

CHARGE OF GST

Q16. Ranveer Industries – In Answer – 3rd Para – Error in the amountthe threshold limit of ₹75 lakh ₹ 1.5 crore in the preceding FY. (Pg 3.14)

EXEMPTIONS FROM GST

Q20. Pethalal – In Answer part in the table – Value of taxable supply – Error in the amount as ₹2,00,000 ₹ 2,50,000 (Pg 4.18)

Q29. Mr. Dev (Nov'23) (Pg 4.28)

Answer:

Computation of total GST payable by Mr. Dev

	Particulars	Value [₹]	CGST @ 9% [₹]	SGST @ 9% [₹]
(i)	Storage/warehousing of raw vegetable fibres [Services by way of storage/ warehousing of raw vegetable fibre is not exempt.]	4,00,000	36,000	36,000
(ii)	Supply of online journal to school [Not exempt, since such services are exempt only when they are provided to an educational institution providing education as a part of a curriculum for obtaining a recognised qualification. Thus, exemption from GST is not available when such services are provided to a secondary and higher secondary school.]	2,00,000	18,000	18,000
(iii)	Composite supply of goods and services to State Development Corporation [Not exempt since exemption in respect of composite supply of goods and services by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution is not available when such supply is made to a Government entity.]	1,40,000	12,600	12,600
(iv)	Sitting fees for attending meeting as an independent director [Services provided by an independent director to company are not in course/relation of employment are thus outside the scope of Schedule III of CGST Act, 2017. So, they qualify as supply. Further, tax on such services is payable by company under reverse charge.]	-	-	-
(v)	Insurance Commission received as an insurance agent [Tax on services provided by insurance agent to insurance company is payable by such company under reverse charge.]	-	-	-
(vi)	Services provided to State Government for fitness training program [Not exempt, since services provided to the State Government under any training programme are exempt only when 75% or more of the total expenditure for the same is borne by the State Government.]	1,50,000	13,500	13,500

(vii)	Honorarium received to appear as guest anchor [Liable to GST, since it is not specifically exempt and is not declared as 'neither a supply of goods nor a supply of service' under Schedule III of the CGST Act, 2017.]	25,000	2,250	2,250
(viii)	Services provided to a recognized sports body as a commentator [Services by an individual as a commentator to a recognized sports body are not exempt.]	6,00,000	54,000	54,000
	Total GST payable by Mr. Dev		1,36,350	1,36,350

Q30. 'Mischievous Muppets' (Nov'23) (Pg 4.28)**Answer:**

Catering services provided to an educational institution providing services by way of pre-school education and education up to higher secondary school are exempt from GST.

Thus, in the given case, catering service provided by "Toddlers Catering Agency" to "Mischievous Muppets" - a Kindergarten school is exempt from GST.

TIME OF SUPPLY

Q32. Anuja (Nov'23) (Pg 6.17)**Answer:**

In the given case,

Date of receipt of payment is:-

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

Date of issue of invoice is 20th July 2022 (since lodge decided to issue invoice on date of credit of payment in its bank account.)

Since in the given case of change in rate of tax (on 18th July, 2022):

- services have been supplied and payment has been received, before such change in rate
- but invoice is issued after the change in rate,

time of supply is date of receipt of payment, viz. 17th July, 2022.

Since the service of lodging upto a value of ₹ 1,000 was exempted at the time of supply, no GST is payable in the given case.

VALUE OF SUPPLY

Q41. Super Lever Limited (Pg 7.43 - In answer part, refer change in below para only from here)

As per section 17(3), value of exempt supply includes supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building. As per explanation to section 17(3), the expression "value of exempt supply" shall not include the value of activities or transactions specified in Schedule III, except sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building **and supply of warehoused goods to any person before clearance for home consumption**. Further, as per explanation to Chapter V (Input Tax Credit) of the CGST Rules, 2017, the value of exempt supply in respect of land and building is the value adopted for paying stamp duty and for security is 1% of the sale value of such security.

INPUT TAX CREDIT

Q22. V-Supply Pvt. Ltd (Pg 8.32 - Refer error in answer part from here)

Computation of ITC available with V-Supply Pvt. Ltd. for the tax period

	Particulars	ITC			
		CGST* ₹	SGST* ₹	IGST* ₹	Total ₹
1.	Opening balance of ITC	15,000	8,000	9,000	32,000
2.	Raw material purchased from Bihar [Refer Note 1(i)]			14,400	14,400
	Raw material imported from China [Refer Note 1(ii)]			29,970	29,970
	Raw material purchased from unregistered suppliers within West Bengal [Refer Note 1(iii)]	Nil	Nil		Nil
	Raw material destroyed due to seepage [Refer Note 1(iv)]	Nil	Nil		Nil
	Remaining raw material purchased from West Bengal [Refer Note 1(i)] [(₹ 3.5 - ₹ 1.5 - ₹ 0.80 - ₹ 0.30 - ₹ 0.05) = ₹ 0.85]	7,650	7,650		15,300
	Total ITC for raw material	7,650	7,650	44,370	59,670
3.	Consumables [Refer Note 2]	9,000	9,000		18,000
4.	Transportation charges for bringing the raw material to factory [Refer Note 3]	1,500	1,500		3,000
5.	Salary paid to employees on rolls [Refer Note 4]	Nil	Nil	Nil	Nil
6.	Premium paid on life insurance policies taken for specified employees [Refer Note 5]	14,400	14,400	-	28,800
7.	Audit Fee [Refer Note 6]	4,500	4,500	-	9,000
8.	Telephone expenses [Refer Note 6]	2,700	2,700	-	5,400
9.	Bank charges [Refer Note 6]	900	900		1,800
	Total ITC available for the tax period	55,650	48,650	53,370	1,57,670

Computation of Net GST payable

Particulars	CGST* ₹	SGST* ₹	IGST* ₹	Total ₹
On Intra-state sales in West Bengal	63,000	63,000		1,26,000
On Inter-state sales other than West Bengal			54,000	54,000
On exports under LUT [Note 7]	Nil	Nil	Nil	Nil
Total output tax liability	63,000	63,000	54,000	1,80,000
Less: ITC available for being set off [Note 8 and Note 9]	(55,650)	(48,650)	(53,370)	(1,57,670)
Net GST payable from Electronic Cash Ledger [A]	7,350	14,350	630	22,330
GST payable on inward supply of GTA services under reverse charge through Electronic Cash Ledger [Note 3 and 10] [B]	1,500	1,500		3,000
Net GST payable through Electronic Cash Ledger [A] + [B]	8,850	15,850	630	25,330

Notes:

- (1) (i) Credit of input tax (CGST & SGST/ IGST) paid on raw materials used in the course or furtherance of business is available in terms of section 16(1).
- (ii) IGST paid on imported goods qualifies as input tax in terms of section 2(62)(a). Therefore, credit of IGST paid on imported raw materials used in the course or furtherance of business is available in terms of section 16(1).

