

CCP 04.11.20.00

Miss Minal is a trading company engaged in supply of ice cream, during the preceding financial year 2022-23 her total value of supplies was ₹ 1,52,40,000 of which value of inward supplies of goods chargeable under RCM was ₹ 5,40,000 and for the quarter of this financial year 23-24, turnover from taxable supplies of goods was ₹ 1,08,50,000. Determine whether Miss Minal is eligible to apply for composition scheme and also compute the tax liability?

Answer:- As per section 10(2)(e) of CGST Act, a manufacturer of goods notified by the government shall not be eligible to opt for Composition levy.

As manufacturer of ice cream is one amongst the notified category by the Government.

But in the given case as Miss Minal is engaged in **trading** of Ice cream and not in manufacturing, hence she can avail the benefit of Composition levy.

Computation of Aggregate turnover and composite tax

	Particulars	₹
i)	Total value of supplies	1,52,40,000
ii)	less:- Value of inward supplies of goods chargeable under RCM	5,40,000
iii)	Aggregate turnover of P.F.Y 2022-23(i-ii)	1,47,00,000

Aggregate turnover of P.F.Y 2022-23 is less than ₹1.5Cr, Ms Minal is eligible for composition levy in C.F.Y.

	Particulars	₹
	Turnover of C.F.Y. 23-24	1,08,50,000
i)	Composite tax rate(CGST 0.5% + SGST 0.5%)	1%
ii)	Composite tax liability (1% of turnover of taxable supplies of goods i.e., 1,08,50,000)	1,08,500

CCP 04.11.21.00

Mr Chandan has a manufacturing unit of pan masala located at Maharashtra, during the financial year 2022-23 total value of supplies was ₹ 54,60,000. Determine whether Mr Chandan is eligible to apply for composition scheme and also compute the tax liability?

Answer: As per section 10(2)(e) of CGST Act, a manufacturer of goods notified by the government shall not be eligible to opt for Composition Scheme.

As pan masala has been notified by the Government. Thus in the given case Mr Chandan shall not be eligible to avail the benefit of composition levy.

The tax liability shall be computed as in manner applicable to a normal registered person.

CN.12. Applicability of 10(2) conditions only in C.F.Y.

CCP 04.12.22.00

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

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

(CA Inter GST Nov 19 Exam New)

Answer:-

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

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

A registered person of Assam is eligible to opt for composition levy if his aggregate turnover does not exceed ₹ 1.5 crore in the preceding financial year provided he is not engaged in inter-State outward supplies of goods or services.

Therefore, in the given case, assuming that he is not engaged in making any inter-State outward supply of goods or services in FY 2019-20, Mr. Zafar is eligible to opt for composition levy for FY 2019-20 since his aggregate turnover does not exceed ₹ 1.5 crore in FY 2018-19.

Note :- condition of sec 10(2) are not applicable for Previous year, it is applicable only in the current year to check whether person is eligible for composition or not.

Author Note:- Eventhough Author in class earlier have taken the view that condition of 10(2) is applicable in P.F.Y. but, as per above suggested answer by ICAI student have to follow above view taken by ICAI.

CCP 04.12.23.00

M/s XYZ Ltd started business on 01.04.2020 engaged in trading business of stationery products.

The details of its turnover for PY 2020-21 are as follows

Intra state supply of product P	₹ 75,00,000
Intra State supply of product P through ECO	₹ 5,00,000

XYZ Ltd decided to discontinue supply through ECO of product P in CY from 1st April as it was not profitable.

Turnover of M/s XYZ Ltd for FY 2021-22:

Intra state turnover of product P is as follows:-

Q1 ₹ 35, 00,000

Q2 ₹ 37, 50,000

Q3 ₹ 47, 10,000

Q4 ₹ 25, 00,000

Explain whether, XYZ Ltd can opt for composition scheme for Current year 2021-22

Answer:- As per Section 10(1) of CGST Act, 2017 inter alia provides that the benefit of composition levy can be availed by a registered person supplying restaurant service, if the aggregate turnover in the preceding financial year does not exceed ₹ 1.5 crore. However, the said threshold is reduced to ₹ 75 lakh in case of special category states other than Assam, Himachal Pradesh and Jammu & Kashmir.

