** Yes, the Government can specify categories of services the tax on which shall be paid by the Electronic Commerce Operator, if such services are supplied through it and all the provisions of the GST law shall apply to such electronic commerce operator as if he is the person liable to pay tax in relation to supply of such services.

For this purpose, services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle and services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration, supplied through ECO have been notified.

**3. A person availing composition scheme in Haryana during a financial year crosses the turnover of Rs. 1 Cr during the course of the year i.e. he crosses the turnover of Rs. 1 Cr in December? Will he be allowed to pay tax under composition scheme for the remainder of the year, i.e. till 31st March?**

**ANSWER:**

No. The option to pay tax under composition scheme lapses from the day on which the aggregate turnover of the person availing composition scheme during the financial year exceeds the specified limit (Rs. 1 Cr). He is required to file an intimation for withdrawal from the scheme in prescribed form within 7 days from the day on which the threshold limit has been crossed.

**4. A hotel owner provided accommodation in Haryana, through an electronic commerce operator - Cool Trips. The hotel owner is not liable to get registered as per the provisions of section 22(1) of the CGST Act. Who is the person liable to pay GST in this case? Would your answer be different if the Electronic Commerce Operator Cool Trips does not have a physical presence in India?**

**ANSWER:**

Government may notify [on the recommendations of the GST Council] specific categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it. Services by way of providing accommodation in hotels through electronic commerce operator is a specified service for said purpose.

Thus, person liable to pay GST in this case is the Electronic Commerce Operator Cool Trips. All the provisions of the GST law shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services.

Cool Trips does not have a physical presence in India, person liable to pay tax is the person representing the Electronic Commerce Operator -Cool Trips for any purpose in India.

**5. Determine whether the supplier in the following cases are eligible for composition levy provided their turnover in preceding year does not exceed Rs. 75 lakh:**

- (i) Mohan is engaged in providing legal services in Rajasthan and is registered in the same State.**
- (ii) Sugam Manufacturers has registered offices in Punjab and Haryana and supplies goods in neighbouring States.**

**ANSWER:**

- (i) A supplier of services engaged in the supplies other than the supplies referred to in clause (b) of paragraph 6 of Schedule II of CGST Act i.e. supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink, is not eligible for composition levy. Since Mohan provides legal services, he is not eligible for composition scheme.
- (ii) Since supplier of inter-State outward supplies of goods is not eligible for composition levy, Sugam Manufacturers is not eligible for composition levy.

**6. Mohan Enterprises has two registered business verticals in Delhi. Its aggregate turnover for the preceding year for both the business verticals was Rs. 70 lakh. It wishes to pay tax under composition levy for one of the vertical in the current year while under normal levy for other vertical. You are required to advice Mohan Enterprises whether he can do so?**

**ANSWER:**

A registered person with an aggregate turnover in a preceding financial year up to Rs. 75 lakh is eligible for composition levy in Delhi. Since the aggregate turnover of Mohan Enterprises does not exceed Rs. 75 lakh, it is eligible for composition levy in the current year.

However, all registered persons having the same Permanent Account Number (PAN) have to opt for composition scheme. If one such registered person opts for normal scheme, others become ineligible for composition scheme. Thus, Mohan Enterprises either have to opt for composition levy for both the verticals or under normal levy for both the verticals.

## CHAPTER 4. EXEMPTION OF GST

### ADDITIONAL QUESTIONS:

**Q1) M/s. ABC Ltd. Is engaged in providing service of transportation of passengers by following modes in the month of November, 2018:**

- (1) Service of transportation of passengers by vessels in National Waterways: Rs. 4,00,000;
- (2) Service of transportation of passengers by Air conditioned Stage carriage: Rs. 25,00,000;
- (3) Service of transportation of passengers by non air conditioned Stage carriage: Rs. 6,00,000;
- (4) Service of transportation of passengers by contract carriage for tourism : Rs. 20,00,000;
- (5) Service of transportation of passengers for Mumbai to Chennai port in a vessel and such service is not for tourism purpose : Rs. 8,50,000;
- (6) Service of transportation of passengers in Metered Cab: Rs. 5,00,000;
- (7) Service of transportation of passengers in Radio Taxis: Rs. 10,00,000;
- (8) Service of transportation of passengers in non-Air conditioned contract carriages Rs. 6,00,000;
- (9) Service of transportation of passengers in Air conditioned contract carriages Rs. 15,00,000.

**Compute the value of taxable supply if all charges are exclusive of GST.**

**SOLUTION: Computation of Value of taxable supply:**

S.No.	Description	Value
1.	Transportation of passengers by national Waterways [since national waterways are covered in definition of inland Waterways – Exempt from GST vide Entry 17 of Notification No. 12/2017-] CT (Rate)]	Nil
2	Transportation of passengers by Air conditioned Stage carriages (Liable to GST)	25,00,000
3	Transportation of passengers by non Air conditioned Stage carriages [Exempt from GST vide Entry 15 of Notification No. 12/2017-] CT (Rate)]	Nil
4	Transportation of passengers contract carriages for tourism (Liable to GST)	20,00,000
5	Transportation of passengers Mumbai to Chennai port in a vessel [Being a public transport in a vessel sailing in India and not for tourism – Exempt from GST vide Entry 17 of Notification No. 12/2017-] CT (Rate)]	Nil
6	Transportation of passenger in Metered Cab [Exempt from GST vide Entry 17 of Notification No. 12/2017-] CT (Rate)]	Nil
7	Service of Transportation of passengers in Radio Taxis (Liable to GST)	10,00,000
8	Service of Transportation of passengers in non Air conditioned carriages [Exempt from GST vide Entry 15 of Notification No. 12/2017-] CT (Rate)]	Nil
9	Service of Transportation of passengers in Air conditioned contract carriages (Liable to GST)	15,00,000
	<b>Value of Taxable Supply</b>	<b>70,00,000</b>

**Q2) “Desai Agro Care Limited” registered under GST furnishes the following details with respect to the activities undertaken by them in the month of March, 2018:**

	<b>Particulars</b>	<b>Rs.</b>
1	Receipts from supply of farm labor	85,000
2	Charges for seed testing	65,000
3	Charges for soil testing of farm land	35,000
4	Charges for warehousing of potato chips	85,000
5	Commission received on sale of wheat	75,000
6	Charges of training of farmer on use of new pesticides and fertilizers developed through scientific research	10,000
7	Renting of vacant land to a stud farm	1,85,000
8	Leasing of vacant land to a cattle farm	83,000
9	Charges for warehousing of rice	1,50,000
10	Charges for warehousing of cotton fabrics	3,50,000
11	Retail packing and labeling of fruits and vegetables	5,00,000

**Compute the value of taxable supply of ‘Desai Agro Care limited’ for the month of March, 2018 if all the above amounts are exclusive of GST.**

**SOLUTION:** Computation of Value of taxable supply-

	<b>Particulars</b>	<b>Rs.</b>
1	Receipts from supply of farm labor [Exempt vide Entry 54 of Exemption Notification No. 12/2017-] CT (Rate)]	Nil
2	Charges for seed testing [Exempt vide Entry 54 of Exemption Notification No. 12/2017-] CT (Rate)]	Nil
3	Charges for soil testing of farm land [Exempt vide Entry 54 of Exemption Notification No. 12/2017-] CT (Rate)]	Nil
4	Charges for warehousing of potato chips [potato chips is not an agricultural produce, hence warehousing of the same be taxable]	85,000
5	Commission received on sale of wheat [Exempt vide Entry No. 54 of Exemption Notification No. 12/2017-] CT (Rate)]	Nil
6	Charges for training of farmers on use of new pesticides and fertilizers developed through scientific research [Exempt vide Entry No. 54 of Exemption Notification No. 12/2017-] CT (Rate)]	Nil
7	Renting of vacant land to a stud farm [The same will be liable for GST as rearing of horses has been specifically excluded from Exemption]	1,85,000
8	Leasing of vacant to a cattle farm [Exempt vide Entry No. 54 of Exemption Notification No. 12/2017-] CT (Rate)]	Nil
9	Charges for warehousing of rice [Exempt vide Entry No. 24 of Exemption Notification No. 12/2017-] CT (Rate)]	Nil
10	Charges for warehousing of cotton fabrics (Liable to GST)	3,50,000
11	Retail packing and labeling of fruits and vegetables [Exempt vide Entry No. 57 of Exemption Notification No. 12/2017-] CT (Rate)]	Nil
	<b>Value of Taxable supply</b>	<b>6,20,000</b>

**Q3) ABC Ltd. is engaged in providing various services to educational institutions and furnishes you with the following information for the month of April 2018. You are required to determine the value of taxable supply and GST payable thereon if all charges are exclusive of GST. The rate of GST is 18%.**

**(1) Renting of immovable property to higher secondary school: Rs. 12,00,000**

- (2) Renting of immovable property to commercial coaching centre: Rs. 2,00,000
- (3) Transportation service provided to students of higher secondary school: Rs. 5,00,000
- (4) Outdoor catering service provided to educational institutions running approved vocational courses: Rs. 5,00,000
- (5) Security services provided to pre-nursery school: Rs. 1,25,000
- (6) House keeping and cleaning service in college providing recognized graduation degree: Rs. 5,12,500
- (7) Conduct of examination of ICSI: Rs. 10,00,000
- (8) Placement service provided to ICAI: Rs. 12,00,000
- (9) Development of course contain of ICMA: institute: Rs. 2,00,000
- (10) Training of staff of higher Secondary School: Rs. 1,50,000

**SOLUTION:** Computation of Value of taxable supply and GST liability –

	<b>Particulars</b>	<b>Rs.</b>
<b>1</b>	Renting of immovable property to higher secondary school (Liable to GST)	12,00,000
<b>2</b>	Renting of immovable property to Commercial coaching centre (Liable to GST)	2,00,000
<b>3</b>	Transportation services provided to students of higher secondary school [Exempt vide Entry No. 66 of Exemption Notification No. 12/2017-] CT (Rate)]	Exempt
<b>4</b>	Outdoor catering service provided to Educational running approved vocational courses [Not covered under Entry 66 of Exemption Notification No. 12/2017-] CT (Rate), hence Liable to GST]	5,00,000
<b>5</b>	Security service provided to pre-nursery school [Exempt vide Entry No. 66 of Exemption Notification No. 12/2017-] CT (Rate)]	Exempt
<b>6</b>	Housekeeping and cleaning service in college providing recognized graduation degree [Not covered under Entry 66 of Notification No. 12/2017-] CT (Rate), hence Liable to GST]	5,12,500
<b>7</b>	Conduct of examination of ICSI [Not covered under Entry 66 of Notification No. 12/2017-] CT (Rate), hence Liable to GST]	Exempt
<b>8</b>	Placement service provided to ICAI [Liable to GST]	12,00,000
<b>9</b>	Development of course contain of ICMA institute [Liable to GST]	2,00,000
<b>10</b>	Training of staff of higher secondary School [Not covered under Entry 66 of Notification No. 12/2017-] CT (Rate), hence Liable to GST]	1,50,000
	<b>Total Taxable Value of Supply</b>	<b>39,62,500</b>
	<b>GST payable @ 18%</b>	<b>7,13,250</b>

**Q4) Jain Ltd., providing educational services, furnishes you with the following information for the various service provided by it. It has collected an aggregate sum of Rs. 30 lakhs during the month ended 30-09-2017 as under –**

1. Receipts of 'Gyan Vijay' an industrial training institute (ITI) affiliated to the National council for vocational Training (NCVT): Rs. 1.2 lakhs
2. Receipts of 'GE Educare' a vocational educational provider affiliated to sector Skill Council formed under National Skill Development Corporation (NSDC): Rs. 1.8 lakhs
3. Receipts of 'Kalyan Skill Centre' an industrial training centre (ITC) affiliated to the state Council for vocational Training, Rajasthan: Rs. 2 lakhs



4. Receipts of 'Vision', an institute, registered with Directorate General of Employment and Training (DGET), Union Ministry of Labour and Employment, running a Modular Employable Skill Course (MESC) approved by the National Council coaching Training: Rs. 1 lakhs
5. Receipts of 'Scintech a Commercial Coaching institute providing commercial coaching in the field of arts and science: Rs. 0.8 lakhs (no certificate was issued on completion of the training)
6. Receipts of 'Commerce concepts' a Commercial coaching institute providing coaching in the field of commerce: Rs. 1.2 Lakhs (a certificate was awarded to each trainee after completion of the training)
7. Receipts of Gurukul school providing education upto higher secondary: Rs. 6 lakhs
8. Receipts of 'Play Kids' school providing educational upto primary level: Rs. 11 lakhs (such receipts includes receipts from renting of premises to commercial coaching centre: Rs. 3 lakhs)

Compute the value of taxable supply and GST payable thereon. All the amounts are exclusive of GST. Rate of GST – 18%.

**SOLUTION:** Computation of Value of taxable supply and GST liability –

Particulars	Rs
<b>Total Receipts</b>	30,00,000
<b>Less: Receipts of 'Gyan Vijay' an industrial training institute (ITI) affiliated to the National Council for Vocational Training (NCV), are not liable to GST, since the same are [Exempt vide Entry 66 of Notification No. 12/2017- CT (Rate).</b>	-1,20,000
<b>Less: Receipts of 'GE Educare' a vocational education provider affiliated to sector Skill Council formed under National Skill Development (NSDC) are exempt. (Entry 60)</b>	-1,80,000
<b>Less: Receipts of 'Kalyan Skill Centre' an industrial training centre (ITC) affiliated to the state council for Vocational Training, Rajasthan, not liable to GST, since the same are exempt vide Entry 66 of Notification No. 12/2017- CT (Rate).</b>	-2,00,000
<b>Less: Receipts of 'Vision', an institute, registered with Directorate General of Employment and Training (DGET), Union Ministry of Labour and Employment, running a Modular Employable Skill Course (MESC) approved by the National Council of Vocational Training – not liable to GST, since the same is exempt vide Entry 70 of Notification No. 12/2017- CT (Rate).</b>	-1,00,000
<b>Less: Receipts of 'Scintech' a commercial coaching institute providing commercial coaching in the field of arts and science shall be liable for GST.</b>	Taxable
<b>Less: Receipts of 'Commerce concepts a Commercial coaching institute providing coaching in the field of commerce shall be liable for GST irrespective of the fact that a certificate was awarded to each trainee after completion of the training.</b>	Taxable
<b>Less: Receipts of Gurukul School providing education upto higher secondary shall are exempt vide Entry 66 of Notification No. 12/2017- CT (Rate).</b>	-6,00,000
<b>Less: Receipts of 'Play Kids' school providing education upto primary level i.e Rs. 8 lakhs are exempt vide Entry 66 of Notification No. 12/2017- CT (Rate). However, receipts from renting of premises by the school to commercial coaching centre shall be liable for GST</b>	-8,00,000
<b>Total Taxable Value of Supply</b>	<b>10,00,000</b>
<b>GST payable @ 18%</b>	<b>1,80,000</b>

**Q5) Wellness Nursing Home received the following amounts in the month of November in lieu of various service rendered by it in the same month. You are required to determine in GST liability for November from the details furnished below:**

	<b>Particulars</b>	<b>Rs.</b>
1	Palliative care for terminally ill patient's home (palliative care is given to improve the quality of life of patients who have a serious or life-threatening disease but the goal of such care not to cure the disease)	30
2	Service provide by cord blood bank unit of the nursing by way of preservation of stem cells	24
3	Hair transplant service	100
4	Ambulance service to transport critically ill patients from various locations to nursing home	12
5	Naturopathy treatments. Such treatment is a recognized system of medicine in terms of Section 2(h) of the Clinical Establishment Act, 2010	80
6	Plastic surgery to restore anatomy of a child affected due to an accident	30
7	Pranic healing treatments. Such treatment is not a recognized system of medicine in terms of section 2 (h) of the clinical Establishments Act,2010	120
8	Mortuary service	10

**SOLUTION:** All the amounts given above are exclusive of GST. Rate of GST – 18%

	<b>Particulars</b>	<b>Rs. in lakhs</b>
1	Palliative care for terminally ill patient's home	-
2	Service provided by cord blood bank way of preservation of stem cells	-
3	Hair transplant service	100.00
4	Ambulance service to transport critically ill patient from various locations to nursing home	-
5	Naturopathy treatments	-
6	Plastic surgery to restore anatomy of a child affected due to an accident	-
7	Pranic surgery to restore anatomy of a child affected due to an accident	120.00
8	Mortuary services	-
	<b>Total Taxable Value of Supply</b>	<b>220.000</b>
	<b>GST payable @ 18%</b>	<b>39.60</b>

### **QUESTIONS ISSUED BY ICAI FOR GST**

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

**ANSWER:**

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

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

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

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

**ANSWER:**

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

Since Ms. Ahana Kapoor is the brand ambassador of 'Forever Young' soap manufactured by RXL Pvt. Ltd., the services rendered by her by way of a classical dance performance in the concert organized by RXL Pvt. Ltd. to promote its brand will not be eligible for the above-mentioned exemption and thus, be liable to GST. The fact that the proceeds of the concert will be donated to a charitable organization will not have any bearing on the eligibility or otherwise to the above-mentioned exemption.

**3. Determine taxable value of supply under GST law with respect to each of the following independent services provided by the registered persons:**

Particulars	Gross amount charged (Rs.)
Fees charged for yoga camp conducted by a charitable trust	50,000
Amount charged by business correspondent for the services provided to the rural branch of a bank with respect to Savings Bank Accounts	1,00,000
Amount charged by cord blood bank for preservation of stem cells	5,00,000
Amount charged for service provided by commentator to a recognized sports body	5,20,000

**ANSWER:**

Computation of value of taxable supply

Particulars	(Rs.)
Fees charged for yoga camp conducted by a charitable trust [Note-1]	Nil
Amount charged by business correspondent for the services provided to the rural branch of a bank with respect to Savings Bank Accounts [Note-2]	Nil
Amount charged by cord blood bank for preservation of stem cells [Note-3]	Nil
Service provided by commentator to a recognized sports body [Note-4]	5,20,000

Notes:

- Services by an entity registered under section 12AA of the Income-tax Act, 1961 by way of charitable activities are exempt from GST. The activities relating to advancement of yoga are included in the definition of charitable activities. So, such activities are exempt from GST.
- Services by business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch have been exempted from GST.
- Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation are exempt from GST.
- Services provided to a recognized sports body only by an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body are exempt from GST. Thus, services provided by commentators are liable to GST.

**4. Examine whether GST is exempted on the following independent supplies of services:**

- Service provided by a private transport operator to Scholar Boys Higher Secondary School in relation to transportation of students to and from the school.
- Services provided by way of vehicle parking to general public in a shopping mall.

**ANSWER:**

- Yes. Services provided TO an educational institution by way of transportation of students are exempted from GST.
- No. Services provided by way of vehicle parking to general public are not exempted from GST. Therefore, GST is payable on the same.

**5. Discuss whether GST is payable in respect of transportation services provided by Raghav Goods Transport Agency in each of the following independent cases:**

Customer	Nature of services provided	Amount charged
A	Transportation of milk	Rs. 20,000

B	Transportation of books on a consignment transported in a single goods carriage	Rs. 3,000
C	Transportation of chairs for a single consignee in the goods carriage	Rs. 600

**ANSWER:**

Customer	Nature of services provided	Amount charged	Taxability
<b>A</b>	Transportation of milk	Rs. 20,000	Exempt. Transportation of milk by goods transport agency is exempt.
<b>B</b>	Transportation of books on a consignment transported in a single goods carriage	Rs. 3,000	GST is payable. Exemption is available for transportation of goods only where the consideration for transportation of goods on a consignment transported in a single goods carriage does not exceed Rs. 1,500.
<b>C</b>	Transportation of chairs for a single consignee in the goods carriage	Rs. 600	Exempt. Transportation of goods where consideration for transportation of all goods for a single consignee does not exceed Rs. 750 is exempt.

**6. When exemption from whole of tax collected on goods or services or both has been granted absolutely, can a person pay tax?****ANSWER:**

No, the person supplying exempted goods or services or both shall not collect the tax in excess of the effective rate.

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## CHAPTER 5. PLACE OF SUPPLY

### ADDITIONAL QUESTIONS:

**Problem 1:** Determine the location of the recipient of service in following cases:

**1. Mr. M with registered place of business in Goa and having other fixed establishments at Ahmedabad, Aurangabad, Lucknow enters into agreement with Mr. P in Goa for IT solutions for his offices. The services are received in Goa and then the same is utilised by all the other offices.**

**2. What would your answer be in the above case if Mr. M enters into agreement at Aurangabad for receiving IT solutions at Aurangabad.**

**3. What would your answer be in case agreement though entered into at Goa, but service is received at Ahmedabad.**

**Solution:**

1. As per **Section 2(14)(a)**, since the service has been received at the registered place of business i.e. Goa, the location of the recipient shall be Goa even though the beneficiary of the services are all the four offices.
2. As per Section 2(14)(b), if the services is received at a fixed establishment (here, Aurangabad), then the location of the fixed establishment shall be the location of the recipient. In this case, the location of the recipient shall be Aurangabad.
3. As per Section 2(14)(c), If the agreement is entered into at Goa, but the service is received at Ahmedabad, then in this case since service are received at multiple establishments, the establishment most directly concerned with the receipt of supply shall be the location of the recipient of service. Here, the location of the recipient shall be Ahmedabad.

Section 2(14) of the IGST Act. Under the CGST Act, the same definition is covered under section 2(70).

**Problem 2:** ABC Ltd. of Mumbai receives order from PQR Ltd. of Hyderabad, for supply of certain goods. The price quoted by ABC Ltd. being inclusive of freight. ABC Ltd. arranges for the transportation of the goods to Hyderabad. The delivery of goods is taken by PQR Ltd. at Hyderabad. Determine the place of supply of goods. Would your answer be different if PQR Ltd. has arranged the transport of goods which are delivered to it by transporter in Hyderabad.

**Answer:** As per Section 10(1)(a) of IGST Act, 2017, where the supply involves movement of goods, whether by the supplier or by the recipient or by any other person, the place of supply shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient. Since the movement of the goods is terminating in Hyderabad, the place of supply of goods shall be at **Hyderabad**.

If the transportation costs were agreed to be borne by the purchaser PQR Ltd., and the transportation of the goods is arranged through a transporter say 'V', the movement of the goods takes place at the direction of the purchaser, but since the movement of the goods terminate for delivery to the recipient at Hyderabad, therefore, the place of supply shall be Hyderabad. Thus, the answer will remain same.

- (b) where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person;**

**Problem 3:** M/s 'N' of Nagaland places order on M/s. 'C' of Nagaland for delivery of certain goods. M/s. 'N' directs M/s. 'C' to deliver the goods to M/s. 'I' in Kashmir, and M/s. 'C' arranges for transportation of the goods to M/s. 'I' in Kashmir. What will be the place of supply of goods.

**Solution:** In this case, the 3 parties involved are:

- (1) Supplier – M/s. 'C';
- (2) First Buyer – M/s. 'N' (the third person who is not the actual recipient); and
- (3) Actual Recipient – M/s. 'I'.

Here, though the actual delivery of goods takes place in Kashmir, but as per Section 10(1)(b) of the IGST Act, 2017, the goods are deemed to have been received by the third person on whose direction the goods have been delivered, i.e. M/s. 'N' and therefore the place of supply of the goods shall be Nagaland, (where N has his principal place of business).

**Problem 4: From the following information determine the place of supply of goods as per Section 10(1)(b) of IGST Act, 2017, where the goods are delivered by the supplier to a recipient on the direction of a third person during the course of movement of goods.**

Supplier and his location	Location of the buyer (third person)	Recipient and his location	Actual Place of delivery of the goods
C Ltd. Jammu	Q Ltd. Jammu	Z Ltd. Mizoram	Mizoram
C Ltd. Jammu	Z Ltd. Mizoram	Q Ltd. Jammu	Jammu
C Ltd. Jammu	N Ltd. Goa	Z Ltd. Mizoram	Mizoram
C Ltd. Jammu	Z Ltd. Mizoram	P Ltd. Mizoram	Mizoram

**Solution:** The place of supply of goods shall be determined as under –

Supplier and his location	Location of the buyer (third person)	Recipient and his location	Actual Place of delivery of the goods	Place of Supply (As per Section 10(1)(b) shall be the principal place of business of third person i.e. buyer)
C Ltd. Jammu	Q Ltd. Jammu	Z Ltd. Mizoram	Mizoram	Jammu
C Ltd. Jammu	Z Ltd. Mizoram	Q Ltd. Jammu	Jammu	Mizoram
C Ltd. Jammu	N Ltd. Goa	Z Ltd. Mizoram	Mizoram	Goa
C Ltd. Jammu	Z Ltd. Mizoram	P Ltd. Mizoram	Mizoram	Mizoram

- (c) where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient;

**Problem 5: Mr. N of Mumbai went to Kolkata on vacation. He purchased laptop from shop located in Kolkata. Determine place of supply.**

**Solution:** As per Section 10(1)(c) of the IGST Act, 2017, where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient. In this case the laptop is purchased from a show room in Kolkata, the supply is complete in the showroom itself by delivery to Mr. N and the place of supply will be Kolkata even if Mr. N comes from Mumbai.

**Problem 6: Mr. X, of Rajasthan has a godown in Pune, Maharashtra. Mr. Y of Rajasthan approaches Mr. X for purchase of goods lying at godown in Pune and takes delivery of goods from the Pune godown. Mr. X issues an invoice for sale of goods at his principal place of business in Rajasthan. Determine the place of supply of goods.**

**Solution:** As per Section 10(1)(c) of IGST Act, 2017, where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient. Thus, the place of supply of goods shall be Pune, Maharashtra, although both Mr. X and Mr. Y are located in Rajasthan.

- (d) where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly;

**Problem 7:** Mr. V located in Goa places order on Mr. K of Goa for installation of air-conditioner at his factory in Punjab. Mr. K procures the various parts of the machinery from different states and arranges for installation of the same in V's factory at Punjab. Determine the place of supply of machine.

**Solution:** As per Section 10(1)(d) of IGST Act, 2017, where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly. In this case the place of supply shall be the place where the air-conditioner is installed, i.e. Punjab even though V and K are both located in Goa.

**Problem 8:** Determine place of supply of goods in the following cases and also state the nature of supply:

Supplier and his location	Recipient and his location	Place of assembly / installation of goods
R Ltd. Mumbai	Z Ltd. Mumbai	Kochi
R Ltd. Mumbai	Q Ltd. Mumbai	Jodhpur
R Ltd. Mumbai	A Ltd. Jodhpur	Ahmednagar
R Ltd. Mumbai	Q Ltd. Mumbai	Chennai

**Solution:** The place of supply shall be determined as under:

Supplier and his location	Recipient and his location	Place of assembly / installation of goods	Place of supply
R Ltd. Mumbai	Z Ltd. Mumbai	Kochi	Kochi
R Ltd. Mumbai	Q Ltd. Mumbai	Jodhpur	Jodhpur
R Ltd. Mumbai	A Ltd. Jodhpur	Ahmednagar	Ahmednagar
R Ltd. Mumbai	Q Ltd. Mumbai	Chennai	Chennai

- (e) where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken onboard.

**Problem 9:** Y Ltd. of Goa entered into contract with the airlines authority for the supply of food packets to the passengers flying in Goa – Kolkata route. Aircraft commenced the journey from Goa. The goods were loaded on board the aircraft in Vishakhapatnam. Determine the place of supply of goods.

**Solution:** As per Section 10(1)(e), when the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board. In present case the place of supply shall be the place of loading of goods on board the aircraft i.e. Vishakhapatnam, irrespective of the place of commencement or destination of aircraft.

**Problem 10:** Determine place of supply in independent cases as under:

1. XYZ Ltd. of Cuttack contracts with a Cuttack based architect to design a structure for their new office to be located in Delhi.

2. Mr. Zee of Chennai entered into a lease agreement with Mrs. See of Chennai whereby he leased out his farm in Orissa to Mrs. See.

3. Mr. Zee an employee of PC Ltd. Goa, goes on an official tour to Punji and stays in a hotel there, booked in the name of his company.

**4. Mr. X of Bangaluru arranged for destination based theme wedding of his son at Ajmer (Rajasthan) he booked a resort at Ajmer for the accommodation of his guests. Apart from providing the resort for the marriage purpose, decoration was also provided.**

**5. The contractor M/s. PQR of Indore sub-contracted the work of construction of the building at Kochi to M/s. XYZ of Bangaluru, to complete the work as per the drawing and design of the Architect.**

**6. PC Ltd. of Bangaluru, hires a professional firm of Kochi to design its office in New York.**

**Solution:** The place of supply of services shall be determined as under –

S.No.	Situation	Place of supply	Legal Justification
1.	XYZ Ltd. Cuttack contracts with a Cuttack based architect to design a structure for their new office in Delhi.	Delhi	Though the supplier of service and the recipient are both located in Cuttack, place of supply would be the place where the immovable property is intended to be located i.e. Delhi.
2.	Mr. Zee of Chennai entered into a lease agreement with Mrs. See of Chennai whereby he leased out his farm in Orissa to Mrs. See	Orissa	Though the supplier and the recipient are both located in Chennai but any service provided by way of grant of rights to use any immovable property is covered under Section 12(3), therefore, the place of supply in this case shall be the location of the immovable property is located, in this case being Orissa.
3.	Mr. Zee an employee of PC Ltd. Goa, goes on an official tour to Punji and stays in a hotel there, booked in the name of his company.	Punji	This being an accommodation service is covered under Section 12(3) of the IGST Act, 2017 and accordingly, the place of supply shall be the
			location of the immovable property (Hotel in this case). The location of the supplier and the receiver is irrelevant.
4.	<p><b>Supply 1:</b> Mr. X of Bangaluru arranged for destination based theme wedding of his son at Ajmer (Rajasthan). He booked a resort at Ajmer for the accommodation of his guests.</p> <p><b>Supply 2:</b> Apart from providing the resort for the marriage purpose, decoration was also provided.</p>	Ajmer – Rajasthan (for Supply 1 and supply 2 both)	<p><b>Supply 1:</b> The place of supply of service for accommodation provided for organizing the destination based theme marriage is governed by Section 12(3)(c). Hence, the place of supply shall be the place of location of the resort i.e. Ajmer (Rajasthan).</p> <p><b>Supply 2:</b> The provision of service of decorator, being ancillary to the services of organizing the marriage is covered by Section 12(3)(d) of the IGST Act, 2017, hence the place of supply shall be the place of location of the immovable property.</p>

5.	The contractor M/s. PQR of Indore sub-contracted the work of construction of the building at Kochi to M/s. XYZ of Bangaluru, to complete the work as per the drawing and design of the Architect.	Kochi	The main contractor, M/s. PQR is merely coordinating with the sub-contractor M/s XYZ to ensure timely completion of construction work. Hence, both these supplies i.e. construction activity undertaken by M/s. XYZ and the co-ordination of construction work undertaken by M/s. PQR are covered under Section 12(3)(a), hence place of supply shall be the place where the immovable property is located i.e. Kochi.
6.	PC Ltd. of Bangaluru, hires a professional firm of interior decorators of Kochi to design its office in New York.	Bangaluru	Since the immovable property is intended to be located outside India, therefore, as per proviso to Section 12(3) of the IGST Act, 2017, the place of supply shall be the location of the recipient of service, here – Bangaluru being the location of PC Ltd.

**Problem 11: SRT Ltd. of Goa has entered into a contract with IPL Sports Ltd. of Delhi for Sports and performance appraisal of its employees. The services were performed at CCI, Delhi of IPL Sports Ltd. Determine the Place of supply of services in case SRT Ltd. is registered in Goa. What would your answer be in case SRT Ltd. is unregistered recipient.**

**Solution:** As per Section 12(5), the place of supply of services in relation to training and performance appraisal, to –

- (a) a registered person, shall be the location of such person;
- (b) a person other than a registered person, shall be the location where the services are actually performed.

Thus, when SRT Ltd. is registered the place of supply of services shall be Goa. When SRT Ltd. is unregistered the place of supply will be Delhi.

**Problem 12: Auditions of music show were held at Delhi, where the judges of the music and dance firm registered in Tamil Nadu were sent to appraise the performance of the young aspirants. Determine the place of supply of performance appraisal services.**

**Solution:** As per Section 12(5), the place of supply of services in relation to training and performance appraisal to, an unregistered person, shall be the location where the services are actually performed. Here, the place of supply of service shall be the location of the performance of activity (Delhi) as the participants are unregistered.

**Problem 13: Ms. Zee, of Delhi purchased online tickets for the Water Kingdom water park in Mumbai. Determine the place of supply.**

**Solution:** According to Section 12(6), the place of supply of services provided by way of admission to a cultural, artistic, sporting, scientific, educational, entertainment event or amusement park or any other place and services ancillary thereto shall be the place where the event is actually held or where the park or such other place is located. Therefore, in this case, the Place of supply shall be Mumbai.

**Problem 14: Ms. C of Telangana, booked online for the Tiger Safari at the Ranthambor National Park and hired a jeep to be taken around for the safari. Determine the place of supply for the services.**

**Solution:** Here, there were two kinds of supply of services –

1. Admission to the park and



## 2. Hiring of the jeep.

As per Section 12(6), the place of supply of services by way of admission to an amusement park or any other place shall be the location of the park, in this case, Ranthambor (Rajasthan). The service of hiring of the jeep is ancillary to the service of admission to the park as the same is provided to make the visit more enjoyable and comfortable. Hence, the provisions of Section 12(6) shall also apply thereon and the place of supply shall be the place of location of the park i.e., Ranthambor (Rajasthan).