- (iii) Tax on intra-State procurements made by a registered person from an unregistered supplier is levied only on notified categories of goods and services. [Section 9(4)].
- (iv) ITC is not available on destroyed inputs in terms of section 17(5)(h).

- (2) Consumables, being inputs used in the course or furtherance of business, input tax credit is available on the same in terms of section 16(1). However, levy of CGST on diesel has been deferred till such date as may be notified by the Government on recommendations of the GST Council [Section 9(2)]. Hence, there being no levy of GST on diesel, there cannot be any ITC.
- (3) In respect of intra-State road transportation of goods undertaken by a GTA, who has not paid CGST @ 6%, for any person registered under the GST law, CGST is payable under reverse charge by the recipient of service. The person who pays or is liable to pay freight for the transportation of goods is treated as the person who receives the service [Notification No. 13/2017 CT (R) dated 28.06.2017]. Thus, V-Supply Pvt. Ltd. will pay GST under reverse charge on transportation service received from GTA.

Further, tax payable u/s 9(3) of the CGST/SGST Act qualifies as input tax in terms of clauses (b) and (d) of section 2(62). Thus, input tax paid under reverse charge on GTA service will be available as ITC in terms of section 16(1) as the said service is used in course or furtherance of business.

Furthermore, intra-State services by way of transportation of goods by road except the services of a GTA and a courier agency are exempt from CGST vide Notification No.12/2017 CT (R) dated 28.06.2017. Therefore, since no GST is paid on such services, there cannot be any ITC on such services.

- (4) Services by employees to employer in the course of or in relation to his employment is not a supply in terms of section 7 read with para 1 of Schedule III to the CGST Act. Therefore, since no GST is paid on such services, there cannot be any ITC on such services.
- (5) ITC on supply of life insurance service is not blocked if it is obligatory for an employer to provide such service to its employees under any law for the time being in force. [Proviso to section 17(5)(b)]. Therefore, GST paid on premium for life insurance policies will be available as ITC in terms of section 16(1) as the said service is used in the course or furtherance of business.
- (6) Audit fee, telephone expenses and bank charges are all services used in the course or furtherance of business and thus, credit of input tax paid on such service will be available in terms of section 16(1).
- (7) Export of goods is a zero-rated supply in terms of section 16(1)(a) of the IGST Act. A zero-rated supply under LUT is made without payment of integrated tax [Section 16(3)(a) of the IGST Act].
- (8) Since export of goods is a zero-rated supply, there will be no apportionment of ITC and full credit will be available [Section 16 of the IGST Act read with section 17(2) of things Act].
- (9) As per section 49(5) read with rule 88A, ITC of-
- IGST is utilized towards payment of IGST first and then CGST and SGST in any proportion and in any order.
 - CGST is utilized towards payment of CGST and IGST in that order. ITC of CGST shall be utilized only after ITC of IGST has been utilized fully.
 - SGST is utilized towards payment of SGST and IGST in that order. ITC of SGST shall be utilized only after ITC of IGST has been utilized fully.
- (10) Section 49(4) lays down that the amount available in the electronic credit ledger may be used for making payment towards output tax. However, tax payable under reverse charge is not an output tax in terms of section 2(82). Therefore, tax payable under reverse charge cannot be set off against the ITC and thus, will have to be paid in cash.
- (11) *CGST and SGST are chargeable on intra-State inward and outward supplies and IGST is chargeable on inter-State inward and outward supplies.

Q30. Mr. Rishi – In Answer part in the table Point:(iv) – Correct the error in note as [Taxable. since the value of supply of the accommodation unit exceeds ₹ 1,000 per day. Intra-State supply since place of supply is Maharashtra as property is located in Mumbai.] (Pg 8.50)

Q31. Oberoi Industries – In Answer part in the table – Amount to be credited to the electronic credit ledger of Oberoi Industries for the month of April, 20XX – Error in the amount as ₹ 3,21,600 ₹ 3,26,400 (Pg 8.54)

Q36. Cash and Credit Ltd. (Pg 8.61 – Refer error in answer part - in Table-1 from here)

Computation of ITC available with Cash and Credit Ltd. for April, 2020

Particulars	ITC (₹ in lakh)		
	CGST	SGST	IGST
I. Input tax credit on inputs, input services and capital goods			
Fruit pulp	20	20	
Sugar	6	6	
Preservatives			12
Administrative expenses	2	2	
Marketing expenses			10
Transportation charges for supply of fruit juices [Tax is payable by Cash and Credit Ltd. @ 5% under reverse charge. Further, it is an inter-State supply since supplier is located in Ahmedabad and place of supply is Maharashtra (location of registered recipient)]			1
Machinery [Input tax (CGST & SGST/ IGST) paid on inputs, input services and capital goods used in the manufacture of taxable products viz., fresh juices & carbonated fruit drinks is available as input tax credit]			8
Motor vehicle [ITC on motor vehicle for transportation of persons with seating capacity of up to 13 persons is blocked for a supplier who is not engaged in further supply of such vehicles, transportation of passengers or imparting training on driving such vehicles.]	-	-	
Total	28	28	31
II. Input tax credit to be reversed on inputs and input services			
Common credit of CGST on administrative expenses being used commonly for taxable and exempt products = ₹ 2 lakh Exempt turnover = ₹ 2200 lakh; Total turnover = ₹ 4400 lakh Common credit attributable to exempt supply ₹ in lakh $[2 \times 2200/4400] = ₹1$ lakh Similar reversal for SGST credit	(1)	(1)	
Common credit of IGST on marketing expenses being used commonly for taxable and exempt products = ₹10 lakh; Common credit attributable to exempt supply ₹ in lakh $[10 \times 2200/4400] = ₹ 5$ lakh			(5)
Total ITC available for set off	27	27	26

Q40. Sukhdev (Pg 8.68 – In question, Point- (j) is missing as below)

(j)	He has sold self-fabricated machinery through his agent in Mumbai, that has been used for 2 years, the value of which is not available in the open market. The agent sells it immediately to an unrelated customer in Mumbai.	10,00,000
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(Pg 8.70 & 8.71 – Refer error in answer part from here)

