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Indirect Tax Laws

◆ **Goods and Services Tax** ◆ **FTP** ◆ **Customs Law**

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- ▶ Strictly as per Latest Syllabus of ICAI
- ▶ Coverage of Past Exam Questions with Answers
- ▶ Chapter-wise Marks Distribution & Trend Analysis of Past Exams
- ▶ Tabular presentation for Easy Learning



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9th Edition

**AS PER
NEW SCHEME OF ICAI
APPLICABLE FOR
MAY 2024
ONWARD EXAMS
Group-2 Paper-5**

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Past Exam Paper Indirect Tax Laws : Nov. 2023

P.1

GOODS & SERVICES TAX
(75 MARKS)

Supply under GST

1.1 CONCEPT OF SUPPLY

1.1.1 Supply under GST

Q. 1. XYZ Ltd. has obtained a loan from a foreign bank. The company does not have an account with the foreign bank from whom it has taken the loan. Whether RCM liability under GST laws should be discharged in this regard for import of services received in relation to the loan?
Provide relevant legal provisions in support of your answer. [July 2021, 4 Marks]

Ans. Section 5(3) of IGST Act, 2017, RCM applicable for import of services and hence recipient is liable to pay GST.

1. In the given case XYZ Ltd., received taxable services in relation to the loan from the foreign bank (like documentation charges, loan processing fee etc.).
Therefore, XYZ Ltd., is liable to pay IGST under RCM.
2. Interest on loan, deposit or advances exempt from GST.

1.2 COMPOSITE & MIXED SUPPLY

Q. 2. How the tax liability on composite and mixed supplies is determined under GST law? Answer in single sentence each. [Nov. 2017, 2 Marks]

Ans. As per section 8 of CGST Act, 2017:

Composite Supply	<ul style="list-style-type: none"> ◆ As per section 8(a), "Composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply." ◆ Thus, tax liability shall be on the basis of rate of GST Principal supply.
Mixed Supply	<ul style="list-style-type: none"> ◆ As per section 8(b), "A mixed supply comprising of two or more supplies shall be treated as supply of that particular supply that attracts highest rate of tax." ◆ Thus, tax liability shall be on the basis of that supply that attracts highest rate of tax.

Q. 3. Sharma Carriers is a Good Transport Agency engaged in transportation of goods by road. As per the general business practice, Sharma carriers also provides intermediary and ancillary services like loading/unloading, packing/unpacking, transshipment and temporary warehousing in relation to transportation of goods by road.
With reference to the provisions of GST law, analyse whether such services are to be treated as part of the GTA services, being a composite supply or as mixed supply. [Nov. 2018 (Old), 5 Marks]

Ans.	Facts of the given Case Study	<ul style="list-style-type: none"> ◆ Sharma Carriers (Good Transport Agency) is engaged in transportation of goods by road. ◆ It also provides intermediary and ancillary services. ◆ Question arises whether such services are to be treated as part of the GTA services (composite supply or mixed supply).
	Related Provisions	<p>(a) As per section 2(30) of the CGST Act, 2017:</p> <ul style="list-style-type: none"> ◆ Composite supply means a supply made by a taxable person to a recipient ◆ Consisting of two or more taxable supplies of goods or services or both, or any combination thereof ◆ Which are naturally bundled and supplied in conjunction with each other in the ordinary course of business ◆ One of which is a principal supply. <p>(b) As per section 2(74) of the CGST Act, 2017 :</p> <ul style="list-style-type: none"> ◆ Mixed supply means two or more individual supplies of goods or services, or any combination thereof, ◆ Made in conjunction with each other ◆ By a taxable person for a single price ◆ Where such supply does not constitute a composite supply.
	Decision	<p>Principal Service: Transportation of goods by road.</p> <p>Other Service: intermediary and ancillary services.</p> <ul style="list-style-type: none"> ◆ The various Intermediary and ancillary services provided by GTA are not provided as independent services but as ancillary to the principal service, namely, transportation of goods by road. ◆ The invoice issued by the GTA includes the value of intermediary and ancillary services. ◆ Thus, any intermediary and ancillary service would form part of the GTA service, and thus will be composite supply.
	<p align="center">EXAMINER'S COMMENT</p> <p>Most of the examinees exhibited lack of knowledge of the provisions relating to composite and mixed supply and thus, failed to elaborate the conditions to be satisfied for a supply to be classified as a composite supply and mixed supply.</p>	
Q. 4.	<p>A professional training institute gets its training material printed from a printing press. The content of the material is provided by the training institute who owns the usage rights of the same while the physical inputs including paper used for printing belong to the printer.</p> <p>Ascertain whether supply of training material by the printing press constitutes supply of goods or supply of services. [MTP, May 2018, 5 Marks]/[RTP, Nov. 19, 5 Marks]</p>	
Ans.	Facts of the given Case Study	<ul style="list-style-type: none"> ◆ A printing press supplies printing services. ◆ Content of the material is provided by the recipient of service. ◆ Paper and other physical inputs belong to the printer. ◆ The question is whether it is supply of goods or services.
	Related Provisions	<p>(a) As per Circular No. 11/11/2017 GST dated 20.10.2017:</p> <p>The supply of books printed with contents supplied by the recipient of such printed goods is a composite supply and the question, whether</p>

