

ERRORLESS TAXATION

CA PRANAV CHANDAK

क्षणशः कणशश्चैव विद्यामर्थं च साधयेत् । क्षणत्यागे कुतो विद्या कणत्यागे कुतो धनम्॥

Knowledge should be gained through minute by minute efforts. Money should be earned utilizing each and every resource. If you waste time, how can you get knowledge. If you waste resources, how can you accumulate the wealth.

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ACKNOWLEDGEMENT

Writing a book is harder than I thought & more rewarding than I could have ever Imagined.

It gives me immense happiness to present **3rd Edition of ERRORLESS TAXATION.**

We have tried to cover 100% of the ICAI syllabus with all the relevant questions from ICAI Module with reference given in the question itself *WITHOUT ANY REPETITION* applicable for **CA INTERMEDIATE/CMA INTERMEDIATE SYLLABUS**.

I am fortunate to get the guidance of many people during the preparation of this book.

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My Dear students for your continuous love & faith.







THANKING YOU ALL !!

CA PRANAV PRAMODJI CHANDAK

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COLOUR THEORY OF BOOK

-  **DARK BLUE** - CONCEPT/SECTION HEADING
-  **GREEN** - SUB-CONCEPT/SUB-SECTION HEADING
-  **LIGHT BLUE** - 2nd HEADING/CLASSIFICATION
-  **PINK** - POINTS TO REMEMBER/NOTES/HIGHLIGHTER
-  **VIOLET** - IMPORTANT WORDS
-  **ORANGE** - QUESTIONS/EXAMPLES

STUDY PLANNER

DID YOU REVISE???

SN	Name of the Chapter	Fill the Date of Completion		
		Self – Study (After Class)	1 st Revision	2 nd Revision
1	Basic Concepts of GST			
2	Supply Under GST			
3	Charge Of GST			
4	Exemptions Under GST			
5A	Time Of Supply			
5B	Value Of supply			
6	Input Tax Credit			
7	Registration			
8	Tax Invoice, Debit & Credit Notes			
8B	E-Way Bill			
9	Payment Of Tax			
10	GST Returns			

Author's Note: Students should revise whole of this book at least twice before reading our Chart Book.

In Case of Any Query for students doing "Self Study", WhatsApp immediately @ 8888111134.

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1. BASIC CONCEPTS OF GST

BY CA PRANAV CHANDAK

FOR MAY/JUNE 2020

CA/CMA INTERMEDIATE

WHAT IS TAX

[Not for Exams]

- A tax may be defined as a "pecuniary (monetary) burden laid upon individuals or property owners to support the Government [Black's Law Dictionary]
- It is **financial charge (fee)** imposed by Government on income, commodity or activity.
- A tax "is not a voluntary payment or donation, but an enforced contribution.
- Thus it can be said that Tax is **"Compulsory Extortion of Money"** by government.

WHY ARE TAXES LEVIED?

[Not for Exams]

- Taxes constitute **basic source of revenue** to the Government which are **utilized for meeting expenses of Government** like defence, provision of education, health-care, facilities like roads, dams etc.
- They are levied & collected to fulfill the soci-economic objectives of the government.

DIFFERENCE B/W DIRECT TAX & INDIRECT TAX

[Not for Exams]

Particulars	Direct Tax	Indirect Tax
Definition	▪ If tax is levied directly on income/wealth of a person, it is a direct tax.	▪ If tax is levied on price of a good or service , it is an indirect tax.
Incidence & Impact	▪ A tax is said to be direct when impact & incidence of tax are on same person .	▪ A tax is said to be indirect when impact & incidence of tax are on different person .
Levied on	▪ Income/wealth of the person.	▪ Price of Goods or Services
Burden	▪ There is No Shifting of burden. ▪ Directly borne by the taxpayer.	▪ Burden is shifted to subsequent buyer. ▪ Burden falls on final consumer .
Time of Collection	▪ Collected on yearly basis .	▪ Collected at the time of sale/purchase of goods or rendering of services.
Examples	▪ Income tax, Tax on undisclosed foreign Income or Assets.	▪ GST, Custom duty.

FEATURES OF INDIRECT TAX

Major Source of Revenue	▪ In India, IDT contribute > 50% of Total tax revenues of CG & SGs.
Tax on Commodities [Goods & Services]	▪ It is levied on commodities at the time of their manufacture/purchase or sale or import/export & thus it is also called as commodity taxation. ▪ It is also levied on provision of services.
Shifting of burden	▪ GST paid by the supplier of the goods is recovered from the buyer by including the tax in the cost of the commodity.
No perception of direct pinch	▪ Since the value of IDT is generally in-built in the prices of the commodity, most taxpayers pays them without knowing that they are paying tax to the government.
Inflationary in nature	▪ IDT directly affects the prices of commodities & leads to inflationary trend.
Wider Tax base	▪ Majority of the products or services are subject to IDT with low threshold.
Promotes social welfare	▪ High taxes on harmful products (sin goods) [Ex: Tobacco & Alcohol products]
Regressive in nature	▪ Indirect taxes are not based on the principle of ability to pay. ▪ All consumers (Both Rich & Poor) have to pay same rate of indirect taxes. ▪ This may further increase income disparities b/w rich & poor.
Reduced Tax Evasion	▪ Since indirect taxes are already included in price of G&S

HISTORY/GENESIS OF GST	
2000	Atal Bihari Vajpayee (PM of India) mooted the concept of GST & set up a committee to design GST model for India.
2003	CG formed a task force under Vijay Kelkar.
2004	Idea of fully integrated National GST was mooted by Kelkar Task Force based on VAT. Taskforce was headed by Vijay L. Kelkar who was advisor to Finance Ministry.
Feb 2006	Union Finance Minister, Shri P. Chidambaram announced that GST would be introduced from 1 st April 2010 while presenting Central Budget (2006-07).
Mar 2011	The Constitution (115 th Amendment) Bill, 2011 was introduced in Lok Sabha to give concurrent taxing powers to Union & States. This Bill was subsequently lapsed.
Mar 2013	GSTN: A not for Profit, Non-Government, Private Ltd Company was incorporated named Goods & Services Tax Network (GSTN) as Special Purpose Vehicle to provide IT infrastructure & services for implementation of GST.
Dec 2014	The Constitution (122 nd Amendment) Bill, 2014 seeking to amend Constitution to introduce GST was introduced on 19 th Dec 2014.
6 May 2015	The Constitution Amendment (122 nd) Bill was passed by Lok Sabha on 6 May 2015.
3 Aug 2016	It was passed by Rajya Sabha on 3 rd August 2016 (with some changes).
8 Aug 2016	Changes made were unanimously passed by Lok Sabha on 8 th Aug 2016.
8 Sept 2016	After Bill was adopted by majority of the State Legislatures (by atleast 50% of the States), final assent of President of India was given on 8 th Sep, 2016; & The Constitution (122 nd Amendment) Bill, 2014 became (101 st Amendment) Act, 2016.
1 July 2017	GST law was made applicable in India from 1 July 2017.
8 July 2017	GST law was made applicable to J&K from 8 July 2017.

- ★ Concept of GST was introduced first of all in France in 1954.
- ★ India has adopted its GST model from Canada (DUAL GST Model).

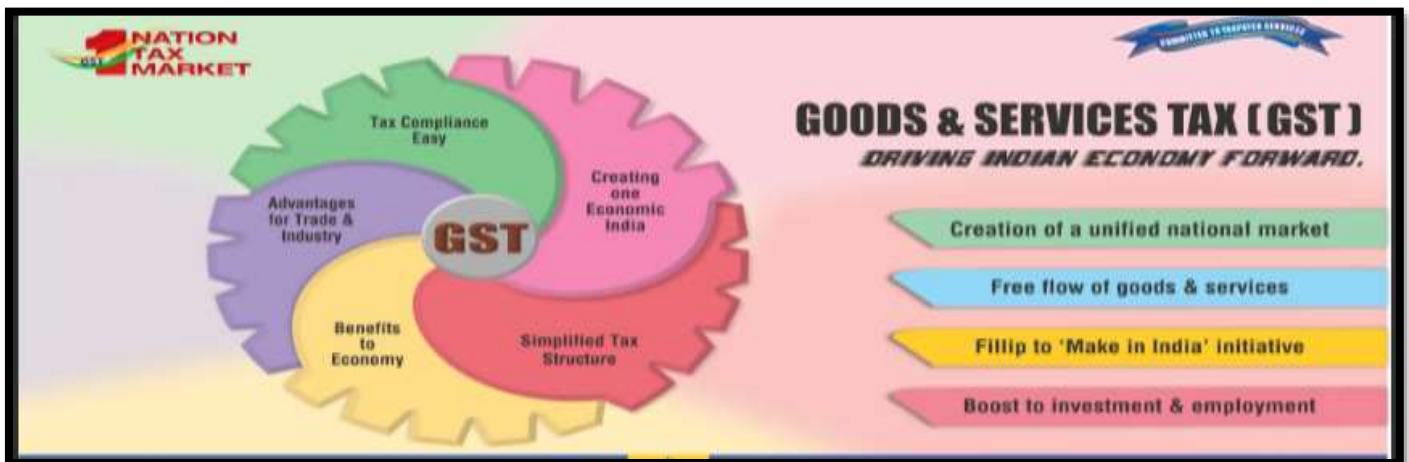
CONCEPT/FEATURES OF GST IN INDIA
<ul style="list-style-type: none"> Value Added Tax: levied on manufacture, sale & consumption of Goods & Services. Continuos Chain of Tax Credit: from original producer's/service provider's point upto retailer's/consumer's level. Only 'value added' at each stage of supply chain is taxed. Burden borne by Final Consumer: Final consumer bears the GST charged by the last supplier. No Cascading Effect: Since, only the value added at each stage is taxed under GST, there is no tax on tax. Moreover, since there is only one tax, there cannot be cascading effect. No Double (Multiple) Taxation: GST does not differentiate b/w goods & services & thus there cannot be double taxation. Uniform Tax Structure all over India: One Nation, One Tax, One Market.

NEED FOR GST IN INDIA [DEFICIENCIES IN EARLIER SYSTEM]

- **Double Taxation** of a transaction as both goods & services. [Ex: Hotel Business, Softwares.] (**VAT + ST**).
- **Cascading of Taxes** due to (i) Non-VATable CST & (ii) VAT charged on 'Value + Excise Duty'.
- Set off of CENVAT & State VAT against the credit of one another was not possible as CENVAT was a central levy & State-level VAT was a State levy.
- Several Local taxes in the states (Ex: Luxury tax, Entertainment tax) were not subsumed in State VAT.
- **Non-integration of VAT & Service Tax:** VAT on goods was not integrated with tax on services, at the state level, to remove cascading effect on Service Tax.
- When goods were manufactured & sold, both Excise duty (CENVAT) & State-level VAT were levied.
- **No CENVAT** after manufacturing stage.

BENEFITS OF GST IN INDIA [One Nation, One Tax, One Market]

- Creation of **Unified national market**.
- Mitigation of cascading effect.
- **Elimination of double (multiple) taxation** → Removal of many Indirect taxes.
- Boost to '**make in India**' initiative → Since Lower cost due to reduced taxes.
- Increase in government revenue → Since rates of GST are lower & thus more people will pay tax.
- It will **boost export & manufacturing** & thus generate more **employment**, leading to **rise in GDP**.



WHAT MAKES GST SO SPECIAL? → SEAMLESS FLOW OF CREDIT IN GST

- Since GST is destination based consumption tax, revenue of SGST ordinarily accrues to consuming States.
- Inter-State supplier in exporting State is allowed to set off the available credit of IGST, CGST & SGST/UTGST (in that order) against the IGST payable on inter-State supply made by him.
- Buyer in importing State is allowed to avail the credit of IGST paid on inter-State purchases made by him. Thus, unlike earlier scenario where the credit chain used to break in case of inter-State sales due to non-VATable CST, under GST regime there is a seamless credit flow in case of inter-State supplies too.
- Revenue of inter-State sale does not accrue to the exporting State & exporting State transfers to the Centre the credit of SGST/UTGST used in payment of IGST.
- The Centre transfers to the importing State the credit of IGST used in payment of SGST/UTGST.

Let us understand this whole process with the help of the example given below:

A. INTRA-STATE SUPPLY: Supplier would charge dual GST [CGST + SGST] at specified rates

1. Supply of goods/services by A to B

Particulars	Amount
Value charged for supply of goods/services	Rs. 10,000
Add: CGST @ 9% + SGST @ 9%	Rs. 900 + Rs. 900
Total price charged by A from B for local supply of goods/ services	Rs. 11,800

CGST & SGST charged on B for supply of G/S will be remitted by A to appropriate account of CG & SG respectively. A is the first stage supplier of goods/services and hence, does not have credit of CGST, SGST or IGST.

2. Supply of goods/services by B to C – Value addition @ 20%

B will avail credit of CGST & SGST paid by him on the purchase of goods/services from A & will utilise such credit for being set off against CGST & SGST payable on the supply of goods/services made by him to C.

Particulars	Amount
Value charged for supply of goods/ services (Rs. 10,000 x 120%)	Rs. 12,000
Add: CGST @ 9% + SGST @ 9%	Rs. 1080 + Rs. 1080
Total price charged by B from C for local supply of goods/ services	Rs. 14160

Computation of CGST, SGST payable by B to Government

Particulars	Amount
CGST payable	Rs. 1080
Less: Credit of CGST	Rs. 900
CGST payable to Central Government	Rs. 180
SGST payable	Rs. 1080
Less: Credit of SGST	Rs. 900
SGST payable to State Government	Rs. 180

Statement of revenue earned by CG & SG

Transaction	Revenue to CG	Revenue to SG
Supply of goods/services by A to B	900	900
Supply of goods/services by B to C	180	180
Total	1080	1080

B. INTER-STATE SUPPLY: Supplier would charge IGST at specified rates on the supply.

1. Supply of goods/services by X of State 1 to A of State 1	
Particulars	Amount
Value charged for supply of goods/services	Rs. 10,000
Add: CGST @ 9% + SGST @ 9%	Rs. 900 + Rs. 900
Total price charged by A from B for local supply of goods/ services	Rs. 11,800
A is the first stage supplier of goods/services and hence, does not have credit of CGST, SGST or IGST.	
2. Supply of goods/services by A of State 1 to b of State 2 – Value addition @ 20%	
Particulars	Amount
Value charged for supply of goods/ services (Rs. 10,000 x 120%)	Rs. 12,000
Add: IGST @ 18%	Rs. 2160
Total price charged by A from B for inter-state supply of goods/ services	Rs. 14160
Computation of IGST payable to Government	
Particulars	Amount
IGST payable	Rs. 2160
Less: Credit of CGST	Rs. 900
Less: Credit of SGST	Rs. 900
IGST payable to Central Government	Rs. 360

IGST charged on B of State 2 for supply of goods/services will be remitted by A of State 1 to the appropriate account of CG. State 1 (Exporting State) will transfer SGST credit of Rs. 900 utilised in payment of IGST to CG.

3. Supply of goods/services by B of State 2 to C of State 2 - Value addition @ 20%

B will avail credit of IGST paid by him on the purchase of goods/services and will utilise such credit for being set off against the CGST and SGST payable on the local supply of goods/services made by him to C.

Particulars	Amount
Value charged for supply of goods/ services (Rs. 12,000 x120%)	Rs. 14,400
Add: CGST @ 9%	Rs. 1,296
Add: SGST @ 9%	Rs. 1,296
Total price charged by B from C for local supply of goods/services	Rs. 16,992

Computation of CGST, SGST payable to Government

Particulars	Amount
CGST payable	Rs. 1,296
Less: Credit of IGST	Rs. 1,296
CGST payable to Central Government	Rs. Nil
SGST payable	Rs. 1,296
Less: Credit of IGST (Rs. 2,160 – Rs. 1,296)	Rs. 864
SGST payable to State Government	Rs. 432

Note: CG will transfer IGST credit of Rs. 864 utilised in payment of SGST to State 2 (Importing State).

Statement of revenue earned by CG & SG

Transaction	Revenue to CG	Revenue to SG1	Revenue to SG 2
Supply of goods/services by X to A	900	900	
Supply of goods/services by A to B	360		
Transfer by State 1 to Centre	900	(900)	432
Supply of goods/services by B to C			864
Transfer by Centre to State 2	(864)		1,296
Total	1,296	Nil	

TAXES TO BE SUBSUMED IN GST

Central Taxes	State Taxes
Central Excise Duty	State VAT (Sales Tax)
Central Sales Tax [levied by CG; collected by SG]	Central Sales Tax [levied by CG; collected by SG]
Additional Duties of Excise (Goods of special importance)/(textile & textile products)	Entry tax (all forms), Octroi or Local Body Tax.
Excise Duty on Medicinal & Toilet Preparation	Taxes on Lottery, Betting & Gambling
Additional duties of Customs (CVD)	Purchase Tax & Luxury Tax
Special Additional duties of customs (SAD)	Tax on advertisements
Service Tax	Entertainment Tax (except those levied by local bodies)
Central Surcharge & Cess so far as they relate to supply of Goods & Service [Ex: KKC, SBC, EC]	State Surcharge & Cess so far as they relate to supply of Goods & Service

TAXES NOT TO BE SUBSUMED (i.e these Taxes will Continue to Apply)

Basics Customs Duty	Excise Duty on Alcohol	Electricity Duty
Stamp Duty & Property Tax	Excise Duty on Petroleum Products	

ABOUT CONSTITUTION OF INDIA

About 'Constitution of India'

[Not for Exams]

- India has a three-tier federal system comprising the Union Government, SGs & Local Government.
- Constitution of India is supreme law of India. All other laws made are subordinate to it.
- It consists of a Preamble, **25 parts** containing **448 Articles** & **12 Schedules**.
- Power to levy & collect taxes emerges from Constitution of India.
- If any law is not in conformity with Constitution, it is called *ultra vires* & is illegal & void.

CONSTITUTIONAL PROVISIONS FOR TAXATION PURPOSE

Article	Provision						
265	It states that "no tax shall be levied or collected except by authority of law" .						
245	<ul style="list-style-type: none"> It deals with relationship between Union & States. 1. Power to enact laws is conferred on Parliament & on State Legislature. It states that Parliament may make laws for whole or any part of territory of India, & State legislature may make laws for whole or any part of State. 2. No law made by Parliament shall be deemed to be invalid on ground that it would have extra-territorial operation. 						
246	<ul style="list-style-type: none"> It gives the respective authority to Union & SG to levy tax. Seventh Schedule: It is classified into three lists: <table border="1"> <tr> <td>List I [Union List]</td><td>Matters on which Parliament (CG) has exclusive right to make laws.</td></tr> <tr> <td>List II [State List]</td><td>Matters on which State legislatures has an exclusive right to make laws.</td></tr> <tr> <td>List III [Concurrent List]</td><td>Matters on which both Parliament & State have powers to make laws.</td></tr> </table> 	List I [Union List]	Matters on which Parliament (CG) has exclusive right to make laws.	List II [State List]	Matters on which State legislatures has an exclusive right to make laws.	List III [Concurrent List]	Matters on which both Parliament & State have powers to make laws.
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List II [State List]	Matters on which State legislatures has an exclusive right to make laws.						
List III [Concurrent List]	Matters on which both Parliament & State have powers to make laws.						
246A(1)	Concurrent power to levy GST has been given to Parliament & State.						
246A(2)	Exclusive power of Parliament (for Inter – State supply → IGST).						

FRAMEWORK OF GST IN INDIA (Dual GST)

Dual GST	<ul style="list-style-type: none">India has adopted a Dual GST model as followed in Canada & Brazil.Centre & States simultaneously levy GST on taxable supply of G/&S which takes place within a State/UT.Now, Centre has power to tax Intra-State Sales & States have power to tax services.																		
GST in India	<ul style="list-style-type: none">GST in India comprises of:<table><tr><th colspan="3">Intra State Supply</th></tr><tr><td>CGST</td><td><ul style="list-style-type: none">levied & collected by Central Government.</td><td>CGST Act, 2017</td></tr><tr><td>SGST</td><td><ul style="list-style-type: none">levied & collected by SGs or UTs with State Legislatures (Delhi & Puducherry (Pondicherry)).</td><td>SGST Act, 2017</td></tr><tr><td>UTGST</td><td><ul style="list-style-type: none">levied & collected by UTs without State Legislatures</td><td>UTGST Act, 2017</td></tr><tr><th colspan="3">Inter State Supply</th></tr><tr><td>IGST</td><td><ul style="list-style-type: none">Levied & collected by CG on all inter-State supplies.IGST will be apportioned b/w CG & SG in manner provided by Parliament as per recommendation of GST Council. [Article 269A]Note: IGST = CGST + SGST/UTGST (approx).</td><td>ITGST Act, 2017</td></tr></table> <p>Note: Import of G/&S into India will be deemed to be Inter-State supply of G/&S.</p>	Intra State Supply			CGST	<ul style="list-style-type: none">levied & collected by Central Government.	CGST Act, 2017	SGST	<ul style="list-style-type: none">levied & collected by SGs or UTs with State Legislatures (Delhi & Puducherry (Pondicherry)).	SGST Act, 2017	UTGST	<ul style="list-style-type: none">levied & collected by UTs without State Legislatures	UTGST Act, 2017	Inter State Supply			IGST	<ul style="list-style-type: none">Levied & collected by CG on all inter-State supplies.IGST will be apportioned b/w CG & SG in manner provided by Parliament as per recommendation of GST Council. [Article 269A]Note: IGST = CGST + SGST/UTGST (approx).	ITGST Act, 2017
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GST Acts	<ul style="list-style-type: none"> There are 35 GST Acts in India 		
	Name of the Act	No. of Act	Tax
	Central Goods & Services Tax Act, 2017	1	CGST
	State Goods & Services Tax Act, 2017	31	SGST
	Union Territory Goods & Services Tax Act, 2017	1	UTGST
	Integrated Goods & Services Tax Act, 2017	1	IGST
	The GST (Compensation to States) Act, 2017	1	GST Compensation Cess
GST Rates	<ul style="list-style-type: none"> Though there are multiple SGST legislations, basic features of law (Ex: Chargeability, Definition of taxable event & taxable person, classification & valuation of G&S, procedure for collection & levy of tax etc). are uniform in all SGST legislations, (if feasible). 		
	<ul style="list-style-type: none"> CGST & SGST would be levied at rates to be jointly decided by CG & SG on recommendations of GST Council. 		
	<ul style="list-style-type: none"> Rates of IGST shall be decided by the Centre on the recommendations of the GST Council. 		
	<ul style="list-style-type: none"> Highest (Peak) rates of CGST & IGST have been provided in the law @ 20% and 40%. 		
	<ul style="list-style-type: none"> Tax rates have been fixed at 5%, 12%, 18% and 28%. Other rates are 0%, 0.25% & 3%. 		
	Revenue Neutral Rate	Basic Necessities	Essential Goods
	18%	12%	5%
			Demerit & Luxury Goods
			28% + Cess

WHAT IS GST?

- Goods & services tax means any tax on supply of G/&S except on alcoholic liquor for human consumption.
- Presently, GST is levied on all G/&S except alcoholic liquor for human consumption & Petroleum crude, diesel, petrol, ATF and natural gas.
- GST will be levied on **Petroleum Products** (Petroleum crude, High Speed Diesel, Motor Spirit, Natural Gas & Aviation Turbine Fuel) **from Notified Date on recommendation of GST Council**.

Note: Nothing is notified till now & thus **NO GST will be levied on above products on date**.

Till such Notified date, **Central Excise Duty will continue** to be levied on Manufacture/Production of Petroleum Products & their Inter/Intra-State Sale is subject to **CST/VAT** respectively.

- Position of Some Specific Goods as on the date:**

Goods	Excise Duty	VAT/CST	GST
Alcoholic liquor for Human Consumption	☑	☑	☒
Petroleum crude, HSD, Motor Spirit, Natural Gas, ATF	☑	☑	☒
Tobacco & Tobacco Products	☑	☒	☑
Other Goods	☒	☒	☑

Note: **Real estate sector** has been kept out of ambit of GST. [GST will not be levied on sale/purchase of immovable property].

CLASSIFICATION OF GOODS AND SERVICES

- HSN (Harmonised System of Nomenclature) is used for classifying the goods under the GST.
- Chapters referred in Rate Schedules for goods are Chapters of First Schedule to Customs Tariff Act, 1975.
- A new Scheme of Classification of Services has been devised wherein the services of various descriptions have been classified under various sections, headings & groups.
- Each group consists of various Service Codes (Tariff).

GST COMPENSATION CESS

- ❖ GST (Compensation to States) Act, 2017 provides for a mechanism to **compensate the States** on account of **loss of revenue** which may arise **due to implementation of GST** for a period of **5 years**.
- ❖ It is **levied by Central Government** on **Notified goods only** on Intra/Inter state supply.
- ❖ It is levied on **Specified Luxury items or Demerit Goods**, like pan masala, tobacco, aerated waters, Coal, Lignite, Motor Cars etc., computed on value of taxable supply.

GST Council: Article 279A

Constitution & Enforcement	<ul style="list-style-type: none"> Article 279A empowers President to constitute a joint forum of Centre & States. The provisions relating to GST Council came into force on 12th September, 2016. The President constituted GST Council on 15th September, 2016. Chairman of GST Council → Union Finance Minister. Members of GST council → Union Minister of State in charge of Revenue/Finance, Ministers in charge of Finance/Taxation or any other Minister nominated by each States & UTs with SL.
Functions	<p>Make recommendations to Union & States on important issues like</p> <ol style="list-style-type: none"> taxes, cesses & surcharges which may be subsumed in GST; Goods & Services that may be subjected to, or exempted from GST; Model GST Laws, Principles of levy, apportionment of GST & the principles that govern the place of supply; Threshold limit of turnover below which G&S may be exempted from GST; Rates including floor rates with bands of GST;
PC Note: ▪ Tax rates; ▪ Exemptions; ▪ Threshold limits; ▪ Dispute resolution; ▪ GST legislations.	
Decision	<ul style="list-style-type: none"> Every decision of GST Council is taken by a majority of not less than ¾th of weighted votes of members present & voting. Vote of Centre has a weightage of 1/3rd of total votes cast & Votes of all SGs together has a weightage of 2/3rd of total votes cast, in that meeting.
Article 279A(4)(f)	<ul style="list-style-type: none"> Special Category States → Assam, AP, J&K, Manipur, Meghalaya, Mizoram [MMM], Nagaland, Sikkim, Tripura, Himachal Pradesh (HP), Uttarakhand (UK).
Article 279A(4)(g)	<ul style="list-style-type: none"> GST council shall recommend the date on which GST shall be levied on Petroleum crude, High speed diesel, Motor spirit, Natural gas & Aviation Turbine Fuel.

GST COMMON PORTAL & GSTN

GST Common Portal	<ul style="list-style-type: none"> Common GST Electronic Portal (www.gst.gov.in) a website managed by Goods & Services Network has been set by the Government to establish uniform interface for taxpayer; common & shared IT infrastructure b/w the Centre & States. This portal is one single common portal for all GST related services. It acts as a clearing house to verify claims & informs the respective governments to transfer funds. A common GST system provides linkage to all State/ UT Commercial Tax Departments, Central Tax authorities, Taxpayers, Banks & other stakeholders. The eco-system consists of all stakeholders starting from taxpayer to tax professional to tax officials to GST portal to Banks to accounting authorities.
Accessibility of Portal	<ul style="list-style-type: none"> It is accessible over Internet by taxpayers & their CAs/Tax Advocates & over Intranet by Tax Officials etc.
Front end services	GSTN provides 3 front end services (i) Registration (ii) Payment; (iii) Return .

GOODS & SERVICE TAX NETWORK	
What is GSTN	<ul style="list-style-type: none"> GSTN is a non-Government, private limited company formed u/s 8 of Companies Act, 2013, (not for profit companies). It is backbone of technology used for GST.
Functions of GSTN [IMP]	<ul style="list-style-type: none"> Facilitating registration; [Filing of application] Forwarding returns to CG & SG authorities; [Filing of Return] Computation & Settlement of IGST payment [Like a Clearing House] Matching of tax payment details with banking network; Providing various MIS reports to CG & SG based on taxpayer return information; Creation of Challan for tax payment Providing analysis of taxpayers' profile; & running matching engine for matching, reversal & reclaim of input tax credit. <p>Note: All statutory functions like approval of registration, assessment, audit, appeal, enforcement etc. will remain with respective tax departments.</p>

GST SUVIDHA PROVIDERS/ASPs
<ul style="list-style-type: none"> GSTN has selected certain IT, ITeS & financial technology companies, to be called GST Suvidha Providers (GSPs). GSPs develop applications to be used by taxpayers for interacting with GSTN. They facilitate the taxpayers in uploading invoices as well as filing of returns and act as a single stop shop for GST related services. They customize products that address the needs of different segment of users. GSPs may take the help of Application Service Providers (ASPs) who act as a link b/w taxpayers & GSPs.

QUESTION BANK

- Q1.** List the Central and State levies which will be subsumed in GST in India.
- Q2.** What are the taxes not to be subsumed in GST?
- Q3.** What is GSTN and its role in the GST regime? Discuss functions of GSTN.
- Q4.** Explain Dual GST Model & Composition of GST in India.
- Q5.** How many number of Acts (Legislations) are there in India?
- Q6.** Write a short note on "GST Compensation Cess.
- Q7.** Which are the commodities proposed to be kept outside the purview of GST?
- Q8.** Write a short note on "Constitution of GST Council & its functions.
- Q9.** What are the Front end services provided by GSTN?
- Q10.** Write a short note on "GST Suvidha Providers & ASPs".



2. SUPPLY UNDER GST

BY CA PRANAV CHANDAK

FOR MAY/JUNE 2020

CA/CMA INTERMEDIATE

SOME IMPORTANT DEFINITIONS

Goods [Sec 2(52) of CGST Act]	
<ul style="list-style-type: none"> means every kind of 'Movable Property' other than 'Money & Securities' includes 'Actionable Claim', growing crops, grass & things attached to or forming part of the land which are agreed to be severed before supply or under contract of supply. 	
Services [Sec 2(102) of CGST Act]	
<ul style="list-style-type: none"> means anything other than goods, money & securities; but includes <ol style="list-style-type: none"> Activities relating to use of money or Conversion of Money by cash or by any other mode, Conversion of Money from one form/currency to another form/currency/denomination. for which a separate consideration is charged. <p>Explanation: 'Services' includes facilitating or arranging transactions in securities. [AMD]</p>	
Actionable claim [Sec 2(1) of CGST Act r/w Section 3 of TOPA, 1882]	
<ul style="list-style-type: none"> means a claim to any debt; other than a secured debt by mortgage of immovable property or hypothecation or pledge of movable property; or to any beneficial interest in movable property not in (actual/constructive) possession of claimant, which civil courts recognise as affording grounds for relief (whether such debt/beneficial interest be existent/accruing/conditional/contingent). <p>Ex: Lottery, Gambling, Betting, Debentures, BOE, PN, Bank guarantee, FDR, Arrears of Rent, etc.</p>	
Money [Sec 2(75) of CGST Act]	
<ul style="list-style-type: none"> means Indian legal tender or any foreign currency, Cheque, PN, BOE, draft, pay/money order, letter of credit, traveller cheque, postal/electronic remittance or other recognised instrument etc. when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value. <p>PC Note: Money & Securities → Neither Goods nor services.</p>	
Consideration [Sec 2(31) of CGST Act]	
<ul style="list-style-type: none"> includes any payment made or to be made (in money or otherwise) for supply of G/&S; 'monetary value of any act or forbearance' for supply of G/&S; whether by recipient or by any other person (3rd Party) but shall not include any subsidy given by CG/SG; <p>Note: Deposit given for supply of G/&S shall not be considered as payment made for such supply unless supplier applies such deposit as consideration for said supply. Thus, Deposit will be considered as payment made for supply → only if supplier applies such deposit as consideration for said supply. [Refundable deposit is not subject to GST].</p> <p>Circular: Work of Art given by artists to art galleries for exhibition is not supply since no consideration flows from gallery to the artist. However, when a buyer selects a particular art work displayed at the gallery, then actual supply takes place & applicable GST would be payable at the time of such supply.</p>	
Taxable supply [Sec 2(108)]	Supply of G/&S which is liable to tax under this Act.
Taxable territory [Sec 2(109)]	Territory to which the provisions of this Act apply.
Supplier [Sec 2(105)]	Person supplying G/&S & include agent of such supplier.
Family	Spouse & children of the person & dependent parents, grandparents, brothers & sisters.
Principal [Section 2(88)]	means a person on whose behalf an agent carries on the business of supply or receipt of G/&S.

Business [Sec 2(17)]	Business includes: ↓
<p>(a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity (whether or not it is for a pecuniary benefit);</p> <p>(b) any activity or transaction in connection with or incidental or ancillary to (a) above</p> <p>(c) any activity or transaction in the nature of (a) above, whether or not there is volume, frequency, continuity or regularity of such transaction;</p> <p>(d) supply or acquisition of goods including capital assets & services in connection with commencement or closure of business;</p> <p>(e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;</p> <p>(f) admission of persons to any premises for a consideration;</p> <p>(g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;</p> <p>(h) activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club [AMD]</p> <p>(i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities.</p>	

Recipient [Sec 2(93)]	
Cases	Recipient
If Consideration is payable for supply of G/&S	Person liable to pay the consideration
If No Consideration is payable for supply of Goods	Person to whom goods are delivered or made available , or to whom possession or use of goods is given or made available,
If No Consideration is payable for supply of Services	Person to whom service is rendered

TAXABLE PERSON
<p>❖ Meaning: Person who is registered or liable to be registered u/s 22 or 24.</p> <ul style="list-style-type: none"> ▪ Thus, even an unregistered person who is liable to be registered is a taxable person. ▪ A person who is not liable to be registered, but has taken voluntary registration & got himself registered is also a taxable person. ▪ Supply b/w two non-taxable persons does not constitute taxable supply. ▪ It is not necessary that supply should be made to another person. [Supplies made to self are also taxable].

TAXABLE EVENT UNDER GST [It determines the point at which tax would be levied]
<p>❖ A taxable event is any transaction or occurrence that results in a tax consequence.</p> <p>❖ Taxable event under GST is "Supply of Goods or Services". [No supply → No GST]</p>

CONCEPT OF SUPPLY [Section 7]
<p>❖ Definition of 'supply' is an inclusive definition & does not define term exhaustively.</p> <p>❖ Clause (a) of Section 7(1) illustrates the forms of supply, but the list is not exhaustive.</p> <p>❖ Meaning & Scope of supply can be understood in terms of following parameters:</p> <ul style="list-style-type: none"> ▪ Supply of Goods or Services. [Note: Supply of anything other than G&S does not attract GST]. ▪ Supply should be made for a consideration. [Some Exceptions are there] ▪ Supply should be made in the course/furtherance of business [Some Exceptions are there] ▪ Supply should be made by a taxable person. [Recipient can be a non-taxable person] ▪ Supply should be a taxable supply. ▪ Supply should be made within taxable territory.

Q1. Discuss whether GST is applicable in the following transactions:

- Mr. PC deposits Rs. 1 lac in cash in his savings A/c with HDFC Bank, Pune.
- Transfer of derivatives by Mr. Raj for Rs. 4,10,000. Mr. Raj is a dealer in shares & security.
- Mr. Aryan takes a housing loan of Rs. 1.5 crore from HDFC Bank. Rate of interest is 9%. Loan is repayable after 5 years. Rs. 10,000, being documentation charges, is payable by Mr. Aryan at the time of taking loan. Interest would be part of EMI which will be payable on 1st day of every month.
- Mr. Raju gives his vacant plot of land situated in a residential colony in Pune to ABC Ltd. (monthly rent being Rs. 4,10,000). ABC Ltd. is a car distributor & plot of land is used by it for parking unsold cars.
- Mr. Rahul owns a vacant land in a village. It is given rent to Miss. Shrutika (monthly rent being Rs. 6,40,000). She uses the land for agricultural activities. Annual income from this activity is more than Rs. 80 lacs.

Answer:

- Cash deposit in bank: It is a transaction in money. GST is not applicable on making a bank deposit.
- Transfer of derivatives - Derivatives are securities. GST is not applicable on transfer of securities.
- Taking a loan from a bank is not supply of G/&S by bank. GST is not applicable. However, document charges of Rs. 10,000 is subject to GST.
- Renting of vacant land: Renting of residential plot for commercial use is chargeable to GST.
Note: Renting of residential dwelling units for use as residence is exempt from GST.
- Renting of agricultural land - Renting of agriculture land for agricultural activities is not chargeable to GST.



DEFINITION OF SUPPLY [Sec 7(1)(a)]

- ❖ Supply includes all forms of supply of Goods or Services **such as**
 - ✓ **Sale** (transfer of property in goods for consideration), **transfer**,
 - ✓ **Barter** (Goods with goods), **exchange** (Goods with partly goods & partly in money),
 - ✓ **License, Rental, Lease** (with or without transfer of right to use) [Refer Schedule-II]
 - ✓ **Disposal** [Sale, Pledge, giving away, use, consumption or any other disposition of a thing] made or agreed to be made **for consideration in the course or furtherance of business.**
- ❖ **Meaning of ‘in course or furtherance of business’**
 - ✓ GST is a tax on only commercial transactions.
 - ✓ **Thus supply by individual in his personal capacity → No GST** unless it falls in business.

Ex: Rishabh buys a car for his personal use & after a year sells it to a car dealer. Sale of car by Rishabh to car dealer is not a supply under GST because the supply is not made by Rishabh in the course or furtherance of business.

Ex: Manikarnika sold her old gold bangles & earrings to ‘Aabhushan Jewellers’. Sale of old gold jewellery by individual to a jeweller will not constitute supply as the same cannot be said to be in the course of business of the individual.

Ex: Sundaram Acharya, a famous actor, paints some paintings & sells them. The consideration from such sale is to be donated to a Charitable Trust – ‘Kind Human’. The sale of paintings by the actor qualifies as supply.

Ex: A Resident Welfare Association provides the service of depositing the electricity bills of the residents in lieu of some nominal charges. Provision of service by a club or association or society to its members is treated as supply as this is included in the definition of 'business'.

Ex: Royal Turf Race Club is engaged in facilitating the wagering (betting) transactions on horses placed through totalisator. For providing the service of facilitating wagering transactions, Royal Turf Race Club gets commission which is deducted & retained by the club from the total bet value. Said services amount to supply as the activities of a race club are included in business.

Q2. An electronics dealer sells a laptop for Rs. 50,000 to earn a profit. Whether it is a supply?

Ans: Yes. As per Section 7(1)(a) of CGST Act, 2017, Supply includes all forms of supply of G/&S such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business. It is the **case of Sale** of goods. Hence, it will be treated as supply.

IMPORT OF SERVICES FOR CONSIDERATION [Sec 7(1)(b)]

- Importation of services for a consideration whether or not in the course or furtherance of business shall be treated as a supply.
- This is the only exception to the condition of supply being made in course or furtherance of business.

Ex: Ramaiyaa, a proprietor, has received the architect services for his house from an architect located in New York at an agreed consideration of \$ 5,000. Import of services by Ramaiyaa is supply u/s 7(1)(b) though it is not in course or furtherance of business.

Q3. Mrs. Pragati received legal advice for personal problems & paid 1,000 pound as a legal fees to Miss. Unnati of US. Explain whether the above activity of import of service would amount to supply u/s 7?

(a) Will your answer change if both of them are real sisters & no consideration is paid?

(b) What will be your answer if both of them are real sisters & Mrs. Pragati receives legal advice for her business & she did not pay any consideration? **[May 2018]**

Ans: As per Section 7(1)(b), the term 'supply' includes import of services for a consideration whether or not in the course or furtherance of business. Thus, legal advice received by Ms. Pragati for her personal services for a consideration will be covered under the ambit of supply.

(a) In case Pragati & Unnati are real sisters & no consideration is paid: As per Section 7(1)(c) r/w Schedule I, import of services by any person from a related person or from any of his other establishments outside India, in the course or furtherance of business will be treated as supply.

In this case though Pragati & Unnati are related person, legal service received will not be covered under the ambit of supply, since the said services are not received by her in course or furtherance of business.

(b) In case Mrs. Pragati receives legal advice from her sister for her business without consideration, since it is in course or furtherance of business, it will be covered under supply as per Section 7(1)(c) r/w Schedule I of CGST Act, 2017.

SUPPLY WITHOUT CONSIDERATION [Sec 7(1)(c) + Schedule I]

Para 1 Permanent Transfer/Disposal of Business Assets on which ITC is availed.

✓ This clause covers transfer of business assets from **HC to SC for nil consideration**.

Note: Permanent transfer/disposal of following business assets will **not be deemed as supply**:

- (i) Business assets on which **ITC is blocked/not available** under GST
- (ii) Business assets though **eligible for ITC, but ITC has not been availed** by such RP.

Ex: Dhruv gives old laptops being used in his business to his friend free of cost. This will qualify as supply provided input tax credit has been availed by Dhruv on such laptops.

Ex: A dealer of AC permanently transfers the motor vehicle free of cost. ITC on said motor vehicle is blocked. This transaction will not constitute a supply as ITC has been blocked on Cars.

Q4. State whether the following transactions qualify as supply?