Computation of tax payable in cash

S. No.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
A.	GST liability on outward supply				
(i)	Consideration for services provided as an operating member to the Joint Venture [The operating member is providing the mining and exploration service to the joint venture, and thus, the consideration received therefor is not cost petroleum and hence, is liable to tax.]	12,00,000	1,08,000	1,08,000	
(ii)	Compensation received in the form of petroleum silt, which, as per the contract with the Government, is part of cost petroleum. [Cost petroleum is not a consideration for service to the Government and thus, is not taxable.]	6,00,000	Nil	Nil	
(iii)	Sale of petroleum silt to a SEZ developer [Supply to SEZ developer is a zero- rated supply and no tax is payable on the same if made under a bond/LUT.]	6,80,000			Nil
(iv)	Consideration for transfer of tenancy rights [Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable even though stamp duty has been paid on the same.]	8,00,000	72,000	72,000	
(v)	Sale of self-fabricated machinery* [Since open market value of the machine is not available, the value will be 90% of the price charged for the supply of machinery by the agent to his unrelated customer.] ** *It has been assumed that the value of ₹ 10 lakh at which the agent sells the self-fabricated machinery to unrelated customer is known to Sukhdev at the time he sells the machinery to the agent. **It has been assumed that the supplier has opted to value the goods at 90% of the value charged by the agent to the unrelated customer.	9,00,000	22,500	22,500	
Total tax liability on outward supplies			2,02,500	2,02,500	
B.	GST liability on inward supplies under reverse charge				
(i)	Legal services provided by a firm of advocates to Sukhdev, i.e., a business entity. (It has been assumed that aggregate turnover of Sukhdev in the preceding financial year exceeds ₹ 20 lakh.)	1,00,000	9,000	9,000	
(ii)	Renting of immovable Property provided by the State Government to Sukhdev (a registered person)	2,00,000	18,000	18,000	
(iii)	Assignment, by the State Government, of the right to collect royalty from mining lease holders to the extent the exemption is not available				2,00,000
Total tax liability on inward supplies under reverse charge			27,000	27,000	2,00,000
C. Input tax credit					
	Opening Balance		18,000	12,000	60,000
	Inter-State purchase of machinery	6,00,000			30,000
	Legal services	1,00,000	9,000	9,000	
	Since the goods & services are used for effecting taxable				

	Renting of immovable property	supplies including zero rated supplies, full ITC thereon will be allowed.	2,00,000	18,000	18,000	
	Assignment of right to collect royalty					2,00,000
Total ITC	[ITC may be availed for making zero rated supply even if such a supply is an exempt supply. Sale of petroleum silt, being a non-taxable supply, is an exempt supply but since it is also a zero-rated supply, ITC can be availed for making such supply.]			45,000	39,000	2,90,000
D. Computation of tax payable in cash						
	Total tax liability on outward supplies			2,02,500	2,02,500	
	Less: ITC of IGST			1,26,500	1,63,500	
	Less: ITC of CGST and SGST			45,000 (CGST)	39,000 (SGST)	
	Forward charge liability on outward supplies payable in cash after set off of ITC			31,000		
	Reverse charge liability payable in cash without set off of ITC [Tax payable under reverse charge, being not an output tax, cannot be set off against ITC and thus, will have to be paid in cash.]			27,000	27,000	2,00,000
Total tax liability payable in cash	[Since ₹ 12,000 (CGST) is available in Electronic Cash Ledger as opening balance, additional ₹ 46,000 (CGST) needs to be paid in cash.]			58,000	27,000	2,00,000
	Payment of liquidated damages to the Government [Services provided by the Government by way of tolerating non-performance of a contract for which consideration in the form of liquidated damages is payable to the Government under such contract, is exempt from GST. Hence, no tax will be payable by Sukhdev on such input service.]		3,00,000	Nil	Nil	

Note: In terms of section 49B of the CGST Act, 2017, full (100%) IGST credit of ₹ 2,90,000 must be utilized first before using CGST or SGST credit. However, the said IGST credit can be set off against the CGST and SGST liability in any order and in any proportion. Thus, the final answer in each case would vary.

Q45. Adityanath (Pg 8.79 - Correct error in amount in table and note part as below)

Exempt turnover = ₹ 29,60,00,000 ₹ 2,96,00,000 and
Total turnover in State = ₹ 66,40,00,000 ₹ 6,64,00,000

Q53. Motopower (Pg 8.102 - In Note-7, Correct error in amount as ₹ 20 crores ₹ 5 crores)

Q57. Jankinandan Associates (Pg 8.114 - Correct error in amount in note part as below)

Total turnover = ₹ 1,94,00,000 ₹ 2,78,50,000

Q59. Poorva Impex Ltd (Nov'23) (Pg 8.121)

Answer:

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

S. No.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
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(i)	Futures derivatives contract [Futures derivative contracts with no delivery option qualify as securities. They are neither goods nor services in terms of Schedule III of the CGST Act, 2017. Thus, given transaction is not a supply.]	20,00,000	-	-	-
(ii)	Supply of 50 LED TVs [It is an inter-State supply since place of supply here is the location where the movement of goods terminates, viz. Hyderabad. Further, supply of LED TVs with stands is a composite supply, chargeable to tax at the rate applicable to the principal supply (viz. supply of LED TVs) i.e., 18%.]	8,72,000 [8,00,000 + 72,000]			1,56,960 [8,72,000 × 18%]
(iii)	Intra-State supply as Direct Selling Agent (DSA) [Taxable under forward charge. Reverse Charge Mechanism is not applicable since services are provided by a body corporate and not by an individual DSA.]	5,00,000	45,000 [5,00,000 × 9%]	45,000 [5,00,000 × 9%]	
(iv)	Passenger transportation service [Passenger transportation service provided by public transport, other than predominantly for tourism purpose, in a vessel between places located in India is exempt.]	1,20,000			
(v)	Supply of goods to an agent [Value of inter-State supply of goods to agent shall be: (i) Open Market Value (3,00,000) or (ii) 90% of the price of goods of like kind and quality charged by recipient to unrelated customer (3,20,000 × 90%), at the option of owner. Since the company wishes to choose most beneficial option, least of the two values has been taken.]	2,88,000			51,840 [2,88,000 × 18%]
(vi)	Inter-State transfer of taxable items to Kerala branch [Since recipient is not eligible for full ITC and goods are not intended for further supply as such by the recipient, value of supply of goods to branch shall be open market value.]	3,00,000			54,000 [3,00,000 × 18%]
	Total output tax		45,000	45,000	2,62,800
	Less: ITC available for set off [Refer note below]		33,600	33,600	36,000
	Minimum net GST payable in cash (rounded off)		11,400	11,400	2,26,800