**Problem 15: Saas Fashions Ltd. an Indian fashion designing company registered in Mumbai hosts a fashion show at Melbourne, Australia. The firm receives the services of JKL Ltd. of Goa for organizing the event. Determine the place of supply of services provided by JKL Ltd.**

**Solution:** As per Section 12(7) of IGST Act, 2017, the place of supply of services provided by way of organisation of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of services in relation to a conference, fair, exhibition, celebration or similar events to a registered person, shall be the location of such person. Thus, in this case, though the service is received outside India, since service recipient is registered person, the place of supply shall be the location of the recipient, here Mumbai.

**Problem 16: Mrs. Z of Raipur who is not a registered person hires the services of M/s ABC an event management company registered in Raichur, for organizing the marriage ceremony of her daughter at marriage garden in Raichur. Determine place of supply of services provided by ABC Ltd. What would your answer be in case marriage takes place in Amsterdam.**

**Solution:** As per Section 12(7) of IGST Act, 2017, the place of supply of services provided by way of organisation of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of services in relation to a conference, fair, exhibition, celebration or similar events to a person other than a registered person, shall be the place where the event is actually held and if the event is held outside India, the place of supply shall be the location of the recipient.

Since Mrs. Z is not a registered person, the place of supply shall be the place where the event is held, here as the marriage ceremony is held in Raichur, therefore, place of supply shall be Raichur. In this case, the location of the supplier and the location of the recipient are completely irrelevant.

If the marriage ceremony is organised in Amsterdam, then the place of supply would have been the location of the recipient. Since Mrs. Z resides in Raipur, therefore, the place of supply shall be Raipur.

**Problem 17: The All India Scientists Association (AISA) registered in Goa, contracted with event managers M/s. BA Ltd. of Kochi for organising the National seminar of scientists at Gugugram and the highly esteemed real estate company XYZ Ltd. of Delhi offered sponsorship for the seminar. Mr. A, a scientist from Chennai paid for the fees to attend the seminar at the Goa office of the AISA. Determine the place of supply of the various services supplied herein.**

**Solution:** The place of supply shall be determined as follows:

Service supplied	Supplier	Recipient	Place of supply	Reason
Organisation of the event	BA Ltd. of Kochi	AISA of Goa	Goa	As per Section 12(7), where services are supplied by way of organisation of an event to a registered person, the place of supply shall be the location of such person.
Assigning of sponsorship	AISA Goa	XYZ Ltd. Delhi	Delhi	As per Section 12(7), where the any ancillary services are supplied to a registered person for assigning sponsorship to such events, the place of supply shall be the location of such person.

Admission to the event	AISA Goa	Mr. A of Chennai	Gurugram	As per Section 12(6), in case of services provided by way of admission to an event, the place of supply shall be the place where the event is actually held.
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**Problem 18:** ZYQ Goods transportation agency located in Punjab provides services to JKL Ltd. registered in Gurgaon. A consignment of new motorcycles from the factory of JKL Ltd. in Punji (Goa) is transported to its depot in Indore, Madhya Pradesh. Determine place of supply of transportation of goods service.

**Solution:** As per Section 12(8) of IGST Act, 2017, the place of supply of services by way of transportation of goods, including by mail or courier to a registered person, shall be the location of such person. In this case since JKL Ltd. is located in Goa, the place of supply shall be Goa.

**Problem 19:** Mr. C of Jamshedpur has availed services of Mumbai Transport Company of Mumbai for transport of goods from his house in Kota (Rajasthan) to Mumbai. Determine place of supply of goods transport services.

**Solution:** As per Section 12(8), the place of supply of services by way of transportation of goods, including by mail or courier to a person other than a registered person, shall be the location at which such goods are handed over for their transportation. In this case since the goods are handed over to transporter in Kota, the place of supply shall be Kota.

**Problem 20:** Mr. S, partner of M/s. ALO Chartered Accountants, a firm registered in Chennai, went to Delhi for audit purposes. He purchased from Goa Airlines [registered in Punji (Goa)] air ticket from Goa to Delhi disclosing the name of the organisation and its GST Registration number. Determine the place of supply of service. What would your answer be in case Mr. S does not disclose the particulars of organisation.

**Solution:** As per Section 12(9) of IGST Act, 2017, the place of supply of passenger transportation services to, -

- (a) a registered person, shall be the location of such person;
- (a) a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey.

Here, since the organisation is registered in Chennai, therefore as per Section 12(9)(a), the place of supply shall be the place where the recipient is located i.e. Chennai in this case. The airlines shall charge IGST as the location of supplier is in Goa.

In case Mr. S does not disclose the particulars of the organisation, the place of supply of services will be Goa i.e. the place where Mr. S embarks the aircraft for this journey. Here the airlines shall charge CGST/SGST.

**Problem 21:** Mr. X residing in Mumbai travelling with Indian Airlines is provided with the movie-on-demand service as on-board entertainment during the Delhi-Mumbai leg of a Singapore-Delhi-Mumbai flight. Determine the place of supply provided to Mr. X.

**Solution:** As per Section 12(10), the place of supply of services on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, shall be the location of the first scheduled point of departure of that conveyance for the journey. The place of supply of this service will be Singapore (i.e. the first scheduled point of departure of the conveyance for the journey) which is outside the taxable territory, hence not liable to tax.

**Problem 22:**

1. Mr. Q has availed land-line services from MTNL registered in Delhi. The telephone is installed in residential premises in Mumbai and the billing address is of office of Mr. Q in Delhi.

2. Mr. Q has availed post-paid mobile services from MTNL registered in Delhi. Mr. Q is registered under GST law in Delhi but the billing address is of residential premises of Mr. Q in Mumbai.

**3. Mr. Q has purchased pre-paid mobile vouchers of MTNL registered in Delhi through internet banking. Mr. Q is registered under GST law in Delhi but in MTNL's records the address of Mr. Q is that of his residence in Mumbai.**

**Solution:**

1. As per Section 12(11)(a), the place of supply of telecommunication services by way of fixed telecommunication line shall be the location where the telecommunication line is installed for receipt of services. In this case though the billing address is in Delhi but the place of supply services shall be Mumbai i.e. the place where the telephone line is installed.
2. As per Section 12(11)(b), the place of supply of services by way of mobile connection for telecommunication provided on post-paid basis shall be the location of billing address of the recipient of services on the record of the supplier of services. In this case, since the billing address of the recipient is in Mumbai, the place of supply shall be in Mumbai.
3. As per Section 12(11)(c), the place of supply of services by way of mobile connection for telecommunication provided on pre-paid basis shall be the location of billing address of the recipient of services on the record of the supplier of services if such pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment. In this case since address of Mr. Q as per MTNL's record is that of Mumbai, the place of supply shall be Mumbai.

**Problem 24: Mr. P, registered person of Delhi buys shares form a broker in Mumbai on BSE (in Mumbai). What will be the place of supply?**

**Solution:** As per Section 12(12), The place of supply of banking and other financial services, including stock broking services to any person shall be the location of the recipient of services on the records of the supplier of services: . Hence, The place of supply shall be the location of the recipient of services on the records of the supplier of services. So Delhi shall be the place of supply.

**Problem 25: A person from Kochi goes to Lonavla-Khandala and avails of some services from ICICI Bank in Khandala. What will be the place of supply?**

**Solution:** As per proviso to Section 12(12), if the location of recipient of services is not on the records of the supplier, the place of supply shall be the location of the supplier of services. In this case since, the service is not linked to the account of the person, place of supply shall be Khandala i.e. the location of the supplier of services. However, if the service is linked to the account of the person, the place of supply shall be Kochi, the location of recipient on the records of the supplier.

**Problem 26: A person from Patna travels by Air India flight from Kochi to Delhi and gets his travel insurance done in Kochi. What will be the place of supply?**

**Solution:** As per Proviso clause to Section 12(13), since Mr. A is an unregistered person, the location of the recipient of services on the records of the supplier of insurance services shall be the place of supply. So Patna shall be the place of supply.

## **QUESTIONS ISSUED BY ICAI FOR GST**

**1. What is the place of supply where goods are removed?**

**ANSWER:**

As per section 10 (1)(a) of the IGST Act, the place of supply of goods is the location of the goods at the time at which the movement of goods terminates for delivery to the recipient.

**2. What will be the place of supply if the goods are delivered by the supplier to a person on the direction of a third person?**

**ANSWER:**

As per section 10(1)(b) of the IGST Act, it would be deemed that the third person has received the goods and the place of supply of such goods will be the principal place of business of such person.

**3. What is the place of supply where the goods or services are supplied on board a conveyance, such as a vessel, an aircraft, a train or a motor vehicle?****ANSWER:**

As per section 10(1)(e) of the IGST Act, in respect of goods, the place of supply is the location at which such goods are taken on board.

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

**4. The place of supply in relation to immovable property is the location of immovable property. Suppose a road is constructed from Delhi to Mumbai covering multiple states. What will be the place of supply of construction services?****ANSWER:**

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

**5. What would be the place of supply of services provided by an event management company for organizing a sporting event for a Sports Federation which is held in multiple States?****ANSWER:**

In case of an event, if the recipient of service is registered, the place of supply of services for organizing the event is the location of such person.

However, if the recipient is not registered, the place of supply is the place where event is held. Since the event is being held in multiple states and a consolidated amount is charged for such services, the place of supply will be taken as being in each state in proportion to the value of services so provided in each state [Explanation to section 12(7) of the IGST Act].

**6. What is the place of supply of goods services by way of transportation of goods, including mail or courier?****ANSWER:****In case of domestic supply:**

If the recipient is registered, the location of such person is the place of supply. However, if the recipient is not registered, the place of supply is the place where the goods are handed over for transportation [Section 12(8) of the IGST Act].

**In case of international supply:**

The place of supply of transport services, other than the courier services, is the destination of goods. For courier, the place of supply of services is where location of Recipient → General Provision. However, if the courier services are performed even partially in India, the place of supply is deemed as India [Section 13(2), 13(6) and 13(9) of the IGST Act].

**7. What will be the place of supply of passenger transportation service, if a person travels from Mumbai to Delhi and back to Mumbai?****ANSWER:**

If the person is registered, the place of supply will be the location of recipient. If the person is not registered, the place of supply for the forward journey from Mumbai to Delhi will be Mumbai, the place where he embarks [Section 12(9) of IGST Act].

However, for the return journey, the place of supply will be Delhi as the return journey has to be treated as separate journey [Explanation to section 12(9) of the IGST Act].

**8. What is the place of supply for mobile connection? Can it be the location of supplier?****ANSWER:**

**For domestic supplies:**

The location of supplier of mobile services cannot be the place of supply as the mobile companies are providing services in multiple states and many of these services are inter-state. The consumption principle will be broken if the location of supplier is taken as place of supply and all the revenue may go to a few states where the suppliers are located. The place of supply for mobile connection would depend on whether the connection is on postpaid or prepaid basis. In case of postpaid connections, the place of supply is the location of billing address of the recipient of service. In case of pre-paid connections, the place of supply is the place where payment for such connection is received or such pre-paid vouchers are sold. However, if the recharge is done through internet/e-payment, the location of recipient of service on record will be taken as the place of service.

**For international supplies:**

The place of supply of telecom services is the location of the recipient of service

**9. A person from Mumbai goes to Kullu-Manali and takes some services from ICICI Bank in Manali. What is the place of supply?**

**ANSWER:**

If the service is not linked to the account of person, place of supply will be Kullu i.e., the location of the supplier of services. However, if the service is linked to the account of the person, the place of supply will be Mumbai, the location of recipient on the records of the supplier.

**10. An unregistered person from Gurugram travels by Air India flight from Mumbai to Delhi and gets his travel insurance done in Mumbai. What is the place of supply of insurance services?**

**ANSWER:**

When insurance service is provided to an unregistered person, the location of the recipient of services on the records of the supplier of insurance services is the place of supply. So Gurugram is the place of supply [Section 12(13) of the IGST Act].

## CHAPTER 6. TIME OF SUPPLY

### ADDITIONAL QUESTIONS:

**Problem 1:** Determine the Time of supply in each of the following independent cases in accordance with provisions of the CGST Act, 2017 in case supply involves movement of goods.

Sl. No.	Date of Removal	Date of Invoice	Date when goods made available to recipient	Date of receipt of payment
1.	05/10/2017	06/10/2017	07/10/2017	21/11/2017
2.	07/10/2017	05/10/2017	03/10/2017	27/11/2017
3.	08/11/2017	06/11/2017	02/11/2017	31/10/2017

**Solution:** As per Section 12(2) of the CGST Act, the time of supply is the **Earliest** of:-

1. Date of issue of invoice
2. Last date on which invoice is required to be issued u/s 31 i.e. on/before date of removal.

Applying the above provisions to the given question, Time of supply for the independent cases are:-

Particulars	Case 1	Case 2	Case 3
Date of Invoice	06/10/2017	05/10/2017	06/11/2017
Date of Removal [Last date u/s 31(1)]	05/10/2017	07/10/2017	08/11/2017
Date when goods made available to recipient	07/10/2017	03/10/2017	02/11/2017
Date of receipt of payment	21/11/2017	27/11/2017	31/10/2017
Time of supply	05/10/2017 (Note 1)	05/10/2017 (Note 2)	06/11/2017 (Note 3)

**Notes:**

- (1) Since, invoice is not issued on or before the date of removal of goods, hence time of supply is date of removal of goods.
- (2) Since, date of issuance of invoice is prior to date of removal of goods. Hence, time of supply is date of issue of invoice.
- (3) Since, date of issuance of invoice is prior to date of removal of goods. Hence, time of supply is date of issue of invoice.

**Problem 2:** From the following information determine the time of supply if supply involves movement of goods assuming they are independent of each other.

Case	Invoice date	Date of Removal of goods	Receipt of payment
1.	18/11/2017	31/10/2017	05/11/2017
2.	12/10/2017	20/10/2017	01/11/2017

**Solution:** As per Section 12(2) of the CGST Act, the time of supply is the Earliest of:-

1. Date of issue of invoice
2. Last date on which invoice is required to be issued u/s 31 i.e. on/before date of removal.

Applying the above provision, Time of supply of goods in each of the above cases has been given in following table-

Particulars	Case 1	Case 2
Date of Removal (Last date u/s 31)	31/10/2017	20/10/2017
Date of Invoice	18/11/2017	12/10/2017
Date of receipt of payment	05/11/2017	01/11/2017
Time of supply	31/10/2017 (Note 1)	12/10/2017 (Note 2)

**Notes:**

- (1) Since the invoice is not issued before removal of goods and payment is received after removal of goods. Hence, time of supply is the date of removal of goods.
- (2) Since the invoice is issued before removal of goods. Hence, time of supply is the date of Invoice

**Problem 3: Determine the Time of Supply in each of following independent cases where supply involves movement of goods.**

Sl. No.	Invoice date	Due date of Invoice	Payment entry in supplier's books	Credit in bank account
1.	01/11/2017	05/11/2017	19/11/2017	21/11/2017
2.	20/11/2017	08/11/2017	15/11/2017	18/11/2017

**Solution:** As per Section 12(2) of the CGST Act, the time of supply is the Earliest of:-

1. Date of issue of invoice
2. Last date on which invoice is required to be issued u/s 31 i.e. on/before date of removal.

**3. Date of receipt of payment i.e. Earlier of**

**(a) Payment entry in supplier's books**

**(b) Credit in his bank account**

**Amended as per Notification No. 66/2017-CT**

Applying the above provision, Time of supply of goods in each of the above cases has been given in following table—

Particulars	Case 1	Case 2
Date of Invoice	01/11/2017	20/11/2017
Date of Removal (Last date u/s 31)	05/11/2017	08/11/2017
Payment entry in supplier's books	19/11/2017	15/11/2017
Credit in his bank account	21/11/2017	18/11/2017
Time of supply	01/11/2017	08/11/2017 (Note 1)

**Note:**

1. Since invoice is issued after the last date of issue of invoice, Time of supply shall be the due date of invoice.

**Problem 4: From the following information determine the time of supply of goods where**

Sl. No.	Invoice/ document date	Date of Removal	Delivery of goods	Receipt of payment	Other information
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1.	06/10/2017	01/10/2017	26/10/2017	11/10/2017	-
2.	01/09/2017	10/09/2017	16/09/2017	-	Supply is on account of Inter/State stock transfer.
3.	20/07/2017	01/08/2017	04/08/2017	20/07/2017	Rs. 2,00,000 is received as advance and invoice for the whole amount is issued on the same day. Balance payment of Rs. 2,20,000 is received on 10/08/2017.

**Solution:** As per Section 12(2) of the CGST Act, the time of supply is the Earliest of:

1. Date of issue of invoice
2. Last date on which invoice is required to be issued u/s 31 i.e. on/before date of removal.

Applying the above provision, Time of supply of goods in each of the above cases has been given in following table-

Particulars	Case 1	Case 2	Case 3 Part A	Case 3 Part B
Date of Invoice (DOI)	06/10/2017	01/09/2017	20/07/2017	20/07/2017
Date of Removal (Last date u/s 31)	01/10/2017	10/09/2017	01/08/2017	01/08/2017
Date when goods made available to recipient	26/10/2017	16/09/2017	04/08/2017	04/08/2017
Date of receipt of payment (DOP)	11/10/2017	N.A.	20/07/2017	10/08/2017
Time of supply	01/10/2017 (Note 1)	01/09/2017 (Note 2)	20/07/2017 (Note 3)	20/07/2017 (Note 3)

**Notes:**

1. Since invoice is not issued on or before removal of goods.
2. Since invoice date is prior to the date of removal of goods.
3. Since invoice date is prior to the date of removal for whole amount, hence TOS shall be Date of Issue of invoice.
4. For balance amount the time of supply shall be the date of Invoice.

**Problem 5: Mr. P acquired raw materials M/s. MNO a registered supplier on 05/10/2017 worth Rs.. 5,750. He made a payment of Rs. 6,000 with an instruction to adjust the excess payment against future procurement and hence the same was adjusted by the supplier in case of his future purchase made on 21/03/2018 (invoice issued on same date). Determine the tax implications with respect to such excess payment.**

**Solution:** As per the proviso to Section 12(2) of the CGST Act, 2017, where the supplier of taxable goods receives an amount upto Rs.1,000 in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount. Applying the given proviso to the above scenario, the time of supply with respect to the excess amount of Rs. **250, shall be 21/03/2018** i.e. the date when invoice relating to next supply is raised.

**Problem 6: Determine the Time of supply in each of following cases in accordance with provisions of CGST Act. Assume, no movement of goods.**

Sr. No.	Date of Invoice	Date when goods made available to recipient	Date of receipt of payment
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1.	02/07/2017	03/07/2017	15/07/2017
2.	04/09/2017	09/09/2017	15/11/2017
3.	04/12/2017	06/12/2017	01/12/2017

**Solution:** As per Section 12(2) of the CGST Act, the time of supply is the Earliest of:

1. Date of issue of invoice
2. Last date on which invoice is required to be issued u/s 31 i.e. date on which goods are made available to the recipient

Applying the above provision, Time of supply of goods in each of the above cases has been given in following table:

Particulars	Case 1	Case 2	Case 3
Date of Invoice	02/07/2017	04/09/2017	04/12/2017
Date when goods made available (Last date u/s 31)	03/07/2017	09/09/2017	06/12/2017
Date of receipt of payment	15/07/2017	15/11/2017	01/12/2017
Time of supply	02/07/2017 (Note 1)	04/09/2017 (Note 2)	04/12/2017 (Note 3)

**Notes:**

1. Time of Supply is date of issuance of invoice because invoice is issued prior to date of goods been made available to recipient.
2. Time of Supply is date when goods are made available to the recipient because date of issuance of invoice is after the said date.
3. Time of Supply is date of issuance of invoice because invoice is issued prior to date of goods been made available to recipient.

**Problem 7:** MNO Ltd. has gifted for its directors 10 vouchers dated 14/01/2017 worth Rs. 5,000 each from PQR Ltd., a cell phone manufacturing company. The vouchers were issued by PQR Ltd. on 25/02/2017. The vouchers can be encashed at outlets of PQR Ltd. The directors of MNO Ltd. encashed the same on 05-01-2018. Determine time of supply of vouchers.

**Solution:** In case of supply of vouchers by a supplier, the time of supply shall be the date of issue of voucher, if the supply is identifiable at that point. In this case the supply of goods i.e. cell phone is identifiable with the voucher, hence time of supply shall be the date of issue of such vouchers by PQR Ltd. i.e. 25/02/2017.

**Problem 8:** Ms. Shobha purchased a gift voucher from Flipkart worth Rs.. 500 on 30/11/2018 and gifted it to her friend on occasion of her birthday on 05/06/2019. Her friend encashed the same on 06/06/2019 for purchase of a handbag. Determine the time of supply.

**Solution:** In case of supply of vouchers by a supplier, the time of supply shall be the date of redemption of voucher, if the supply is not identifiable at the time of issue of voucher. In this case, since the supply is not identified at the time of issue of voucher. The holder of voucher can purchase anything from Flipkart. Hence, time of supply is date of redemption of voucher i.e., the date of purchase of goods by the holder of voucher i.e. 06/06/2019.

**Problem 9:** Mr. B, a registered supplier supplied certain goods to Mr. C on 3 months credit with a penalty clause in the agreement levying a penalty of 20% of the invoice value in case of delayed payment. The invoice was dated 01/06/2017. Mr. C did not make the payment on the. He however made the payment of the invoice value on 05/09/2017. Mr. B raised a debit note for the penalty amount. There being dispute on this, the matter was in arbitration which was finally resolved with Mr. C agreed to pay half of the penalty amount. The amount was paid by Mr. C on 01/12/2017. Determine the Time of Supply.

**Solution:** With respect to the goods supplied, the Time of Supply shall be the invoice date on assumption that there was no movement of goods involved and goods were made available on the date of invoice i.e., 01/06/2017.

However, as per Section 12(6), with respect to the amount of penalty, the Time of Supply shall be the date of payment by Mr. C towards the penalty charge i.e. 01/12/2017.

**Problem 10: Guddu of Rajasthan received some taxable services from Microsoft of US on 1-11-2017 for which an invoice was raised on 01/11/2017. Determine the time of supply of services if Guddu makes the payment for the said services on:**

**Case I:** 01/12/2017

**Case II:** 31/03/2018

**Solution:** According to Section 13(3) of CGST Act, 2017, the time of supply in case of Reverse Charge Mechanism shall be the earlier of

1. Date of payment or
2. The date immediately following 60 days from the date of issue of invoice by the supplier.

**Case I:** Since the payment has been made within 60 days from the date of invoice, time of supply will be the date of payment i.e. 01/12/2017.

**Case II:** Since the payment is not made within a period of 60 days of the date of invoice, the time of supply will be the date immediately following the said period of 60 days i.e. 61<sup>st</sup> Day i.e. 01/01/2018

**Problem 11: Kanu & Kanu is located in India and holding 69% of shares of Prince Ltd., a Hungarian based company. Prince Ltd. provides Business Auxillary Services to Kanu & Kanu Ltd.**

**From the following details, determine the time of supply & Kanu & Kanu Ltd.:**

<b>Agreed consideration</b>	<b>US \$ 5,00,000</b>
<b>Date on which services are provided by Prince Ltd.</b>	<b>15-12-2017</b>
<b>Date on which invoice is sent by Prince Ltd.</b>	<b>18-12-2017</b>
<b>Date of debit in the books of account of Kanu&amp;Kanu Ltd.</b>	<b>29-12-2017</b>
<b>Date on which payment is made by Kanu&amp;Kanu Ltd.</b>	<b>22-03-2018</b>

**Solution:** Kanu & Kanu of India and Prince Ltd. of US are "associated enterprises" as per Section 92A of Income Tax Act, 1961. Since, Indian Company holds 69% shareholding of Hungarian based company, Section 13(3) of the CGST Act, 2017 gets attracted. As per Section 13(3) of CGST Act, 2017, in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be the earlier of -

- (a) The date of entry in the books of account of the recipient of supply; or
- (b) The date of payment,

Therefore, the time of supply shall be 29-12-2017

**Problem 12: Determine the time of supply in each of the following cases. The rate of GST has been increased to 18% from 12% w.e.f. 01-07-2017.**

Cases	Date of supply of Service	Date of Invoice	Date of Payment	Value of service (Rs.)
1.	15/06/2017	05/07/2017	06/07/2017	10,00,000
2.	15/06/2017	15/06/2017	06/07/2017	07,00,000
3.	15/06/2017	06/07/2017	27/06/2017	10,00,000
4.	04/07/2017	30/06/2017	27/06/2017	10,00,000
5.	04/07/2007	04/07/2017	27/06/2017	07,00,000
6.	04/07/2017	27/06/2017	06/07/2017	10,00,000

**Solution:** The time of supply shall be determined as under –

Cases	Value of service (Rs.)	Time of Supply	Rate of tax	GST (Rs.)
1.	10,00,000	05/07/2017 (Note 1)	18%	1,80,000
2.	7,00,000	15/06/2017 (Note 2)	12%	84,000
3.	10,00,000	27/06/2017 (Note 3)	12%	1,20,000
4.	10,00,000	27/06/2017 (Note 4)	12%	1,20,000
5.	7,00,000	04/07/2017 (Note 5)	18%	1,26,000
6.	10,00,000	06/07/2017 (Note 6)	18%	1,80,000
			<b>Total GST</b>	<b>8,10,000</b>

**Notes:**

**For the following 3 Cases, since Supply is provided before change in rate of tax.**

1. Invoice is issued after change in rate of tax and the payment has also been received after change in rate of tax. Hence, time of supply shall be earlier of date of issue of invoice or date of receipt payment.
2. Invoice is issued prior to such change in rate of tax and the payment is received after change in rate of tax. Hence, time of supply shall be date of issue of invoice.
3. The payment is received before change in rate of tax and invoice is issued after change in rate of tax. Hence, time of supply shall be date of receipt of payment.

**For the following 3 Cases, Supply is provided after change in rate of tax**

4. Invoice is issued before change in rate of tax and the payment is also received before change in rate of tax. Therefore, time of supply shall be earlier of date of issue of invoice or date of receipt of payment.
5. Invoice is issued after change in rate of tax and the payment is received before change in rate of tax, therefore, time of supply shall be the date of issue of invoice.
6. The payment is received after change in rate of tax and invoice is issued change in rate of tax, therefore, time of supply shall be date of receipt of payment.

**Problem 13: From the following information determine the time of supply if there is continuous supply of goods:**

S.No.	Invoice date	Removal of goods	Statement of account	Receipt of payment
1.	01-12-2017	15-11-2017	05-12-2017	02-12-2017
		25-11-2017		
2	21-01-2018	18-01-2018	05-01-2018	10-02-2018
		31-01-2018		
3	08-02-2018	14-01-2018	05-02-2018	01-02-2018
		23-01-2018		

**Solution:** Time of supply of goods in each the above cases has been given in follow table-

S. No.	Invoice date	Removal of goods	Statement of accounts	Receipt of payment	Time of supply	Reason
1	01-12-2017	15-11-2017 25-11-2017	05-12-2017	02-12-2017	01-12-2017	TOS is date of invoice since invoice is issued before statement of account,
2	21-01-2018	18-01-2018 31-01-2018	05-01-2018	10-02-2018	05-01-2018	TOS is date of statement of account since invoice is issued after the date of statement of account and payment is also received after that date.
3	08-02-2018	14-01-2018 23-01-2018	05-02-2018	01-02-2018	01-02-2018	TOS is date of payment as statement of account and invoice is issued after date of payment

**Problem 14: From the following information determine the time of supply if goods are supplied on approval basis**

S.No.	Removal of goods	Issued of invoice	Accepted by recipient	Receipt of payment
1.	01-12-2017	15-12-2017	05-12-2017	25-12-2017
2	01-12-2017	15-12-2017	15-12-2017	12-12-2017
3	01-12-2017	25-07-2018	25-07-2018	20-07-2018

**Solution:** Time of supply of goods in each the above cases has been given in follow table-

S. No.	Removal of goods	Issue of invoice	Accepted by recipient	Receipt of payment	Time of supply	Reason
1	01-12-2017	15-12-2017	05-12-2017	25-12-2017	15-12-2017	TOS is earlier of invoice date or date of payment
2	01-12-2017	15-12-2017	15-12-2017	12-12-2017	12-12-2017	TOS is earlier of invoice date or date of payment
3	01-12-2017	25-07-2018	25-07-2018	20-07-2018	02-06-2018	TOS shall be date after expiry of 6 months from the date of removal, since invoice is not issued within 6 months from the date of removal and payment is also received after such date.

**Problem 15: Determine the time of supply in the following cases assuming that GST is payable under reverse charge:**

S. No.	Date of issue of invoice by supplier of goods	Date of receipt of goods	Date of payment by recipient of goods
1	30-11-2017	2-12-2017	25-01-2018
2	30-11-2017	2-12-2017	25-11-2017
3	30-11-2017	2-12-2017	Per payment made on 25-11-2017 and balance amount paid on 28-12-2017
4	1-11-2017	5-12-2017	Payment is entered in the books of account on 25-11-2017 and debited in recipient's bank account on 28-11-2017
5	30-11-2017	2-12-2017	Payment is entered in the books of account on 25-11-2017 and debited in recipient's bank account on 20-11-2017
6	30-11-2017	2-01-2018	10-01-2018

**Solution:** Time of supply of goods in each the above cases has been given in follow table-

S No.	Date of issue of invoice by supplier of goods	Date of receipt of goods	Date of payments by recipient of goods	Date of immediately following 30 days from date of invoice	Time of supply of goods [Earlier of (2), (3) & (4)]
	(1)	(2)	(3)	(4)	(5)
i	30-11-2017	02-12-2017	25-01-2018	31-12-2018	02-12-2017
ii	30-11-2017	02-12-2017	25-11-2017	31-12-2017	25-11-2017
iii	30-11-2017	02-12-2017	Part of payment made on 25-11-2017 and balance amount paid on 28-12-2017	31-12-2017	25-11-2017 for part payment made and 02-12-2017 for balance amount.
iv	01-11-2017	05-12-2017	Payment is entered in the books of account on 25-11-2017 and debited in recipient's bank account on 28-11-2017	02-12-2017	25-11-2017 i.e the date when payment is entered in books of account of the recipient.
v	30-11-2017	02-12-2017	Payment is entered in the books of account on 25-11-2017 and debited in recipient's bank account on 20-11-2017	31-12-2017	20-11-2017 (i.e, when payment is debited in the recipient's bank account)
Vi	30-11-2017	02-01-2018	10-01-2018	31-12-2017	31-12-2017 (i.e, 31 <sup>st</sup> day from issuance of invoice)

**Problem 16: From the following information determine the time of supply of services:**

S.No.	Date of completion of service	Invoice date	Payment entry in supplier's books	Credit in bank account
1.	20-10-2017	21-10-2017	26-10-2017	30-10-2017

2.	20-10-2017	30-10-2017	24-10-2017	22-10-2017	Rs. 5,00,000 is received as advance on 30-10-2017 and balance amount Rs. 6,80,000 is received on 06-12-2017
3	16-11-2017	26-12-2017	28-01-2018	29-01-2018	
4	01-12-2017	30-10-2017	30-10-2017	30-10-2017	
		30-10-2017	06-12-2017	08-12-2017	

**Solution:** Time of supply of goods in each the above cases has been given in follow table-

S.No.	Date of completion of service	Invoice date	Payment entry in supplier's books	Credit in bank account	
1.	20-10-2017	21-10-2017	26-10-2017	21-10-2017	Earlier of date invoice or date of payment since invoice is issued within 30 days of completion of service
2.	20-10-2017	30-10-2017	22-10-2017	22-10-2017	Earlier of date invoice or date of payment since invoice is issued within 30 days of completion of service
3	16-11-2017	26-12-2017	28-01-2018	16-11-2017	Since invoice is not issued within 30 days of completion of service and advance payment is not received, the date of completion of provision of service shall be considered.
4	01-12-2017	30-10-2017	30-10-2017	30-10-2017	Since Rs. 5,00,000 is received as advance prior to completion of service TOS-date of receipt of such advance.
		30-10-2017	06-12-2017	30-10-2017	For balance amount of Rs. 6,80,000 TOS is date of invoice

**Problem 17:** Mr. A buys a motor car from a card dealer. Mr. A has made payment for the same and car dealer has issued an invoice in respect of the same on 25th October, 2017. The car was to be delivered on 1st November 2017 on occasion of his birthday. On 26th October 2017, the rate of tax applicable to motor car was revised upward, and the car dealer is demanding differential amount of tax. Is this correct on dealers part?

**Solution:** No the car dealer is not correct in demanding differential amount of tax. The revised rate of tax is not applicable to the transaction, as the time of supply is earlier of the two events namely, issuance of invoice or receipt of payment, both of which are before the change in rate of tax, and thus, the old rate tax remains applicable.