- XYZ & Co. a manufacturer of goods donated old computers to Charitable Schools on account of renovation of office. Tire company has taken ITC on the computers so donated.
- Mr. Rahim purchased a car for Business use & after 2 years, he transferred the car for personal use at home. Will the transaction be treated as supply? ITC has not been availed by Mr. Rahim.
- M/s T Ltd., is in the business of Hotel. He purchased AC for business purpose & after 2 years, he transfers AC to director without consideration. ITC has been availed on AC machines.

Ans:

- Yes. As per Section 7(1)(c) r/w Schedule I of CGST Act, 2017, Permanent transfer or disposal of business assets where ITC has been availed shall be treated as supply even if made without consideration. Hence, donation of old computers to charitable schools shall qualify as supply since ITC has been availed by XYZ & Co.
- Since ITC has not been availed on such car at the time of its acquisition & it is not treated as supply.
- Yes, it shall be a deemed supply (as per Para 1 of Sec 7(1)(c) r/w Schedule I).

Para 2	<p>Supply between Related or Distinct Persons (if made in course or furtherance of business)</p> <p>✓ Supply of Goods or Services b/w 'Related persons' or b/w 'distinct persons' as specified in section 25, will qualify as supply if it is made in the course/furtherance of business.</p> <p>❖ Related Person [Explanation to sec 15]</p> <p>Persons are deemed to be related persons in the following cases:</p> <ul style="list-style-type: none"> Such persons are officers/directors of one another's business. Such persons are legally recognised partners. Such persons are Employer & Employee [Discussed Later in Detail] 3rd person controls/holds (directly/indirectly) ≥ 25% voting shares of both of them One person controls (directly/indirectly) the other person. 3rd person controls (directly/indirectly) both of them. Such person together control (directly/indirectly) a 3rd person. Such persons are members of the same family. One of them is the sole agent/sole distributor/sole concessionaire of other. <p>Ex: Ms. Priya holds 30% shares of ABC Ltd. & 35% shares of XYZ Ltd. ABC Ltd. & XYZ Ltd. are related.</p> <p>Ex: Q Ltd. has a deciding role in corporate policy, operations management & quality control of R Ltd. It can be said that Q Ltd. controls R Ltd. Thus, Q Ltd. & R Ltd. are related.</p> <p>❖ Distinct Person [Section 25]</p> <ul style="list-style-type: none"> A person who has obtained/is required to obtain more than one registration, whether in one State/UT or more than one State/UT shall be treated as distinct persons, i.e. each such registration. <p>Ex: Mohan (CA), has a registered head office in Delhi. He has also obtained registration in West Bengal i.e. his newly opened branch office. Mohan shall be treated as distinct persons i.e. registrations in West Bengal & Delhi. Supply b/w Delhi office & West Bengal office, in course or furtherance of business even without consideration will qualify as supply.</p> <ul style="list-style-type: none"> Further, where a person who has obtained or is required to obtain registration in a State/UT i.e. an establishment, has an establishment in another State/UT, then such establishments shall be treated as establishments of distinct persons. <p>Ex: X Enterprises, a registered supplier, owns AC restaurant in Maharashtra. It has opened a liquor shop in Uttarakhand for trading of alcoholic liquor for human consumption. Since supply of alcoholic liquor for human consumption in Uttarakhand is a non-taxable supply, Rishabh Enterprises is not required to obtain registration w.r.t the same in Uttarakhand. In this case, AC restaurant in Maharashtra & liquor shop in Raipur [though unregistered] shall be treated as establishments of distinct persons. Supply by Maharashtra office to Uttarakhand office, in course or furtherance of business even without consideration will qualify as supply.</p> <p>❖ Stock transfers or Branch transfers (with different GST registration) = Supply</p> <ul style="list-style-type: none"> Transactions b/w different locations (with separate GST registrations) of same legal entity.
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	<p>Ex: Stock transfers or branch transfers) will qualify as 'supply' under GST as these are transactions b/w distinct persons.</p> <p>Ex: Raghubir Fabrics transfers 1000 shirts from his factory located in Lucknow to his retail showroom in Delhi so that the same can be sold from there. The factory & retail showroom of Raghubir Fabrics are registered in the States where they are located. Although no consideration is charged, supply of goods from factory to retail showroom constitutes supply.</p> <ul style="list-style-type: none"> ▪ Transfer b/w 2 units of a legal entity under single registration (apparently within same State) will not be considered as supply. <p>Ex: Raghubir Fabrics transfers 1000 shirts from his factory located in Lucknow to his retail showroom in Kanpur so that the same can be sold from there. It has taken one registration in State of Uttar Pradesh declaring Lucknow factory as its principal place of business & Kanpur showroom as its additional place of business. Since no consideration is charged, supply of goods from factory to retail showroom in same State under single registration does not constitute supply.</p> <p>But if Raghubir Fabrics obtains separate registrations for Lucknow factory & Kanpur showroom, stock transfer b/w the Lucknow factory & Kanpur showroom will constitute supply.</p>						
	<p>❖ Supply of goods or services b/w an Employer & Employee</p> <ul style="list-style-type: none"> ▪ Employer & employee are related persons as given in the definition of related person. ▪ However, Services provided by employee to employer in the course of employment are not treated as supply of services [Specifically given in Schedule III of CGST Act] ▪ Gifts by an employer to an employee ≤ Rs. 50,000 in value in FY shall not be treated as supply of G/&S. Thus Gifts > Rs. 50,000 → GST ☑. <p>Perquisites given by employer to employee: If perquisites (services) are given in the course of Employment or provided in terms of the contract b/w the employer & employee & is part & parcel of the cost-to company, it will not be subjected to GST.</p>						
<p>Para 3</p>	<p>Supply of Goods by Principal to his Agent or Vice Versa</p> <ul style="list-style-type: none"> ✓ Supply of goods by a principal to his agent, without consideration (where the agent undertakes to supply such goods on behalf of the principal) is considered as supply. ✓ Similarly, supply of goods by an agent to his principal, without consideration (where agent undertakes to receive such goods on behalf of principal) is considered as supply. <p>Note: Only supply of goods is covered in Para 3. Thus, Supply of services from Principal to his Agent & vice versa would be treated as supply if there is a consideration.</p> <p>Determining factor → Whether a particular P-A relation falls within scope of Para 3 depends on "whether invoice for further supply of goods on behalf of principal is being issued by the agent or not". [whether or not the agent has the authority to pass or receive the title of the goods on behalf of the principal].</p> <table border="1" data-bbox="228 1485 1465 1697"> <thead> <tr> <th>Invoice for further supply is issued by</th><th>Provision of goods from principal to agent</th></tr> </thead> <tbody> <tr> <td>Agent to customer in his own name</td><td>would fall within scope of Para 3 & thus would be treated as supply.</td></tr> <tr> <td>Agent to customer in name of principal</td><td>would not fall within scope of Para 3 & thus would not be treated as supply.</td></tr> </tbody> </table> <p>Ex: A appoints B to procure certain goods from market. B identifies various suppliers who can provide goods as desired by A & asks the supplier (Golu) to send the goods & issue invoice directly to A. Here, B is only acting as the procurement agent, & has in no way involved himself in supply or receipt of goods. Hence B is not an agent of A in terms of Para 3.</p> <p>Ex: A C&F agent or commission agent takes possession of the goods from the principal & issues the invoice in his own name. In such cases, the C&F commission agent is an agent of the principal for the supply of goods in terms of Para 3. of Schedule I. The disclosure or non- disclosure of the name of the principal is immaterial in such situations.</p> <p>Ex: M/s Tintin, a banking company, appoints Mandaar (auctioneer) to auction certain goods. The auctioneer arranges for the auction & identifies the potential bidders. The highest bid is accepted & the</p>	Invoice for further supply is issued by	Provision of goods from principal to agent	Agent to customer in his own name	would fall within scope of Para 3 & thus would be treated as supply .	Agent to customer in name of principal	would not fall within scope of Para 3 & thus would not be treated as supply .
Invoice for further supply is issued by	Provision of goods from principal to agent						
Agent to customer in his own name	would fall within scope of Para 3 & thus would be treated as supply .						
Agent to customer in name of principal	would not fall within scope of Para 3 & thus would not be treated as supply .						

	<p>goods are sold to the highest bidder by M/s Tintin. The invoice for the supply of the goods is issued by M/s Tintin to the successful bidder. In this scenario, the auctioneer is merely providing the auctioneering services with no role played in the supply of the goods. Even in this scenario, Mandaar is not an agent of M/s Tintin for the supply of goods in terms of Para 3. of Schedule I.</p> <p>Ex: Gautam, an artist, appoints Gambhir (auctioneer) to auction his painting. Gambhir arranges for the auction & identifies potential bidders. The highest bid is accepted & painting is sold to the highest bidder. Invoice for the supply of the painting is issued by Gambhir on the behalf of Gautam but in his own name & painting is delivered to the successful bidder.</p> <p>In this scenario, Gambhir is not merely providing auctioneering services, but is also supplying the painting on behalf of Gautam to the bidder, & has the authority to transfer the title of the painting on behalf of Gautam. This scenario is covered under Para 3. of Schedule I.</p>
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Q5. Mr A sells agricultural produce by using services of Mr B who is a commission agent as per 'Agricultural Produce Marketing Committee Act' of the State. Mr B identifies the buyers & sells the agricultural produce on behalf of Mr. A for which he charges commission from Mr. A. Whether Mr. B is an agent under Para 3. of Schedule I?

Answer: As per APMC Act, commission agent is a person who buys or sells the agricultural produce on behalf of his principal, or facilitates buying & selling of agricultural produce on behalf of his principal & receives, by way of remuneration, a commission or percentage upon the amount involved in such transaction.

If the invoice is issued by Mr. B to the buyer, the former is an agent covered under Para 3. of Schedule I.

However, in cases where the invoice is issued directly by Mr. A to the buyer, the commission agent (Mr. B) doesn't fall under the category of agent covered under Para 3.

CLARIFICATION: Scope of 'Principal & Agent relationship' in context of del-credere agent

- **Meaning of Del-credere Agene (DCA):** DCA is an agent who **guarantees payment** to principal supplier. In order to guarantee timely payment to supplier, DCA can resort to various methods including extending short-term transaction-based loans to buyer or paying supplier himself & recovering amount from buyer with some interest at a later date. This loan is to be repaid by buyer along with interest to DCA @ mutually agreed rate b/w DCA & buyer.

- **Whether 'DCA' falls under the ambit of 'Agent' under Para 3 of Schedule I?**

Invoice for supply of goods is issued by	Position of DCA
Supplier to customer (either himself or through DCA)	DCA does not fall under ambit of agent & thus would not be treated as supply.
DCA to customer in his own name	DCA would fall under ambit of agent thus would be treated as supply.

- **Whether Temporary short-term transaction-based loan extended by DCA to buyer, for which interest is charged by DCA, is to be included in value of goods supplied by supplier (principal)?**

Particulars	Case 1: DCA is not an agent	Case 2: DCA is an agent
Invoice is issued by	Supplier to buyer	DCA to buyer (in his own name)
Transactions involved	<ol style="list-style-type: none"> 1. Supply of goods from supplier (principal) to buyer; 2. Supply of agency services from DCA to supplier or both; 3. Supply of extension of loan services by DCA to buyer. 	<ol style="list-style-type: none"> 1. Supply of goods by supplier (principal) to DCA. 2. Supply of goods by DCA to buyer 3. Supply of agency services by DCA to supplier or buyer or both 4. Loan services by DCA to buyer
Clarification	<ul style="list-style-type: none"> ▪ Short-term Loan provided by DCA to buyer is a supply of service by DCA to buyer on principal to principal basis & is an independent supply. ▪ Therefore, interest charged by DCA would not form part of the value of supply of goods supplied (to the buyer) by the supplier. 	<ul style="list-style-type: none"> ▪ Activity of extension of credit by DCA to buyer would not be considered as a separate supply as it is in context of supply of goods made by DCA to buyer. ▪ Value of Interest for such credit would be included in value of supply of goods by DCA to buyer.

Para 4	<p>Importation of Services</p> <ul style="list-style-type: none"> Import of services by (a-taxable) ANY Person without consideration from a related person or from his establishments located outside India, in course or furtherance of business shall be treated as "supply". <p>Ex: J Associates received legal consultancy services from its head office located in Malaysia. Head office has rendered such services free of cost to its branch office. Since J Associates & head office are related persons, services received by J Associates will qualify as supply even though head office has not charged anything from it.</p> <p>Ex: Chaman, a proprietor registered in Delhi, has sought architect services from his son in US w.r.t his newly constructed house in Delhi. Although services have been received by Chaman without consideration from his son (related person), yet it will not qualify as supply since it has not been received in course/furtherance of business.</p>
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Analysis of Import of Services

Section	Nature of Service	Consideration	Business Test
Sec 7(1)(b)	Import of Services	Required	Not required
Para 4 of Schedule I of Sec 7(1)(c)	Import of Services by any person from related Person or from any of his other Establishments o/s India (distinct Person)	Not Required.	Required.

Clarification on 'Free samples & gifts' → [Supply nahi hai]

- Free Samples** which are supplied **free of cost** (without any consideration) → shall **not be treated as supply** under GST (except in case of activities mentioned in Schedule I of the CGST Act).
- Input Tax Credit:** ITC shall **not be available** to supplier on inputs, input services & capital goods to extent they are used in relation to gifts or free samples distributed without any consideration. If activity of distribution of gifts or free samples falls within scope of 'supply', on account of provisions contained in Schedule I of said Act, supplier would be eligible to avail ITC.

Clarification on 'Buy one & get one free offer' → [Composite or Mixed Supply; taxed u/s 8]

- It may appear that in case of offers like 'Buy One, Get One Free', one item is being supplied free of cost.
- But it is a case of two or more individual supplies where a single price is being charged for entire supply.
- It can at best be treated as supplying two goods for price of one.
- Taxability of such supply will be dependent upon as to whether supply is a composite supply or a mixed supply & rate of tax shall be determined u/s 8 of CGST Act.**

Q6. State whether the following activities constitutes supply.

- ABC Motors Ltd. engages Sunshine Cars Ltd, as an agent to sell cars on its behalf. For the purpose, ABC Motors Ltd. has supplied 200 cars to the showroom of Sunshine Cars Ltd. located in Rajasthan.
- Hitkari Charitable Trust, a trust engaged in providing medical relief free of cost, donates books & stationery to children living in slum area.

Answer:

- As per Section 7(1)(c) r/w Schedule I of CGST Act, 2017, Supply of goods by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal shall be treated as supply even if made without consideration. In view of the same supply of cars by ABC Motors Ltd. to Sunshine Cars Ltd. will qualify as supply.
- Section 7 of the CGST Act provides that supply must be made for a consideration except the activities specified in Schedule I & in course or furtherance of business. Since, both these elements are missing, donation of books & stationery to children living in slum area would not amount to supply u/s 7 of the CGST Act.

Q7. X is a well-known singer. Cine Society of Chennai gives him a life-time achievement award on January 1, 2019. The award consists of a memento & a cheque of Rs. 25,00,000. Find out GST liability of X.

Ans: An award received in consideration for contribution over a life time or even a singular achievement carried out independently or without reciprocity to the amount to be received will not comprise an activity for consideration. Since it is not an activity for consideration, it is not "supply of service" & not chargeable to GST.

Q8. XYZ Ltd. was amalgamated with ABC Ltd. On account of amalgamation Mr. X a shareholder received 10,000 shares of ABC Ltd. in exchange of 5000 shares of XYZ Ltd. Does it qualify as supply?

Ans: Securities are neither goods nor services. Hence, such transaction will not qualify as supply.

Q9. Mr. B, a famous actor, recorded a song for a music company & sold the audio CD. Consideration for such sale was to be donated to a Charitable Trust. Whether sale of CD to music company by the actor qualify as supply?

Ans: Any activity undertaken in course/for furtherance of business would constitute a supply. Since 'business' includes vocation, sale of goods or service even as a vocation is a supply under GST. Hence, sale of CD to music company by the actor will qualify as supply.

Q10. Discuss whether GST is applicable in the following transactions:

(a) X transfers 1,000 debentures of A Ltd. to Y for Rs. 4,75,000.

(b) Z transfers a plot of land situated in Madurai to B for a consideration of Rs. 40 lacs. Consideration is, however, payable in installments.

(c) X is a registered flower dealer in Pune. He sells roses for decoration purposes to interior decorator for Rs. 1,50,000.

Answer:

(a) GST is applicable on supply of goods &/or services. Debentures are securities. Securities are not neither treated as goods nor services. Therefore, transfer of debentures by X is not subject to GST.

(b) Transfer of plot of land - Transfer of immovable property is not subject to GST.

(c) 'Flowers' are goods. Thus GST can be levied on them. But, notified GST rate for supply of natural flower is nil.

Ex: X Ltd. is a marketing Company. Its shares are owned by X & his family members. X Ltd. owns 50 computers in its office. one of the computers (own by X Ltd.) is given by X to his friend Y for his personal use. Ownership is not transferred, no consideration is recovered from Y. This is treated as supply of services by X Ltd. to Y.

Ex: Z Ltd. is a manufacturing company. Managing director of the company is Z. One of the cars (owned by the company) is given to a (a friend of Z) for personal use. The car is used by A for a private journey b/w Mumbai & Pune. No consideration is charged from A. As business asset is used by Z Ltd. for non-business purposes, it is supply of services.

Q11. X is in the business of selling computer hardware in New Mumbai. He closes his business on November 25, 2018. Immediately after November 25, 2018, he ceases to be a taxable person under GST. At the time of closer, the business has the following stock-in-trade:

1. 20 unsold Dell computers (model: Optiplex 9099).

2. 84 unsold LG computer monitors (model: 7020 TP 30).

3. 38 unsold HP printers (model: 4250).

Value of above closing stock is Rs. 16,90,000. On the closure of business on November 25, 2018, it would be deemed that these goods have been supplied by X in the course of business.

However, this rule is not applicable if the business is transferred as a going concern to another person or business was carried on by X as a personal representative of another person.

Q12. X Ltd. paid penalty of Rs. 2 lacs u/s 49 of CGST Act to the Department in June 2018. Is it taxable under GST?

Ans: It is not a supply of service. Fine or penalty chargeable by Government or local authority imposed for violation of statute, bye-laws, rules or regulations are not leviable to GST. Such fines or penalty are not recovered for tolerating non-performance of a contract.

Q13. Discuss with reasons with brief whether the following statements are true or false -

SN	Question	Answer
1	Inter-State stock transfer is not subject to GST.	False
2	Supply of goods is chargeable to GST. Likewise, supply of services is chargeable to GST. As both are chargeable to GST, distinction b/w 'goods' & 'services' has become absolutely irrelevant.	False
3	If consideration for supply of G/&S is nil, GST is also nil.	False

ACTIVITIES TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES
[Sec 7(1A) + Schedule II]

	Activiy/Transaction	Type	Supply of ↓
1	Transfer	Any Transfer of Title in goods (Sale)	Goods
		Right to use goods without transfer of title in goods (Renting)	Services
		Any transfer of title in goods under an agreement which stipulates that property shall pass at future date upon payment of full consideration as agreed. (Sale or return basis/HP basis)	Goods
2	Land & Building	Lease, tenancy, easement, licence to occupy Land	Services
		Lease/letting out of building including a commercial, industrial, residential complex (wholly/partly) for business	Services
3	Treatment/Process	Applied to another person's goods (Job Work)	Services
<p>Q14. X Ltd, supplies raw material to a job worker Y Ltd. for manufacture of alcoholic liquor for human consumption. After completing the job-work, finished product of 5,000 beer bottles are returned to X Ltd., putting the retail sale price as Rs. 200 on each bottle (inclusive of duties & taxes). Y Ltd. charged Rs. 100 per bottle as job work charges of carrying out of intermediate production process of alcoholic liquor for human consumption from X Ltd. Find GST liability if GST rate is 18% in the hands of Y Ltd.</p> <p>Answer: GST cannot be levied on supply of 'Alcoholic liquor for human consumption'. However, carrying out of intermediate production process of alcoholic liquor for human consumption on job work basis attract GST. GST = CGST @ 9% + SGST @ 9% = Rs. 45,000 + Rs. 45,000 = Rs. 90,000. [5,000 bottles x Rs. 100 x 9%]</p> <p>Note: GST is not attracted on manufacture of alcoholic liquor. Since, it is the State subject, it will attract Excise Duty.</p>			
4	Transfer of Business Assets	Permanent Transfer of Business Asset (with or without consideration)	Goods
		Temporary Transfer of Business Asset (for private use/other than business use) (with or without consideration)	Services
		Business Asset transferred by a person who ceases to be taxable person shall be deemed to be supplied by him, in the course/furtherance of his business, immediately before he ceases to be a taxable person. Ex: Arun, a trader, is winding up his business. Any goods left in stock shall be deemed to be supplied by him. Exception: (i) Business is transferred as going concern [It is Exempt] (ii) Business carried on by personal representative.	Goods
5	(a) Renting of Immovable Property <ul style="list-style-type: none">▪ Renting of a commercial complex▪ Renting of precincts of a religious place.▪ Renting of property to an educational institution.▪ Permitting use of immovable property for placing vending/dispensing machines.		Services
	(b) Construction of Complex, Building, Civil structure Except where entire consideration has been received after issuance of completion certificate or after its first occupation, whichever is earlier. Ex: Mr PC, a promoter, sells a flat in his new building to Mr. A. Date of completion certificate is 1.1.2019. Part of consideration is received on 31.12.2018 by Mr. PC. It will be treated as supply. If entire consideration is received after 1.1.2019, then it would not qualify as supply.		

	<p>Ex: KP Builders has constructed individual residential units for Rs. 1.2 crore per unit. Rs. 90 lacs per unit were received before issuance of completion certificate by the competent authority & balance after completion.</p> <p>Note: 'Construction' includes additions, alterations, replacements, or remodeling etc.</p>	
	(c) Temporary transfer or permitting use or enjoyment of any Intellectual Property Right (IPR) . [Ex: Temporary transfer of Patent]	
	(d) Development, designing, programming, customisation, adaptation, upgradation, enhancement, implementation of IT software .	
	<p>(e) Agreeing to obligation to refrain from an act, or to tolerate an act or situation, or to do an act.</p> <p>Ex: Non-compete agreement. By virtue of a non-compete agreement, one party agrees, for consideration, not to compete with the other in any specified products, services, geographical location or in any other manner. Such action on the part of one person is deemed supply of service & subject to GST.</p> <p>Ex: Late delivery charges recovered from supplier for non-fulfillment of contract within stipulated time.</p> <p>Ex: Notice pay recovered from employee for leaving the job before agreed period of notice for leaving a job.</p>	
	(f) Transfer of right to use any goods for any purpose.	
	<p>Ex: M/s Dev Ltd. agreed to sell its business to M/s RN Ltd., for a consideration of Rs. 50,00,000. M/s Dev Ltd. further agrees that it will not conduct same or similar business for a period of 10 years, for which M/s RN Ltd., paid Rs. 20,00,000. Hence, M/s Dev Ltd., consideration is Rs. 70,00,000.</p>	
6	Following Composite Supplies: (a) Works Contract (b) Restaurant & Catering	Services
7	Supply of Goods by Unincorporated AOP/BOI to a Member for Cash, deferred Payment or other valuable consideration.	Goods
	Ex: Resident Welfare Association (RWA) of a Society supplies AC to its members at a concessional price.	

Examples:

- Mr. A is the owner of Xerox machine. He transferred the right to operate the Xerox machine to Mr. B for a consideration of Rs. 10,000 per month for four months. Hence, ownership of the machine is not transferred but the right in the machine is transferred. It is supply of service leviable to GST.
- Mr. X is a dealer of new cars. He sells new cars for Rs. 8,25,000 agrees to reduce Rs. 1,25,000 on surrendering of old car. Mr. Y who intends to buy new car worth Rs. 8,25,000 agreed to exchange his old car with new car. Under GST law, it will be treated as Mr. Y has made supply of old car to dealer Mr. X & Mr. X has made supply of new car to Mr. Y.
If Mr. Y is registered person, he will be liable to pay GST on Rs. 1,25,000. Mr. X will be liable to pay GST on Rs. 8,25,000 whether Mr. Y is a registered person or not.
- Mr. X, a developer of information technology software & holder of licence thereon. License to use software was given to different clients: Rs. 18 lakhs; hence, Mr. X is liable to pay GST whether he transfer such right permanently or temporarily as the case may be.
- A Chennai based company has been awarded mineral exploration contract for 18 months i.r.o specific sites in Mumbai by a Mumbai based corporation (i.e. local authority). As a result, Chennai based company got licence to extract mineral exploration for a period of 18 months. Mumbai based company supplied taxable services. GST is liable to pay by Chennai based company on licence fee paid to supplier under RCM basis.
- Mr. A owns a residential building in a prime commercial locality. Large vacant land in the backyard is given on rent of Rs. 1,80,000 per month to a parking contractor, Mr. B who has set up a parking facility on the said land. It is a taxable supply of service & hence, Mr. A is liable to pay GST.
- Mr. X, the owner of a residential building in a commercial locality, Ground Floor is given on rent to Mr. Y for a monthly rent of Rs. 60,000. Mr. Y uses the same as his residence. It is a supply of service. However, specifically exempted from GST. Hence, Mr. X is not liable to pay GST.

7. M/s M Bank Ltd., given an asset under financial lease to M/s N Ltd. Repayment of financial lease made by the customer to the bank Rs. 80 lakhs which includes a principal amount of Rs. 50 lakhs. Financial leases shall be taxed as supply of services. M/s M Bank Ltd., is liable to pay GST.
8. X Ltd, is a publishing house. It gives printed sheets of a book to Y who owns a binding unit. Y will perform book binding work as per direction of X for a consideration of Rs. 50 per book. The process/ treatment undertaken by Y is supply of services. This rule will remain the same regardless of the fact whether binding material is supplied by X Ltd. or purchased by Y from an outside source.

Consideration:

1. Mr. X sells office furniture to Mr. Y on the condition that donation of Rs. 10,000 is payable by Mr. Y to a trust. The amount of Rs. 10,000 is paid by Mr. Y by reason of purchase of furniture. Hence, Rs. 10,000 will be treated as consideration for sale of furniture. Mr. X is liable to pay GST on Rs. 10,000 in addition to the value of furniture.
2. Alia Travels Pvt. Ltd., a travel agent books ticket for a customer Mr. Z. Travel agent raises invoice on customer Mr. Z for transportation of passenger by air of Rs. 10,000 & his commission of Rs. 500. The entire amount of Rs. 10,500 is not his consideration. The amount of Rs. 500 retained by the air travel is to be considered as his consideration.
3. If refunded then, it is not a consideration. Therefore, the same does not attract GST. If tax has already been paid the taxpayer would be entitled to refund. If not refunded then, it is relating to a service, attract GST.

Ex: X Ltd. is a manufacturing company. Sole distribution rights in the State of Tamil Nadu is given to Y Ltd. By virtue of this agreement, goods manufactured by X Ltd. will be distributed in Tamil Nadu only by Y Ltd. On August 1, 2017, the agreement is terminated. Under the termination agreement, X Ltd. will pay a consideration of Rs. 20 lacs in lieu of Y Ltd/s promise not to distribute similar goods of any other manufacturer in Tamil Nadu for a period of 2 years. This is treated as deemed supply by Y Ltd. GST is applicable.

TAXABILITY OF 'TENANCY RIGHTS'/PAGADI UNDER GST

- Transfer of tenancy right against consideration (i.e tenancy premium) is treated as supply of service.
- It is a form of lease or renting of property & is specifically declared as service in Para 2. of Sch. II
- Although stamp duty & registration charges have been levied on such transfer of tenancy rights, it is still subject to GST since merely because a transaction involves execution of documents which requires registration & payment of stamp duty, would not preclude them from 'scope of supply'.
- Transfer of tenancy rights cannot be treated as sale of L/B & thus it is not a negative list activity.

Crux:

- Transfer of tenancy rights to a new tenant against consideration (tenancy premium) is taxable.
- Further, services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is liable to GST.

Note: Grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both is exempt from tax.

NEGATIVE LIST [Sec 7(2) + Schedule III] Neither goods nor services & thus NO GST.**1. Services provided by Employee to Employer in course of or in relation to his employment**

- Service provided by **Casual Workers (daily basis) who are employed by employer** → treated as services provided by worker in course of employment & thus **NO GST**.
- **Casual workers** are **employed by a contractor**, like a building contractor or a security services agency, who deploys them for execution of a contract or for provision of security services to a client, respectively are **services in course of employment** & thus **NO GST**.
- **Compensation for Premature Termination** → treated as amounts paid in relation to services provided by employee to employer in course of employment & thus **NO GST**.
- **Non-Compete Fees:** Any amount paid for not joining a competing business → Not in course of employment & this **liable to GST** being paid for providing service of forbearance to act.

Note: Services provided on contract basis (principal to principal) are not services provided in the course of employment & thus GST will be levied.

Ex: If employee provides his services on contract basis to associate company of employer, then these are not services in course of employment & thus, it would be treated as supply.

Q15. Mr. X is marketing head of Y Ltd., a car manufacturing company. As per employment contract, salary of X is Rs. 3,50,000 per month. Besides, he gets commission, bonus & allowances. On October 19, 2017, Y Ltd. transfers a new car to X as Diwali gift (this gift is not covered by the employment agreement). Taxable value of the gift as per section 15 is Rs. 19,90,000. Besides, Y Ltd. provides tea, coffee, light snacks during tea break to all of its employees in office premises. Annual expenditure on this account is Rs. 4,10,000. State whether GST is applicable?

Answer:

- Any amount paid by employer to the employee as per the terms of employment agreement is covered in Negative list & thus no GST shall be payable on such amount. Thus Salary & commission, bonus & allowances paid by Y Ltd. to Mr. X is not liable to GST.
- Supply of Car is not covered by employment agreement. Thus Car transferred by Y Ltd. to X without consideration is liable to GST (X & Y Ltd. are related persons since employer & employee) since VoS > Rs. 50,000.
- Provision of tea, coffee, light snacks is not subject to GST (since it is usual to be given during employment).

2. Services by any **Court or Tribunal** established under any law for the time being in force.

3. (a) Functions performed by **MPs, MLAs**, Members of Panchayats/Municipalities/other LAs.

(b) Duties performed by any person who holds any post in pursuance of the provisions of Constitution in that capacity. [Ex: President, Vice President, PM, Chief Justice, Speaker of LS, Chief Election Commissioner, C&AG of India, Chairman of UPSC, Attorney in that capacity].

(c) Duties performed by any person as a Chairperson/Member/Director in a body established by CG/SG/LA & who is not deemed as employee before commencement of this clause.

4. Services of **funeral, burial, crematorium or mortuary** including **transportation** of deceased.

5. **Sale of Land**; & [subject to para 5(b) of Schedule II] Sale of building.

6. Actionable claims, **other than lottery, betting & gambling**.

PC Note: Only Lottery, betting & gambling are treated as supply.

All other actionable claims are outside the ambit of definition of supply.

Some other actionable claims are: Right to recover insurance money, claim for arrears of rent etc.

Q16. Sahara Ltd., an NBFC transfers bad loans (unsecured) to Vasooli Capital Advisors Ltd. Does it qualify as supply?

Ans: Even though Actionable claims are covered in 'goods' but Schedule III specifically excludes actionable claims other than lottery, gambling & betting. Transfer of unsecured loans would not amount to supply.

Q17. Raheja Developers constructs a commercial complex in Vijaywada. Completion certificate is issued by municipality on 23rd March 2019. However, the occupants are using the complex for commercial purposes since 1st November 2018. The complex has 3 commercial flats which are sold to A Ltd, B Ltd & C Ltd. as follows:

Particulars	Consideration (if includes cost of land)	Amount received during October 2018	Amount received on/after November 1, 2018
Flat 1: A Ltd	92,00,000	1,00,000	91,00,000
Flat 2: B Ltd	94,00,000	94,00,000	Nil
Flat 3: C Ltd	91,00,000	Nil	91,00,000

Answer: Construction of Complex, Building etc. is treated as supply of service except where entire consideration has been received after issuance of completion certificate or after its first occupation, whichever is earlier.

Thus if entire consideration has been received after issuance of completion certificate or after its first occupation, whichever is earlier, GST will not be levied. Completion certificate is issued on 23rd March 2019. Commercial building was first occupied on 1st November 2018. Earlier date is 1st November 2018.

C Ltd: Entire consideration is received from C Ltd. after 1st November 2018. Consequently, service provided to C Ltd. is not deemed supply under Schedule II & not chargeable to GST.

A Ltd & B Ltd: Supply of service to A Ltd. & B Ltd. is deemed supply under Schedule II & chargeable to GST.

Q18. X enters into a contract with DLF Construction Ltd. for purchase of a flat for which the payment has to be made in 10 monthly installments of Rs. 30,00,000 each. 1st installment is paid at the time of signing of the contract on July 1, 2018. The flat is likely to be completed during June 2019. On 1st Feb 2019, X transfers his right to Y after paying 6 installments. Whether such activity of transfer by X to Y is treated as "declared supply" under Schedule II.

Answer: Activity of transfer of right in flat by X to Y does not fall in 'deemed supply', as X is not providing any construction service to Y. It is a case of transfer of interest in immovable property. Such transfer of immovable property (or any interest therein) is outside the ambit of GST. However, on 6 installments paid to DLF by X (& subsequent 4 installments payable), GST will be applicable.

Activities/transactions Notified by Government → Neither goods nor services

- Services by way of any activity in relation to a **function entrusted** to a **Panchayat** under article **243G** or to a **Municipality** under article **243W** of the Constitution for the said purpose.
- Inter-State movement of various modes of conveyance** b/w distinct person u/s 25(4) including:
Trains, Buses, trucks, tankers, trailers, vessels, containers, aircrafts for
 - carrying goods or passengers** or both; or
 - Repairs & Maintenance**, (**Except** where such movement is for further supply of same conveyance)
 - Thus, above activity may not be treated as supply & IGST is not payable on such supply.
 - However, applicable CGST/SGST/IGST shall be leviable on repairs & maintenance done for such conveyance.
- Inter-State movement of Rigs, Tools & Spares, & all goods on wheels [like cranes]**
Point no. 2 shall mutatis mutandis apply to inter-State movement of rigs, tools & spares, & all goods on wheels (except where movement of such goods is for further supply of same goods),

COMPOSITE & MIXED SUPPLIES [SECTION 8]

<p>Composite Supply [Sec 2(30)]</p>	<ul style="list-style-type: none"> ❖ It comprises <ul style="list-style-type: none"> ✓ two or more taxable supplies of G/&S or any combination thereof ✓ naturally bundled & supplied in conjunction with each other in ordinary course of business ✓ one of which is a principal supply. ❖ Tax Treatment → treated as a supply of such principal supply. ❖ GST Rate → Rate applicable to Principal supply will be levied on whole supply. ❖ Principal supply: Supply of G/&S which constitutes predominant element of a composite supply & to which other supply forming part of that composite supply is ancillary. <p>Ex: When a consumer buys a television set & he also gets mandatory warranty & a maintenance contract wit TV, this supply is a composite supply. In this example, supply of TV is the principal supply, warranty & maintenance services are ancillary.</p> <p>Ex: A travel ticket from Mumbai to Delhi may include service of food being served on board, free insurance, & the use of airport lounge. In this case, the transportation of passenger, constitutes the pre-dominant element of the composite supply, & is treated as the principal supply & all other supplies are ancillary.</p>
<p>Mixed Supply [Sec 2(74)]</p>	<ul style="list-style-type: none"> ❖ It comprises <ul style="list-style-type: none"> ✓ two or more individual supplies of G/&S 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. ❖ Note: Individual supplies are independent of each other & are not naturally bundled. ❖ Tax Treatment → treated as supply of that particular supply that attracts Highest Rate of Tax. <p>Ex: A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink & fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately & is not dependent on any other. It shall not be a mixed supply if these items are supplied separately.</p> <p>Ex: A shopkeeper selling storage water bottles along with refrigerator. Bottles & refrigerator can easily be priced & sold independently & are not naturally bundled. So, such supplies are mixed supplies.</p>

Q19. What are the guiding principles for determining whether a supply is a composite supply or mixed supply?

Ans: While there are no infallible tests for such determination, the following guiding principles could be adopted to determine as to whether it would be a composite supply or a mixed supply. However, every supply should be independently analysed.

Description	Composite Supply	Mixed Supply
Naturally bundled	Yes	No
Supplied together	Yes	Yes
Can be supplied separately	No	Yes
One is predominant supply for recipient	Yes	No
Each supply priced separately	No	No

Q20. Mr. A booked a Rajdhani train ticket, which includes meal. Is it composite supply or mixed supply?

Answer:

- It is a bundle of supplies. It is a composite supply where the products cannot be sold separately. Transportation of passenger is the principal supply. Rate of tax applicable to principal supply will be charged to whole bundle.
- Therefore, rate applicable to transportation of passengers by rail will be charged by IRCTC on booking of Rajdhani.

Q21. Space Bazar offers a free bucket with detergent purchased. Is it composite supply or mixed supply? Assume rate of GST for detergent @28% & bucket @18%.

Answer:

- This is the case of a mixed supply as supply of bucket with detergent is not naturally bundled.
- These items can be sold separately.
- Product which has the higher rate, will apply on the whole mixed bundle.

Q22. Mr. Ravi being a dealer in laptops, sold a laptop bag along with the laptop to a customer, for Rs. 55,000. CGST & SGST for laptop @18% & for laptop bag @28%. What would be the rate of tax leviable? Also find GST liability.

Answer:

- Laptop bag is supplied along with the laptop in the ordinary course of business.
- Thus it is a case of composite supply, principal supply being laptop & the bag is an ancillary supply.
- Therefore, rate of tax to the whole supply would that as applicable to the laptop.
- Hence, applicable rate of GST 18% on Rs. 55,000. CGST is Rs. 4,950 & SGST is Rs. 4,950

CIRCULAR RELATING TO SERVICING OF CARS [CN 47/21/2018]

- Servicing of cars involving supply of both goods (spare parts) & services (labour) where the value of Goods & Services are shown separately.
- Goods & services would be liable to tax @ applicable rates to such goods & services separately.

SOME OTHER IMPORTANT CIRCULARS REGARDING PRINCIPAL SUPPLY

Activities/transactions	Principal supply
Supply of printed books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc., printed with design, logo, name, address or other contents supplied by the recipient of such printed goods [Printing Business]	In such cases, only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply & therefore such supplies would constitute supply of service. In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. by the printer using its physical inputs including paper to print the design, logo etc. supplied by the recipient of goods, predominant supply is supply of goods & supply of printing of the content [supplied by recipient of supply] is ancillary to principal supply of goods & therefore such supplies would constitute supply of goods. [CN 11/11/2017]
Retreading of tyres	Pre-dominant element is process of retreading which is a supply of service. Rubber used for retreading is an ancillary supply. Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods [Circular No. 34/8/2018]

QUESTION BANK

Q1. Whether provision of G/&S by a club or association or society to its members will be treated as supply or not?

Ans: Yes. Provision of facilities by a club, association, society or any such body to its members shall be treated as supply. This is included in the definition of 'business' in section 2(17) of CGST/SGST Act.

Q2. Are self-supplies taxable under GST?

Ans: Inter-State self-supplies such as stock transfers, branch transfers or consignment sales shall be taxable under IGST even though such transactions may not involve payment of consideration.

Note: Intra-state self-supplies are not taxable if separate registration is not obtained for different PoB.

Q3. State whether the following activities constitutes supply.

- Mr. X (an unregistered person) plans to pursue his higher education in US. He receives career consultancy services from a US based consultant for Rs. 5,00,000.
- Archean Constructions Ltd. (a registered taxable person) receives architectural design supplied by a foreign architect to design a residential house to be built in Hyderabad for a consideration of Rs. 50,00,000.
- Goods sent for a demonstration on returnable basis.
- Mr. A is the owner of Xerox machine. He transferred the right to operate the Xerox machine to Mr. B for a consideration of Rs. 10,000 per month for four months.

Answer:

- Yes. As per Section 7(1)(b) of CGST Act, 2017, Supply includes import of services for a consideration whether or not in the course or furtherance of business. Hence, in the above case it will be treated as supply.
- As per Section 7(1) (b) of CGST Act, 2017, Importation of services for a consideration whether or not in the course or furtherance of business is covered under supply. In the above case it will be treated as supply.
- No. It would not be considered as supply, as there is no transfer of title involved.
- Ownership of the machine is not transferred but the right in the machine is transferred. It is supply of service.

Q4. State whether the following activities constitutes supply.

- Happy Ltd. provides management consultancy services without charge to Joy Ltd in which Happy Ltd. has controlling rights. The said consultancy has been provided for benefit of entire group.
- XYZ Ltd, gives gift worth Rs. 5,00,000 to an employee. Would your answer be different if gifts of Rs. 45,000 has been given to the employee.
- Mr. C, a practicing CA provided services to A Ltd. dealer of laptops. In return A Ltd., gives two laptops to Mr. C.

Answer:

- Yes. As per Section 7(1)(c) r/w Schedule I of CGST Act, 2017, Supply of goods or services b/w related persons is treated as supply even if it is without consideration. Persons shall be deemed to be "related persons" if "one of them directly or indirectly controls the other". Since Happy Ltd. has controlling rights of Joy Ltd., they will be treated as related person & the said transaction will qualify as supply.
- As per Section 7(1)(c) r/w Schedule I of CGST Act, 2017, Supply of goods or services b/w related persons is treated as supply even if it is without consideration when made in course or furtherance of business.
Persons shall be deemed to be "related persons" if such persons are employer & employee.
Thus, gift to an employee worth Rs. 5,00,000 will qualify as supply & such supply would be leviable to GST.
If gift of Rs. 45,000, it will not be treated as supply since it has been specifically provided that gifts not exceeding Rs. 50,000 in value in a FY by an employer to employee shall not be treated as supply of G/&S.
- Here, two-way supply takes place. Mr. C is making taxable supply of service & A Ltd., is making taxable supply of goods. Hence, tax is payable by both.