Note - Computation of eligible ITC available for set off

S. No.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
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HR training availed [It is intra-State supply as place of supply of training services provided to registered person is location of recipient, i.e. Maharashtra. Further, ITC of services used in course or furtherance of business is available.]	4,00,000	36,000 [4,00,000 x 9%]	36,000 [4,00,000 x 9%]	-
Machine purchased [It is intra-State supply since place of supply in case of goods not involving movement of goods is location of goods at the time of delivery to recipient, viz. Gujarat. However, ITC of the same will not be available as CGST/SGST of one State cannot be utilized for discharging of CGST/SGST liability of another State.]	1,00,000	-	-	-
Two wheelers purchased [It is inter-State supply since place of supply is Mumbai. ITC is not blocked as it is eligible on two-wheelers with engine capacity of upto 25cc.]	2,00,000	-	-	36,000 [2,00,000 x 18%]
Computation of eligible ITC available for set-off				
Common credit [ITC availed on HR training is common credit.]		36,000	36,000	
Less: ITC attributable to exempt supplies [Common credit x (Exempt turnover / Total turnover)] to be reversed [36,000 x 1,40,000/21,00,000]		2,400	2,400	
Total Exempt Turnover = Exempt ferry service (1,20,000) + value of security (20,000) = 1,40,000				
Value of exempt supply includes transactions in securities and value of transactions in securities is 1% of sale value of security = 1% of 20,00,000 = 20,000				
Eligible ITC out of common credit		33,600	33,600	
Add: ITC on two-wheelers used exclusively in relation to taxable products				36,000
Eligible ITC available for set off		33,600	33,600	36,000

Q60. Mr. Broker (Nov'23) (Pg 8.122)**Answer:**

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

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

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

Interest is payable on wrongly availed and utilised ITC of ₹ 75,000.

Date of utilisation of said ITC will be:

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

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

Interest (CGST + SGST) will be payable for 80 days [21st December 2022 to 10th March, 2023 (both days inclusive)] as follows: ₹ 75,000 × 80/365 × 18% = ₹ 2,959 [CGST+SGST] (rounded off).

REGISTRATION

Q2. AB Pvt. Ltd. (Pg 9.2 & 9.3 – Refer amended answer from here)

As per section 22 of the CGST Act every supplier of goods or services or both is required to obtain registration in the State/ Union territory from where he makes the taxable supply if his aggregate turnover exceeds threshold limit in a financial year.

However, section 24 of the said Act enlists certain categories of persons who are mandatorily required to obtain registration, irrespective of their turnover. Persons who supply goods or services or both through such electronic commerce operator (ECO), who is required to collect tax at source under section 52, is one such person specified under clause (ix) of section 24. However, where the ECO is liable to pay tax on behalf of the suppliers of services under a notification issued under section 9(5), the suppliers of such services are entitled for threshold exemption. Also, as per section 23, person making supplies of goods through an ECO who is required to collect TCS u/s 52 of CGST Act are exempted from obtaining registration under GST subject to the certain conditions.

Section 2(45) of the CGST Act defines ECO as any person who owns, operates or manages digital or electronic facility or platform for electronic commerce. Electronic commerce is defined under section 2(44) to mean the supply of goods or services or both, including digital products over digital or electronic network. Since Hi-Tech Indya Pvt. Ltd. owns and manages a website for e commerce where both goods and services are supplied, it will be classified as an ECO under section 2(45).

Notification No. 17/2017 CT (R) dated 28.06.2017 issued under section 9(5) specifies services by way of house-keeping, except where the person supplying such service through ECO is liable for registration under section 22(1), as one such service where the ECO is liable to pay tax on behalf of the suppliers.

In the given case, AB Pvt. Ltd. provides house-keeping services through an ECO. It is presumed that Hi-Tech Indya is an ECO which is required to collect tax at source under section 52. However, house-keeping services provided by AB Pvt. Ltd., which is not liable for registration under section 22(1) as its turnover is less than ₹20 lakh, is a service notified under section 9(5). Thus, AB Pvt. Ltd. will be entitled for threshold exemption for registration and will not be required to obtain registration even though it supplies services through ECO.

In the second case, AB Pvt. Ltd. sells readymade garments through ECO. Person making supplies of goods through an ECO who is required to collect TCS u/s 52 of CGST Act are exempted from obtaining registration under GST subject to the certain conditions. Therefore, in this case, AB Pvt. Ltd. will be entitled for threshold exemption and is not required to obtain registration, assuming that all the conditions are fulfilled.

Q3. Mahadev Enterprises (Pg 9.5 – In answer part, add missing part in Point 1 as highlighted)

- (1) In view of the above-mentioned provisions, Mahadev Enterprises is liable to be registered under GST law with the aggregate turnover amounting to ₹ 56,90,000 (computed on all India basis). The applicable threshold limit of registration in this case is ₹ 10 lakh. Further, he is not liable to be registered in Uttarakhand since he is not making any taxable supply from Uttarakhand.

Q6. Decide with reason (Pg 9.7 – In question part, misprint in Point (i) as highlighted)

- (i) A casual taxable person (CTP) has provided inter-State supply of notified products being textiles hand printing amounting to ₹ 19.25 lakh during the month of January, 2023. Those products were made by craftsmen by both **hand and machine equally**. CTP had obtained PAN and generated e-way bill for supply.

Q8. LMN Pvt. Ltd. (Pg 9.9 – In answer part, misprint in 3rd Para of (a) as highlighted)

Further, a person exclusively engaged in the business of supplying goods and/or services **that are not liable to tax or are wholly exempt from tax is not liable to registration** in terms of section 23(1)(a).

Q13. Raghuram Pvt. Ltd. (Pg 9.13 – Refer amended answer from here)

As per section 22 of the CGST Act, 2017, every supplier of goods or services or both is required to obtain registration in the State/ Union territory from where he makes the taxable supply if his aggregate turnover exceeds threshold limit in a financial year.

However, section 24 of the CGST Act, 2017 enlists certain categories of persons who are mandatorily required to obtain registration, irrespective of their turnover. Persons who supply goods or services or both through such electronic commerce operator (ECO), who is required to collect tax at source under section 52 of the CGST Act, 2017, is one such person specified under clause (ix) of section 24. However, where the ECO is liable to pay tax on behalf of the suppliers of services under a notification issued under section 9(5), the suppliers of such services are entitled for threshold exemption. **Also, as per section 23, person making supplies of goods through an ECO who is required to collect TCS u/s 52 of CGST Act are exempted from obtaining registration under GST subject to the certain conditions.**

Section 2(45) of the CGST Act, 2017 defines ECO as any person who owns, operates or manages digital or electronic facility or platform for electronic commerce. Electronic commerce is defined under section 2(44) of the CGST Act, 2017 to mean the supply of goods or services or both, including digital products over digital or electronic network. Since Technosavvy Pvt. Ltd. owns and manages a website for e commerce where both goods and services are supplied, it will be classified as an ECO under section 2(45).