**Problem 18:** An online portal, raises invoice for database access on 20th March 2017 on ABC Ltd. The payment is made by ABC Ltd. By a demand draft sent on 24th March 2017, which is received and entered in the accounts of online Info on 28th March 2017. Online info encashes the demand draft and thereafter, gives access to the database to ABC Ltd. From 4th April. In the meanwhile,



***the rate of tax is changed from 1st April 2017. What is the time supply of the service of database access by Online Info?***

***Solution:*** As issuance of invoice and receipt of payment (entry of the payment in online Info's accounts) occurred before the change in rate of tax, the time of supply of service by the online portal is earlier of the date of issuance of invoice (20<sup>th</sup> March 2017) or date of receipt of payment (24<sup>th</sup> March) i.e 20<sup>th</sup> March 2017. This would be so even though the service commences after the change in rate of tax [Section 14(b) (ii)].

# CA FINAL INDIRECT TAX

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## CHAPTER 7. VALUE OF SUPPLY

### ADDITIONAL QUESTIONS:

**Problem 1:** From the following information determine the value of taxable supply as per provisions of Section 15 of the CGST Act, 2017?

Particulars	Rs.
Contracted value of supply of goods (excluding GST @ 12%)	10,00,000
The contracted value of supply includes the following:	
(1) Basic packing	15,000
(2) Protective packing at recipient's request for safe transportation	5,000
(3) Designing charges	75,000

### Other Information:

- |   |        |
|---|--------|
| (i) Commission paid by recipient as per supplier's request                  | 2,500  |
| (ii) Freight and insurance charges borne by recipient on behalf of supplier | 55,000 |

**Solution:** Computation of value of taxable supply of goods:

Particulars	Rs.	Rs.
Contracted value of supply of goods		10,00,000
Add:		
(1) Primary packing [WN-1]	--	
(2) Protective packing for safe transportation [WN-1]	--	
(3) Designing charges [WN-2]	--	
(4) Commission paid to agent [WN-3]	2,500	
(5) Freight and insurance charges [WN-3]	55,000	
		57,500
<b>Value of taxable supply</b>		<b>10,57,500</b>

### Working Notes:

For the purpose of determining the value of taxable supply, the following adjustments shall be made-

- As per Section 15(2)(c) of CGST Act, 2017, cost of primary packing and protective packing at recipient's request for safe transportation charged by supplier from the recipient shall be included for determining the value of taxable supply. Since, it is already included in the value, no treatment is required.
- As per Section 15(2)(c) of CGST Act, 2017, any amount charged for something which is to be done by the supplier in respect of the supply of goods at the time of, or before delivery of goods shall be included in the value of taxable supply. Hence designing charges shall also be included in the value of taxable supply. Since, it is already included in the value, no separate treatment is required.
- As per Section 15(2)(b) of CGST Act, 2017, any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the **recipient of** the supply and **not included** in the **price actually paid or payable** for the goods shall be included in the value of supply. Hence, the following two expenses i.e. commission paid to agent on instruction of supplier and freight and insurance charges incurred by recipient on behalf of supplier shall be included as a part of value of taxable supply.

**Problem 2: From the following information determine the value of taxable supply as per provisions of Section 15 of the CGST Act, 2017?**

Particulars	Rs.
Value of machine (including GST @ 18%)	11,80,000
The invoice value includes the following	
(1) Taxes (other than GST) charged separately by the supplier	20,000
(2) Loading charges	20,000
(3) Consultancy Charges for installation	5,000
(4) Testing Charges	1,000
(5) Inspection Charges	2,500

**Other Information:**

(i) Subsidy received from <b>Central Government for setting</b> up factory in backward region	25,000
(ii) Subsidy received from third party to recipient	75,000
(iii) Trade discount actually allowed shown separately in invoice	25,000

**Give reasons with suitable assumptions where necessary.**

**Solution: Computation of value of taxable supply**

Particulars	Rs.	Rs.
Value of machine		11,80,000
<b>Less:</b>		
(1) Taxes other than GST charged separately by the supplier [WN1]	--	
(2) Loading charges [WN2]	--	
(3) Consultancy Charges [WN2]	--	
(4) Testing Charges [WN2]	--	
(5) Inspection Charges [WN2]	--	
(6) Trade discount actually allowed shown separately in invoice [WN4]	25,000	(25,000)
		11,55,000
<b>Add:</b>		
Subsidy received from <b>third party</b> for timely supply of machine to recipient [WN3]		75,000
		12,30,000
<b>Cum tax value</b>		1,87,627
Less: GST @ 18% [Rs.12,30,000 x 18 ÷ 118] [WN5]		
Value of taxable supply		10,42,373

**Working Notes:**

- As per Section 15(2)(a) of CGST Act, 2017, any duty, taxes (other than GST), cesses, fees and other charges, charged separately by supplier are to be included in value of taxable supply.
- As per Section 15(2)(c) of CGST Act, 2017, any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods shall be included in the value of taxable supply. Hence loading charges, consultancy charges, testing charges and inspection charges are correctly included in the value of taxable supply.
- As per Section 15(2)(e), the value of supply shall include subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments. Therefore, subsidy received from Central government for setting up factory in backward region shall not be

included in value of taxable supply whereas subsidy received from third party to recipient will be included in the value of taxable supply.

4. As per Section 15(3)(a), the value of the supply shall not include any discount which is given before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply. Since, the discount is duly recorded on the invoice, it is deductible to arrive at value of taxable supply.
5. As per Section 15(2)(a) of the CGST Act, 2017, value of supply shall not include any taxes or cesses levied under CGST Act, SGST Act, UTGST Act and the GST (Compensation to States) Act, if charged separately by the supplier.

**Problem 3: Chaata footwear, a registered supplier of Jodhpur, has a stock worth Rs.. 3,00,000 of a particular variety of shoes that are out of fashion. It has not been able to find market inspite of discounts offered. Subsequently, it was able to sell this stock at a very low price of Rs..50,000 to a retailer in Udaipur with a condition that the retailer would display hoardings of Chaata Footwear in all their retail outlets in the State. Determine the value of supply.**

**Solution:** In this case, the supplier and recipient are **not related persons**. Although a condition is imposed on the recipient for effecting the sale, it has no **bearing on the contract price**. Therefore, the **price of Rs.50,000 will be accepted as value of supply**.

**Problem 4: Determine the value of taxable supply as per Section 15 of the CGST Act, 2017 and the Rules thereof:**

Particulars	Rs.
Contracted sale price of goods (including CGST and SGST @ 12%)	11,32,000
The contracted sale price includes the following elements of cost:	
(i) Drawings and design	5,000
(ii) Primary packing	2,000
(iii) Packing at buyer's request	4,000
(iv) Fright and insurance from 'place of removal' to buyer's premises	43,000

A discount of Rs.. 12,000 of given by the supplier before the time of supply of goods. CGST and SGST is levied @ 12%.

**Solution:** Computation of Assessable value:

Particulars	Rs.	Rs.
Contracted sale price of goods		11,32,000
Less: Discount [WN3]	12,000	(12,000)
<b>Value including tax</b>		<b>11,20,000</b>
Less: GST @ 12% [Rs.11,20,000 x 12 ÷ 112] [WN2]		(1,20,000)
Value of taxable supply		10,00,000

**Working Notes:**

1. As per Section 15(2)(c) of CGST Act, 2017, any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods shall be included in the value of taxable supply. Hence drawing and design charges, cost of packing (even at buyer's request) shall form a part of the transaction value of the supply. Since, these are already included in the value of the goods, no additional treatment is required.
2. As per Section 15(2)(a), The value of supply shall include any taxes, duties, cess, fees and charges levied under any law for the time being in force other than the CGST Act, the SGST Act, the UTGST Act and the GST (Compensation to States) Act, if charged separately by the supplier.



3. As per Section 15(3)(a), the value of supply shall not include any discount which is given before or at the time of supply.

**Problem 5: Black and White Pvt. Ltd. has provided the following particulars relating to goods sold by it to Colourful Pvt. Ltd.**

Particulars	Rs.
List price of the goods (exclusive of taxes and discounts)	5,00,000
Tax levied by Municipal Authority on the sale of such goods	50,000
CGST and SGST chargeable on the goods	1,04,400
Packing charges (not included in price above)	10,000

**Black and White Pvt. Ltd. received Rs. 20,000 as a subsidy from a NGO on sale of such goods. The price of Rs. 5,00,000 of the goods is after considering such subsidy. Black and White Ltd. offers 20% discount on the list price of the goods which is recorded in the invoice for the goods.**

**Determine the value of taxable supply made by Black and White Pvt. Ltd.**

**Solution:**

**Computation of value of taxable supply**

Particulars	Rs.
List price of the goods (exclusive of taxes and discounts)	5,00,000
Tax levied by Municipal Authority on the sale of such goods [Includible in the value as per section 15(2)(a)]	50,000
CGST and SGST chargeable on the goods [Not includible in the value as per section 15(2)(a)]	10,000
Packing charges [Includible in the value as per section 15(2)(c)]	20,000
Subsidy received from a non-Government body [Since subsidy is received from a non-Government body, the same is included in the value in terms of section 15(2)(e)]	
<b>Total</b>	<b>5,80,000</b>
Less: Discount @ 20% on Rs. 5,00,000 [Since discount is known at the time of supply, it is deductible from the value in terms of section 15(3)(a)]	1,00,000
Value of taxable supply	4,80,000

**Problem 6: Tasty Foods Pvt. Ltd. Gets an order for supply of processed food from Resto Ltd. Wants the consignment tested for gluten for specified chemical residues and charges a testing fee of Rs. 15,000 from the Resto Ltd. Tasty Foods Pvt. Ltd. Argues that such testing fee should not form part of the consideration as it is a separate activity. Is its argument correct in the light of section 15?**

**Solution:** Section 15(2)(c) mandates the addition of certain elements of transaction value to arrive at taxable value. Section 15(2) specifies that amount charged for anything done by the supplier in respect of the supply at the time of or before delivery of goods or supply of service shall be included in taxable value.

Since Tasty Foods Pvt. Ltd. does the testing before the delivery of goods, the charges therefore will be included in the taxable value. Therefore Tasty Foods Pvt. Ltd.'s argument is not correct. The testing fee of Rs. 15,000 should be added to the price to arrive at taxable value of the consignment.

**Problem 7:** *Flex advertising, an advertising firm, gives an interest-free credit period of 30 days for payment by the customer. One of its customers paid for the supply 40 days after the supply of service. Flex advertising waived the interest payable for delay of ten days. The department wants to add interest for ten days as per contract. Should national interest be added to the taxable value?*

**SOLUTION:** This is a supply that is valued as per transaction value under section 15(1) as the price is the sole consideration for the supply and the supply is made to unrelated person. The concept to transaction value has been expanded to include certain elements like interest which are actually payable. Once waived, the interest is not payable and is therefore, not to be added to transaction value.

**Problem 8:** *Feather Products Ltd. Sells shoes to its dealers, to whom it charges the list price minus standard discount and pays GST accordingly. When such shoes remain unsold with the dealers, it offers additional discount and pays GST accordingly. When such shoes remain unsold with the dealers, it offers additional discounts on the stock as an incentive to push the sales. Can this additional discount be reduced from the price at which the goods were sold and concomitant tax adjustment made?*

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

**Problem 9:** *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, consumable, 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, consumable, 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.**

Sr. No.	Particulars	Rs.
A.	Truck sent to own location in Tamil Nadu	
	(i) Value of items contained in the truck	3,00,000
	(ii) Value of truck	25,00,000



<b>B.</b>	Truck sent to a client location in Tamil Nadu for carrying out repairs. Stand-alone machine is also sent in the truck to client location for repairs (i) Value of items contained in the truck (ii) Value of stand-alone machine (iii) Value of truck (Billing for repairs to be done afterwards depending upon the actual items used)	2,85,000 4,00,000 20,00,000
<b>C.</b>	Truck sent to a client location in Karnataka for carrying out repairs (i) Value of items contained in the truck (ii) Value of truck (Billing for repairs to be done afterwards depending upon the actual items used)	1,06,000 20,00,000
<b>D.</b>	Invoices raised for repair work carried out in Tamil Nadu (Including the invoice for repair work done in B)	70,00,000
<b>E.</b>	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 machines-		
CSGT-2.5%	SGST-2.5%	IGST-5%
Works contract for repairs and maintenance of immovable property		
CSGT-9%	SGST-9%	IGST-18%

You are required to make suitable assumptions, wherever necessary.

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

Sr. No.	Particulars	Rs.
<b>A.</b>	Items sent in container truck to own location in Tamil Nadu- IGST @12% [Note-1] Container truck sent to own location in Tamil Nadu (Note-2)	36,000 -
<b>B.</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)	- - -
<b>C.</b>	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)	- -
<b>D.</b>	Invoices raised for repair work carried out in Tamil Nadu. IGST @ 18% (Note 5 and Note 6)	12,60,000
<b>E.</b>	Invoices raised for repair work carried out in Karnataka: CGST 9% + SGST 9% (Note 5 and Note 7)	2,16,000
	<b>Total GST liability</b>	<b>15,12,000</b>

**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 provision 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 place 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 CSGT 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 persons'.

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 CGS/IGST/SGST, 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, 2017 for sending the truck to its own location in Tamil Nadu.

3. Supply of goods without consideration is deemed to be a supply inter alia when the goods are supplied to a 'distinct person'. However in this case, stand-alone machine and container truck are moved to client location and not between 'distinct persons'. Hence the same will fall outside the space 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 provide maintenance and repair services for power plants that are in the nature of immovable property and uses and 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 consist 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 of 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 place 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.

***Problem 10: ABC Ltd., Noida (Uttar Pradesh) is a supplier of machinery used for making bottle caps. The supply of machinery is effected as under:-***

- ***The wholesale price of the machinery (excluding all taxes and other expenses) at which it is supplied in the ordinary course of the business to various customers is Rs. 42,00,000. However, the actual price at which the machinery is supplied to an individual customer varies within a range + 10% depending upon the terms of contract of supply with the particular customer.***
- ***Apart from the price of the machinery, ABC Ltd. charges from the customer the following incidental expenses:***
  - ***Associated handling and loading charges of Rs. 10,000***
  - ***Installation and commissioning charges of Rs. 1,00,000***

***The machinery can be dismantle and erected and another site, if required. The above charges are compulsorily levied in every case of supply of machinery.***

- ***Transportation of machinery to the customer's premises is arranged by ABC Ltd. through a third- party service provider (Goods Transport Agency (GTA). The customers enters into a separate service contract with the GTA and pays the freight directly to it.***
- ***The company provides one year free warranty for the machinery. However, the company also provides an extended two-year warranty on payment of additional charge of Rs. 3,00,000.***
- ***A cash discount of 2% on the price of the machinery is offered at the time of supply, if the customer agrees to make the payment within 15 days of the receipt of the machinery at his***

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

- *Recovers the discount given, and*
- *Charges interest @ 1% per month or part of the month on the total amount due from the customer (towards the machinery supplied) from the date of making the supply till the date of payment. However, no interest is charged on the tax dues.*

- *For every machinery supplied, ABC Ltd. receives a grant of Rs. 2,00,000 from its holding company DEF Ltd.*

*ABC Ltd. has supplied a machinery to D Pvt. Ltd. on August 1, 20XX at a price of Rs. 40,00,000 (excluding all taxes). D Pvt. Ltd. has its corporate office in New Delhi. However, the machinery has been installed at its manufacturing unit located in Gurugram (Haryana). D Pvt. Ltd. has paid the freight directly to the GTA and opted for two year warranty. Discount @ 2% was given to D. Pvt. Ltd. as it agreed to make the payment within 15 days. However, D. Pvt. Ltd. paid the consideration on 31st October, 20XX.*

*Assume the rates of taxes to be as under:*

Bottle cap making machine		
CGST- 6%	SGST-6%	IGST-12%
Service of transportation of goods		
CGST-2.5%	SGST-2.5%	IGST-5%
Other services involved in the above supply		
CGST-9%	CGST-9%	CGST-9%

Calculate the GST payable (CGST & SGST or IGST, as the case may be) on the machinery and support your conclusions with legal provisions in the form of explanatory notes.

Make suitable assumptions, wherever needed.

**SOLUTION:** Computation of GST liability of ABC Ltd.

Particulars	Rs.
Price of machine (Note 1)	40,00,000
Handling and loading charges (Note 2)	10,000
Installation and commissioning charges (Note 3)	1,00,000
Transportation cost (Note 4)	Nil
Additional warranty cost (Note 5)	3,00,000
Grant from DEF Ltd. (Note 6)	<u>2,00,000</u>
Total price of the machine	46,10,000
Less: 2% cash discount on price of machinery= Rs. 40,00,000 x 2% (Note 7)	<u>80,000</u>
Taxable value of supply	45,30,000
Tax liability for the month of August 20XX (Note 11)	
IGST @ 12% (Note 8 and Note 9)	5,43,600
Tax liability for the month of October 20XX (Note 11)	
Interest collected @ 3% on Rs. 44,10,000 (Note 10)	1,32,300
Cash discount recovered (Note 10)	<u>80,000</u>
Cum- tax value of interest and cash discount	2,12,300
IGST= (Rs. 2,12,300/112) x 12%	22,746
Total IGST payable on the machinery	<b>5,66,346</b>

**Notes:**

1. As per section 15 (1) of the CGST Act, 2017, the value of a supply is the transaction value, i. e. the price actually paid or payable for the said supply when the supplier and the recipient of the supply are

not related and the price is the sole consideration for the supply. It is assumed that ABC Ltd. and D Pvt. Ltd. are not related and the price is the sole consideration for the supply.

2. All incidental expenses charged by the supplier to the recipient of a supply are includible in the value of supply in terms of section 15 (2) (c) of CGST Act, 2017.

3. Any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is includible in the value of supply in terms of section 15 (2) (c) of CGST Act, 2017.

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

The supplier (ABC Ltd.), in this case, merely arranges for the transport and does not provide the transport service on its own account. Tax will be separately levied on the supply of service of transportation of goods under reverse charge.

5. Warranty cost is includible in the value of the supply since transaction value includes all elements of the price excluding those that can be specifically excluded as per section 15 of the CGST Act.

6. Subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments are includible in the value of supply in terms of section 15 (2) (e) of the CGST Act, 2017.

7. Cash discount was deducted by ABC Ltd. upfront at the time of supply on August 1, 20XX and hence, the same is excluded from the value of supply as it did not form part of the transaction value.

8. In the given case-

- The location of the supplier is in Noida (UP), and
- The place of supply of machinery is the place of installation of the machinery i.e. Gurugram (Haryana) in terms of section 10 (1) (d) of the IGST Act, 2017.

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

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

As per section 8 (a) of the CGST Act, 2017, a composite supply is treated as a supply of the principal supply involved therein and charged to tax accordingly. Thus, tax rate applicable to the goods (machinery) has been considered.

10. Interest for the delayed payment of any consideration for any supply is includible in the value of supply in terms of section 15 (2) (d) of the CGST Act, 2017. Further, cash discount recovered will also be includible in the value of supply as now the transaction value i.e., the price actually paid for the machinery is devoid of any discount.

The cash discount not allowed and interest have to be considered as cum tax value and tax payable thereon has to be computed by making back calculations in terms of rule 35 of CGST Rules, 2017.

11. It has been assumed that the invoice for the supply has been issued on August 1, 20XX, the date on which the supply is made. Thus, the time of supply of goods is August 1, 20XX in terms of section 12 (1) (a) of the CGST Act, 2017.

As per section 12 (6) of the CGST Act, 2017, the time of supply in case of addition in value by way of interest, late fee, penalty etc. for delayed payment of consideration for goods is the date on which the supplier receives such addition in value. Thus, the time of supply of interest received and cash discount recovered on account of delayed payment of consideration is 31<sup>st</sup> October, 20XX, the date when the full payment was made. The supplier may issue a debit note for such interest and cash discount recovered.

### **Questions issued by ICAI for GST**

**1. AKJ Foods Pvt. Ltd. gets an order for supply of processed food from a customer. The customer wants the consignment tested for gluten or specified chemical residues. AKJ Foods Pvt. Ltd. does the testing and charges a testing fee for the same from the customer. AKJ Foods Pvt. Ltd. argues that such testing fess should not form part of the consideration for the sale as it is a separate activity. Is his argument correct in the light of section 15?**

**ANSWER:**

Section 15(2) mandates the addition of certain elements to transaction value to arrive at taxable value. Clause (c) of section 15(2) specifies that amount charged for anything done by the supplier in respect of the supply at the time of or before delivery of goods or supply of services shall be included in taxable value.

Since AKJ Foods Pvt. Ltd. does the testing before the delivery of goods, the charges therefor will be included in the taxable value. Therefore, AKJ Foods Pvt. Ltd.'s argument is not correct. The testing fee should be added to the price to arrive at taxable value of the consignment.

**2. A philanthropic association makes a substantial donation each year to a reputed private management institution to subsidise the education of low income group students who have gained admission there. The fee for these individuals is reduced thereby, coming to Rs. 3 lakh a year compared to Rs. 5 lakh a year for other students. What would be the taxable value of the service of coaching and instruction provided by the institution?**

**ANSWER:**

As per section 15(2)(e), the value of a supply includes subsidies directly linked to the price, excluding State Government and Central Government subsidies. In this case, the subsidy is not from the Government but is from a philanthropic association. Therefore, the subsidy is to be added back to the price to arrive at the taxable value, which comes to Rs. 5 lakh a year.

**3. Mezda Banners, an advertising firm, gives an interest-free credit period of 30 days for payment by the customer. Its customer ABC paid for the supply 32 days after the supply of service. Mezda Banners waived the interest payable for delay of two days. The Department wants to add interest for two days as per contract. Should notional interest be added to the taxable value?**

**ANSWER:**

This is a supply that is valued as per transaction value under section 15(1) as the price is the sole consideration for the supply and the supply is made to unrelated person. The concept of transaction value has been expanded to include certain elements like interest which are actually payable. Once waived, the interest is not payable and is therefore, not to be added to transaction value.

**4. Crunch Bakery Products Ltd sells biscuits and cakes through its dealers, to whom it charges the list price minus standard discount and pays GST accordingly. When goods remain unsold with the dealers, it offers additional discounts on the stock as an incentive to push the sales. Can this additional discount be reduced from the price at which the goods were sold and concomitant tax adjustments made?**

**ANSWER:**

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



**5. Rajesh & Co. provides financial and management consultancy to a group of companies for an annual retainerhip fee of ` 15 lakh. It is given a room in the head office of the group for its exclusive use. Rajesh & Co. pays GST on the amount of ` 15 lakh. Is the value for the service provided by Rajesh & Co., correct under GST laws? If not, please elaborate.**

**ANSWER:**

Rajesh & Co. gets an office room free of cost, which is an additional non-monetary consideration for its services. The market value of the rent of the room must be added to the retainer fee (Rs. 15 lakh) in order to arrive at the value of the taxable service provided by Rajesh & Co, as per rule 27 of the CGST Rules relating to valuation.

**6. Rare Polymers Private Ltd. was the only Indian company making and selling a polymer 'x' to companies, who used this as a raw material. However, the international prices of 'x' dropped, and the companies began to import it rather than buying from Rare Polymers. The promoters then set up another company, which had a manufacturing unit that could use 'x', with common directors and senior management for better integration of functionality. Rare Polymers began to supply 'x' to this related concern at low margins. The related concern was not eligible for full ITC. GST was paid on the price charged. Was the value adopted by Rare Polymers for supply of 'x' to its related concern, correct? Elaborate.**

**ANSWER:**

The value was not correct. The invoice value could not be the basis of valuation for a supply made to a related person if the recipient is not eligible for full ITC. Under rule 28(a) of the CGST Rules relating to valuation, the open market value of polymer 'x' should be the value of the taxable supply of 'x' to the related concern.

In this particular case, the open market value is likely to be the price of imported 'x' plus customs duties, which should be adopted for valuation after excluding the component of IGST on import as per the definition of open market value in explanation (a) to the CGST Rules relating to valuation.

**7. The supplies of commodity 'y' to the market are channelled through a State Marketing Corporation which conducts an auction each day to arrive at the price. Gupta and Co. supplies commodity 'y' through the State Marketing Corporation. How will this supply of 'y' by Gupta and Co. be valued for paying tax?**

**ANSWER:**

The State Marketing Corporation is an 'agent' in the meaning of the expression as defined in section 2(5), which includes an auctioneer. Therefore, the value of supply of 'y' will be determined in terms of rule 29 of CGST Rules relating to valuation. There is no open market for the first supply of commodity 'y', as it is compulsorily supplied to the State Marketing Corporation. Therefore, the choice before Gupta & Co. for valuing the supply of 'y' is between the open market value at which 'y' is sold by the State Marketing Corporation or 90% of price of goods of like kind and quality sold by the State Marketing Corporation to its unrelated customers.

If the value cannot be determined by either of the two methods, it needs to be determined on the basis of the cost plus 10% mark up as per rule 30 or on the basis of Best Judgement Method as per rule 31, in that order.

**8. Easy Coupons Ltd. sells coupons that are redeemable against specified luxury food products at retail outlets. Each coupon has a face value of ` 900 but is redeemable for supplies worth ` 1000. What is the value of supply of such coupon under GST laws?**

**ANSWER:**

In terms of rule 32(6) of the CGST Rules relating to valuation, the value of a coupon is the money value of the goods redeemable against it. Therefore, though the coupon is sold for Rs. 900, its value is Rs. 1000.

**9. A pharmaceutical company supplies a drug intermediate to its own unit in another State for conversion into formulations. These supplies are taxable as per Schedule I of the CGST Act. The**

**product is exclusive to this company, and there is no market sale in India of this drug intermediate. How will the value of the supply of this drug intermediate be determined under GST laws?**

**ANSWER:**

Since the supply is made to a distinct person, the same will be valued in accordance with rule 28 of CGST Rules relating to valuation.

There is no open market value of the drug intermediate as also there are no like goods. Therefore, value of supply of such drug intermediate will be determined in terms of clause (c) of rule 28 i.e., by using rule 30. Thus, the value of supply of such drug intermediate will be 110% of its cost of production or manufacture.

However, if the recipient unit is eligible for full ITC, the value declared in the invoice will be deemed to be the open market value of the drug intermediate and thus, the invoice value will be the value of taxable supply.

## CHAPTER 8. INPUT TAX CREDIT

### ADDITIONAL QUESTIONS:

**Problem 1: From the following information determine the amount of Input tax credit admissible to RD Ltd. in respect of various inputs purchased during the month of September, 2017.**

Particulars	Amount of GST (Rs.)
(1) Goods procured but <b>without invoice</b>	50,000
(2) Goods procured from JKL Ltd. (Tax has <b>not</b> been <b>paid</b> by JKL Ltd. to Government.)	75,000
(3) Purchases of goods for <b>personal</b> purposes.	600
(4) Purchases of goods from <b>CC Ltd.</b> (Invoice of CC Ltd. is <b>received</b> in month of <b>September, 2017</b> , but goods were received in month of <b>January 2018</b> )	2,000
(5) Goods purchased against valid <b>invoice</b> from <b>DD Ltd.</b> but Tax has been deposited by <b>DD Ltd.</b> RD Ltd. has made payment to DD Ltd. for such purchases in the month of January 2018.	1,36,000

**Solution:**

*Computation of admissible ITC to RD Ltd. for the month of September, 2017*

Purchases	CGST & SGST (Rs.)
(1) Goods procured without invoice [WN-1]	--
(2) Goods procured from JKL Ltd. [WN-2]	--
(3) Purchases of goods not to be used for business purposes [WN-3]	--
(4) Purchases of goods from CC Ltd. (Invoice of CC Ltd. is received in month of September, 2017, <b>but goods</b> were <b>received in month of January 2018</b> ) (WN-4)	--
(5) Goods purchased against valid <b>invoice</b> from <b>DD Ltd.</b> but <b>tax has been deposited</b> by DD Ltd. RD Ltd. has made payment to DD Ltd. for such purchases in the month of January 2018. [WN-5]	--
	1,36,000
<b>Total admissible Input Tax credit for the month of September 2017</b>	<b>1,36,000</b>

**Working Note:**

- As per section 16(2)(a), no Input tax credit will be available since RD Ltd. is not in possession of valid tax paying document.
- As per Section 16(2)(c), no registered person shall be entitled to the credit of any input tax in respect of any supply of goods unless the tax charged in respect of such supply has been actually paid to the Government. Since JKL Ltd. has not deposited the tax to the credit of Government, no ITC can be claimed by RD Ltd.
- A registered person shall be entitled to take input tax credit on goods which are used or intended to be used in the course or furtherance of his business. Since RD Ltd. has purchased the goods for non business purpose, hence no credit will be admissible on such purchases.
- As per Section 16(2)(b) input tax credit is admissible only when registered person has received such goods. Since the goods are received in the month of January, 2018, input tax credit cannot be taken in the month of September, 2017.
- Input tax credit shall be admissible in month of September, 2017 even if payment is made by RD Ltd. in month of January, 2018.

**Problem 2:** N Ltd. a registered dealer of Udaipur entered in an agreement with a supplier for supply of product 'X' in November, 2017. As the terms it was agreed that 1,000 kgs of product 'X' will be supplied for Rs.. 72,800 (inclusive of CGST and SGST @ 6% each) in 4 lots. Invoice of Rs.. 72,800 has been issued with supply of first lot of product 'X'. Following further information has been provided regarding supply of product received in subsequent lots.

**Briefly explain whether N Ltd. eligible to take credit on proportionate basis.**

Product 'X' (in lots)	Quantity in Kgs	Date of Receipt of Supply
First Lot	250	05/11/2017
Second Lot	300	11/11/2017
Third Lot	150	21/12/2017
Fourth Lot (Final)	300	07/01/2018

**Solution:** No, N Ltd. is not eligible to take credit on proportionate basis. As per first **proviso** to Section 16(2), where the **goods against an invoice are received in lots or installments**, the registered person shall be **entitled** to take credit upon **receipt** of the **last lot or installments**. Therefore, in the given case product 'X' has been received in lots hence, the credit of tax of Rs.. 7,800 i.e. (Rs.. 72,800 x 12 ÷ 112) **paid on such product shall be taken by N Ltd. only after receipt of fourth lot (Final) i.e., 07/01/2018.**

**Problem 3:** ABC Ltd. procured goods valuing Rs.1,50,000 (exclusive of CGST and SGST @ 9% each) under the cover of invoice dated 22/11/2017. The company made payment to the supplier on the same date. There arises a doubt regarding admissibility of tax credit on such hence inputs, the company did not take the input tax credit at the time of receipt of input. The company obtained clarification from their CA who opined that the goods were eligible as inputs. The opinion was received on 06/06/2018. The company now wants to avail Input tax credit of the tax paid on such inputs. Can it do so? The company has filed its annual return for the year 2017-18 on 15/09/2018.

**Solution:** As per Section 16(4), a registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after –

- The due date of furnishing of the return under sec 39 for the month of September following the end of financial year to which such invoice pertains; or
- furnishing of the relevant annual return, whichever is earlier.

In this case the inputs were purchased by invoice dated 22/11/2017, hence input tax credit in respect of such inputs can be taken on earlier of following dates –

- 20/10/2018 being due date of furnishing return of month of September, 2018; or
- 15/09/2018 being the date of furnishing of annual return.

Applying the above provisions, ABC Ltd. can avail credit of input tax paid on inputs till 15/09/2018. Therefore, it can avail credit of CGST Rs.13,500 and SGST of Rs.13,500 on 06/06/2018.

**Problem 4:** SG Ltd. a registered manufacturer engaged in taxable supply of goods procured the following goods during the month of December, 2017. The same has been capitalized in the books of accounts of SG Ltd. Determine the amount of Input Tax Credit available.

Items	Input tax (Rs.)
Machinery used in the factory	1,05,000
Moulds and dies used in the factory	23,000
Pollution control equipment used in the factory	21,000

Capital Goods purchased on which depreciation has been taken on full value including tax thereon	75,000
Capital goods used as parts purchased from supplier who paid tax of Rs.. 7,500 under composition scheme and the composite tax has not been collected from SG Ltd.	

**Solution: SG Ltd.**

Computation of Input Tax credit.

Particulars	Rs.
Machinery used in the factory (WN1)	1,05,000
Moulds and dies used in the factory (WN1)	23,000
Pollution control equipment (WN1)	21,000
Capital Goods purchased on which depreciation is claimed on full value. (WN2)	Nil
Capital goods used as parts purchased from supplier who paid tax of Rs.. 7,500 under composition scheme and the composite tax has not been collected from SG Ltd. (WN3)	Nil
<b>Total Input tax credit available</b>	<b>1,49,000</b>

**Working Notes:**

- (1) As per Section 2(19) "Capital goods" means goods, the value of which is capitalized in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business. Hence, -
  - (a) Machinery
  - (b) Moulds and dies,
  - (c) Pollution control equipment,
 which are used or intended to be used in the course or furtherance of business are eligible for ITC as capital goods.
- (2) As per Section 16(3), input tax credit shall not be admissible where registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961.
- (3) As per Section 17(5)(e), input tax credit shall not be available in respect of goods or services or both on which tax has been paid **under Section 10**. Thus, no **ITC shall** be allowed of tax paid under composition scheme by the supplier.