Q5. State whether the following activities constitutes supply.

- XYZ Ltd. having head office in Mumbai supplied goods worth Rs. 10 lacs to its branch office in Jaipur (Rajasthan).
- ABC Associates received management consultancy services from its head office located in Malaysia. The head office has rendered such services free of cost to its branch office.
- Karishma Manufacturers have a factory in Jaipur & a depot in Delhi. Both these establishments are registered in respective States. Finished goods are sent from the factory to the depot without consideration so that the same can be sold.

Answer:

- As per Section 7(1)(c) r/w Schedule I of CGST Act, 2017, Supply of G/&S b/w distinct persons as specified in section 25, when made in course or furtherance of business will be treated as supply even if made without consideration.

Where a person who has/is required to obtain registration in a State/UT i.r.o an establishment, has an establishment in another State/UT, then such establishments shall be treated as establishments of distinct persons [Section 25(5)]. Hence, branch transfer of goods from Maharashtra to Rajasthan will qualify as supply.

(b) As per Section 7(1)(c) r/w Schedule I of CGST Act, 2017, Import of services by any person from a related person or from any of his other establishments outside India, in the course or furtherance of business will be treated as supply even if made without consideration. Thus, management consultancy sendees received by ABC Associates will qualify as supply even though head office has not charged anything from it & will be liable to GST.

(c) Supply of G/S b/w related persons or b/w distinct persons as specified in section 25, is supply even without consideration provided it is made in the course or furtherance of business.

Where a person who has/is required to obtain registration in a State/UT i.r.o an establishment, has an establishment in another State/UT, then such establishments shall be treated as establishments of distinct persons [Section 25(5)]. Thus, factory & depot of Karishma Manufacturers are establishments of two distinct persons.

Therefore, supply of goods from factory to depot without consideration, but in course of or in furtherance of business, is supply u/s 7 of the CGST Act.

Q6. Manan is an Electronic Commerce Operator in Delhi. His father who is settled in London is a well-known lawyer. Manan has taken legal consultancy from him free of cost with regard to his family dispute. Whether it would amount to supply? Would your answer be different if Manan has taken advice i.r.o his business unit in Delhi?

Answer: Schedule I of CGST Act, provides that import of services by any 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, Manan has received legal consultancy from his father free of cost in a personal matter. Hence, services provided by Manan's father to him would not be treated as supply u/s 7 of the CGST Act.

If Manan has taken advice with regard to his business unit, services provided by Manan's father to him would be treated as supply as the same are provided in course of business though received from a related person.

Q7. Mr. C is in the business of selling electronic white goods. He closes down his business on 31st March 2019. Value of unsold stock of electronic goods on that date is Rs. 9 lacs. Are there any GST implications?

Answer: Business Asset transferred by a person who ceases to be taxable person shall be deemed to be supplied by him, in the course/furtherance of his business, immediately before he ceases to be a taxable person. Thus, it will be assumed that the unsold stock has been supplied by C in the course of his business & GST shall be payable.

Q8. A builder has entered into agreement to sale a flat (carpet area 1900 sq ft) to the customer: It follows:

- Price of flat (including apportioned value of cost of land): Rs. 42,00,000 (includes Prime Location Charges namely charges for getting sea view: Rs. 2,00,000).
- Charges for providing space for covered parking: Rs. 1,25,000.
- Builder received part payment before construction was completed & balance amount was received after obtaining completion certificate from the Corporation. Find the GST liability (CGST 6% & SGST 6%)?

Answer: Construction of Complex, Building, Civil structure is treated as supply of service except where entire consideration has been received after issuance of completion certificate or after its first occupation, whichever is earlier. Thus, it is supply of service. Since services has been given to the customer, Builder is liable to pay GST.

CGST (Rs. 42,00,000 + 1,25,000) x 6% + SGST (Rs. 42,00,000 + 1,25,000) x 6% = Rs. 5,19,000.

Q9. M/s. ABC Ltd. provides the following relating to information technology software. Compute the value of taxable service & GST liability (Rate of CGST 9% & SGST 9%).

(a) Development & Design of information technology software: Rs. 15 lacs;

(b) Sale of pre-packaged software, which is put on media: Rs. 52 lacs.

Answer: (a) & (b) both are treated as supply of Service.

Value of Taxable supply of service is Rs. 67 Lacs [i.e. Rs. 15 Lacs + 52 Lacs]

CGST is Rs. 6.03 lacs [i.e. Rs. 67 Lacs x 9%]. SGST is Rs. 6.03 lacs [i.e. Rs. 67 Lacs x 9%].

Q10. XYZ Ltd. a manufacturer of cosmetic products supplied a package consisting of hair oil (GST Rate: 18%), sun screen cream (GST Rate: 28%), shampoo (GST Rate: 28%) & hair comb (GST Rate: 12%). Price per package is Rs. 500 (exclusive of taxes). 10,000 packages were supplied by the company to its dealers. Determine nature of supply.

Answer:

- This supply would be regarded as mixed supply since each of the goods in the package have individual identity & can be supplied separately, but are deliberately supplied conjointly for single consolidated price.
- The tax rates applicable in case of mixed supply would be the rate of tax attributable to that one supply (goods, or services) which suffers the highest rate of tax from amongst the supplies forming part of the mixed supply.
- Therefore, the package will be chargeable to 28% GST.
- Total Taxable Value = Rs. 500 per package x 10,000 packages = Rs. 50 lacs. Tax liability @ 28% = Rs. 14 Lacs.



3. CHARGE OF GST

BY CA PRANAV CHANDAK

FOR MAY/JUNE 2020

CA/CMA INTERMEDIATE

SOME IMPORTANT DEFINITIONS

1	Exempt Supply [Sec 2(47) of CGST Act] <ul style="list-style-type: none"> means supply which attracts nil rate of tax or which may be wholly exempt from tax u/s 11, or u/s 6 of IGST Act & includes non-taxable supply.
2	Reverse charge [Section 2(98) of CGST Act] <ul style="list-style-type: none"> liability to pay tax is on 'recipient' of supply of G/&S instead of supplier of such G/&S.
3	India: <ul style="list-style-type: none"> territory of India & its territorial waters (TWI); seabed & sub-soil underlying such waters, Continental shelf, Exclusive economic zone or any other maritime zone Air space above its territory & TWI.

Intra-state & Inter-State supply

Particulars	Intra-State Supply	Inter-State Supply
Meaning	Location of supplier & PoS are in (i) Same State (ii) Same UT	Location of supplier & PoS are in (i) Different States (ii) Different UTs (iii) A State & a UT [MH → A&N]
Applicability	CGST + SCGT/(UTGST for UTs)	IGST

EXTENT & COMMENCEMENT OF GST LAW

CGST Act	It extends to whole of India including J&K.
SGST Act	SGST Act of a State/UT with State Legislature extends to whole of that State/UT .
IGST Act	It extends to the whole of India including J&K.
UTGST Act	It extends to All UTs without state legislature .

Note: UTs without state legislature are: Andaman & Nicobar; Lakshadweep; Dadra & Nagar Haveli; Daman & Diu; Chandigarh;

LEVY & COLLECTION OF CGST & IGST [Sec 9 of CGST Act & Sec 5 of IGST Act]

Sec	Levy & Collection
9(1)	Levy of CGST on Intra-State Supply on the value determined u/s 15 [Max @ 20%] <ul style="list-style-type: none"> There shall be levied a tax called CGST on all intra-State supplies of G/&S, except on alcoholic liquor for human consumption, on value determined u/s 15 & at such rates notified by Government on recommendations of GST Council (Max. 20%) collected in such prescribed manner.
9(2)	No Levy of GST on 'petroleum products' till recommended by GST council.
9(3)	Power of Government to specify category of Supply on which RCM shall apply <ul style="list-style-type: none"> Government may, on recommendations of GST Council, by notification, specify categories of supply of G&S on which GST shall be paid on reverse charge basis by recipient of such G/&S & all provisions of this Act shall apply to such recipient as if he is liable for paying tax in relation to supply of such G/&S.

9(4) [AMD]	<p>Tax under RCM is payable on Notified category of Inward Supplies of G/&S received from any unregistered supplier by Notified class of registered persons</p> <ul style="list-style-type: none"> ▪ Government may, on recommendations of GST Council, by notification, ▪ specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, ▪ pay the tax on RCM basis as the recipient of such supply of goods or services or both; & ▪ all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both. 						
9(5)	<p>PAYMENT OF GST BY ELECTRONIC COMMERCE OPERATOR (ECO)</p> <ul style="list-style-type: none"> ▪ Government may, on recommendations of GST Council, by notification, ▪ specify categories of services, the tax on intra-State supplies of which shall be paid by electronic commerce operator (ECO) if such services are supplied through it, & ▪ all provisions of this Act shall apply to such ECO as if he is supplier liable for paying tax in relation to supply of such services. <table border="1" data-bbox="256 672 1465 864"> <thead> <tr> <th>Situation</th><th>Person liable to pay tax</th></tr> </thead> <tbody> <tr> <td>If ECO does not have a physical presence in TT</td><td>Person representing such ECO for any purpose in TT</td></tr> <tr> <td>If ECO does not have a physical presence in TT & also he does not have a representative</td><td>Person appointed by ECO in TT</td></tr> </tbody> </table> <p>Notified Services are:</p> <ol style="list-style-type: none"> 1. Transportation of Passengers by a radio-taxi, motorcab, maxicab & Motor cycle. 2. Hotel Business (Unregistered). 3. House-Keeping Services (Unregistered). <p>Meaning of ECO:</p> <ul style="list-style-type: none"> ▪ ECO is any person who owns/operates/manages an electronic platform for supply of G/&S. ▪ ECO display products & services on their electronic portal which are actually supplied by some other person to the consumer. ▪ Consumers buy such goods/services through these portals. ▪ On placing order for a particular product/service, actual supplier supplies selected product/service to consumer. ▪ Price is collected by ECO from consumer & thereafter given to actual supplier after deduction their commission. 	Situation	Person liable to pay tax	If ECO does not have a physical presence in TT	Person representing such ECO for any purpose in TT	If ECO does not have a physical presence in TT & also he does not have a representative	Person appointed by ECO in TT
Situation	Person liable to pay tax						
If ECO does not have a physical presence in TT	Person representing such ECO for any purpose in TT						
If ECO does not have a physical presence in TT & also he does not have a representative	Person appointed by ECO in TT						
<p>Q1. A hotel provided accommodation in Himachal Pradesh, through ECO – Makemyatra.com. Hotel is not liable to get registered as per the provisions of Section 22 (1) of the CGST Act. Who is the person liable to pay GST in this case? Will your answer be different if ECO Makemyatra.com does not have a physical presence in India?</p> <p>Ans: As per Section 9(5), person liable to pay GST is ECO i.e. Makemyatra.com. All the provisions shall apply to such ECO as if he is the supplier liable for paying tax in relation to the supply of such services. If Makemyatra.com does not have a physical presence in India, person liable to pay tax is the person representing Makemyatra.com.</p>							

MEANING OF REVERSE CHARGE MECHANISM (RCM)

- Reverse charge means the liability to pay tax is on the recipient of supply of G/S instead of the supplier.
- Generally, supplier is liable to pay GST. However, under RCM, liability to pay GST is on recipient of G/S.
- However, underlying principle of an indirect tax is that burden of such tax has to be ultimately passed on to the recipient. GST being an indirect tax, this principle holds good for GST. Therefore, under RCM, only the compliance requirements, [i.e. to obtain registration under GST, deposit the tax with the Government, filing returns, etc.] have been shifted from supplier to recipient.

There are two type of reverse charge scenarios provided in law.

Sec. 9(3)	Supply of specified categories of goods or services is covered by section 9(3) of CGST Act.
Sec. 9(4)	Supply of specified categories of G/S made by an unregistered supplier to specified class of registered recipients is covered by section 9(4) of CGST Act.

A. GOODS NOTIFIED UNDER RCM [Sec 9(3) of CGST Act & 5(3) of IGST Act]

- ✓ Cashewnuts [not shelled/peeled];
- ✓ Bidi wrapper leaves & tobacco leaves;
- ✓ Supply of Lottery; Silk yarn, used vehicles,
- ✓ Seized & confiscated goods;
- ✓ Old & used goods,
- ✓ Waste & scrap,
- ✓ Raw cotton, etc

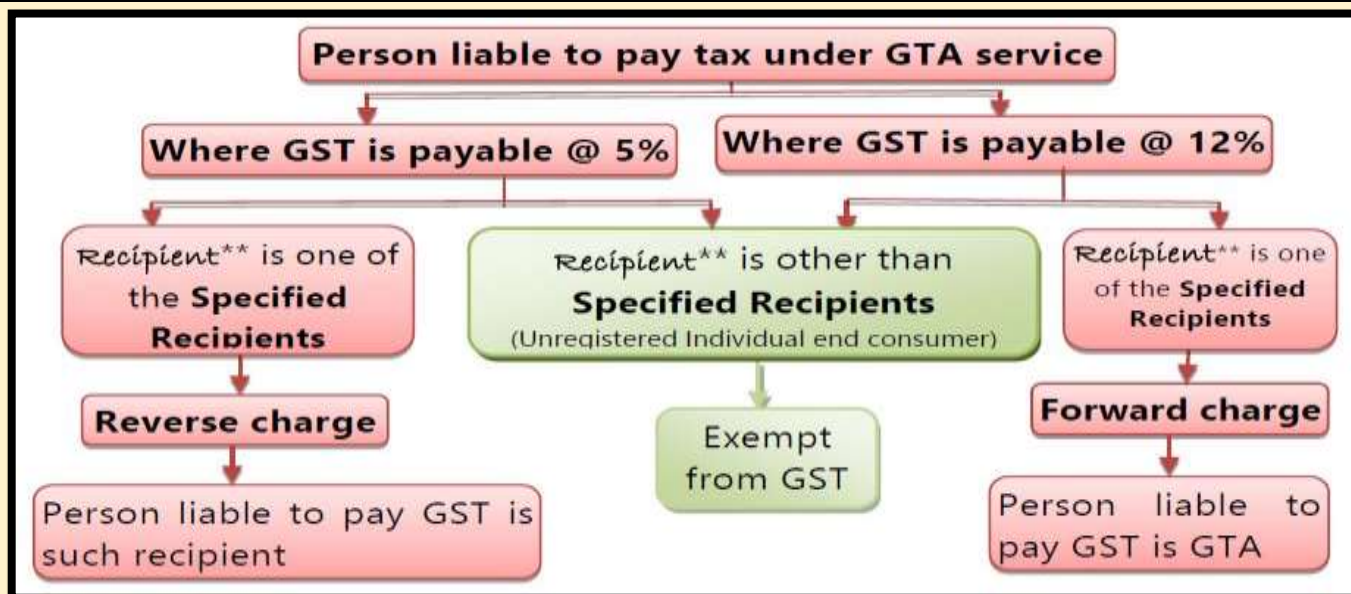
Tax is payable by the Recipient of Goods

B. SERVICES NOTIFIED UNDER RCM [Sec 9(3) of CGST Act & 5(3) of IGST Act]

SN	Nature of Service	Supplier (BY)	Recipient [Person liable to pay GST]
1	Goods Transport Agency (GTA) by Road <ul style="list-style-type: none"> ▪ who has not paid CGST @ 6% ▪ who has not availed ITC. 	Goods Transport Agency paying 2.5% CGST	(a) Factory (Factories Act, 1948); (b) Society (Societies Registration Act) (c) Co-operative society (d) Any body corporate (e) P'ship Firm (including AOP/BOI) (f) Casual Taxable Person in TT. (g) Registered Person under GST
	AMD: NO RCM on Transportation services provided by GTA to Department/establishment of CG/SG/UT; LA; Governmental agencies which has taken registration under GST only for the purpose of deducting tax u/s 51 & not for making a taxable supply of goods or services. Note: Above services have been simultaneously exempted from payment of tax.		
	Meaning of Recipient: Person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in TT shall be treated as the person who receives the service for the purpose of this notification.		

Q2. ABC Ltd. availed service of XYZ Ltd. (GTA) for transportation of goods by road from Pune to Mumbai.

Ans: GST shall be paid by ABC Ltd. under RCM u/s 9(3) since it is liable to pay freight for transportation of goods. Thus ABC Ltd. shall be treated as recipient of service. If GTA has paid GST under forward charge @ 12% then it is not subject to reverse charge



2	Legal Services	Individual Advocate (including senior advocate or firm of advocates)	Business Entity located in TT.
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3	Services by Arbitral Tribunal	Arbitral Tribunal	Business Entity located in TT.
4	Sponsorship	Any Person	Body Corporate or P'ship Firm in TT.
	<p>Q3. ABC Ltd. paid Rs. 1,00,000 towards sponsorship of exhibition. What if Mr. A has paid Rs. 1,00,000 towards sponsorship of exhibition?</p> <p>Ans: Sponsorship is received by ABC Ltd. so they are subject to reverse charge U/s 9 (3). If it is provided to Mr. A then GST will be payable by supplier of service. Service provided by way of sponsorship to any body corporate or partnership firm are subject to reverse charge.</p>		
5	Services supplied by CG, SG, UT/LA	CG, SG, UT, LA	Business Entity located in TT.
	<p>Excluding ↓ - [No RCM in case of supply of these services]</p> <p>(a) Renting of Immovable property &</p> <p>(b) Specified services:</p> <ol style="list-style-type: none"> Services by Department of Posts by way of Speed post, Express parcel post, Life Insurance & Agency Services provided to any person other than CG, SG, UT or LA; Services in relation to Vessel/Aircraft, inside/outside the precincts of a port/ airport; Transport of Goods/Passengers. 		
5A	Services supplied by CG, SG, UT or LA by way of renting of immovable property	CG, SG, UT or LA	Any Registered Person under GST.
	<p>Q4. Rental income received by Tamil Nadu State Government from renting an immovable property to Mannappa Pvt. Ltd. (Turnover of the company was Rs. 22 lacs in preceding FY).</p> <p>Ans: In case of Services supplied by CG/SG/UT/LA by way of renting of immovable property to a registered person, RCM will be applicable (i.e recipient will be liable to pay GST). Hence, Mannappa Pvt. Ltd. will be liable to pay GST under reverse charge mechanism.</p>		
5B	Services of "Transfer of development rights or Floor Space Index (FSI) for construction of a project by a promoter.	Any person	Promoter
5C	Long term lease of land (≥ 30 years) against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) &/or periodic rent for construction of a project by a promoter.	Any person	Promoter
6	Services supplied by a Director	Director	Company or Body Corporate
7	Services supplied by Insurance Agent	Insurance Agent	Insurance Company located in TT.
	<p>Q5. Insurance company pay Rs. 1,00,000 commission to Mr. A whose turnover < threshold limit for registration.</p> <p>Answer: Insurance company will be liable to pay GST under reverse charge basis u/s 9 (3).</p>		
8	Services supplied by Recovery Agent	Recovery agent	Banking company or financial institution or NBFC located in TT.
9	Transfer/permitting use or enjoyment of copyright relating to original literary, dramatic, musical or artistic works	Author, Music composer, Photographer, Artist etc.	Publisher, Music company, Producer etc. located in taxable territory.

10	Supply of Services by Members of Overseeing Committee	Members of Overseeing Committee constituted by RBI	RBI
11	Services supplied by Individual Direct Selling Agents (DSAs)	Individual Direct Selling Agents (DSAs) other than BC, P'ship firm or LLP	Banking company or NBFC in TT.
12	Services provided by Business facilitator to a banking company	Business facilitator	Banking company, located in TT.
13	Services provided by Agent of Business Correspondent	Agent of Business Correspondent	Business correspondent, located in TT
14	Security Services (Services - Supply of security personnel)	Any person other than BC	Any Registered Person, located in TT
<p>Note: Tax has to be paid under RCM on gross amount charged (Security Personnel cost + PF + ESI + Service charges + other charges) by security service providers & not on service charges only.</p> <p>However, nothing contained in this entry shall apply to:</p> <p>(i) Department or Establishment of CG/SG/UT; LA; Governmental agencies (which has taken registration only for deducting tax u/s 51 & not for making a taxable supply of G&S).</p> <p>(ii) Registered person paying tax under composition scheme (Composition Dealer).</p>			

Q6. Comment on chargeability of following transaction:

- ABC Ltd. paid Rs. 1,00,000 to independent director.
- Government has provided Business support services to ABC Ltd. for Rs. 1,00,000.
- Insurance company selling insurance policies through an ECO & paying commission to ECO.

Answer:

- In this case GST shall be paid by ABC Ltd. under reverse charge U/s 9 (3). Services supplied by a director of a company or a body corporate to the said company or the body corporate, are subject to reverse charge.
- In this case GST shall be paid by ABC Ltd. under reverse charge U/s 9 (3).
- 'ECO' shall not be termed as 'insurance agent' unless such 'ECO' is licensed u/s 42 of Insurance Act. Unless 'ECO' can be termed as 'insurance agent', RCM shall not be applicable.

Q7. ABC Ltd. is GST registered with aggregate turnover of Rs. 4 crores. It has received the following services from different persons during January 2019. Discuss the applicability of reverse charge to the above transactions.

- Service by Department of Posts by way of speed post
- For transportation of goods, ABC Ltd. paid Rs. 50,000 to Indian Railways.
- ABC Ltd. has availed Manpower services from XYZ Ltd. Will your answer differ if service provider is Mr. A.
- Renting of immovable property service provided by CG to ABC Ltd. (registered business entity).

Answer:

- Nature of service is speed post provided by Department of Posts. RCM not applicable to these services. Supplier has to pay GST as forward charge.
- Nature of service is transportation of goods provided by Indian Railways. RCM not applicable to these services. Supplier has to pay GST as forward charge.
- XYZ Ltd. is liable to pay GST. Even if it is provided by Mr. A, treatment remain same i.e. service provide Mr. A, is liable to pay GST.
- GST on services supplied by CG/SG/UT/LA by way of renting of immovable property to a registered person is payable under RCM. Therefore, GST is payable under RCM by the recipient – registered business entity.

Q8. State the person liable to pay GST provided recipient is located in taxable territory & it is intra-state supply:

- Service of transportation of goods by road provided by GTA (registered) provided to a company (GST Registered).
- Service of transportation of goods by road by GTA (unregistered) provided to a company (GST Registered).
- Mr. A is a senior advocate in Calcutta High Court. During Oct. 2018, he provides legal service to ABC associates (a firm of advocates in Mumbai) for a fee of Rs. 5,00,000. Turnover of ABC associates for preceding FY is Rs. 36 lacs.
- Services provided by an arbitral tribunal to any business entity.

Answer:

- Yes, recipient company shall be liable to pay GST since GTA services have been subject to RCM as per Sec 9(3). Thus even if GTA is GST registered, his service to company (company is body corporate) shall attract RCM.
- Yes, recipient company shall be liable to pay GST since GTA services have been subject to RCM as per Sec 9(3). Service of transportation of goods by road by GTA to a body corporate shall attract RCM. Thus, in given case, even if GTA is GST unregistered, his service to company (company is body corporate) shall attract reverse charge.
- Legal services provided by senior advocate to a business entity is exempt if aggregate turnover in preceding FY of such business entity is upto Rs. 20 Lacs. In the given case, recipient advocate firm is a business entity with aggregate turnover exceeding Rs. 20 Lacs. Thus, services to such advocate firm is not exempt & thus GST shall be payable. However, such service are subject to reverse charge where client of advocate firm shall be deemed to be the recipient of such service (he being the actual litigant/applicant/ petitioner) & hence, shall be liable to pay GST on services of senior advocate.
- Since GST on services provided or agreed to be provided by an arbitral tribunal to any business entity located in TT is payable under RCM. In the given case, GST is payable by the recipient - business entity.

RATES OF GST

[Maximum Rate of CGST can be 20%. Maximum Rate of IGST can be 40%]

- In order to determine the rate applicable on a particular supply of goods or services, one needs to first determine the classification of such goods or services.

CLASSIFICATION OF GOODS

[To be Read Once]

- Classification of goods means identification of the tariff item, sub-heading, heading & chapter in which a particular product will be classified.
- Tariff item, sub-heading, heading & chapters referred in the Schedules of rate notification for goods under GST are the Tariff item, sub-heading, heading & chapters of the First Schedule to the Customs Tariff Act, 1975.
- Indian Customs Tariff is based on HSN. *HSN stands for Harmonized System of Nomenclature.*
- It is a multipurpose international product nomenclature developed by the World Customs Organization (WCO) for the purpose of classifying goods across the World in a systematic manner.
- It comprises of about 5,000 commodity groups; each identified by a 6-digit code [code can be extended], arranged in a legal & logical structure & is supported by well-defined rules to achieve uniform classification.
- India has developed an **8-digit code of HSN.**
- Along the lines of HSN, the Indian Customs Tariff has a set of Rules of Interpretation of the First Schedule & General Explanatory notes. These rules & the general explanatory notes give clear direction as to how the nomenclature in the schedule is to be interpreted. These Rules for Interpretation including section & chapter notes & the General Explanatory Notes of the First Schedule apply to the interpretation of the rate notification for goods under GST also.
- Consequently, under GST, goods are classified on the basis of HSN in accordance with the Rules for Interpretation of the Customs Tariff.
- Once classification for a product has been determined on this basis, applicable rate has to be determined as per the rate prescribed in the rate notification issued under GST.

CGST	0%	0.125%	1.5%	2.5%	6%	9%	14%
SGST	0%	0.125%	1.5%	2.5%	6%	9%	14%
TOTAL	0%	0.250%	3%	5%	12%	18%	28%

CLASSIFICATION OF SERVICES

[To be Read Once]

- A new Scheme of Classification of Services has been devised under GST. It is a modified version of the United Nations Central Product Classification.
- Under this scheme, the services of various descriptions have been classified under various sections, headings & groups. Chapter 99 has been assigned for services. This chapter has following sections:

Section 5	Construction Services.
Section 6	Distributive Trade Services; Accommodation, Food & Beverage Service; Transport Services; Gas & Electricity Distribution Services.
Section 7	Financial & related services; real estate services; & rental & leasing services.
Section 8	Business & Production Services.
Section 9	Community, social & personal services & other miscellaneous services.

- Each section is divided into various headings which is further divided into Groups. Its further division is made in the form of 'Tariff item' / Service Codes. Rate of tax is determined as per the Service Code in which the service is classified.
- Gambling Services, Services of admission to entertainment events/sporting event attract 28% GST.
- Services not covered under any specific heading are taxed @ 18% (CGST @ 9% & SGST @ 9%).

CGST	0%	2.5%	6%	9%	14%
SGST	0%	2.5%	6%	9%	14%
TOTAL	0%	5%	12%	18%	28%

3B. COMPOSITION SCHEME [SECTION 10]

SOME IMPORTANT DEFINITIONS

Aggregate Turnover

[Sec 2(6)]

Aggregate value of ↓

- **All Taxable Supplies** (Excluding value of Inward supplies on which tax is payable by a person on RCM basis) &
- Exempt supplies [Nil Rated + Wholly Exempt + Non-taxable Supply] &
- Exports of G/&S [Zero-rated Supply] &
- Inter-State supplies of Persons having Same PAN [Stock transfer or branch transfers]
- **but Excludes** CGST, SGST, UTGST, IGST & GST Cess.

be computed on ALL INDIA basis

Note: Value of Inward supplies on which tax is payable under RCM basis by a person shall not be included in his Aggregate Turnover.

Note: Value of supply of any exempt services including services by way of extending deposits, loans or advances; consideration for which is represented by way of interest or discount, **shall not be taken into account** for calculating Aggregate turnover.

Q9. PC Ltd. is a manufacturing concern in Pune. In FY 2018-19, total value of supplies including inward supplies taxed under RCM are Rs. 1,60,00,000. (exclusive of taxes). Calculate Aggregate Turnover.

Particulars	Rs.
(1) Intra State Supplies made under forward charge	70,00,000
(2) Intra State Supplies made which are chargeable to GST at Nil rate	50,00,000
(3) Intra state Supplies which are wholly exempt u/s 11 of CGST Act, 2017	30,00,000
(4) Value of inward supplies on which tax payable under RCM	10,00,000

Answer: As per Section 2(6) of the CGST Act, 2017, "Aggregate turnover" means the aggregate value of: All taxable supplies (excluding the value of inward supplies on which tax is payable by a person on RCM), Exempt supplies, Exports of goods or services or both, & Inter-State supplies of persons having the same PAN to be computed on all India basis but excludes CGST, SGST, UTGST, IGST & GST Compensation Cess.

Computation of Aggregate Turnover

(1) Supplies made under forward charge	Rs. 70,00,000
(2) Supplies made which are chargeable to GST at Nil rate	Rs. 50,00,000
(3) Supplies which are wholly exempt u/s 11 of CGST Act, 2017	Rs. 30,00,000
(4) Value of inward supplies on which tax payable under RCM (specifically excluded)	Nil
Total	Rs. 1,50,00,000

Turnover in State/UT

[Sec 2(112)]

Aggregate value of ↓

- All Taxable Supplies (Excluding value of Inward supplies on which tax is payable by a Person on RCM basis) &
- Exempt supplies made **within a State or UT by a taxable person**, Exports of G/&S &
- Inter-State supplies made from State/UT by the said taxable person
- **but Excludes** CGST, SGST, UTGST, IGST & GST Cess.

Note: Value of Inward supplies on which tax is payable under RCM basis by a person shall not be included in his Turnover in State/UT.

Ex: A dealer 'Prithviraj' has offices in Maharashtra & Goa. He makes intra-State supply of goods from both these offices. In order to determine whether 'Prithviraj' is eligible to avail benefit of composition scheme, turnover of both the offices would be taken into account & if the same does not exceed Rs. 1.5 crores, Prithviraj can opt to avail the composition levy scheme (subject to fulfilment of other prescribed conditions) for both the offices. But he will have to pay tax for the offices of Maharashtra & Goa separately on the basis of Turnover in State.

PC Note:

- To determine eligibility for Composition scheme, Aggregate Turnover (computed on All India Basis) of the person is considered.
- If person is eligible for opting Composition scheme, he will have to pay tax separately for different offices.

Objective	<ul style="list-style-type: none"> To bring simplicity & to reduce the compliance cost for the small taxpayers. 								
Benefits	<ul style="list-style-type: none"> They are not required to raise any tax invoice; however, they need to issue a Bill of Supply in which no tax can be charged from the recipient. Yearly filing of Return (GSTR 4) Quarterly Payment of Tax @ certain specified % of his turnover. <p>Note: Composition Dealers cannot avail the benefit of Input Tax Credit.</p>								
Eligibility	<ul style="list-style-type: none"> Registered person, whose Aggregate turnover in Preceding (last) FY ≤ Rs. 1.5 crore. Eligibility Limit for Special Category States is as follows: <table border="1"> <thead> <tr> <th>Limit</th><th>Name of Special category states</th></tr> </thead> <tbody> <tr> <td>Rs. 75 Lacs</td><td>Manipur, Meghalaya, Mizoram (MMM); Tripura, Arunachal Pradesh, Sikkim (TAPS) Uttarakhand & Nagaland (UK & Nagaland)</td></tr> <tr> <td>Rs. 1.5 Crores</td><td>Assam, Himachal Pradesh & J&K</td></tr> <tr> <td>Rs. 1.5 Crores</td><td>Other States & UTs.</td></tr> </tbody> </table>	Limit	Name of Special category states	Rs. 75 Lacs	Manipur, Meghalaya, Mizoram (MMM); Tripura, Arunachal Pradesh, Sikkim (TAPS) Uttarakhand & Nagaland (UK & Nagaland)	Rs. 1.5 Crores	Assam, Himachal Pradesh & J&K	Rs. 1.5 Crores	Other States & UTs.
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Any other supplier [Traders]	0.5% of Turnover of Taxable Supplies of G&S in State/UT								
Non-Eligibility [Sec 10(2)]	<ul style="list-style-type: none"> Person Making Inter-State Supply of goods [Supplying goods outside state] Persons supplying goods through ECO (who are required to collect TCS). Manufacturers of Ice cream, pan masala & tobacco [Trader → Eligible] Supplier of goods which are not taxable under GST. Supply of Services other than restaurant services (Refer - Second Proviso to Sec 10(1)). <p>Note: If RP supplies services (other than restaurant services), value of such services shall not exceed: Higher of (a) Rs. 5 Lacs or (b) 10% of Turnover in State/UT in preceding FY.</p> <p>Note: Person providing Exempted Service is eligible for composition scheme.</p> <p>Note: If more than one registered persons are having same PAN, registered person shall not be eligible to opt for composition scheme unless all such registered persons opt to pay tax under composition scheme.</p>								

Composition Taxpayers now permitted to render Services upto specified limit along with Supply of Goods or Restaurant Service [Second proviso to Sec 10(1) r/w sec 10(2)(a)]

- ❖ Registered person opting for composition scheme are **permitted to supply services** (other than restaurant services) **of specified value** not exceeding: [Higher of (a) or (b)]
(a) 10% of Turnover in State/UT in Preceding FY or (b) Rs. 5 Lacs

Ex: Mr. PC has opted for composition scheme in FY 2019-20. His aggregate turnover in FY 2018-19 is Rs. 60 lacs. In FY 2019-20, he can supply services (other than restaurant services) upto a value of not exceeding: (a) 10% of Rs. 60 lacs [i.e. Rs. 6 lacs] OR (b) Rs. 5 lacs {Whichever is higher}. Thus, he can supply services upto a value of Rs. 6 lacs in FY 2019-2020. If value of services supplied exceeds Rs. 6 lacs, he becomes ineligible for the composition scheme.

SN	Turnover in preceding FY	Limit for Supply of Services in Current FY
1	Upto 50 Lacs	Rs. 5 Lacs
2	More than 50 Lacs but upto 1.5 Crores	10% of State/UT turnover in preceding FY.

Interest Income shall be Excluded while computing Aggregate Turnover for determining Eligibility for composition scheme

- ❖ 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 -**
 - (i) **for determining the eligibility for composition scheme under second proviso to section 10(1).**
While computing value of services [other than restaurant services] as referred in second proviso to section 10(1), interest on loans/deposit/advances will not be taken into account.
 - (ii) **in computing aggregate turnover in order to determine eligibility for composition scheme.**

Q10. Mr. S is running a consulting firm & also a readymade garment show room, registered in same PAN. Turnover of the showroom is Rs. 90 lacs & receipt of the consultancy firm is Rs. 18 Lacs in the preceding FY. Answer the following:

- (a) Is Mr. S eligible for Composition Scheme?
- (b) Whether it is possible for Mr. S to opt for composition only for Showroom?
- (c) If Mr. S is running a restaurant as well as readymade garment show room, whether he is eligible for composition?
- (d) If the turnover of garment showroom is Rs. 108 Lacs in preceding FY & there is no consulting firm whether he is eligible for Composition?

Answer:

- (a) As per Section 10(1), a registered person, whose aggregate turnover in preceding FY does not exceed Rs. 1.5 crore, may opt for payment of tax under composition scheme. However, a registered person engaged in the supply of services other than restaurant services shall not be eligible to opt for composition levy – Sec 10(2).
As per Second proviso to Sec 10(1) r/w sec 10(2)(a), Registered person opting for composition scheme are permitted to supply services (other than restaurant services) of specified value not exceeding: [Higher of (a) or (b)]
(a) 10% of Turnover in State/UT in Preceding FY or (b) Rs. 5 Lacs.
Thus, Mr. S can supply services upto higher of: (a) 10% of Turnover during preceding FY = 10% of Rs. 90 Lacs = Rs. 9 Lacs or (b) Rs. 5 Lacs. **Thus, Mr. Q can supply services upto Rs. 9 Lacs.**
Since Mr. Q has supplied services of Rs. 18 lacs which is outside the limit, he is ineligible for composition scheme.
- (b) If a business is ineligible for composition, then all other business registered under same PAN shall automatically ineligible for the composition scheme. So Mr. Sitaram is not eligible for composition scheme only for showroom.
- (c) Restaurant services & readymade garments show room are eligible for the composition scheme. Hence Mr. Sitaram is eligible for Composition Scheme, since, his aggregate turnover is Rs. 108 lacs (less than Rs. 1.5 crore).
- (d) Yes, Mr. Sitaram is eligible for composition scheme as turnover does not exceed Rs. 1.5 crore in preceding FY.

Q11. Lush House is engaged in supplying restaurant service in Nagpur. In the preceding FY, it has a turnover of Rs. 140 lacs from the restaurant service & Rs. 15 lacs from the supply of farm labour in Nagpur. Further, it has also earned a bank interest of Rs. 5 lacs from fixed deposits.

- (a) Lush House wishes to opt for composition scheme in current year. Advice.
- (b) What would be your answer if Lush House is engaged in milling of paddy into rice on job work basis instead of supply of farm labour?

Answer:

- (a) As per sec. 10(1), RP whose aggregate turnover in preceding FY does not exceed Rs. 1.5 crore may opt to pay tax under composition scheme if he is not engaged in the supply of services other than restaurant services.
However, if a person provides restaurant services & **also supplies any exempt services** including services by way of extending deposits, loans or advances; consideration for which is represented by way of interest or discount, the said person shall not be ineligible (i.e eligible) for composition scheme.
In computing his aggregate turnover, value of supply of any exempt services including interest or discount income shall not be taken into account.
In given case, services of supply of farm labour & services by way of extending deposits where the consideration is represented by way of interest, are exempt from GST.
Since other services supplied by Lush House apart from restaurant service are exempt services, Lush House is not ineligible for the composition scheme.
In computing aggregate turnover to determine the eligibility of Lush House for composition scheme, value of supply of exempt services - supply of farm labour & bank interest shall not be taken into account.
Since aggregate turnover of Lush House is Rs. 140 lacs (restaurant services), it is eligible for composition scheme.
- (b) Lush House is not eligible for composition scheme if it is engaged in milling of paddy into rice instead of supply of farm labour since a person supplying restaurant services is eligible for composition levy only when other services provided by it are exempt services & milling of paddy into rice on job work basis is not exempt service.

Conditions & Restrictions for Composition levy [Rule 5]

- He is neither a CTP nor NRTP.
- Goods held in stock by him have **not been purchased from unregistered supplier** & if purchased, he pays the tax on RCM basis u/s 9(4).
- He shall pay tax u/s 9(3)/9(4) (reverse charge) on Inward supply of G/&S (in addition to composition tax)
- Not engaged in **manufacture** of notified goods u/s 10(2)(e) during the preceding FY.
 ✓ **Ice cream; Pan masala; Tobacco & manufactured substitutes.**
- He shall mention words **“composition taxable person, not eligible to collect tax on supplies”** at top of bill of supply issued by him;
- He shall mention words **“composition taxable person”** on every notice or signboard displayed at a prominent place at his principal place of business & at every additional place or places of business.

Q12. Taxpayer 'Tolaram' is a manufacturer having one unit - A1 in UP & another unit - A2 in MP. Total turnover of two units in last FY was Rs. 115 lacs (Rs. 85 lacs + Rs. 30 lacs). Turnover of Unit A1 & A2 in the first quarter of this financial year was Rs. 5 lacs & Rs. 10 lacs respectively. Compute the amount payable under composition levy by Taxpayer 'Tolaram'. [CMA SM]

Answer:

Unit	Location	Turnover in previous FY	Turnover in 1 st quarter of this FY	Total Tax (@1%)
A1	UP	Rs. 85 lacs	Rs. 5 lacs	Rs. 5,000
A2	MP	Rs. 30 lacs	Rs. 10 lacs	Rs. 10,000
		Rs. 115 lacs	Rs. 15 lacs	

Q13. Whether the following supplier are eligible to opt for composition scheme

- (a) Supplier of restaurant services (intra-state supply) – serving food & non- alcoholic as well as alcoholic beverages.
- (b) Supplier of handicraft goods (intra-state supply).
- (c) Mr. A is an artist. Trade Fair is organized by Bombay Exhibition in Mumbai. Mr. A wants to display & sell his paintings in Trade Fair. His turnover in Trade Fair is not likely to be more than Rs. 15 lacs.
- (d) Mr. A is in the business of manufacture of pan masala. With effect from February 2019, he wants to manufacture biscuits for rural market along with pan masala. He wants to opt for Composition Scheme w.e.f April 2019. His annual turnover (even after commencement of biscuits manufacture) will not be more than Rs. 72 Lacs.
- (e) Mr. A is in the business of manufacture of biscuits. He is registered under GST under normal provisions. His annual turnover is Rs. 60 Lacss. With effect from April 2019, he wants to opt for Composition Scheme. He owns a flat in a commercial building & gets monthly rent of Rs. 1,00,000.