		such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply. (b) As per section 2(90) of the CGST Act: Principal supply is the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.												
	Decision	♦ Supply of printing (of the content supplied by the recipient of supply) is the principal supply . ♦ Therefore, such supplies would constitute supply of service .												
Q. 5.	X, a registered dealer offers a Desktop Computer (for ₹ 50,000 before tax) and a wooden table (for ₹ 5,000 before tax) for a consolidated price of ₹ 52,500 plus tax. The rates of GST applicable on desktop computer and wooden table are 28% and 18% respectively. (i) Determine whether the supply is a mixed supply or a composite supply. (ii) Is it beneficial for the customer to avail the offer or buy them separately?													
Ans.	(i) Mixed or Composite Supply: The two items "computer and table" can be supplied separately and is not dependent on each other. Hence, the offer of "computer and table" at consolidated price is not naturally bundled. Therefore, it is mixed supply. (ii) Comparative Analysis: In order to compare the two alternatives, there is a need to calculate the total amount payable by the recipient under the same.													
	<table border="1"> <thead> <tr> <th></th><th>Consolidated Purchase</th><th>Separate Purchase</th></tr> </thead> <tbody> <tr> <td>GST Rate</td><td>Being mixed supply, the tax liability shall be determined on the basis of that particular supply which attracts highest rate of tax i.e. 28% in the given case.</td><td>The GST rates 18% and 28% are to be applied separately on the offer price of Desktop and table respectively.</td></tr> <tr> <td>GST Payable</td><td>28% of ₹ 52,500 = ₹ 14,700</td><td>Desktop= 50,000 @ 28% = ₹ 14,000 Table= 5,000 @ 18% = ₹ 900 Total = ₹ 14,900</td></tr> <tr> <td>Total Amount payable</td><td> Purchase Price = ₹ 52,500 GST Payable = ₹ 14,700 Total = ₹ 67,200 </td><td> Purchase Price = ₹ 55,000 GST Payable = ₹ 14,900 Total = ₹ 69,900 </td></tr> </tbody> </table>			Consolidated Purchase	Separate Purchase	GST Rate	Being mixed supply, the tax liability shall be determined on the basis of that particular supply which attracts highest rate of tax i.e. 28% in the given case.	The GST rates 18% and 28% are to be applied separately on the offer price of Desktop and table respectively.	GST Payable	28% of ₹ 52,500 = ₹ 14,700	Desktop= 50,000 @ 28% = ₹ 14,000 Table= 5,000 @ 18% = ₹ 900 Total = ₹ 14,900	Total Amount payable	Purchase Price = ₹ 52,500 GST Payable = ₹ 14,700 Total = ₹ 67,200	Purchase Price = ₹ 55,000 GST Payable = ₹ 14,900 Total = ₹ 69,900
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	Comment: It is beneficial to customer to avail the offer.													
Q. 6.	Nandeeshwar Manufacturers sends certain category of yarn for processing to the job worker. The job worker undertakes the processing work on the yarn as per the requirement of Nandeeshwar Manufacturers. During the process, the job worker uses his own material also. The processed yarn is sold by Nandeeshwar Manufacturers directly from the job worker premises. Balance quantity of yarn and waste material is sent back by the job worker to Nandeeshwar Manufacturers. The job worker is of the opinion that he is using his own material also in the processing and hence the supply to Nandeeshwar Manufacturers is in the nature of supply of goods as well as services. Do you agree with the opinion of job worker? [MTP-1, 4 Marks]													
Ans.	No, the opinion of the job worker is not fully correct. Section 7(1A) of the CGST Act provides that when certain activities or transactions constitute a supply in accordance with the provisions of section 7(1) of the CGST Act, they shall be treated either as a supply of goods or supply of services as referred to in Schedule II of the CGST Act. Any processing activity carried on any other person's goods is treated as supply of service in terms of Schedule II. The job worker, in addition to the goods received from the principal, can use his own goods for providing the services of job work.													