Notification No. 17/2017 CT (R) dated 28.06.2017 issued under section 9(5) of the CGST Act, 2017 specifies services by way of house-keeping, except where the person supplying such service through ECO is liable for registration under section 22(1), as one such service where the ECO is liable to pay tax on behalf of the suppliers.

In the given case, Raghuram Pvt. Ltd. provides house-keeping services through an ECO. It is presumed that Technosavvy Pvt. Ltd. is an ECO which is required to collect tax at source under section 52 of the CGST Act, 2017. However, house-keeping services provided by Raghuram Pvt. Ltd., which is not liable for registration under section 22(1) of the CGST Act, 2017 as its turnover is less than ₹ 20 lakh, is a service notified under section 9(5) of the CGST Act, 2017. Thus, Raghuram Pvt. Ltd. will be entitled for threshold exemption for registration and will not be required to obtain registration even though it supplies services through ECO.

In the second case, Raghuram Pvt. Ltd. sells readymade garments through ECO. **Person making supplies of goods through an ECO who is required to collect TCS u/s 52 of CGST Act are exempted from obtaining registration under GST subject to the certain conditions. Therefore, in this case, AB Pvt. Ltd. will be entitled for threshold exemption and is not required to obtain registration, assuming that all the conditions are fulfilled.**

Q14(i). Jugnoo Enterprises (Pg 9.13 – In question, correct date as 15th July 2023 2021)

Q20. Dharma Dutta (Pg 9.16 – Refer answer from here as per new ICAI module)

Answer

GST registration may be cancelled Suo motu by GST Officer if the registered person: -

- (i) does not conduct any business from the declared place of business, or
- (ii) issues invoice / bill without supply of goods / services in violation of the provision of this Act, or the rules made thereunder.
- (iii) violates the provisions of section 171. Section 171 contains provisions relating to anti-profiteering measure
- (iv) violates the provision of Rule 10A (Bank account details).
- (v) avails ITC in violation of the provisions of section 16 of the CGST Act or the rules made thereunder; or
- (vi) furnishes the details of outward supplies in Form GSTR-1 u/s 37 for one or more tax periods which is in excess of the outward supplies declared by him in his valid return u/s 39 for the said tax periods; or
- (vii) violates the provision of Rule 86B (Restriction on use of ITC).
- (viii) required to file return u/s 39(1) for each month or part thereof (i.e., monthly return filer), has not furnished returns for a continuous period of 6 months;
- (ix) required to file return under proviso to section 39(1) for each quarter or part thereof (i.e., quarterly return filer), has not furnished returns for a continuous period of 2 tax periods.

ACCOUNT & RECORDS; E-WAY BILL

Q15. M/s. Cute and Co., a registered person (Nov'23) (Pg 11.6)

Answer:

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

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

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

PAYMENT OF TAX

Q26. List the instances when TDS is not liable to be deducted under the GST law. (Nov'23) (Pg 12.20)

Answer:

Tax is not liable to be deducted at source under GST law when:

- (i) Location of the supplier and the place of supply are in a State/ Union territory which is different from the State/ Union territory of registration of the recipient.
- (ii) Goods and/or services are supplied from a public sector undertaking (PSU) to another PSU, whether or not a distinct person
- (iii) Supply of goods and/or services takes place between one person to another person specified in clauses (a), (b), (c) and (d) of section 51(1) of the CGST Act, 2017, i.e.
 - (a) Department/establishment of Central/State Government
 - (b) Local authority
 - (c) Governmental agencies
 - (d) Notified persons or category of persons
- (iv) Total value of taxable supply \leq ₹ 2.5 lakh under a contract.

REFUNDS UNDER GST

Q10. Discuss the provisions relating to refund of the amount of advance tax deposited by a casual taxable person under section 27(2)? (Pg 15.10 – Refer amended answer from here)

Answer:

The amount of advance tax deposited by a casual taxable 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 to 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 **only after the last return required to be furnished by him has been so furnished** [Fourth proviso to rule 89(1)].

ASSESSMENT & AUDIT

Q7. Explain the provisions relating to assessment of unregistered persons by the proper officer under section 63 of the CGST Act, 2017. (Jul'21) (Pg 17.3 – Refer changes from here as per new ICAI module)

Answer:

Notwithstanding anything to the contrary contained in section 73 or section 74 of the CGST Act, 2017, where a taxable person—

- fails to obtain registration even though liable to do so; or
- whose registration has been cancelled for any of the specified reasons*, but who was liable to pay tax, the proper officer may proceed to assess the tax liability of said taxable person to the best of his judgement for the relevant tax periods.

* Specified reasons for cancellation are as under:

- (a) a registered person has contravened such provisions of the CGST Act or the rules made there under as may be prescribed; or
- (b) a person paying tax under composition levy u/s 10 of the CGST Act has not furnished **the return for a FY beyond 3 months from the due date of furnishing the said return**; or
- (c) any registered person, other than a person specified in clause (b), has not furnished returns for a **such continuous tax period as may be prescribed**; or
- (d) any person who has taken voluntary registration under sub-section (3) of section 25 of the CGST Act has not commenced business within six months from the date of registration; or
- (e) registration has been obtained by means of fraud, willful misstatement or suppression of facts.

The assessment order shall be issued by proper officer within a period of 5 years from the due date for furnishing the annual return for the financial year to which non-payment of tax relates.

However, no such assessment order shall be passed without giving the person an opportunity of being heard.

DEMANDS & RECOVERY

Q26. M/s. Square & Co. (Nov'23) (Pg 19.15)

Answer:

- (i) Since the appellate authority concluded that the notice under section 74(1) is not sustainable for reason that the charges of fraud etc. have not been established by Department against M/s Square & Co., the proper officer can re-determine the demand, deeming as if the notice was issued under section 73(1) of

the CGST Act, 2017.

- (ii) Fresh demand will not be valid since show cause notice under section 74(1) of the CGST Act, 2017 was issued on 24.11.2022, i.e. beyond 2 years and 9 months from the due date of furnishing of annual return for financial year 2018-19, i.e. 30.09.2022.
- (iii) If show cause notice under section 74(1) of the CGST Act, 2017 was issued on 24.09.2022, i.e. within 2 years and 9 months from the due date of furnishing of annual return for financial year 2018-19, demand would be valid.

OFFENCES & PENALTIES

Q3. Is there any penalty prescribed for a person other than the taxable person under section 122?

(Pg 21.2 – Refer changes from here)

Answer

Yes, section 122(3) provides for levy of penalty extending to ₹ 25,000/- (each under CGST and SGST/UTGST) or ₹ 50,000/- (under IGST) 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.