In the present case, Aggregate turnover is ₹ 82, 00,000/- (₹75, 00,000 + ₹5, 00,000)

However As per, section 10(2)(d) of CGST Act persons making any supply of goods or Services through an electronic commerce operator who is required to collect tax at source under section 52 shall not be eligible to opt for Composition levy.

In the given case XYZ Ltd was engaged in ECO supply of product P in P.F.Y. however, the same had been discontinued in CY.

And the turnover in CY of intra state supply is ₹ 1,44,60,000 which is also within threshold of 1.5 crore.

Thus, XYZ Ltd is eligible for composition scheme in current year.

Note: Compliance of Conditions of sec 10(2) are to be checked in current year only as per ICAI view which is to be followed in exam.

CN.13. Composition levy u/s 10(2A)**CCP 04.13.24.00**

Hyundai Service Center registered under GST in the state of Maharashtra provides car servicing to various customers at intra-state level. The turnover of preceding financial year (PFY) 2022-23 was ₹ 45 lakhs and turnover of 1st quarter of current financial year (CFY) 2023-24 was ₹ 48 lakhs which includes ₹ 30 lakhs from provision of service and ₹ 18 lakhs from sale of goods such as spare parts.

i. State whether Hyundai Service Center can opt for composition scheme in CFY 2023-24

ii. Determine the tax liability under sec 10(2A) (Normal tax rates for goods - 12% and for services - 18%, tax rate under composition scheme - 6%)

Note: Hyundai Service center is not eligible for composition levy u/s 10(1)

Answer: Legal Provision: as sec 10(2A) supplier who is not eligible to pay tax as per section 10(1) of CGST Act, can opt for composition scheme if his aggregate turnover in the preceding financial year is ₹ 50 lakh or below.

Such supplies will be liable to GST @ 6% (CGST - 3% & SGST - 3%) of turnover of supplies of goods & services in the State or UT provided other conditions have been satisfied as laid down in the said notification.

i) Hyundai Service Centre supply services along with goods at intra-state level to the ultimate recipient and the aggregate turnover does not exceeds ₹ 50 lakhs in preceding financial year then it can opt for the composition scheme of 6%.

Supply of goods or services upto first ₹ 50 lakhs in current financial year shall be liable for GST @ 6% instead of the given rates of 12% and 18%.

ii) The Tax Liability of Hyundai Service Centre for the 1st quarter of CFY is as follows:

Particulars	turnover of Services(₹)	Turnover of goods (₹)
Value of Supply	30,00,000	18,00,000
CGST @ 3%	90,000	54,000
SGST @ 3%	90,000	54,000

Note 1: There is no restriction on supply of goods u/s 10(2A) along with supply of services

Note 2 : We assume that Hundai service center is not opting for threshold.

CN. 14. Conditions u/s 10(2A)**CCP 04.14.25.00**

State the conditions to be fulfilled by supplier of services in order to avail the composition scheme under U/S 10(2A)

Answer: In order to avail the composition scheme, the supplier has to fulfill following conditions

1. Supplies are made by a registered person:

- whose aggregate turnover in PFY was ₹ 50 lakhs or less
- who is not eligible to pay tax under section 10(1) of CGST Act
- who is not engaged in making any supply which is not leviable to tax under CGST Act
- who is not engaged in making any inter-state outward supply
- who is neither a casual taxable person nor a non-resident taxable person
- who is not engaged in making any supply through an electronic commerce operator who is required to collect tax at source u/s 52
- who is not engaged in making supplies of the goods notified by Central Government

2. The registered person shall not collect tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.

3. The registered person shall issue, instead of tax invoice, a bill of supply.

4. The registered person opting to pay tax under this notification shall be liable to pay Central tax @ 3% and State tax @ 3% of turnover of supplies of goods & services in the State or UT.

5. The registered person opting to pay tax u/s/ 10(2A) shall be liable to pay Central and State tax on inward supplies on which he is liable to pay tax under Reverse charge, normal rates.

CN.15.Combine questions on 10(1), 10(2) & 10(2A)**CCP 04.15.26.00**

Mr. Amar is running a consultancy firm and also a readymade garment showroom which are registered under same PAN. Turnover of the showroom is ₹ 35 lakh and Receipt of the consultancy firm is ₹ 15 Lakh in the preceding financial year.

- a) Whether Mr. Amar is eligible for Composition Scheme (assume T/o in state of P.F.Y. 10 lakhs) ?
- b) If instead of consulting agency Mr. Amar is running a Restaurant, whether he is eligible for composition ?
- c) If the turnover of garment showroom is ₹ 1.5 Cr in the preceding financial year and there is no consultancy firm whether he is eligible for Composition ?