	These goods are not supply <i>per se</i> , but being used in the processing activity carried out by it. Thus, the activity undertaken by the job worker, in the given case, squarely falls within the purview of Schedule II and shall be considered as supply of service by the job worker to Nandeeshwar Manufacturers.
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1.3 EXPORTATION OF SERVICES TO RELATED PARTY

Q. 7.	<p>Mr. Rajesh Surana has a proprietorship firm in the name of Surana & Sons in Jaipur. The firm, registered under GST in the State of Rajasthan, manufactures taxable products. The firm also provides taxable consultancy services.</p> <p>Mr. Rajesh Surana has provided the consultancy service to his brother - Mr. Akhilesh Surana (located in USA) without any consideration. The products manufactured by Mr. Akhilesh are similar to the ones manufactured by Mr. Rajesh Surana. Mr. Surana charges ₹ 3,00,000 for providing similar consultancy services to other independent customers located in USA.</p> <p>Compute the GST liability, if any, in the given case assuming the rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively. [MTP, May 19, 4 Marks]</p>
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Ans.	Facts of the given Case Study	<ul style="list-style-type: none"> ◆ "Surana and Sons" has provided the consultancy service to "Mr. Akhilesh Surana" without any consideration. ◆ Mr. Akhilesh Surana is located in USA and is the brother of proprietor. ◆ The question is whether export of service will fall under Schedule I and liable to tax?
	Related Provisions	<ul style="list-style-type: none"> ◆ As per Schedule I of the CGST Act, 2017: The activities to be treated as supply even if made without consideration. Accordingly, Para 2 of Schedule I treats supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business as a supply even if made without consideration.
	Decision	<ul style="list-style-type: none"> ◆ Consultancy service to Mr. Akhilesh Surana (located in USA) has been provided without any consideration. ◆ However, a brother who is not dependent on the person supplying the service, does not come within the purview of term family as defined under section 2(49) of the CGST Act, 2017 and hence, is not a related person. ◆ Therefore, the export of service to an independent brother without any consideration will not fall under Para 2 of the Schedule I to CGST Act, 2017. ◆ Hence, the activity is not a supply and is thus, not liable to any tax.

1.4 NEITHER SUPPLY OF GOODS NOR SUPPLY OF SERVICE [SCHEDULE III OF CGST ACT]

Q. 8.	Mr. Z, a supplier registered in Hyderabad (Telangana), procures goods from China and directly supplies the same to a customer in US. With reference to the provisions of GST law, examine whether the said activity of supply of goods by Mr. Z to customer in US is taxable under GST. If yes, determine the place of supply of the same. [RTP, Nov. 19]	
Ans.	Facts of the given Case Study	<ul style="list-style-type: none"> ◆ Mr. Z has procured goods from China and supplied directly to customer in USA. ◆ The question is whether it is taxable under GST laws.
	Related Provisions	<ul style="list-style-type: none"> ◆ The Schedule III specifies transactions/activities which shall be neither treated as supply of goods nor supply of services.

		<ul style="list-style-type: none"> ◆ The Entry 7 of this Schedule includes supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.
	Decision	<ul style="list-style-type: none"> ◆ The activity given in question comes under purview of schedule III. ◆ Therefore, the transaction is neither supply of goods nor services. ◆ Thus, no question arises about place of supply.
Q. 9.	<p>GER Ltd. of Germany supplies luxurious car worth ₹ 1 crore to IND Ltd. of India. Before the car reached Indian port but after crossing of the territorial waters of India, IND Ltd. sells it to T1 Ltd. by way of transfer of documents of title.</p> <p>T1 Ltd. clears the said car for warehousing and stores said goods in customs bonded warehouse.</p> <p>T1 Ltd. sells the said car from warehouse to T2 Ltd., and T2 Ltd. clears the said car from the customs bonded warehouse.</p> <p>Answer the following with brief reasons:</p> <p>(i) Is GST leviable on import of goods from GER Ltd. by IND Ltd.?</p> <p>(ii) Is GST leviable on supply of goods by IND Ltd. to T1 Ltd.?</p> <p>(iii) Is GST leviable on supply of goods by T1 Ltd. to T2 Ltd.?</p> <p>(iv) Is GST leviable on clearance of goods by T2 Ltd. from the customs bonded warehouse?</p> <p style="text-align: right;">[Jan. 21, 5 Marks]</p>	
Ans.	<p>(i) GST on import of goods is levied at the time when customs duty is levied on the said goods under the Customs Act, 1962, i.e., on importation. Importation gets completed when the goods become part of the mass of goods within the country. Thus, GST is not leviable on import of goods from GER Ltd. by IND Ltd. since the import of goods is not complete.</p> <p>(ii) GST is not leviable on supply of goods by IND Ltd. to T1 Ltd. as supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption is treated neither as a supply of goods nor a supply of services.</p> <p>(iii) GST is not leviable on supply of goods by T1 Ltd. to T2 Ltd. since supply of warehoused goods to any person before clearance for home consumption is treated neither as a supply of goods nor a supply of services.</p> <p>(iv) Yes, GST is leviable on clearance of goods by T2 Ltd. from the customs bonded warehouse as customs duty is levied on warehoused goods at the time of clearance thereof from the warehouse and as mentioned in point (i), GST on import of goods is levied at the time when customs duty is levied thereon.</p>	
Q. 10.	<p>Mohandas International entered into a transaction for import of goods from a vendor located in Italy. Due to financial issues, Mohandas International was not in a situation to clear the goods upon payment of import duty. Mohandas International sold the goods to Radhakrishnan Export House by endorsement of title to the goods, while the goods were in high seas. The agreement further provided that Mohandas International shall purchase back the goods in future from Radhakrishnan Export House. Discuss the taxability of transaction(s) involved, under the GST law.</p> <p style="text-align: right;">[MTP, 4 Marks]</p>	
Ans.	<p>As per Schedule III, high seas sale transactions i.e. supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption shall not be considered as supply under GST. Thus, the sale of goods by Mohandas International to Radhakrishnan Export House in high seas shall not be liable to GST.</p>	