**Problem 5: JKL Ltd a registered manufacturer is engaged in taxable supply of goods. It procured the following goods during the month of August, 2017. Determine the amount of Input Tax credit available by giving necessary explanations for treatment of various items.**

Items	Input tax paid (Rs.)
Laptop used in office within factory	23,000
Trucks used for transportation of inputs in the factory	1,25,000
Goods used exclusively for personal purposes	44,400
Pumps obtained from the <b>unregistered supplier</b>	
Goods used in <b>construction</b> of office building	65,499
Capital Goods <b>used exclusively for making outward supplies to SEZ unit</b>	34,600

**Solution:**

JKL Ltd.

Computation of Input Tax credit

Particulars	Rs.
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Laptop used in office within factory	23,000
Trucks used for transportation of inputs in the factory (WN1)	1,25,000
Goods used exclusively for personal purposes (WN2)	Nil
Pumps obtained from unregistered supplier on which tax has been paid by JKL Ltd on charge basis (WN3)	Nil
Capital goods used in construction of office building (WN4)	Nil
Capital Goods used exclusively for making outward supplies to SEZ unit (WN5)	34,600
<b>Total Input tax credit available</b>	<b>1,82,600</b>

**Working Notes:**

1. As per Section 17(5)(a)(ii), Input tax credit is available of input tax paid on Motor vehicles and other conveyances when they are used for transportation of goods. Since, truck are used for transportation of goods hence, input tax credit shall be allowed on same.
2. As per Section 17(5)(g), Input tax credit shall not be admissible if capital goods are used exclusively for personal purpose.
3. Pumps obtained from the unregistered supplier on which tax paid by JKL Ltd on reverse charge basis is eligible for input tax credit and hence allowed. However, the applicability of this provision is deferred till 31.03.2018 and hence no tax is leviable.
4. As per Section 17(5)(d), input tax credit shall not be available in respect of goods or services or both received by a taxable person for construction of an immovable property on his own account including when such goods or services or both are used in the course or furtherance of business. Hence, no credit shall be admissible on goods used in construction of office building.
5. Input tax credit of tax paid on capital goods used for making taxable supplies including zero rated supply shall be admissible. Supplies made to SEZ developer or SEZ unit is covered in Zero rated supplies. So, credit of such tax will be admissible.

**Problem 6: Determine the amount of Input tax credit available to Bosco Ltd. in respect of the following items procured by them in the month of March, 2018:**

S. No.	Particulars	Input tax paid (Rs.)
(i)	Input used in process of manufacture of the final product	22,000
(ii)	Food and Beverages procured from Beet Caterers for being used in dealer's meet	56,000
(iii)	Goods used for providing services during warranty period	17,000
(iv)	Goods used for setting up Machinery being immovable property	85,000
(v)	Inputs stolen from the Store	14,500

**Solution:** *Bosco Ltd.*

*Computation of Input Tax credit*

Particulars	Rs.
Input used for the manufacture of the final product	22,000
Food and Beverages procured from Beet Caterers for being used in dealer's meet [WN1]	Nil
Goods used for providing services during warranty period (Since used in course of business hence, input tax credit shall be available)	17,000
Goods used for setting up Machinery being immovable property [WN2]	85,000
Inputs stolen from the Store [WN3]	Nil
<b>Total Input tax credit available</b>	<b>1,24,000</b>

**Working Notes:**

1. As per Section 17(5)(b), No Input tax credit is available in respect of food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply. Hence, no input tax credit is available on food and beverages procured from Beet Caterers even if it is used in dealer's meet.
2. As per Section 17(5)(d), Goods received by taxable person for construction of an immovable property (other than Plant and Machinery) on his own account including when such goods used in course or furtherance of business shall be considered as ineligible input and no credit shall be allowed of tax paid on such goods. Since Machinery is covered as an exception, input tax credit shall be allowed in respect of goods used for setting it up.
3. As per Section 17(5)(h), Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples are considered as ineligible input and credit of GST paid on such goods cannot be taken.

**Problem 7: Determine the amount of Input tax credit admissible to JK Ltd. in respect of the following goods procured by it in the month of April, 2018:**

S. No.	Particulars	Input tax paid (Rs.)
1.	Goods used in construction of an additional floor to office building	24,300
2.	Packing Materials	5,000
3.	Goods disposed of	5,800
4.	Goods used for repairing the office building (Revenue in nature)	9,000
5.	Paper for photocopying machine used for Administrative work	800
6.	Goods given as gifts	50,000
7.	Inputs used for tests or quality check	21,000

**Solution:**

*JK Ltd.*

*Computation of Input tax credit*

Particulars	Rs.
Goods used in construction of an additional floor to office building [WN1]	Nil
Packing Materials (Assumed to be used in normal course of business. Hence, input tax credit shall be available)	5,000
Goods destroyed [WN2]	Nil
Goods used for repairing the office building and cost of such repairs is debited to profit and loss account [WN3]	9,000
Paper for photocopying machine used in Administrative Office (Since used in course of business hence, input tax credit shall be available)	800
Goods given as gifts [WN2]	Nil
Inputs used for tests or quality check (Since used in course of business hence, input tax credit shall be available)	21,000
<b>Total Input Tax Credit available</b>	<b>35,800</b>

**Working Notes:**

- (1) As per Section 17(5)(d), input tax credit shall not be available in respect of goods or services or both received by a taxable person for **construction of an immovable property** (other than plant or machinery) on his own account including when such goods or services or both are used in the course



or furtherance of business. Hence, input tax credit shall not be available in respect of goods used in construction of an additional floor of office building.

- (2) Section 17(5)(h), input tax credit shall not be available in respect of goods lost, stolen, destroyed, written off or disposed off by way of gift or free samples. Hence, no ITC shall be available in respect of goods destroyed.
- (3) As per the explanation, the expression "Construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the immovable property. Goods used for Revenue repairs are considered as an eligible input and credit shall be allowed on the same.

**Problem 8: Determine the amount of Input tax credit admissible to Z Ltd. in respect of the following items procured by them in the month of December, 2017:**

S.No.	Particulars	Input tax paid (Rs.)
1.	Goods supplied for captive consumption in a factory	8,500
2.	Goods purchased for being used in repairing the Factory shed and same are capitalized in books	25,000
3.	Cement used for making foundation and structural support to Machinery	18,000
4.	Inputs used in trial runs	15,999
5.	Food and beverages purchased for the employees during office hours	9,000

**Solution:**

*Z Ltd.*

*Computation of Input tax*

Particulars	Rs.
Goods used for captive consumption (Since, used in course of Business hence, input tax credit on same shall be admissible).	8,500
Goods purchased for being used in repairing the factory shed and same are capitalized to the cost of Factory shed.	Nil
Cement used for making foundation and structural support to Machinery	18,000
Inputs used in trial runs (Since used in course of business hence, input tax credit shall be available)	15,999
Food and beverages purchased for the employees during office hours	Nil
<b>Total Input tax credit available</b>	<b>42,499</b>

**Working Notes:**

1. As per Section 17(5)(d), input tax credit shall not be available in respect of goods or services or both received by a taxable person for construction of an immovable property (other than plant and machinery) on his own account including when such goods or services or both are used in the course or furtherance of business. Construction includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property. Since the cost of repairs is capitalized in books, no credit of input tax paid on goods used shall be allowed.
2. As per Explanation to Section 17, "Machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports. Input tax credit is admissible in respect of goods or services or both received by a taxable person for construction of plant or machinery. Hence tax paid on cement shall be available for input tax credit.

3. As per Section 17(5)(b), No input tax credit is available in respect of food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply. Hence, no input tax credit is available on food and beverages for use of employees during office hours.

**Problem 9: A Motor Training institute provides service of motor training pilot in candidates become eligible for obtaining driving license. Determine whether the institute is eligible to take credit on motor car purchased for imparting training.**

**Solution:** As per Section 17(5)(a)(i), Input tax credit shall not be allowed on motor vehicles and other conveyances, except when they are used for making following taxable supplies-

- (i) further supply of such vehicles or conveyances; or
- (ii) transportation of passengers; or
- (iii) imparting training on driving, flying, navigating such vehicles or conveyances.

Where, "Conveyance" includes a vessel, an aircraft and a vehicle. Since, motor car is used to impart training in driving, therefore credit of input tax paid on purchase of motor car shall be available to the Institute.

**Problem 10: Compute the Input tax credit available with Technomasters Ltd., manufacturers of bikes, in respect of the following services availed by it in the month of October, 2017:**

S. No.	Services billed	Input tax paid (Rs.)
(i)	Business Consultancy	6,000
(ii)	Health insurance services for employees (Services are not <b>provided under</b> Government obligation)	5,000
(iii)	Routine maintenance of the trucks manufactured by Technomasters Ltd.	14,000
(iv)	Repair services for factory building (cost debited to Profit and Loss Account)	10,200
(v)	Hotel accommodation and Conveyance facility to employees on vacation	8,000
(vi)	Testing services availed for car engines	5,000

**Solution:**

*Technomasters Ltd.*

*Computation of Input tax credit*

Particulars	Rs.
Business Consultancy (Input tax credit is eligible since such services are used in course of business)	6,000
Health insurance services provided to employees	Nil
Routine maintenance of the trucks manufactured by Technomasters Ltd. (Input tax credit eligible since such services are used in course of business)	14,000
Repair services for building (Repairs are revenue in nature, hence, credit of tax paid shall be available)	10,200
Hotel accommodation and conveyance facility for employee on vacation	Nil
Testing services availed for car engines (Input tax credit is eligible since such services are used in course of business)	5,000
<b>Total Input tax credit available</b>	<b>35,200</b>

**Working Notes:**

1. As per Section 17(5)(b)(iii), input tax credit shall not be available in respect of health insurance services availed for employees since the said services are not notified by the Government and the employer has provided it to the employees.
2. As per Section 17(5)(b)(iv), No input tax credit shall be allowed on services extended to employees on vacation.

**Problem 11: ABC Ltd. engaged in supplying taxable goods has availed following services in month of August, 2017. Compute the input tax credit admissible on such input services.**

Cases	Particulars	Input tax paid (Rs.)
1.	Sales promotion services	14,000
2.	Health care services availed from AmericanClub for upkeep of health of their employees	2,800
3.	ABC Ltd. hired cab on rent for employees. (Government notified)	3,500
4.	Market research services	8,090
5.	Quality control services	12,000
6.	Work contract services for construction of office building	32,000

**Solution:**

ABC Ltd.

Computation of Input tax credit

Particulars	Rs.
Sales promotion services [WN1]	14,000
Health care services availed from American Club for upkeep of health of their employees [WN2]	Nil
ABC Ltd. hired cab on rent for employees. (Government notified) [WN3]	3,500
Market research services [WN1]	8,090
Quality control services [WN1]	12,000
Work contract services for construction of office building (Not considered as eligible input service)	Nil
<b>Total Input tax credit available</b>	<b>37,590</b>

**Working Notes:**

1. As per the Section 2(60), "Input service" means any service used or intended to be used by a supplier in the course or furtherance of business. So, services like -
  - (a) Sales promotion services;
  - (b) Market research services;
  - (c) Quality control services,
 are used by supplier in course or furtherance of business. Hence, the credit of the tax paid on the aforesaid supply of services is available.
2. As per Section 17(5)(b)(i), input tax credit is not available in respect of food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply. Thus, input tax credit shall not be admissible on health care services provided to employees.
3. As per Section 17(5)(b)(ii), since the government has notified cab services as obligatory services to be provided to employees, hence credit of tax paid on such service shall be allowed.

**Problem 12:** ABC Ltd., a manufacturer, which is engaged in supply of taxable goods has purchased 5,000 kg of Product 'A' for Rs.. 5,00,000 (exclusive of CGST @ 14% and SGST @ 14%) on which input tax credit has been taken. Due to changes in fashion process, the said product became obsolete and their value has been written off in the books of accounts. Explain Input tax credit treatment in above case.

**Solution:** As per Section 17(5)(h) of the CGST Act, 2017, if the value of any goods is written off in the books of account, then no input tax credit shall be allowed in respect of the said input. Where input tax credit has been taken in respect of the said goods, the same has to be paid by recipient. Since in the given case, ABC Ltd. has availed input tax credit, thus it has to pay Rs.. 70,000 (Rs.. 5,00,000 @ 14%) towards CGST and Rs.. 70,000 towards SGST liability.

**Problem 13:** JKL Ltd. is engaged in supply of works contract services. It gives a part of the construction work to a sub-contractor. The sub-contractor charges GST in his invoice to JKL Ltd. You are required to advise JKL Ltd. if it can avail Input tax credit of the GST charged to it by the sub-contractor.

**Solution:** As per Section 17(5)(c), input tax credit shall not be available in respect of works contract services when supplied for construction of an immovable property. However, credit is allowed where it is an input service for further supply of works contract service. In the given case, the services supplied by the sub-contractor have been used by the JKL Ltd. for further supply of works contract service. Hence, JKL Ltd. can avail the Input tax credit of the GST charged on the input service provided by the sub-contractor.

**Problem 14:** JKL Ltd. is engaged in supply of passenger transportation services. In the month of October, 2017, it has purchased two motor vehicles for Rs.. 24,00,000 plus GST @ 28%. You are required to advise JKL Ltd. if it can avail Input tax credit of the GST paid by it on motor vehicles.

**Solution:** As per Section 17(5)(a)(ii), input tax credit shall not be available in respect of Motor vehicles and other conveyances. However, credit will be available when they are used for making the taxable supplies of transportation of passengers. In this case JKL Ltd. is engaged in transportation of passengers it will **be entitled** to take credit of GST amounting Rs.. 6,72,000 i.e. [Rs. 24,00,000 x 28%]

**Problem 15:** JKL Ltd. conducted its Golden Jubilee Annual General meeting at its head office in Mumbai and availed services of Malicious caterers on that occasion. Malicious caterers charged Rs.. 23,00,000 plus GST @ 12% for the supply of outdoor catering services. You are required to advise JKL Ltd. if it can avail Input tax credit of the GST paid on outdoor catering service.

**Solution:** As per Section 17(5)(b)(i), input tax credit shall not be available in respect of supply of outdoor catering service. Hence, JKL Ltd. is not entitled to avail Input Tax credit of GST paid on outdoor catering services availed from Malicious caterers.

**Problem 16:** FC Traders paying tax under composition scheme becomes liable to pay tax under regular scheme from 01/04/2018. Can it avail Input tax credit and if so determine the amount of ITC available?

**Break-up of credit available with FC Traders as on 31/03/2018:**

Particulars	CGST (Rs.)	SGST (Rs.)
Inputs lying in stock (invoice dated 11/03/2018)	4,500	4,500
Capital goods procured on 25/09/2017 invoice dated 27/09/2017	6,000	6,000
Inputs lying in semi-finished goods in stock (Invoice dated 21/12/2017)	1,500	1,500

**Solution:** As per Section 18(1)(c), where any registered person ceases to pay tax under Section 10, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he become liable to pay tax under Section 9.

Therefore, in given case, FC traders shall be entitled **from 01/04/2017 to avail credit available as on 31/03/2018.**

The credit of capital goods is to be claimed after reducing the tax paid on such capital goods by 5% points per quarter of a year or part thereof from the date of invoice or such other documents on which the capital goods were received by the taxable person. (Rule 40 of CGST Rules.)

***Input tax credit available to FC Traders in respect of inputs***

Particulars	Input Tax (CGST + SGST)	Eligible Credit
Inputs lying in stock (4500+4500)	9,000	9,000
Inputs lying in semi-finished goods in stock (Invoice dated 21/12/2017) (1500+1500)	3,000	3,000
Total Input tax credit available	12,000	12,000

***Input tax credit available to FC Traders in respect of capital goods***

Particulars	Rs.
Date of invoice of capital goods	27/09/2017
Date from which FC traders are liable to pay tax under Section 9	01/04/2018
No. of quarters from date of invoice	3
CGST and SGST paid on capital goods procured on 27/09/2017	12,000
ITC to be reduced by Rs.. $12,000 \times 5\% \times 3$ <b>quarters (From September 17 to March 2018 Quarter)</b>	1,800
Credit (CGST and SGST) available on capital goods	10,200

**Note:** As per Section 2(92), "quarter" shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year.

**Problem 17:** M/s. BMW a registered dealer engaged in supplying exempted goods to its customers. On 12/09/2018, exemption notification was rescinded and goods were liable for tax. M/s. BMW has to make e-payment of tax on the due date i.e., on 20/10/2018. Determine the eligible credit for the month of September, 2018 if the following information is provided:

Particulars	Value (exclusive of CGST/SGST/ IGST) (Rs.)	CGST @ 9% (Rs.)	SGST @ 9% (Rs.)	IGST @ 5% (Rs.)
Value of Inputs lying in stock as on 11/09/2018.	1,25,000	--	--	6,250
Value of inputs contained in semi-finished goods lying in stock as on <b>11/09/2018</b> but only <b>inputs worth 28,000</b> in semi-finished goods were <b>procured after 11/09/2017</b>	87,000	7,830	7,830	--

Inputs received on <b>30-04-2018</b> lying in finished goods in stock on <b>11/09/2018</b>	1,15,000	10,350	10,350	--
Capital goods procured in 10/10/2017 which is exclusively used in supplying exempted goods	6,55,000	--	--	32,750

**Solution:** As per Section 18(1)(d), where an exempt supply of goods or services or both by a registered person become a taxable supply, such person shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relatable to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable.

As per CGST Rules, 2017, the input tax credit on capital goods, shall be claimed after reducing the tax paid on such capital goods by 5% points per quarter of a year or part thereof from the date of invoice or such other documents on which the capital goods were received by the taxable person.

Computation of Input tax credit relating to CGST/SGST/IGST available to M/s. BMW in respect of inputs and capital goods will be as follows:

Particulars	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)	Total Eligible Credit (Rs.)
ITC on the value of inputs lying in stock. (In absence of any information, it is assumed that all stocks are purchased within one year and hence are eligible)	--	--	6,250	6,250
Input tax credit on the value of inputs contained in semi-finished goods [WN1]	2,520	2,520	--	5,040
Input tax credit on value of inputs lying in stock of finished goods stock [Inputs received on 30/04/2018 lying in finished goods in stock on 11/09/2018 as all inputs were acquired within 1 year prior to the effective date on which the goods become taxable, therefore, entire ITC would be allowed]	10,350	10,350	--	20,700
<b>Capital goods [WN2]</b>	--	--	<b>26,200</b>	<b>26,200</b>
<b>Total Input tax credit available</b>	<b>12,870</b>	<b>12,870</b>	<b>32,450</b>	<b>58,190</b>

**Working Notes:**

**1. ITC on the value of inputs contained in semi-finished goods** – Out of the total stock of Rs.. 87,000, inputs totaling to Rs.. 59,000 are ineligible as period of 1 year has elapsed from the effective date of purchase. ITC on inputs contained in stock of Rs.28,000 would be eligible. [Eligible Credit = Rs.. 7,830 x Rs.. 28,000 ÷ Rs.. 87,000 each in respect of CGST and SGST]

**2. Credit available in respect of capital goods:**

Particulars	Rs.
Date of invoice	10/10/2017
Date from which the goods become taxable	17/09/2018
No. of quarters or part thereof from date of invoice	4
Percentage points to be reduced (5% per quarter)	20%
IGST paid on the capital goods used exclusively in relation to goods exempted upto 11/09/2018	32,750
ITC to be reduced by 20%	6,550
<b>Amount of Input tax credit available in respect of capital goods</b>	<b>26,200</b>

**Note:** As per Section 2(92), "quarter" shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year.

**Problem 18:** JKL Ltd. a supplier of goods has purchased capital goods on 01/04/2017 for Rs. 11,20,000 (inclusive of CGST @ 6% and SGST @ 6%). After taking it for business use, the said capital goods were supplied for Rs.. 9,50,000 on 01/12/2017. Explain Input tax credit treatment in this case.

**Solution:** As per Section 18(6) of the CGST Act read with **Rule 40(2) of CGST Rule, 2017**, in case of supply of capital goods, on which input tax credit has been taken, the registered person shall pay an amount –

Equal to the input tax credit taken on the said capital goods reduced by an amount calculated @ **5% for every** quarter or part thereof from the date of issue of invoice for such goods; or

The tax on the transaction value of such capital goods or plant and machinery determined under Section 15, **whichever is higher.**

**Computation of amount of tax payable by JKL Ltd.:**

Particulars	Rs.
Date of Invoice of purchase of capital goods	01/04/2018
Date of Supply of capital goods after taking into use	01/12/2018
No. of Quarters from the date of issue of invoice for such goods	3
CGST and SGST paid on purchase of Capital Goods [Rs. 11,20,000 x 12 ÷ 112]	1,20,000
Reduced by Rs.. 1,20,000 x 5% × 3 quarters	(18,000)
<b>Amount of CGST and SGST (A)</b>	<b>1,02,000</b>
Transaction Value on supply of Capital Goods u/s 15	Rs.. 9,50,000
CGST and SGST payable on supply of Capital Goods @ 12% <b>(B)</b>	1,14,000
<b>Amount to be payable (higher of A or B)</b>	<b>1,14,000</b>

**Problem 19:** What would be your answer if capital goods being Jig are removed as scrap at a transaction value of Rs.. 1,25,000 on 01/12/2018?

**Solution:** As per proviso to Section 18(6), where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, there shall be no requirement for reversal of Input tax credit, taxable person may tax on the transaction value determined under Section 15.

In the given case, since, jig are cleared as scrap, the manufacturer shall pay an amount equal to the tax leviable on transaction value i.e. CGST Rs. 1,25,000 x 6% = Rs. 7,500 and SGST Rs. 1,25,000 x 6% = Rs. 7,500.

**Problem 20:** Champion Manufacturers received some inputs on 21/07/2017 and immediately availed input tax credit of the CGST and SGST of Rs.. 1,32,000 paid on those inputs. On



**26/07/2017 it sent the inputs to a job worker outside its factory for carrying out machining on the inputs and same were received by the Job worker on 28/07/2017. The job worker returned the inputs on 07/07/2018 after carrying out the machining work on the inputs. Discuss whether Champion Manufacturers is required to take any further action with respect to the Input tax credit availed by it.**

**What would your answer be if such inputs were received back from Job Worker on 07/10/2018.**

**Solution:** As per Section 19(3) of CGST Act, 2017, if any inputs are sent to a job worker for further processing and are received back in the factory within 1 year of their being sent to a job worker, input tax credit in respect of such inputs is allowed to the manufacturer. However, if the inputs are not received back within 1 year, then it shall be deemed that inputs are supplied to job worker on the day when inputs are sent out and manufacturer shall pay an amount equivalent to the input tax credit attributable to the inputs by debiting the Electronic credit ledger. Manufacturer is eligible to take the credit again when the inputs are received back in his factory.

In this given case, the goods sent on 26/07/2017 should have been received back latest by 25/07/2018. Here, since the inputs have been received back from the job worker within 1 year, Champion Manufacturers is not required pay any amount.

However, if the inputs were received back by Champion Manufacturers on 07/10/2018, than Champion Manufactures would be required to pay the amount by debiting the Electronic Credit Ledger. However, Champion Manufactures can take the credit again when the processed inputs are received back in its factory i.e. on 07/10/2018.

**Problem 21: What would your answer be in above case if inputs are sent directly to premises of registered Job Worker without being first taken to stock by Champion manufacturer. The goods were cleared from the supplier on 26/07/2017 but received by Job worker on 26/09/2017. The job worker carried out the job work of matching and supplied the goods after machining to XYZ Traders on 25/09/2018 on payment of tax on directors of Champion manufacturers. Discuss ITC implications.**

**Solution:** As per Section 19(2), the principal shall be entitled to take credit of input tax on inputs even if the inputs are directly sent to a job worker for job work without being first brought to his place of business. Hence, Champion Manufacturers is eligible to claim Input tax credit of Rs. 1,32,000 on receipt of inputs by the Job worker from the supplier.

As per Section 143(1)(b), the Job worker can clear the goods after completion of processing with payment of tax in India or without payment of tax for export outside India provided the principal has declared job worker's premises as an additional place of business in registration or job worker is registered under Section 25 of this Act. Such supply is to be made within 1 year from date of receipt of goods by job worker.

In the above case, since the supply of goods are made to XYZ Traders on 25/07/2018 which is within 1 year from the date of receipt of goods by Job worker, no reversal of input tax credit is required.

**Problem 22: XYZ Manufactures, a registered person, instructs his supplier to send the machinery directly to RP Ltd., a job worker outside the factory premises for carrying out certain operations on his goods. The goods were sent by the supplier on 15/12/2017 and were received by RP Ltd. on 20/12/2017. The job worker, RP Ltd., carried out the job work but did not return the capital goods to XYZ Manufacturers. Discuss whether XYZ manufacturers are eligible to retain the input tax credit availed by them on the capital goods. What action under the GST Act is required to be taken by XYZ manufacturers.**

**What would your answer be if in place of capital goods jigs and fixtures are supplied to the job worker and the same has not been returned to the Principal.**

**Solution:** As per Section 19(5) of the CGST Act, 2017, the principal shall be entitled to take credit of input tax on capital goods even if the capital goods are directly sent to a job worker for job work. If such capital goods are not received back by the principal within a period of 3 years of being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day

when the said capital goods were sent out and in case of direct dispatch to the job worker, the period of 3 years shall be counted from the date of receipt of capital goods by the job worker.

Applying the above provisions, in the instant case, XYZ Manufacturers can take input tax credit on such capital goods even if they are sent directly to RP Ltd.'s (job worker's) premises. Here, the 3 years period shall be counted from the date of receipt of the capital goods by the job worker i.e. 20/12/2017 and hence the capital goods should be returned before 20/12/2020, otherwise it shall be treated as deemed supply of the capital goods by the principal to the job worker as on 20/12/2017.

Thus, in case the capital goods are not returned within the above mentioned time by the job worker, XYZ Manufacturers will have to pay tax along with interest on such deemed supply of capital goods to RP Ltd.

**In case of supply of moulds, dies, jigs, fixtures or tools to Job worker in place of capital goods:**

As per Section 19(7), the time limit as given above [as given in Section 19(3)] shall not apply in case of moulds, dies, jigs and fixtures or tools sent to the job worker. Therefore, in this case, XYZ Manufacturers is not required to pay tax even if RP Ltd. has not returned the moulds and dies, jigs and fixtures, or tools.

**Problem 23: CNP Ltd. is engaged in the manufacture of heavy machinery. It procured the following items during the month of September.**

S. No.	Particulars	GST paid (Rs.)
1.	Electrical transformers to be used in the manufacturing process	6,20,000
2.	Trucks used for the transport of raw material	2,00,000
3.	Raw material	1,00,000
4.	Confectionery items for consumption of employees working in the factory	1,25,000

Determine the amount of ITC available with CNP Ltd., for the month of September by giving necessary explanations for treatment of various items.

**Note:**

- (i) All the conditions necessary for availing the ITC have been fulfilled.
- (ii) ABC Co. Ltd. is not eligible for any threshold exemption.

**Solution:**

S. No.	Particulars	GST paid (Rs.)
1.	Electrical transformers [Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1)]	6,20,000
2.	Trucks used for the transport of raw material [Though ITC on motor vehicles has been specifically disallowed under section 17(5)(a), ITC on motor vehicles used for transportation of goods is allowed under section 17(5)(a)(ii)]	2,00,000
3.	Raw material [Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1)]	1,00,000

4.	Confectionery items for consumption of employees working in the factory [ITC on food or beverages is specifically disallowed unless the same is used for making outward taxable supply of the same category or as an element of the taxable composite or mixed supply-Section 17(5)(b)(i)]	Nil
	<b>Total ITC</b>	<b>9,20,000</b>

**Problem 24: Babra Ltd., is engaged in manufacture of taxable goods. Compute the ITC available with Babra Ltd for the month of October, 2018 from the following particulars:**

**Solution:**

S. No.	Inward supplies	GST (Rs.)	Remarks
1.	Inputs 'A'	80,000	One invoice on which GST payable was Rs. 10,000, is missing
2.	Inputs 'B'	35,000	Inputs are to be received in two instalments. First instalment has been received in October, 2018.
3.	Capital goods	20,000	1,20,000 Babra Ltd. has capitalised the capital goods at full invoice value inclusive of GST as it will avail depreciation on the full invoice value.
4.	Input services	3,80,000	One invoice dated 20.01.2018 on which GST payable was Rs. 1,50,000 has been received in October, 2018.

**Note:**

- (i) All the conditions necessary for availing the ITC have been fulfilled.
- (ii) Babra Ltd. is not eligible for any threshold exemption.
- (iii) The annual return for the financial year 2017-18 was filed on 15th September, 2018.

**Solution:**

*Computation of ITC available with Babra Ltd. for the month of October, 2018*

S. No.	Inward supplies	ITC (Rs.)
1.	Inputs 'A' [ITC cannot be taken on missing invoice. The registered person should have the invoice in its possession to claim ITC-Section 16(2)(a)]	70,000
2.	Inputs 'B' [When inputs are received in instalments, ITC can be availed only on receipt of last instalment-First proviso to section 16(2)]	Nil
3.	Capital goods [Input tax paid on capital goods cannot be availed as ITC, if depreciation has been claimed on such tax component – Section 16(3)]	Nil
4.	Input services [As per section 16(4), ITC on an invoice cannot be availed after the due date of furnishing of the return for the month of September following the end of financial year to which such invoice pertains or the date of filing annual return, whichever is earlier.]	2,30,000

	Since the annual return for the FY 2017-18 has been filed on 15th September, 2018 (prior to due date of filing the return for September, 2018 i.e., 20th October, 2018), ITC on the invoice pertaining to FY 2017-18 cannot be availed after 15th September, 2018.	
	<b>Total</b>	<b>3,00,000</b>

**Problem 25: Mr. Tunius, a supplier of goods, pays GST under regular scheme. Mr. Tunius is not eligible for any threshold exemption. He has made the following outward taxable supplies in a tax period:**

Particulars	(Rs.)
Intra-State supply of goods	18,00,000
Inter-State supply of goods	1,00,000

**He has also furnished the following information in respect of purchases made by him in that tax period:**

Particulars	(Rs.)
Intra-State purchases of goods	13,00,000
Inter-State purchases of goods	25,000

**Mr. Tunius has following ITCs with him at the beginning of the tax period:**

Particulars	(Rs.)
CGST	1,30,000
SGST	1,30,000
IGST	50,000

**Note:**

- (i) **Rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively.**
- (ii) **Both inward and outward supplies are exclusive of taxes, wherever applicable.**
- (iii) **All the conditions necessary for availing the ITC have been fulfilled.**

**Compute the net GST payable by Mr. Tunius during the tax period. Make suitable assumptions as required.**

**Solution:**

*Computation of GST payable by Mr. Tunius on outward supplies*

S. No.	Particulars	(Rs.)	GST (Rs.)
1.	Intra-State supply of goods		
	CGST @ 9% on Rs. 18,00,000	1,62,000	
	SGST @ 9% on Rs. 18,00,000	1,62,000	3,24,000
2.	Inter-State supply of goods		
	IGST @ 18% on Rs. 1,00,000		18,000

	<b>Total GST payable</b>		<b>3,42,000</b>
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*Computation of total ITC*

<b>Particulars</b>	<b>CGST @ 9% (Rs.)</b>	<b>SGST @ 9% (Rs.)</b>	<b>IGST @ 18% (Rs.)</b>
Opening ITC	1,30,000	1,30,000	50,000
Add: ITC on Intra-State purchases of goods valuing Rs. 13,00,000	1,17,000	1,17,000	Nil
Add: ITC on Inter-State purchases of goods valuing Rs. 25,000	Nil	Nil	4,500
<b>Total</b>	<b>2,47,000</b>	<b>2,47,000</b>	<b>54,500</b>

*Computation of GST payable from cash ledger*

<b>Particulars</b>	<b>CGST @ 9% (Rs.)</b>	<b>SGST @ 9% (Rs.)</b>	<b>IGST @ 18% (Rs.)</b>
GST payable	1,62,000	1,62,000	18,000
Less: ITC	(1,62,000)- CGST	(1,62,000)- SGST	(18,000)-IGST
<b>Net GST payable</b>	<b>Nil</b>	<b>Nil</b>	<b>Nil</b>

*Balance of GST*

<b>Particulars</b>	<b>Input Tax Credit</b>	<b>Tax Payable</b>	<b>Balance ITC to be Carried forward</b>
CGST	2,47,000	1,62,000	85,000
SGST	2,47,000	1,62,000	85,000
IGST	54,500	18,000	36,500

**Note** ITC of IGST has been used to pay IGST, CGST and SGST in that order.

**Problem 28:** A garment factory received a government order for making uniforms for a defence personal. This supply is exempt from tax under a special notification. The fabrics is separately procured for the supply, but thread, buttons and lining material for the collars are the once which are used for other taxable products of the factory.

The turnover of the other garments of the factory and exempted uniforms in July is Rs. 8 crore and Rs. 2 crore respectively, the ITC on thread, button and lining material procured in July is Rs. 5,000; Rs. 25,000 and Rs. 15,000 respectively. Calculate the eligible ITC on thread and lining material.

**Solution:** Thread, buttons and lining material are inputs which are used for making taxable as well as exempt supplies. Therefore, credit on such items will be apportioned and credit attributable to exempt supplies will be added to the output tax liability in items of rule 43 of the CGST rules, 2017.