Answer:- Legal Provision: As per section 2(6) of CGST Act, Aggregate turnover includes all supplies made by all the persons registered under same PAN to be computed on all India basis.

However, under **Second proviso to section 10(1)** the scheme permits supply of other marginal services for a specified value along with the supply of goods and restaurant service, as the case may be. Such marginal services can be supplied for a value

- ➔ up to 10% of the turnover in the State/UT preceding year or
- ➔ ₹ 5 lakh,
- whichever is higher.

As per section 10(2)(a) of CGST Act, any person engaged in supply of services except as allowed above is ineligible for composition levy u/s 10(1).

- a) **No, Mr. Amar is not eligible for composition scheme u/s 10(1)** as he engaged in supply of service more than the limit as given above (i.e. 10% of 10 lakhs or Rs 5 lakhs whichever is higher)

But as sec 10(2A) supplier who is not eligible to pay tax as per section 10(1) of CGST Act, can opt for composition scheme if his aggregate turnover in the preceding financial year is Rs. 50 lakh or below.

Therefore Mr Amar can opt for composition scheme u/s 10(2A) as his

aggregate t/o in P.F.Y. 50 lakhs.

- b) **Yes**, Restaurant services are eligible for the composition scheme u/s 10(1). Hence Mr. Amar is eligible for Composition Scheme.
- c) **Yes**, Mr. Amar is eligible for composition scheme u/s 10(1) as turnover does not exceeds ₹ 1.5 Cr in the preceding F.Y.

CCP 04.15.27.00

Bansal and Chandak is a partnership firm of Chartered Accountants in Jaipur (Rajasthan). The firm specialises in bank audits providing services to banks across India. It has an annual turnover of ₹110 lakh in the preceding financial year.

With reference to the provisions of the CGST Act, 2017, examine whether the firm can opt for the composition scheme. Will your answer change, if-

- (a) The turnover of the firm is ₹90 lakhs?
- (b) Bansal and Chandak is not a partnership firm of Chartered Accountants but a partnership firm providing support services to restaurants like booking tables, advertisement etc.? [CA Final May 18 new]

Answer:-

Legal Provision:- As per section 10(1) of the CGST Act, 2017, a registered person, whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5 crore (the said threshold is reduced to ₹ 75 lakh in case of special category states other than Assam, Himachal Pradesh and Jammu & Kashmir) in a State/UT may opt for composition scheme, Provided that, he is not engaged in the supply of services other than restaurant services.

However, under **Second proviso to section 10(1)** the scheme permits supply of other marginal services for a specified value along with the supply of goods and restaurant service, as the case may be. Such marginal services can be supplied for a value

- ➔ up to 10% of the turnover in the State/UT preceding year or
- ➔ ₹ 5 lakh,

whichever is higher.

However, a registered person who is **exclusively** engaged in supplying services other than restaurant services etc., under para 6(b) of Schedule II are not eligible for said composition scheme u/s 10(1).

Supplier of service who is not eligible to pay tax u/s 10(1) of CGST Act, can opt for composition levy, as per sec 10(2A), if his aggregate turnover in preceding financial year was ₹ 50Lakh or below

Discussion:-

1. On basis of above provisions, in the given case as a firm of Chartered Accountants, being a supplier of professional services (other than restaurant services) is not eligible to apply for composition scheme u/s 10(1).

2. Also as per sec 10(2A) firm will not be eligible to opt for composition levy as its aggregate turnover in the preceding financial year exceeds Rs. 50 Lakhs.

Therefore, the Firm has to discharge its tax liability under regular provisions at the applicable rate

a) Also as per the above analysis, the answer will remain same even if the turnover of the firm had been ₹90 lakh, because to be eligible to opt for composition scheme u/s 10(2A) its aggregate turnover in the preceding financial year should be Rs. 50 Lakhs or below.

b) In case, Bansal and Chandak is not a partnership firm of Chartered Accountants but a partnership firm providing **support services to restaurants** like booking tables, advertisement etc. then also he will be eligible to opt for composition scheme u/s 10(2A) only if its aggregate turnover in the preceding financial year is Rs. 50 Lakhs or below.

Note- Under section 10(1), eligibility to opt for composition scheme is provided to person engaged in providing Restaurant service and not to person providing support services to Restaurant Dealer.