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

1.5 ADDITIONAL QUESTIONS

- Q. 11.** Examine whether the following activities would amount to supply under section 7 of the CGST Act:
- Damodar Charitable Trust, a trust who gets the eye treatment of needy people done free of cost, donates clothes and toys to children living in slum area.
 - Sulekha Manufacturers have a factory in Delhi and a depot in Mumbai. Both these establishments are registered in respective States. Finished goods are sent from factory in Delhi to the Mumbai depot without consideration so that the same can be sold.
 - Raman is an Electronic Commerce Operator in Chennai. His brother who is settled in London is a well-known lawyer. Raman has taken legal advice from him free of cost with regard to his family dispute.
 - Would your answer be different if in the above case, Raman has taken advice in respect of his business unit in Chennai?

Ans.

	Activity given in question	Whether supply under section 7	Reason
(a)	Free eye treatment of needy people and donation of clothes, toys, etc.	No	Since it is without consideration, NOT covered in section 7 and also does not come under the purview of Schedule I .
(b)	Finished goods transferred from factory to depot (Both are in different states)	Yes	<ul style="list-style-type: none"> ◆ Schedule I of CGST Act, <i>inter alia</i>, stipulates that supply of goods or services or both between related persons or between distinct persons as specified in section 25, is supply even without consideration provided it is made in the course or furtherance of business. ◆ Further, where a person who has obtained or is required to obtain registration in a State in respect of an establishment, has an establishment in another State, then such establishments shall be treated as establishments of distinct persons [Section 25 of the CGST Act]. ◆ In view of the same, factory and depot of Sulekha Manufacturers are establishments of two distinct persons. ◆ Therefore, supply of goods from Delhi factory of Sulekha Manufacturers to Mumbai Depot without consideration, but in course/ furtherance of business, is supply under section 7 of the CGST Act.

	Activity given in question	Whether supply under section 7	Reason												
(c)	Legal advice received by Raman for personal purposes from brother free of cost.	No	<ul style="list-style-type: none"> ◆ Schedule I of CGST Act, <i>inter alia</i>, stipulates that import of services by a taxable person from a related person located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business. ◆ In the given case, Raman has received legal services from his brother (Not cover under the definition of relates person because it is independent) free of cost in a personal matter and NOT in course or furtherance of business. ◆ Hence, services provided by Raman's brother to him would not be treated as supply under section 7 of the CGST Act. 												
(d)	Import of service by Raman for business purposes from brother free of cost.	No	<ul style="list-style-type: none"> ◆ It is the transaction between unregistered person free of cost. 												
Q. 12.	Determine whether the following supplies amount to composite supplies/mixed supplies: (a) A hotel provides 4 days-3 nights package wherein the facility of breakfast and dinner is provided along with the room accommodation. (b) A toothpaste company has offered the scheme of free toothbrush along with the toothpaste.														
Ans.	<table border="1"> <thead> <tr> <th></th><th>Activity</th><th>Nature</th><th>Reason</th></tr> </thead> <tbody> <tr> <td>(a)</td><td>4 days-3 nights package with breakfast/Dinner along with room accommodation</td><td>Composite</td><td>The supply of breakfast and dinner with the accommodation in the hotel are naturally bundled.</td></tr> <tr> <td>(b)</td><td>free toothbrush along with the toothpaste</td><td>Mixed</td><td>The supply of toothbrush along with the toothpaste is NOT naturally bundled.</td></tr> </tbody> </table>		Activity	Nature	Reason	(a)	4 days-3 nights package with breakfast/Dinner along with room accommodation	Composite	The supply of breakfast and dinner with the accommodation in the hotel are naturally bundled .	(b)	free toothbrush along with the toothpaste	Mixed	The supply of toothbrush along with the toothpaste is NOT naturally bundled .		
	Activity	Nature	Reason												
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(b)	free toothbrush along with the toothpaste	Mixed	The supply of toothbrush along with the toothpaste is NOT naturally bundled .												
Q. 13.	Define the meaning of Related Parties and Distinct Person as per the CGST Act?														
Ans.	Related Persons [Section 15 of CGST Act, 2017] A person shall be deemed to be related if, <ul style="list-style-type: none"> (a) such persons are officers or directors of one another's businesses (b) such persons are legally recognized partners in business (c) such persons are employer and employee (d) any person directly or indirectly owns, controls or holds twenty-five per cent or more of the outstanding voting stock or shares of both of them (e) one of them directly or indirectly controls the other (f) both of them are directly or indirectly controlled by a third person 														