Credit attributable to exempt supplies = Common credit x (Exempt turnover / Total turnover)

Common credit = Rs. 15,000 + Rs. 25,000 + Rs. 5,000 = Rs. 45,000

Exempt turnover = Rs. 2 Crore

Total turnover = Rs. 10 Crore [Rs. 2 Crore + Rs. 8 Crore]

Credit attributable to exempt supply = (Rs. 2 crore / 10 Crore) x Rs. 45,000 = Rs. 9,000

Ineligible credit of Rs. 9,000 will be added to the output tax liability for the month of July. Credit of Rs. 36,000 will be eligible credit for the month of July.

**Problem 29: Mr. A, supplier of goods, pays GST under regular scheme. Mr. A is not eligible for any threshold exemption. He has made the following outwards taxable supplies in a tax period**

<u>Particulars</u>	<u>Rs.</u>
Intra-state supply of goods	16,00,000
Inter-state supply of goods	6,00,000

He has also furnished the following information in respect of purchases made by him in that tax period.

<u>Particulars</u>	<u>Rs.</u>
Intra-state supply of goods	10,80,000
Inter-state supply of goods	1,50,000

Mr. A has following ITCs with him at the beginning of the tax period:

<u>Particulars</u>	<u>Rs.</u>
CGST	40,500
SGST	40,500
IGST	90,000

**Note:**

- Rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively.
- Both inwards and outward supplies are exclusive of taxes, wherever applicable.
- All the conditions necessary for availing the ITC have been fulfilled

Compute the net GST payable by Mr. A during the tax period. Make suitable assumption as required.

**Solution:** Computation of GST payable Mr. A on outward supplies –

S. No.	Particulars	(Rs.)	GST (Rs.)
i	Intra-state supply of goods		
	CGST @ 9% on Rs. 16,00,000	1,44,000	
	SGST @ 9% on Rs. 16,00,000	1,44,000	2,88,000
ii	Intra-state supply of goods		
	IGST @ 18% on Rs. 6,00,000		1,08,000
	<b>Total GST payable</b>		<b>3,96,000</b>

Compute of total ITC.

Particulars	CGST @ 9% Rs	SGST @ 9% Rs.	IGST @ 9% Rs
Opening ITC	40,500	40,500	90,000
Add: ITC on Intra- state purchases of goods valuing Rs. 10,80,000	97,200	97,200	Nil
Add: ITC on Intra- state purchases of goods valuing Rs. 1,50,000	Nil	Nil	27,000
<b>Total ITC</b>	<b>1,37,700</b>	<b>1,37,700</b>	<b>1,17,000</b>

Compute of GST payable from cash ledger:

Particulars	CGST @ 9% Rs	SGST @ 9% Rs.	IGST @ 18% Rs
GST payable	1,44,000	1,44,000	1,08,000
Less: ITC	1,37,700	1,37,700	1,08,000
Balance of IGST credit i.e (1,17,000 – 1,08,000) to be utilized for payment	6,300	2,700	-
<b>GST payable from cash ledger</b>	<b>Nil</b>	<b>3,600</b>	<b>Nil</b>

**Problem 30:** The following are details of purchase, sales, etc effected by M/s LAB & Co. a registered manufacture under CGST Act, 2017:

- 1) Purchased raw material 'X' from local dealer 91,840 (inclusive of GST @ 12%.)
- 2) Purchased raw material 'Y' from local dealer 1,12,000 (inclusive of GST @ 12%.)
- 3) Purchased capital goods from within the state to be used in manufacture of the taxable goods Rs. 2,24,000 (inclusive of GST @ 12%). Depreciation @15% to be charged.
- 4) Other direct and indirect expenses 88,000.
- 5) Earned 5% profit margin on total cost.
- 6) During the month of October, 2017 only 70% production is sold within the state and applicable GST rate being 12%

Calculate the amount of CGST and SGST payable after utilizing input tax credit for the month of October, 2017 assuming no opening balance of input tax credit is available.

**Solution:**

Particulars	Rs.
Purchase raw material 'X' from local dealer $[91,840 \times 100 \div 112]$	82,000
Purchase raw material 'Y' from local dealer $[1,12,000 \times 100 \div 112]$	1,00,000
Depreciation expenses $[2,00,000 \times 15\%]$	30,000
Other directed and in directed expenses	88,000
<b>Total Cost of goods manufactured</b>	<b>3,00,000</b>
<b>Cost of goods sold (70% of goods produced were sold)</b>	<b>2,10,000</b>
<b>Add: profit margin @ 5% of cost</b>	<b>10,500</b>
<b>Taxable value of supply</b>	<b>2,20,500</b>

Working Note: credit will be available for GST and SGST charged by local suppliers. Hence the same is not to be included in the cost.

Particular	CGST (Rs)	SGST (RS)
Output tax liability for the month of October, 2017@ 12% (being CGST 6% and SGST 6%) $[2,20,500 \times 12\%]$	13,230	13,230
Less: eligible input tax credit in respected of purchase of- Raw material 'A' $[82,000 \times 12\%] = 9840$	4,920	4,920



Raw material 'B' [1,00,000 x 12%] = 12,000	6,000	6,000
Capital goods [2,00,000 x 12%] = 24,000	12,000	12,000
CGST / SGST credit to be carried forward	-9,690	-9,690

**Problem 31: R Ltd. A registered manufacture in state of Maharashtra provides the following particulars for tax periods of January, 2018**

- 1) Inputs purchased within state 1,12,000 (includes GST@12%).
- 2) Machinery purchased on 15-01-2018 for 2,00,000 (excluding 12% GST) from a local dealer in Maharashtra eligible for input tax credit. Depreciation rate 15% p.a.
- 3) Manufacturing expenses and profits Rs. 70,000
- 4) Goods produced were sold outside Maharashtra with IGST @ 18% on sales.

**Calculated the amount of CGST and SGST payable after utilizing input tax credit for the month of January, 2018 assuming no opening balance of input tax credit available.**

**Solution:** Computation of taxable value of supply and tax liability:

Particulars	Rs.
Inputs purchased from local dealer	1,00,000
Depreciation expense	30,000
Manufacturing Expense and profits	70,000
Taxable value of supply	2,00,000
Output tax liability (IGST @ 18%)	36,000
Less: input tax credit available on:	
Inputs:	
➤ CGST	6,000
➤ SGST	6,000
Capital goods:	
➤ CGST	12,000
➤ SGST	12,000
IGST to be deposited in cash	0

**Working Note:**

1. Credit will be available for CGST and SGST charged local suppliers, hence same is not to be included in the cost.
2. The credit of CGST and SGST is to be utilized for payment of CGST and SGST output tax liability respectively and any amount thereafter shall be utilized towards IGST liability.

**Problem 32: Mr. N of Kolkata purchased goods from Mr. X of Assam amounting Rs. 1,18,000 (including 18% IGST) in the month of March, 2018. He also purchased raw material worth Rs. 1,25,000 from local dealer who has opted for composition scheme. He incurred Rs. 75,000 as direct and indirect expenses and added profit margin @ 20% of cost.**

**Mr. N sold 70% of finished goods to Mr. P of Mumbai IGST @12% payable thereon, and 30% finished goods to Mr. Q of Kolkata with CGST and SGST @ 12% payable thereon.**

**Compute the net CGST, SGST and IGST liability and input tax credit if any, for the month of March, 2018.**

**Solution:** Computation of taxable value of supply:

Particulars	Rs.
Purchases of raw material from Mr. X of Assam	1,00,000
Purchase of raw material from dealer opted for composition scheme	1,25,000
Other direct and indirect expenses	75,000
<b>Total cost of goods supply</b>	<b>3,00,000</b>
Add: profit margin @ 12% of cost	60,000
<b>Taxable value of supply</b>	<b>3,60,000</b>
Goods sold to Mr. P of Mumbai (70% of goods produced)	2,52,000
Goods sold to Mr. Q of Kolkata (30% of goods produced)	1,08,000

Computation of GST liability:

Particulars	CGST @ 6% Rs	SGST @ 6% Rs.	IGST @ 12% Rs
Goods sold to Mr. P of Mumbai	-	-	30,240
Goods sold to Mr. Q of Kolkata	6,480	6,480	-
Less : Eligible input tax credit in respect of purchase of raw material (from Assam)	-	-	-18,000
<b>CGST / SGST / IGST to be paid in cash</b>	<b>6,480</b>	<b>6,480</b>	<b>12,240</b>

Working Notes:

- 1) Credit will be available for GST charged by outside state supplier, hence some shall not be included in the cost.
- 2) No input tax credit shall be admissible on purchased made from dealer who has opted to the composition scheme.
- 3) The credit of IGST is to be utilizes for payment of GST output tax liability first and if any amount remains thereafter then such amount is to be utilities towards payment of CGST and SGST liability in order.

**Problem 33: Vidya & Co., registered dealer in Ludhiyana, furnished the following details of purchases and sales pertaining to the month of July, 2018**

	Rs.
Goods "X" purchased from local market (including GST @ 12% )	50,400
Goods "Y" purchased from Jaipur (including GST @ 18% )	82,600
Sales made during the month to dealer of Kolkata of product	
➤ Goods 'X'	40,000
➤ Goods 'Y'	25,000
Sales made within the state of goods 'Y'	35,000

Above sales amount given is exclusive of tax. Compute the net CGST, SGST and IGST liability and input tax credit, if for the month of July, 2018.

Particulars	CGST @ 6% Rs	SGST @ 6% Rs.	IGST @ 12% Rs
Inter –state sale;			
Goods "X" sold to Kolkata (IGST @ 12%)	-	-	4,800
Goods "Y" sold to Kolkata (IGST @ 18%)	-	-	4,500
Intra-state sale			
Goods "Y" sold within state (CGST/SGST @ 9% each)	3,150	3,150	-
Less: Eligible input tax credit [(Rs. 50,400 x 100/112) x 12%] [(Rs. 82,600 x 100/118) x 18%]	2,700	2,700	12,600
	450	450	-3,300
<b>Net amount of CGST / SGST / IGST</b>			
Net amount of IGST used to set off payments liability of CGST and SGST in order	450	450	-900

<b>Net amount of IGST credit to be carried forward</b>	Nil	Nil	-2,400

## **QUESTIONS ISSUED BY ICAI FOR GST**

### **1. What is input tax?**

#### **ANSWER:**

Input tax means the central tax (CGST), State tax (SGST), integrated tax (IGST) or Union territory tax (UTGST) charged on supply of goods or services or both made to a registered person. It also includes tax paid on reverse charge basis and integrated goods and services tax charged on import of goods. It does not include tax paid under composition levy.

### **2. What are the conditions necessary for obtaining ITC?**

#### **ANSWER:**

Following four conditions are to be satisfied by the registered taxable person for obtaining ITC:

- (a) he is in possession of tax invoice or debit note or such other tax paying documents as may be prescribed;
- (b) he has received the goods or services or both;
- (c) the supplier has actually paid the tax charged in respect of the supply to the Government; and
- (d) he has furnished the return under section 39.

### **3. Can a person take ITC without payment of consideration for the supply along with tax to the supplier?**

#### **ANSWER:**

Yes, the recipient can take ITC. However, he is required to pay the consideration along with tax within 180 days from the date of issue of invoice. This condition is not applicable where tax is payable on reverse charge basis.

### **4. What is the ITC entitlement of a newly registered person?**

#### **ANSWER:**

A person applying for registration can take input tax credit of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of grant of registration. If the person was liable to take registration and he has applied for registration within thirty days from the date on which he became liable to registration, then ITC of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date on which he became liable to pay tax can be taken.

### **5. What is the tax implication of supply of capital goods by a registered person who had taken ITC on such capital goods?**

#### **ANSWER:**

In case of supply of capital goods or plant and machinery on which ITC has been taken, the registered person shall pay an amount equal to the ITC taken on the said capital goods or plant and machinery reduced by 5% per quarter or part thereof from the date of invoice or the tax on the transaction value of such capital goods, whichever is higher.

However, in case of refractory bricks, moulds and dies, jigs and fixtures when these are supplied as scrap, the person can pay tax on the transaction value

### **6. What happens where the details of inward supplies furnished by the recipient do not match with the outward supply details furnished by the supplier in his valid return?**

#### **ANSWER:**

In case of mismatch, the communication is made to the both the parties. If the mismatch is not rectified, then the amount will be added to the output tax liability of recipient in the return for the month succeeding the month in which discrepancy is communicated.

**7. A flying school imports an aircraft for use in its training activity, and takes ITC of the IGST paid on the import. The departmental audit raises an objection that aircrafts fall within the definition of 'conveyance' in section 2(34) of the Act and that ITC is not allowed on conveyances. Offer your comments.**

**ANSWER:**

Under section 17(5)(a)(i)(C) of the CGST Act, ITC is allowed on aircraft if they are used to make the taxable supply of imparting training on flying an aircraft. Therefore, the credit is correctly taken.

**8. A taxable person is in the business of information technology. He buys a motor vehicle for use of his Executive Directors. Can he avail the ITC in respect of GST paid on purchase of such motor vehicle?**

**ANSWER:**

No. As per section 17(5)(a), ITC on motor vehicles can be availed only if the taxable person is in the business of transport of passengers or is providing the services of imparting training on driving/flying/navigating motor vehicles or is in the business of supply of motor vehicles.

**9. A technical testing agency tests and certifies each batch of machine tools before dispatch by BMT Ltd. Some of these tools are dispatched to a unit in a SEZ without payment of GST as these supplies are not taxable. The finance personnel of BMT Ltd. want to know whether they need to carry out reversal of ITC on the testing agency's services to the extent attributable to the SEZ supplies. Give your comments.**

**ANSWER:**

Under section 16(2) of the IGST Act, credit of input tax is allowed to be taken for inward supplies used to make zero rated supplies. Under section 17 of the CGST Act also, ITC is disallowed only to the extent it pertains to supplies used for non-business purposes or supplies other than taxable and zero-rated supplies. Supplies to SEZ units are zero rated supplies in terms of section 16(1) of IGST Act. Thus, full ITC is allowed on inward supplies of BMT Ltd. used for effecting supplies to the unit in the SEZ.

**10. A garment factory receives a Government order for making uniforms for a commando unit. This supply is exempt from tax under a special notification. The fabric is separately procured for the supply, but thread and lining material for the collars are the ones which are used for other taxable products of the factory. The turnover of the other products of the factory and exempted uniforms in July is ` 4 crore and ` 1 crore respectively, the ITC on thread and lining material procured in July is ` 5000 and ` 15000 respectively. Calculate the eligible ITC on thread and lining material.**

**ANSWER:**

Thread and lining material are inputs which are used for making taxable as well as exempt supplies. Therefore, credit on such items will be apportioned and credit attributable to exempt supplies will be added to the output tax liability in terms of rule 43 of the CGST Rules, 2017.

Credit attributable to exempt supplies = Common credit x (Exempt turnover/ Total turnover)

Common credit = Rs. 15,000 + Rs. 5,000 = Rs. 20,000

Exempt turnover = Rs. 1 crore

Total turnover = Rs. 5 crore [Rs. 1 crore + Rs. 4 crore]

Credit attributable to exempt supplies = (Rs. 1 crore / Rs. 5 crore) x Rs. 20,000 = Rs. 4,000.

Ineligible credit of Rs. 4,000 will be added to the output tax liability for the month of July. Credit of Rs. 16,000 will be eligible credit for the month of July.

**11. Mr. A, a registered person was paying tax under Composition Scheme up to 30th July. However, w.e.f. 31st July, Mr. A becomes liable to pay tax under regular scheme. Is he eligible for ITC?**

**ANSWER:**

Mr. A is eligible for ITC on inputs held in stock and inputs contained in semifinished or finished goods held in stock and capital goods as on 30th July. ITC on capital goods will be reduced by 5% per quarter or part thereof from the date of invoice [Section 18(1)(c)].

**12. Genie Engineers had a mould delivered directly to a job worker from the supplier for making certain precision parts for use in the factory of Genie Engineers. As per agreement, the mould was to remain with the job worker as long as work was being sent to him. After four years a departmental audit team that visited the job worker noticed the mould and traced it to Genie Engineers. GST was demanded from Genie Engineers for taking ITC without receiving the mould and furthermore for not bringing the mould back after three years of delivery to the job worker. How should they respond to this?**

**ANSWER:**

Genie Engineers should reply on the following lines:

Under section 19(6) of CGST Act, the principal may take ITC on capital goods sent to a job worker for job work without being first brought to his place of business.

The capital goods sent for job work should either be returned to the principal or must be supplied from the job worker's premises within 3 years from sending them to the job worker or direct receipt by the job worker from the supplier. If the above time-lines are not met, it is deemed that the capital goods were supplied by the principal to the job worker (in other words, tax will be payable on them) on the day they were sent out to the job worker [Section 19(6)].

However, sub-section (7) of section 19 provides that the time-limit of three years in sub-section (6) for bringing back the capital goods from the job worker does not apply to moulds.

Hence, Genie Engineers have correctly taken the ITC on moulds

**13. Ceramity Ltd. has following units:**

**A: Factory in Hassan, Karnataka; closed from 2017-18 onwards, no turnover.**

**B: Factory in Tumkur, Karnataka; turnover of Rs. 27 crores in 2017-18;**

**C: Service centre in Hyderabad, Telangana; turnover of Rs. 1 crore in 2017-18;**

**D: Service centre in Chennai, Tamil Nadu; turnover of Rs. 2 crores in 2017-18;**

**Ceramity Ltd.'s corporate office functions as ISD. It has to distribute ITC of Rs. 9 lakh for December, 2018. Of this, an invoice involving tax of Rs. 3 lakh pertains to technical consultancy for Tumkur unit. What should be the distribution of the credit?**

**ANSWER:**

As per rule 39(d) of CGST Rules relating to ITC,

- Rs. 3 lakh is attributable to Tumkur unit, and will be transferred to Tumkur unit only.
- Of the remaining Rs. 6 lakh, Hassan unit will not be entitled to any credit as ITC is distributed to only those recipients which supply goods and /or services.
- Rs. 6 lakh have to be distributed among Tumkur unit and the service centres in Hyderabad and Chennai in proportion of their turnover in the previous FY, that is, in 2017-18.

o Tumkur unit will get  $(27 \text{ crore} / 30 \text{ crore}) \times 6 \text{ lakh} = \text{Rs. } 5.4 \text{ lakh}$ ;

o Hyderabad service centre will get  $(1 \text{ crore} / 30 \text{ crore}) \times 6 \text{ lakh} = \text{Rs. } 20,000$ ; and

o Chennai service centre will get  $(2 \text{ crore} / 30 \text{ crore}) \times 6 \text{ Lakh} = \text{Rs. } 40,000$ .

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## CHAPTER 9. REGISTRATION

### ADDITIONAL QUESTIONS:

**Problem 1:** Mr. ABD of Punjab has effected following supplies within the State of Punjab. You are required to determine whether he is required to obtain registration under GST law.

Particulars	Rs.
(1) Intra-State supply of goods agricultural produce grown out of cultivation of land by himself	9,75,000
(2) Intra-State supply of wholly exempt goods under section 11 of CGST Act, 2017	4,56,000
(3) Intra-State supply of goods chargeable with GST @ 18%	7,89,000
<b>Total Value of supplies</b>	<b>22,20,000</b>

**Solution:** Computation of Aggregate value of taxable supplies:

Particulars	Rs.
(1) Intra-State supply of goods agricultural produce grown out of cultivation of land by himself [WN2]	Nil
(2) Intra-State supply of wholly exempt goods u/s 11 of CGST Act, 2017 [WN3]	4,56,000
(3) Intra-State supply of goods chargeable with GST @ 18% [WN4]	7,89,000
<b>Total Value of supplies</b>	<b>12,45,000</b>

### **Working Notes:**

- As per Section 2(6) of CGST Act, 2017, "Aggregate turnover" means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-state supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess.
- An agriculturist is not liable to obtain registration u/s 23 under the Act to the extent of supply of produce out of cultivation of land. In computing the aggregate turnover, Intra-State supply of goods agricultural produce grown out of cultivation of land by himself is to be excluded.
- Intra-State supply of goods which are wholly exempt from GST under Section 11 of CGST Act, 2017 is to be included because it is specifically included in the definition of aggregate turnover.
- Intra-State supply of goods chargeable with GST @ 18% is specifically included in definition of aggregate turnover. Hence, included.

**Conclusion:** The aggregate turnover does not exceed Rs. 20,00,000, hence Mr. ABD is not required to obtain registration under GST law.

**Problem 2:** From the following information you are required to determine whether SRT Ltd. incorporated in Bihar is liable to be registered under GST Law if the company has affected following supplies within the state of Bihar.

Particulars	Rs.
(1) Intra-State supply of goods chargeable with GST @ 18%	6,75,000
(2) Intra-State supply of goods which are exempt from GST under section 11 of CGST Act, 2017	5,35,900
(3) Intra-State supply of goods chargeable with Nil rate	7,89,125
<b>Total Value of supplies</b>	<b>20,00,025</b>



**Solution:** Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds Rs.. 20 lakhs.

**Computation of Aggregate turnover:**

Particulars	Rs.
(1) Intra-State supply of goods chargeable with GST @ 18% [WN1]	6,75,000
(2) Intra-State supply of goods which are exempt from GST u/s 11 of CGST Act, 2017 [WN2]	5,35,900
(3) Intra-State supply of goods chargeable with Nil rate of GST [WN3]	7,89,125
<b>Total Value of supplies</b>	<b>20,00,025</b>

**Working Note:**

- As per Section 2(6) of CGST Act, 2017, "Aggregate turnover" means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-state supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess. Applying the definition stated above:
- Intra-State supply of goods chargeable with GST @ 18% is specifically included for determination of aggregate turnover.
- Intra-State supply of goods which are wholly exempt from GST under section 11 of CGST Act, 2017 is to be included for determination of aggregate turnover.
- Intra-State supply of goods chargeable with nil rate of GST is covered under exempt supplies under sec 11, hence it is to be included in computation of aggregate turnover.

**Conclusion -** Thus, in this case since aggregate turnover of the company exceeds Rs.20 lakhs, it is liable to get itself registered under GST Law.

**Problem 3: Mr. X of Maharashtra has effected following supplies within the state of Maharashtra. You are requested to determine whether he is required to obtain registration under GST law.**

Particulars	Rs.
1) Intra state supply of goods agriculture produce grown out of cultivation of land by family members	15,00,000
2) Intra state supply of goods which are wholly exempted from GST u/s of CGST Act, 2017	6,00,000
3) Intra state supply of goods chargeable with GST @ 5%	8,50,000

**SOLUTION:**

Particulars	Rs.
1) Intra state supply of goods agriculture produce grown out of cultivation of land by family members	Nil
2) Intra state supply of goods which are wholly exempted from GST u/s of CGST Act, 2017	6,00,000
3) Intra state supply of goods chargeable with GST @ 5%	8,50,000
<b>Total value of supplies</b>	<b>14,50,000</b>

Working notes:

- An agriculturalist is not liable to obtain registration under the Act to the extent to supply of produce out of cultivation of land. In computing aggregate turnover, intra state supply of goods agricultural produce grown out of cultivation of land by family members shall not be included.

2. Intra-state supply of goods which are wholly exempt from GST under section 11 of CGST Act, 2017 is to be included since the same is specifically included in the definition of aggregated turnover.
3. Intra-state supply of goods chargeable with GST @ 5% is specifically included for determination of aggregated turnover.

Since the aggregate turnover does not exceed Rs. 20,00,000 hence Mr. X is not required to obtain registration under GST law.

### **QUESTIONS ISSUED BY ICAI FOR GST**

#### **1. Determine the effective date of registration in following cases:**

- (a) **The aggregate turnover of Dhampur Industries of Delhi has exceeded Rs. 20 lakh on 1st September. It submits the application for registration on 20th September. Registration certificate is granted to it on 25th September.**
- (b) **Mehta Teleservices is an internet service provider in Lucknow. Its aggregate turnover exceeds Rs. 20 lakh on 25th October. It submits the application for registration on 27th November. Registration certificate is granted to it on 5th December.**

#### **ANSWER:**

- (a) Every supplier becomes liable to registration if his turnover exceeds Rs. 20 lakh [in a State/UT other than Special Category States] in a financial year [Section 22]. Since in the given case, the turnover of Dhampur Industries exceeded Rs. 20 lakh on 1st September, it becomes liable to registration on said date. Further, since the application for registration has been submitted within 30 days from such date, the registration shall be effective from the date on which the person becomes liable to registration [Section 25 read with rule 10 of the Chapter III - Registration of CGST Rules, 2017]. Therefore, the effective date of registration is 1st September.
- (b) Since in the given case, the turnover of Mehta Teleservices exceeds Rs. 20 lakh on 25th October, it becomes liable to registration on said date. Further, since the application for registration has been submitted after 30 days from the date such person becomes liable to registration, the registration shall be effective from the date of grant of registration. Therefore, the effective date of registration is 5th December.

#### **2. State the time-period within which registration needs to be obtained in each of the following independent cases: (a) Casual taxable person (b) Person making inter-State taxable supply**

#### **ANSWER:**

Section 25(1) of the CGST Act stipulates the time-period within which registration needs to be obtained in various cases. It provides the following time-limits:

In case of registration needs to be obtained a person who is liable to be registered under section 22 or section 24	within 30 days from the date on which he becomes liable to registration
a casual taxable person or a non-resident taxable person	at least 5 days prior to the commencement of business

In view of the aforesaid provisions:

- (a) A casual taxable person must obtain registration at least 5 days prior to the commencement of its business.
- (b) As per section 24 of the CGST Act, person making inter-State taxable supply is liable to get compulsorily registered. Therefore, such person must obtain registration within 30 days from the date on which he becomes liable to registration.

#### **3. In order to be eligible for grant of registration, a person must have a Permanent Account Number issued under the Income- tax Act, 1961. State one exception to it.**

#### **ANSWER:**

A Permanent Account Number is mandatory to be eligible for grant of registration. One exception to this is a non-resident taxable person. A nonresident taxable person may be granted registration on the

basis of other prescribed documents instead of PAN. He has to submit a self-attested copy of his valid passport along with the application signed by his authorized signatory who is an Indian Resident having valid PAN and application will be submitted in a different prescribed form [Section 25(6) & (7)].

**4. State which of the following suppliers are liable to be registered:**

- (a) Agent supplying goods on behalf of some other taxable person and its aggregate turnover does not exceed Rs. 20 lakh during the financial year.**
- (b) An agriculturist who is only engaged in supply of produce out of cultivation of land.**

**ANSWER:**

- (a) Section 22 stipulates that every supplier becomes liable to registration if his turnover exceeds Rs. 20 lakh in a State/UT [Rs. 10 lakh in Special Category States] in a financial year. However, as per section 24, a person supplying goods/services or both on behalf of other taxable persons whether as an agent or not is liable to be compulsorily registered even if its aggregate turnover does not exceed ` 20 lakh during the financial year.
- (b) As per section 23, an agriculturist who is only engaged in supply of produce out of cultivation of land is not required to obtain registration.

**5. What are the advantage of taking registration in GST?**

**ANSWER:**

Registration will confer following advantages to the business:

- Legally recognized as supplier of goods or services.
- Proper accounting of taxes paid on the input goods or services which can be utilized for payment of GST due on supply of goods or services or both by the business.
- Legally authorized to collect tax from his purchasers and pass on the credit of the taxes paid on the goods or services supplied to purchasers or recipients.
- Become eligible to avail various other benefits and privileges rendered under the GST laws.

**6. Can a person without GST registration collect GST and claim ITC?**

**ANSWER:**

No, a person without GST registration can neither collect GST from his customers nor can claim any input tax credit of GST paid by him.

**7. If a person is operating in different States, with the same PAN number, can he operate with a single registration?**

**ANSWER:**

No. Every person who is liable to take a registration will have to get registered separately for each of the States where he has a business operation (and is liable to pay GST)

**8. Can a person having multiple business verticals in a State obtain separate registrations for each business vertical?**

**ANSWER:**

Yes. In terms of the proviso to sub-section (2) of section 25, a person having multiple business verticals in a State may obtain a separate registration for each business vertical, subject to such conditions as may be prescribed.

**9. Is there a provision for a person to get himself voluntarily registered though he may not be liable to pay GST?**

**ANSWER:**

Yes. In terms of sub-section (3) of section 25, a person, though not liable to be registered under sections 22 or 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered taxable person, shall apply to such person.

**10. Can the Department, through the proper officer, suo-moto proceed to register a person?****ANSWER:**

Yes. In terms of sub-section (8) of section 25, where a person who is liable to be registered under GST law fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under CGST Act, or under any other law for the time being in force, proceed to register such person in the manner as is prescribed in the CGST Rules, 2017.

**11. Whether the registration granted to any person is permanent?****ANSWER:**

Yes, the registration certificate once granted is permanent unless surrendered, cancelled, suspended or revoked.

**12. Is it necessary for the UN bodies to get registration under GST?****ANSWER:**

Yes. In terms of section 25(9) of the CGST Act, all notified UN bodies, Consulate or Embassy of foreign countries and any other class of persons so notified would be required to obtain a unique identification number (UIN) from the GST portal.

The structure of the said ID would be uniform across the States in conformity with GSTIN structure and the same will be common for the Centre and the States. This UIN will be needed for claiming refund of taxes paid on notified supplies of goods and services received by them, and for any other purpose as may be notified.

**13. What is the responsibility of the taxable person making supplies to UN bodies?****ANSWER:**

The taxable supplier making supplies to UN bodies is expected to mention the UIN on the invoices and treat such supplies as supplies to another registered person (B2B) and the invoices of the same will be uploaded by the supplier.

**14. What is the validity period of the registration certificate issued to a casual taxable person and non- resident taxable person?****ANSWER:**

In terms of section 27(1) read with proviso thereto, the certificate of registration issued to a "casual taxable person" or a "non-resident taxable person" shall be valid for a period specified in the application for registration or 90 days from the effective date of registration, whichever is earlier. However, the proper officer, at the request of the said taxable person, may extend the validity of the aforesaid period of 90 days by a further period not exceeding 90 days.

**15. What happens when the registration is obtained by means of willful misstatement, fraud or suppression of facts?****ANSWER:**

In such cases, the registration may be cancelled with retrospective effect by the proper officer [Section 29(2)(e)].

**16. Is there an option to take centralized registration for services under GST Law?****ANSWER:**

No, the tax payer has to take separate registration in every State from where he makes taxable supplies.

**17. What could be the liabilities (in so far as registration is concerned) on transfer of a business?****ANSWER:**

The transferee or the successor shall be liable to be registered with effect from such transfer or succession and he will have to obtain a fresh registration with effect from the date of such transfer or succession [Section 22(3)].

**18. At the time of registration, will the assessee have to declare all his places of business?****ANSWER:**

Yes. The principal place of business and place of business have been separately defined under section 2(89) & 2(85) of the CGST Act respectively. The taxpayer will have to declare the principal place of business as well as the details of additional places of business in the registration form.

**19. What will be the time limit for the decision on the on-line registration application?****ANSWER:**

If the information and the uploaded documents are found in order, the proper officer has to respond to the application within 3 common working days. If he communicates any deficiency or discrepancy in the application within such time, then the applicant will have to remove the discrepancy / deficiency within 7 days of such communication. Thereafter, for either approving the application or rejecting it, the proper officer has 7 days' time from the date when the taxable person communicates removal of deficiencies. In case no response is given by the proper officer within the said time line, the portal shall automatically generate the registration.

**20. What will be the time of response by the applicant if any query is raised in the online application?****ANSWER:**

If during the process of verification, one of the tax authorities raises some query or notices some error, the same shall be communicated to the applicant and to the other tax authority through the GST Common Portal within 3 common working days. The applicant will reply to the query/rectify the error/answer the query within a period of 7 days from the date of receipt of deficiency intimation.

On receipt of additional document or clarification, the relevant tax authority will respond within 7 common working days from the date of receipt of clarification

**21. Does cancellation of registration impose any tax obligations on the person whose registration is so cancelled?****ANSWER:**

Yes, as per section 29(5) of the CGST Act, every registered taxable person whose registration is cancelled shall pay an amount, by way of debit in the electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher.

## CHAPTER 10A .TAX INVOICE, CREDIT AND DEBIT NOTES

### QUESTIONS ISSUED BY ICAI FOR GST

**1. Sultan Industries Ltd., Delhi, entered into a contract with Prakash Entrepreneurs, Delhi, for supply of spare parts of a machine on 7th September. The spare parts were to be delivered on 30th September. Sultan Industries Ltd. removed the finished spare parts from its factory on 29th September. Determine the date by which invoice must be issued by Sultan Industries Ltd. under GST law.**

**ANSWER:**

As per the provisions of section 31, invoice shall be issued before or at the time of removal of goods for supply to the recipient, where the supply involves movement of goods. Accordingly, in the given case, the invoice must be issued on or before 29th September.

**2. MBM Caretakers, a registered person, provides the services of repair and maintenance of electrical appliances. On April 1, it has entered into an annual maintenance contract with P for its Air Conditioner and Washing Machine. As per the terms of contract, maintenance services will be provided on the first day of each quarter of the relevant financial year and payment for the same will also be due on the date on which service is rendered. During the year, it provided the services on April 1, July 1, October 1, and January 1 in accordance with the terms of contract. When should MBM Caretakers issue the invoice for the services rendered?**

**ANSWER:**

Continuous supply of service means, inter alia, supply of any service which is provided, or agreed to be provided continuously or on recurrent basis, under a contract, for a period exceeding 3 months with the periodic payment obligations.