Q4. Answer the following questions: (RTP May'18) (Pg 21.3 – Refer changes from here)

- (i) Shagun started supply of services in Vasai, Maharashtra from 01.01.20XX. Her turnover exceeded ₹ 20 lakh on 25.01.20XX. However, she didn't apply for registration. Determine the amount of penalty, if any, that may be imposed on Shagun on 31.03.20XX, if the tax evaded by her, as on said date, on account of failure to obtain registration is ₹ 1,26,000 (CGST). (MTP Nov'20)
- (ii) Sagar, managing director of Telecom Solutions Ltd., is issued a summon to appear before the central tax officer to produce the books of accounts of Telecom Solutions Ltd. in an inquiry conducted on said company. Determine the amount of penalty, if any, that may be imposed on Sagar under the CGST Act, 2017 if he fails to appear before the central tax officer.

Answer

- (i) Where the aggregate turnover of a supplier making supply of services from a State/UT exceeds ₹ 20 lakh in a financial year, he is liable to be registered in the said State/UT. The said supplier must apply for registration within 30 days from the date on which he becomes liable to registration. However, in the given case, although Shagun became liable to registration on 25.01.20XX, she didn't apply for registration within 30 days of becoming liable to registration.

Section 122(1)(xi) of the CGST Act, 2017 stipulates that a taxable person who is liable to be registered under the CGST Act, 2017 but fails to obtain registration shall be liable to pay a penalty of:

(a) ₹ 10,000 (each under CGST/SGST/UTGST)

or

(b) an amount equivalent to the tax evaded [₹ 1,26,000 in the given case], whichever is higher.

Thus, the amount of penalty that can be imposed on Shagun is ₹ 1,26,000.

- (ii) Section 122(3)(d) of the CGST Act, 2017 stipulates that any person who fails to appear before the officer of central tax, when issued with a summon for appearance to give evidence or produce a document in an inquiry is liable to a penalty which may extend to ₹ 25,000. Therefore, penalty upto ₹ 25,000 can be imposed on Sagar **under the CGST Act, 2017** in the given case.

Q5. Answer the following questions: (RTP Nov'21) (Pg 21.3 – Refer changes from here)

- (i) Nirmal Private Limited, registered in Vasai, Maharashtra, is engaged in supply of taxable goods and services. In the month of April, it sold goods worth ₹ 5,00,000 (excluding GST) to Suraksha Enterprises and collected tax @ 28% on said goods from the buyer. However, the actual rate of tax applicable in the given case was 18%.

Nirmal Private Limited deposited the tax @ 18% on these goods to the Government on the due date and retained the remaining tax collected. Determine the amount of penalty, if any, that may be imposed on Nirmal Private Limited in the month of October in the given case ignoring interest payable, if any.

- (ii) Bindusara, Chief Executive Officer of Ashoka Solutions Ltd., is issued a summon to appear before the central tax officer to produce the books of accounts of Ashoka Solutions Ltd. in an inquiry conducted on said company. Determine the amount of penalty, if any, that may be imposed on Bindusara under the CGST Act, 2017 if he fails to appear before the central tax officer.

Answer:

- (i) Section 122(1)(iv) of the CGST Act, 2017 stipulates that a taxable person who collects any tax in contravention of the provisions of the CGST Act, but fails to pay the same to the Government beyond a period of 3 months from the date on which such payment becomes due shall be liable to pay a penalty of:
- (a) ₹ 10,000 (each under CGST/SGST/UTGST) / ₹ 20,000 (IGST)
or
(b) an amount equivalent to the tax evaded whichever is higher.

In the given case, since Nirmal Private Limited has collected tax at a wrong rate (i.e., 28%), but fails to deposit the full tax collected to the Government i.e., it deposits only tax @ 18% thereby retaining the remaining tax collected, the amount of penalty that can be imposed on Nirmal Private Limited is as follows:

(a) ₹ 10,000 (each under CGST/SGST/UTGST) / ₹ 20,000 (IGST)
or

(b) an amount equivalent to the tax evaded [₹ 50,000 (₹ 5,00,000 × 28%) - (₹ 5,00,000 × 18%)], whichever is higher, i.e., ₹ 50,000.

- (ii) Section 122(3)(d) of the CGST Act, 2017 stipulates that any person who fails to appear before the officer of central tax, when issued with a summon for appearance to give evidence or produce a document in an inquiry is liable to a penalty which may extend to ₹ 25,000. Therefore, penalty upto ₹ 25,000 can be imposed on Bindusara **under the CGST Act, 2017** in the given case.

Q6. M/s Fly-by-Night Traders, a taxable person, issued an invoice on 15th April 2021 involving input tax credit (ITC) of ₹ 25 lakh (CGST) to M/s Runaway Traders who utilised the same. No supply of goods was involved in this transaction between the two traders. M/s Fly-by-Night Traders conducted this transaction at the instance of its tax consultant who was not a qualified professional.

Explain the relevant provision in brief and determine the amount of penalty leviable under CGST Act, 2017, if any, on the persons involved in respect of the above referred transaction. (Dec'21)

Answer: (Pg 21.4 – Refer changes from here)

Where a taxable person:

- (a) issues any invoice without supply of goods, or
- (b) takes/utilises ITC without actual receipt of goods, either fully or partially, in contravention/violation of the provisions of the GST law or the rules made thereunder, such person shall be liable to pay a penalty of
 - (i) ₹ 10,000 (CGST)
 - or
 - (ii) an amount equivalent to the ITC availed of or passed on (₹ 25 lakh), whichever is higher.

Thus, M/s Fly-by-Night Traders and M/s Runaway Traders, both are liable to pay a penalty of ₹ 25 lakh each.

Further, any person at whose instance above transactions are conducted, shall be liable to a penalty of an amount equivalent to ITC availed of/passed on. Thus, the tax consultant will be liable to pay a penalty of ₹ 25 lakh.

Q8. Whether action can be taken for transportation of goods without valid documents or if goods are attempted to be removed without proper record in books? If yes, explain the related provisions under the CGST Act, 2017. (Pg 21.5 – Refer changes from here)

Answer

Yes, action can be taken for transportation of goods without valid documents or if goods are attempted to be removed without proper record in books. If any person transports any goods or stores any such goods while in transit without the documents prescribed under the Act or supplies or stores any goods that have not been recorded in the books or accounts maintained by him, then such goods shall be liable for detention along with any vehicle on which they are being transported [Section 129 of CGST Act].

Where owner comes forward: -

Such goods shall be released on payment penalty equal to 200% of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to 2% of value of goods or ₹ 25,000/- (CGST) whichever is less.