	<p>(g) together they directly or indirectly control a third person; or they are members of the same family</p> <p>(h) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.</p> <p>Distinct Persons Specified [Section 25 of CGST Act, 2017]</p> <ul style="list-style-type: none"> ◆ Separate Registration make Distinct Person u/s 25(4): A person who has obtained/is required to obtain more than one registration, whether in one State/Union territory or more than one State/Union territory shall, in respect of each such registration, be treated as distinct persons. ◆ Separate Establishment u/s 25(5) :- Separate establishment in another state/UT whether registered or unregistered, such Establishment shall be treated as DP.
Q. 14.	Can Priority Sector Lending Certificate (PSLCs) be termed as Supply of Service?
Ans.	<ul style="list-style-type: none"> ◆ PSLC are akin to freely tradable duty scrips, Renewable Energy Certificates, REP license or replenishment license, which earlier attracted VAT. ◆ RBI's FAQ on PSLCs have construed PSLCs to be in the nature of goods, ◆ In GST, there is no exemption to trading in PSLCs. ◆ Thus, PSLCs are taxable as goods. ◆ GST payable on the certificates would be available as ITC to the bank buying the certificates [Circular No. 34/08/2018 GST dated 01.03.2018].

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C H A P T E R

Charges of GST

2.1 INTER STATE & INTRA STATE SUPPLY

Q. 1. Define 'intra-State supply' and 'inter-State supply' under GST law. Is it correct to say that inter-State supply attracts both CGST and SGST? [Nov. 2017, 3 Marks]

Ans. **INTER STATE SUPPLY [Section 7 of IGST Act, 2017]:**
The supply shall be treated as a supply of goods/services in the course of **inter-State** in the following cases:

1. When location of the supplier and the place of supply are in —
 - ◆ Two **different States**
 - ◆ Two **different Union Territory's**
 - ◆ A **state** and a **Union Territory**
2. Supply of goods/services imported into the territory of India
3. Supply to/by an SEZ developer or SEZ unit; or

INTRA STATE SUPPLY [Section 8 of IGST Act, 2017]
The supply of goods/services shall be treated as intra-State supply, where the location of the supplier and the place of supply are in -

- ◆ Same State
- ◆ Same Union Territory

GST on Inter-State supply
It is **not correct** to say that inter-State Supply attracts both CGST and SGST as **inter-State Supply attracts IGST**. However, IGST is the sum total of CGST and SGST/UTGST.

Q. 2. Rama Industries manufactures 1,500 Nos. of a product having assessable value @ ₹ 900 per piece. Rama Industries sold 1100 pieces in Domestic Tariff Area (DTA) and balance pieces were exported. If the rate of SGST & CGST payable is 9% each, calculate CGST, SGST and IGST on outward supplies. The DTA is in the same state.

Ans.		Type of Supply	Units	Levy of GST	Reason
	1	Export	400	Being zero rated supply, the GST payable is <i>Nil</i> .	When goods are exported, they come under the category of zero rated supply. Hence, Integrated Tax (IGST) is not payable. Obviously, there is no question about levy of SGST and CGST.
	2	DTA	1100	Chargeable to GST	Since the DTA is in the same state, both CGST as well as SGST are levied simultaneously.

Calculation of GST on given transaction:					
	Type of Supply	GST Rate	Assessable Value	GST on Outward Supplies	
				CGST	SGST
1	Export	Nil	Not Applicable	Nil	Nil
2	DTA	18%	1100 units @ ₹ 900 = ₹ 9,90,000	₹ 9,90,000 @ 9% = ₹ 89,100	₹ 9,90,000 @ 9% = ₹ 89,100

Note: The amount of GST payable may be less than above amounts as Input Tax Credit will be available.

Q. 3.	**Write a short note on Charging Provisions in CGST Act, 2017.**				
Ans.	In CGST Act, section 9 is the charging provision of Central tax (i.e. CGST).				
Statutory Provisions under CGST Act, 2017					
Section 9(1) "Subject to the provisions of sub-section (2), there shall be levied, a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding 20%, as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person." **Section 9(2)** The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.					
→ **Analysis of provisions of section 9(1) & 9(2)**					
(1) **No CGST** shall be levied on **alcoholic liquor** for human consumption as the charging section prohibits imposition of GST on it. (2) It provides that all **intra-State Supplies** would be **liable to CGST**. (3) The levy is on supply of all goods and services or both **except** the following: (a) On supply of alcoholic liquor for human consumption. (b) On five petroleum products, which are although covered under Act but tax will be levied only w.e.f. such date as may be notified by the Government after recommendation of council. (4) The section **also provides** for the (a) Value on which tax shall be paid (as per section 15) (b) The maximum rate of Central tax that can be levied on such supplies (**specified at 20%**). (c) The manner of collection of tax by the Government and (d) The person who will be liable to pay tax. (**Taxable Person**)					
Q. 4.	A makes intra-state supply of goods valued at ₹ 50,000 to B within State of Karnataka. B makes inter-State supply to X Ltd. (located in Telangana) after adding 10% as his margin. Thereafter X Ltd. sells it to Y in Telangana (Intra-State sale) after adding 10% as its margin. Assume that the rate of GST chargeable is 18% (CGST 9% plus SGST 9%) and IGST chargeable is 18%. Calculate tax payable at each stage of the transactions detailed above. Wherever input tax credit is available and can be utilized calculate the net in cash. At each stage of the transaction indicate which government will receive the tax paid and to what extent. [(Nov. 2018-OS, 9 Marks) (ICAI P.Q.)]				