Answer:

- (a) Though supplier of services of restaurant & catering are qualified for composition scheme, but supplier engaged in making non-taxable supply is not eligible. Supply of alcoholic beverages is non-taxable supply under GST. Thus, restaurant serving food & non-alcoholic as well as alcoholic beverages shall not be eligible for composition.
- (b) Supplier of any goods (making intra-state supply) is eligible to opt for composition scheme. Thus, supplier of handicraft goods is eligible to opt for composition scheme.
- (c) Mr. A is a “casual taxable person”. A casual taxable person making taxable supply in India has to take compulsorily registration U/s 24 of CGST Act. For casual taxable person, there is no threshold limit of aggregate turnover. He is liable to pay GST even if his turnover is not likely to more than Rs. 15 Lacss. As per Sec 10 of CGST Act, a casual taxable person is not eligible to avail composition scheme.
- (d) Mr. A manufactures pan masala. A manufacturer of ice-cream, pan masala & tobacco products, cannot opt for Composition Scheme. Thus Mr. A cannot opt for composition scheme.
- (e) Mr. A has turnover from manufacture of biscuits. Besides, he has rental income from commercial property which is chargeable to GST. Mr. A, registered person, is engaged in supply of commercial renting service & he can maximum have Rs. 6,00,000 (10% of Rs. 60,00,000 or Rs. 5,00,000 whichever is higher) service income. Thus, he cannot opt for composition scheme.

VALIDITY OF COMPOSITION LEVY [Section 10(3) r/w rule 6]	
Till all prescribed T&Cs are satisfied	Option of composition levy shall remain valid so long as all conditions of said section & these rules are satisfied.
Lapse of scheme	From the day on which Aggregate turnover during FY > 1.5 Crore/75 Lacs.
Consequences	<ul style="list-style-type: none"> Pay GST under regular scheme u/s 9(1) from the day he ceases to satisfy any of conditions prescribed for composition levy. Issue tax invoice for every taxable supply made thereafter. file an intimation for withdrawal from scheme in prescribed form within 7 days of occurrence of such event.
Effective date	<ul style="list-style-type: none"> Effective date from which withdrawal from the composition scheme shall take effect shall be the date indicated by him in his application. But, such date may not be prior to the commencement of FY in which such application for withdrawal is being filed.
ITC on stock in Hand	<ul style="list-style-type: none"> Allowed to avail ITC of stock of inputs & inputs contained in semi-finished or finished goods held in stock by him & on capital goods held by him on date of withdrawal. He shall furnish a statement, within 30 days of withdrawal of option, containing details of such stock held on common portal.

Penalty for Irregular Availment of Composition Scheme [Sec 10(5) r/w rule 6(4) & 6(5)]
<ul style="list-style-type: none"> If a taxable person has paid tax under composition scheme though he was not eligible for scheme, person would be liable to penalty & provisions of section 73 or 74 of CGST Act shall be applicable for determination of tax & penalty. Further, where proper officer has reasons to believe that registered person was not eligible to pay tax under composition levy or has contravened provisions of Act/provisions of this Chapter, he may issue a show cause notice (SCN) to such person in prescribed form. Upon receipt of reply to such SCN from registered person in prescribed form, proper officer shall issue an order in prescribed form within 30 days of receipt of such reply, either <ul style="list-style-type: none"> (a) accepting reply, or (b) denying option to pay tax under composition levy from date of option or from date of event concerning such contravention (as case may be). In case of denial of option to pay tax under composition levy by the tax authorities, the effective date of such denial shall be from a date, including any retrospective date, as may be determined by tax authorities. However, such effective date shall not be prior to the date of contravention of the provisions of the CGST Act/ CGST Rules

INTIMATION OF OPTING FOR COMPOSITION LEVY [RULES 3 & 4]		
Type of Applicant	Intimation	Effective date under composition levy
New Registration	<ul style="list-style-type: none"> Such unregistered person may give an option to pay tax under composition levy in Part B of registration form, viz., FORM GST REG-01. It shall be considered as an intimation to pay tax under Composition Levy. 	<ul style="list-style-type: none"> Date from which registration is effective Note: Intimation shall be considered only after grant of registration to applicant
Existing Registration	<ul style="list-style-type: none"> Electronically in prescribed form on Common Portal prior to commencement of FY for which said option is exercised. He shall also furnish statement in prescribed form in accordance with provisions of rule 44(4) of CGST Rules, 2017 within 60 days from commencement of relevant FY. (Refer ITC) 	<ul style="list-style-type: none"> From beginning of FY

Note: Any intimation in respect of any place of business in a State/UT shall be deemed to be an intimation in respect of all other places of business registered on same PAN.

Details of Stock to be furnished: Any person who files such intimation shall furnish details of:

- stock, including inward supply of goods received from unregistered persons,
- held by him on day preceding date from which he opts for composition levy,
- electronically, in prescribed form, on common portal,
- within a period of 90 days from date on which option for composition levy is exercised or within such further period as may be extended by Commissioner in this behalf.

Points to Remember:

- Composition scheme to be adopted uniformly by all registered persons having same PAN.
- Composition scheme supplier cannot collect tax from recipient of G/&S.
- Taxable person opting for composition scheme is not entitled to any ITC.

COMPOSITION SCHEME for service providers

[NN 2/2019]

- Registered person whose aggregate turnover in preceding FY is upto Rs. 50 lacs &
- who is exclusively engaged in supplying services other than restaurant services &
- who is not eligible to pay tax under composition scheme u/s 10
- can pay tax @ 3% (3% + 3%)
- on **first supplies** of G&S **upto Aggregate turnover of Rs. 50 lacs** made on/after 1st April in any FY,
- subject to specified conditions.

Who are the persons not eligible for composition scheme, but eligible for NN 2/2019?

- ✓ Registered person whose **aggregate turnover in preceding FY ≤ Rs. 50 lacs** &
- ✓ who is exclusively engaged in supplying services **other than restaurant services**, or
- ✓ who is engaged in supply of services (other than restaurant services) along with supply of goods &/ or restaurant services of value exceeding Rs.5 lacs in current FY.

Conditions:

1. Supplies are made by a registered person who is not engaged in making:
 - Any supply (G/S) which is not leviable to tax under the said Act.
 - Any **inter-State outward supply** of G&S.
 - Any supply through ECO who is required to collect tax at source u/s 52.
 - Supplies of **Notified goods** [Ice cream; Pan masala; Tobacco & manufactured tobacco substitutes].
2. Supplies are made by a registered person who is neither a CTP nor NRTP.
3. Registered person shall not collect any tax from the recipient on outward supplies made by him.
4. RP shall not be entitled to ITC.
5. Registered person shall issue a bill of supply instead of tax invoice. It shall have the following words at its top - **'taxable person paying tax in terms of NN 2/2019, not eligible to collect tax on supplies'**.

Tax Payable by Registered Person opting to pay tax under NN 2/2019

1. **CGST @ 3% + SGST/UTGST @ 3% on all outward supplies - first supplies of G&S upto an aggregate turnover of Rs. 50 lacs** made on/after 1st April in any FY – regardless of any exemption available to such supplies or any notification issued u/s 9(1) &
2. CGST on inward supplies u/s 9(3) or 9(4) [RCM basis] at the applicable rates.

First Supplies of G/&S made from 1st April of FY to date of becoming liable for registration for ↓

Determining Eligibility of a person to pay tax	First supplies of G&S shall include the supplies from 1 st April of a FY to the date from which he becomes liable for registration
Determining Tax payable	First supplies of G&S shall not include the supplies from 1 st April of a FY to the date from which he becomes liable for registration.

Q14. Mr. PC is not a registered person during FY 2018-19. From 1st April 2019, new FY commences. Upto August 2019, he achieves the aggregate turnover of Rs. 20 Lacs & is liable for registration under GST Laws w.e.f. 1st Set. 2019. In September 2019, he made outward supply of Rs. 30 Lakhs. From 1st October 2019 to March 2020, he made outward supply of Rs. 55 lacs. Compute GST implications under NN 2/2019.

Answer:

As per NN 2/2019, Registered person whose aggregate turnover in preceding FY is upto Rs. 50 lacs & who is not eligible to pay tax under composition scheme u/s 10 can pay tax @ 3% (3% + 3%) on **first supplies** of G&S upto Aggregate turnover of Rs. 50 lacs made on/after 1st April in any FY, subject to specified conditions.

His turnover of Rs. 50. Lacs for recognising his benefit under this scheme (Notification No. 2/2019) will be counted from 1st April 2019. However, tax under this scheme shall be payable only for the supplies made during September (i.e. on Rs. 30 lacs).

Limit of Rs. 50 Lacs under this scheme exhausted in September 2019 (i.e. Rs. 20 Lakhs before registration & Rs. 30 Lakhs after registration).

From 1st October 2019 onwards (i.e. on Rs. 55 lacs), tax shall be payable under normal provisions of GST as applicable for regular dealers.

SOME OTHER POINTS:

- ✓ Where more than one registered persons are having same PAN, CGST on supplies by all such registered persons is paid @ 3% under this notification. [i.e All branches shall pay tax @ 3%].
- ✓ In computing aggregate turnover to determine eligibility of a registered person to pay CST @ 3% under this notification, **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.**
- ✓ If any RP who has availed ITC opts to pay tax under this notification
 - he shall pay an amount by way of debit in electronic credit ledger or electronic cash ledger,
 - equivalent to ITC in respect of inputs held in stock & inputs contained in SFG or FG held in stock & on capital goods as if supply made under this notification attracts the provisions of sec 18(4) &
 - after payment of such amount, balance of ITC lying in his electronic credit ledger shall lapse.
- ✓ CGST Rules as applicable to composition dealer shall mutatis mutandis apply to a person paying tax under this notification.
- ✓ Option to pay tax by availing the benefit of this notification would be effective from the beginning of the FY or from the date of registration (in cases of new registration during FY).

Q15. A person availing composition scheme in Haryana during a financial year crosses the turnover of Rs. 1.5 crore during the course of the year i.e. he crosses the turnover of Rs. 1.5 crore in December? Will he be allowed to pay tax under composition scheme for the remainder of the year, i.e. till 31st March? **[ICAI Ex. Q11]**

Answer: No. Option to pay tax under composition scheme lapses from the day on which the aggregate turnover of the person availing composition scheme during FY exceeds Rs. 1.5 crore. Once he crosses the threshold, he is required to file an intimation for withdrawal from the scheme in prescribed form within 7 days of the occurrence of such event. Every person who has furnished such an intimation, may electronically furnish at the common portal, a statement in prescribed form containing details of stock of inputs & inputs contained in semi-finished or finished goods held in stock him on the date on which the option is withdrawn, within 30 days from the date from which option is withdrawn.

Q16. Determine whether the supplier in the following cases are eligible for composition levy provided their turnover in preceding year does not exceed Rs. 1.5 crore: **[ICAI Ex. Q12]**

- (a) Mohan Enterprises is engaged in trading of pan masala in Rajasthan & is registered in same state
- (b) Sugam Manufacturers has registered offices in Punjab & Haryana & supplies goods in neighbouring states?

Answer:

- (a) A supplier engaged in the manufacture of notified goods u/s 10(2)(e) [Ice cream & Pan masala & Tobacco] during preceding FY is not eligible for composition scheme.
Since Mohan Enterprises is engaged in trading of Pan masala & not in the manufacture & his turnover does not exceed Rs. 1.5 crores, he is eligible for composition scheme subject to fulfilment of specified conditions.
- (b) Since supplier of inter-State outward supplies of goods is not eligible for composition levy, Sugam Manufacturers is not eligible for composition levy.

QUESTION BANK

Q1. Discuss whether GST is applicable in the following transactions -

- X is a registered person under GST. He deals in non-stick cookware. On September 2, 2017, he supplies 50 non-stick cookware for a consideration of Rs. 800 per piece to Y. Y is not a registered person under GST.
- B is not a registered person under GST. He is employed as a tax consultant in D Ltd. On September 3, 2017, he sells his old TV to a TV dealer for Rs. 2,800. TV dealer is a registered person under GST.

Answer:

- Supply by a registered person to an unregistered person, is subject to GST.
- B sells his old TV to a registered person. B is not in the business of selling TVs. Thus, GST is not applicable. TV dealer is not required to pay GST under RCM as supply is not made in the course of business of supplier.

Q2. SS Ltd. a manufacturing concern in Akola (Maharashtra) has opted for composition scheme. It furnishes following information for FY 2018-19. You are required to determine its composition tax liability & total tax liability.

Particulars	Rs.
(1) Intra State Supplies of Goods - Chargeable @ 5% GST	40,00,000
(2) Intra State Supplies made which are which are chargeable to GST at Nil rate	18,00,000
(3) Intra state supplies which are wholly exempt u/s 11 of CGST Act, 2017	2,40,000
(4) Value of inward supplies on which tax payable under RCM (GST Rate 5%)	5,00,000
(5) Intra State Supplies of Goods Y chargeable @18% GST	25,00,000

(b) What will be your answer in case A Ltd. is a trader instead of manufacturer.

Answer:

In case of Traders: Tax payable under composition scheme = 1% on Turnover of Taxable Supplies of G&S in State/UT. Hence exempted supplies cannot be included in case of trader.

In case of Manufacturer: Tax payable under composition scheme = 1% of Turnover in State/UT. Hence exempted supplies shall be included in case of manufacturer.

(1) Computation of Aggregate Turnover & Composition tax

Particulars	Manufacturer	Trader
(1) Supplies made under forward charge	40,00,000	40,00,000
(2) Supplies made which are which are chargeable to GST at Nil rate	18,00,000	-
(3) Supplies which are wholly exempt u/ s 11 of CGST Act, 2017	2,40,000	-
(4) Inward supplies on which tax payable under RCM) (not to be included)	Nil	-
(5) Intra-State Supplies of Goods Y chargeable @ 18% GST	25,00,000	25,00,000
Aggregate turnover	85,40,000	65,00,000
Rate of composite tax	1%	1%
Total Composite tax	85,400	65,000

(2) Tax payable under RCM

Value of inward supplies on which tax payable under RCM	5,00,000	5,00,000
Rate of GST	5%	5%
Tax payable under RCM	25,000	25,000
Total Tax liability	1,10,400	90,000

Q3. Hurkat & Gattani is a partnership firm of CAs in Washim (Maharashtra). The firm specialises in Forensic audits providing services across India. It has an annual turnover of Rs. 160 lacs in the preceding FY.

- Examine whether the firm can opt for the composition scheme.
- What will be your answer if the turnover of the firm is Rs. 120 lacss?
- What will be your answer if Hurkat & Gattani is not a partnership firm of CAs but a partnership firm providing support services to restaurants like booking tables, advertisement etc.?

Answer: As per Section 10(1), a registered person, whose aggregate turnover in preceding FY does not exceed Rs. 1.5 crore, may opt for payment of tax under composition scheme. However, a registered person engaged in the supply of services other than restaurant services shall not be eligible to opt for composition levy – Sec 10(2).

- Partnership firm of CAs being a supplier of professional services (other than restaurant services) is not eligible to apply for composition scheme. Therefore, it has to discharge its tax liability under regular provisions.
- No. because ineligibility of the firm to opt for composition scheme is not linked with the turnover of the firm, but with the nature of the services supplied by the firm.
- No. because only restaurant service providers are eligible for composition scheme.

Q4. M/s Paul Ltd. being a trader of laptops has two units in Chennai & in Mumbai.

Place	Chennai	Mumbai
Turnover in preceding FY (in lacs) (excluding GST)	52	12

- (a) Is M/s Paul Ltd eligible for composition levy in the current year?
 (b) If so, can M/s Paul Ltd. opt composition scheme for Chennai location & normal scheme for Mumbai?
 (c) Whether he is needed to give separate intimations for opting composition scheme in each State.

Answer:

(a) M/s Paul Ltd. is eligible to avail the composition scheme in both the states namely Tamil Nadu & Maharashtra. Since, M/s Paul Ltd. has same PAN & his aggregate turnover does not exceed Rs. 1.5 Cr, he is eligible for composition levy, even though the company has multiple registrations under GST.

(b) No. M/s Paul Ltd. cannot opt composition scheme for one location & normal scheme for another location. Where more than one registered persons are having the same Permanent Account Number (issued under the Income-tax Act, 1961), the registered person shall not be eligible to opt for the scheme under sub-section of Section 10 of CGST Act, 2017 unless all such registered persons opt to pay tax under that sub-section.

(c) Intimation to opt composition scheme in respect of any place of business in any State or Union Territory shall be deemed to be intimation in respect of all other places of business registered on the same PAN.

Q5. XYZ Ltd. is a trader having one Unit A1 in Rajasthan & another Unit A2 in Madhya Pradesh. Total turnover of two units in FY 2018-19 was Rs. 75 lacs (Rs. 40 lacs + Rs. 35 lacs). Total turnover of two units in first & second quarter of this FY was Rs. 25 lacs (Unit A1: Rs. 10 lacs + Unit A2: Rs. 15 lacs) & Rs. 30 lacs (Unit A1: Rs. 17 lacs + Unit A2: Rs. 13 lacs). You are required to determine composition tax liability.

Answer: **Computation of Aggregate Turnover & Composite Tax**

Unit	Turnover in 1 st Quarter	Turnover in 2 nd Quarter	Rate of composite tax	Total Composite tax	
				Quarter 1 st	Quarter 2 nd
A1	10	17	1%	0.10	0.17
A2	15	13	1%	0.15	0.13
Total	25	30		0.25	0.30

Q6. M/s X Pvt. Ltd., is a manufacturer having two units namely Unit A in Andhra Pradesh & another Unit B in Tamil Nadu. Total turnover of two units in last FY was Rs. 95 lacs (Rs. 10 lacs of Unit A + Rs. 85 lacs of Unit B)

Total turnover of two units in the second quarter of this FY was Rs. 15 lacs (Rs. 5 lacs of Unit – A + Rs. 10 lacs of Unit – B). Applicable rate of CGST 9% & SGST 9%. Find the Net liability of X Pvt. Ltd.

Note: M/s X Pvt. Ltd., is not availing ITC.

Answer: Since company is not availing the benefit of ITC, company can pay GST under composition scheme.

Unit	Location	Turnover in previous FY	Turnover in 2 nd Quarter of FY	Total tax (@2%)	
				1% CGST	1% SGST
A	Andhra Pradesh	10 lacs	5 lacs	5,000	5,000
B	Tamil Nadu	85 lacs	10 lacs	10,000	10,000

Q7. M/s X & Co., sells electrical cables, motors & wires. Company also undertake to repair switches, motor sets. Turnover during preceding FY from sale of goods is Rs. 70 lacs, whereas repairing unit is Rs. 5 lacs. Is M/s X & Co. eligible for composition scheme. Advice.

Answer:

As per Section 10(1), a registered person, whose aggregate turnover in preceding FY does not exceed Rs. 1.5 crore, may opt for payment of tax under composition scheme. However, a registered person engaged in the supply of services other than restaurant services shall not be eligible to opt for composition levy – Sec 10(2).

As per Second proviso to Sec 10(1) r/w sec 10(2)(a), Registered person opting for composition scheme are permitted to supply services (other than restaurant services) of specified value not exceeding: [Higher of (a) or (b)]

(a) 10% of Turnover in State/UT in Preceding FY or (b) Rs. 5 Lacs.

Thus, M/s X & Co. can supply services upto higher of:

(a) 10% of Turnover during preceding FY = 10% of Rs. 70 Lacs = Rs. 7 Lacs or (b) Rs. 5 Lacs.

Thus, M/s X & Co. can supply services upto Rs. 7 Lacs.

Since M/s X & Co. has supplied services of Rs. 5 lacs which it within the limit, it is eligible for composition scheme.

Q8. M/s. ABC is a partnership firm of interior decorators & running a readymade garment showroom. In preceding FY, Turnover of showroom was Rs. 120 lacs & Receipts of interior decorator service was Rs. 32 lacs. **[May 2018]**

(a) Examine whether the firm can opt for the composition scheme if turnover of the showroom was Rs. 120 lacs & Receipts of interior decorator service was Rs. 20 lacs in preceding FY?

(b) Discuss whether it is possible for M/s. Ginny & John Company to opt for composition scheme only for Showroom?

Answer: As per Section 10(1), a registered person, whose aggregate turnover in preceding FY did not exceed Rs. 1.5 crore, will be eligible to opt for payment of tax under the composition scheme.

Hence M/s ABC cannot opt for composition scheme since its aggregate turnover exceeds Rs. 1.5 crores.

(a) As per Section 10(2), supplier of services other than supplier of restaurant service are not eligible to opt for composition scheme.

But, as per Second proviso to Sec 10(1) r/w sec 10(2)(a), person opting for composition scheme are permitted to supply services (other than restaurant services) of specified value not exceeding: [Higher of (a) or (b)]

(a) 10% of Turnover in State/UT in Preceding FY or (b) Rs. 5 Lacs.

Thus, M/s ABC can supply services upto higher of:

(a) 10% of State Turnover during preceding FY = 10% of Rs. 140 Lacs = Rs. 14 Lacs or (b) Rs. 5 Lacs.

Thus, M/s X & Co. can supply services upto Rs. 14 Lacs.

Since M/s X & Co. has supplied services of Rs. 20 lacs which is above limit, it is ineligible for composition scheme.

(b) As per Section 10(2), all registered persons having the same Permanent Account Number (PAN) have to opt for composition scheme. If one registered person opts for normal scheme, others become ineligible for composition scheme. Thus, he cannot opt for composition scheme only for showroom.

Q9. Hot Breads Pvt. Ltd is the supplier of bakery products registered in FY 2018-19 w.e.f. 1st Oct 2018. In Oct 2018, total taxable supplies Rs. 108 lacs. Answer the following:

(a) Is Company eligible for Composition Scheme?

(b) If so company wants to pay tax @ 1% being a trader. However, Deputy Commissioner of Central Tax contended that the assessee is liable to pay tax @ 5% under the Food & Restaurant Services category? Advise.

Answer:

(a) Hot Breads Pvt. Ltd. is eligible for composition levy in the current year.

(b) Supply of food & restaurant services category is the only service included under the composition scheme. For a business to be categorised as food & restaurant services, there needs to be an element of service involved.

In the given case, supply of bakery products, there is only a supply of goods i.e. food items but there is no element of supply of service. Hence supply of bakery products is eligible to pay GST @1%, under the Traders category & not Food & Restaurant Services category. Therefore, department's contention is not correct.

Q10. XYZ Ltd. had opted for payment of tax under composition scheme during FY 2019-20. Its turnover during FY 2019-20 was as follows:

Supply of manufactured goods	Rs. 20 Lacs
Supply of traded goods	Rs. 10 Lacs
Supply of service	Rs. 10 Lacs
Export of goods	Rs. 15 Lacs

On all these supplies SGST @ 6% & CGST rate is 6%. Calculate the tax liability.

Answer: Composition Scheme is not available if a taxable person is exporting goods.

Hence, he is liable to pay tax on Rs. 40 Lacs (20+10+10): SGST @ 6% = Rs. 2,40,000 & CGST @ 6% = Rs. 2,40,000.

He can make export of goods without payment of tax.

Q11. Mr. A has written a book which is published by ABC Ltd. of Mumbai. You are required to find the following: (a) who is liable to pay GST? (b) What if publisher is located in Paris, then who is liable to pay GST?

Answer:

(a) ABC Ltd. of Mumbai being recipient of service is liable to pay GST under RCM.

(b) RCM shall not be applicable in this case as recipient is not located in taxable territory. Thus, Mr. A shall be liable to pay GST. However, such supply will qualify as 'export of service' provided payment received in convertible foreign currency. Such supply of service shall be zero-rated (as per provisions of Sec 16 of IGST Act, 2017). In that event, Mr. A shall be entitled to supply such service without payment of IGST.

Q12. A person availing composition scheme in Haryana during a FY crosses the turnover of Rs. 1.5 crores during the course of the year i.e. he crosses the turnover of Rs. 1.5 crores in December? Will he be allowed to pay tax under composition scheme for the remainder of the year, i.e. till 31st March?

Answer: No. The option to pay tax under composition scheme lapses from the day on which the aggregate turnover of the person availing composition scheme during the FY exceeds the specified limit (Rs. 1.5 crores). He is required to file an intimation for withdrawal from the scheme in prescribed form within 7 days from the day on which the threshold limit has been crossed.

Q13. ABC Associates, tax consultant of XYZ Ltd., have advised them that reverse charge mechanism is applicable only to services. Examine the validity of the advice given by ABC Associates.

Answer: No, reverse charge applies to supplies of both goods & services, as notified by the Government on the recommendations of the GST Council. Notification no. 4/2017-CT (Rate) & 13/2017-CT (Rate) have been issued. Similar notifications have been issued under IGST Act also. Reverse charge also applies to supplies received by a registered person from unregistered persons (notified supplies).

Q14. X Trading Company, an eligible registered dealer in goods making intra-state supplies within the state of Andhra Pradesh, has reported an aggregate turnover of Rs. 78 lacs in preceding FY 2018-19.

- (a) Determine whether Sai Trading Company will be eligible for composition levy.
 (b) What will be your answer, if X Trading Company is making intra-state supply in Arunachal Pradesh?
 (c) What will be your answer, if X Trading Company is making intra-state supply in J&K? **[May 2018]**

Answer:

A registered person, whose aggregate turnover in preceding FY does not exceed Rs. 1.5 crores will be eligible to opt for payment of tax under the composition scheme.

However, Limit for aggregate turnover in preceding FY shall be Rs. 75 lacs in following States, namely **Manipur, Meghalaya, Mizoram, Tripura, Arunachal Pradesh, Sikkim, Uttarakhand, Nagaland.**

- (a) Since Sai trading Company is making intra state supplies in Andhra Pradesh, it will be eligible to opt for composition scheme.
 (b) Turnover limit in Arunachal Pradesh is Rs. 75 Lacs. Hence X Trading company will not be eligible to opt for composition scheme.
 (c) Turnover limit in J&K is Rs. 1.5 Crores. Hence X Trading company will be eligible to opt for composition scheme.

Q15. XYZ Ltd. is having two factories. One factory located in Maharashtra is manufacturing ready-made garments & another factory located in Gujarat is engaged in manufacture of Perfumes. Turnover for FY 2018-19 are as under:

Particulars	Rs.
(1) Intra-State supply of readymade garments in Rajasthan	28,00,000
(2) Intra-State supply of auto- components in Gujarat	18,00,000
Total Value of taxable supplies	46,00,000

Company wants to opt for composition scheme for factory in Rajasthan & tax at normal rates in Gujarat. Advise.

Answer: According to Section 10(2) of CGST Act, 2017, all Registered person having same PAN have to opt for Composition Scheme. If one opts for regular levy for one registered place, others become ineligible for composition levy. Thus, XYZ Ltd. cannot opt for composition scheme in Rajasthan & pay normal tax in Gujarat.

Q16. XYZ Ltd., a manufacturing concern had effected intra-state taxable supply of Rs. 20 lacs & inter-state taxable supply of Rs. 25 lacs in FY 2018-19. The company wants to opt for composition scheme. Advise.

Answer: As per provisions of Section 10 of CGST Act, 2017, a manufacturer can opt for composition scheme if he is not engaged in making any inter-State outward supplies of goods. In this case since XYZ Ltd. has effected interstate taxable supply of goods, hence it cannot opt for composition scheme.

Q17. Mr. Roy is selling taxable goods, exempted goods & non-taxable goods (i.e. Liquor). His turnover in preceding FY is Rs. 50 lacs, Rs. 12 lacs, Rs. 8 lacs goods which are leviable to GST, exempted & non-taxable respectively. Whether Mr. Roy is eligible for Composition Scheme?

Answer: If a person is selling goods, which are not leviable to GST, then he is not eligible to opt for composition scheme. In this case, even though aggregate turnover not exceeds Rs. 1.5 crores, Mr. Rahim is not eligible for composition Scheme.

Q18. Peter England is a trader who sells his ready-made clothes online on Amazon India (Electronic Commerce Operator). He received an order for Rs. 12 lacs. Peter England also supplied goods from there out lets. Aggregate turnover of the company in preceding FY was Rs. 21 cacs. Is Peter England eligible for composition scheme?

Answer: No. Peter England engaged in making supply of goods through an electronic commerce operator who is required to collect tax at source u/s 52. Hence, Peter England is not eligible for composition scheme.

Q19. Mr. A of Chennai supplies goods to the person located in Chennai & Pondicherry. Aggregate turnover in the preceding FY is Rs. 45 lacs. Mr. A wants to opt for composition scheme in the current FY. Advise.

Answer:

No. When the person makes inter-state supply of goods, benefit of composition scheme is prohibited. Therefore, Mr. A will not be entitled to the benefit of composition scheme.

Q20. Mr. H registered in Hyderabad, who is selling goods from Telangana to Tamil Nadu. Turnover of Mr. H is Rs. 73 Lacs in the preceding FY. Whether Mr. H is eligible for Composition?

Whether your answer will change if Mr. H is making purchase from Tamil Nadu & selling goods in Telangana?

Answer:

- Mr. H is not eligible for composition as he is making interstate outward supply.
- If Mr. H is making purchase from Tamil Nadu, then he is eligible for composition Scheme as there is restriction on outward interstate supply not on inward interstate supply.

Q21. M/s X Ltd. being a manufacturer of laptops has four factories in Chennai, Salem, Coimbatore & Madurai.

Place	Chennai – I	Chennai – II	Salem	Madurai	Total
Turnover in preceding FY (in lacs) (Including GST @ 18%)	57.91	23.60	12	10	111.51

Is M/s X Ltd eligible for composition levy in the current year?

Answer: Aggregate turnover = $111.51 \times 100/118 = \text{Rs. } 94.50 \text{ lacs}$. Since, aggregate turnover in preceding FY does not exceed Rs. 1.5 crore, M/s X Ltd. is eligible for composition Scheme.

Q22. Mr. A is a paper merchant own 5,000 sq ft., shop at Chennai. Mr. A offered extra space available in their shop to supplier to put up their advertisement. His turnover in the preceding FY from sale of goods Rs. 6 lacs & advertising services was Rs. 42 lacs. Is Mr. A eligible for composition scheme in the current FY?

Answer:

As per Section 10(1), a registered person, whose aggregate turnover in preceding FY does not exceed Rs. 1.5 crore, may opt for payment of tax under composition scheme. However, a registered person engaged in the supply of services other than restaurant services shall not be eligible to opt for composition levy – Sec 10(2).

As per Second proviso to Sec 10(1) r/w sec 10(2)(a), Registered person opting for composition scheme are permitted to supply services (other than restaurant services) of specified value not exceeding: [Higher of (a) or (b)]

(a) 10% of Turnover in State/UT in Preceding FY or (b) Rs. 5 Lacs.

Thus, Mr. A can supply services upto higher of: (a) 10% of Turnover during preceding FY = 10% of Rs. 48 Lacs = Rs. 4.8 Lacs or (b) Rs. 5 Lacs. **Thus, Mr. A can supply services upto Rs. 4.8 Lacs.**

Since Mr. A has supplied services of Rs. 42 lacs which is outside the limit, he is ineligible for composition scheme.

As per NN 2/2019, Registered person whose aggregate turnover in preceding FY is upto Rs. 50 lacs & who is not eligible to pay tax under composition scheme u/s 10 can pay tax @ 3% (3% + 3%) on **first supplies** of G&S upto Aggregate turnover of Rs. 50 lacs made on/after 1st April in any FY, subject to specified conditions.

Thus Mr. A can opt to pay tax @ 6% under NN 2/2019.

Q23. Mr. A, a retailer who keeps no inventories, presents the following expected information for the year:

(1) Purchases: Rs. 50 lacs (GST @ 5%)

(2) Sales (at fixed selling price inclusive of all taxes): Rs. 60 lacs (GST on sales @ 5%)

Expenses of keeping statutory records required under GST = Rs. 1,20,000 p.a., which shall get reduced to Rs. 30,000 if composition scheme is opted. Other expenses are Rs. 2,00,000 p.a.

Discuss whether he should opt for composition scheme if composite tax is 1% of turnover.

Answer: Cost to the ultimate consumer under two schemes is as under:

Particulars	Normal	Composition
Cost of goods sold [Note 1]	50,00,000	52,50,000
Add: Costs of maintaining records	1,20,000	30,000
Add: Normal Expenses	2,00,000	2,00,000
Total Costs	53,20,000	54,80,000
Sales (inclusive of GST)	60,00,000	60,00,000
Less: Tax (GST = $\frac{60 \text{ Lacs}}{105\%} \times 5\%$; (Composite Tax = Rs. 60 lacs \times 1%))	2,85,714	60,000
Net Sales (Net of taxes)	57,14,286	59,40,000
Profit of the dealer (Net Sales - Total Costs)	3,94,286	4,60,000

Note: No ITC is available under composition scheme & hence cost of goods sold will be higher.

Conclusion: Sales value in both the case is Rs. 72 Lacs & thus cost to ultimate consumer in both cases remains same. But profit of the dealer is higher if dealer opts for composition scheme. Hence, composition scheme should be opted.

Q24. Subramanian Enterprises has two registered places of business in Delhi. Its aggregate turnover for the preceding FY for both places of business was Rs. 120 lacs. It wishes to pay tax under composition scheme for one of the place of business in the current FY while normal levy for another place of business. Advice. [ICAI Ex. Q13]

Answer: A registered person with an aggregate turnover in a preceding FY upto Rs. 1.5 crore is eligible for composition levy in Delhi. Since aggregate turnover of Subramanian Enterprises does not exceed Rs. 1.5 crore, it is eligible for composition levy in current year. However, all registered persons having same PAN have to opt for composition scheme. If one such registered person opts for normal scheme, others become ineligible for composition scheme. Thus, Subramanian Enterprises either have to opt for composition levy for both PoB or under normal levy for both PoB.

Q25. State the person liable to pay GST in following cases provided recipient is located in TT: [ICAI Ex. Q10]

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

Answer:

- (a) Since GST on services provided or agreed to be provided by an arbitral tribunal to any business entity located in TT is payable under reverse charge, in the given case, GST is payable by the recipient - business entity.
- (b) GST on sponsorship services provided by any person to any body corporate or partnership firm located in the taxable territory is payable under reverse charge. Since in the given case, services have been provided to an individual, RCM provisions will not be attracted. GST is payable under forward charge by the supplier – company.
- (c) GST on services supplied by CG/SG/UT/LA by way of renting of immovable property to a person registered under CGST Act, 2017 is payable under reverse charge. Therefore, in the given case, GST is payable under reverse charge by the recipient – registered business entity.

Q26. Who is the person responsible to pay GST?

Answer:

- (a) **Supplier:** The person making taxable supplies is liable to pay GST to the government.
- (b) **Recipient:** As per Section 9(3) Government may, on recommendations of GST Council, by notification specify categories of supply of G&S on which GST shall be paid on reverse charge basis by the recipient of such G&S. As per section 9(4), Tax under RCM is payable on the Notified category of Inward Supplies of G&S received from any unregistered supplier by the Notified class of registered persons (Recipient)
- (c) **Electronic Commerce Operator:** As per section 9(5), government may on the recommendations of GST Council, by notification specify categories of services, the tax on intra-State supplies of which shall be paid by electronic commerce operator (ECO) if such services are supplied through it, & all provisions of this Act shall apply to such ECO as if he is supplier liable for paying tax in relation to supply of such services.

Q27. Can a person paying tax under composition scheme make supplies of goods to SEZ?

Answer: No. Supplies to SEZ from domestic tariff area (DTA) will be treated as inter-State supply. A person paying tax under composition scheme cannot make inter-State outward supply of goods. Thus, for making supplies to an SEZ unit, a person needs to take registration as a regular taxpayer. The supplies to SEZ will be zero rated & the supplier will be entitled to make supplies without payment of tax or if he pays tax, he will be entitled to refund of tax so paid.

Q28. What If receiver of G&S is required to pay tax under RCM but is not a registered dealer? How will he pay tax?

Answer: All taxpayers required to pay tax under RCM have to register compulsorily for GST & Limit of Rs. 20 Lacs is not applicable to them.

Q29. Whether CGST & SGST/UTGST is applicable on import of goods or service or both?

Answer: In terms of Section 7 of the IGST Act, 2017, import of goods or services or both is shall be treated to be a supply in the course of inter-State trade or commerce. Accordingly, tax under the provisions of IGST Act, 2017 (i.e. IGST) shall apply on import of goods or services or both.

Import of Goods: IGST leviable U/s 5 of IGST Act. However, it is collected in the manner specified under Customs Tariff Act, 1975. Valuation of such transaction is also as per provisions of Customs Tariff Act.

Import of Services: IGST leviable U/s 5 of IGST Act. However, it is collected as per provisions of GST law (i.e. as per time of supply of such transaction). Valuation of such transaction is also as per provisions of GST law.

Q30. Whether a Restaurant is supplying liquor/alcohol is eligible for Composition Scheme?

Answer: Person supplying G/S which are not leviable to GST are not eligible for composition scheme. Liquor/alcohol are out of the scope of GST. Thus Restaurant supplying liquor/alcohol is not eligible for Composition Scheme.

Q31. Is Input Tax Credit allowed under Reverse Charge?

Answer: Yes. Tax paid on RCM will be available for ITC if such G&S are used for business.



4. EXEMPTIONS UNDER GST

BY CA PRANAV CHANDAK

FOR MAY/JUNE 2020

CA/CMA INTERMEDIATE

- ❖ Under GST, essential goods/services (public consumption products/services) have been exempted.
- ❖ Items such as unbranded atta/maida/besan, unpacked food grains, milk, eggs, curd, lassi & fresh vegetables are among items exempted from GST.
- ❖ Essential services like health care services, education services, etc. have also been exempted.

POWER TO GRANT EXEMPTION FROM TAX [SEC 11 OF CGST ACT/SEC 6 OF IGST ACT]	
General Exemption [Sec 11(1)] [Public Interest + by Notification]	<ul style="list-style-type: none"> ▪ If Government is satisfied that it is necessary in public interest to do, ▪ it may (on recommendations of Council) by notification, ▪ exempt generally goods/services/both of any specified description ▪ either absolutely or subject to prescribed conditions (conditionally) ▪ from whole or part of tax leviable thereon ▪ with effect from specified date in such notification. <p>Note: Absolute Exemption are mandatory in Nature while conditional exemptions is at the option of the registered person.</p>
Special Exemption [Sec 11(2)] [by Special order]	<ul style="list-style-type: none"> ▪ If Government is satisfied that it is necessary in public interest to do, ▪ it may, on recommendations of Council, ▪ by special order in each case, under exceptional circumstances ▪ exempt from tax any goods/services/both on which tax is leviable. <p>Note: This exemption is applicable only in special cases.</p>

Sec 11(3) of CGST Act:

- Government may [for clarifying scope/applicability of notification/order issued u/s 11(1)/11(2)]
- **insert an explanation** in such notification or order,
- **by notification** at any time **within 1 year of issue** of such notification/order u/s 11(1)/11(2) &

Every such explanation shall have effect as if it had always been part of original notification/order.

PC Note: Explanation inserted within 1 year of issue will have retrospective effect.

<u>GOODS EXEMPT FROM TAX</u>	[Not in syllabus; only for knowledge]
<ul style="list-style-type: none"> ▪ Indian National flag ▪ Live animals other than live horses ▪ Meat and edible meat offal, Fish, crustaceans, molluscs & other aquatic invertebrates ▪ Dairy produce; bird's eggs; natural honey; edible products of animal origin ▪ Human hair, unworked, whether or not washed or scoured; waste of human hair ▪ Semen including frozen semen ▪ Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage ▪ Edible vegetables, roots and tubers [Potatoes, Tomatoes, Onions, garlic, Cabbages, cauliflowers] ▪ Edible fruit and nuts; ▪ Plastic bangles 	

Class notes:

LIST OF SERVICES EXEMPT FROM TAX

A	SERVICES RELATED TO CHARITABLE & RELIGIOUS ACTIVITIES
1.	<p>Services by entity registered u/s 12AA of Income-tax Act, 1961 by way of charitable activities. 'Charitable Activities' mean activities relating to:</p> <div style="border: 1px solid black; padding: 5px;"> <p>(i) PUBLIC HEALTH by way of:</p> <p>A. Care or counseling of</p> <ul style="list-style-type: none"> terminally ill/severely disabled (physical/mental) persons; persons afflicted with HIV/AIDS; persons addicted to dependence-forming substance (Drugs/alcohol); <p>B. Public awareness of preventive health, family planning or prevention of HIV;</p> </div> <p>(ii) ADVANCEMENT OF RELIGION, spirituality or yoga; Note: If charitable/religious trusts primarily provide accommodation or serve food & drinks; for consideration in any form including donation → GST <input checked="" type="checkbox"/>. Holding of fitness camps or classes in aerobics, dance, music etc. → GST <input checked="" type="checkbox"/>.</p> <p>(iii) ADVANCEMENT OF EDUCATIONAL PROGRAM/SKILL DEVELOPMENT related to</p> <ul style="list-style-type: none"> abandoned, orphaned or homeless children; physically or mentally abused and traumatized persons; prisoners; or persons over the age of 65 years residing in a rural area; <p>Note: Schools, colleges or any other educational institutions run by charitable trusts by way of education or skill development of above mentioned persons = Charitable activities & income from such supplies will be wholly exempt from GST. Activities of a school, college or an institution run by a trust which do not come under charitable activities will not be exempt under this entry. However, such activities may be exempt under Entry 66 of the Notification [discussed later].</p> <p>(iv) PRESERVATION OF ENVIRONMENT including watershed, forests & wildlife.</p> <p>Note:</p> <ol style="list-style-type: none"> Grant of Advertising rights on premises of charitable/religious trust or on publications of trust; Admission to events, functions, celebrations, shows against admission tickets → GST <input checked="" type="checkbox"/>. Hostel services provided by trusts to students → Charitable activity <input checked="" type="checkbox"/>. But, Hostel accommodation services provided by trusts is exempt if declared tariff < Rs. 1,000 per day. Arranging yoga & meditation camp by charitable trusts → Exempt from GST. Residential programmes or camps [Fee charged includes cost of lodging & boarding] → Exempt if primary purpose of such residential programmes is advancement of religion, spirituality or yoga. However, if charitable or religious trusts primarily provide accommodation or serve food & drinks against consideration in any form including donation, such activities will be taxable. Activities such as holding of fitness camps/classes in aerobics, dance, music → GST <input checked="" type="checkbox"/>. Hospitals managed by charitable trusts → Exemption available if it is exempted under entry 74.
2.	<p>Services by a person by way of</p> <p>(a) Conduct of any Religious ceremony; (Pujari)</p> <p>(b) Renting of Precincts of a religious place meant for general public (Temple) owned/managed by registered charitable/religious trust or a trust/institution registered u/s 10(23C) (v) of Income-tax Act or a body or an authority covered u/s 10(23BBA).</p> <p>However, GST will be payable in following cases:</p> <p>(i) Renting of Rooms if charges are ≥ Rs. 1,000 per day;</p> <p>(ii) Renting of Premises/Halls/mandapam/open area if charges are ≥ Rs. 10,000 per day;</p> <p>(iii) Renting of Shops/other spaces for business if charges are ≥ Rs. 10,000 per month;</p> <p>Note: Donation for hosting advertisement promoting business of the donor → GST <input checked="" type="checkbox"/>. But if donation is received without such instructions or without a quid pro quo → NO GST.</p>

3.	<p>Services by a specified organisation in respect of a religious pilgrimage facilitated by the Government of India, under bilateral arrangement.</p> <p>Specified organisations are:</p> <ul style="list-style-type: none"> ▪ Kumaon Mandal Vikas Nigam Ltd, a Government of Uttarakhand Undertaking; ▪ 'Haj Committee of India' or 'State Haj Committee including Joint State Committee'. <p>Note: Religious pilgrimage organised by <u>any other charitable/religious trust</u> are liable to GST.</p>
4.	<p>Services by way of training or coaching in recreational activities relating to ALL forms of:</p> <ul style="list-style-type: none"> ➤ Arts or Culture ➤ Sports by Registered Charitable Entities. <p>Note: Training/coaching in areas other than arts, culture or sports → GST <input checked="" type="checkbox"/></p>

PC Note: Unless specifically exempted, all G&S supplied **to** charitable/religious trusts → GST ☒.