Where owner does not come forward: -

Such goods shall be released on payment of penalty equal to 50% of value of the goods or 200% of the tax payable on such goods, whichever is higher, and in case of exempted goods, on payment of an amount equal to 5% of value of goods or ₹ 25,000/- (CGST) whichever is less.

Q11. Adi Private Limited (Pg 21.7 – Refer changes from here)

Answer:

When owner of goods does not come forward for payment of penalty, detained/seized goods and conveyance (used as a means of transport for carrying said goods) and related documents are released on payment of penalty equal to higher of the following:

- (i) 50% of value of goods or
- (ii) 200% of the tax payable on such goods

Equivalent amount of penalty is payable under SGST/UTGST Act.

In view of the same, the amount of penalty payable if Adi Private Limited does not come forward for the payment of penalty is as follows:

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

whichever is higher, i.e., ₹ 3,40,000.

Equivalent amount of penalty is payable under SGST/UTGST Act.

As per first proviso to section 129(6), conveyance shall be released on payment by the transporter the penalty as mentioned in the order or ₹ 1 lakh (CGST/SGST/UTGST), whichever is less.

In the given scenario, since the owner – Adi Private Limited has failed to come forward to make payment of penalty, penalty of ₹ 3,40,000 shall be levied.

Further, the transporter of goods can get its truck released upon payment of the lower of the following:

- (i) penalty as mentioned in the order [₹ 3,40,000]
- (ii) ₹ 1,00,000 (CGST/SGST/UTGST) / ₹ 2,00,000 (IGST)

Hence, Mahesh Transporters can get its truck released upon payment of ₹ 1,00,000 (CGST/SGST/UTGST).

Q13. (Pg 21.8 – Refer amendment in answer (i) from here)

- (i) As per section 130(2) of the CGST Act, 2017, in case of goods liable for confiscation, the maximum amount of fine leviable in lieu of confiscation is the market value of the goods confiscated, less the tax chargeable thereon.

Therefore, the fine leviable = ₹ 20,00,000 - ₹ 3,60,000 = ₹ 16,40,000

The aggregate of fine and penalty shall not be less than the amount of penalty leviable under section 129(1).
the penalty equal to 100% of the tax payable on such goods.

Q16. (Pg 21.10 – Refer amendment in answer (i) from here)

Person	Offence	Prosecution	Arrest	Bail
'Ashuram'	Non-cognizable offence [Section 132(1)(c) read with section 132(4)]	Upto 1 year {Section 132(1)(c)(iii)} No Prosecution	No arrest [Section 69(1)]	Bailable Offence [Section 132(4)]

Q17. (Pg 21.10 – Refer amendment in answer (i) from here)

Person	Offence	Prosecution	Arrest	Bail
'Bhaskar'	Non-cognizable offence [Section 132(1)(c) read with section 132(4)]	Upto 1 year & with fine {Section 132(1)(c)(iii)} No Prosecution	No arrest [Section 69(1)]	Bailable Offence [Section 132(4)]

Q. Department initiated prosecution proceedings against a taxable person who had evaded GST of ₹ 4.2 crores. He has approached the Commissioner with a request for compounding the offence. After considering the request, the Commissioner has directed him to pay an amount of ₹ 2.5 crores as compounding amount. Indicate the minimum and maximum limits for compounding amount. Is the amount fixed by the Commissioner in this case within the limits prescribed under the law? What is the consequence of the decision of the commissioner allowing the request for compounding the offence? (Nov'18 Old)

Answer:

As per section 138 of the CGST Act, 2017,

the minimum limit for compounding amount is **25% of tax involved,**

the upper limit for compounding amount is **100% of tax involved.**

In the present case, the minimum limit for compounding is ₹ 1.05 crores (25% x ₹ 4.2 crores).

The maximum limit for compounding in this case is ₹ 4.2 crores (100% x ₹ 4.2 crores).

Thus, the amount fixed by the Commissioner at ₹ 2.5 crores is within the limits prescribed under the law. If the taxable person pays the compounding amount decided by the Commissioner, no further proceedings shall be initiated under GST law against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.

Q. Ganesh Enterprises, a registered supplier under the GST law, has committed an offence that is compoundable. The Department has instituted prosecution against the proprietor of Ganesh Enterprises and he is of the opinion that he shall not be able to apply for compounding of the offence as the prosecution has been launched. He seeks your advice whether he has the opportunity to apply for compounding of the offence and the consequences arising there from. (Nov'19)

A person accused of an offence is permitted to make an application for compounding of an offence even after the institution of prosecution against him.

Therefore, in the given case, Ganesh Enterprises can apply for compounding of offence even though prosecution has been instituted/launched against him.

On payment of compounding amount determined by the Commissioner, the criminal proceedings which have been initiated against Ganesh Enterprises in respect of the said offence, shall stand abated.

The lower limit for compounding amount is **25% of tax involved.**

The upper limit for compounding amount is **100% of tax involved.**

Q. Arjun has committed offence under CGST Act which can be compounded as per provisions of section 138(1) of the CGST Act, 2017. He has paid the tax amount of ₹ 10 lakhs involved in the offence. He wishes to apply to Commissioner for compounding the said offence. You are required to compute minimum and maximum compounding amount as per provisions of Section 138(2) of the CGST Act, 2017 payable by Arjun.

What are the consequences, if Arjun pays such compounding amount as may be determined by Commissioner. (Nov'22)

(i) Minimum limit for compounding amount is **25% of tax involved i.e., ₹ 2.5 lakh (₹ 10 lakh × 25%)**

(ii) Maximum limit for compounding amount is **100% of tax involved i.e., ₹ 10 lakh (₹ 10 lakh × 100%)**

If Arjun pays such compounding amount as may be determined by Commissioner, no further proceedings shall be initiated under this Act against him in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.

Q22. M/s. Root & Co. filed a refund application u/s 54 of the CGST Act, 2017 in respect of export made by them. While declaring the export turnover, their accountant included the exempt turnover also as a part of export turnover and claimed excess refund. Amount of Refund excess claimed was ₹ 18,000 was each under CGST and SGST.

Determine the total amount of Penalty (CGST+SGST) leviable under GST law in respect of such erroneous refund if:

(i) Such excess refund claim was proved to be inadvertent and not wilful / fraud.

(ii) Such excess refund was on account of wilful misstatement / fraud. **(Nov'23) (Pg 21.13)**

Answer:

Amount of penalty (each under CGST and SGST) in respect of the erroneous refund claimed by M/s Root & Co.:

- (i) Where the excess refund claim was proved to be inadvertent and not wilful/fraud

Penalty payable will be higher of the following:

- (a) 10% of tax due, i.e. ₹ 1,800 (18,000 x 10%)
 (b) ₹ 10,000

Penalty will be ₹ 10,000 each under CGST and SGST.