Ans. In case of inter-State supply of goods, the supplier would charge IGST at specified rates on the supply.

i. Supply of goods by A to B [Intra-State Supply of Goods]:

(Amount in ₹)

Value charged for supply of goods	50,000
Add: CGST @ 9%	4,500
Add: SGST @ 9%	4,500
Total price charged by A from B for intra-State supply of goods	59,000

A, does not have any credit of CGST, SGST or IGST.

ii. Supply of goods by B to X Ltd. [Inter-State supply] - Value addition @ 10%:

(Amount in ₹)

Value for supply of goods (₹ 50,000 × 110%)	55,000
Add: IGST @ 18%	9,900
Total price charged by B from X Ltd.	64,900

Computation of IGST payable to Government:

(Amount in ₹)

IGST payable	9,900
Less: Input Tax Credit of CGST	4,500
Less: Input Tax Credit of SGST	4,500
IGST payable to Central Government	900

The IGST charged on X Ltd. of Telangana for supply of goods will be remitted by B of Karnataka to the appropriate account of the Central Government. Karnataka Government will transfer SGST credit of ₹ 4500 utilised in the payment of IGST to the Central Government.

iii. Supply of goods by X Ltd. to Y [Intra-State Supply]- Value addition @ 10% : X Ltd. will avail credit of IGST paid by him on the purchase of goods and will utilise such credit for being set off against the CGST and SGST payable on the local supply of goods made by him to Y:

(Amount in ₹)

Value charged for supply of goods/services (₹ 55,000 110%)	60,500
Add: CGST @ 9%	5,445
Add: SGST @ 9%	5,445
Total price charged by X Ltd. from Y	71,390

Computation of CGST, SGST payable to Government:

(Amount in ₹)

CGST payable	5,445
Less: Credit of IGST to the extent of CGST payable	5,445
CGST payable to Central Government	Nil
SGST payable	5,445
Less: Credit of IGST (₹ 9,900 - ₹ 5,445)	4,455
SGST payable to State Government	990

Central Government will transfer IGST credit of ₹ 4,455 utilised in the payment of SGST to Telangana (Importing State).

Statement of revenue earned by Central and State Governments (Amount in ₹):			
Transaction	Revenue to Central Government	Revenue to Government of Karnataka	Revenue to Government of Telangana
Supply of goods by A to B	4,500	4,455	
Supply of goods by B to X Ltd.	900		
Transfer by Karnataka State to Centre	4,500	-4,455	
Supply of goods by X Ltd. to Y	Nil		990
Transfer B Centre to Telangana State	-4,455		4,455
Total	5,445	Nil	5,445

2.2 COMPOSITION SCHEME U/S 10 OF CGST ACT, 2017

2.2.1 Eligibility for Composition Scheme

Q. 5. Prem is running a consulting firm and also a fancy store, registered under the same PAN number. Turnover of the fancy store is ₹ 65,00,000 and receipt of consultancy firm is 10,00,000 in the preceding financial year 2020-2021.

You are required to provide answers with supporting explanatory note for each answer to the following questions:

- Is Prem eligible for composition scheme under CGST Act for 2021-2022?
- Whether it is possible for Prem to opt for composition scheme only for fancy store?
- If Prem is running a restaurant with turnover of ₹ 65,00,000 instead of consultancy firm as well as a fancy store, would he be eligible for composition scheme in 2021-2022?

[May 2018, 3 Marks]

Ans. (i) Eligibility of Prem for composition scheme under CGST Act

Facts of the given Case Study	<ul style="list-style-type: none"> Prem is running consulting firm and fancy store under same PAN. The turnover in preceding year is ₹ 65 lakhs (fancy store) and ₹ 10 lakhs (consulting firm).
Related Provisions	<p>As per Notification No. 14/2019-Central Tax dated 7-3-2019:</p> <ul style="list-style-type: none"> If aggregate turnover is up to ₹ 1.5 Crore in the preceding financial year, such person will be eligible to opt for payment of tax under the composition scheme. In case of Special Category States the aggregate turnover in the preceding financial year shall be ₹ 75 lakh.
Decision	<ul style="list-style-type: none"> Since the aggregate turnover in preceding year is ₹ 75 lakhs only, Prem is eligible to opt for composition levy for 2019-2020. But, as per second proviso to section 10(1), Prem can supply consultancy services of value not exceeding ₹ 7.5 lakhs only (being 10% of turnover in preceding year or ₹ 5,00,000 whichever is higher). If the value of services exceeds ₹ 7.5 lakhs, then Prem will become ineligible for the composition scheme.