Q1. Discuss the treatment of following transaction by a registered religious trust.

Services	Taxability
Renting of Executive room rent Rs. 900 per day [Note 1]	Exempt
Renting of Pro-Executive room rent Rs. 1,000 [Note 1]	Taxable
Renting of small community hall for Rs. 9,000 per day [Note 2]	Exempt
Renting of large community hall for Rs. 12,000 [Note 2]	Taxable
Trust has rented shop for Rs. 15,000 p.m. to sell goods required for performing religious ceremonies.	Taxable
Meditation Hall provided on rent for Rs. 15,000 per day. ** [Note 3]	Exempt
Amount received for yoga camps organized for elderly people	Exempt
Amount received for activities relating to preservation of forests & wildlife	Exempt
Amount received for advancement of educational programmes relating to abandoned, orphaned or homeless children	Exempt
Renting of residential dwelling for use as a residence – Rent Rs. 25,000 p.m.	Taxable
Grant of tenancy rights in a residential dwelling for use as residential dwelling against tenancy premium of Rs. 10,00,000.	Exempt
Grant of tenancy rights in a commercial dwelling for use as residential dwelling against tenancy premium of Rs. 10,00,000.	Taxable

Notes:

- Exemption is available for renting of rooms wherein the rent charged is less than Rs. 1,000 per day.
 - Since Deluxe room rent is Rs. 900 per day, it is exempt.
 - Since Super Deluxe room rent is Rs. 1,000 per day, it is not exempt.
- Exemption is available for renting of community halls wherein the rent charged is less than Rs. 10,000 per day.
 - Renting of small community hall for Rs. 9,000 per day is exempt.
 - Since Renting of large community hall is more than Rs. 10,000 per day, it is not exempt.
- Since Meditation hall falls under the purview of precincts of religious place, limit of Rs. 10,000 is not applicable.
- It is exempt. Exemption is available for renting of residential dwelling for use as a residence.
- It is Taxable. If it is commercial dwelling, then it is not exempt.

PC Note: Any of the above points can be asked in the exams by framing it into question.

B. AGRICULTURE RELATED SERVICES

1. Services by way of loding, unloading, packing storage or warehousing of **Rice**
2. Services by way of **Warehousing of minor Forest Produce.**
3. Services by way of **fumigation in a warehouse of agricultural produce**
4. Pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of **fruits & vegetables** which do not alter essential characteristics.
5. Services by **National Centre for Cold Chain Development** of cold chain knowledge dissemination.
6. Services relating to **cultivation of plants & rearing** of all life forms of **animals** (*except horses*) for food, fibre, fuel, raw material or other similar products/agricultural produce by way of:
 - (a) **Agricultural operations** directly related to production of any agricultural produce **including cultivation, harvesting, threshing, plant protection or testing;**
 - (b) **Supply of farm labour;**
 - (c) **Processes carried at agricultural farm** including tending, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging & like operations **which do not alter essential characteristics of agricultural produce but only make it marketable for primary market;**
 - (d) **Renting/leasing of agro machinery or vacant land** with/without structure for being use in agriculture or related activities;
 - (e) Loading, unloading, packing, storage or **warehousing of Agricultural Produce;**
 - (f) **Agricultural Extension Services** [Application of scientific research & knowledge to agriculture]
Ex: Training courses, kisan call centres, farm visits, on farm trials, kisan melas, kisan clubs, advisory bulletins and the like.
 - (g) Services **by any APMC** or Board related to selling/marketing of agricultural produce
 However, Renting of shops/other property by APMC → GST ☒ (since not directly related)
 - (h) Services provided by **Commission Agent for Sale/Purchase of Agricultural Produce.**

Points to be noted:

1. Breeding of fish (pisciculture), rearing of silk worms (sericulture), cultivation of ornamental flowers (floriculture) and horticulture, forestry, etc. → **NO GST.**
2. **Agricultural produce** means any produce out of cultivation of plants & rearing of animals (except horses) on which
 - (a) No further processing is done or
 - (b) Processing which is usually done by a cultivator or producer & **which does not alter its Essential Characteristics, but makes it Marketable for Primary Market.**

Ex: Cultivation, harvesting, threshing, testing, Tending, pruning, cutting, drying, cleaning, trimming.

❖ Following processes are liable to GST:

- **Process which Alters the Essential Characteristics of Agricultural Produce.**

Ex: Potato chips or tomato ketchup are manufactured through processes which alter the essential characteristic of farm produce (potatoes and tomatoes).

- **Process which makes agricultural produce marketable in retail market.**

Processes of grinding, sterilizing, extraction packaging in retail packs of agricultural products, which make agricultural products marketable in retail market is liable to GST.

7. **Carrying out an Intermediate Production Process as Job Work in relation to Cultivation of Plants & Rearing of** all life forms of **Animals** (except rearing of horses) for food, fibre, fuel, raw material or other similar products or agricultural produce.

8. Services by way of **Artificial Insemination of Livestock (other than horses).**

- ❖ **Processed products** such as tea, coffee beans or powder, pulses (dehusked or split), jaggery, spices, dry fruits, cashewnuts etc. fall outside the definition of agricultural produce & therefore exemption from GST is not available to their loading, packing, warehousing etc & thus **GST will be levied.**
- ❖ **Milling of paddy into rice:** Milling of paddy into rice changes its essential characteristics. Therefore, milling of paddy into rice cannot be considered as an intermediate production process. Thus milling of paddy into rice is not eligible for exemption & thus **GST will be levied.**

Q2. Discuss GST treatment of a Farmers Association engaged in providing services relating to agriculture.

Services	Taxability
Cultivation of ornamental flowers	Exempt
Packing of tomato & chili ketchup [Note 1]	Taxable
Warehousing of potato chips [Note 2]	Taxable
Sale of tea on commission basis [Note 3]	Taxable
Packaging of pulses in 1 KG retail packing [Note 4]	Taxable
Training of farmers on use of scientific tools & agro machinery [Note 5]	Exempt
Leasing of vacant land to a stud farm (rearing of horses)	Taxable
Grading of wheat according to its quality [Note 6]	Exempt
Testing of samples from plants for pest detection [Note 7]	Exempt
Rearing of silk worms	Exempt
Breeding of fish	Exempt
Supply of farm labour	Exempt
Leasing of vacant land to a poultry farm [[Note 8]	Exempt
Renting of Agro-machinery	Exempt
Charges for seed testing	Exempt
Charges for soil testing of farm land	Exempt
Commission received on sale of wheat	Exempt
Charges for training of farmers on use of new pesticides & fertilizers developed through scientific research	Exempt
Leasing of vacant land to a cattle farm	Exempt
Charges for warehousing of rice	Exempt
Charges for warehousing of cotton fabrics	Taxable
Retail packing & labelling of fruits & vegetables	Exempt
Services relating to cultivation of seeds.	Exempt
Services by way of pre-conditioning & pre-cooling of fruits & vegetables for refrigerated transport.	Exempt

Notes:

1. Tomato is an agricultural produce. Tomato ketchup is not an agricultural produce. It is a processed product.
2. Potato is an agricultural produce. Potato chips are not an agricultural produce. It is a processed product. Potato chips or tomato ketchup are manufactured through processes which alter the essential characteristic of farm produce (potatoes and tomatoes).
3. Services provided by Commission Agent for Sale/Purchase of Agricultural Produce is exempt. However, sale of tea (not being an agricultural produce) attracts GST.
4. Such process is not necessary to pack pulses for making it marketable & thus attracts GST.
5. Agriculture extension services are exempt.
6. Grading which doesn't alter the essential characteristics of agriculture produce but makes it only marketable for primary market is exempt.
7. Agricultural operations directly related to production of any agriculture produce is exempt.
8. Leasing of vacant land to a poultry farm is exempt. Agriculture means rearing of all forms of animals other than rearing of horses. Renting of vacant land is exempt when used for agriculture purpose.

C. EDUCATION RELATED SERVICES

1. (a) Services provided **by** Educational institution **to its students, faculty & Staff**;
(b) Services provided **by** Educational institution **by way of conduct of Entrance Examination** against consideration in the form of entrance fee;

Note: Canteen, maintenance etc. provided by Private Players to Educational Institutions → **GST ☑**.

2. Services provided **to** educational institution by way of
 - (i) Transportation of students, faculty & staff;
 - (ii) Catering, including any mid-day meals scheme sponsored by CG, SG, UT;
 - (iii) Security or cleaning or house-keeping services performed in such educational institution;
 - (iv) Services relating to admission to, or conduct of examination by, such institution; [Exempt to ALL]
 - (v) **Supply of online Educational Journals or Periodicals.**

Note: Exemption in (i), (ii), (iii) is available only to schools upto HSC or equivalent. **[College ☑]**

Exemption in (v) is available only to College. **[Schools upto HSC/approved vocational courses ☑]**

Educational institution means an institution providing services by way of:

- (i) Pre-school education & education upto HSC or equivalent; **[School upto 12th]**
- (ii) Education as a part of a curriculum for obtaining qualification recognised by any law **in India**;
⇒ **[Degree courses by colleges, universities or institutions → GST ☑ ; Private coaching → GST ☑]**
- (iii) Education as a part of an **approved vocational education course**.

Approved Vocational Education Course means

- Course run by **ITI/ ITC** affiliated to National Council for Vocational Training (**NCVT**) or State Council for Vocational Training (**SCVT**) offering courses in **designated trades**.
- **Modular Employable Skill Course**, approved by NCVT, run by a person registered with Directorate General of Training, Ministry of Skill Development & Entrepreneurship.

Private ITIs

- If education provided by Private ITIs is approved as vocational educational course → **GST ☑**.
- Conduct of entrance examination by private ITIs for designated trades → **GST ☑**.
- Admission to or conduct of examination services provided by private ITIs to educational institutions i.r.o such designated trades → **GST ☑**. [Services in other than designated trades → **GST ☑**]

Government ITIs

- Services provided by Government ITI to **trainees/students** → **GST ☑** [as provided by CG/SG]
- This would cover both vocational training & examinations conducted by Government ITIs.

Note: Central & State Boards are treated as 'Educational Institution' for conducting examination.

- (iv) **Indian Institute of Management** (as they provide education as a part of a curriculum for obtaining a qualification recognized by law). **[Note:** Only for long duration course (≥ 1 year)].

However, Short Duration/Short Term Executive Program → **GST will be levied @ 18% (9% + 9%)**.

❖ College/Hostel Mess services

Mess run by educational institution/students	It is exempt from GST. [Since given to SSF]
Mess is outsourced to a third person [Catering services given to educational institution]	It is taxable. [Note: Exempt if given to school upto HSC]

❖ **Fees for recruitment through campus interviews taken from companies** → **GST ☑**

❖ **Boarding Schools** [Education + Residence + Food] → **NO GST** on the entire consideration.

- This is composite supply if charges for education & lodging & boarding are inseparable.
- Such services are naturally bundled & supplied in ordinary course of business.
- Thus principal supply being “education”, **entire consideration for the supply will be exempt.**

❖ **Dual Degree in a college** [only one of which is recognized by law]

- Provision of dual qualifications is in nature of two separate services as curriculum & fees for each of such qualifications are prescribed separately.
- Service in respect of each qualification would, therefore, be assessed separately.
- If an artificial bundle of service is created by clubbing two courses together (only one of which leads to a qualification recognized by law), it shall be treated as a mixed supply.

Note: Incidental auxiliary courses provided by way of hobby classes or extra-curricular activities will be an example of naturally bundled course, and therefore treated as composite supply.

Governing Principle for distinguishing between composite supply & mixed supply:

- Amount of extra billing being done for unrecognized component viz-a-viz the recognized course.
- If extra billing is being done, it may be a case of artificial bundling of two different supplies, not supplied together in ordinary course of business, and therefore will be treated as a mixed supply, attracting the rate of higher taxed component for entire consideration.

Note: If output services are exempted, educational institutions may not be able to avail ITC on input services.

Q3. State whether the following activities are liable to GST or not?

SN	Services	Taxability
1	Renting of immovable property to higher secondary school.	Taxable
2	Transportation services provided to students of higher secondary school.	Exempt
3	Catering services provided to educational institutions running approved vocational courses.	Taxable
4	Security services provided to Pre-Nursery School.	Exempt
5	Housekeeping & cleaning services in college providing recognized graduation degree.	Taxable
6	Conducting of Examination of ICAI.	Exempt
7	Development of course content of ICAI.	Taxable
8	Training of Staff of Higher Secondary School.	Taxable
9	Placement service provided to ICAI	Taxable
10	Renting of immovable property to commercial coaching center	Taxable
11	Receipts by way subscription of online educational journals/periodicals (a) Rs. 5,00,000 is from educational institutions who provide degree recognized by any law (b) Rs. 2,50,000 from Higher Secondary school.	Exempt Taxable
12	Running a Boarding School	Exempt
13	Conducting private tuitions	Taxable
14	Education services for obtaining a qualification recognised by law of a foreign country	Taxable
15	Fees from prospective employers for campus interview	Taxable
16	Renting of furnished flats for temporary stay to different persons [Note 1]	Taxable
17	Hostel Fees received from students	Exempt
18	Conducting modular employable skill course, approved by NCVT	Exempt
19	'AIMS' Coaching institute providing coaching in the field of science (no certificate was issued on completion of the training)	Taxable
20	'PCA' a coaching institute providing coaching in the field of commerce (a certificate was awarded to each trainee after completion of the training)	Taxable
21	'Play Kids' school providing educational upto primary level – Rs. 15 Lacs It includes receipts from renting of premises to commercial coaching centre: Rs. 3 Lacs)	Exempt Taxable

Notes:

1. Short stay by different persons in furnished flats is not renting of residential dwelling & thus, not exempt.

D. HEALTH CARE SERVICES

1. Services by a Veterinary Clinic in relation to health care of animals or birds.
2. Services by way of: (a) Health care services by ▪ Clinical Establishment, Authorised Medical Practitioner or Para-medics; (b) Transportation of a patient in Ambulance , other than those specified in (a) above.
3. Services provided by Cord Blood Banks by way of Preservation of Stem Cells or related services.
4. Services provided by operators of common bio-medical waste treatment facility to clinical establishment by way of treatment or disposal of bio-medical waste or incidental processes.
5. Services of public conveniences [Facilities of washrooms, lavatories, urinal or toilets]

Health Care Services means

- **Diagnosis/treatment/care** for **illness, injury, deformity, abnormality or pregnancy** in any *recognised system of medicines in India* &
- includes services of transportation of patient to & from a clinical establishment; **[Ambulance]**
- **but does not include hair transplant or plastic surgery** except to restore/reconstruct anatomy or functions of body affected due to congenital defects, abnormalities, injury.

Meaning of Some Terms

Clinical establishment	Hospital, nursing home, clinic, sanatorium, pathological labs etc.
Paramedics	Trained health care professionals [Nurse, physiotherapists, lab assistants]
Recognized systems of medicines in India	▪ Allopathy; ▪ Homeopathy; ▪ Ayurveda; ▪ Naturopathy; ▪ Yoga; ▪ Siddha; ▪ Unani; ▪ Any other system recognized by CG

Some other Points:

Food Supplied	Food supplied to patients = Composite supply of healthcare → GST ☒ Food supplied to any other person (visitors, staff of hospital) → GST ☑
Room Rent	Rent of rooms provided to patients in hospitals → GST ☒
Hospital Fees	including retention money & fee/payments made to doctors → GST ☒
Other Services	Renting of shops, advertisement in hospitals → GST ☑

Q4. Determine the taxability of the following services given by Apollo Hospitals:

Services	Taxability
Services provided by cord blood bank of the nursing home by way of preservation of stem cells	Exempt
Hair transplant services	Taxable
Naturopathy treatments [Such treatment is a recognized system of medicine in terms of Section 2(h) of the Clinical Establishments Act, 2010]	Exempt
Plastic surgery to restore anatomy of a child affected due to an accident	Exempt
Pranic healing treatments [Such treatment is not a recognized system of medicine in terms of Section 2(h) of the Clinical Establishments Act, 2010]	Taxable
Palliative care for terminally ill patients at patient's home (Palliative care is given to improve the quality of life of patients who have a serious or life-threatening disease but the goal of such care is not to cure the disease) [Note 1]	Taxable
Ambulance services to transport critically ill patients from various locations to nursing home	Exempt
Mortuary Services	-ve Listed

Note 1: It is immaterial whether health care service is provided at the clinical establishment or at the home of the patient or at any other place. Thus, palliative care for terminally ill patients is eligible for exemption.

E. SERVICES BY GOVERNMENT

1. Services provided by CG, SG, UT, LA **EXCLUDING the following services** by/in relation to: ↓

(a) **Department of Posts** by way of

- Speed post,
- Express parcel post,
- Life insurance &
- Agency services [Distribution of MF, passport applications, collection of telephone & electricity bills]

Provided to a person other than CG, SG, UT

(b) **Aircraft/vessel**, inside or outside the precincts of port or airport;

(c) Transport of Goods or Passengers; or

(d) **Any service** other than (a) to (c) provided to **Business Entities**.

Q5. Discuss the taxability of the following services provided by a Post Office:

SN	Services	Taxability
(1)	Basic mail services	Exempt
(2)	Transfer of money through money orders	Exempt
(3)	Operation of saving accounts	Exempt
(4)	Rural postal life insurance services	Taxable
(5)	Distribution of mutual funds, bonds & passport applications	Taxable
(6)	Issuance of postal orders	Exempt
(7)	Collection of telephone & electricity bills	Taxable
(8)	Pension payment services	Exempt
(9)	Speed post services	Taxable
(10)	Express parcel post services	Taxable
(11)	Express parcel service by department of post to Union Territory of Andaman.	Taxable

Note: If such service is provided to a person (other than CG/SG/UT), it is chargeable to GST. If such service is provided to CG/SG/UT, it is exempt from GST.

2. Services provided by CG, SG, UT, LA to **BE with aggregate TO upto 20 lacs** in preceding FY (**Special Category States - Rs. 10 lacs**).

Note: This entry shall not be applicable to following services:

1. (a), (b) & (c) of above Entry. & Renting of immovable property

3. Services provided by CG, SG, UT, LA to CG, SG, UT or LA.

Note: Nothing contained in this entry shall apply to 1. (a), (b) & (c).

4. Services provided by CG, SG, UT, LA if consideration for such services ≤ **Rs. 5,000**.

Continuous supply of service → Exemption is available only if consideration charged for such service ≤ Rs. 5,000 in a FY.

Note: Nothing contained in this entry shall apply to 1. (a), (b) & (c).

5. Supply of service by a Government Entity to

- CG, SG, UT, LA or
- any person specified by CG, SG, UT, LA for which consideration is received from CG, SG, UT, LA in form of grants.

6. Services supplied by CG, SG, UT to their undertakings or PSUs

- by way of **guaranteeing the loans** taken by such undertakings or PSUs from FIs & **Banks**.

7. Services by old age home run by CG, SG, registered charitable trust to its residents (> **60 yrs**)

- against consideration upto **Rs. 25,000** per month per member,
- provided that consideration is inclusive of charges for boarding, lodging & maintenance.

8. Services provided by CG, SG, UT, LA by way of:
 - **registration** required under any law for the time being in force;
 - **testing, calibration, safety check** or **certification relating to protection or safety** of workers, consumers or public at large, including fire license, required under any law.
 - **issuance of passport**, visa, driving license, birth certificate or death certificate.
 - **tolerating non-performance** of a contract for which consideration in form of **finances or liquidated damages** is payable to CG, SG, UT, LA under such contract. [Treated as supply of service]
 - **Assignment of right to use natural resources to individual farmer** for cultivation & rearing all forms of life forms except rearing of horses.
9. Services by CG, SG, UT by **deputing officers** after office hours or on holidays **for inspection or container stuffing** for import export cargo on payment of **Merchant Overtime charges**.
10. Services provided by recognised rehabilitation professionals by way of rehabilitation, therapy or counselling at medical establishments, educational institutions, rehabilitation centers established by CG/SG/UT/registered charitable trust. **[AMENDMENT]**
11. Services supplied **by SG to Excess Royalty Collection Contractor (ERCC)** by way of assigning right to collect royalty on behalf of SG on mineral dispatched by mining leaseholders.
 - At end of contract period, ERCC shall submit an account to SG & certify that GST deposited by mining leaseholders on royalty > GST exempted on service provided by SG to ERCC of assignment of right to collect royalty;
 - If GST paid by mining leaseholders < GST exempted, exemption shall be restricted to amount = amount of GST paid by mining leaseholders &
 - ERCC shall pay difference b/w GST exempted on service provided by SG to ERCC of assignment of right to collect royalty & GST paid by mining leaseholders on royalty.

Note: Services by Police or security agencies of Government to PSUs/private entities → **GST** ☒. Such services are taxable supplies & recipients are required to pay tax under RCM.

F. SERVICES TO GOVERNMENT

1. Service by **Fair Price Shops** to CG, SG or UT by way of sale of food grains, kerosene, sugar, edible oil, under Public Distribution System (consideration being commission/ margin).
2. To CG, SG, UT under any insurance scheme for which total premium is paid by CG, SG, UT.
3. To CG, SG, UT under any training programme where all expenditure is borne by CG, SG, UT
4. Services provided by **GSTN** to CG, SG, UT for implementation of GST.
5. **Pure services** (except works contract or other composite supplies involving supply of goods)
 - provided to CG, SG, UT, LA or Governmental authority or Government Entity
 - by way of any activity:
 - in relation to any function entrusted to a Panchayat under article 243G.
 - in relation to any function entrusted to a Municipality under article 243W.
6. **Composite supply of G&S** (in which **value of goods** ≤ **25% of total value** of composite supply)
 - provided to CG, SG, UT, LA or Governmental authority or Government Entity
 - by way of any activity:
 - in relation to any function entrusted to a Panchayat under article 243G.
 - in relation to any function entrusted to a Municipality under article 243W.

Class Note:

G. CONSTRUCTION SERVICES

1. Construction & related services by way of **Pure Labour Contracts** of a civil structure or any other **original works** pertaining to beneficiary-led individual house *construction/enhancement* under '**Housing for All (Urban) Mission**' or **Pradhan Mantri Awas Yojana**.
2. Construction & related services by way of **pure labour contracts** of **original works** pertaining to '**Single Residential unit**' otherwise than as a part of a **residential complex**.
3. Construction & related services supplied by **Electricity Distribution Utilities** for **extending** electricity distribution network **upto tubewell of farmer or agriculturalist**.
4. **Supply of TDR, FSI, long term lease (premium) of land by a landowner to a developer.**

Condition for Exemption	Constructed flats are sold before earlier of (i) issuance of completion certificate or (ii) first occupation of project, & tax is paid on them.
Withdrawal of Exemption	If flats are sold after issue of completion certificate. Such withdrawal shall be limited to 1% of value (in case of affordable houses) & 5% of value (in case of other houses).

H. TRANSPORTATION OF PASSENGERS

1. Transport of passengers (with or without accompanied belongings)
 - **By Air** [Starting or ending in airport located in **Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Bagdogra** located in **West Bengal**]
 - **Non-AC contract carriage** (other than radio taxi) excluding tourism, tour, charter or hire.
 - **Non-AC Stage carriage.**
2. Transportation of passengers by
 - (a) **Railway** other than (i) 1st class; or (ii) AC coach;
 - (b) Metro, monorail or tramway;
 - (c) **Inland waterways;**
 - (d) **Public transport in vessel** b/w places in India (other than predominantly for tourism)

Note: Transportation of passengers in normal public ships or other vessels that sail b/w places located in India would be exempt even if some of the passengers on board are using the service for tourism because predominantly, such service is not for tourism purpose.

However, services provided by leisure/charter vessels/a cruise, predominant purpose of which is tourism, would be liable to GTS even if some of the passengers in such vessels are not tourists.
 - (e) **Metered cabs or Auto rickshaws** (including e-rickshaws power $\leq 4,000$ watts).
3. Transportation of passengers **to CG** by **Air** starting or ending at a RCS (**Regional Connectivity Scheme**) airport, against consideration in form of **viability gap funding**.

Note: Nothing contained in this entry shall apply on/after expiry of 3 years from date of commencement of operations of the RCS airport as notified by the Ministry of Civil Aviation.

Q6. Morganite Ltd. is engaged in providing service of transportation of passengers by following modes:

SN	Services	Taxability
(1)	Service of transportation of passengers by vessels in National Waterways [Note 1]	Exempt
(2)	Service of transportation of passenger by Air conditioned Stage carriage	Taxable
(3)	Service of transportation of passenger by non air conditioned Stage carriage	Exempt
(4)	Service of transportation of passengers by contract carriage for tourism	Taxable

(5)	Service of transportation of passenger for Mumbai to Chennai port in a vessel & such service is not for tourism purpose [Being a public transport in a vessel sailing in India & not for tourism]	Exempt
(6)	Service of transportation of passenger in Metered Cab	Exempt
(7)	Service of transportation of passengers in Radio Taxis	Taxable
(8)	Service of transportation of passengers in Non air-conditioned contract carriages	Exempt
(9)	Service of transportation of passengers in air-conditioned contract carriages	Taxable
(10)	Service of transportation of passengers by auto-rickshaw/e-rickshaw	Exempt
(11)	Transport of passengers by general class	Exempt
(12)	Transport of passengers by sleeper class	Exempt
(13)	Transport of passengers by 1st Class AC coach	Taxable
(14)	Transport of passengers by 2 tier AC coach	Taxable
(15)	Transport of passengers by 3-tier AC coach	Taxable

Note: Since National Waterways are covered in definition of inland Waterways.

I. TRANSPORTATION OF GOODS

1. Services by way of transportation of goods by:

- Road [Except (a) GTA; (b) Courier agency]
- Inland waterways

2. Transportation by **Rail or Vessel** of the following goods:

- Relief materials meant for victims of natural or man-made disasters, calamities, accidents;
- Defence or military equipments;
- Registered newspaper or magazines;
- Railway equipments or materials;
- Agricultural produce;
- Milk, salt & food grain including flours, pulses & rice;
- Organic manure.

3. Services provided by **GTA** by way of transport of

- Relief materials meant for victims of natural or man-made disasters, calamities, accidents;
- Defence or Military equipments;
- Registered Newspaper or magazines;
- Agricultural Produce; Organic manure.
- Milk, Salt & food grain including flours, pulses & rice;
- **Goods** [If consideration from a **single consignee** for all such goods ≤ **Rs. 750**].
- **Goods** [If consideration charged on consignment transported in **single carriage** ≤ **1,500**]

Q7. Determine taxability for transport of goods by rail within India:

SN	Services	Taxability
(1)	Transport of postal mails & postal bags	Taxable
(2)	Transportation of household effects	Taxable
(3)	Transport of petroleum products	Taxable
(4)	Transport of relief materials to flood affected areas	Exempt
(5)	Transport of newspapers & magazines registered with registrar of newspapers	Exempt
(6)	Transport of milk	Exempt
(7)	Transport of alcoholic beverages	Taxable
(8)	Transport of defence & military equipments	Exempt
(9)	Transport of chemical fertilizers	Taxable
(10)	Transport of tea	Taxable
(11)	Transport of sugar	Taxable
(12)	Transport of organic manure	Exempt
(13)	Transport of baled cotton	Taxable
(14)	Transport of other taxable goods (including demurrages)	Taxable

Q8. Compute the value of taxable supply & give reasons for taxability of services for Mahesh Transport Ltd. engaged in business of transport of goods by road. No freight is received from any specified category of consignor/consignee. Suitable assumptions may be made wherever required. Mahesh Transport Ltd. does avails ITC. GST @ 12%:

Particulars	(Rs.)
(1) Total freight charges received by Mahesh Transport Ltd.	13,50,000
(2) Freight charges received for transporting fruits	1,25,000
(3) Freight for transporting small consignment for persons who paid < Rs. 750 for each consignment	75,000
(4) Freight for transporting goods in small vehicles for persons who paid < Rs. 1,500 per trip	1,50,000

Answer: **Computation of Value of taxable supply & GST leviable thereon**

Total freight received	13,50,000
Less: Freight charges received for transporting fruits being agricultural produce [Exempt]	1,25,000
Less: Freight < Rs. 750 for each consignment (Exempt since the freight charged to a single consignee does not exceed Rs. 750 & thus deducted from value of taxable supply)	75,000
Less: Freight for transporting goods in small vehicles for persons who paid < Rs. 1,500 per trip (Exempt since freight on all consignments transported into a goods carriage doesn't exceed Rs. 1,500 & & thus deducted from value of taxable supply)	1,50,000
Total value of taxable supply	10,00,000
GST payable @ 12%	1,20,000

4. Services provided by **GTA to unregistered person**, including unregistered CTP **other than:**

- Factory (Factories Act, 1948); Society (Societies Registration Act); Co-operative society
- Any body corporate; P'ship Firm (including AOP/BOI); Registered CTP.

CRUX: GTA services provided to only an unregistered individual end consumer are exempt from GST.

5. 'Transportation of Goods' services provided by **GTA**

⇒ to **Department or Establishment of CG/SG/UT; LA; Governmental Agencies** which has taken GST registration only for deducting tax u/s 51 & not for making a taxable supply of G&/S.

Meaning of GTA

- Any person who provides transport of goods by road & issues consignment note.
- Service of GTA includes not only actual transportation of goods, but also various intermediary & ancillary services, such as, loading/unloading, packing/unpacking, transshipment & temporary warehousing, which are provided in course of transport of goods by road.
- These services are not provided as independent services but as ancillary to principal service, namely, transportation of goods by road.
- Invoice issued by GTA for providing said service includes value of intermediary & ancillary services.

Note: Individual truck/tempo operators who do not issue any consignment note are not GTAs.

Q9. Discuss whether GST is leviable i.r.o transportation services provided by GTA:

SN	Nature of service provided	Taxability
(1)	Transportation of milk	Exempted
(2)	Transportation of books on a consignment transported in a single goods carriage	Taxable
(3)	Transportation of chairs for a single consignee in the goods carriage for Rs. 600	Exempt

J. BANKING & FINANCIAL SERVICES

1. Services by Reserve Bank of India.

2. Services provided by **Banking Company** to **Basic Saving Bank Deposit (BSBD) A/c holders** under Pradhan Mantri Jan Dhan Yojana (PMJDY).

3. Services by way of

(a) Extending **deposits, loans or advances** consideration for which is represented by **Interest or Discount** (other than interest involved in credit card services).

(b) **Sale/Purchase of Foreign Currency** amongst banks or authorised dealers of foreign exchange or amongst banks & such dealers.

Note: Services relating to Sale/Purchase of Foreign Currency provided to general public → **GST** ☒

Note: Services provided by banks to RBI → **GST** ☒

(c) Services by **acquiring bank** to any person in relation to settlement **upto Rs. 2,000** in a **single transaction** transacted through credit card, debit card, etc.

Acquiring bank: Any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card.

(d) Services by **Intermediary** of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status **to a customer located o/s India** for international financial services in currencies other than Indian rupees (INR).

Intermediary of financial services in IFSC is a person

[To be Read Once]

- (a) who is permitted or recognized by Gov. of India or
- (b) who is permitted or recognized by any Regulator appointed for regulation of IFSC; or
- (c) who is treated as person resident o/s India under Foreign Exchange Management (International Financial Services Centre) Regulations, 2015; or
- (d) who is registered under IRDAI (IFSC) Guidelines, 2015 as IFSC Insurance Office; or
- (e) who is permitted by SEBI under SEBI (IFSC) Guidelines, 2015.

Note:

1. Service charges/fees, documentation fees, broking charges, administrative charges, entry charges are not exempt & thus, represent taxable consideration. GST will be levied on such charges.
2. **Charges for late payment of outstanding dues on credit card: GST will be levied.**
3. Any interest/delayed payment charges charged to clients for delay in payment of brokerage amount/settlement obligations/margin trading facility is exempt from GST since settlement obligations/ margin trading facilities are transactions which are in the nature of extending loans or advances.

Q10. Discuss the taxability of the following amount received by HDFC Bank Ltd. during the month of December 2018.

Services	Taxability
Amount of commission received for debt collection service	Taxable
Discount earned on bills discounted	Exempt
Dealing in sale & purchase of forward contract	Exempt
Charges received on credit card & debit card facilities extended	Taxable
Penal interest recovered from the customers for the delay in repayment of loan	Taxable
Commission received for service rendered to Government for tax collection	Taxable
Interest earned on reverse repo transaction	Exempt
Interest charged on late payment of credit card bill	Taxable
Bank draft charges for transferring money from Pune to Mumbai.	Taxable

K. LIFE INSURANCE BUSINESS SERVICES

1. Life insurance business services provided by way of annuity under **National Pension System**
2. Life insurance business services provided by **Army, Naval & Air Force Group Insurance Funds** to members of Army, Navy & Air Force under Group Insurance Schemes of CG.
3. Life insurance services by **Naval Group Insurance Fund** to personnel of Coast Guard.

4. **Life insurance business services** provided under following schemes:

Janashree Bima Yojana	Aam Aadmi Bima Yojana	Varishtha Pension BimaYojana
Pradhan Mantri Jan Dhan Yogana	Pradhan Mantri Vaya Vandan Yojana	Pradhan Mantri Jeevan Jyoti Bima Yojana
Life micro-insurance product having maximum amount of cover of Rs. 2,00,000;		

L. SERVICES PROVIDED BY SPECIFIED BODIES

1. Services by **Employees' State Insurance Corporation** to the governed persons.
2. Services by **Employees PF Organisation** to the governed persons.
3. Services by **Coal Mines PF Organisation** to the governed persons.
4. Services by **NPS Trust** to its members against consideration (administrative fee).
5. Services by **IRDAI** to insurers under IRDAI Act, 1999.
6. Services by **SEBI** by way of protecting the interests of investors in securities and to promote development of, and to regulate, securities market.

M. PENSION SCHEMES

1. Services by way of **collection of contribution** under **Atal Pension Yojana**.
2. Services by way of **collection of contribution** under any pension scheme of SG.

N. GENERAL INSURANCE BUSINESS SERVICES

1. **General insurance business services** provided under following schemes:

Niramaya Health Insurance Scheme	Pilot Scheme on Seed Crop Insurance
Universal Health Insurance Scheme	Pradhan Mantri Fasal Bima Yojana (PMFBY)
Rashtriya Swasthya Bima Yojana	Cattle Insurance under Swarnajayanti Gram Swarozgar Yojna
Jan Arogya Bima Policy	Central Sector Scheme on Cattle Insurance;
Scheme for Insurance of Tribals	Agricultural Pumpset and Failed Well Insurance
Hut Insurance Scheme	Restructured Weather Based Crop Insurance (RWCIS)

- Janata Personal Accident Policy and Gramin Accident Policy
- Group Personal Accident Policy for Self-Employed Women
- Premia collected on export credit insurance
- Coconut Palm Insurance Scheme;
- Pradhan Mantri Suraksha BimaYojna;

2. Services by way of **Reinsurance** of insurance schemes **specified above**.

O. BUSINESS FACILITATOR/CORRESPONDENT

1. Services by business facilitator/correspondent to banking company (w.r.t A/c in rural area);
2. Services by intermediary to business facilitator/correspondent w.r.t services mentioned above
3. Services by business facilitator/correspondent to insurance company in a rural area.

- ⇒ BCs/BFs help villagers to open bank accounts & provide other banking services to them. They act as an intermediary b/w bank & its customers. Banks, in turn, pay commission/ fee to the BCs/BFs.
- ⇒ Banking company is the service provider to the ultimate customer in BF/BC model. Banking company is liable to pay GST on entire value of fee charged to customers whether or not received via BF/BC.

P. LEASING SERVICES

1. **Upfront amount** (called as premium, salami, cost, price, development charges etc) payable **for granting of long term lease of 30 years or more of industrial plots or plots for development of infrastructure for financial business**, provided by SG Industrial Development Corporations or by any other entity having 50% or more ownership of CG, SG, UT to industrial units or developers in any industrial or financial business area.

Note: GST exemption on 'upfront amount' is **admissible** irrespective of whether such upfront amount is payable or paid in one or more instalments, **provided the amount is determined upfront.**

2. Services of leasing of assets (wagons, coaches, locos) by IRFC to Indian Railways.

Q. LEGAL SERVICES

Service BY	Service provided TO
Firm/Individual advocate other than senior advocate (Legal services)	<ul style="list-style-type: none"> Advocate (all) or partnership firm of advocates providing legal services; Any person other than BE; BE with Aggregate TO upto Rs. 20 lacs in preceding FY. (10 lacs for SCS); CG, SG, UT, LA, Governmental Authority or Government Entity.
Senior Advocate OR Arbitral tribunal	<ul style="list-style-type: none"> Any person other than BE BE with Aggregate TO upto Rs. 20 lacs in preceding FY. (10 lacs for SCS) CG, SG, UT, LA, Governmental Authority or Government Entity.

Note: Legal services provided to a BE with aggregate turnover > 20/10 lacs in preceding FY are liable to GST. Further, tax is payable by the business entity on such services under RCM.

Q11. Discuss whether the following services are chargeable to GST:

Services	Taxability
Mr. A is an advocate (other than senior advocate) in Calcutta High Court. During December 2018, he provides legal service to Mr. X & Co. (a firm of advocates in Kerala) for a fee of Rs. 1,45,000. Turnover of M/s. X & Co. for preceding FY is Rs. 28 lacs	Exempt
M/s X & Co. is a firm of advocates & located in Chennai. It provides legal service to Y& Co., a firm of advocates, registered in Mumbai. Amount charged by X & Co. is Rs. 24 lacs.	Exempt
Legal service provided by a law firm to a doctor in practice (whose turnover of the last FY was Rs. 48 lacs).	Taxable
X is a senior advocate in the Bombay High Court. He provides legal service to a firm of advocates (legal charges being Rs. 35 lacs).	Taxable
X is an advocate. On January 17, 2018, he provides legal service to Mr. B, a senior Government officer presently posted in Surat. Legal service pertains to a personal properly dispute of B & his cousins.	Exempt

Notes:

1. Legal services provided by Firm/Individual advocate other than senior advocate to (i) Advocate (all) or partnership firm of advocates providing legal services; (ii) Any person other than BE; (iii) BE with Aggregate Turnover upto Rs. 20 lacs in preceding FY. (10 lacs for SCS); (iv) CG/SG/UT/LA/Governmental Authority & Entity.
2. Legal services provided by Senior Advocate to (i) Any person other than BE; (ii) BE with Aggregate Turnover upto Rs. 20 lacs in preceding FY. (10 lacs for SCS); (iii) CG, SG, UT, LA, Governmental Authority or Government Entity.

R. SKILL DEVELOPMENT SERVICES

Service by	Service provided to
<ul style="list-style-type: none"> ▪ National Skill Development Corporation ▪ Sector Skill Council approved by NSDC ▪ Assessment agency approved by SSC/NSDC ▪ Training partner approved by SSC/NSDC 	<ul style="list-style-type: none"> ▪ National Skill Development Programme implemented by NSDC ▪ Vocational skill development course ▪ Any other Scheme implemented by NSDC.