CCP 04.15.28.00

(I) Examine whether the suppliers are eligible for composition levy under section 10 of the CGST Act, 2017 in the following independent cases in the beginning of the current financial year.

(a) Technology Enterprises, registered in Jalandhar, Punjab, is engaged in manufacturing computer systems. Its aggregate turnover in the preceding financial year is ₹ 125 lakh. Technology Enterprises supplies the computer systems manufactured by it within the State of Punjab only. With a view to expand its business operations, it will also start providing the repairing services of computer systems in the current financial year.

(b) M/s. Siddharth & Sons, registered in Delhi, owns a restaurant 'Tasty Foods' with a turnover of ₹ 112 lakh in the preceding financial year. In view of the growing customer demand, it will also start intra-State trading of beverages in Delhi.

(c) Sitaram Associates, registered in Sikkim, is engaged in running a food chain 'Veg Kitchen' in the State. It has a turnover of ₹ 73 lakh in the preceding financial year. In the current financial year, it decides to shut down the food chain owing to huge losses being incurred in the said business. Instead, it will start providing intra-State architect services.

(d) Deepti Services Ltd., registered in Uttarakhand, is exclusively providing hair styling services. It has turnover of ₹ 34 lakh in the preceding financial year.

Will your answer be different, if Deepti Services Ltd. also start supplying beauty products alongwith providing hair styling services in the current financial year?

(ii) Varun & Arun Associates started a partnership firm of architects in Bhopal (Madhya Pradesh) on 01.04.2023. The firm provides architecture services, in Madhya Pradesh. It provided the following details of its turnover:

April - June ₹ 20 lakh

July - Sept ₹ 30 lakh

Oct - Dec ₹ 20 lakh

The firm has obtained the registration under section 22 of the CGST Act, 2017 and pays tax under composition scheme. Determine the tax liability of Varun & Arun Associates for the quarters: Apr-Jun, Jul-Sept and Oct-Dec.

Note: The rates of tax on architectural services are CGST- 9% and SGST-9%.
[CA Final RTP Nov 2020] [ICAI Material]

Answer:-

(1) Legal Provision:- As per Section 10(1) of CGST Act, 2017 inter alia provides that the benefit of composition levy can be availed by a registered person, if the aggregate turnover in the preceding financial year does not exceed ₹ 1.5 crore. However, the said threshold is reduced to ₹ 75 lakh in case of special category states other than Assam, Himachal Pradesh and Jammu & Kashmir.

However, under **Second proviso to section 10(1)** the scheme permits supply of other marginal services for a specified value along with the supply of goods and restaurant service, as the case may be. Such marginal services can be supplied for a value

- ➔ up to 10% of the turnover in the State/UT preceding year or
 - ➔ ₹ 5 lakh,
- whichever is higher.

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

Furthermore, **section 10(2A)** of the CGST Act, 2017 provides an option to a registered person, who is not eligible to pay tax under section 10(1) and 10(2), of paying tax @ 6% (CGST-3% and SGST/UTGST-3%) of turnover of supplies of goods & services in the State or UT, provided his aggregate turnover in the preceding financial year is upto ₹ 50 lakh. One of such condition under this scheme is also that the registered person should not be engaged in making any inter - State outward supplies of goods or services.

In view of the above-mentioned provisions, the answer to the given independent

cases is as under:-

(a) The turnover limit for being eligible for composition scheme under sub-sections (1) and (2) of section 10 of the CGST Act, 2017 for Jalandhar (Punjab) is ₹ 1.5 crore in the preceding financial year.

Thus, Technology Enterprises can opt for said composition scheme as its aggregate turnover is less than ₹ 1.5 crore in the preceding financial year and it is making intra-State supplies.

Further, since the registered person opting for composition scheme can also supply services (other than restaurant services) for a value up to 10% of the turnover in the preceding year or ₹ 5 lakh, whichever is higher.

Thus, Technology Enterprises can supply repair services up to a value of ₹ 12.5 lakh [10% of ₹125 lakh] in the current financial year.

(b) In the given case:-

(i) the turnover in the preceding year is less than the eligible turnover limit under composition scheme under sub-sections (1) and (2) of section 10 of the CGST Act, 2017 for Delhi, i.e. ₹ 1.5 crore.