	<p>(ii) To opt for composition scheme only for fancy store? In accordance to Proviso to section 10(2), the registered person is required to opt for composition for all the entities under same PAN. Thus, Prem cannot opt composition scheme only for fancy store.</p> <p>(iii) If Prem is running a restaurant instead of consultancy firm? If Prem is running a restaurant with turnover of 65,00,000 instead of consultancy firm as well as a fancy store, he is eligible for composition scheme. In this case, composition tax is payable @ 5%</p>	
Q. 6.	<p>MN Ltd. has two registered business verticals in the State of Haryana. Its aggregate turnover during the previous financial year for both the business verticals was ₹ 62 lakh. It wishes to opt for composition levy for one of the verticals in the current year and wants to continue with registration and pay taxes at the merit rate for the second vertical. Can MN Ltd. do so? Explain with reason. [Nov. 2018 (Old), 3 Marks]</p>	
Ans.	Facts of the given Case Study	<ul style="list-style-type: none"> ◆ MN Ltd. has two registered business verticals (Same PAN) in the State of Haryana. ◆ It wishes to opt for composition levy for one of the verticals and wants to pay taxes at the merit rate for the second vertical. ◆ Question is whether MN Ltd. Can do so?
	Related Provisions	<p><i>As per proviso to section 10(2) of the CGST Act, 2017 :</i></p> <ul style="list-style-type: none"> ◆ Where more than one registered persons are having the same PAN issued under the Income-tax Act, 1961 ◆ The registered person shall not be eligible to opt for the composition scheme ◆ unless all such registered persons opt to pay tax under composition scheme.
	Decision	<ul style="list-style-type: none"> ◆ MN Ltd. CANNOT opt for composition levy for only one of the business verticals and pay tax under regular scheme for other business vertical.
Q. 7.	<p>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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(d) Deepti Services Ltd., registered in Uttarakhand, is exclusively providing hair styling services. It has turnover of ₹ 34 lakh in the preceding financial year.</p> <p>Will your answer be different, if Deepti Services Ltd. also start supplying beauty products alongwith providing hair styling services in the current financial year?</p>	

Ans.

As per section 10(1) of the CGST Act, 2017, the following registered persons, whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5 crore, may opt to pay tax under composition levy:

- (i) Manufacturer,
- (ii) Persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II (restaurant services), and
- (iii) Any other supplier eligible for composition levy.

The composition scheme under sub-sections (1) and (2) of section 10 can essentially be availed in respect of goods and only one service namely, restaurant service. However, the scheme permits supply of other marginal services for a specified value along with the supply of goods and restaurant service, as the case may be. Such marginal services can be supplied for a value up to 10% of the turnover in the preceding year or ₹ 5 lakh, whichever is higher. Further, the registered person should not be engaged in making any inter-State outward supplies of goods.

Furthermore, newly inserted 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%) provided his aggregate turnover in the preceding financial year is upto ₹ 50 lakh. Said person can pay tax @ 6% of the turnover in State or turnover in Union territory up to an aggregate turnover of ₹ 50 lakh, subject to specified conditions. One of such condition is that the registered person should not be engaged in making any inter-State outward supplies of goods or services.

In view of the abovementioned 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.

- (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 abovementioned 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.

- Q. 8.** **M/s. Ranveer Industries, registered in Himachal Pradesh, is engaged in making inter-State supplies of readymade garments. The aggregate turnover of M/s. Ranveer Industries in the financial year 2021-22 is ₹ 70 lakh. It opted for composition levy in the year 2022-23 and paid tax for the quarter ending September, 2022 under composition levy.**
The proper officer has levied penalty for wrongly availing the scheme on M/s. Ranveer Industries in addition to the tax payable by it.
Examine the validity of the action taken by proper officer. [Nov. 2018 (Old), 4 Marks]

Ans.	Facts of the given Case Study	<ul style="list-style-type: none"> ◆ M/s. Ranveer Industries is engaged in making inter-State supplies of readymade garments. ◆ Aggregate turnover in preceding year is ₹ 70 Lakhs. ◆ Company opted for composition levy in current financial year. ◆ Proper officer has imposed penalty.
	Related Provisions	<p>As per section 10 of the CGST Act, 2017:</p> <ul style="list-style-type: none"> ◆ A registered person, whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5 crore in a State/UT [₹ 75 lakh in case of Special Category States except Jammu and Kashmir and Assam, Himachal Pradesh], may opt for composition scheme. ◆ However, he shall not be eligible to opt for composition scheme if, <i>inter alia</i>, he is engaged in making any inter-State outward supplies of goods.
	Decision	<ul style="list-style-type: none"> ◆ M/s. Ranveer Industries is engaged in making inter-State supplies of readymade garments. Thus, it is NOT eligible to opt for composition scheme in FY 2022-23 irrespective of its turnover in the preceding FY.