- ❖ Services of **assessing bodies empanelled centrally** by DGT, Ministry of Skill Development & Entrepreneurship by way of assessments under Skill Development Initiative Scheme.
- ❖ Services provided by **training providers** under **Deen Dayal Upadhyaya Grameen Kaushalya Yojana (DDUGKY)** implemented by Ministry of Rural Development, GoI by way of offering skill or vocational training courses certified by the National Council for Vocational Training.

S. SPONSERSHIP SERVICES:

Services by sponsorship of sporting events **organized by:**

- (a) National Sports federation/its affiliated federations [District, State, zone or Country level];
- (b) Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council Deaf, Paralympic Committee or Special Olympics Bharat;
- (c) Central Civil Services Cultural & Sports Board; Indian Olympic Association;
- (d) Panchayat Yuva Kreedha Aur Khel Abhiyaan Scheme.

T. PERFORMANCE BY AN ARTIST

- In Folk or Classical art forms of music/dance/theatre,
- **if consideration charged ≤ Rs. 1,50,000.**

Note: Activities by an artist in **other art forms** (western music/dance, modern theatres, performance of actors in films/tv serials, artists in still art forms (painting, sculpture) → **GST** ☒.

✓ Service provided by an artist as **Brand Ambassador** → **GST** ☒.

Q12. Discuss the taxability of the following activities performed by Mr. Aamir, an artist:

Services	Taxability
(a) Classical dance performance [WN 1]	Exempt
(b) Performance in television serial [Taxable since not covered in folk or classical art forms]	Taxable
(c) Services as brand ambassador [WN 1]	Taxable
(d) Coaching in recreational activities relating to arts [WN 2]	Exempt
(e) Sculpture making activities [Taxable as it is an activity in still art form]	Taxable
(f) Western dance performance [Taxable since not covered in folk or classical art forms]	Taxable

Note:

1. Services by a performing artist in folk or classical art forms of (a) music; (b) dance; (c) theatre, if consideration charged for such performance is not more than Rs. 1,50,000 are exempt from GST. However, the exemption shall not apply to service provided by such artist as a brand ambassador.
2. Training or coaching in recreational activities relating to arts, culture or sports are Exempt from GST.

U. RIGHT TO ADMISSION TO VARIOUS EVENTS

1. Admission to museum, national park, sanctuary, tiger reserve, zoo, **protected monument**.

2. By way of **right to admission** to

- Circus, Dance, or theatrical performance (including drama/ballet)
- Award function, Concert, Pageant, Musical performance, planetarium
- Recognized sporting event
- Any sporting event (other than recognised sporting event)

If Consideration
≤ 500 per person

Recognised sporting event means any sporting event organized by:

- (a) Recognised sports body [District, state, zone or country level]
- (b) National sports federation/its affiliated federations [District, State, zone or Country level];
- (c) Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council Deaf, Paralympic Committee or Special Olympics Bharat;
- (d) Central Civil Services Cultural and Sports Board; Indian Olympic Association;
- (e) Panchayat Yuva Kreedha Aur Khel Abhiyaan Scheme.

Recognised sports body

- Indian Olympic Association; ▪ Sports Authority of India;
- National sports federation regd. by Ministry of Sports & Youth Affairs of CG & its affiliate federations
- National sports promotion organisations recognized by Ministry of Sports and Youth Affairs of CG
- International Olympic Association or federation recognized by International Olympic Association;
- Federation or a body which regulates a sport at international level and its affiliated federations.

Services provided to a Recognized Sports Body by

- (a) Player, referee, umpire, coach/manager for participation in sporting event organized by RSB.
- (b) Another recognized sports body.

Note: Selectors, commentators, curators, technical experts → GST ☑; IPL → GST ☑.

Q13. State whether the following services are exempt under GST or not:

Question	Answer
Services provided to a recognized sports body by an individual as a player	Exempt
Services provided to a recognized sports body by an individual as a referee	Exempt
Services provided to a recognized sports body by an individual as a umpire	Exempt
Services provided to a recognized sports body by an individual as a coach	Exempt
Services of a player to IPL Franchisee	7,00,000
Services by a recognized sports body to another recognized sports body	Exempt
Services provided to a recognized sports body by an individual as a selector	2,00,000
Services provided to a recognized sports body by an individual as a commentators	1,00,000
Services provided to a charitable body by an individual as a player in subsidized fees	50,000

V. SERVICES BY CO-OPERATIVE SOCIETY

1. Service by an unincorporated body or a non- profit entity registered under any law to its own members by way of reimbursement of charges or share of contribution:

- (a) as a trade union;
- (b) for the provision of carrying out any activity which is exempt from levy of GST;
- (c) **upto Rs. 7,500 per month per member** for sourcing of G/S from third person for **common use of its members** in a housing society or a residential complex.

If turnover of housing society > applicable threshold limit for registration, it needs to take registration under GST. However, taking registration does not mean that housing society has to compulsorily charge GST in monthly maintenance bills raised on its members. If services provided by it are exempt, then it is not required to charge GST on the said services.

Ex: A society may be registered under GST, but if the monthly contribution received from the members is < Rs. 7,500/- (& amount is for the purpose of sourcing of G&S from a third person for the common use of its members), no GST is to be charged by housing society on monthly bill raised by the society. However, if monthly contribution exceeds > Rs. 7500, entire contribution is taxable. If maintenance charges are Rs. 9000 per month per member, GST @ 18% shall be payable on entire amount of Rs. 9000 & not on [Rs. 9000 – Rs. 7500] = Rs. 1500.

Further, if turnover of the society is < applicable threshold limit for registration or even if the turnover is beyond the said threshold limit, but monthly contribution of all the individual members towards maintenance is < Rs. 7,500/- (such services being exempt) & society is providing no other taxable service to its members or outsiders, then society (essentially exclusively providing wholly exempt services) need not take registration.

Note: Statutory dues such as property tax, electricity charges etc. forming part of monthly maintenance bill raised by the society on its members would be excluded while computing aforesaid monthly limit of Rs. 7500.

2. Services provided by an unincorporated body or a non-profit entity engaged in:
 - (a) activities relating to welfare of industrial or agricultural labour or farmers; or
 - (b) promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment
 to its own members against membership fee **upto Rs. 1000/- per member per year.**

Q14. Resident Welfare Association of Gokuldham Society in Mumbai provides the following information for Nov. 2019:

	Particulars	Rs.
1	Monthly subscription collected from member families (Rs. 8,000 each from 100 families)	8,00,000
2	Electricity charges levied by State Electricity Board on the members of RWA (It was collected from members & remitted to the Board on behalf of members)	3,50,000
3	Electricity charges levied by State Electricity Board on the RWA in respect of electricity consumed for common use of lifts & lights in common area. [Bill was raised in the name of RWA. RWA collected the said charges by apportioning them equally among 100 families & then remitted to the Board.]	4,32,400
4	Proceeds from sale of entry tickets to a musical performance conducted by the RWA in the park of Gokuldham Society [Where the consideration for admission is ≤ Rs. 500 per person]	40,000
5	Other Services to non-members	2,92,000

Compute the value of taxable supply & GST liability of Gokuldham Society for November, 2019.

Note: (i) GST is included in the receipts of RWA. (ii) Time of supply falls in November, 2019. (iii) Rate of GST - 18%.

Answer: **Computation of Value of taxable supply & GST liability**

Monthly subscription charges [WN 1]	8,00,000
Electricity charges levied by State Electricity' Board on the members of RWA [WN 2]	Nil
Amount collected towards electricity charges levied by State Electricity Board on the RWA i.r.o electricity consumed for common use of lifts & lights in common area [WN 3]	4,32,400
Proceeds from sale of entry tickets to musical performance held in park of Housing Society [WN 4]	Nil
Other Services to non-members [Liable for GST]	2,92,000
Value of taxable supply inclusive of GST	15,24,400
Value of taxable supply (Rs. 15,24,400 × 100/118) (rounded off)	12,91,864
GST payable @ 18%	2,32,536

Working Notes:

1. If per month per member contribution of any or some members of a RWA exceeds Rs. 7,500, entire contribution of such members whose per month contribution exceeds Rs. 7,500 would be taxable.
Alternatively, Since Exemption Notification exempts the service provided by RWA to its own members by way of share of contribution per month per member up to an amount of Rs. 7,500, it is also possible to take a view that monthly contribution of a member in excess of Rs. 7,500, i.e. Rs. 500 (Rs. 8,000 - Rs. 7,500) would be taxable. Thus, total monthly subscription charges liable to tax = Rs. 50,000 & GST liability would be computed accordingly.
2. Services provided by a RWA in the name of its members, acting as a "pure agent" of its members, are excluded from value of taxable supply available for the purposes of exemption provided under mega exemption notification.
3. In case of electricity bills issued in name of RWA, in respect of electricity consumed for common use of lifts & lights in common area, etc., exclusion from VoS would not be available, since there is no agent involved in these transactions.
4. Entry to entertainment events where the consideration for admission is ≤ Rs. 500 per person is exempt.

W. OTHER EXEMPT SERVICES

1. **Transfer of a going concern (running business)**, as a whole or independent part thereof.
Ex: Royal Hotel Group is in the business of running a chain of restaurants. It intends to sell its business as a going concern. It would not be required to pay GST on such sale of its business.

2. Supply of services associated with transit cargo to Nepal & Bhutan (landlocked countries).

3. Services by way of **Renting of residential dwelling for use as residence**.

4. Services by a **hotel, inn, guest house, club** or campsite for residential or lodging purposes, having Value of Supply of a unit of accommodation < **Rs. 1,000 per day** or equivalent.

5. Services by way of giving on hire

- Motor vehicle (carrying > 12 passengers) to **state transport undertaking only**.
- Means of transportation of Goods to **GTA**.
- Motor vehicle for transport of SSF to a person providing transportation services to schools.

6. Service by way of access to a road or a bridge on payment of toll charges.

7. Service by way of access to a road or a bridge on payment of annuity.

8. Transmission/distribution of electricity by an electricity transmission/distribution utility.

- Application fee for releasing connection of electricity;
- Rental Charges against metering equipment;
- Testing fee for meters/transformers, capacitors etc.;
- Labour charges from customers for shifting of meter or service line;
- Charges for duplicate bill.

GST ☒

9. Services provided by incubatee upto total turnover of Rs. 50 lacs in a FY subject to:

- Total turnover during preceding FY ≤ Rs. 50 lacs &
- 3 years has not elapsed from the date of entering into an agreement as an incubatee.

Incubatee: means an entrepreneur located in Technology Business Incubator (TBI)/ Science & Technology Entrepreneurship Park (STEP) recognised by NSTEDB.

10. Taxable services, provided by TBI/STEP or bio-incubators.

Q15. Cloud Technologies Ltd. a business incubatee provided following services in FY 2019-20 (after July 2019): Cloud computing: Rs. 25 lacs; Mobile application: Rs. 20 lacs; Social networking & location applications: Rs. 10 lacs.

(i) Taxable value of services provided in preceding FY is Rs. 22 lacs.

(ii) Service provider enter into an agreement with STEP in FY 2018-19.

Find GST liability of Cloud M Power Technologies Pvt. Ltd. for FY 2019-20. Assume applicable rate of GST 18%.

Answer: **Statement showing GST liability for FY 2019-20**

Particulars	Taxable Service	Remarks
(a) Cloud computing services	Nil	Exempted up to Rs. 50 lacs
(b) Mobile application services	Nil	Exempted up to Rs. 50 lacs
(c) Social networking & location aware applications	5,00,000	Exempt upto Rs. 50 Lacs. Above Rs. 50 lacs, it is taxable in FY 2018-19
Taxable services	5,00,000	

11. **Licensing, registration & analysis or testing of Food Samples.**

12. Services by way of **Collecting or Providing News** by an independent journalist, PTI or UNI.

13. Services by way of **providing information** under the RTI Act

14. Services of **Public Libraries** by way of lending of books, publications.

15. Services by organiser to any person in respect of a **business exhibition held outside India**.

16. Services by way of **slaughtering of animals**.

17. Services by a **foreign diplomatic mission** located in India.

QUESTION BANK

Q1. Services of a NGO registered u/s 12AA of the Income Tax Act, 1961 working for the rehabilitation of disabled. The aggregate value of taxable supply is Rs. 20 Lakh. Find the taxability for the given service?

Answer: It is taxable supply since exemption has been given to public health by way of -mental disability, but not rehabilitation of disabled.

Q2. Ananda Trust, an entity registered u/s 12AA of the Income-tax Act, 1961, has furnished you the following details with respect to the activities undertaken by it. You are required to compute its tax liability from given information:

Amount received for the Yoga camps organized for elderly people	4,83,000
Amount received for advancement of educational programmes relating to abandoned, orphaned or homeless children	8,00,000
Amount received for counseling of mentally disabled persons	10,50,000
Amount received for renting of commercial property owned by the trust	1,50,000
Amount received for activities relating to preservation of forests & wildlife	12,35,000

Answer:

Particulars	Rs.
Amount received for the Yoga camps organized for elderly people	Exempt
Amount received for advancement of educational programmes relating to abandoned, orphaned or homeless children	Exempt
Amount received for counseling of mentally disabled persons	Exempt
Amount received for renting of commercial property owned by the trust	1,50,000
Amount received for activities relating to preservation of forests & wildlife	Exempt

Q3. Kapleswara Charitable Trust registered u/s 12AA of the Income Tax Act, 1961, supplied the following services during the taxable period. Find the taxable supply or exempted supply from the following:

- Income from Navratri functions, other religious functions, & religious poojas conducted for Rs. 2,12,345.
- During Ganeshutsav or other religious functions, charitable trusts rent out their space to agencies for advertisement hoardings, income from such advertisement Rs. 4,98,765.
- Donation for religious ceremony is received with specific instructions to advertise name of donor for Rs. 1 Lac.
- Income from Renting of precincts of a religious place meant for general public.

Answer:

Particulars	Nature of supplies	Reason
(a) Income from Navratri functions etc.	Exempt supply	Meant of religious ceremony
(b) Income for renting out space	Taxable supply	Advertisement services
(c) Donation received with reciprocity	Taxable supply	It is infact an advertisement service.
(d) Renting of religious place	Exempt Supply	It is specifically exempt.

Q4. Durga Charitable Trust registered u/s 12AA & also registered under GST provided following services. Comment

- Services by way of training or coaching in recreational activities relating to sports for Rs. 4,00,000
- Organizes fitness camps in reiki, aerobics, etc., & receive donation from participants Rs. 2,25,000.
- Services of public libraries by way of lending of books, publications or material for Rs. 20,000.
- A charitable trust (registered u/s 12AA) provides services pertaining to preservation of wildlife.
- Services by way of public conveniences such as provision of facilities of washrooms.

Answer:

Particulars	Value
(a) Training/coaching in recreational activities relating to sports	Exempt
(b) Donation for Organizing fitness camps in reiki, Aerobics	2,25,000
(c) Public libraries	Exempt
(d) Preservation of wildlife service	Exempt
(e) Services by way of public conveniences such as provision of facilities of washrooms	Exempt

Q5. Discuss whether the following services are chargeable to GST:

- Tirumala Tirupati Devasthanams (TTD) owns residential complexes in Tirumala. These are given on rent to pilgrims, www.visittirumalafodarshan. Daily rent of these units is as follows - Category A: Rs. 800 per day, Category B: Rs. 1,500 per day, Category C: Rs. 3,500 per day.
- A charitable trust (registered u/s 12AA) provides yoga training service to residents of South Mumbai.
- XV, a charitable trust, is registered u/s 12AA. It manages a gurudwara in Bliatinda. Within gurudwara complex, there is a community hall which is generally given on rent to public for organizing marriage function. Rent charged is Rs. 8,000 per day.
- A charitable trust (registered u/s 12AA) provides services pertaining to education programme for the benefit of children of LIC employees.

Answer:

- Renting of rooms to pilgrims is exempt from GST under Exemption Notification.
 - However, exemption is available only if room charge per day is less than Rs. 1,000.
 - Therefore, renting of Category A room is exempt from GST.
 - GST is applicable in the case of renting of Category B & Category C units.
- Yoga training Service supplied by a charitable trust is not chargeable to GST.
- Rent of community hall by a charitable trust: It is exempt from GST, as rent does not exceed Rs. 10,000 per day.
- It is not covered by Exemption Notification (supply of service is not a "charitable activity" in this case).
GST exemption is available if a charitable trust provides service pertaining to advancement of education programmes for the benefit of (a) abandoned, orphaned or homeless children, (b) physically or mentally abused & traumatized persons, (c) prisoners, or (d) persons over the age of 65 years residing in a rural area, is covered by charitable activities.
Since the service does not pertain to "charitable activity", GST exemption is not available.

Q6. VHP, an entity registered as religious trust u/s 12AA of the Income-tax Act, 1961, has furnished you the following details with respect to the activities undertaken by it. You are required to compute its value of taxable supply from the information given below:

1	Renting of room where charges are Rs. 500 per day	6,00,000
2	Renting of room where charges are Rs. 1,500 per day	9,00,000
3	Renting of community halls where charges are Rs. 25,000 per day	10,00,000
4	Renting of kalyanmandapam where charges are Rs. 5,000 per day	7,50,000
5	Renting of shops for business where charges are Rs. 15,000 per month	7,50,000
6	Renting of shops for business where charges are Rs. 5,000 per month	5,50,000

Answer:

1	Renting of room where charges are Rs. 500 per day	Exempt
2	Renting of room where charges are Rs. 1,500 per day	9,00,000
3	Renting of community halls where charges are Rs. 25,000 per day	10,00,000
4	Renting of kalyanmandapam where charges are Rs. 5,000 per day	Exempt
5	Renting of shops for business where charges are Rs. 15,000 per month	7,50,000
6	Renting of shops for business where charges are Rs. 5,000 per month	Exempt
Value of Taxable Supply		26,50,000

Working Note: Services by a person by way of renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust u/s 12AA are exempt. However, this exemption shall not apply to renting of:

- Rooms where charges are Rs. 1,000 or more per day;
- Premises, community halls, kalyanmandapam or open area where charges are Rs. 10,000 or more per day;
- Shops or other spaces for business/commerce where charges are Rs. 10,000 or more per month.

Q7. Mark Agro Products Ltd., furnishes the following details of various services provided by it in August, 2018:

SN	Particulars	Amount
1	Rearing of Silkworm & horticulture	2,50,000
2	Plantation of tea & coffee	2,00,000
3	Renting of vacant land for performing marriage ceremony	4,50,000
4	Sale of wheat on commission basis	50,000
5	Sale of rice on commission basis	2,00,000

Compute the value of taxable supply of services for Mark Agro Prudcs Ltd. for the month of August 2017.

Answer:

SN	Particulars	Amount
1	Rearing of Silkworm & horticulture	Exempted Supply
2	Plantation of tea & coffee	Exempted Supply
3	Renting of vacant land for performing marriage ceremony	4,50,000
4	Sale of wheat on commission basis	Exempted Supply
5	Sale of rice on commission basis	2,00,000

Q8. Industrial & Technical Consultancy Organisation of Tamilnadu Limited (ITCOT) is accredited for conducting assessment for Modular Employable Skills (MES) courses. Following services provided in the month of Oct 2018:

1. Skill development services for Rs. 20 Lacss;
2. Skill Assessment examination & certification under SDI for Rs. 25 Lacss;
3. Feasibility reports to various industries for Rs. 60 Lacss. Find the GST liability?

Answer:

Statement showing GST liability

Particulars	Value	Remarks
Skill development services	Rs. 20 Lacss	Taxable supply of service
Skill Assessment examination & certification	Nil	Exempted supply of service
Feasibility reports to various industries	Rs. 60 Lacss	Taxable supply of services

Q9. Discuss whether the following services are chargeable to GST:

- (a) Renting of school building to a management school which provides management education recognized by UGC.
- (b) Bombay Technical University pays Rs. 24 lacs to A Ltd. for organizing admission test to admit students to MBA course of the university.
- (c) IIM Bengaluru charges Rs. 24 lacs as fees for its 2 years' full time post graduate programme in management. Admission is made on the basis of CAT result.
- (d) XV Public School (unrecognized) provides education facility upto 12th Standard. School charges Rs. 3,000 per month as tuition fees, Rs. 1,000 per month transportation charges & Rs. 1,700 per month as computer fees.

Answer:

- (a) Renting of building to a school is not exempt from GST. It is not covered by Exemption Notification (Entry 66).
- (b) Service relating to conducting admission test provided to an educational institution is exempt from GST.
- (c) Since IIM has been included in the definition of educational institutions, long term courses provided by it are exempt from GST.
- (d) Tuition fees, transportation fees, computer charges (or any other fees) charged by a school which provides pre-school education or education up to higher secondary level (or equivalent), are not subject to GST. Exemption is available even in the case of a school which is not a recognised school. In case of college, GST exemption is available only if the college provides education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force.

Q10. Discuss the taxability of the following receipts of ABC Ltd. providing educational services:

'Gyan Vijay' an industrial training institute (ITI) affiliated to National council for vocational Training	1,20,000
'GE Educare' a vocational educational provider affiliated to sector Skill Council formed under National Skill Development Corporation (NSDC)	1,80,000
'Kalyan Skill Centre' an industrial training centre (ITC) affiliated to the state Council for vocational Training, Rajasthan	2,00,000
Receipts of 'Mission', an institute, registered with Directorate General of Employment & Training (DGET), Union Ministry of Labour & Employment, running a Modular Employable Skill Course (MESCC) approved by the National Council of Vocational Training	1,00,000

Answer:

Particulars	Amount
Receipts of 'Gyan Vijay' an industrial training institute (ITI) affiliated to National council for vocational Training (NCVT)	Exempt
Receipts of 'GE Educare' a vocational educational provider affiliated to sector Skill Council formed under National Skill Development Corporation (NSDC)	Exempt
Receipts of 'Kalyan Skill Centre' an industrial training centre (ITC) affiliated to the state Council for vocational Training, Rajasthan	Exempt
Receipts of 'Mission', an institute, registered with Directorate General of Employment & Training (DGET), Union Ministry of Labour & Employment, running a Modular Employable Skill Course (MESCC) approved by the National Council of Vocational Training	Exempt

Q11. Industrial Training Institute (ITI), Manikpuri offers a short term Modular Employable Skill Course in the Information & Communication Technology Sector. The said course is approved by the National Council of Vocational Training (NCVT). ITI, Manikpuri is registered with the Directorate General of Employment & Training, Ministry of Labour & Employment. Revenue raised a demand for GST on the services provided by ITI Manikpuri. Examine whether the demand raised by Revenue is correct in law.

Answer: Services by way of education as a part of an approved vocational education course are exempt. A Modular Employable Skill Course, approved by the National Council of Vocational Training, run by a person registered with the Directorate General of Employment & Training, Union Ministry of Labour & Employment is an approved vocational education course.

Since, course offered by ITI Manikpuri falls under the definition of approved vocational education course, the same will be exempt & would not be liable to pay GST. Therefore, the demand raised by Revenue is not correct in law.

Q12. Synergy Waste Management (P) Ltd. provided following services to Apollo Hospitals Chennai during October:

- Collection, transportation, Treatment & Disposal of Bio-Medical Waste for Rs. 5,25,000.
- Training on Segregation of Bio-Medical Waste to Hospital Staff to further increase efficiency of Bio-Medical Waste Management Services for Rs. 1,25,000.
- Laundry services for Rs. 50,000.
- Common Bio-medical Waste Treatment Facility services provided to Arvind pharma company during Oct 2017 for Rs. 2,00,000.

Answer: **Statement showing GST liability of Synergy Waste Management (P) Ltd.**

Particulars	Value in Rs.	Reason
Collection, transportation, Treatment & Disposal of Bio-Medical Waste	Nil	Exempted supply of service
Training on Segregation of Bio-Medical Waste	Nil	Exempted supply of service
Laundry services	50,000	Taxable service
Common Bio-medical Waste Treatment Facility services provided to Arvind pharma company.	2,00,000	Taxable service. Since, exemption is given to a clinical establishment by way of treatment or disposal of bio-medical waste

Q13. State in each of the independent cases, whether the following are liable to GST?

- Columbia Hospital charged Mr. A who availed in-patients service Rs. 1,00,000 towards treatment including room rent & in patient food. They paid Rs. 40,000 to Doctor towards his professional fees. Whether both are subject to GST?
- Columbia Hospital has outsourced catering to Sodexo. Sodexo provides catering service to patient who admitted in Columbia Hospital according to Dietician suggestion & also serve food to visitor & patient's relative. Sodexo bill Columbia Hospital for in-patient food services & collect directly from others.
- Room rent charged by hospital per day per room is Rs. 1,200 provided to in-patients.
- Good & Bad Pvt. Ltd. provided the bio-medical waste treatment facility to a veterinary clinic.

Answer:

- Columbia charges to Mr. A is exempt vide S. No. 74 of Exemption Notification No. 12/2017- Central Tax (Rate). Even services provided by Doctor to Hospital is also exempt. It is immaterial whether Doctor work as employees of hospital or not. It is clarified by Circular No. 32/06/2018-GST.
- Sodexo catering services to in-patients is taxable since Sodexo is billing Columbia Hospital. Columbia Hospital billing to in-patients is although exempt. Sodexo catering services to visitor & patient's relative is also subject to GST.
- It is treated as health care service & hence room rent in hospitals to patients is exempt even if it exceeds Rs. 1,000.
- It is taxable supply of service. Scope of the exemption under entry 75 is restricted to services provided by operators of the common Bio- medical Waste Treatment Facility to a clinical establishment & not to veterinary clinic.

Q14. A contract awarded by Bombay Municipal Corporation (BMC) for repair of a particular road to M/s B Ltd. of Mumbai with a total consideration of Rs.12 Lacss with terms & conditions as stated that:

- It is pure service (excluding works contract or other composite supplies involving supply of any goods) &
- Entire work should be completed within 30 days.

The said work has been completed as per terms & conditions. Applicable rate of GST 18% Find the following:

- Is it taxable supply?
- What would be your answer if it is in the nature of works contract where material is involved in the value of contract. Is it taxable supply? If so who is liable to pay GST. Note: Previous Turnover of M/s B Ltd was Rs. 22 crores]

Answer:

(a) Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the local authority exempt from GST. Therefore, in the given case M/s B Ltd. supplied exempted service.
 (b) M/s B Ltd. supplied works contract service which includes material & hence it is taxable supply. M/s B Ltd is liable to pay GST. CGST @ 9% = Rs. 1,08,000. SGST @ 9% = Rs.1,08,000.

Q15. Discuss whether the following services are chargeable to GST:

- (a) Hemanta Builders is constructing a two-floor residential house. Is it taxable supply?
 (b) Shyam contractors undertaken to construct new single shop for M/s X & Co. Is it taxable supply?

Answer:

- (a) No, Construction & related services by way of pure labour contracts of original works pertaining to 'Single Residential unit' otherwise than as a part of a residential complex is exempt.
 (b) Yes, the given activity is a taxable supply & GST will be levied.

Q16. X Ltd. owns a plot of land. For construction of a single residential unit, a labour contract is given to Y Ltd. for Rs. 7,50,000. Material will be supplied by X Ltd. Y Ltd. construct residential house within 6 months which ends on March 31, 2018. 20% of agreed consideration is paid at the time of signing the agreement. The balance of 80% will be paid after completion of construction.

Answer: Construction & related services by way of pure labour contracts of original works pertaining to 'Single Residential unit' otherwise than as a part of a residential complex is exempt.

Q17. A Ltd. owns a plot of land. For construction of a single residential unit, a works contract is given to B Ltd. for Rs. 4.5 crore. Labour & material will be supplied by B Ltd. Construction will be completed within 2 years. 20% of agreed consideration is paid at the time of signing the agreement. The balance of 80% will be paid in instalments depending upon completion of work.

Answer: Construction & related services by way of pure labour contracts of original works pertaining to 'Single Residential unit' otherwise than as a part of a residential complex is exempt. However, if the contractor supplies material as well as labour, GST shall be payable. Thus, in this case, GST will be payable.

Q18. Air Bus Ltd, furnishes the following information for computation of its GST liability for the month of Oct 2018.

(a) Passenger travelling from Mizoram to Chennai – 2000 passengers, gross value per ticket	Rs. 2,500
(b) Passenger travelling from Chennai – USA: 500 passengers; USA – Chennai: 200 passengers. Gross value per ticket	Rs. 45,000
(c) Passengers travelling from Mumbai – Tripura - Mumbai with single ticket – 1000 passengers gross value per ticket	Rs. 5,000

Air Bus Ltd. charging 40% passenger tax which is not included in the gross value per ticket. Find the GST liability?
 All passengers are travelled in economic class except point (b).

Answer: **Statement Showing GST Liability of Air Bus Ltd. for Oct 2018**

(a) From Mizoram to Chennai	Exempted supply
(b) Passenger travelling from Chennai-USA (500 passengers x 45,000)	2,25,00,000
Passenger tax 40%	90,00,000
(c) From Mumbai – Tripura – Mumbai	Exempted supply
Value of Taxable Supply of Services	3,15,00,000
CGST 6%	18,90,000
SGST 6%	18,90,000
Total Tax	37,80,000

Note: Any taxes, fees, charges levied under any law other than GST law, are required to be added to the price (if not already added) to arrive at the taxable value.

Q19. Compute value of taxable supply of services of Air Speed Airlines located in Chennai for transportation of passengers by air from the following data relating to sums received exclusive of GST:

- (1) Passengers embarking at Arunachal Pradesh: Rs. 5 Lacss;
 (2) Amount for journey terminated at Assam: Rs. 4 Lacss;
 (3) Amount charged from passenger for flights starting from USA to Chennai: Rs. 250 Lacss;
 (4) Amount charged from passengers flying from Chennai to Sydney (Business class): Rs. 540 Lacss (including passenger taxes levied by government & shown separately on ticket: Rs. 100 Lacss). All passengers booked ticket from Delhi Office of Air Speed Airlines.
 (5) Passengers embarking from Chennai to Coimbatore (Economic class): Rs. 4 Lacss. Passengers booked tickets from Chennai office of Air Speed Airlines.

Applicable rate of GST 5% & 12%. Find the IGST, CGST & SGST if any.

Answer: Statement Showing GST Liability of Air Speed Airlines:

(a) Embarking at Arunachal Pradesh	Exempt
(b) When journey terminated at Assam	Exempt
(c) from USA to Chennai	Exempt
(d) from Chennai to Sydney (Business class)	Rs. 4,40,00,000
Passenger tax	Rs. 1,00,00,000
(e) from Chennai to Coimbatore	Rs. 4,00,000 (Economic class)
Value of Taxable Supply of Services	Rs. 5,44,00,000
IGST 12% on Rs. 5,40,00,000	Rs. 64,80,000
CGST 2.5% on Rs. 4,00,000	Rs. 10,000
SGST 2.5% on Rs. 4,00,000	Rs. 10,000
Total Tax	Rs. 65,00,000

Note: Any taxes, fees, charges levied under any law other than GST law, are required to be added to the price (if not already added) to arrive at the taxable value.

Q20. ABC & Co., a goods transportation agency located in Delhi, transports a consignment of new colour TVs from the factory of XYZ Ltd. in Cochin, to the premises of a dealer in Jammu (taxable territory). As per mutually agreed terms between ABC & Co., & XYZ Ltd., the dealer in Jammu is the person liable to pay freight. The amount of freight exclusive of taxes is Rs. 4,50,000. State the person liable to pay GST & amount of tax payable.

Note: ABC & Co. is not availing ITC. Consignment note issued by ABC & Co. for transporting goods.

Applicable tax rates for GTA is 5% & 12%.

Answer: Person liable to pay GST is dealer in Jammu (i.e. taxable territory).

GST liability is as follows: Total freight = Rs. 4,50,000; IGST 5% on Rs. 4,50,000 = 22,500

Q21. A & Co., a goods transportation agency located in Chennai, transports a consignment of new Laptops from the factory of X Ltd. in Cochin, to the premises of X Ltd. Branch office located in Bengaluru. As per mutually agreed terms between A & Co., & X Ltd., the Branch office in Bengaluru is the person liable to pay freight. The amount of freight exclusive of taxes is Rs. 5,40,000. State the person liable to pay GST & amount of tax payable.

Note: A & Co. is availing ITC. Consignment note issued by A & Co. for transporting goods.

Applicable tax rates for GTA is 5% & 12%.

Answer: Person liable to pay GST is A & Co., (namely GTA); IGST liability = 12% on Rs. 5,40,000 = Rs. 64,800.

Q22. MS Dhoni provided services to Chennai Super Kings (a franchisee) in IPL. Is it taxable service?

Answer: Yes, it is taxable in the hands of Mr. MS Dhoni since service has been given to a franchisee which is not a recognized sport body.

Q23. Mr. David Shephard provided services as umpire in a premier league (IPL). Is this service taxable?

Answer: No. the given service is exempt from GST. Since, services of an individual as umpire, provided directly to a recognized sport body (BCCI) shall be exempt.

Note: IPL is conducted by BCCI & it is a recognised sports body. However various franchisees in IPL (Ex: RCB, CSK etc.) are not recognised sports body.

Q24. Calculate GST liability of Mr. Virat Kohli from various receipts if all the amounts are exclusive of GST.

- (a) Receipts from Sports Authority of India for participation in recognised sport: Rs. 50 lacs;
- (b) Receipts from franchisee of Indian Premier league (not a recognised sports body): Rs. 75 lacs;
- (c) Receipts from acting as brand ambassador for corporate client: Rs. 22 lacs;
- (d) Receipts of sports training academy to coach young players: Rs. 15 lacs.

Answer:

Particulars	Value
(a) Receipts from sports authority of India for participation in recognised sports	Exempt
(b) Receipts from franchisee of Indian Premier league (not a recognised sports body)	75,00,000
(c) Receipts from acting as brand ambassador for corporate client [Taxable]	22,00,000
(d) Receipts of sports training academy to coach young players [Taxable]	15,00,000
Value of Taxable Supply	1,12,00,000
GST payable @ 18%	20,16,000

Q25. MP Bank Ltd., furnishes the following information relating to services provided & the gross amount received:

Particulars	Rs. (in Lacs)
Merchant Banking Services	8
Asset Management (including portfolio management)	3
Service charges for services to the Government of India	1.5
Interest on overdraft & cash credits	2
Banker to the issue	5
Locker rent	2

Repayment of financial lease made by the customer to the bank Rs. 80 lacs which includes a principal of Rs. 50 lacs. Compute the value of taxable supply of services & find GST if rate of GST is 18%.

Note: Input Tax Credit availed by the bank on the asset which is given on financial lease.

Answer: **Statement showing GST liability of MP Bank Ltd**

Particulars	Rs. in Lacs
Merchant banking services	8 Lacs
Asset Management	3 Lacs
Service charges for services to the Government of India	1.50 Lacs
Interest on overdraft & cash credits	Exempt
Banker to the issue	5 Lacs
Locker rent	2 Lacs
Financial lease (It is a supply of service)	80 Lacs
Taxable supply of services	99 Lacs
GST @ 18%	17.91 Lacs

Q26. With reference to the CGST Act, 2017, discuss the taxability of following activities relating to a bank:

- Bank extended housing loan of Rs. 50 Lacss to Mr. A.
- Bank received Rs. 50,000 as loan processing fee from Mr. A.
- Bank received Rs. 6 Lacss as interest on loan from Mr. A.
- Interest on fixed deposit given to customer: Rs. 5 lacs.

Answer: In accordance with the provisions of CGST Act, 2017 the taxability of activities is -

- The same is transaction in money, therefore not regarded as service as per Section 2(102) of CGST Act, 2017.
- Loan processing fees will be liable for GST @ 18%. Hence, GST liability = Rs. 50,000 × 18% = Rs. 9,000.
- Rs. 6 Lacss received as interest on loan will not be liable for GST as it is exempt.
- Interest on fixed deposit given to customer is not subject to GST.

Q27. Mr. Abhishek, an advocate, has rendered the following services in the month of October, 2018:

- Representing Mr. Archit in his divorce case before High Court.
- Representing Mr. Aniket, an architect by profession, in relation to his GST liability [Turnover of Mr. Aniket in preceding FY was Rs. 25 lacs]
- Legal consultancy given to Sunil Associates, a partnership firm of advocates [Turnover of Sunil Associates in preceding FY was Rs. 28 lacs]

Examine whether GST is payable if Mr. Abhishek is: (i) Advocate other than a senior advocate. (ii) Senior advocate

Answer:

SN	Advocate other than senior advocate	Senior advocate
(a)	Service of representing Mr. Archit in his divorce case will be exempt as Mr. Archit is not a business entity.	Such service will be exempt even if they are rendered by a senior advocate.
(b)	Since the turnover of Mr. Aniket, a business entity, is more than Rs. 20 lacs in preceding FY, it is liable to GST	Such services, when provided by senior advocate, will be liable to GST.
(c)	Legal consultancy provided by an advocate to partnership firm of advocates is exempt from GST.	Such services will be liable to GST if turnover of p'ship firm (BE) in preceding FY > Rs. 20 lacs. In this case, it is Rs. 28 lacs & thus liable to GST.

Q28. M/ s. PQR Properties registered under GST as taxable person is engaged in the business of renting various immovable properties owned by it. During the month ending 31-03-2019, it collected a rent of Rs. 5,00,000. The said sum includes rent from:

- (1) Vacant land used for agriculture: Rs. 50,000;
- (2) Land used for Appu Circus: Rs. 80,000;
- (3) Houses let to individuals for residential purposes: Rs. 70,000;
- (4) Building let to M/s. Elegant Hotel: Rs. 60,000;
- (5) Vacant land, given on lease to M/s. ABC Ltd. for construction of building at a later stage to be used for furtherance of business or commerce: Rs. 40,000;
- (6) Premises let to a temple trust: Rs. 40,000;
- (7) Premises let to a coaching centre: Rs. 80,000;
- (8) Building let to a theatre; Rs. 80,000.

Compute the amount of GST payable by the firm, assuming that the rent is exclusive of GST, if any, applicable in each case. Rate of GST -18%. Make suitable assumptions.

Answer:

Total Rent	5,00,000
Less:	
(1) Rent from vacant land used for agriculture [Exempt]	50,000
(2) Rent from land used for Appu Circus [Liable to GST]	Taxable
(3) Properties let for residential purposes [Exempt]	70,000
(4) Building let to hotel [Liable to GST]	Taxable
(5) Vacant land, given on lease to M/s. ABC Ltd. for construction of building at a later stage to be used for furtherance of business or commerce [Liable to GST]	Taxable
(6) Premises let to a religious body being temple trust [Liable to GST]	Taxable
(7) Premises let to a coaching centre [Liable to GST]	Taxable
(8) Building let to a theatre [Liable to GST]	Taxable
Total Taxable Value of Supply	3,80,000
GST payable @ 18%	68,400

Q29. Calculate GST payable by M/s. Raste Ltd. [Rate of GST = 18% & sum collected is exclusive of GST]

- (a) Toll Receipts from Highway of Jaipur: Rs. 8,000 lacs;
- (b) Commission earned on toll receipts: Rs. 75 lacs.

Answer: Toll receipts are exempt from GST. However, commission thereon is liable to GST.

Taxable value of supply = Rs. 75 lacs; GST @18% = Rs. 13.5 lacs.

Q30. Discuss whether the following services are chargeable to GST

- (a) Indian Railways Finance Corporation gives wagons/coaches on lease to Indian Railways. Lease rent is Rs. 47 lacs per month.
- (b) Rama Transporters (a goods transport agency) takes 5 trucks on hire from A Ltd. Hire charges being Rs. 5,000 per truck per day. These trucks will be utilised by Rama Transporters for transportation of goods in south India.
- (c) 'Jashn-e-Qawwali-Nizami Brothers live in Concert' is organized by XY Club, Faridabad at Kamani Auditorium on January 10,2018. Admission fees charged for this purpose is Rs. 10,000 per person.
- (d) A trade union charges Rs. 100 per month as fees from its members.

Answer:

- (a) Wagons given on lease by Indian Railways Finance Corporation to Indian Railways - It is not subject to GST.
- (b) GTA takes trucks on hire - It is exempt from GST.
- (c) Service by way of right to admission to a musical performance is exempt. However, exemption is available if consideration for admission is not more than Rs. 250 per person. In this case, entire amount is subject to GST.
- (d) Fees charged by trade union from its members is not subject to levy of GST.

Q31. M/s Z & Co., is a partnership firm registered under GST Law. The partners decided to convert the partnership into a limited liability partnership (LLP). The LLP takes over M/s Z & Co., assets & liabilities & continues to operate the same business. Is it taxable supply?

Answer: It is not taxable supply. Since, transfer of business as a going concern to another person, then it will not be supply (as per schedule II of CGST Act, 2017). **Note:** If taxable person de-registered, he will be liable to pay GST.

Q32. Mr. A.R. Rehaman being a music director (registered person under GST). He made following supplies:

- (a) Indigenous handmade musical instruments for Rs. 2,00,000.
- (b) Composted hello tune & transferred permanently for Rs. 30,00,000.
- (c) Pianos for Rs. 1,50,000
- (d) Percussion musical instruments (like drums, xylophones) for Rs. 5,00,000.

Find the GST liability. Applicable rate GST 28%. All transactions took place within the state of Tamil Nadu.