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

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

Thus, M/s. Siddharth & Sons is eligible for composition scheme under sub-sections (1) and (2) of section 10 of the CGST Act, 2017.

Note:- Beverages and alcoholic liquor are different goods.

(c) The turnover limit for being eligible for composition scheme under sub-sections (1) and (2) of section 10 of the CGST Act, 2017 for Sikkim is ₹ 75 lakh in the preceding financial year.

However, a registered person who is exclusively engaged in supplying services other than restaurant services are not eligible for said composition scheme.

Thus, Sitaram Associates cannot opt for composition scheme under

sub-sections (1) and (2) of section 10.

However, the benefit of composition scheme under section 10(2A) of the CGST Act, 2017 is available in case of a registered person who is not eligible to pay tax under sub-sections (1) and (2) of section 10 provided its aggregate turnover in the preceding financial year does not exceed ₹ 50 lakh.

Thus, in view of the above-mentioned provisions, Sitaram Associates cannot avail the benefit of composition scheme under section 10(2A) also as its aggregate turnover in the preceding financial year is more than ₹ 50 lakh.

(d) A service provider can opt for the composition scheme under sub-sections (1) and (2) of section 10 of the CGST Act, 2017 only if he is engaged in supply of restaurant services. Said scheme permits supply of marginal services for a specified value, but only when the same are supplied along with goods and/ or restaurant service. Since Deepti Services Ltd. is exclusively engaged in supply of services other than restaurant services, it is not eligible for composition scheme sub-sections (1) and (2) of section 10 even though its turnover in the preceding year is less than ₹ 75 lakh, the eligible turnover limit for Uttarakhand.

However, since Deepti Services Ltd. is not eligible to opt for composition scheme under sub-sections (1) and (2) of section 10 and its aggregate turnover in the preceding financial year does not exceed ₹ 50 lakh, Deepti Services Ltd. is entitled to avail benefit of composition scheme under section 10(2A) of the CGST Act, 2017 in the current financial year.

Further, the answer will remain the same even if Deepti Services Ltd. also start supplying beauty products alongwith providing hair styling services in the current financial year since it fulfils the conditions laid down for availing the benefit of composition scheme under section 10(2A) of the CGST Act. It can avail the benefit of composition scheme under section 10(2A) till the time its aggregate turnover in the current year doesn't exceed ₹ 50 lakh.

(ii) A registered person who is **exclusively** engaged in supplying services other than restaurant services etc., under para 6(b) of Schedule II are not eligible for said

composition scheme u/s 10(1).

Since, in the given case, Varun & Arun Associates is supplying Architecture services other than restaurant services, it is not eligible to pay tax under sub-sections (1) and (2) of section 10.

However, section 10(2A) of the CGST Act, 2017 provides an option to a registered person, who is not eligible to pay tax under sub-sections (1) and (2) of section 10, of paying tax @ 6% (CGST-3% and SGST/UTGST-3%) of turnover of supplies of goods & services in the State or UT, provided his aggregate turnover in the preceding financial year is upto ₹ 50 lakh.

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

Consequently, it is eligible to avail the benefit of composition scheme under section 10(2A) of the CGST Act in the current financial year. It becomes eligible for the registration when its aggregate turnover exceeds ₹ 20 lakh. While registering under GST, it has to opt for composition scheme under section 10(2A).

For determining its turnover of the State for payment of tax under composition scheme for services, turnover of April-June quarter [₹ 20 lakh] shall be excluded as the value of supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act are to be excluded for this purpose.

On next ₹ 30 lakh [turnover of July-Sept quarter], it shall pay tax @ 6% [3% CGST and 3% SGST], i.e. CGST ₹ 90,000 and SGST ₹ 90,000.

By the end of July-Sept quarter, its aggregate turnover reaches ₹ 50 lakh*.

Consequently, its option to avail composition scheme under section 10(2A) shall lapse by the end of July-Sept quarter and thereafter, it is required to pay tax at the normal rate.

Thus, the tax payable for Oct-Dec quarter is ₹ 20 lakh x 9%, i.e. CGST- ₹ 1,80,000 and SGST - ₹ 1,80,000.

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

CN.16. Non-Eligibility of ITC u/s 10(4)

CCP 04.16.29.00

Can registered person avail ITC, if he opts for composition levy ?