Therefore, the given situation is a case of continuous supply of service as repair and maintenance services have been provided by MBM Caretakers on a quarterly basis, under a contract, for a period of one year with the obligation for quarterly payment.

In terms of section 31, in case of continuous supply of service, where due date of payment is ascertainable from the contract (as in the given case), invoice shall be issued on or before the due date of payment.

Therefore, in the given case, MBM Caretakers should issue quarterly invoices on or before April 1, July 1, October 1, and January 1.

**3. The aggregate turnover of Sangri Services Ltd. exceeded Rs. 20 lakh on 12th August. He applied for registration on 3rd September and was granted the registration certificate on 6th September. You are required to advise Sangri Services Ltd. as to what is the effective date of registration in its case. It has also sought your advice regarding period for issuance of Revised Tax Invoices.**

**ANSWER:**

As per section 25 read with CGST Rules, 2017, where an applicant submits application for registration within 30 days from the date he becomes liable to registration, effective date of registration is the date on which he becomes liable to registration. Since, Sangri Services Ltd.'s turnover exceeded ` 20 lakh on 12th August, it became liable to registration on same day. Further, it applied for registration within 30 days of so becoming liable to registration, the effective date of registration is the date on which he becomes liable to registration, i.e. 12th August.

As per section 31 read with CGST Rules, 2017, every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue Revised Tax Invoices. Revised Tax Invoices shall be issued within 1 month from the date of issuance of certificate of registration. Revised Tax Invoices shall be issued within 1 month from the date of issuance of registration in respect of taxable supplies effected during the period starting from the effective date of registration till the date of issuance of certificate of registration.

Therefore, in the given case, Sangri Services Ltd. has to issue the Revised Tax Invoices in respect of taxable supplies effected during the period starting from the effective date of registration (12th August) till the date of issuance of certificate of registration (6th September) within 1 month from the date of issuance of certificate of registration, i.e. on or before 6th October.

**4. Shyam Fabrics has opted for composition levy scheme in the current financial year. It has approached you for advice whether it is mandatory for it to issue a tax invoice. You are required to advise him regarding same.**

**ANSWER:**

A registered person paying tax under the provisions of section 10 [composition levy] shall issue, instead of a tax invoice, a bill of supply containing such particulars and in such manner as may be prescribed [Section 31(3)(c) read with CGST Rules, 2017].

Therefore, in the given case, Shyam Fabrics cannot issue tax invoice. Instead, it shall issue a Bill of Supply



## CHAPTER 11. ACCOUNTS AND RECORDS

### QUESTIONS ISSUED BY ICAI FOR GST

**1. Sindhu Enterprises is a supplier of goods. Its turnover has exceeded ` 2 crore in current financial year. Discuss whether Sindhu Enterprises is required to get its accounts audited by the Chartered Accountant or Cost Accountant under GST law.**

**ANSWER:**

Section 35(5) of the CGST Act read with rule 80 of the CGST Rules, 2017 provides that every registered person must get his accounts audited by a Chartered Accountant or a Cost Accountant if his aggregate turnover during a FY exceeds Rs. 2 crores. Since the turnover of Sindhu Enterprises has exceeded Rs. 2 crore in current financial year, it has to get its accounts audited by a Chartered Accountant/ Cost Accountant.

**2. Mala Services Ltd. is a supplier of management consultancy services. It has approached you to ascertain the period for which the books of accounts or other records need to be maintained?**

**ANSWER:**

Section 36 of the CGST Act stipulates that every registered person required to keep and maintain books of account or other records in accordance with the provisions of sub-section (1) of section 35 shall retain them until the expiry of 72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records.

However, a registered person, who is a party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of one year after final disposal of such appeal or revision or proceedings or investigation, or for the period specified above, whichever is later.

**3. Essel Groups has started making taxable supplies. You are required to advice it about the accounts and records required to be maintained by it as required under section 35(1) of the CGST Act, 2017.**

**ANSWER:**

Section 35(1) of the CGST Act, 2017 stipulates that a true and correct account of following is to be maintained:

- (a) production or manufacture of goods;
- (b) inward and outward supply of goods or services or both; (c) stock of goods;
- (d) input tax credit availed;
- (e) output tax payable and paid
- (f) such other particulars as may be prescribed.

**4. Swad Restaurant has opted for composition scheme in the current financial year. Discuss the records which are not to be maintained by a supplier opting for composition levy as enumerated in rule 56 of the CGST Rules, 2017.**

**ANSWER:**

Following records are not required to be maintained by a supplier who has opted for composition scheme as per rule 56(2) and (4) of the CGST Rules, 2017:

**(I) Stock of goods:** Accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.

**(II) Details of tax:** Account, containing the details of tax payable (including tax payable under reverse charge), tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.

**5. ABC Manufacturers Ltd. engages Raghav & Sons as an agent to sell goods on its behalf. For the purpose, ABC Manufacturers Ltd. has supplied the goods to Raghav & Sons located in Haryana. Enumerate the accounts required to maintained by Raghav & Sons as per rule 56(11) of the CGST Rules, 2017**

**ANSWER:**

Rule 56(11) of the CGST Rules, 2017 provides that every agent shall maintain accounts depicting the

- (a) particulars of authorisation received by him from each principal to receive or supply goods or services on behalf of such principal separately;
- (b) particulars including description, value and quantity (wherever applicable) of goods or services received on behalf of every principal;
- (c) particulars including description, value and quantity (wherever applicable) of goods or services supplied on behalf of every principal;
- (d) details of accounts furnished to every principal; and
- (e) tax paid on receipts or on supply of goods or services effected on behalf of every principal.

# CHAPTER 12. PAYMENT OF TAX

## UNIT 1: PAYMENT OF TAX, INTEREST AND OTHER AMOUNTS

### QUESTIONS ISSUED BY ICAI FOR GST

#### 1. How many types of electronic ledger are there?

##### ANSWER:

- (a) Electronic cash ledger
- (b) Electronic credit ledger
- (c) Electronic liability register

#### 2. Can one use input tax credit for payment of interest, penalty, and payment under reverse charge?

##### ANSWER:

No, as per Section 49 (4) of the CGST Act, 2017 the amount available in the electronic credit ledger may be used for making any payment towards 'output tax'.

As per Section 2 (82) of the CGST Act, 2017, output tax means, the CGST/SGST chargeable under this Act on taxable supply of goods and/or services made by him or by his agent and excludes tax payable by him on reverse charge basis. Therefore, input tax credit cannot be used for payment of interest, penalty, and payment under reverse charge.

#### 3. Are principles of unjust enrichment applicable for payment made under GST?

##### ANSWER:

Yes, as per Section 49 (9) of the CGST Act, 2017 every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.

#### 4. State the name of output tax under GST, where any of the input tax credit under GST can be availed?

##### ANSWER:

IGST. IGST, CGST, SGST, UTGST i.e. all input tax credit can be availed against output tax liability known as IGST

#### 5. ABC limited filed the return for GST under section 39(1) for the month of November on 20th, December showing self assessed tax of Rs. 2,50,000 which was not paid. Explain what are the implications for ABC limited as per relevant provisions?

##### ANSWER:

As per section 2(117) of CGST Act, "valid return" means a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full.

Hence, in such a case, the return is not considered as a valid return and also input tax credit will not be allowed to the recipient of supplies.

#### 6. Who is liable to pay GST?

##### ANSWER:

General rule - Supplier of goods or services is liable to pay GST.

Specific circumstances –

- Import supplies – Recipient of goods or services has to pay tax under reverse charge
- The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies, of which shall be paid by the electronic commerce operator, if such services are supplied through it
- TDS – If total value of supply under contract > Rs. 2.5 lakhs, then Central and State Government, Local authority, Government agencies is liable to deduct TDS and pay the same to the government

- TCS - E-commerce operators are required to collect tax (TCS) on the aggregate value of supply reduced by returns in a month

**7. What will happen if the deductor fails to issue TDS Certificate within the time prescribed?**

**ANSWER:**

As per section 51(4) of the CGST Act, 2017, if any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by way of a late fee, a sum of one hundred rupees per day from the day after the expiry of such five days period until the failure is rectified, subject to a maximum amount of five thousand rupees.

**8. Whether the rate of tax of 1% specified in section 52 is CGST or SGST or a combination of both CGST and SGST?**

**ANSWER:**

The rate of TCS as specified in CGST Act, 2017 is payable under CGST and the equal rate of TCS is expected under the SGST Act also, in effect aggregating to 2%.

**9. Explain matching concept for electronic commerce operator with suitable real life example?**

**ANSWER:**

As per section 52(8) of CGST Act, the details of outward supplies furnished by every operator for the month of tax collected shall be matched with the corresponding details of outward supplies furnished by concerned supplier.

Example: PQR limited sold iphone 6S mobile via shopkart (e-commerce operator) to customers worth Rs. 55,60,000 for the month of November and some customers returned iphone worth Rs. 9,60,000, so net supply for the month of November would be Rs.  $(55,60,000 - 9,60,000) = \text{Rs. } 46,00,000$ .

Now, as per section 52(4) of CGST Act, Shopkart will have to furnish statement, electronically, containing the net outward supply worth Rs. 46,00,000 up to 10th December which is to be matched with the details of outward supply furnished by PQR limited under section 39

**10. What will be the availment of input tax credit in case of default in filing of return and payment of tax?**

**ANSWER:**

If there is default in payment of tax and filing of returns, input tax credit will become ineligible as per Section 16(2)(d) of the CGST Act, and interest will be calculated on gross tax payable

**11. State whether Tax collected at source under section 52 of CGST Act, will be applicable in below mentioned scenarios –**

**(a) Titan sells watch on his own through its own website?**

**(b) ABC limited who is dealer of Titan brand sells watches through flipkart, amazon etc.?**

**ANSWER:**

Answers for both the scenarios is as follows:

As per Section 52 of CGST Act, every electronic commerce operator not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of

- the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator. Hence, if the person sells on his own, TCS won't be applicable.
- If ABC limited who is dealer of Titan brand sells watches through Flipkart, Amazon etc., then the provision of TCS will be applicable to flipkart, amazon.

## CHAPTER 12. PAYMENT OF TAX

### UNIT 2: TAX DEDUCTION AT SOURCE AND COLLECTION OF TAX AT SOURCE

#### ADDITIONAL QUESTIONS:

**Problem 1:** The following are details of purchases, sales, etc. effected by M/s ALT & Co. a registered manufacturer under CGST Act, 2017:

1. Purchased Raw material 'A' from local dealer Rs. 78,400 (inclusive of GST @ 12%)
2. Purchased Raw material 'B' from local dealer Rs. 1,18,000 (inclusive of GST @ 18%)
3. Purchased capital goods from within the state to be used in manufacture of the taxable goods Rs. 2,56,000 (inclusive of GST @ 28%). Depreciation @ 15% to be charged.
4. Other Direct and Indirect expenses Rs. 51,600.
5. Earned 5% profit margin on total cost.
6. During the month of December, 2017 only 70% production is sold within the state and applicable GST rate being 18%.

Calculate the amount of CGST and SGST payable after utilizing input tax credit for the month of December, 2017 assuming no opening balance of input tax credit is available.

**Solution:** Computation of Invoice Value and Tax liability:

Particulars	Rs.
Purchase Raw material 'A' from local dealer [Rs. 78,400 x 100 ÷ 112] [WN]	70,000
Purchase Raw material 'B' from local dealer [Rs.1,18,000 x 100 ÷ 118] [WN]	1,00,000
Depreciation expense [(Rs. 2,56,000 – 2,56,000 x 28 ÷ 128) x 15%]	30,000
Other direct and indirect expense	51,600
<b>Total Cost of goods manufactured</b>	<b>2,51,600</b>
Cost of goods sold (70% of goods produced were sold)	1,76,120
Add: Profit margin @ 5% of cost	8,806
<b>Total Sales Value</b>	<b>1,84,926</b>

#### Working Note:

Credit will be available for CGST and SGST charged by local suppliers. Hence the same is not to be included in the cost.

Computation of CGST and SGST payable for the month of December, 2017 after utilizing the available input tax credit. [assuming no ITC opening balance]

Particulars	CGST (Rs.)	SGST (Rs.)
Output tax liability for the month of December, 2017 @ 18% (being CGST 9% and SGST 9%) [Rs.1,84,926 x 18%]	16,643	16,643
<b>Less: Eligible input tax credit in respect of purchases of –</b>		
Raw material 'A' [70,000 x 12%]	(4,200)	(4,200)
Raw material 'B' [1,00,000 x 18%]	(9,000)	(9,000)
Capital Goods [2,00,000 x 28%]	(28,000)	(28,000)

CGST / SGST credit to be carried forward	(24,557)	(24,557)
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**Problem 2: Computation of tax liability: Intra-State purchase and Inter-state supply:**

**ABC Ltd., a registered manufacturer in state of Maharashtra provides the following particulars for tax period of March, 2018.**

- 1. Inputs purchased within state Rs. 1,00,800 (includes GST @ 12%).**
- 2. Machinery purchased on 01/02/2018 for Rs. 1,77,000 (including 18% GST) from a local dealer in Maharashtra, eligible for input tax credit. Depreciation rate 15% p.a.**
- 3. Manufacturing expenses including profits Rs. 95,000**
- 4. Goods produced were sold outside Maharashtra with IGST @ 12% on sales.**

**Calculate the amount of CGST and SGST payable after utilizing input tax credit for the month of March, 2018 assuming no opening balance of input tax credit available.**

**Solution: Computation of Invoice value and Tax liability:**

Particulars	Rs.
Inputs purchased from local dealer [WN1]	90,000
Depreciation expense $(1,50,000 \times 15 \times 2/12)$	3,750
Manufacturing Expense and profits	95,000
<b>Total Sales Value</b>	<b>1,88,750</b>
Output tax liability (IGST @ 12%)	22,650
Less: Input tax credit available on: [WN2]	
<b>Inputs</b>	
- CGST	5,400
- SGST	5,400
<b>Capital goods</b>	
- CGST	13,500
- SGST	13,500
<b>IGST to be carried forward</b>	<b>(15,150)</b>

**Working Notes:**

- Credit will be available for CGST and SGST charged by local suppliers, hence same is not to be included in the cost.
- The credit of CGST and SGST is to be utilised for payment of CGST and SGST output tax liability respectively and any amount remaining thereafter shall be utilised towards IGST liability.

**Problem 3: Mr. D of Delhi purchased goods from Mr. J of Jaipur amounting to Rs. 2,00,000 (excluding 18% IGST) in the month of March, 2018. He also purchased raw material worth Rs. 1,75,000 from local dealer who has opted for composition scheme. He incurred also Rs. 90,000 as direct and indirect expenses and added profit margin @ 25% of cost.**

**Mr. D sold 70% of finished goods to Mr. P of Punjab with IGST @ 28% payable thereon, and 30% of finished goods to Mr. H of Delhi with CGST and SGST @ 14% payable thereon.**

**Compute the net CGST, SGST and IGST liability and input tax credit if any, for the month of March, 2018.**

**Solution: Computation of Invoice Value and Tax liability:**

Particulars	Rs.
Purchases of raw material from Mr. J of Jaipur [WN-1]	2,00,000
Purchases of raw material from dealer opted for composition scheme [WN-2]	1,75,000
Other direct and indirect expenses	90,000
Total Cost of goods manufactured	4,65,000
Add: Profit margin @ 25% of cost	1,16,250
Total Sales Value	5,81,250
Goods sold to Mr. P of Punjab (70% of goods produced were sold)	4,06,875
Goods sold to Mr. H of Delhi (30% of goods produced were sold)	1,74,375

Particulars	CGST @ 12% (Rs.)	SGST @ 12% (Rs.)	IGST @ 28% (Rs.)
Goods sold to Mr. P of Punjab	--	--	1,13,925
Goods sold to Mr. H of Delhi	24,412	24,413	--
Less: Eligible input tax credit in respect of purchases of – Raw material (from Jaipur)	--	--	(36,000)
<b>CGST/SGST/IGST to be paid in cash</b>	<b>24,412</b>	<b>24,413</b>	<b>77,925</b>

**Working Notes:**

1. Credit will be available for IGST charged by inter-state suppliers, hence same shall not be included in the cost.
2. No input tax credit shall be admissible on purchases made from dealer who has opted for the composition scheme.
3. The credit of IGST is to be utilised for payment of IGST output tax liability first and if any amount remains thereafter then such amount is to be utilised towards payment of CGST and SGST liability in order.

**Problem 4: Lavanya & Co., a registered dealer in Chandigarh, furnishes the following details of purchases and sales pertaining to the month of September, 2018:**

Particulars	Rs.
Goods 'A' purchased from local market (excluding GST @ 12%)	50,000
Goods 'B' purchased from Mumbai (including IGST @ 18%)	59,000
<b>Sales made during the month to Dealer of Goa of product:</b>	
▪ A	55,000
▪ B	5,000
Sales made within Chandigarh product 'B'	50,000

Above sales amount given is exclusive of tax. Computer the net liability and input tax credit, if any for the month of September, 2018.

**Solution: Computation of Tax liability:**

Particulars	CGST (Rs.)	UTGST (Rs.)	IGST (Rs.)
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<b>Inter-State Sale:</b>			
Goods 'A' sold to Goa (IGST @ 12%)	--	--	6,600
Goods 'B' sold to Goa (IGST @ 18%)	--	--	900
<b>Intra-State Sale:</b>			
Goods 'B' sold within state (CGST/UTGST @ 9% each)	4,500	4,500	--
<b>Less:</b> Eligible Input tax credit [(Rs.50,000 x 12%)]	3,000	3,000	9,000
Net amount of CGST / UTGST / IGST	1,500	1,500	(1,500)
<b>Less:</b> IGST used for setting off payment liability of CGST and SGST in order	1,500	0	-
<b>Net UTGST Payable</b>	<b>Nil</b>	<b>1,500</b>	<b>Nil</b>

**Problem 5: SG Ltd. a person registered in Kolkata has supplied goods to Government of Kolkata for Rs. 10,08,000 (inclusive of GST @ 12%). Determine the amount of tax to be deducted at source. Also determine the interest liability if the tax deducted at source on 25/12/2017 is deposited 25/04/2018.**

**Solution:** As per Section 50(1) of the Act, the Government has to deduct tax @ 1% from the payment made or credited to the supplier of taxable goods or services or both, where the total value of such supply, under a contract, exceeds Rs. 2,50,000. Such tax along with return has to be paid to the account of the Government by the deductor within 10 days after the end of the month in which such deduction is made. Else, interest shall be leviable @ 18% p.a. for the period for which the tax or any part thereof remains unpaid.

Hence, the amount of tax to be deducted at source shall be 1% of Rs. 9,00,000 = Rs. 9,000

**Computation of Interest on delay in deposit of TDS:**

Due date for deposit of TDS	(A)	10/01/2018
Date of payment of GST	(B)	25/04/2018
Period of delay (in days)	(C = B – A)	105
Amount of TDS	(D)	9,000
Interest payable @ 18% p.a. for delay in payment of days [D x 18% x C / 365 days]		Rs. 466/-

**Problem 6: ABC Ltd. Has supplied goods to local authority for 11,80,000 (inclusive of GST @ 18%). Determine the amount of tax to be deducted of source. Also determine the interested liability if the tax deducted at source on 25-11-2017 is deposit 28-02-2018.**

**SOLUTION:** As per provision section 50 (1) of the Act, the local authority has to deducted tax @ 1% from the payment made or credited to the supplier of taxable goods or service or both, where the total value of such supply, under a contract, exceeds 2,50,000. Such tax has to be paid to the Government by the deductor within 10 days after the end of the ,month in which such deduction is made, in such manner as may be prescribed otherwise shall be levied @ 18% p.a for the period for which the tax or any part thereof remains unpaid.

Hence, the amount of tax to be deducted at source shall be 1% of 10,00,000

Computation of interest on delay in deposit of TDS:

		Rs.
<b>Due date for deposit of TDS</b>	<b>[A]</b>	10-12-2017
<b>Date of payment of GST</b>	<b>[B]</b>	28-02-2018
<b>Period of delay (in days)</b>	<b>[C=B-A]</b>	80
<b>Amount of TDS</b>	<b>[D]</b>	10,000
<b>Interest payable @ 18% p.a for delay [10000 x 18% x 80 day / 365 day]</b>		394.52

## **QUESTIONS ISSUED BY ICAI FOR GST**

### **1. What are the key features of return mechanism in GST?**

#### **ANSWER:**

The basic features of the return mechanism in GST include electronic filing of returns, uploading of invoice level information and auto-population of information relating to ITC from returns of supplier to that of recipient, invoice level information matching and auto-reversal of ITC in case of mismatch. The returns mechanism is designed to assist the taxpayer to file returns and avail ITC.

### **2. What kind of inward supplies are required to be furnished in GSTR-2?**

#### **ANSWER:**

The details of inward supplies of goods or services or both furnished in GSTR-2 include the –

- (a) invoice wise details of all inter-State and intra-State supplies received from registered persons or unregistered persons including supplies taxable under reverse charge;
- (b) import of goods and services made; and
- (c) debit and credit notes, if any, received by the registered person from suppliers in respect of above supplies

### **3. Can a recipient feed information in his GSTR-2 which has been missed by the supplier?**

#### **ANSWER:**

Yes, the recipient can himself feed the invoices not uploaded by his supplier. The credit on such invoices will also be given provisionally but will be subject to matching. On matching, if the invoice is not uploaded by the supplier, both of them will be intimated. If the mismatch is rectified, provisional credit will be confirmed. But if the mismatch continues, the amount will be added to the output tax liability of the recipient in the returns for the month subsequent to the month in which such discrepancy was communicated.

### **4. Mr. X, a composition tax payer, did not render any taxable supply during the quarter July-September. Is he required to file any goods and service tax return?**

#### **ANSWER:**

Composition tax payer is required to furnish return u/s 39 for every quarter even if no supplies have been effected during such period. In other words, filing of Nil return is also mandatory. Therefore, Mr. X is required to file quarterly return even if he did not render any taxable supply during the quarter July-September.

### **5. If a return has been filed, how can it be revised if some changes are required to be made?**

#### **ANSWER:**

In GST since the returns are built from details of individual transactions, there is no requirement for having a revised return. Any need to revise a return may arise due to the need to change a set of invoices or debit/ credit notes. Instead of revising the return already submitted, the system allows changing the details of those transactions (invoices or debit/credit notes) that are required to be amended. They can be amended in any of the future GSTR- 1/2 in the tables specifically provided for the purposes of amending previously declared details.

As per section 39(9), omission or incorrect particulars discovered in the returns filed u/s 39 can be rectified in the return to be filed for the month/quarter during which such omission or incorrect particulars are noticed. Any tax payable as a result of such error or omission will be required to be paid along with interest. The rectification of errors/omissions is carried out by entering appropriate particulars in "Amendment Tables" contained in GSTR-1 and GSTR2.

### **6. Mr. A, a regular taxpayer, files his GSTR-1, GSTR-2 and GSTR-3 for the month of August, 2017 by the respective due dates. Mr. A receives a communication from the GST common portal on 28th September, 2017 that ITC of Rs. 15,000 claimed by him is in excess of the tax declared by**

**Mr. B (supplier concerned) in his valid tax return. Mr. B has filed his Annual Return for financial year 2017- 18 on 10th November, 2018. Answer the following questions:**

- (i) When is Mr. B required to rectify the discrepancy? Is there any maximum time limit beyond which the discrepancy cannot be rectified?**
- (ii) What will happen if Mr. B does not rectify the discrepancy?**

**ANSWER:**

(i) Mr. B can rectify the discrepancy in valid GSTR-3 for the month of September, 2017 in terms of section 42(5). As per section 39(9), the maximum time limit for the rectification of the discrepancy is the earlier of the following two dates:

- (a) Due date of filing of return for the month of September following the end of the financial year 2017-18 [i.e., 20th October, 2018] or
- (b) Actual date of filing of the relevant annual return i.e., 10th November, 2018. Thus, Mr. B cannot rectify the discrepancy beyond 20 th October, 2018.

(ii) If Mr. B does not rectify the discrepancy in his valid return for September, 2017, the excess ITC claimed by Mr. A will be added in the output tax liability of Mr. A in his GSTR-3 for the month of October, 2017.

**7. Mr. Y, a registered person, has filed its GSTR-3 for the month of September on 19th November. Determine the amount of late fee payable, if any, by Mr. Y.**

**ANSWER:**

As per section 47, any registered person who fails to furnish, inter alia, the returns required under section 39 by the due date is required to pay a late fee of Rs. 100 for every day during which such failure continues subject to a maximum amount Rs. 5,000.

Due date of filing GSTR-3 for a month is 20th day of the succeeding month. Thus, there is a delay of 30 days [11 + 19] by Mr. Y in filing of GSTR-3 for the month of September. Hence, late fee of Rs. 3,000 (Rs. 100 x 30) will be payable by Mr. Y.

**8. Which type of taxpayers need to file Annual Return?**

**ANSWER:**

All taxpayers filing return in GSTR-1 to GSTR-3, other than ISD's, casual/nonresident taxpayers, taxpayers under composition scheme, TDS/TCS deductors, are required to file an annual return. Casual tax payers, non-resident taxpayers, ISDs and persons authorized to deduct/collect tax at source are not required to file annual return.

**9. Is an Annual Return and a Final Return one and the same?**

**ANSWER:**

No. Annual Return has to be filed by every registered person paying tax as a normal taxpayer. Final Return has to be filed only by those registered persons who have applied for cancellation of registration. The Final return has to be filed within three months of the date of cancellation or the date of cancellation order.

**10. Do Input Service Distributors (ISDs) need to file separate statement of outward and inward supplies with their return?**

**ANSWER:**

No, the ISDs need to file only a return in Form GSTR-6 and the return has the details of credit received by them from the service provider and the credit distributed by them to the recipient units. Since their return itself covers these aspects, there is no requirement to file separate statement of inward and outward supplies.

**11. How does a taxpayer get the credit of the tax deducted at source on his behalf? Does he need to produce TDS certificate from the deductee to get the credit?**

**ANSWER:**

Under GST, the deductor will be submitting the deductee wise details of all the deductions made by him in his return in Form GSTR-7 to be filed by 10th of the month next to the month in which deductions

were made. The details of the deductions as uploaded by the deductor shall be auto populated in the GSTR-2 of the deductee

The taxpayer shall be required to confirm these details in his GSTR-2 to avail the credit for deductions made on his behalf. To avail this credit, he does not require to produce any certificate in physical or electronic form. The certificate will only be for record keeping of the taxpayer and can be downloaded from the Common Portal.

**12. Is it compulsory for a taxpayer to file return by himself?**

**ANSWER:**

No. A registered taxpayer can also get his return filed through a Goods and Services Tax Practitioner.

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## CHAPTER 13. RETURNS

### ADDITIONAL QUESTIONS:

**Problem 1:** *Mrs. JK, a registered supplier, supplies goods valuing Rs. 15,00,000 plus GST @ 18% to Mr. Y on 27/09/2017, incorporating these supplies in the details of outward supplies for the month of September 2017 furnished by him on 10th October 2017. However, Mr. Y claimed input tax credit @ 28% in respect of the said supplies and furnished his return for the said month. On matching being carried out the discrepancy was noticed and the same was communicated to both the parties on 30/10/2017. Mr. Y did not rectify the same in the return for the month of October 2017 i.e. upto 20/11/2017. In whose tax liability this mismatch will be added and also discuss the remedial action that can be taken.*

**Solution:** As per section 42(5) of CGST Act, 2017, the amount in respect of which any discrepancy is communicated under section 42(3) and not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the recipient in his return for the month succeeding the month in which the discrepancy is communicated.

Hence, amount of Rs. 4,20,000 will be added to the output tax liability of Mr. Y in the return for the month of November, 2017 is to be filed on 20/12/2017. Thus, he will be liable to pay the said amount along with interest @ 18% p.a. for the period from the date of availing the credit till the date of furnishing the return of the month of November, 2017 i.e. 20/12/2017.

**Problem 2:** *Mrs. KK, a registered supplier, supplied goods valuing Rs. 1,50,000 plus GST @ 18% to Mrs. SS on 27/09/2017, incorporating these supplies in the details of outward supplies furnished for the month of September 2017 on 10/10/2017. However, Mrs. SS recorded the said supplies twice as his inward supplies and accordingly claimed input tax credit on said inward supplies and furnished his return. On matching being carried out the discrepancy was noticed and the same was communicated to both the parties on 30/10/2017. However the same was not rectified in the return for the month of October filed on 20/11/2017. In whose tax liability this mismatch will be added and also discuss the remedial action that can be taken.*

**Solution:** As per Section 42(4) of CGST Act, 2017, the duplication of claims of input tax credit shall be communicated to the recipient only. As per Section 42(6), the amount claimed as input tax credit that is found to be in excess on account of duplication of claims shall be added to the output tax liability of the recipient in his return for the month in which the duplication is communicated i.e. in his return for the month of September 2017 i.e. 20<sup>th</sup> October, 2017. Thus he will be liable to pay amount of Rs. 27,000 along with interest @ 18% p.a. for the period from the date of availing the credit till the date of furnishing the return of the month of October, 2017 i.e. 20/11/2017.

**Problem 3:** *Mr. A a registered supplier, supplies goods valuing 10,00,000 plus GST@12% to Mr. B on 5-08-2017, incorporating these supplies, in the details of outward supplies for the month of August 2017 furnished by him on 10-09-2017. However, Mr. B claimed input tax credit @ 18% in respected of the said supplied and furnished his return for the said month. On matching being carried out the discrepancy was noticed and the same was communicated to both the parties on 30-09-2017. Mr. B did not rectify the same in the return for the month of September 2017 i.e upto 20-10-2017. In whose tax liability this mismatch will be added.*

**SOLUTION:** As per provision section 42(5) of CGST Act 2017, the amount in respect of which any discrepancy is communicated under section 42(3) and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output liability of the recipient in his return for the month succeeding the month in which the discrepancy is communicated.

Thus, the amount of 60,000 [1,80,000, 1,20,000] will be added to the output tax liability of Mr. B in the return for the month of October 2017. The return for the month of October 2017 is to be filed on 20-11-2017. Thus, he will be liable to pay the said amount along with interest @ 18% p.a for the period from the date of availing the credit till the date of furnishing the return for the month of October, 2017 i.e. 2017 i.e. 20-11-2017.

### **QUESTIONS ISSUED BY ICAI FOR GST**

#### **1. List the persons entitled to refund under section 55 of the CGST Act, 2017.**

##### **ANSWER:**

Government may, on the recommendation of the Council, by notification, specify:

- (i) Any specialized agency of the United Nation Organization; or
- (ii) Any Multinational Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947; or
- (iii) Consulate or Embassy of Foreign Countries; and
- (iv) Any other person or class of persons as may be specified in this behalf,

who shall subject to such conditions and restrictions as may be prescribed, be entitled to claim a refund of taxes paid on the notified inward supplies of goods or services or both received by them [Section 55 of the CGST Act]

#### **2. Discuss the provisions relating to refund of the amount of advance tax deposited by a casual taxable person under section 27(2) of the CGST Act, 2017.**

##### **ANSWER:**

The amount of advance tax deposited by a casual taxable person under section 27(2), shall be refunded only when such person has, in respect of the entire period for which the certificate of registration granted for him had remained in force, furnished all the returns required under section 39. [Section 54(13)]

Further, refund of any amount, after adjusting the tax payable by the applicant out of the advance tax deposited by him under section 27 at the time of registration, shall be claimed in the last return required to be furnished by him [Fourth proviso to rule 89(1)]

#### **3. Royal Industries wishes to claim refund of ITC accumulated on account of inverted duty structure. Can it do so? If yes, specify the time-limit within which the refund can be claimed by Royal Industries as provided under the CGST Act. Note: Output supplies of Royal Industries are not nil rated/fully exempt supplies.**

##### **ANSWER:**

Where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council, refund of the unutilized ITC is allowed [First Proviso to section 54(3)]. Thus, in the given case, Royal Industries is entitled to refund.

Further, a person claiming refund is required to file an application before the expiry of 2 years from the relevant date. The term relevant date as explained in the Explanation to section 54 of the CGST Act, inter alia, stipulates that in case of refund of unutilized ITC on account of inverted duty structure is relevant date is the end of the financial year in which such claim for refund arises.

#### **4. A taxable person has mistakenly paid CGST and SGST for an inter-State supply. Subsequently, when he discovers the same, can he adjust the IGST liability against the wrongly paid CGST and SGST?**

##### **ANSWER:**



Section 77, inter alia, stipulates that a registered person who has paid the Central Tax and State Tax, as the case may be, the central tax and the Union Territory Tax on a transaction considered by him to be an inter-state supply, but which is subsequently held to be an Inter-State Supply, shall be refunded the amount of taxes so paid in such manner and subject to such conditions as may be prescribed.

The IGST liability cannot be adjusted against the SGST and CGST wrongly paid.