		<ul style="list-style-type: none">◆ Further, if the proper officer has reasons to believe that a taxable person has paid tax under composition scheme despite not being eligible, such person shall, in addition to any tax payable, be liable to a penalty.◆ Thus, the action taken by the proper officer is VALID in law.						
Q. 9.	<p>Radheshyam Foods is engaged in supplying restaurant service in Gujarat. In the preceding financial year, it has a turnover of ₹ 145 lakh from the restaurant service.</p> <p>(a) You are required to advise Radheshyam Foods whether it is eligible for composition scheme in the current year assuming that in the current financial year, his turnover is expected to be ₹ 125 lakh from supply of restaurant services and ₹ 15 lakh from the supply of farm labour in said State. Further, it also expects to earn bank interest of ₹ 20 lakh from the fixed deposits.</p> <p>(b) Also compute the estimated tax payable by Radheshyam Foods in the current FY.</p>							
Ans.	<p>(a) Eligible for composition scheme:</p> <table><tr><td>Facts of the given Case Study</td><td><ul style="list-style-type: none">◆ Radheshyam Foods is in restaurant service.◆ In the preceding financial year, it has a turnover of ₹ 145 lakh.◆ In the current financial year:<ul style="list-style-type: none">■ Expected Turnover (restaurant services) = ₹ 125 lakh■ Supply of farm labour = ₹ 15 lakh■ Bank interest on fixed deposits = ₹ 20 lakh</td></tr><tr><td>Related Provisions</td><td><p>(a) Notification No. 14/2019-Central Tax dated 7-3-2019, w.e.f. 1-04-2019</p><p>A registered person, whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5 Crore, will be eligible to opt for payment of tax under the composition scheme. The limit is ₹ 75 Lakh in case of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and Uttarakhand.</p><p>(b) Inclusion of exempt services:</p><p>Section 2(6) of the CGST Act, 2017 provides that the exempt services are included in the definition of aggregate turnover.</p><p>(c) Exclusion of some exempt services:</p><p>Order No. 01/2019-CT dated 01.02.2019 clarifies that the 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, shall not be taken into account.</p><p>(d) Supply of services allowed to some extent:</p><p>As per second proviso to section 10(1), a composition dealer is allowed to provide services of value not exceeding 10% of the turnover in the preceding financial year in a State or ₹ 5 lakh, whichever is higher.</p></td></tr><tr><td>Analysis and Decision</td><td><ul style="list-style-type: none">◆ In the given case, the aggregate turnover of Radheshyam Foods from restaurant services in the preceding FY is ₹ 145 lakh. Therefore, it is eligible to opt for composition scheme in the current FY.◆ Further, apart from restaurant services, it can provide services upto ₹ 14.5 lakh [<i>i.e.</i> 10% of ₹ 145 lakh or ₹ 5 lakh, whichever is higher], in the current FY. As already seen, bank interest of ₹ 20 lakh from fixed deposits will not be considered while determining this limit.</td></tr></table>		Facts of the given Case Study	<ul style="list-style-type: none">◆ Radheshyam Foods is in restaurant service.◆ In the preceding financial year, it has a turnover of ₹ 145 lakh.◆ In the current financial year:<ul style="list-style-type: none">■ Expected Turnover (restaurant services) = ₹ 125 lakh■ Supply of farm labour = ₹ 15 lakh■ Bank interest on fixed deposits = ₹ 20 lakh	Related Provisions	<p>(a) Notification No. 14/2019-Central Tax dated 7-3-2019, w.e.f. 1-04-2019</p> <p>A registered person, whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5 Crore, will be eligible to opt for payment of tax under the composition scheme. The limit is ₹ 75 Lakh in case of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and Uttarakhand.</p> <p>(b) Inclusion of exempt services:</p> <p>Section 2(6) of the CGST Act, 2017 provides that the exempt services are included in the definition of aggregate turnover.</p> <p>(c) Exclusion of some exempt services:</p> <p>Order No. 01/2019-CT dated 01.02.2019 clarifies that the 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, shall not be taken into account.</p> <p>(d) Supply of services allowed to some extent:</p> <p>As per second proviso to section 10(1), a composition dealer is allowed to provide services of value not exceeding 10% of the turnover in the preceding financial year in a State or ₹ 5 lakh, whichever is higher.</p>	Analysis and Decision	<ul style="list-style-type: none">◆ In the given case, the aggregate turnover of Radheshyam Foods from restaurant services in the preceding FY is ₹ 145 lakh. Therefore, it is eligible to opt for composition scheme in the current FY.◆ Further, apart from restaurant services, it can provide services upto ₹ 14.5 lakh [<i>i.e.</i> 10% of ₹ 145 lakh or ₹ 5 lakh, whichever is higher], in the current FY. As already seen, bank interest of ₹ 20 lakh from fixed deposits will not be considered while determining this limit.
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