Answer:- As per sec 10(4), A registered person who opt for composition levy u/s 10(1) or 10(2A)

- ⇒ shall not collect any tax from recipient on supplies made by him.
- ⇒ nor shall he be entitled to any credit of input tax

CN.17. Penalty u/s sec 10(5)

CCP 04.17.30.00

(i) Will withdrawal intimation in any one place be applicable to all places of business?

(ii) What are the penal consequences if a person opts for the composition scheme in violation of the conditions?

Answer:-

(i) Yes. Any intimation or application for withdrawal in respect of any one place of business in any State or Union territory shall be deemed to be intimation in respect of all other places of business registered on the same Permanent Account Number.

(ii) As per sec 10(5), If a taxable person has paid tax under the composition scheme though he was not eligible for the scheme then the person would be liable to penalty and the provisions of section 73 or 74 shall be applicable for determination of tax and penalty.

CCP 04.17.31.00

Mr. Zaid, registered in Himachal Pradesh is engaged in making inter-State outward supplies of apparels. The aggregate turnover of Mr. Zaid in the financial year 2019-20 is 70 lakh. He opted for composition levy in the year 2020-21 and paid tax for the quarter ending June, 2020 under composition levy. The proper officer has levied penalty on Mr. Zaid in addition to the tax payable by him.

You are required to examine the validity of the action taken by proper officer.

(CA Final Nov 18 exam) [ICAI Material]

Answer: The action taken by proper officer is valid in law.

Legal Provision: As per Section 10(1) of CGST Act, 2017 provides that the benefit of composition levy can be availed by a registered person if the aggregate turnover in the preceding financial year does not exceed ₹ 1.5 crore. (the said threshold is reduced to ₹ 75 lakh in case of special category states other than Assam, Himachal Pradesh and Jammu & Kashmir)

Further, section 10(2) inter alia specifies that registered person is eligible to opt for composition levy if he is not engaged in making any inter-state outward supplies of goods/services.

As per Section 10(5) provides that if a person who has paid tax under composition levy is found as not being eligible for composition then such person shall be liable to penalty to an amount equivalent to the tax payable by him under the provisions of the Act i.e., as a normal taxable person and that this penalty shall be in addition to the tax payable by him.

Explanation: As per the above stated provisions the action taken by the proper officer is valid in law.

In the given case, Mr. Zaid is engaged in making inter-State outward supplies of goods. So, he is not eligible to opt for composition levy irrespective of aggregate turnover in the preceding financial year.

Also as per the provisions pertaining to penalty as stated provision above u/s 10(5). Thus, levy of penalty on Mr. Zaid is valid in law in terms of this Section.



CN.18. Procedure under composition levy

CCP 04.18.32.00

Explain the following in accordance with the provisions of GST Act pertaining to composition scheme under sec 10:-

- (i) Can a registered person, who purchases goods or services from a taxable person paying tax under the composition scheme, avail credit of tax paid on purchases made from the composition dealer?
- (ii) Can a person paying tax under the composition scheme issue a tax invoice under GST?
- (iii) Are monthly returns required to be filed by the person opting to pay tax under the composition scheme?
- (iv) Can a person who has opted to pay tax under the composition scheme avail Input Tax Credit on his inward supplies?
- (v) A taxable person having same PAN can opt to pay tax under composition scheme by seeking separate registration for branches?
- (vi) Can composition scheme be availed if the taxable person effects inter-State supplies?
- (vii) Can a person paying tax under composition scheme make supplies of goods to SEZ?

Answer :-

- (i) **No**, as the composition dealer cannot collect tax paid by him on outward supplies from his customers, the registered person making purchases from a taxable person paying tax under the composition scheme cannot avail credit.
- (ii) **No**. He shall issue a **bill of supply** in lieu of tax invoice
- (iii) **No**, Person opting to pay tax under composition scheme are required to electronically filed **GSTR -4** on yearly basis.

However, they are required to furnish a statement every quarter or part thereof containing the details of payment of self-assessed tax in **FORM GST CMP-08** till the 18th of the month succeeding such quarter.

Due date of filing **GSTR -4** is **30th April** following the end of fin. year

- (iv) **No**, As per sec 10(4), any taxable person opting to pay tax under the composition

scheme cannot enter the credit chain & thus cannot avail credit on his inward supplies.