**5. State the exceptions to the principle of unjust enrichment as applicable to refund claims.**

**ANSWER:**

The principle of unjust enrichment is applicable in all cases of refund except in following cases:-

- (i) Refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies.
- (ii) Unutilized input tax credit in respect of 1. Zero Rated Supplies without payment of tax or; 2. Where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies
- (iii) Refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued.
- (iv) Refund of tax in pursuance of Section 77 of CGST/SGST Act i.e. tax wrongfully collected and paid to Central Government or State Government.
- (v) If the incidence of tax or interest paid has not been passed on to any other person.
- (vi) Such other class of persons who has borne the incidence of tax as the Government may notify.

## CHAPTER 15. JOB WORK

### ADDITIONAL QUESTIONS:

**Worker without being first taken to stock by Champion manufacturer. The goods were cleared from the supplier on 26/07/2017 but received by Job worker on 26/09/2017. The job worker carried out the job work of machining and supplied the goods after machining to XYZ Traders on 25/09/2018 on payment of tax on directors of Champion manufacturers. Discuss ITC implications.**

**Solution:** As per Section 19(2), the principal shall be entitled to take credit of input tax on inputs even if the inputs are directly sent to a job worker for job work without being first brought to his place of business. Hence, Champion Manufacturers is eligible to claim Input tax credit of Rs. 1,32,000 on receipt of inputs by the Job worker from the supplier.

As per Section 143(1)(b), the Job worker can clear the goods after completion of processing with payment of tax in India or without payment of tax for export outside India provided the principal has declared job worker's premises as an additional place of business in registration or job worker is registered under Section 25 of this Act. Such supply is to be made within 1 year from date of receipt of goods by job worker.

In the above case, since the supply of goods are made to XYZ Traders on 25/07/2018 which is within 1 year from the date of receipt of goods by Job worker, no reversal of input tax credit is required.

**Problem 2: Champion Manufacturers received some inputs on 21/07/2017 and immediately availed input tax credit of the CGST and SGST of Rs. 1,32,000 paid on those inputs. On 26/07/2017 it sent the inputs to a job worker outside its factory for carrying out machining on the inputs and same were received by the Job worker on 28/07/2017. The job worker returned the inputs on 07/07/2018 after carrying out the machining work on the inputs. Discuss whether Champion Manufacturers is required to take any further action with respect to the Input tax credit availed by it.**

**What would your answer be if such inputs were received back from Job Worker on 07/10/2018.**

**Solution:** As per Section 19(3) of CGST Act, 2017, if any inputs are sent to a job worker for further processing and are received back in the factory within 1 year of their being sent to a job worker, input tax credit in respect of such inputs is allowed to the manufacturer. However, if the inputs are not received back within 1 year, then it shall be deemed that inputs are supplied to job worker on the day when inputs are sent out and manufacturer shall pay an amount equivalent to the input tax credit attributable to the inputs by debiting the Electronic credit ledger. Manufacturer is eligible to take the credit again when the inputs are received back in his factory.

In this given case, the goods sent on 26/07/2017 should have been received back latest by 25/07/2018. Here, since the inputs have been received back from the job worker within 1 year, Champion Manufacturers is not required pay any amount.

However, if the inputs were received back by Champion Manufacturers on 07/10/2018, then Champion Manufacturers would be required to pay the amount by debiting the Electronic Credit Ledger. However, Champion Manufactures can take the credit again when the processed inputs are received back in its factory i.e. on 07/10/2018.

**Problem 3: XYZ Manufactures, a registered person, instructs his supplier to send the machinery directly to RP Ltd., a job worker outside the factory premises for carrying out certain operations on his goods. The goods were sent by the supplier on 15/12/2017 and were received by RP Ltd. on 20/12/2017. The job worker, RP Ltd., carried out the job work but did return the capital goods to XYZ Manufacturers. Discuss whether XYZ manufacturers are eligible to retain the input tax credit availed by them on the capital goods. What action under the GST Act is required to be taken by XYZ manufacturers.**

**What would your answer be if in place of capital goods jigs and fixtures are supplied to the job worker and the same has not been returned to the Principal.**

**Solution:** As per Section 19(5) of the CGST Act, 2017, the principal shall be entitled to take credit of input tax on capital goods even if the capital goods are directly sent to a job worker for job work. If such capital goods are not received back by the principal within a period of 3 years of being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out and in case of direct dispatch to the job worker, the period of 3 years shall be counted from the date of receipt of capital goods by the job worker.

Applying the above provisions, in the instant case, XYZ Manufacturers can take input tax credit on such capital goods even if they are sent directly to RP Ltd.'s (job worker's) premises. Here, the 3 years period shall be counted from the date of receipt of the capital goods by the job worker i.e. 20/12/2017 and hence the capital goods should be returned before 20/12/2020, otherwise it shall be treated as deemed supply of the capital goods by the principal to the job worker as on 20/12/2017.

Thus, in case the capital goods are not returned within the above mentioned time by the job worker, XYZ Manufacturers will have to pay tax along with interest on such deemed supply of capital goods to RP Ltd.

**In case of supply of moulds, dies, jigs, fixtures or tools to Job worker in place of capital goods:**

As per Section 19(7), the time limit as given above [as given in Section 19(3)] shall not apply in case of moulds, dies, jigs and fixtures or tools sent to the job worker. Therefore, in this case, XYZ Manufacturers is not required to pay tax even if RP Ltd. has not returned the moulds and dies, jigs and fixtures, or tools.

**Problem 4: P Ltd. sends the goods/inputs to JB & Co. for further processing on 30-08-2017. The value of goods sent for Job work is 1,00,000. What are the tax implications, in following cases, if GST @ 18% is levied:**

(i) **JB & Co. sends the processed goods back to P Ltd on 30-10-2017**

(ii) **JB & Co. sends the processed goods back to P Ltd on 30-10-2018**

**Make suitable assumptions as required.**

**Solution:** JB & Co. sends the processed goods back to P Ltd. on 30-10-2017: As per section 143 of the Act, Principal can remove the goods without payment of tax and take input tax credit provided inputs sent for job work are returned back within one year of removal. Otherwise, it shall be treated as supply from principal to Job worker as on 30-08-2017 and subject to tax along with interest.

In the present case, as the inputs are received back on 30-10-2017 i.e. before completion of one year, and hence no tax is payable.

**JB & Co. sends the processed goods back to P Ltd. on 30-10-2018:** In the present case, the goods are received after the period of one year and hence, P Ltd. needs to pay the tax along with the interest on the supply made by him to JB & Co. Hence, P Ltd. need to pay 9,000 (CGST) and 9,000 (SGST) along with specified interest on completion of one year.

**Problem 5: A Ltd. sends the machinery to B & Co. for fixing of some technical issue and intendance on 15-09-2017. The value of goods sent to B & Co. is 1,00,000/-. What are the tax implications, in the following cases:**

(i) **B & Co. sends the machinery back to A Ltd. on 30-12-2018.**

(ii) **B & Co. sends the machinery back to A Ltd. on 30-10-2020**

**Assume GST Rate at 18%.**

**Solution:** In the given example the implication are as follows :

- B & Co. sends the machinery back to A Ltd. on 30-12-2018: As per section 143 of the Act, Principle can remove the goods without payment of tax and take input tax credit provided capital goods sent for job work are returned back within three years of removal. Otherwise, it shall be treated as supply from principle to job work as on 15-08-2017 and subject to the tax along with interest.

In the present case, as the machinery is received bank on 30-12-2018 i.e. before completion of three years, and hence to tax is payable.

- B & Co. sends the machinery back to A Ltd. on 30-10-2020 In present case, the machinery is received after the period of three years and hence, B Ltd. needs to pay tax taken along with the interest. B Ltd. Needs to pay Rs .9,000 (CGST) and Rs. 9,000 (SGST) along with specified interest on completion of 3 years.

**Problem 6: Satya Manufacturers received some inputs on 15- 07-17 and immediately availed input tax credit of the CGST and SGST of 1,20,000 paid on those inputs. On 20-07-2017 it sent the inputs to a job worker outside its factory for carrying out machining on the inputs and same were received by the Job worker on 22-07-2017.**

**The job worker returned the inputs on 05-07-2018 after carrying out the machining work on the inputs.**

**Discuss whether Satya Manufacturers is required to take any further action with respect to the Input tax credit availed by it.**

**What would your answer be if such inputs were received back from Job worker on 15-10-2018.**

**Solution:** As per Section 19(3) of CGST Act, 2017, if any inputs are sent to a job worker for further processing and are received back in the factory within 1 year of their being sent to a job worker, input tax credit in respect of such inputs is allowed to the manufacturer. However, if the inputs are not received back within 1 year, then it shall be deemed that inputs are supplied to job worker on the day when inputs are sent out.

Manufacturer shall pay an amount equivalent to the input tax credit attributable to the inputs by debiting the Electronic credit ledger. Manufacturer can take the credit again when the inputs are received back in his factory.

In the given case, the goods sent on 20-07-2017 should have been received back latest by 20-07-2018. Here, since the inputs have been received back from the job worker within 1 year, Satya Manufacturers is not required pay any amount.

In case it receives the inputs after machining on 15-10-2018, since inputs have not been received within 1 year of their being sent out, it will be deemed that inputs have been supplied by manufacturer to Job worker on the day when they were sent to Job worker i.e. on 20-07-2017. So, Satya Manufacturers is required to pay tax on such deemed supply of inputs.

However, Satya Manufacturers can take the credit again when the processed inputs are received back in its factory i.e. on 15-10-2018.

**Problem 3: What would your answer be in above case if inputs are sent directly to premises of registered Job worker without being first taken to stock by Satya manufacturer. The goods were cleared from the supplier on 20-07-2017 but received by Job worker on 26-07-2017.**

**The job worker carried out the job work of machining and supplied the goods after machining to ABC Traders on 23-07-2018 payment of tax on direction of Satya manufacturer discuss ITC implications.**

**Solution:** As per Section 19(2), the principle shall be entitled to take credit of input tax on inputs even if the inputs are directly sent to a job work without being first brought to his place of business. Therefore Satya manufacturer can claim input tax credit of Rs. 1,20,000 on receipt of inputs by the job workers from the supplier.

As per section 143(1)(b), the job-worker can clear the goods after completion of processing with payment of tax in India or without payment of tax for export outside India provided the principle has with payment of tax in premises as an additional place of business in registration or job worker is registration or job worker is registered under section 25 of this Act. Such supply is to be made within 1 year from date of receipt of goods by job worker.

In the instant case, since the supply of goods are made to ABC Traders on 23-07-2018 which is within 1 year from the date of receipt of goods by job worker, hence, no reversal of input tax credit is required.

### **QUESTIONS ISSUED BY ICAI FOR GST**

**1. Under what circumstances can the principal directly supply goods from the premises of job worker without declaring the premises of job worker as his additional place of business?**

**ANSWER:**

The goods can be supplied directly from the place of business of job worker without declaring it as additional place of business in two circumstances namely where the job worker is a registered taxable person or where the principal is engaged in supply of such goods as may be notified by the Commissioner.

**2. What happens when the inputs or capital goods are not received back or supplied from the place of business of job worker within prescribed time period?**

**ANSWER:**

If the inputs or capital goods are not received back by the principal or are not supplied from the place of business of job worker within the prescribed time limit, it would be deemed that such inputs or capital goods had been supplied by the principal to the job worker on the day when the said inputs or capital goods were sent out by the principal (or on the date of receipt by the job worker where the inputs or capital goods were sent directly to the place of business of job worker). Thus the principal would be liable to pay tax accordingly.

**3. Who is responsible for the maintenance of proper accounts related to job work?**

**ANSWER:**

It is completely the responsibility of the principal to maintain proper accounts of job work related inputs and capital goods.

**4. Shall a manufacturer or a job worker become liable to pay tax if the inputs or semi-finished goods sent for job work under the earlier law are returned after completion of job work after the appointed day?**

**ANSWER:**

No tax will be payable by the manufacturer or the job worker under the following circumstances: -

- (i) Inputs/ semi-finished goods are sent to the job worker in accordance with the provisions of the earlier law before the appointed day.
- (ii) The job worker returns the same within six months from the appointed day (or within the extended period of maximum two months).
- (iii) Both the manufacturer and the job worker declare the details of inputs held in stock by the job worker on the appointed day in the prescribed form.

The relevant sections are 141(1), 141(2) & 141(4).

However, if the said inputs/semi- finished goods are not returned within six months (or within the extended period of maximum two months), the input tax credit availed is liable to be recovered.

**5. When tax shall become payable in GST on manufactured goods sent to a Job worker for carrying out tests or any other process not amounting to manufacture under the earlier law?**

**ANSWER:**

Tax will be payable in GST on manufactured goods sent to a job worker prior to the appointed day for carrying out tests or any process not amounting to manufacture under the earlier law if such goods are not returned to the manufacturer within six months (or within the extended period of maximum two months) from the appointed day. Further, the input tax credit enjoyed by the manufacturer will liable to be recovered if the aforesaid goods are not returned within six months from the appointed day. ñ Section 141(3)

## CHAPTER 16. ELECTRONIC COMMERCE

### ADDITIONAL PRACTICAL QUESTION

**Problem 1:** ABC Ltd. A registered supplier of goods is affecting supplies through E-commerce Ltd. (an electronic commerce operator). It has made taxable supplies of goods amounting Rs. 30,00,000 in month of December 2017 through E-Commerce Ltd; E-Commerce Ltd. Has returned goods amounting Rs. 7,50,000 to ABC Ltd. During the month of December the amount of tax to be collected at source by E-commerce Ltd.

**SOLUTION:** As per provision section 52 of CGST Act, 2017 every electronic commerce operator, not being an agent, shall collect an amount calculated at such rate not exceeding 1%, as may be notified by the Government on the recommendation of the council, of the net value of taxable supplies made though it by other supplier where the consideration with respected by the operator.

Thus the amount of tax to be collected at source by E-commerce Ltd. Is as under:

Particular	Rs.
Value of taxable supplies of goods made by ABC Ltd.	30,00,000
Less: value of taxable supplies of goods return to ABC Ltd.	7,50,000
Amount on which tax is to be collected at source	22,50,000
Rate of TCS	1%
Amount of TCS	22,500

### QUESTIONS ISSUED BY ICAI FOR GST

#### 1. Is it mandatory for e-commerce operator to obtain registration?

**ANSWER:**

Yes. The benefit of threshold exemption is not available to e-commerce operators and they would be liable to be registered irrespective of the value of supply made by them.

#### 2. Whether a supplier of goods or services supplying through e-commerce operator would be entitled to threshold exemption?

**ANSWER:**

No. The threshold exemption is not available to such suppliers and they would be liable to be registered irrespective of the value of supply made by them. This requirement, however, is applicable only if the supply is made through such electronic commerce operator who is required to collect tax at source

#### 3. Will an e-commerce operator be liable to pay tax in respect of supply of goods or services made through it, instead of actual supplier?

**ANSWER:**

Yes, but only in case of certain notified services. In such cases tax shall be paid by the electronic commerce operator if such services are supplied through it and all the provisions of the Act shall apply to such electronic commerce operator as if he is the person liable to pay tax in relation to supply of such services.

#### 4. Will threshold exemption be available to electronic commerce operators liable to pay tax on notified services?

**ANSWER:**

No. Threshold exemption is not available to e-commerce operator who are require to pay tax on notified services provided through them.

**5. Is every e-commerce operator required to collect tax on behalf of actual supplier?**

**ANSWER:**

Yes, every e-commerce operator is required to collect tax where consideration with respect to the supply is being collected by the e-commerce operator.



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## CHAPTER 17. ASSESSMENT AND AUDIT

### QUESTIONS ISSUED BY ICAI FOR GST

#### **1. Is summary assessment order to be necessarily passed against the taxable person?**

##### **ANSWER:**

No. In certain cases, like when goods are under transportation or are stored in a warehouse, and the taxable person in respect of such goods cannot be ascertained, the person in charge of such goods shall be deemed to be the taxable person and will be assessed to tax.

#### **2. Whether principal of natural justice is must to be followed before passing assessment order against the taxable person?**

##### **ANSWER:**

Yes, principal of natural justice is must to be followed before passing assessment order against the taxable person seeking to impose any financial burden on him.

#### **3. In what cases, assessment order passed by proper officer may be withdrawn?**

##### **ANSWER:**

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

**(i) Assessment of Non-filers of return** - The best judgment order passed by the Proper Officer under section 62 of CGST Act shall automatically stand withdrawn if the taxable person furnishes a valid return for the default period (i.e. files the return and pays the tax as assessed by him), within thirty days of the receipt of the best judgment assessment order

**(ii) Summary Assessment** - A taxable person against whom a summary assessment order has been passed can apply for its withdrawal to the jurisdictional Additional/Joint Commissioner within thirty days of the date of receipt of the order. If the said officer finds the order erroneous, he can withdraw it and direct the proper officer to carry out determination of tax liability in terms of section 73 or 74 of CGST Act. The Additional/Joint Commissioner can follow a similar course of action on his own motion if he finds the summary assessment order to be erroneous.

#### **4. What recourse may be taken by the officer in case proper explanation is not furnished for the discrepancy detected in the return filed, while conducting scrutiny under section 61 of CGST ACT?**

##### **ANSWER:**

If the taxable person does not provide a satisfactory explanation within 30 days of being informed (extendable by the officer concerned) or after accepting discrepancies, fails to take corrective action in the return for the month in which the discrepancy is accepted, the Proper Officer may take recourse to any of the following provisions:

- (a) Proceed to conduct audit under section 65 of the Act;
- (b) Direct the conduct of a special audit under section 66 which is to be conducted by a Chartered Accountant or a Cost Accountant nominated for this purpose by the Commissioner; or
- (c) Undertake procedures of inspection, search and seizure under section 67 of the Act; or
- (d) Initiate proceeding for determination of tax and other dues under Section 73 or 74 of the Act

#### **5. Who can conduct audit of taxpayers?**

##### **ANSWER:**

There are three types of audit prescribed in the GST Act(s) as explained below:

**(a) Audit by Chartered Accountant or a Cost Accountant:** Every registered person whose turnover exceeds the prescribed limit, shall get his accounts audited by a chartered accountant or a cost accountant. (Section 35(5) of the CGST Act)

**(b) Audit by Department:** The Commissioner or any officer of CGST or SGST or UTGST authorized by him by a general or specific order, may conduct audit of any registered person. The frequency and manner of audit will be prescribed in due course. (Section 65 of the CGST Act)

**(c) Special Audit:** If at any stage of scrutiny, inquiry, investigations or any other proceedings, if department is of the opinion that the value has not been correctly declared or credit availed is not within the normal limits, department may order special audit by chartered accountant or cost accountant, nominated by department. (Section 66 of the CGST Act)

**1. Mohan Enterprises is entitled for exemption from tax under GST law. However, it collected tax from its buyers worth Rs. 50,000 in the month of August. It has not deposited the said amount collected as GST with the Government. You are required to brief to Mohan Enterprises the consequences of collecting tax, but not depositing the same with Government as provided under section 76 of the CGST Act, 2017.**

**ANSWER:**

It is mandatory to pay amount, collected from other person representing tax under GST law, to the Government. Every person who has collected from any other person any amount as representing the tax under GST law, and has not paid the said amount to the Government, shall forthwith pay the said amount to the Government, irrespective of whether the supplies in respect of which such amount was collected are taxable or not. For any such amount not so paid, proper officer may issue SCN for recovery of such amount and penalty equivalent to amount specified in notice.

The proper officer shall, after considering the representation, if any, made by the person on whom SCN is served, determine the amount due from such person and thereupon such person shall pay the amount so determined alongwith interest at the rate specified under section 50 from the date such amount was collected by him to the date such amount is paid by him to the Government.

**2. Discuss briefly the time limit for issue of show cause notice as contained under sections 73 and 74 of the CGST Act, 2017.**

**ANSWER:**

The provisions relating to 'relevant date' as contained in CGST Act, 2017 are as under:

- (i) In case of section 73 (cases other than fraud/suppression of facts/willful misstatement), the time-limit for issuance of SCN is 2 years and 9 months from the due date of filing Annual Return for the Financial Year to which the demand pertains or from the date of erroneous refund.
- (ii) In case of section 74 (cases involving fraud/suppression of facts/willful misstatement), the time-limit for issuance of SCN is 4 years and 6 months from the due date of filing of Annual Return for the Financial Year to which the demand pertains or from the date of erroneous refund.

**3. Is there any time limit prescribed for adjudication of the cases under CGST Act, 2017? If yes, discuss the same.**

**ANSWER:**

The provisions relating to time-limit for adjudication of cases as contained in section 73 and 74 of the CGST Act, 2017 are as under:

- (i) In case of section 73 (cases other than fraud/suppression of facts/willful misstatement), the time limit for adjudication of cases is 3 years from the due date for filing of annual return for the financial year to which demand relates to [Section 73(10)].
- (ii) In case of section 74 (cases of fraud/suppression of facts/willful misstatement), the time limit for adjudication is 5 years from the due date for filing of annual return for the financial year to which demand relates to [Section 74(10)].

**4. A person is chargeable with tax in case of fraud. He decides to pay the amount of demand alongwith interest before issue of notice. Is there any immunity available to such person?**

**ANSWER:**

Yes. Person chargeable with tax, shall have an option to pay the amount of tax along with interest and penalty equal to 15% per cent of the tax involved, as ascertained either on his own or ascertained by the proper officer, and on such payment, no notice shall be issued with respect to the tax so paid [Section 74(6)].

**5. Briefly discuss the modes of recovery of tax available to the proper officer.**

**ANSWER:**

The proper officer may recover the dues in following manner:

- (a) Deduction of dues from the amount owned by the tax authorities payable to such person.
- (b) Recovery by way of detaining and selling any goods belonging to such person;
- (c) Recovery from other person, from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the credit of the Central or a State Government;
- (d) Distrain any movable or immovable property belonging to such person, until the amount payable is paid. If the dues not paid within 30 days, the said property is to be sold and with the proceeds of such sale the amount payable and cost of sale shall be recovered.
- (e) Through the Collector of the district in which such person owns any property or resides or carries on his business, as if it was an arrear of land revenue.
- (f) By way of an application to the appropriate Magistrate who in turn shall proceed to recover the amount as if it were a fine imposed by him.
- (g) By enforcing the bond/instrument executed under this Act or any rules or regulations made thereunder.
- (h) CGST arrears can be recovered as an arrear of SGST and vice versa [Section 79].

## CHAPTER 19. DEMAND AND RECOVERY

### QUESTIONS ISSUED BY ICAI FOR GST

**1. Mohan Enterprises is entitled for exemption from tax under GST law. However, it collected tax from its buyers worth Rs. 50,000 in the month of August. It has not deposited the said amount collected as GST with the Government. You are required to brief to Mohan Enterprises the consequences of collecting tax, but not depositing the same with Government as provided under section 76 of the CGST Act, 2017.**

**ANSWER:**

It is mandatory to pay amount, collected from other person representing tax under GST law, to the Government. Every person who has collected from any other person any amount as representing the tax under GST law, and has not paid the said amount to the Government, shall forthwith pay the said amount to the Government, irrespective of whether the supplies in respect of which such amount was collected are taxable or not. For any such amount not so paid, proper officer may issue SCN for recovery of such amount and penalty equivalent to amount specified in notice.

The proper officer shall, after considering the representation, if any, made by the person on whom SCN is served, determine the amount due from such person and thereupon such person shall pay the amount so determined alongwith interest at the rate specified under section 50 from the date such amount was collected by him to the date such amount is paid by him to the Government.

**2. Discuss briefly the time limit for issue of show cause notice as contained under sections 73 and 74 of the CGST Act, 2017.**

**ANSWER:**

The provisions relating to 'relevant date' as contained in CGST Act, 2017 are as under:

- (i) In case of section 73 (cases other than fraud/suppression of facts/willful misstatement), the time-limit for issuance of SCN is 2 years and 9 months from the due date of filing Annual Return for the Financial Year to which the demand pertains or from the date of erroneous refund.
- (ii) In case of section 74 (cases involving fraud/suppression of facts/willful misstatement), the time-limit for issuance of SCN is 4 years and 6 months from the due date of filing of Annual Return for the Financial Year to which the demand pertains or from the date of erroneous refund.

**3. Is there any time limit prescribed for adjudication of the cases under CGST Act, 2017? If yes, discuss the same.**

**ANSWER:**

The provisions relating to time-limit for adjudication of cases as contained in section 73 and 74 of the CGST Act, 2017 are as under:

- (i) In case of section 73 (cases other than fraud/suppression of facts/willful misstatement), the time limit for adjudication of cases is 3 years from the due date for filing of annual return for the financial year to which demand relates to [Section 73(10)].
- (ii) In case of section 74 (cases of fraud/suppression of facts/willful misstatement), the time limit for adjudication is 5 years from the due date for filing of annual return for the financial year to which demand relates to [Section 74(10)].

**4. A person is chargeable with tax in case of fraud. He decides to pay the amount of demand alongwith interest before issue of notice. Is there any immunity available to such person?**

**ANSWER:**

Yes. Person chargeable with tax, shall have an option to pay the amount of tax along with interest and penalty equal to 15% per cent of the tax involved, as ascertained either on his own or ascertained by the proper officer, and on such payment, no notice shall be issued with respect to the tax so paid [Section 74(6)].

**5. Briefly discuss the modes of recovery of tax available to the proper officer.**

**ANSWER:**

The proper officer may recover the dues in following manner:

- (i) Deduction of dues from the amount owned by the tax authorities payable to such person.
- (j) Recovery by way of detaining and selling any goods belonging to such person;
- (k) Recovery from other person, from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the credit of the Central or a State Government;
- (l) Distrain any movable or immovable property belonging to such person, until the amount payable is paid. If the dues not paid within 30 days, the said property is to be sold and with the proceeds of such sale the amount payable and cost of sale shall be recovered.
- (m) Through the Collector of the district in which such person owns any property or resides or carries on his business, as if it was an arrear of land revenue.
- (n) By way of an application to the appropriate Magistrate who in turn shall proceed to recover the amount as if it were a fine imposed by him.
- (o) By enforcing the bond/instrument executed under this Act or any rules or regulations made thereunder.
- (p) CGST arrears can be recovered as an arrear of SGST and vice versa [Section 79].



## CHAPTER 20. LIABILITY TO PAY IN CERTAIN CASES

### QUESTIONS ISSUED BY ICAI FOR GST

**1. Avataar Industries, a registered person under GST, has sold whole of its business to Rolex Manufacturers. Determine the person liable to pay GST, interest or any penalty under GST law [determined before sale, but still unpaid] due from Avataar Industries upto the time of such transfer.**

**ANSWER:**

Where a taxable person, liable to pay tax under this Act, transfers his business in whole or in part, by sale, gift, lease, leave and license, hire or in any other manner whatsoever, the taxable person and the person to whom the business is so transferred shall, jointly and severally, be liable wholly or to the extent of such transfer, to pay the tax, interest or any penalty due from the taxable person upto the time of such transfer, whether such tax, interest or penalty has been determined before such transfer, but has remained unpaid or is determined thereafter.

Thus, in the given case, Avataar Industries and Rolex Manufacturers shall, jointly and severally, be liable wholly or to the extent of such transfer, to pay GST, interest or any penalty [determined before sale, but still unpaid] due from Avataar Industries upto the time of such transfer.

**2. ABC Manufacturers Ltd. engages Raghav & Sons as an agent to sell goods on its behalf. Raghav & Sons sells goods to Swami Associates on behalf of ABC Manufacturers Ltd. Determine the liability to pay GST payable on such goods as per the provisions of section 89 of the CGST Act.**

**ANSWER:**

Where an agent supplies or receives any taxable goods on behalf of his principal, such agent and his principal shall, jointly and severally, be liable to pay the tax payable on such goods under this Act.

Thus, in the given case, ABC Manufacturers Ltd. and Raghav & Sons shall, jointly and severally, be liable to pay GST payable on such goods

**3. A person, liable to pay GST, interest and penalty under GST law, dies. Determine the person liable to pay the GST, interest and penalty due from such person under GST law determined after his death if the business carried on by such person is continued after his death by his legal representative.**

**ANSWER:**

Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a person, liable to pay tax, interest or penalty under this Act, dies, then if a business carried on by the person is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay tax, interest or penalty due from such person under this Act, whether such tax, interest or penalty has been determined before his death but has remained unpaid or is determined after his death.

**4. In the question 3. above, would your answer be different if the business carried on by the person who has died, is discontinued after his death.**

**ANSWER:**

Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a person, liable to pay tax, interest or penalty under this Act, dies, then if a business carried on by the person is discontinued, whether before or after his death, his legal representative shall be liable to pay, out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax, interest or penalty due from such person under this Act, whether such tax, interest or penalty has been determined before his death but has remained unpaid or is determined after his death.

**5. What happens to the GST liability when the estate of a taxable person is under the control of Court of Wards?**

**ANSWER:**

Where the estate of a taxable person owning a business in respect of which any tax, interest or penalty is payable is under the control of the Court of Wards/Administrator General/Official Trustee/Receiver or Manager appointed under any order of a Court, the tax, interest or penalty shall be levied and recoverable from such Court of Wards/Administrator General/Official Trustee/Receiver or Manager to the same extent as it would be determined and recoverable from a taxable person.

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## CHAPTER 21. OFFENCES AND PENALTIES

### QUESTIONS ISSUED BY ICAI FOR GST

**1. What are the various type of offences which may be committed by a taxable person liable to penalty?**

**ANSWER:**

There are 21 offences which may be committed by a taxable person and may be classified into following categories based upon their nature:

#### **Offences having nexus with invoice**

- (i) Issue of invoice or bill without making supply;
- (ii) Issuing invoice or document using GSTIN of another person;
- (iii) Making a supply without invoice or with false/ incorrect invoice;

#### **Offences having nexus with payment of tax**

- (iv) Not paying any amount collected as tax for a period exceeding three months;
- (v) Not paying tax collected in contravention of the CGST/SGST Act for a period exceeding 3 months;
- (vi) Non deduction or lower deduction of tax deducted at source or not depositing tax deducted at source under section 51;
- (vii) Non collection or lower collection of or non- payment of tax collectible at source under section 52;
- (viii) Availing/utilizing input tax credit without actual receipt of goods and/or services;
- (ix) Availing/distributing ITC by an Input Service Distributor in violation of Section 20;
- (x) Fraudulently obtains any refund of tax;
- (xi) Suppressing turnover;

#### **Offences having nexus with Records and related information**

- (xii) Falsification/substitution of financial records or furnishing of fake accounts/ documents or Furnishing false information/return with intent to evade payment of tax;
- (xiii) Failure to maintain accounts/documents in the manner specified in the Act or failure to retain accounts/documents for the period specified in the Act;
- (xiv) Failure to furnish information/documents required by an officer in terms of the Act/Rules or furnishing false information/documents during the course of any proceeding;
- (xv) Tampering/destroying any material evidence/documents;
- (xvi) Obstructing or preventing any official in discharge of his duty;

#### **Offences having nexus with Registration**

- (xvii) Failure to register despite being liable to pay tax;
- (xviii) Furnishing false information regarding registration particulars either at the time of applying for registration or subsequently

#### **Offences having nexus with Supply/Transport of goods**

- (xix) Transporting goods without prescribed documents;
- (xx) Supplying/transporting/storing any goods liable to confiscation;
- (xxi) Disposing of /tampering with goods detained/ seized/attached under the Act.

**2. What is the quantum of penalty for an offence mentioned under section 122(1)?**

**ANSWER:**

Section 122(1) provides that any taxable person who has committed any of the 21 offences mentioned thereunder, shall be liable to a penalty which shall be higher of the following amounts:

- (a) Rs/ 10,000/-; or
- (b) An amount equivalent to, any of the following (Applicable as the case may be)
  - (i) Tax evaded; or

- (ii) Tax not deducted under section 51 or short deducted or deducted but not paid to the Government; or
- (iii) Tax not collected under section 52 or short collected or collected but not paid to the Government; or
- (iv) Input tax credit availed of or passed on or distributed irregularly; or
- (v) Refund claimed fraudulently

However, Section 122(2) provides that if a registered person supplying goods or services has not paid any tax or short paid it or tax has been erroneously refunded to him, or ITC has been wrongly availed or utilized, for any reason other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, penalty shall be leviable for an amount higher of following:

(a) Rs. 10,000/-; or

(b) 10% of the tax due from such person

and in case of fraud, or any willful misstatement or suppression of facts to evade tax, penalty shall be equal to ten thousand rupees or the tax due from such person, whichever is higher

### **3. Is there any penalty prescribed for a person other than the taxable person?**

#### **ANSWER:**

Yes, Section 122(3) provides for levy of penalty extending to Rs. 25,000/- for any person who

- aids or abets any of the 21 offences,
- deals in any way (whether receiving, supplying, storing or transporting) with goods that are liable to confiscation,
- receives or deals with supply of services in contravention of the Act,
- fails to appear before an authority who has issued a summon,
- fails to issue any invoice for a supply or account for any invoice in his books of accounts.

### **4. Mr. X, an unregistered person under GST purchases the goods supplied by Mr. Y who is a registered person without receiving a tax invoice from Mr. Y and thus helps in tax evasion by Mr. Y. What disciplinary action may be taken by tax authorities to curb such type of cases and on whom?**

#### **ANSWER:**

Both Mr. X and Mr. Y will be offender and will be liable to penalty as under:

Mr. X - Penalty under section 122(3) which may extend to Rs. 25,000/-;

Mr. Y - Penalty under section 122(1), which will be higher of following, namely

(i) Rs. 10,000/- or (ii) 100% of tax evaded.