- (ii) Where the excess refund claim was on account of wilful misstatement/fraud

Penalty payable will be higher of the following:

- (a) Tax due, i.e. ₹ 18,000
 (b) ₹ 10,000

Penalty will be ₹ 18,000 each under CGST and SGST.

LEVY OF & EXEMPTION - CUSTOMS

Q25. M/s. Lotus Auto Weaves (Nov'23) (Pg 1.12)

Answer:

As per section 14 of the Customs Act, 1962, the value of the imported goods is the transaction value, which means the price actually paid or payable for the goods at the time and place of importation.

Further, the Supreme Court in case of Garden Silk Mills v. UOI 1999 (113) E.L.T. 358 has held that importation gets complete only when the goods become part of mass of goods within the country.

Since in the instant case, the price of the goods was reduced after the goods arrived in India, the price would be considered to be revised after the importation took place.

Hence, the goods should be valued as per the original price of US \$ 70,000, which was the price payable at the time of importation.

The action taken by the proper officer is valid.

TYPES OF DUTY

Q19. 'Mezo Blanca' (Nov'23) (Pg 2.9)

Answer:

Where the Central Government, on such inquiry as it considers necessary, is of the opinion that circumvention of countervailing duty has taken place by any of the following ways, it may extend the countervailing duty to such other article also from such date, as the Central Government may, by notification in the Official Gazette, specify:

- (i) by altering the description or name or composition of the article on which such duty has been imposed
 (ii) by import of such article in an unassembled or disassembled form
 (iii) by changing the country of its origin or export or
 (iv) in any other manner, whereby the countervailing duty so imposed is rendered ineffective.

In accordance with the above provisions, the action of the proper officer is correct*.

* It is most logically assumed that the Central Government has extended the countervailing duty by notification in the Official Gazette to the product imported (by altering name) by Mezo Blanca.

VALUATION UNDER CUSTOMS

Q43. A non-resident Indian (Pg 4.36 – Refer answer from here)

Computation of assessable value, basic customs duty, social welfare surcharge and IGST

Particulars	Amount (\$)
FOB value computed by Customs Officer (Including design and development charges *)	17,500
Add: Commission paid to local agent in India [Includible since it is not a buying commission]	2,100
FOB value as per customs	19,600
Add: Air freight (\$ 19,600 × 20%) [Restricted to 20% of FOB value since goods are imported by air.]	3,920
Add: Actual insurance charges	1,500
Assessable value in \$	25,020
Assessable value in rupees [\$ 25,020 × ₹ 75] [Rate of exchange notified by CBIC on the date of filing of bill of entry is considered.]	₹ 18,76,500
Add: Basic customs duty @ 15% on ₹ 18,76,500 [Rate of BCD is the rate in force on the date of presentation of bill of entry or on the date of arrival of the aircraft, whichever is later.]	2,81,475
Add: Social Welfare surcharge @ 10% on ₹ 2,81,475 (rounded off)	<u>28,148</u>
Total	21,86,123
Integrated tax @ 18% on ₹ 21,86,123 [rounded off]	3,93,502

* It has been most logically presumed that design and development is undertaken in USA and necessary for the production of imported goods.

Q53. Milly Ltd. (Nov'23) (Pg 4.45)

Answer:

Computation of assessable value

Particulars	Amount (\$)
Price of the machine	15,000
Add: License fee [Licence fee relating to imported goods is includible since it is payable by the buyer as a condition of sale.]	2,250
Add: Drawing charges [Not includible since undertaken in India.]	-
Add: Commission paid by buyer to agent of exporter [Includible since it is not buying commission]	250
Total	17,500
	Amount (₹)
Value in Indian currency [\$ 17,500 × ₹ 70]	12,25,000
Add: Material supplied by the buyer free of cost [Includible in the assessable value]	75,000
FOB value	13,00,000
Add: Air Freight [Restricted to 20% of FOB value since goods are imported by air.]	2,60,000
Add: Demurrage charges [Only ship demurrage charges on chartered vessels are includible in the cost of transport of the imported goods.]	-
Add: Insurance Charges [1.125% of FOB value since insurance charges are not ascertainable]	14,625
Add: Transshipment charges from Delhi Airport to Dehradun Airport [Since these charges are incurred within India, they are not includible in the assessable value]	-
Assessable Value	15,74,625

IMPORTATION, EXPORTATION & TRANS. OF GOODS

Q8. With reference to the facility, 'Clear First-Pay later' extended to importers under the customs law, answer the following questions:

- (i) What is the objective of the facility?
- (ii) Who is eligible to avail this scheme?
- (iii) What are the due dates for payment of duty under this facility?
- (iv) What are the circumstances when the deferred payment facility will not be available?

(RTP May'18) (Pg 5.2 - Refer amended answer from here)

Answer:

- (i) 'Clear First-Pay later' i.e., deferred duty payment is a mechanism for delinking duty payment and customs clearance. The aim is to have a seamless wharf to warehouse transit in order to facilitate just-in-time manufacturing.
- (ii) Central Government has permitted importers certified under Authorized Economic Operator programme as AEO (Tier-Two) and AEO (Tier-Three) to make deferred payment of import duty (eligible importers).

As a part of the ease of doing business focus of the Government of India, the CBIC has rolled out the AEO (Authorized Economic Operator) programme.

It is a trade facilitation move wherein benefits are extended to the entities who have demonstrated strong internal control systems and willingness to comply with the laws administered by the CBIC.

- (iii) The due dates for payment of deferred duty are -

S. No.	Goods corresponding to bill of entry returned for payment from	Due date of payment of duty, inclusive of the period (excluding holidays) as mentioned in section 47(2)
1.	1 st day to 15 th day of any month	16 th day of that month
2.	16 th day till the last day of any month other than March	1 st day of the following month
3.	16 th day till the 31 st day of March	31 st March

The Central Government may, under exceptional circumstances, and for reasons to be recorded in writing, allow payment to be made on a different due date.

The eligible importer shall pay the duty electronically except where Assistant/Deputy Commissioner of Customs allow payment by any other mode for reasons to be recorded in writing.

- (iv) If there is default in payment of duty by due date more than once in three consecutive months, the facility of deferred payment will not be allowed unless the duty with interest has been paid in full.

However, the eligible importer shall be permitted to make the deferred payment if he has -

1. paid the duty for a bill of entry within due date; and
2. paid the difference duty for the same bill of entry along with the interest on account of reassessment within one day (excluding holidays).

The benefit of deferred payment of duty will not be available in respect of the goods which have not been assessed or not declared by the importer in the bill of entry.