- (v) **No**. A registered person shall not be eligible to opt for the composition scheme unless all such registered persons (branches having separate registration under a single PAN) opt to pay tax under composition scheme
- (vi) **No**. Composition scheme is applicable subject to the condition that the taxable person does not effects inter-state outward supplies.
- (vii) **No**. As per sec 10(2), Supplies to SEZ from domestic tariff area will be treated as inter-State supply & as per one of the eligibility condition which states that, A person paying tax under composition scheme cannot make inter-State outward supply of goods/services. Thus, for making supplies to an SEZ unit, a person needs to take registration as a regular taxpayer.

CCP 04.18.33.00

In accordance with provisions of GST Act, Give answers to the following pertaining to composition scheme:-

- (i) Can a person making application for fresh registration under GST opt for composition levy at the time of making application for registration?
- (ii) Can the option to pay tax under composition levy be exercised at any time of the year?
- (iii) Can a person, who has already obtained registration, opt for payment under composition levy? If so, how?
- (iv) In case a person has registration in multiple states? Can he opt for payment of tax under composition levy only in one state and not in other state?

Answer:-

- (i) **Yes**. A Person can avail the option to pay tax under the composition scheme by filling the details in Part B of **FORM GST REG-01**. This will be considered as intimation to pay tax under the composition scheme.
- (ii) **No**. The option is required to be given electronically in **FORM GST CMP-02**, prior to the commencement of the relevant financial year.

But if person applied for registration in between the year then he can

opt for composition scheme by filling the details in **Part B** of FORM **GST REG-01**.

(iii) **Yes**. A person needs to give intimation electronically in Form **GST CMP-02** but it shall be availed from beginning of the financial year only.

(iv) **NO**, he cannot opt for payment of tax under composition in one state & normal tax in another state under same PAN.

Composition scheme once opted it would be applicable for all business having separate registration within the state & all other registrations outside the state which are held by the person with same PAN.

CCP 04.18.34.00

In case the option to pay tax under composition levy is denied by the proper officer, can the person avail ITC on stock after denial?

Answer:- Yes. ITC can be availed by filing, a statement in FORM **GST ITC-01** (containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock) by him on the date on which the option is denied, within a period of thirty days from the order.

CN.19. Advance Level

CCP 04.19.35.00

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

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

Particulars	Turnover for the quarter ended 30.06.20XX (₹)	Turnover for the quarter ended 30.09.20XX (₹)
P	50,00,000	40,00,000
Q	30,65,000	27,00,000

Particulars	Stock as on 30.06.20XX (₹)	Stock as on 30.09.20XX (₹)	Stock as on 31.10.20XX (₹)
P	25,00,000	10,00,000	3,60,000
Q	10,00,000	2,00,000	1,20,000

The entire stock of the products 'P' and 'Q' available with the firm as on 30.09.20XX is purchased during the said half year except a consignment of product 'P' valuing ₹ 3,00,000, which was purchased in the April month of the preceding financial year. In the month of October, 20XX, no purchases were made, and the products were sold with a profit margin of 20% on sales [exclusive of taxes].

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

Bill No.	Date	Value of products (exclusive of taxes)		
		'P' (₹)	'Q' (₹)	Total (₹)
2306	01.10.20XX	1,00,000	3,000	1,03,000
2306	01.10.20XX	31,250	2,000	33,250
2306	02.10.20XX	43,750	15,000	58,750
2306	03.10.20XX	35,000	10,000	45,000
2306	05.10.20XX	1,00,000		1,00,000
2306	06.10.20XX	94,000	6,000	1,00,000
2306	06.10.20XX		17,000	17,000
2306	08.10.20XX	50,000	6,000	56,000
2306	09.10.20XX	60,000	9,000	69,000
2306
.....

The details of services availed by **B & D Company** is as follows:

S. No.	Particulars	(₹)
1	Freight paid to Goods Transport Agency during the period April 20XX – October 20XX. Assume equal amount of freight is paid each month on the 10th day of each month. Also, assume that the goods for which the freight is paid on 10th day of the month are transported between 11th to 20th day of the month.	1,40,000

2	Special packing charges paid to a Packing Company, having expertise in such specialized packing, during the period January 20XX – October 20XX. The packing charges are paid for the goods which are transported between 11th to 20th day of the month (as mentioned in point (i) above). The goods are packed on 10th day and then transported from 11th day onwards. Assume equal amount of packing charges are paid each month on the 9th day of each month.	3,00,000
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Compute the net GST liability of B & D Company for the period April, 20XX to October, 20XX under composition scheme showing calculations for each quarter separately.