### **5. Suppose, in the above case, a disciplinary action is taken against Mr. X and an adhoc penalty of Rs. 20,000/- is imposed by issue of SCN without describing contravention for which penalty is going to be imposed and without mentioning the provisions under which penalty is going to be imposed. Should Mr. X proceed to pay for penalty or challenge SCN issued by department?**

#### **ANSWER:**

The levy of penalty is subject to a certain disciplinary regime which is based on jurisprudence, principles of natural justice and principles governing international trade and agreements. Such general discipline is enshrined in section 126 of the Act. Accordingly,

- no penalty is to be imposed without issuance of a show cause notice and proper hearing in the matter, affording an opportunity to the person proceeded against to rebut the allegations levelled against him,
- the penalty is to depend on the totality of the facts and circumstances of the case, the penalty imposed is to be commensurate with the degree and severity of breach of the provisions of the law or the rules alleged,
- the nature of the breach is to be specified clearly in the order imposing the penalty,
- the provisions of the law under which the penalty has been imposed is to be specified.

Since SCN issued to Mr. X suffers from lack of clarity about nature of breach which has taken place and about provision of law under which penalty has been imposed, SCN issued by department may be challenged.



## CHAPTER 22. APPEALS AND REVISION

### QUESTIONS ISSUED BY ICAI FOR GST

**1. Does CGST law provide for any appeal to a person aggrieved by any order or decision passed against him by an adjudicating authority under the CGST Act? Explain the related provisions under the CGST Act.**

**ANSWER:**

Yes. Any person aggrieved by any order or decision passed by an adjudicating authority under the CGST Act has the right to appeal to the Appellate Authority under section 107. The appeal should be filed within 3 months from the date of communication of such order or decision. However, the Appellate Authority has the power to condone the delay of up to 1 month in filing the appeal if there is sufficient cause for the delay. The appeal can be filed only when the admitted liability and 10% of the disputed tax amount is paid as pre-deposit by the appellant.

However, no appeal can be filed against the following orders in terms of section 121:-

- (a) an order of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer;
- (b) an order pertaining to the seizure or retention of books of account, register and other documents; or
- (c) an order sanctioning prosecution under the Act; or
- (d) an order passed under section 80 (payment of tax in installments).

**2. Describe the provisions relating to Departmental appeal to Appellate Authority under section 107 of the CGST Act.**

**ANSWER:**

Section 107(2) provides that Department can file a review application/appeal with the Appellate Authority. The Commissioner may, on his own motion, or upon request from the SGST/UTGST Commissioner, examine the record of any proceedings in which an adjudicating authority has passed any decision/order to satisfy himself as to the legality or propriety of the said decision/order.

The Commissioner may, by order, direct any officer subordinate to him to apply to the Appellate Authority within 6 months from the date of communication of the said decision/order for the determination of such points arising out of the said decision/order as may be specified him.

The AA can condone the delay in filing of appeal by 1 month if it is satisfied that there was sufficient cause for such delay [Section 107(4)].

Such application shall be dealt with by the AA as if it were an appeal made against the decision/order of the adjudicating authority [Section 107(3)]. There is no requirement of making a pre-deposit in case of departmental appeal.

**3. Specify the amount of mandatory pre-deposit which should be made along with every appeal before the Appellate Authority and the Appellate Tribunal. Does making the pre-deposit have any impact on recovery proceedings?**

**ANSWER:**

Section 107(6) provides that no appeal shall be filed before the Appellate Authority, unless the appellant has paid –

- (a) full amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
- (b) a sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order.

Section 112(8) lays down that no appeal can be filed before the Tribunal, unless the appellant deposits

- (a) full amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
- (b) 20% of the remaining amount of tax in dispute, in addition to the amount deposited before the AA, arising from the said order, in relation to which appeal has been filed.

Where the appellant has made the pre-deposit, the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal.

**4. With reference to section 108, elaborate whether a CGST/SGST authority can revise an order passed by his subordinates.**



**ANSWER:**

Section 2(99) defines "Revisional Authority" as an authority appointed or authorised under the CGST Act for revision of decision or orders referred to in section 108.

Section 108 of the Act authorizes such 'revisional authority' to call for and examine any order passed by his subordinates and in case he considers the order of the lower authority to be erroneous in so far as it is prejudicial to revenue and is illegal or improper or has not taken into account certain material facts, whether available at the time of issuance of the said order or not or in consequence of an observation by the Comptroller and Auditor General of India, he may, if necessary, can revise the order after giving opportunity of being heard to the noticee. The 'revisional authority' can also stay the operation of any order passed by his subordinates pending such revision. The 'revisional authority' shall not revise any order if

- (a) the order has been subject to an appeal under section 107 or under section 112 or under section 117 or under section 118; or
- (b) the period specified under section 107(2) has not yet expired or more than three years have expired after the passing of the decision or order sought to be revised.
- (c) the order has already been taken up for revision under this section at any earlier stage.
- (d) the order is a revisional order

**5. The Appellate Tribunal has the discretion to refuse to admit any appeal. Examine the correctness of the above statement****ANSWER:**

The statement is partially correct.

Though the Appellate Tribunal does have the power to refuse to admit an appeal, it cannot refuse to admit ANY appeal. It can refuse to admit an appeal where –

- the tax or input tax credit involved or
- the difference in tax or the difference in input tax credit involved or
- the amount of fine, fees or penalty determined by such order,

does not exceed Rs. 50,000.

## CHAPTER 24. TRANSITIONAL PROVISIONS

### ADDITIONAL QUESTIONS:

**Problem 1:** Mrs. PC, an existing Central Excise Assessee, has obtained provisional Registration under CGST Act, 2017. He has following credit balance as on 30/06/2017. Determine eligible credit to be taken by him provided all the conditions specified in Section 140 of CGST Act, 2017 has been complied. The details of credit unavailed are –

(1) CENVAT credit balance in respect of inputs : Rs.1,65,000 [out of the said inputs (attributable credit involves is Rs. 15,000) are not eligible under CGST Law.]

(2) Capital Goods worth Rs. 25,00,000 on which duty paid amounted Rs. 7,00,000 were received in month of April, 2017. Credit taken during month of April, 2017 amounted to Rs. 3,50,000 out of which credit of Rs. 85,000 has been utilised upto 30/06/2017.

(3) CENVAT credit of balance of service tax paid on input services : Rs. 11,00,000 [out of the said inputs services (attributable credit involved is Rs. 1,04,000) are not eligible under CGST Law].

**Note:** Mrs. PC has not opted for composition scheme under Section 10 of CGST Act, 2017.

**Solution:** As per Section 140(1), a registered person, other than a person opting to pay tax under Section 10, shall be entitled to take, in his electronic credit ledger the amount of CENVAT credit carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law.

Particulars	(Rs.)
CENVAT credit balance in respect of inputs (Note 1)	1,50,000
CENVAT Credit relating to Capital Goods (Note 2)	6,15,000
CENVAT credit of balance of service tax paid on input services (Note 3)	9,96,000
Total amount of CENVAT credit to be transferred under CGST Act, 2017	17,61,000

#### Notes:

- Credit attributable to inputs which are not eligible under CGST Law shall not be transferred under CGST Law.
- Unavailed Credit of Capital goods shall be: Total credit in respect of capital goods – Credit utilised up to 30/06/2017. [Rs. 7,00,000 – Rs. 85,000]
- Credit attributable to input services which are not eligible under CGST Law shall not be transferred under CGST Law.

**Problem 2:** SRT Ltd. an existing taxable service provider has obtained provisional Registration under CGST Act, 2017. He has following credit balance as on 30/06/2007. Determine eligible credit to be taken provided all the conditions specified in Section 140(1) of CGST / SGST Act, 2017 has been complied. The details of credit unavailed as per the return for the period ending 30th June, 2017 is as follows:

Particulars	Rs.
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1. Service Tax	15,000
2. Central Excise	1,85,000
3. KrishiKalyanCess (KKC)	5,000
4. Additional Duty u/s 3(1) of Customs Tariff Act, 1975	30,000

What will be the amount of opening CGST to be brought forward as per the CGST Act, 2017 as on 01-07-2017?

**Solution:** The amount of CGST to be brought forward on 01-07-2017 will be calculated as follows:

S. No.	Duties paid under the earlier acts	Eligible Credit (Rs.)	Eligibility under GST (as per transitional provisions)
1.	Service Tax	15,000	Eligible: As per Section 140, SRT Ltd. shall be entitled to take, in his electronic credit ledger, credit of the unavailed CENVAT credit carried forward in return relating to period June, 2017.
2.	Central Excise	1,85,000	Eligible: As per Section 140, SRT Ltd. shall be entitled to take, in his electronic credit ledger, credit of the unavailed CENVAT credit carried forward in return relating to period June, 2017.
3.	KrishiKalyanCess (KKC)	5,000	Eligible: As per Section 140, SRT Ltd. shall be entitled to take, in his electronic credit ledger, credit of the unavailed CENVAT credit carried forward in return relating to period June, 2017.
4.	Additional Duty u/s 3(1) of Customs Tariff Act, 1975	30,000	Eligible: As per Section 140(2), SRT Ltd. shall be entitled to take, in his electronic credit ledger, credit of the unavailed CENVAT credit carried forward in return relating to period June, 2017.
Total amount of credit to be transferred under CGST Act, 2017		2,35,000	

**Problem 3:** Mrs. Q, an importer carrying out business of import and sale of goods obtained registration as importer under Central Excise Act, 1944 and rules thereunder. At time of import he pays CVD and SAD on the goods. He doesn't take credit of tax paid on such inputs but passes on the benefit to his customer by issuing invoice. He has obtained registration under CGST Act, 2017 and has stock of such inputs lying with him on 01/07/2017. Determine his eligibility to take credit on such inputs in stock.

**Solution:** As per Section 140(3), a registered importer shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day i.e. 01/07/2017 subject to some specified conditions.

In the given case Mrs. Q, the registered importer can take credit of CVD and SAD paid on inputs lying in stock provided he has possession of invoice or document evidencing payment of duty under existing laws on input received.

**Problem 4:** Mr. Zed, a wholesaler not registered under excise law, obtained registration under CGST Act, 2017. He does not have a duty paying documents in respect of stock held by him on 30/06/2017. Determine the amount of credit admissible to him if he has made the following intra-state supplies.

Date of transaction	Particulars of goods supplied	CGST Rate	Taxable Value of supply
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18/11/2017	Goods A	14%	1,50,000
05/11/2017	Goods B	6%	1,25,000
27/11/2017	Goods C	9%	2,55,000

**What would your answer be in case goods are supplied on 07/01/2018.**

**Solution:** A registered person who was not registered under the existing law shall can in accordance with the proviso to Section 140(3) be allowed to avail of input tax credit on goods [on which the duty of central excise or, as the case may be, additional duties of customs under of Section 3(1) of the Customs Tariff Act, 1975, is leviable] held in stock on the appointed day in respect of which he is not in possession of any document evidencing payment of central excise duty provided that he passes on the benefit of such reduction to the customer.

Such credit shall be allowed at the rate of 60% on such goods which attract central tax at the rate of 9% or more and 40% for other goods of the central tax applicable on supply of such goods after the appointed date and shall be credited after the central tax payable on such supply has been paid.

However, where IGST is paid on such goods the amount of credit shall be allowed at the rate of 30% and 20% respectively of the said tax.

**Therefore, -**

Particulars	Rs.	Particulars	Rs.
<b>Goods A:</b>		<b>Goods C:</b>	
Value of Supply	1,50,000	Value of Supply	2,55,000
CGST @ 14%	21,000	CGST @ 9%	22,950
SGST @ 14%	21,000	SGST @ 9%	22,950
Eligible credit @ 60% CGST	12,600	Eligible credit @ 60% CGST	13,770
Eligible credit @ 60% SGST	12,600	Eligible credit @ 60% SGST	13,770
<b>Goods B:</b>			
Value of Supply	1,25,000		
CGST @ 6%	7,500		
SGST @ 6%	7,500		
Eligible credit @ 60% CGST	3,000		
Eligible credit @ 60% SGST	3,000		

**Supply made on 07/01/2018:** This scheme shall be available only for 6 tax periods from the appointed date. Since the supply is made on 07/01/2018, no credit shall be available of input tax paid on goods (in stock) supplied on 07/01/2018 i.e. after 6 months from 01/07/2017.

**Problem 5: M/s. ABC has sold goods to M/s. JKL on approval basis on 05/05/2017. Determine the taxability in following case if said goods are returned on:**

**15/12/2017**

**21/03/2018**

**Not at all returned.**

**Solution:** As per Section 142(12) of CGST Act, GST is not payable on return of goods by buyer if following conditions are satisfied:

Goods are sent on approval basis to the buyer during the period 01/01/2017 to 30/06/2017.

Goods were rejected by buyer and returned to seller during the period 01/07/2017 to 31/12/2017. However, the period of returning of the goods can be extended by the competent authority for period not exceeding 2 months.

If goods are returned after extended period, the tax shall be payable by the original buyer. If goods are not at all returned or returned after 31/12/2017, then it will be treated as sale and tax shall be paid by original seller.

In the given case goods are sent by M/s. ABC to M/s. JKL on approval basis if the same were –

Since, goods are returned to M/s. ABC on 15/12/2017 then no tax shall be payable as goods were returned during 01/07/2017 to 31/12/2017.

Returned by M/s. JKL on 21/03/2018 then tax shall be payable by M/s JKL as goods were returned after the period of return specified including extended period (01/07/2017 to 31/12/2017).

Goods were not returned by M/s. JKL then it will be considered as sale and tax has to be paid by M/s. ABC.

## **QUESTIONS ISSUED BY ICAI FOR GST**

**1. Whether CENVAT credit carried forward in the last return prior to GST under earlier law be available as ITC under the CGST Act? Explain.**

**ANSWER:**

As per section 140(1), a registered person, other than a person opting to pay tax under composition scheme, shall be entitled to take credit in his electronic credit ledger the amount of CENVAT credit carried forward in the return of the last period before the appointed day, subject to the following conditions:

- (i) the said amount of credit is admissible as ITC under the CGST Act;
- (ii) the registered person has furnished all the returns required under the earlier law for the period of 6 months immediately preceding the appointed date;
- (iii) the said amount of credit does not relate to goods manufactured and cleared under such exemption notifications as are notified by the Government.

**2. A registered person purchased capital goods under the central excise law in the June quarter of 2017-18. Though the invoice had been received by 30th June, the capital goods were received on 5th July, 2017 (i.e., under GST regime). Whether such a person will get full credit of CENVAT in GST regime? Elaborate.**

**ANSWER:**

Yes, the registered person will be entitled to ITC in 2017-18 (GST regime) provided such a credit was admissible as CENVAT credit under the central excise law and is also admissible as credit under the CGST Act [Section 140(2)].

**3. Sales return under Central Sales Tax Act, 1956 is allowable as deduction from the turnover within 6 months. If goods sold under earlier regime are returned in GST regime by a buyer within 6 months from appointed day, will the same become taxable in GST? Discuss.**

**ANSWER:**

Where tax has been paid under the earlier law [CST in this case] on any goods at the time of sale, not being earlier than 6 months prior to the appointed day, and such goods are returned by the buyer after the appointed day, the sales return will be considered as a supply of the said buyer in GST and tax has to be paid on such supply, if, -

- (i) the goods are taxable under the GST law; and
- (ii) the buyer is registered under the GST law.

However, the seller is entitled to refund of such tax [CST, in this case] paid under the earlier law if the aforesaid buyer is an unregistered person under GST and the goods are returned within 6 months (or within the extended period of maximum two months) from the appointed day and the goods are identifiable [Section 142(1)].

**4. What will be fate of any appeal or revision relating to a claim of CENVAT or output liability which is pending under the earlier law? Describe.**

**ANSWER:**

Every proceeding of appeal, review or reference relating to a claim for CENVAT or any output tax liability initiated before, on or after the appointed day, will be disposed of in accordance with the earlier law and any amount of credit of CENVAT or output tax found admissible for refund will have to be refunded in accordance with the earlier law and will be paid in cash notwithstanding anything to the contrary contained in the earlier law. The refund will, however, be subject to the principle of unjust enrichment. In case any recovery is to be made then, unless recovered under earlier law, it will be recovered as an arrear of tax under GST [Sections 142(6) & 142(7)].

**5. If any goods or services are supplied in GST regime in pursuance of a contract entered into under earlier law, which tax will be payable?**

**ANSWER:**

GST will be payable on such supplies in terms of section 142(10) of the CGST Act.



## CHAPTER 25. MISCELLANEOUS PROVISIONS

### QUESTIONS ISSUED BY ICAI FOR GST

#### **1. How shall the GST compliance rating score be determined?**

##### **ANSWER:**

As per section 149(2), the GST compliance rating score shall be determined on a scale of ten on the basis of prescribed parameters.

#### **2. When shall the power to collect statistics be exercised under GST laws?**

##### **ANSWER:**

As per section 151, if the Commissioner considers that collection of statistics is necessary for the purpose of better administration of the Act, he may direct that statistics be collected.

#### **3. When shall the particulars relating to any proceedings or prosecution be published under GST laws?**

##### **ANSWER:**

When the Commissioner/authorised officer is of opinion that it is necessary or expedient in the public interest to publish the name of any person and any other particulars relating to any proceedings or prosecution under the CGST Act in respect of such person, it may cause to be published such name and particulars [Section 159(1)]

No publication under this section shall be made in relation to any penalty imposed under the CGST Act until the time for presenting an appeal to the Appellate Authority under section 107 has expired without an appeal having been presented or the appeal, if presented, has been disposed of [Section 159(2)].

#### **4. Explain the provisions relating to rectification of errors apparent on the face of record under section 161 of the CGST Act, 2017?**

##### **ANSWER:**

Section 161 lays down that any authority, who has passed or issued any decision or order or notice or certificate or any other document, may rectify any error which is apparent on the face of record in such decision or order or notice or certificate or any other document, either on its own motion or where such error is brought to its notice by any GST officer or by the affected person within a period of three months from the date of issue of such decision or order or notice or certificate or any other document, as the case may be.

However, no such rectification shall be done after a period of six months from the date of issue of such decision or order or notice or certificate or any other document. Further, the said period of six months shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission.

Principles of natural justice should be followed by the authority carrying out such rectification, if it adversely affects any person.

#### **5. What is Anti-profiteering measure?**

##### **ANSWER:**

As per section 171 of the CGST Act, any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices. National Anti-profiteering Authority may examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.



# **PART II:**

# **CUSTOMS ACT, 1962**

## CHAPTER 4. VALUATION

### ADDITIONAL QUESTIONS:

#### PROBLEM 1

XY Ltd. imported a machine at an invoice price of Rs. 17,00,000. This sum includes Rs. 2,00,000 attributable to post-importation activities to be carried out by the seller. XY Ltd. had supplied raw material worth Rs. 5,00,000 to the seller for the manufacture of the said machine. The goods were imported by vessel and actual cost of transport is Rs. 80,000. The importer has also paid demurrage charges Rs. 5,000 and lighterage and barge charges Rs. 15,000, in addition to the said Rs. 80,000. The importer also paid Rs. 25,000 for transportation of goods from the port of entry to Inland Container Depot. The actual cost of insurance is Rs. 50,000. Compute assessable value.

**Solution:** Computation of Assessable Value (Amount in Rs.)

Invoice price	17,00,000
Add: Adjustment under Rule 10(1) for raw material supplied by XY Ltd.	5,00,000
Less: Amount attributable to post-importation activities.	2,00,000
FOB Value	20,00,000
Add: Actual cost of transport (80,000 + 5,000 + 15,000).	1,00,000
Add: Actual cost of insurance.	50,000
Assessable Value	21,50,000

Notes:

- (1) It has been assumed that the amount attributable to post-importation activities is not payable as a condition of the sale of imported goods and hence, the same can not be included in assessable value.
- (2) Demurrage charges, lighterage and barge charges form part of cost of transport in view of Explanation to Rule 10(2) and are, therefore, includible in the assessable value. However, the cost of transportation from port of entry to Inland Container Depot do not form part of the cost of transport as per Rule 10(2).

**Poser 1:** What will be your answer in example above if, other facts remaining the same, the actual freight and actual cost of insurance, both, are unascertainable? [Rs.24,46,725, Hint: Cost of transport is 20% of FOB]

#### PROBLEM 5

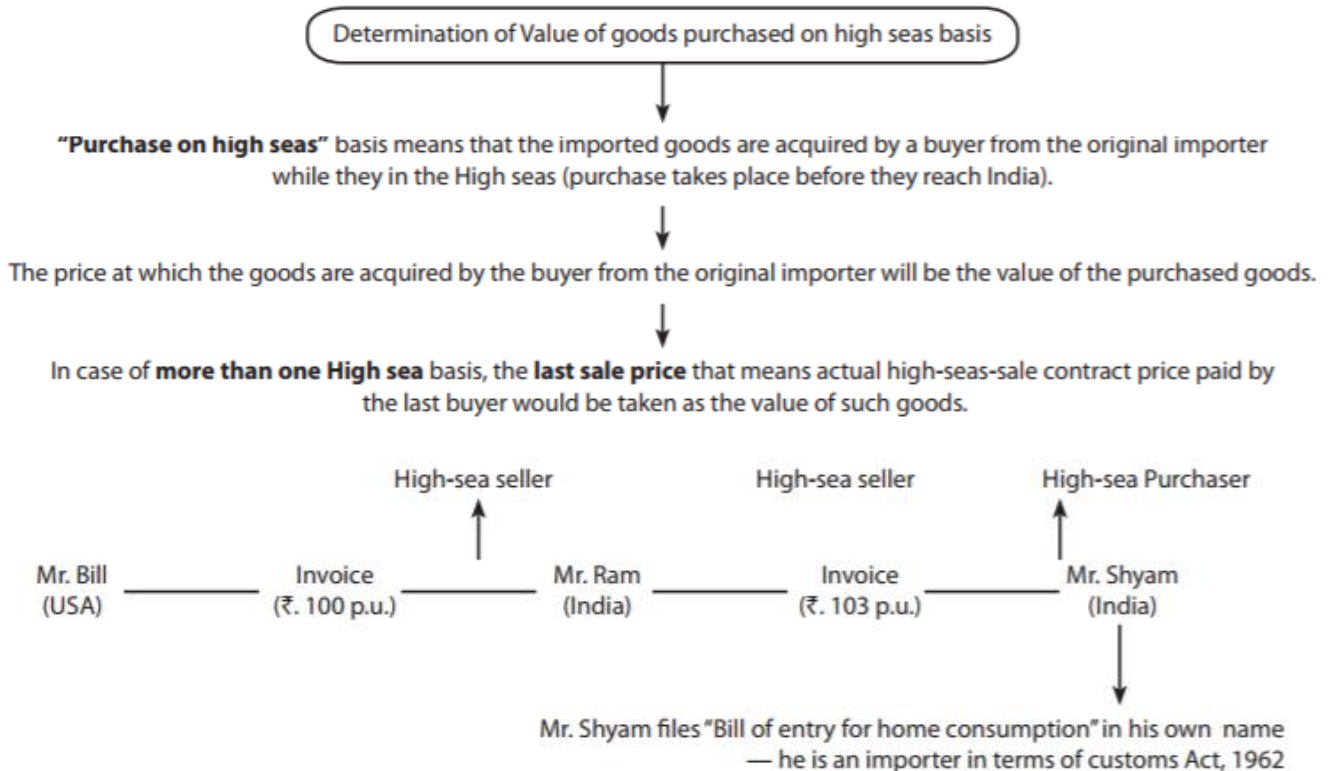
**Compute the customs duty payable from the following data -**  
(Modified, ICWA Inter June, 2001)

Machinery imported from USA by air	US \$ 10050
Accessories worth US \$ 2000 compulsorily supplied with machine, price is included in price of machine	
Air freight	US \$ 3000
Insurance	US \$ 100
Local agent's commission	1,500
Exchange rate	1 US \$ = ₹ 60
Customs duty on machine	10% ad valorem
Customs duty on accessory	20% ad valorem
Integrated tax	12.00 %
GST Compensation Cess	NIL
Education Cess + Secondary and Higher Education Cess	2% + 1%

**SOLUTION:** Computation of customs duty payable –

Cost of machinery inclusive of accessory (FOB) (See Note)	US \$	10,050.00
Total (in Indian Z) US \$ 10,050 x ? 60 (being the exchange rate)		6,03,000.00
Add: Agency commission		1,500.00
<b>FOB value as per Customs</b>		6,04,500.00
Add: Cost of insurance US \$ 100 x Z 60 (being the exchange rate)		6,000.00
Add: Air freight (restricted to 20% of FOB value as per customs)		1,20,900.00
CIF value/Assessable value [A]		7,31,400.00
Add: Basic Customs duty (10% of assessable value) [B]		73,140.00
Add: Education Cess @ 2% of [B]		1,462.80
Add: Secondary and Higher Education Cess @ 1% of [B] [D]		731.40
Total for Integrated tax u/s 3(7) CTA, 1975 [E]		8,06,734.20
Add: Integrated tax (@ 12% of Z 8,06,734.20 i.e. [E]) [F]		96,808.10
Total imported cost (rounded off)		9,03,542
Total customs duty payable = [B] + [C] + [D] + [F] (rounded off)		1,72,142

### **DETERMINATION OF VALUE OF GOODS PURCHASED ON HIGH SEAS BASIS**



The service charges/high-seas-sales-commission are to be included in the CIF value of imported goods (such charges being not in nature of buying commission meriting exclusion from assessable value). Therefore, it is clarified that the actual high-seas-contract price paid by the Indian buyer would constitute the transaction value under Rule 3 of Customs Valuation Rules, 2007.

**Issue for consideration is : What should be the assessable value in such a situation?**

- Whether Rs.100/- p.u. (the price charge by the foreign supplier to the original importer) or
- Whether Rs.103/- p.u. (the price charge by the original importer from the Indian buyer)

### **RULE 3: TRANSACTION VALUE AS VALUE**

<b>Condition (1) Parties are not Related</b> ↓	<b>Condition (2) Parties are Related</b> ↓
<p>Transaction value is acceptable as A.V. provided:</p> <p>(a) The buyer is not subject to any limitation regarding the use of goods except</p> <ul style="list-style-type: none"> <li>• as required under Indian law or by Public Authorities in India.</li> <li>• Limit the geographical area in which goods may be resold.</li> <li>• Do not Substantially affect the value of Goods. (b)</li> </ul> <p>There is no condition for resale.</p> <p>(c) The seller is not entitled for any part of sale proceeds in resale.</p>	<p>If the importer can prove that the relation has not affected the transaction value and it is close to value of identical goods or value of goods of same kind. Then such transaction is acceptable as A.V.</p>

**Notes:**

- **Addition shall be made as per rule 10**
- **Declaration as per given Rule 11**
- **If the value cannot be determined under this rule then it shall be determined under Rule 4.**

<p><b>Rule 4: Value Based on Identical Goods</b></p>	<ol style="list-style-type: none"> <li>Where T.V. of imported goods is rejected then such goods shall be valued at par with the identical goods, imported at or about the same time in same or closest quantity at a same Commercial Level.</li> <li>Adjustments are allowed to be made for                         <ol style="list-style-type: none"> <li>Time gap</li> <li>Quantity difference</li> <li>Difference of commercial level</li> </ol> </li> </ol> <p><b>Notes:</b></p> <ol style="list-style-type: none"> <li>The transaction value of identical goods will be used in determining the value of imported goods only if the <b>following condition</b> are fulfilled:                         <ol style="list-style-type: none"> <li>Identical goods are sold at the same commercial level.</li> <li>They are in substantially <b>same quantities</b> as the goods being valued.</li> </ol> </li> <li>After determining comparable values, the <b>lowest</b> of them shall be adopted.</li> <li>If the value cannot be determined according to rule 4 then it shall be determined under Rule 5.</li> </ol>
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## CHAPTER 5. DUTY DRAWBACK

### PROBLEM:

Discuss whether any duty drawback is admissible under section 75 in the following cases and if yes, what is the quantum of such duty drawback –

	FOB value of exported goods	Rate or amount of drawback	Market price of goods	Value of imported material used in goods
1	2,00,000	30% of FOB value	1,50,000	1,30,000
2	1,00,000 (1,000 Kgs.)	60 per kg.	58,000	50,000
3	4,20,000	3.5% of FOB value	4,60,000	4,50,000
4	4,20,000	4% of FOB value	4,10,000	3,00,000

In case (4), the Central Government has specified a minimum value-addition to be achieved @ 30% of imported material in terms of FOB value.

**SOLUTION :** The admissibility or otherwise of duty drawback in the aforesaid cases is discussed hereunder

- (i) **Drawback Admissible 50,000 :** The amount of drawback i.e. 30% of 2,00,000 i.e. 60,000 shall be restricted to  $\frac{1}{3}^{\text{rd}}$  of the Market price of the goods i.e.  $\frac{1}{3}^{\text{rd}}$  of 1,50,000 i.e. 50,000. Hence, the amount of drawback admissible shall be 50,000.
- (ii) **Drawback Inadmissible:** In this case the market price of the goods 58,000 is less than the amount of drawback i.e. 1,000 kgs. x 60 i.e. 60,000. Hence, no drawback shall be allowed.
- (iii) **Drawback Inadmissible:** No drawback shall be in this case, as the export value i.e. FOB value of the goods is less than the value of important material used therein.
- (iv) **Drawback Admissible Rs. 16,800 :** minimum value-additional of 30% of imported material i.e. 30% of Rs. 3 lakhs amount to Rs. 90,000. Since FOB value of the goods is Rs. 4,20,000 i.e. the criteria of minimum value-additional has been achieved, so, drawback allowable = 4% of Rs. 4,20,000 = Rs. 16,800

### PROBLEM:

Calculate the amount of drawback available under section 74 of the Customs Act, 1962 in the following three separate cases

1. X imported computers for office use and paid Z 10,00,000 as import duty. The computers are re-exported after 14 months.
2. Y imported goods for his personal use and paid Rs. 2,00,000 as imported duty such goods are re-exported after 3 months 15 days.
3. Z imported wearing apparel and paid Rs. 20,000 as imported duty. These are re-exported after 6 months. (1 Marks, June 2013)

**SOLUTION:** As per the provision of section 74 of the Customs Act, 1962 –

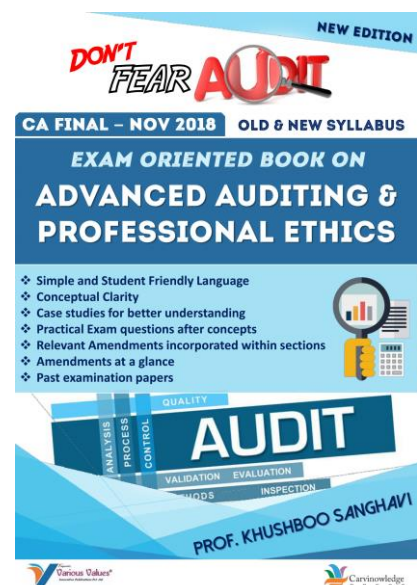
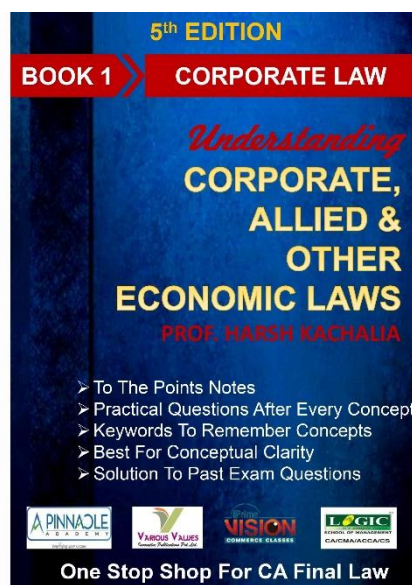
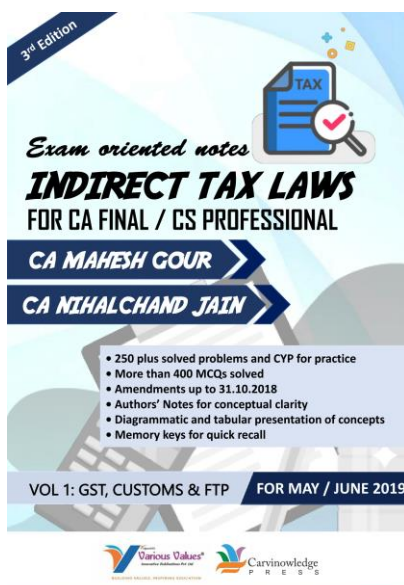
- 1) Since the computers have been into use and then re-exported duty drawback shall be allowed as per section 74(2). 65% of the import duty paid will be allowed as drawback. Hence, the amount of drawback = Rs. 10,00,000 x 65% = Rs. 6,50,000
- 2) In respect of goods imported by a person for his personal and private use, drawback of duty shall be equal to the imported duty paid in respect of such goods as reduced by 4%, 3%, 2.5% and 2% for use for each quarter or part thereof during the period of first year, second year, third year and fourth year respectively. Hence, 92% of the import duty so paid shall be allowed as drawback as drawback. Hence, duty drawback = Rs. 2,00,000 x 92% = Rs. 1,84,000

No duty drawback shall be allowed on wearing apparel which has been taken into use re-exported (Assumed it is used)

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