Answer:

Particulars	Value
Indigenous handmade musical instruments	Nil
Composted hello tune & transferred permanently (It is supply of service - Schedule II)	Nil
Sale of Pianos	Rs. 1,50,000
Sale of Drums, xylophones	Rs. 5,00,000
Total taxable supply of goods	Rs. 6,50,000
CGST 14% = 91,000 + SGST 14% = Rs. 91,000	Rs. 1,82,000

Q33. State whether the following statements are true or false.

- (a) Charges recovered by GoI from LA for construction of building like granting approval of the plant is exempt.
- (b) Grant received by the State Government from Central Government for implementing National Bio-gas & Manure Management Programme operating under Ministry of New & Renewable Energy is taxable supply of service.
- (c) Charges recovered by the Government for regulation of land use like conversion of agriculture to non-agriculture will be exempt from payment of GST.

Answer:

- (a) True. It is covered under entry 4 of exemption Notification No. 12/2017 Dt 28.06.2017 Central Tax (Rate)
- (b) False. SG is bound to implement the centrally sponsored scheme on receipt of grant. Consequently, SGs are implementing agency & not service provider. Therefore, there is no supply. GST does not arise.
- (c) True. It is covered under entry 4 of exemption Notification No. 12/2017 Dt 28.06.2017 Central Tax (Rate)

Q34. X Ltd. is covered under the Factories Act, 1948. Inspector of Factories certified the factory as safe for the workers to carry their work & charged Government fee of Rs. 10,000. X Ltd. owned one more factory at another place, which is not covered under Factories Act, 1948. However, X Ltd. obtained safety certificate for the factory from the Inspector of Factories by paying Rs. 15,000 voluntarily. Is it taxable supply? If so who is liable to pay GST. GST @ 18%.

Answer: X Ltd. being recipient of service from the Inspector of Factories is not liable to pay GST. Since, certification relating to safety of workers required under the Factories Act, 1948 covered under entry 47.

Another factory which is not covered under the Factories Act, 1948 for which fee paid by X Ltd. voluntarily is liable to pay GST under RCM. CGST @ 9% on Rs. 15,000 = Rs. 1,350 & SGST @ 9% on Rs. 15,000 = Rs. 1,350.

Q35. Taj Pvt. Ltd., received the following services from the Government of India during the taxable period:

1. Application fee paid towards processing of application for issuance of advance authorization Rs. 12,000.
2. Security services provided by Government security agency for 4 months for total consideration of Rs. 6,000:
 - (a) Jan 2019 – Part payment Rs. 500.
 - (b) Feb 2019 – Part payment Rs. 2,000.
 - (c) Mar 2019 – Part payment Rs. 2,000.
 - (d) April 2019 – Final payment Rs. 1,500.
3. Customs authorities have charged Merchant Over Time fee: Rs. 1,000 at the time of special warehousing of goods.

Find the total GST payable by Taj Pvt. Ltd. Note: Aggregate Turnover in preceding FY of Taj Pvt. Ltd. is 21 lacs.

Answer:

Statement showing GST liability of Taj Pvt. Ltd.

SN	Particulars	Value	Remarks
1	Application fee paid towards processing of application for issuance of advance authorization	12,000	Taxable supply of service as the amount exceeds Rs. 5,000.
2	Security services provided by Government security agency. FY 2018-19: Rs. 4,500; FY 2019-20: Rs. 1,500	Nil	Exempted supply of service
	Exemption shall apply only where consideration charged for such service does not exceed Rs. 5,000 in a FY.		
3	Merchant Overtime charges	Nil	Exempted supply of service
	Total GST liability (12,000 x 18%)	2,160	

Q36. Green Tree society provided following services in the month of February 2019:

- Banquet hall provided to a Member of the society on hire for celebrating his son birthday party for Rs. 25,000.
- Payment of electricity bill in the name of its members; collected Rs. 1,10,000 from its members & paid to electricity department Rs. 1,00,000.
- Contribution per month per member: Rs. 8,500 for 20 members & Rs. 2,500 for 30 members.

Find the tax liability of the Green Tree Society for the month of Oct 2017.

Answer: **Calculation of GST liability of Green Tree society for February 2019**

Particulars	Amount
Banquet hall rent (Taxable service)	Rs. 25,000
Service charges (Rs. 1,10,000 – Rs. 1,00,000)	Rs. 10,000
Maintenance charges (8,500 x 20) [Exempt only if upto Rs. 7,500 per month per member] *	Rs. 1,70,000
Total taxable value of supply of services	Rs. 1,45,000

Alternatively: Only the amount in excess of Rs. 7,500 (i.e Rs. 1,000) can be made taxable. In that case, taxable amount will be Rs. 1,000 × 20 = Rs. 20,000.

Q38. Discuss whether the following services are chargeable to GST:

Services	Taxability
Marketing service provided by Goa Government to a BE whose turnover in preceding FY is Rs. 10 cr.	Taxable
West Bengal Government charges Rs. 2,000 per vehicle for providing pollution check service.	Exempt
Water supply service provided by Bangalore Municipal Corporation.	Exempt
ABC Ltd. has made an upfront payment of Rs. 1 crore to Rajasthan Government on account of assignment of right to use minerals in the State of Bihar.	Taxable
Delhi Government has charged Rs. 40 Lacs from ABC Ltd. for allocation of natural resources for agricultural purposes in the month of November 2018. [Note 1]	Taxable
ABC Ltd. has paid to customs department Rs. 1 Lac on account Merchant Overtime Charges for deputing officers after office hours for inspection or container stuffing i.r.t import export cargo.	Exempt
Jaipur Municipal corporation awarded a contract for construction of road to ABC Ltd. failed to perform the contract & paid liquidated damages of Rs. 50 Lacs in accordance with T&Cs of contract. [Note 2]	Exempt

Notes:

- Services by way of allocation of natural resources to an individual farmer for agriculture have been exempted. Such allocations/auctions to categories of persons other than individual farmers would be leviable to GST. Hence, ABC Ltd. will be liable to pay GST.
- Services provided by CG/SG/UT/LA of tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages is payable to CG/SG/UT/LA under such contract are exempt.

Q39. Will the following activity attract GST?

Services	Taxability
(a) State Police provided protection services to the Judges of HC on payment of Rs. 2,00,000.	Exempt
(b) Chief Secretary to Finance Minister travelled from Delhi to Chennai by rail in an AC coach on official trip. Cost of ticket is Rs. 1,200.	Taxable
(c) Passport is issued by the Office of External Affairs Ministry under Passport Act, 1967 to individual. The fee of Rs. 6,500 is paid by business entity in which such individual person is working.	Exempt
(d) M/s X Ltd. paid penalty u/s 49 of the CGST Act, 2017 of Rs. 20 lacs to the Government Department in Oct 2018. [Refer Note Below]	Not Taxable
(e) Domicile Certificate for certifying the number of years during which the person has stayed in State, has been obtained from District Collector's Office, by paying fee of Rs. 5,500.	Exempt
(f) Inspector of the Metrology Department verified the calibration of weighing scale & the weight & collected charges of Rs. 7,500 from the shop owner under the The Legal Metrology Act, 2009.	Exempt
(g) Department of Agriculture & Farmers' Welfare provided Soil Conservation Service, Animal Husbandry etc. to a farmer for Rs. 20,000 in relation to assignment of natural resources.	Exempt
(h) For registration of a company whose nominal share capital does not exceeds Rs. 1,00,000, paid registration fee of Rs. 5,000.	Exempt

Note: It is not a supply of service. Fine or penalty chargeable by CG/SG/LA for violation of statute, laws, rules etc. are not leviable to GST. Such fines or penalty are not recovered for tolerating non-performance of a contract.



5A. TIME OF SUPPLY

BY CA PRANAV CHANDAK

FOR MAY/JUNE 2020

CA/CMA INTERMEDIATE

INTRODUCTION

- It is a point in time when liability to charge tax arises.
- To understand concept of time of supply, we must first know time period for issuance of Tax Invoice.

DATE OF RECEIPT OF PAYMENT = Earlier of (For the purpose of this chapter)

- Date on which **Payment** is **entered in the books of A/c** of recipient.
- Date on which **Payment** is **debited from the bank A/c** of recipient.

TIME OF ISSUE OF TAX INVOICE FOR SUPPLY OF GOODS [SEC 31]

GENERAL CASE [Section 31(1)]: Before or at the time of

Case	Time of issue of Invoice for Goods
If supply involves Movement of Goods	Removal of goods for supply to the recipient
In other cases	Delivery of goods or making available to the recipient

Ex: Ritu Manufacturers, Delhi supplies goods to Prakhar Electronics, Haryana. The goods were removed from its factory in Delhi on 23rd September. Ritu Manufacturers needs to issue a tax invoice on or before 23rd September.

CONTINUOUS SUPPLY [Sec 31(4)] [Successive statements of A/Cs or Payments are involved]

- Before or at** the time each such statement is issued or each such payment is received.

GOODS SENT ON APPROVAL [Sec 31(7)]

(a) Date when Recipient indicates that he has accepted the supply of goods; (i.e at the time of supply)	whichever is earlier
(b) Within 6 months from the Date of Removal.	

TIME OF SUPPLY OF GOODS

FORWARD CHARGE [SEC 12(2)]

Earlier of	(a) Date of Issue of Invoice by the supplier;
	(b) Last Date on which invoice is required to be issued u/s 31 .

Points to be Noted:

- No GST is payable on advances received for supply of goods under Forward charge.
- Excess Payment Received upto Rs. 1,000.**
If Payment received > value of goods in Invoice (excess being) **upto Rs. 1,000**; Supplier can choose to take Date of Invoice issued w.r.t such excess amount as ToS of goods **for such excess value**.
- Supply shall be deemed to have been made to the extent it is covered by the invoice/payment.

Ex: A Ltd. enters into an agreement with B Ltd. to supply 100 kg of raw material. However, A Ltd. supplies only 80 kg of raw material and issues the invoice for the same. Here, the supply would be deemed to have been made in respect of 80 kg of raw material, i.e. to the extent covered by the invoice. Therefore, the provisions relating to time of supply will also be applicable to supply of 80 kg of raw material and not for entire 100 kg of raw material.

Q1. Determine the Time of supply in each of the following independent cases if supply involves movement of goods.

SN	Date of Removal	Date of invoice	Date when goods made available	Date of Payment
1.	1.2.2019	2.2.2019	3.2.2019	15.3.2019
2.	3.2.2019	1.2.2019	4.2.2019	25.3.2019
3.	4.3.2019	4.3.2019	6.3.2019	1.2.2019

Answer:

- ❖ As per sec 12(2), in case of forward charge, time of supply shall be earlier of:
 - (a) Date of Issue of Invoice by the supplier or
 - (b) Last Date on which invoice is required to be issued u/s 31.
- ❖ As per section 31, supplier of goods is required to issue invoice on/before removal of goods.
- ❖ Thus, in case of supply transaction involving movement of goods, time of supply shall be earlier of:
 - (a) Date of Issue of Invoice by the supplier or
 - (b) Date of Removal of Goods (which is the Last Date on which invoice is required to be issued u/s 31).
- ❖ Thus Date of Payment & Date when goods are made available to recipient becomes irrelevant in this question.

SN	Date of Removal	Date of invoice	ToS	Reason
1	1.2.2019	2.2.2019	1.2.2019	Since invoice is not issued on/before the date of removal, ToS is date of removal of goods.
2	3.2.2019	1.2.2019	1.2.2019	Since invoice is issued prior to date of removal of goods, ToS is date of issuance of invoice
3	4.3.2019	4.3.2019	4.3.2019	Since invoice is issued prior to date of removal of goods, ToS is date of issue of invoice.

Note: No GST will be payable on advances received for supply of goods.

REVERSE CHARGE [SEC 12(3)]

Earlier of	(a) Date of Receipt of Goods;
	(b) Date of Receipt of Payment;
	(c) Date immediately following 30 days from date of issue of invoice (or any other document in lieu thereof) by supplier

Note: If it is not possible to determine ToS using sec 12(3), **ToS = Date of entry in books of A/c of the recipient of supply.**

Q2. Determine the time of supply in the following cases assuming that GST is payable under reverse charge:

SN	Date of Invoice	Date of Receipt	Date of payment by recipient of goods
1	30.11.2018	2.12.2018	25.11.2018: Part payment made; 28.12.2018: Balance amount paid
2	1.11.2018	5.12.2018	Payment is entered in books of A/c on 25.11.2018 & debited in recipient's bank account on 28.11.2018
3	30.11.2018	2.12.2018	Payment is entered in the books of A/c on 25.11.2018 & debited in recipient's bank account on 20.11.2018

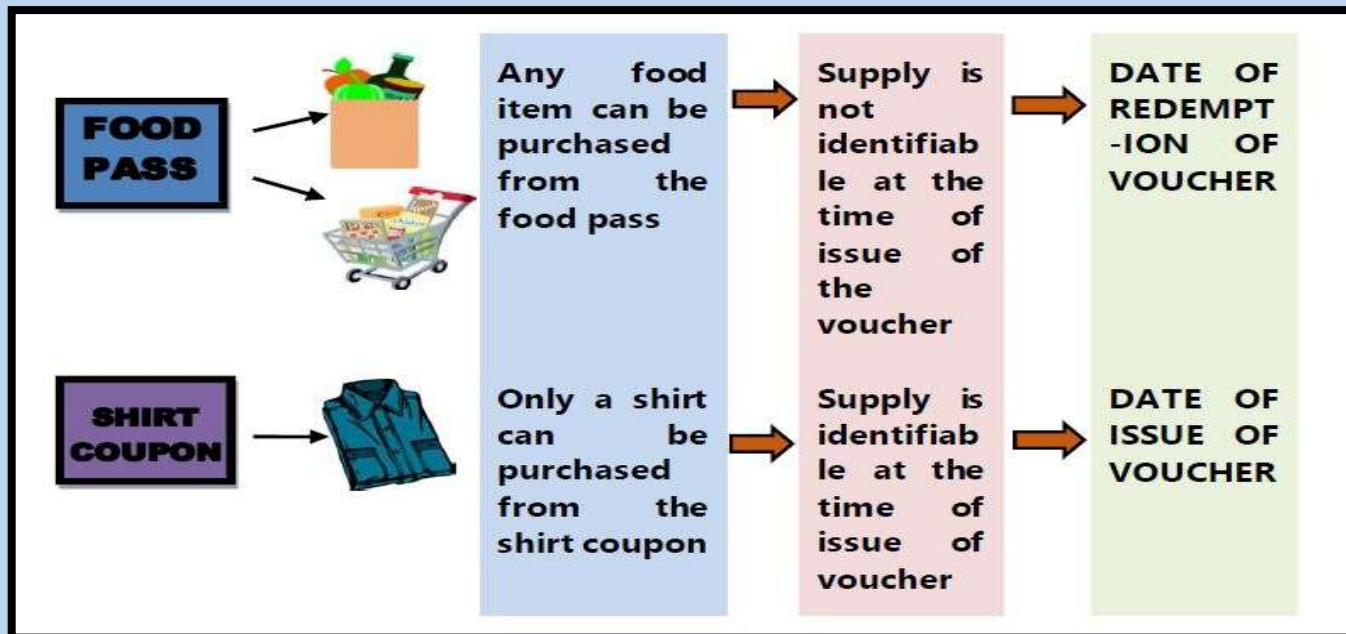
Answer: In case of RCM, ToS shall be earlier of

- (a) Date of Receipt of Goods
- (b) Earlier of (i) Date on which Payment is entered in books of A/c of recipient.
(ii) Date on which Payment is debited from bank A/c of recipient.
- (c) Date immediately following 30 days from date of issue of invoice by supplier

SN	Date of Invoice	Date immediately following 30 days from date of invoice	Date of Receipt of goods	Date of payment by recipient of goods	ToS of goods
1	30.11.2018	31.12.2018	2.12.2018	25.11.2018: Part payment; 28.12.2018: Balance payment	25.11.2018 for part payment 2.12.2018: Balance amount
2	1.11.2018	2.12.2018	5.12.2018	25.11.2018	25.11.2018
3	30.11.2018	31.12.2018	2.12.2018	20.11.2018	20.11.2018

VOUCHERS SUPPLIED BY SUPPLIER [SEC 12(4)]

Case	Time of Supply
(i) If Supply is Identifiable at that point	Date of Issue of Voucher
(ii) All other cases	Date of Redemption of Voucher



RESIDUAL CASES [SEC 12(5)]

[If it is not possible to determine ToS using 12(2), 12(3), 12(4)]

Case	Time of Supply
(i) If GST Periodical Return has to be filed	Date on which such return is to be filed
(ii) All other cases	Date on which GST is paid.

INTEREST, LATE FEE, PENALTY → **ToS** = Date of receipt of such amount by supplier.

Ex: Radha Traders sold goods to Shyam Sales on 6th June with a condition that interest @ 2% per month will be charged if Shyam Sales failed to make payment within 15 days of delivery of the goods. Goods were delivered as also the invoice was issued on 6th June. Shyam Sales paid the consideration for the goods on 6th July along with interest. ToS for the goods sold is the date of issue of invoice i.e., 6th June & ToS for addition in value by way of interest is date when such addition in value is received by Radha Traders i.e., 6th July.

TIME OF ISSUE OF TAX INVOICE FOR SUPPLY OF SERVICES [SEC 31]

GENERAL CASE [Section 31(2)]

Before or after provision of service BUT

Case	Time of issue of Invoice for Services
In Normal cases	within 30 days from date of Provision of Service.
In case of Insurance, Banks & NBFC	within 45 days from date of Provision of Service.

Ex: Katyani Security Services Ltd. provides security services to Royal Jewellers for their Jewellery Exhibition to be organized on 5th October. Katyani Security Services Ltd. needs to issue a tax invoice within 30 days of supply of security services, i.e. on or before 4th November.

CONTINUOUS SUPPLY [Sec 31(5)]

Case	Time of issue of Invoice for Services
Due date of Payment is ascertainable from contract	On/before due date of payment
Due date of Payment is not ascertainable from contract	Before/at time of receipt of payment
Payment is linked to completion of an event	On/before completion of that event

SUPPLY OF SERVICES CEASES BEFORE COMPLETION OF SUPPLY (under a contract) [Sec 31(6)]

➤ At time **when supply ceases** & only to extent of supply made before such cessation.

Q3. Mr. X had a contract for supplying services for 365 days for Rs. 36,500. However, after 50 days, he has stopped supply of service. He has asked you for an advice as to whether he should raise an invoice or not?

Ans: Yes. Where a supply of service ceases before its completion, an invoice has to be issued at the time when the supply ceases, i.e., on 50th day. Invoice shall be issued to the extent of service provided before its cessation.

TIME OF SUPPLY OF SERVICE

FORWARD CHARGE [SEC 13(2)]

Cases	Time of Supply [Earlier of ↓]
If invoice is issued within Time limit	Date of (i) Issue of invoice or (ii) Receipt of Payment
If invoice is not issued within Time limit	Date of (i) Provision of service or (ii) Receipt of Payment

Points to be noted:

- ❖ If ToS cannot be found out using above provisions, **ToS = Date of receipt of services** as shown in books of A/c of recipient.
- ❖ Supply shall be deemed to have been made to extent it is covered by invoice or payment.
- ❖ **Excess Payment Received upto Rs. 1,000: Same as supply of goods.**

REVERSE CHARGE [SEC 13(3)]

Earlier of	(a) Date of receipt of payment
	(b) 61st days from date of issue of invoice (or any other document in lieu thereof) by supplier

IMPORT OF SERVICE B/W ASSOCIATED ENTERPRISES (supplier is located outside India)

⇒ **ToS** = Earlier of (i) Date of entry of service in books of A/c of the recipient or (ii) Date of Payment.

Note: If it is not possible to determine ToS using sec 12(3), **ToS = Date of Entry in books of A/c of Recipient of Supply.**

VOUCHERS SUPPLIED BY SUPPLIER [SEC 13(4)] → Same as ToS for Goods u/s 12(4)

RESIDUAL CASES [SEC 13(5)] [If it is not possible to determine ToS using 13(2), 13(3), 13(4)] → Same as ToS for Goods u/s 12(5)

INTEREST, LATE FEE, PENALTY → Same as ToS for Goods

Second Proviso to Rule 47 [Inter – branch Transfer]

- Insurance/banking companies/FIs/NBFCs/Telecom companies/notified supplier of services
- **making taxable supplies b/w distinct person u/s 25,**
- invoice may be issued (i) **before or at time of recording such supply** in books of A/c or
(ii) before **expiry of quarter** during which supply was made.

Q4. XY Ltd. is located in India & holding 51% of shares of ABC Ltd., a USA based company. ABC Ltd. provides Business Auxiliary Services to XY Ltd. Determine the time of supply of XY Ltd.:

Agreed consideration	US \$ 1,00,000
Date on which services are provided by Wilson Ltd.	16.12.2018
Date on which invoice is sent by Wilson Ltd.	19.12.2018
Date of debit in the books of account of Apte & Apte Ltd.	30.12.2018
Date on which payment is made by Apte & Apte Ltd.	23.03.2019

Answer:

- XY Ltd. of India & ABC Ltd. of US are 'associated enterprises' as XY Ltd. holds 51% shares of US based company.
- As per Section 13(3), in case of supply by associated enterprises, where the supplier of service is located outside India, ToS shall be earlier of: (a) Date of entry in the books of A/c of recipient of supply; or (b) Date of payment.
- Therefore, the time of supply shall be 30.12.2018.

Q5. Determine the time of supply in the following cases assuming that GST is payable under reverse charge:

SN	Date of payment by recipient of services	Date of Invoice
1	10.10.2018	29.08.2018
2	10.10.2018	01.08.2018
3	Part payment made on 30.08.2018 & balance amount paid on 01.11.2018	29.08.2018
4	Payment is entered in the books of A/c on 28.08.2018 & debited in recipient's bank account on 30.08.2018	01.08.2018
5	Payment is entered in the books of A/c on 30.08.2018 & debited in recipient's bank account on 26.08.2018	29.08.2018

Answer:

SN	Date of Invoice	Date immediately following 60 days from invoice	Date of Payment	ToS
1	29.08.2018	29.10.2018	10.10.2018	10.10.2018
2	01.08.2018	1.10.2018	10.10.2018	01.10.2018
3	29.08.2018	29.10.2018	Part payment made on 30.8.2018 & balance amount paid on 1.11.2018	30.08.2018 for part payment; 29.10.2018 for balance
4	01.08.2018	1.10.2018	28.08.2018	28.08.2018 (i.e. when payment is entered in books of A/c of recipient)
5	29.08.2018	29.10.2018	26.08.2018	26.08.2018 (i.e. when payment is debited in recipient's bank A/c)

Q6. Income-tax search was carried out at house of Mr. X working in MNC. Undisclosed assets were found, which he claims as service income. Dates of service are not known. Find ToS if Mr. X voluntarily pays GST during investigation.

Answer:

- If it is not possible to determine ToS & where periodical return is not to be filed (Mr. X, being an employee in MNC is not a registered person), date of payment of tax is taken as the time of supply.
- Therefore, the date when Mr. X pays the GST will be the time of supply.

Q7. Gadiwala Ltd. is engaged in supply of cleaning services in residential premises. Investigation shows that Gadiwala Ltd. carried out service of cleaning & repairs of tanks in Paradise society, for which society showed a payment in cash on 25.12.2019 to them against work of this description. Dates of the work are not clear from the records of Gadiwal Ltd. Gadiwala Ltd. have not issued invoice or entered the payment in their books of account. Determine ToS.

Answer:

- ToS cannot be determined using section 13(2)(a)/(b) as neither the invoice has been issued nor the date of provision of service is available & date of receipt of payment in the books of supplier is not available.
- Therefore, ToS will be determined using section 13(2)(c) i.e., date on which the recipient of service shows receipt of the service in his books of account.
- ToS = 25.12.2018, the date on which Kamal Housing society records the receipt of service in its books of A/c.

QUESTION BANK

Q1. From following information, determine the time of supply of goods where supply involves movement of goods:

SN	Date of Invoice	Date of Removal	Date of Payment	Other Information
1	18.11.2018	10.11.2018	18.11.2018	-
2	1.11.2018	11.11.2018	-	Supply is due to Inter-State stock transfer.
3	22.11.2018	02.12.2018	20.11.2018	Rs. 5,00,000 is received as advance & invoice for full amount is issued on 22.11.2018.
			10.12.2018	Balance Rs. 10 Lacs is received on 10.12.2018.

Answer:

- ❖ As per sec 12(2), in case of supply transaction involving movement of goods, time of supply shall be earlier of:
 - (a) Date of Issue of Invoice by the supplier or (b) Last Date on which invoice is required to be issued u/s 31.
- ❖ As per section 31, supplier of goods is required to issue invoice on/before removal of goods.
- ❖ Thus, in case of supply transaction involving movement of goods, time of supply shall be earlier of:
 - (a) Date of Issue of Invoice by the supplier or
 - (b) Date of Removal of Goods (which is the Last Date on which invoice is required to be issued u/s 31).
- ❖ Thus Date of Payment & Date when goods are made available to recipient becomes irrelevant in this question.

SN	Invoice date	Last date of issue of invoice	ToS
1	18.11.2018	10.11.2018	10.11.2018
2	01.11.2018	11.11.2018	01.11.2018
3	22.11.2018	02.12.2018	22.11.2018 (for Entire: 15 Lacs)

Q2. Explain the meaning of the term 'date of receipt of payment' as per section 13 of CGST Act, 2017. [RTP Nov 18]

Answer: As per section 13, 'Date of receipt of payment refers to the earliest of following 2 dates:

- (a) Date on which the payment is recorded in the books of A/c of supplier of service that receives the payment, or
- (b) Date on which the payment is credited to the supplier's bank account,

Q3. If a supplier of goods has received Rs. 1,500 against an invoice of Rs. 1,100 on 25.07.2018 & date of invoice of next supply to the said recipient is 14.8.2018. Find ToS in respect of excess amount over & above invoice value.

Answer:

- In the given case, supplier has received payment in excess of payment due as per invoice. Receipt of such excess payment has resulted into receipt of advance in hands of supplier.
- Where amount received is in excess of invoice with amount upto Rs. 1,000, supplier has option to choose time of supply as date of issue of fresh invoice for the said excess amount.
- Thus, time of supply w.r.t Rs. 400/- shall be 14.08.2018 (date of invoicing of such supply).

Q4. Determine the time of supply if there is continuous supply of goods:

SN	Invoice date	Removal of goods	Statement of A/c	Receipt of payment
1	1.12.2018	15.11.2018; 25.11.2018	5.12.2018	2.12.2018
2	21.01.2019	18.01.2019; 31.01.2019	5.1.2019	10.2.2019

Answer:

- ❖ In case of continuous supply of goods where successive statements of A/c or successive payments are involved, invoice is issued before/at the time of issue of each such statement or each such payment is received - Sec 31(4).
- ❖ As per Section 12(2), in case of forward charge, time of supply of goods shall be the earlier of:
 - (a) Date of issue of invoice by the supplier; or (b) Last Date on which invoice is required to be issued u/s 31.
- ❖ Date of Removal of goods is irrelevant in case of Continuous Supply of goods.

SN	Invoice date	Statement of A/c	ToS	Reason
1	1.12.2018	5.12.2018	1.12.2018	ToS is date of invoice since invoice is issued before statement of account.

2	21.1.2019	5.1.2019	5.1.2019	ToS is date of statement of A/c since invoice is issued after date of statement of A/c & payment is also received after that date.
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Q5. Determine the time of supply if goods are supplied on approval basis.

SN	Removal of goods	Issue of invoice	Accepted by recipient	Receipt of payment
1	1.12.2018	15.12.2018	5.12.2018	25.12.2018
2	1.12.2018	25.7.2019	25.7.2019	20.7.2019

Answer:

- ❖ In case of goods sent on approval, invoice shall be issued on earlier of (a) Date when Recipient indicates that he has accepted the supply of goods or (b) Within 6 months from the Date of Removal - [Sec 31(7)]
- ❖ Date of Issue of invoice & date of payment becomes irrelevant in case of goods sent on approval.

SN	Removal of goods	Accepted by recipient	ToS	Reason
1	1.12.2018	05.12.2018	5.12.2018	TOS is shall be date of acceptance by recipient as invoice was issued after that date.
2	1.12.2018	25.07.2019	2.6.2019	TOS shall be date after expiry of 6 months from the date of removal, since invoice is not issued within 6 months from date of removal.

Q6. Determine ToS in each of the following cases in case recipient of goods is liable to pay tax under RCM.

SN.	Date of invoice	Date of receipt of goods	Date of payment in books of A/c	Date when payment debited in bank A/c
1.	01.10.2018	05.10.2018	10.10.2018	12.10.2018
2.	01.10.2018	15.10.2018	10.10.2018	12.10.2018
3.	01.10.2018	15.10.2018	12.10.2018	10.10.2018
4.	01.10.2018	15.11.2018	18.11.2018	20.11.2018

Answer: In case of RCM, ToS shall be earlier of

- (a) Date of Receipt of Goods
- (b) Earlier of (i) Date on which Payment is entered in books of A/c of recipient.
(ii) Date on which Payment is debited from bank A/c of recipient.
- (c) Date immediately following 30 days from date of issue of invoice by supplier

SN	Date of invoice	Date of receipt	Date of payment	Time of supply
1	01.10.2018	05.10.2018	10.10.2018	05.10.2018
2	01.10.2018	15.10.2018	10.10.2018	10.10.2018
3	01.10.2018	15.10.2018	10.10.2018	10.10.2018
4	01.10.2018	15.11.2018	18.11.2018	01.11.2018

Q7. Determine the time of supply if supply is taxed under reverse charge basis:

SN	Date of invoice	Date Removal	Date of Receipt	Date of entry in books of A/c of recipient	Date of debit in bank A/c of recipient
1.	31.12.2018	31.12.2018	20.01.2019	30.01.2019	01.02.2019
2.	31.12.2018	31.12.2018	20.01.2019	05.01.2019	06.01.2019
3.	31.12.2018	28.02.2019	05.03.2019	-	-

Answer: In case of RCM, ToS shall be earlier of

- (a) Date of Receipt of Goods
- (b) Earlier of (i) Date on which Payment is entered in books of A/c of recipient.
(ii) Date on which Payment is debited from bank A/c of recipient.
- (c) Date immediately following 30 days from date of issue of invoice by supplier

SN.	Date of invoice	Removal of goods	Receipt of goods	DOP	Time of supply
1.	31.12.2018	31.12.2018	20.01.2019	30.01.2019	20.01.2019
2.	31.12.2018	31.12.2018	20.01.2019	05.01.2019	05.01.2019
3.	31.12.2018	28.02.2019	05.03.2019	-	31.01.2019

Q8. A machine has to be supplied at site. It is done by sourcing various components from vendors & assembling the machine at site. The details of the various events are:

15.12.2018	Purchase order with advance of Rs. 1,25,000 is received for machine worth Rs. 25 Lacs & entry duly made in the seller's books of account
25.01.2019	The machine is assembled, tested at site, & accepted by buyer
30.01.2019	Invoice raised
10.02.2019	Balance payment of Rs. 23,75,000 received

Determine the time of supplies in the above scenario.

Answer:

- ❖ As per Section 12(2), the time of supply of goods shall be the earlier of:
 - (a) Date of issue of invoice by the supplier; or
 - (b) Last Date on which invoice is required to be issued u/s 31.
- ❖ As per Section 31(1), a registered person supplying taxable goods shall issue invoice before/at the time of,
 - (i) If supply involves movement of goods: Removal of goods for supply to the recipient; or
 - (ii) In other cases: Delivery of goods or making available thereof to the recipient.
- ❖ In this case, since supply does not involve movement of goods since they are assembled at site, invoice shall be issued on/before Delivery of goods or making them available to the recipient.
Thus Last date for issue of invoice is 25.01.2018. However, invoice has been issued on 30.01.2019.
- ❖ ToS = 25.01.2018 (being earlier of Date of Invoice or Last date on which invoice should have been issued).

Q9. LPG is supplied by a pipeline. Monthly payments are made by the recipient as per contract. Every quarter, invoice is issued by the supplier supported by a statement of the goods dispatched & payments made, & the recipient has to pay the differential amount, if any. The details of the various events are:

- (a) Payments of Rs. 5 lacs made in each month: 3.11.2018; 3.12.2018; 1.1.2019.
- (b) Statement of accounts issued by supplier, with invoice for the quarter Oct 2018 to Dec 2018: 2.1.2019.
- (c) Differential payment of Rs. 78,000 received by supplier for the quarter Oct 2018 to Dec 2018: 25.1.2019.

Determine the time of supply.

Answer:

- ❖ In case of continuous supply of goods where successive statements of A/c or successive payments are involved, invoice shall be issued before/at the time of issue of each such statement or each such payment - Sec 31(4).
- ❖ As per Section 12(2), in case of forward charge, time of supply of goods shall be the earlier of:
 - (a) Date of issue of invoice by the supplier; or
 - (b) Last Date on which invoice is required to be issued u/s 31.
- ❖ Date of Removal of goods is irrelevant in case of Continuous Supply of goods.
- ❖ Therefore, invoice should be issued on 3.11.2018, 3-12-2018 & 1.1.2019 when monthly payments of Rs. 5 lacs are received.
- ❖ Thus, ToS = 3.11.2018, 03.12.2018 & 1.1.2019 respectively for goods valued at 5 lacs each.
- ❖ ToS for goods valued at Rs. 78,000 will be 2.1.2019 (i.e. date of issuance of invoice).

Q10. Mr. X, a registered supplier supplied certain goods to Mr. Y on 6 months' credit with a penalty clause in the agreement levying a penalty of 5% of the invoice value in case of delayed payment. The invoice was dated 01-11-2018. Mr. Y could not make the payment on the due date due to unavoidable reasons. He however made the payment of the invoice value on 05-05-2019. Mr. X raised a debit note for the penalty amount. There being dispute on this, the matter was in arbitration which was finally resolved with Mr. Y agreeing to pay half of the penalty amount. The amount was paid by Mr. Y on 12-12-2019. Determine the Time of Supply.

Answer:

- With respect to the goods supplied, ToS = Date of invoice (assuming the delivery of goods on the date of invoice) i.e., 01-11-2018.
- Penalty: For penalty amount, ToS shall be 'date of payment of Penalty' i.e. 12.12.2019 [as per Section 12(6)].

Q11. Determine ToS where supply is by issue of voucher valid for 1 year & are issued after supply of first service.

First service	Issue of voucher	Redemption of voucher	Last date for acceptance of voucher
1.1.2019	1.1.2019	31.10.2019	31.12.2019

Answer: ToS is date of issue of voucher (i.e 1.1.2019) since supply is identifiable at the time of issuance of voucher.

Q12. Determine ToS of service from the following information

Particulars of voucher	First service/ delivery of goods	Issue of voucher	Redemption of voucher	Last date for acceptance of voucher
Voucher valid for 1 year is issued to a recipient after supply of a service, for any other G & S across India.	01.01.2019	01.01.2019	14.12.2019	31.12.2019

Answer: ToS = Date of redemption of voucher (i.e 14.12.2019) since supply is not identifiable at the time of issue.

Q13. Determine the time of supply of service in each of following independent cases:

SN	Date of Provision of Service	Date of Invoice, Bill	Date on which payment received
1	10.11.2018	30.11.2018	15.12.2018
2	10.11.2018	30.11.2018	15.11.2018
3	10.11.2018	30.11.2018	15.11.2018 (Part) & 10.12.2018 (remaining)
4	10.11.2018	30.11.2018	06.11.2018 (Part) & 09.11.2018 (remaining)
5	10.11.2018	30.11.2018	06.11.2018 (Part) & 16.11.2018 (remaining)
6	10.11.2018	12.12.2018	30.04.2019
7	10.11.2018	12.12.2018	05.11.2018 (Part) & 25.12.2018 (remaining)
8	10.11.2018	22.12.2018	12.12.2018

Answer:

(a) If invoice is issued within Time limit: ToS = Earlier of Date of (i) Issue of invoice or (ii) Receipt of Payment.

(b) If invoice is not issued within Time limit: ToS = Date of (i) Provision of service or (ii) Receipt of Payment.

Time limit for issue of invoice [Sec 31(2)]

before or after provision of service but

Case	Time of issue of Invoice for Services
In Normal cases	within 30 days from date of Provision of Service.
In case of Insurance, Banks & NBFC	within 45 days from date of Provision of Service.

SN	Date of Provision of Service	Date of Invoice	Date of Payment	ToS	Comment
1	10.11.2018	30.11.2018	15.12.2018	30.11.2018	
2	10.11.2018	30.11.2018	15.11.2018	15.11.2018	
3	10.11.2018	30.11.2018	15.11.2018 (Part) & 10.12.2018 (remaining)	15.11.2018 & 30.11.2018 for respective amounts	Invoice issued within 30 days. Part payment received before invoice & remaining payment after invoice.
4	10.11.2018	30.11.2018	06.11.2018 (Part) & 09.11.2018 (remaining)	06.11.2018 & 09.11.2018 for the respective amounts	Invoice issued within 30 days. However, advance has been received in 2 installments before date of completion of service. Thus, ToS = date of receipt of each such advance
5	10.11.2018	30.11.2018	06.11.2018 (Part) & 16.11.2018 (remaining)	06.11.2018 & 16.11.2018 for the respective amounts	Invoice issued within 30 days. Part payment (in form of advance) received before issue of invoice & remaining payment received after providing service.
6	10.11.2018	12.12.2018	30.04.2019	10.11.2018	Invoice not issued within 30 days & payment received after providing service.

7.	10.11.2018	12.12.2018	05.11.2018 (Part) & 25.12.2018 (remaining)	05.11.2018 & 10.11.2018 for respective amounts	Invoice not issued within 30 days. Part payment received as advance before completion of service & remaining payment received subsequently.
8.	10.11.2018	22.12.2018	12.12.2018	10.11.2018	Invoice not issued within 30 days & entire payment received after providing service.

Q14. Determine the time of supply from the following particulars:

25.07.2018	Booking of convention hall, sum agreed Rs. 15,00,000, advance of Rs. 1,01,000 received
10.11.2018	Event held in convention hall
20.12.2018	Invoice issued for Rs. 15,00,000, indicating balance of Rs. 13,99,000 payable
25.12.2018	Balance payment of Rs. 13,99,000 received

Answer:

- As per Section 31 r/w Rule 47 of CGST Rules, invoice shall be issued within 30 days of supply of service.
- In the given case, the invoice is not issued within the prescribed time limit.
- If invoice is not issued within Time limit: ToS = Date of (i) Provision of service or (ii) Receipt of Payment.
- ToS for Rs. 1,01,000 is 25.7.2018 as date of payment of Rs. 1,01,000 is earlier than date of provision of service.
- ToS for balance Rs. 13,99,000 is 10.11.2018 which is the date of provision of service.

Q15. Determine the time of supply of services. Supply is a continuous supply of service where contract provides for monthly payment upto 15th of the succeeding month.

Entry of provision of services in books of A/c	Invoice date	Due date of payment as per contract	Receipt of payment
30.11.2018	07.12.2018	15.12.2018	20.12.2018
31.12.2018	22.01.2019	15.01.2019	20.01.2019
31.01.2019	15.02.2019	15.02.2019	11.02.2019

Answer:

- In case of Continuous supply of services: If due date of payment is ascertainable from contract, invoice shall be issued On or before due date of payment.
- If invoice is issued within Time limit: ToS = Date of (i) Issue of Invoice or (ii) Receipt of Payment.
- If invoice is not issued within Time limit: ToS = Date of (i) Provision of service or (ii) Receipt of Payment.

Entry of provision of services in books	Invoice date	Due date of payment as per contract	Receipt of payment	Time of supply
30.11.2018	07.12.2018	15.12.2018	20.12.2018	07.12.2018
31.12.2018	22.01.2019	15.01.2019	20.01.2019	15.01.2019
31.01.2019	15.02.2019	15.02.2019	11.02.2019	11.02.2019

Q16. Golden Industries Ltd. engaged the services of Sandhu transporter for road transport of a consignment on 25-12-2018 & made advance payment for the transport on the same date, i.e., 25-12-2018. However, the consignment could not be sent immediately on account of a strike in the factory, & instead was sent on 20-01-2019. Invoice was received from the transporter on 22.1.2019. What is ToS of transporter's service? [Transporter's service is taxed on RCM].

Answer:

- ToS of service under RCM = Earlier of: (a) Date of payment or (b) 61st day from date of issue of invoice [Sec. 13(3)].
- In this case, date of payment precedes 61st day from the date of issue of invoice by the supplier of service.
- Hence, the date of payment, i.e. 25-12-2018, will be treated as the time of supply of service.

Q17. Anup received some taxable services from Loreal Enterprises of UK on 1.12.2019 for which an invoice was raised on 1.12.2018. Determine ToS of services if Anup makes the payment on: (a) 1.1.2020; (b) 5.3.2020.

Answer:

ToS of service under RCM = Earlier of: (a) Date of payment or (b) 61st day from date of issue of invoice [Sec. 13(3)].

(a) Since the payment has been made within 60 days from the date of invoice, ToS = Date of payment i.e. 1.1.2020.

(b) Since the payment is not made within a period of 60 days of the date of invoice, ToS = Date immediately following the said period of 60 days i.e. 31.1.2020.