Note: Make suitable assumptions wherever required. Rate of CGST and SGST on service of transportation of goods by GTA is 2.5% each. Stock is valued at cost price. (CA Final RTP May 2019) [ICAI Material]

Answer:- As per section 10(3) of the CGST Act, 2017 read with Notification No. 8/2017 CT dated 27.06.2017 as amended, the option availed of by a registered person to pay tax under composition scheme shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds ₹ 1.5 crore [₹ 75 lakh in case of Special Category States except Assam, Himachal Pradesh and Jammu and Kashmir]. 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, exports of goods or services or both and inter-State supplies of persons having the same PAN, to be computed on all India basis but excludes CGST, SGST/UTGST, IGST and GST Compensation Cess.

In the given case, the firm is registered under the composition scheme in the State of Maharashtra. The aggregate turnover of the firm exceeds ₹ 1.5 crore on 03.10.20XX [aggregate of both taxable and exempt turnover from 01.04.20XX to 03.10.20XX, i.e. ₹ 1,50,05,000 (₹ 1,47,65,000 + ₹ 1,03,000 + ₹ 33,250 + ₹ 58,750 + ₹ 45,000)]

The inward supplies of goods transportation services in respect of which the firm has to pay tax under reverse charge have not been included in the aggregate turnover in terms of section 2(6) of the CGST Act, 2017. The tax is payable under reverse charge on such services as the applicable rate of tax on such services is given as 5% and not 12%, in which case the GTA would have been liable to pay tax under forward charge [Notification No. 13/2017 CT (R) dated 28.06.2017 as amended].

Thus, the firm will have to pay tax under regular scheme (Section 9 of the CGST Act, 2017) from 03.10.20XX.

Output tax liability of B & D Company under composition scheme

During the period when the firm pays tax under composition scheme, i.e. from 01.04.20XX to 02.10.20XX, tax will be payable on quarterly basis and no ITC will be available [Section 10(4) read with sub-sections (2) and (7) of section 39 of the CGST Act, 2017]. Further, since the firm is trading in goods, tax will be payable @ ½% [Effective rate - 1% (½% CGST + ½% SGST)] of the turnover of taxable supplies of goods (i.e. 'P') in the State [Section 10(1) read with rule 7 of CGST Rules, 2017].

The tax liability for the quarters ended June, 20XX, September, 20XX and December, 20XX under composition scheme will be computed as under-

Particulars	Quarter ended 30.06.20XX (₹)	Quarter ended 30.09.20XX (₹)	Quarter ended 31.12.20XX (₹)
Turnover of 'P' (Taxable supplies)	50,00,000	40,00,000	1,75,000 [1,00,000 + 31,250 + 43,450]
CGST @ 0.5% [AI]	25,000	20,000	875
SGST @ 0.5% [BI]	25,000		875
Inward supply on which tax is payable under reverse charge [Service of goods transportation availed from a GTA @ 5%]	60,000 [(1,40,000/7) x 3]	60,000 [(1,40,000/7) x 3]	Nil [Paid on 10th day for goods transported between 11th to 20th day of the month, so the same will be assessed under regular scheme]

CGST @ 2.5% [A2]	1,500	1,500	
SGST @ 2.5% [B2]	1,500	1,500	
Total CGST [A1 + A2]	26,500	21,500	875
Total SGST [B1 + B2]	26,500	21,500	875
Total CGST liability for the period from 01.04.20XX to 02.10.20XX	48,875 [26,500 + 21,500 + 875]		
Total SGST liability for the period from 01.04.20XX to 02.10.20XX	48,875 [26,500 + 21,500 + 875]		

Note:- The composition scheme lapse when the agg. T/o crosses 1.5 Cr. In given case :

Aggregate turnover of B & D Company:-

Turnover for quarter ending 30.06 90,00,000.00

Turnover for quarter ending 30.09 67,65,000.00

Aggregate turnover upto 30.09 1,47,65,000.00

value of supply as on 01.10 1,03,000.00

value of supply as on 01.10 33,250.00

value of supply as on 02.10 58,750.00

Aggregate turnover upto 02.10 1,49,60,000.00

value of supply as on 03.10 45,000.00

Aggregate turnover upto 03.10 1,50,05,000.00

Since, the aggregate turnover crosses 1.5 cr on 03.10 the composition scheme shall lapse on 03.10