Q18. On 4th Sep. 2019, V.R. Mehman a famous music composer, received Rs. 3 cr from T-Series Music Co. Ltd. for sale of copyright of his original music album. He finished his work & made available the CD to the music company on 20th July, 2019 & raised the invoice on 24th July, 2019. What will be ToS? [Above Service is taxable under RCM] **[May 2018]**

Answer:

- As per section 13(3), ToS of service taxable under RCM shall be earlier of:
(a) Date of payment or (b) 61st day from the date of issue of invoice
- Since the payment is made within 60 days from the date of invoice, the time of supply shall be 4.9.2019.



5B. VALUE OF SUPPLY

BY CA PRANAV CHANDAK

FOR MAY/JUNE 2020

CA/CMA INTERMEDIATE

- ❖ As GST is levied as % of the value of supply, it becomes important to know how to arrive at value on which tax is to be paid.
- ❖ Section 15 of CGST Act supplemented with Chapter IV: Determination of Value of Supply of CGST Rules prescribes provisions for determining value of goods and services.
- ❖ When value cannot be determined u/s 15, same is determined using Valuation Rules [Chapter IV].

TRANSACTION VALUE [Section 15(1)]

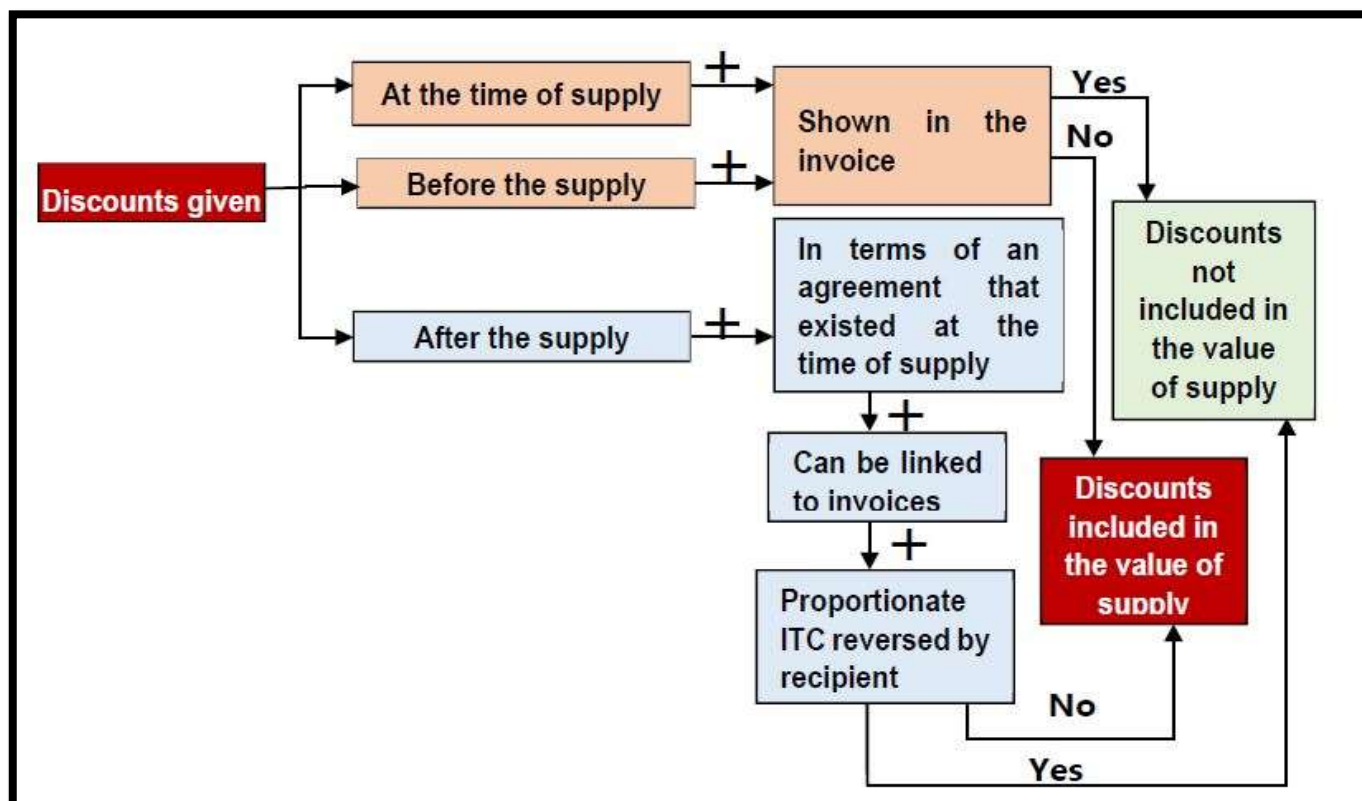
Value of "Supply of G/S" = **Transaction value** (price actually paid/payable) if:

- (i) Supplier & Recipient are not Related & (ii) Price is Sole Consideration for supply.

INCLUSIONS in Value of Supply [Section 15(2)]		
(a) Taxes: Any taxes, duties, cess, fees & charges (if charged separately) Except GST & related Cess.		
(b) TCS (tax collected at source) should not be included in VoS. (since it is an interim levy not having character of tax).		
(c) Payment to 3rd party by the Recipient on behalf of the supplier: <ul style="list-style-type: none"> Any amount paid/payable by recipient to 3rd party which supplier is liable to pay in relation to such supply & such payment is not included in price. Note: Amount paid by the recipient to 3 rd party will be added to VoS only when the supplier is under contractual liability to make payment to such third parties & said payment is in relation to such supply.		
(d) Incidental expenses: Any amount charged for anything done by the supplier i.r.o supply of G/&S at time of, or before delivery/supply of G/S.		
<div>Commission paid to agent & recovered from recipient.</div> <div>Packing if charged by supplier to recipient.</div> <div>Inspection or certification charges if billed to recipient of supply.</div> <div>Installation & testing charges [Since charged for something done at time of making supply].</div> <div>Weighment charges, loading & designing charges incurred before supply.</div> <div>Outward freight, transit insurance</div> <div> 1. Delivery of goods at buyer's premises <ul style="list-style-type: none"> Goods + Delivery + Insurance = Composite supply; Principal supply is "supply of goods". Thus, 'Outward freight & Insurance charges' becomes part of value of composite supply & GST is payable on outward freight & insurance charges at rate as applicable for goods. </div> <div> 2. Ex-factory basis contract → Outward freight will not be included in value of supply since buyer pays outward freight. </div>		
(e) Interest, late fee, Penalty for delayed payment of any consideration for any supply.		
(f) Subsidies directly linked to the price [excluding subsidies provided by CG/SG]		
Nature of Subsidy	Treatment in Value	
Received from CG/SG	Not added to the value of supply	
Received from others	Directly Linked to price of supply	Added to value
	Not Linked to price of supply	Not added to value

EXCLUSIONS from Value of Supply [Section 15(3)]

Time of Giving Discount	Treatment
before or at time of supply	<ul style="list-style-type: none"> If such discount has been recorded (shown) in invoice issued for such supply, it shall be excluded from VoS.
Discount given after supply	<ul style="list-style-type: none"> If such discount is given as per agreement which existed at time of such supply & specifically linked to relevant invoices & Proportionate ITC has been reversed by recipient.



Value in case of “DISCOUNTS”

Discounts including ‘Buy more, Save more’ offers

- Supplier offers staggered discount to his customers (increase in discount with increase in purchase).
- Such discounts are excluded to determine the value of supply.
Ex: Get 10 % discount for purchases above Rs. 5,000; 20% discount for purchases above Rs. 10,000; & 30% discount for purchases above Rs. 20,000. Such discounts are shown on the invoice itself.
- Some suppliers offer periodic/year ending discounts to their stockists, etc.
Ex: Get additional discount of 1% if you purchase 10,000 pieces in a year; get additional discount of 2% if you purchase 15,000 pieces in a year.

Such discounts are established in terms of an agreement entered into at/before the time of supply though not shown on invoice as actual quantum of such discounts gets determined after the supply has been effected & generally at year end. In commercial parlance, such discounts are colloquially referred to as “volume discounts”. Such discounts are passed on by supplier through credit notes.

- **Such Discounts offered by suppliers to the customers shall be excluded to determine VoS** provided they satisfy the parameters laid down in sec 15(3) of CGST Act, **including reversal of ITC** by recipient of supply as is attributable to discount on the basis of documents issued by supplier.

SECONDARY DISCOUNTS

- These are the discounts which are not known at the time of supply or are offered after supply.
Ex: M/s A supplies 10,000 packets of biscuits to M/s B at Rs. 10 per packet. Afterwards M/s A re-values it at Rs. 9 per packet. Subsequently, M/s A issues credit note to M/s B for Rs. 1 per packet.
- **Secondary discounts shall not be excluded while determining VoS** as such discounts are not known at the time of supply & conditions in sec 15(3)(b) of CGST Act are not satisfied.
- There is no impact on availability or otherwise of ITC in the hands of supplier in this case.

Issue: Issue for consideration is that whether credit notes(s) u/s 34(1) of CGST Act can be issued in such cases even if conditions laid down in sec 15(3)(b) of CGST Act are not satisfied.

Clarification: Financial/commercial **credit notes can be issued** by supplier even if conditions mentioned in sec 15(3)(b) of CGST Act are not satisfied.

Examples:

1. Parle gives a discount of 30% on list price to its distributors. In an invoice, list price is mentioned as Rs. 200, on which a discount of 30% is given. **VoS = Rs. 140, as discount is allowed at time of supply & shown in invoice.**
2. Agreement of Raju Electrical Appliances with its dealers is that sale of rice cookers over 1000 pieces in Diwali month will entitle them to discount of 5% per cooker. Therefore, quantum of discount can be determined only at the end of Diwali month. However, since the agreement relating to discount was in existence at the time of supply, & discount can be worked out for each invoice, such post supply discount will be allowed as a deduction from VoS. Raju Electrical Appliances can issue credit note for 5% of value of goods along with GST & claim adjustment of excess tax paid. Dealer must reverse the proportionate ITC on the relevant stock to bring it in line with reduced tax.
3. Pink & Blue Pvt. Ltd. (PBPL) sold goods to Orange Pvt. Ltd. (OPL) on 15th January at Rs. 50,000 (exclusive of taxes & discounts) & charged Rs. 9,000 as IGST @ 18%. The terms of supply stipulated that discount @ 2% will be given to OPL if it makes the payment within one month of the supply. OPL avails the input tax credit of Rs. 9,000 in the month of January & makes the payment for the goods on 10th February. PBPL issues credit note for Rs. 1180 [Rs. 1,000 for value of discount & Rs. 180 for proportionate IGST leviable thereon] to OPL on 11th February. After receiving credit note, OPL reverses the input tax credit of Rs. 180 attributable to the discount given by the PBPL. PBPL can reduce its GST liability of the month of February by Rs. 180. OPL would have paid Rs. 57,820 (Rs. 50,000 + Rs. 9,000 - Rs. 1,000 - Rs. 180) to PBPL on 10th February.
4. In the above example, if the terms of supply did not provide for discount @ 2% for payment within one month but PBPL offers such discount to OPL at the time of payment after negotiation, the discount will not be allowed as a deduction from the value. PBPL will issue a commercial credit note for only the value of discount, i.e. for Rs. 1,000. OPL will not reverse any input tax credit and PBPL will also not be able to reduce its GST liability for February. In this case, OPL would pay Rs. 58,000 (Rs. 50,000 + Rs. 9,000 - Rs. 1,000) to PBPL on 10th February.
5. A company announces turnover discounts after reviewing dealer performance during year. Discounts are based on performance slabs & are given as cash-back. As these discounts were not known at time of supply, they will not be deducted from VoS of those goods. Hence, the company will not be able to adjust excess tax paid from its tax liability.

SECTION 15(4) – REFERENCE TO VALUATION RULE

- ⇒ If value of supply of G/&S cannot be determined u/s 15(1), it shall be determined in such manner as may be prescribed.
- ⇒ **Applicability:** (a) Supplier & recipient are related party; (b) Price is not sole consideration for supply.

Value to be adopted for computing GST on services of BF/BCs to Banking Company

- Agreement of banks with BC specifically prohibits BC from directly charging any fee to customers for services rendered by them on behalf of the bank. However, banks are permitted to collect reasonable service charges from the customers for such service (of BC/BF) in a transparent manner.
- Banking company is the service provider in BF/BC model operated by banking company.
- Thus, banking company is liable to pay GST on **Entire Value of Service Charge or fee charged to customers** (whether or not received via BF or BC).

QUESTION BANK

Q1. ABC buys the 'Super Motor' in Rajasthan from XYZ. Both agreed for the below conditions:

Value of Motor (including GST @ 10%)	Rs. 3,00,000
Taxes other than GST (Not included in above value)	Rs. 2,000
Below items are being paid by recipient though supplier is liable to pay	
Consultancy charges for erection/installation	Rs. 2,000
Loading Charges	Rs. 1,500
Testing Charges	Rs. 500
Transit Insurance Charges	Rs. 4,500
Inspection Charges	Rs. 2,000
Subsidy received from Rajasthan Government (deducted from value)	Rs. 10,000
Subsidy received from manufacturer for supply of power generator (deducted from value)	Rs. 25,000
Trade discount shown in Invoice	Rs. 2,000
Cash discount due to instant payment	Rs. 5,500

If such supply is inter-State supply, calculate value of taxable supply. (assuming your working is inclusive of tax).

Answer:

Particulars	Amount
Value of Motor	3,00,000
Add: Taxes (other than GST) paid [WN 1]	2,000
Add: Consultancy charges for erection [WN 2]	2,000
Add: Loading Charges [WN 2]	1,500
Add: Testing Charges [WN 2]	500
Add: Transit Insurance Charges [WN 2]	4,500
Add: Inspection Charges [WN 2]	2,000
Add: Subsidy received from manufacturer [WN 3]	25,000
Less: Trade Discount [WN 4]	(2,000)
Less: Cash Discount [WN 5]	(5,500)
Total Value (including GST Value)	3,30,000
Less: IGST @ 5% {Rs. 3,33,000 × 10%/110%}	(30,000)
Taxable Value of Supply	3,00,000

Notes:

- VoS shall include any taxes, duties, cesses, fees & charges levied under any law other than GST. [Sec 15(2)(a)]
- Any amount charged for anything done by the supplier i.r.o the supply of goods at the time of, or before delivery of goods shall be included in the value of taxable supply. Hence loading charges, consultancy charges, testing charges, inspection charges & transit insurance charges shall be included in the value of taxable supply. [Sec 15(2)(c)]
- Value shall include subsidies directly linked to the price excluding subsidies provided by CG/SG - Sec 15 (2)(e).
- Value of the supply shall not include any discount which is given before or at the time of the supply if such discount has been duly recorded in the invoice issued i.r.o such supply - Section 15(3)(a).
- VoS shall not include any discount which is given after the supply has been effected, if such discount is established in terms of an agreement entered into or before time of such supply & specifically linked to relevant invoices.

Q2. Haldiram Foods Pvt. Ltd. gets an order for supply of processed food from Resto Ltd. Haldiram foods Pvt. Ltd wants the consignment tested for specified chemical residues & charges a testing fee of Rs. 15,000 from Resto Ltd. Haldiram foods Pvt. Ltd argues that such testing fee should not from part of the consideration as it is a separate activity. Discuss?

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

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

Q3. ABC has provided the following details relating to goods sold: Calculate the value of taxable supply.

Particulars	Amount
List price of the goods (excluding of taxes, subsidy & discounts)	50,000
Tax levied by Municipal Authority	5,000
CGST & SGST chargeable on the goods	9900
Packing charges (not included in the price above)	2,000
Subsidy received from NGO	2,500
Trade discount offered	2% on list price
Recipient pay brokerage at the request of supplier	10% on list price
Recipient pay freight & insurance charges on behalf of supplier	5,000

Answer: **Statement showing calculation of value of taxable supply**

Particulars	Amount
List price of the goods (excluding of taxes & discounts)	50,000
Add: Tax levied by Municipal Authority {included in the value as per section 15 (2) (a)}	5,000
Add: Packing Charges {included in the value as per section 15 (2) (c)}	2,000
Add: Subsidy from NGO (since subsidy is received from a non-government, it is included in value)	2,500
Add: Recipient pay 10% brokerage on the request of supplier {included in value as per sec 15(2)(b)}	5,000
Add: Recipient pay freight & insurance charges on behalf of supplier	5,000
Less: Trade discount (since known at the time of supply, it is deductible from the value)	1,000
Value of Taxable Supply	68,500

Note: CGST & SGST is not includible in the value of supply as per section 15(2)(a).

Q4. Feather Products Ltd. Sells shoes to its dealers, to whom it charges the list price minus standard discount & pays GST accordingly. When such shoes remain unsold with the dealers, it offers additional discount & pays GST accordingly. When such shoes remain unsold with the dealers, it offers additional discounts on the stock as an incentive to push the sales. Can this additional discount be reduced from the price at which the goods were sold & concomitant tax adjustment made?

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

Q5. ABC is facing serious liquidity problems & requests XYZ to pay within 2 days. It offers additional 1% cash discount. XYZ agrees & pays.

Answer: As per section 15 (3) (b), this discount was not known at the time of supply, & so it cannot be claimed as a deduction from the transaction value for GST calculation.

Q6. Floral Advertisers conceptualised & designed the advertising campaign for a new product launched by Jupiter Stampings Pvt. Ltd. for a consideration of Rs. 25,00,000. Floral Advertisers owed Rs. 4,50,000 to one of its vendors in relation to the advertising service provided by it to Jupiter Stampings Pvt. Ltd. Such liability of Floral Advertisers was discharged by Jupiter Stampings Pvt. Ltd. Jupiter Stampings Pvt. Ltd. delayed the payment of consideration & thus, paid Rs. 50,000 as interest. Assume the rate of GST to be 18%. Determine VoS made by Floral Advertisers.

Answer: **Computation of value of taxable supply**

Service charges	25,00,000
Payment made by Jupiter Stampings Pvt. Ltd to vendor of Floral Advertisers [Liability of the supplier being discharged by the recipient, is includible in the value in terms of section 15(2)(b)]	4,50,000
Interest for delay in payment of consideration [Includible in the value in terms of sec 15(2)(d) [WN]	42,373
Value of taxable supply	29,92,373

Note: Interest for delay in payment of consideration will be includible in value of supply but the time of supply of such interest will be the date when such interest is received in terms of sec 13(6). Such interest has been assumed to be inclusive of GST & value computed by making back calculations [Interest/100 + tax rate] × 100].

Q7. ABC Ltd. is a cookies manufacturing company in Pune. It generally gives a trade discount of 20% in the list price when goods are purchased by a distributor. It offers "Happy New New Year 2019" discount under which a special Christmas discount of 10% is given on the list price of all products to its distributors in addition to normal discount of 20%. A Ltd., one of the distributors from Madhya Pradesh, purchases 100 packets of cookies (list price Rs. 400 per packet) on 30th Nov 2018 & 200 packets of the same biscuits on December 1, 2018. GST rate is 18%. Determine VoS.

Answer: **Statement showing computation of value of supply**

Particulars	100 Packets on 12.12.2018	200 Packets on 1.1.2019
Listed Price of Cookies	40,000	80,000
Less: Trade Discount @ 20%	(-) 8,000	(-) 16,000
Less: New Year Discount @ 10%	NA	(-) 8,000
Value of Taxable Supply	32,000	56,000

Q8. Determine the value of taxable supply as per Section 15 of the CGST Act, 2017 & the Rules thereof:

Contracted sale price of goods (including CGST & SGST @ 12%)	11,32,000
Contracted sale price includes the following elements of cost:	
(i) Drawings & design	10,000
(ii) Primary packing	15,000
(iii) Protective packing at recipient's request for safe transportation	5,000
(iv) Fright & insurance from 'place of removal' to buyer's premises	20,000

Other information:

- A discount of Rs. 12,000 of given by the supplier before the time of supply of goods. CGST & SGST is levied @ 12%.
- Commission paid by recipient as per supplier's request: Rs. 5,000.
- Freight & insurance charges borne by recipient on behalf of supplier: Rs. 45,000.
- Subsidy received from Central Government for setting up factory in backward region: Rs. 25,000.
- Subsidy received from third party to recipient: Rs. 50,000.
- Late fees for delayed payment: Rs. 1,000. [It has been waived off by the supplier].

Answer: **Computation of Assessable value**

Particulars	Amount in Rs.
Contracted sale price of goods	10,32,000
Less: Discount given before the time of supply of goods.	(12,000)
Add: Commission paid by recipient as per supplier's request [WN 3]	5,000
Add: Fright & insurance from 'place of removal' to buyer's premises [WN 3]	45,000
Add: Subsidy received from third party [WN 4]	50,000
Add: Late fees for delayed payment [WN 5]	Nil
Value including GST	11,20,000
Less: GST @ 12% [Rs. 11,20,000 x 12 ÷ 112]	(1,20,000)
Value of Taxable Supply	10,00,000

Note:

- Any amount charged for anything done by the supplier i.r.o supply of goods at the time/before delivery of goods shall be included in VoS [Section 15(2)(c)]. Hence drawing & design charges, cost of packing (even at buyer's request) shall form a part of transaction value. Since, these are already included in value, no adjustment is required.
- As per Sec 15(3)(a), value of supply shall not include any discount which is given before/at the time of supply.
- Any amount that supplier is liable to pay in relation to such supply but which has been incurred by the recipient & not included in the price for the goods shall be included in the value of supply [Section 15(2)(b)]
Hence, the following expenses i.e. commission paid to agent on instruction of supplier & freight & insurance charges incurred by recipient on behalf of supplier shall be included as a part of value of taxable supply.
- Value of supply shall include subsidies directly linked to the price excluding subsidies provided by CG & SG. Thus, subsidy received from CG for setting up factory in backward region shall not be included in value of supply. Whereas subsidy received from third party to recipient will be included in the value of taxable supply.
- Late fee is includible in VoS. But since it has been waived off by the supplier, it cannot be included in value of supply.

Q9. X, is an architect & based at Mumbai. During December 2017, he has prepared building plan of a new hotel Taj which will be constructed near Nariman Point in Mumbai. He charged Rs. 55 lacs from Taj. In addition, Taj has provided travellers cheques of Rs. 10 lacs (which can be used only outside India) & complementary voucher for stay of 3 nights at Taj (value of voucher is Rs. 44,000). X is of the view that only monetary consideration of Rs. 55 lacs is chargeable to GST @ 18% & value of travellers cheques/complementary stay voucher is not taxable. Discuss.

Answer: Consideration can be received in money or in kind. Mr. X is not correct in this case.

Monetary consideration	55,00,000
Value of travellers cheques	10,00,000
Value of complementary stay voucher	44,000
Taxable value of supply	65,44,000

Q10. ABC footwear, a registered supplier of Kanpur, has a non-moving stock worth Rs. 10,00,000 of a particular variety of shoes that are out of fashion. It has not been able to find market inspite of huge discount offered. It was able to sell this stock at a very low price of Rs. 2,00,000 to a retailer in Maharashtra with a condition that the retailer would display hoardings of ABC footwear in all their retail outlets in the State. Determine taxable value of supply.

Answer: In this case, supplier & recipient are not related persons. Although a condition is imposed on the recipient on effecting the sale, such a condition has no bearing on contract price. This is a case of distress sale, & in such a case, it cannot be said that the supply is lacking 'sole consideration'. Therefore, the price of Rs. 2 Lacs will be accepted as VoS.

Q11. Mezda Banners, an advertising firm, gives an interest-free credit period of 30 days for payment by the customer. Its customer ABC paid for the supply 32 days after the supply of service. Mezda Banners waived the interest payable for delay of 2 days. The Department wants to add interest for two days as per contract. Should notional interest be added to the taxable value?

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

Q12. ABC Gas sells cooking gas cylinders. Subsidy directly transferred to the account of the customer whose account are linked with Aadhar card. Selling price per cylinder is Rs. 900. Customer received subsidy Rs. 300 directly from Government to his bank account. Net outflow of the buyer is Rs. 600. Find the value of supply of goods (per cylinder) in the hands of ABC Gas. Calculate assessable value to levy tax.

Answer: Supplier is liable to pay GST on transaction value which shall be exclusive of subsidy received from government. However, exclusion of subsidy is applicable if Government is paying that to the supplier. In this case, Government has not paid subsidy to the supplier, rather it has been paid to the buyer directly. Supplier is not impacted by such subsidy. Hence, transaction value is Rs. 900 per cylinder.

Q13. X provides computer maintenance service since 2002 in Odisha. During the month ending March 31, 2018, he provides computer maintenance service in Puri to A Ltd. X receives Rs. 25,000 from A Ltd. & Rs. 16,40,000 from holding company of A Ltd. A Ltd. is of the view that only Rs. 25,000 is chargeable to tax (GST on Rs. 25,000 @ 18% will be paid by A Ltd.). Find out GST liability on the assumption that any additional liability will be borne by X.

Answer: Consideration received for an activity carried by a person from another person is chargeable to GST. It is not necessary that the supplier of service should receive consideration from the recipient of service. Consideration can be paid by any other person on behalf of the recipient of service. Consequently, even Rs. 16,40,000 received from holding company of recipient of service is chargeable to tax. GST liability will be calculated as follows -

Consideration paid by A Ltd.	Rs. 25,000
Consideration paid by holding company [since GST on this consideration is not additionally paid, taxable value of supply = Rs. 16,40,000 x 100/118]	Rs. 13,89,830
Taxable value of supply	Rs. 14,14,830
GST [CGST (9% of Rs. 14,14,830) = 1,27,335 + SGST (Odisha) (9% of Rs. 14,14,830) = 1,27,335]	Rs. 2,54,670
Total	Rs. 16,69,500

Q14 . A Inc. is an American car manufacturing company. It has a branch in Hyderabad. Mr. X is HRD head of Hyderabad branch. For the year ending March 31, 2018, CTC of X (as per employment agreement) is as follows:

Salary	36,00,000
Residential accommodation	6,00,000
Employer's contribution towards provident fund	6,00,000
Conveyance facility (reimbursement up to Rs. 40,000 per month)	5,40,000
Cost to company (CTC)	4,80,000

A Inc. maintains a gym near Hyderabad office. Employees (& their family members) of the Hyderabad office can use gym facility. Cost to the company for maintaining this facility in Hyderabad is approximately Rs. 27,00,000 per year. On January 1, 2018, A Inc. gifts a new car to Mr. X (price: Rs. 12,65,000 before GST). Gym facility & gift of car are not covered by CTC as well as employment agreement. Mr. X owns a commercial flat in Hyderabad. It is given on rent to A Inc. (monthly rent being Rs. 1,00,000). Discuss whether GST is applicable?

Determine GST for January 2018 (assume GST rate is 28% for car & 18% for others):

1. Supply of employment service to A Inc.
2. Renting of commercial flat by X to A Inc.
3. Salary paid by A Inc.
5. Gift of car by A Inc. to X.
4. Residential accommodation, conveyance facility & gym facility provided by A Inc. to X.

Answer:

- Supplies covered by employment agreement: Service provided by X to A Inc. is neither supply of goods nor supply of services. Remuneration paid by A Inc. to Mr. X within CTC/employment agreement is, therefore, not taxable. Consequently, expenditure on salary: Rs. 36,00,000, expenditure on residential accommodation: Rs. 6,00,000 & conveyance: Rs. 4,80,000 is not subject to GST. All these supplies are covered by employment agreement. Employer's contribution towards PF is outside the purview of GST.
- Supply is not covered by employment agreement:** are subject to GST:

Particulars	Supply by X	Supply by A Inc.
Renting of commercial flat by X (GST is applicable, GST rate is 18%)	18,000	-
Gym facility (it is not covered by employment agreement) However, GST is not applicable as It is difficult to find recipient of service.	-	-
Gift of car (GST is applicable) [Note 1] [12.65 Lacs × 28%]		3,54,000

Note 1: Even if consideration is nil, supply between related persons is chargeable to GST. Employer & employee are treated as related person. Gift by employer to employee up to Rs. 50,000 in a FY is not chargeable to tax.

Q15. A Ltd. owns a hotel at Nagpur (MH). Find out GST liability pertaining to these transactions:

Guest	Declared tariff	Discount given	Extra charge (for permitting extra guest)	Amount charged before GST
A	Standard room: Rs. 900	10%	Rs. 200	Rs. 1,010
B	Club room: Rs. 2,400	5%	-	Rs. 2,280
C	Deluxe room: Rs. 7,000	20%	Rs. 2,000	Rs. 7,600
D	Deluxe room: Rs. 7,000	40%	-	Rs. 4,200
E	Tower room: Rs. 10,000	40%	Rs. 1,000	Rs. 7,000

Solution: In the case of hotel accommodation, GST rate depends upon declared tariff of the unit (i.e., rate published by the hotel). These rates are as follows:

Accommodation in a hotel for residential purposes having declared tariff:	GST rate
(a) Less than Rs. 1,000 per unit per day	Nil
(b) Rs. 1,000 (or more) but less than Rs. 2,500 per unit per day	12%
(c) Rs. 2,500 (or more) but less than Rs. 7,500 per unit per day	18%
(d) Rs. 7,500 (or more) per unit per day (it also includes accommodation in a 5 star hotel)	28%

- Standard room is not subject to GST (declared tariff being less than Rs. 1,000 per unit per day).

Computation of GST Liability

Guest	Amount charged before GST	GST rate	GST Liability	
			CGST	SGST
A	Rs. 1,010	Nil	Nil	Nil
B	Rs. 2,280	12%	136.80	136.80
C	Rs. 7,600	18%	684	684
D	Rs. 4,200	18%	378	378
E	Rs. 7,000	28%	980	980

Q16. X Ltd. has provided following services in the preceding FY:

- Manpower supply services to Higher Secondary School for Rs. 12,00,000.
- House keeping services to Kidzee (i.e. Pre-school education) for Rs. 9,00,000.

In the current FY, X Ltd. has received advertisement services from Indian Railways of Rs. 75,000. Discuss.

- Who is liable to pay GST?
- Total tax liability if any?
- If Total turnover in Preceding FY is Rs. 11,10,000, find GST liability in current FY? Note: GST Rate = 18%.

Answer: Turnover of X Ltd. in preceding FY = (Rs. 12 lacs + Rs. 9 lacs) = Rs. 21,00,000. Thus it is a taxable person.

- Since Turnover of preceding FY of X. Ltd > Rs. 20 lacs, Recipient (i.e X Ltd) is liable to pay GST under RCM.
- GST 18% on Rs. 75,000 = Rs. 13,500.
- GST liability is Nil, since aggregate turnover in preceding FY does not exceeds Rs. 20 lacs.



6. INPUT TAX CREDIT

BY CA PRANAV CHANDAK

FOR MAY/JUNE 2020

CA/CMA INTERMEDIATE

INTRODUCTION

- ❖ ITC is considered to be the lifeline of the GST regime. In fact, it is the provisions of ITC, which essentially make GST a value added tax i.e., collection of tax at all points of supply chain after allowing credit of tax paid at earlier points.
- ❖ To avoid cascading effect, input tax credit is available.
- ❖ It is based on VAT concept of allowing input tax credit on inputs, input services & capital goods.
- ❖ Recipient of G/S can avail credit of GST charged by the supplier of Goods or Services & Capital goods.

SOME RELEVANT DEFINITIONS

Capital Goods [Sec 2(19)]	<ul style="list-style-type: none"> Goods whose value is capitalized in the books of A/c of person claiming ITC & which are used or intended to be used in course or furtherance of business.
Input [Sec 2(59)]	<ul style="list-style-type: none"> Any goods (other than capital goods) used or intended to be used by supplier in course or furtherance of business.
Input Service [Sec 2(60)]	<ul style="list-style-type: none"> Any service used or intended to be used by supplier in course or furtherance of business.
Input Tax [Sec 2(62)]	<ul style="list-style-type: none"> in relation to a registered person means CGST/SGST/IGST/UTGST charged on any inward supply of G/S made to him & includes: <ul style="list-style-type: none"> ✓ IGST charged on Import of goods; [BCD → nahi aayega] ✓ Tax payable u/s 9(3) & 9(4) of CGST Act & SGST Act [RCM]; ✓ Tax payable u/s 5(3) & 5(4) the IGST Act; ✓ Tax payable u/s 7(3) & 7(4) the UTGST Act; but does not include tax paid under composition levy (scheme).
Output tax [Sec 2(82)]	<ul style="list-style-type: none"> in relation to a taxable person, means tax chargeable under this Act on: <ul style="list-style-type: none"> ✓ taxable (outward) supply of G/S made by him or by his agent ✓ but excludes tax payable on RCM basis.
Inward supply [Sec 2(67)]	Receipt of G/S or both whether by purchase, acquisition or any other means with or without consideration.
Zero-rated supply [Sec 16(1) of IGST Act]	means any of following supplies of goods or services or both <ul style="list-style-type: none"> Export of G/&S; Supply of G/&S to SEZ developer or SEZ unit.
Export of Service [Sec 2(6) of IGST Act]	It means the supply of any service when: <ul style="list-style-type: none"> Supplier of service is located in India; Recipient of service is located outside India; PoS of service is outside India; Payment for such service has been received in convertible foreign exchange; Supplier & recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;
Works contract [Sec 2(108)]	Contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods/in some other form) is involved in the execution of such contract.
Plant & Machinery	<ul style="list-style-type: none"> means apparatus, equipment & machinery fixed to earth by foundation or structural support that are used for making outward supply of G/&S & includes such foundation and structural supports but excludes <ul style="list-style-type: none"> ✓ Land, building or any other civil structures; Telecommunication towers ✓ Pipelines laid outside the factory premises

CONDITIONS FOR TAKING INPUT TAX CREDIT [Section 16]					
Registered Person + Business + ECL [Sec 16(1)]	<ul style="list-style-type: none"> Every RP shall be entitled to take credit of Input tax charged on any inward supply of G/ & S to him which are used (intended) in course/furtherance of business & said amount shall be credited to Electronic Credit Ledger of such person. <p>Note: Tax paid on G/ & S which are used for non-business purposes → No ITC.</p>				
Ex: Mr. K of Kolkata sold taxable goods to Mr. C of Chennai. Mr. C being a buyer of goods is eligible to claim the IGST as credit on purchases based on the tax invoice issued by Mr. K of Kolkata.					
Tax Invoice [Sec 16(2)(a)]	<ul style="list-style-type: none"> RP must have tax invoice or debit note of G/ & S issued by a registered supplier or such other prescribed tax paying documents in Possession. 				
Receipt of G/ & S [Sec 16(2)(b)]	<ul style="list-style-type: none"> RP must have received the goods or services or both. 'Bill to Ship to' Transactions: <table border="1"> <tr> <td>Goods</td><td>If goods are delivered by supplier to the recipient (3rd party) on the direction of buyer (such RP) before/during movement of goods → It shall be deemed that RP has received the goods.</td></tr> <tr> <td>Services</td><td>If services are provided by the supplier to any person (3rd Party) on the direction of & on account of such registered person → It shall be deemed that RP has received the services.</td></tr> </table> 	Goods	If goods are delivered by supplier to the recipient (3 rd party) on the direction of buyer (such RP) before/during movement of goods → It shall be deemed that RP has received the goods.	Services	If services are provided by the supplier to any person (3 rd Party) on the direction of & on account of such registered person → It shall be deemed that RP has received the services.
Goods	If goods are delivered by supplier to the recipient (3 rd party) on the direction of buyer (such RP) before/during movement of goods → It shall be deemed that RP has received the goods.				
Services	If services are provided by the supplier to any person (3 rd Party) on the direction of & on account of such registered person → It shall be deemed that RP has received the services.				
Ex: A is a trader who places an order on B for a consignment of soda ash. A receives a buying order from C for the same quantity of soda ash. A instructs B to deliver the goods to C & in turn he raises an invoice on C. Though the goods are not physically received at the premises of A, section 16(2)(b) allows ITC of such goods to A.					
Ex: Registered head office (New Delhi) of ABC Pvt. Ltd. enters into a contract with DEF Pvt. Ltd. of New Delhi for repair & maintenance of computers systems installed at its registered branch office in Bengaluru, Karnataka. DEF Pvt. Ltd. issues an invoice on ABC Pvt. Ltd., New Delhi for the services provided by it. Though actual services are received by branch office & not by HO, section 16(2)(b) allows ITC of such repair & maintenance services to HO.					
Payment of Tax to Government [16(2)(c)]	<ul style="list-style-type: none"> Output tax charged on such supply by the supplier of G/ & S has been actually paid to Government (in cash/by using ITC admissible). 				
Filing of RoI [16(2)(d)]	<ul style="list-style-type: none"> Registered person (taking ITC) must have filed his return u/s 39. 				
Payment to Supplier	<ul style="list-style-type: none"> Recipient of G/ & S shall pay an amount of 'Value of supply + GST' to the supplier of G/ & S within 180 days from date of issue of invoice. Otherwise, ITC availed by recipient shall be added to his output tax liability, along with interest thereon. Interest @ 18% → from date of availing credit till date of payment. If payment is made after 180 days, recipient can avail ITC after payment. Part-payment → Proportionate credit would be allowed. 				
CONSEQUENCES OF NON-PAYMENT TO THE SUPPLIER [RULE 37]					
<ul style="list-style-type: none"> Registered person, who has availed ITC on any inward supply of G/ S & who does not pay 'Value + Tax' to the supplier within 180 days from the date of invoice, shall furnish in FORM GSTR-2 <ul style="list-style-type: none"> ⇒ details of such supply; amount of value not paid & ⇒ amount of ITC availed proportionate to such unpaid amount for the month immediately following 180 days from date of issue of invoice. 					

Ex: ABC Ltd. purchase goods from XYZ Ltd. for Rs. 10 Lacs + GST @ 12% on 18th July 2018 & received invoice on 18th July 2018 & has taken credit on 20th Aug 2018 at the time of payment of GST but ABC limited has not made payment to XYZ limited within 180 days from the date of invoice i.e. 18th July 2018. In this case, 180 days shall expire on 13.1.2019 (July: 14, Aug: 31, Sep: 30, Oct: 31, Nov: 30, Dec: 31, Jan: 13) i.e. in the month of January 2019. ABC Ltd. should report it in the month of Feb 2019 & should pay Rs. 1,20,000 on 20th March 2019 along with Interest on Rs. 1,20,000 @ 18% per annum for 7 months i.e. from 20th August to 20th March.

EXCEPTIONS: Condition of payment of 'value + GST' within 180 days does not apply:

(a) Supplies on which tax is payable under RCM basis;

(b) Deemed supplies without consideration;

(c) Additions made to 'value' on account of supplier's liability being paid by recipient.

In (b) & (c) → Deemed to be paid

Q1. A registered supplier of taxable goods supplied goods valued Rs. 1,12,000 (inclusive of CGST Rs. 6,000 & SGST Rs. 6,000) to PQR Ltd. under forward charge on 12.11.2018 for which tax invoice was also issued on the same date. Inputs were received by PQR Ltd. on 12.11.2018. PQR Ltd. availed credit of Rs. 12,000 on 15.12.2018. But PQR Ltd. did not make any payment to the supplier. Is PQR Ltd. eligible to avail ITC on such supply? Discuss ITC implications if PQR Ltd. makes the payment of Rs. 1,12,000 to the supplier on 15.09.2019. **[Mod. CA Final Nov 2018]**

Answer: Yes, PQR Ltd. can avail ITC on the receipt of taxable supply of goods. But it is required to pay the consideration along with tax within 180 days from the date of issue of invoice.

(i) If PQR Ltd. does not make payment within 180 days from the date of invoice: As per Rule 37, a registered person, who has availed of ITC on any inward supply of G/&S, but fails to make payment to the supplier within 180 days from date of issue of invoice shall furnish the details of such supply & amount of ITC proportionate to such unpaid amount, availed of, in FORM GSTR-2 in succeeding month after expiry of 180 days.

In this case since PQR Ltd. does not make any payment within 180 days from date of invoice i.e. upto 11th May 2019, therefore amount equal to ITC availed by PQR Ltd. shall be added towards its output tax liability along with interest for the month of June, 2019 in which details of such supplies are required to be furnished.

Interest shall be calculated @ 18% [as given u/s 50(1) for the period starting from date of availing credit till the date when ITC added to the output tax liability is paid.

Amount of Input tax [A]	12,000
Date of availing credit [B]	15.12.2018
Date of payment of ITC added to output tax liability [C]	15.06.2019
No. of days for which interest to be paid [D] = [B] - [C]	182
Interest @ 18% to be paid on 15-07-2019 (Rs. 12000 × 18% × 182/365)	1,077

(ii) Re-credit of Input tax if payment made after 180 days: If PQR Ltd. makes payment on 15.9.2019 (i.e after 180 days from date of issue of invoice), then it shall be entitled to avail the credit of input tax.

TIME LIMIT TO AVAIL ITC

[Earlier of] ↓

(a) On/before Due Date of filing return u/s 39 for the month of September following the end of FY to which such invoice or invoice relating to such debit note pertains.

(b) Date of filing of relevant **annual return**.

Note: Time limit does not apply to **claim for re-availing of credit** which was reversed earlier **[Rule 37(4)]**

⇒ Return for month of September is to be filed by 20th October;
 ⇒ Annual return of a FY is to be filed by 31st December of next FY. Thus Annual return of FY 2018-19 is to be filed by 31st December 2019.

Ex: Hercules Machinery delivered a machine to XYZ in Jan. 2018 under Invoice no. 49 dated 28th Jan, 2018 for Rs. 4,15,000 + GST & undertook trial runs & calibration of machine as per requirements of XYZ. The amount chargeable for post-delivery activities was covered in a debit note raised in April 2018 for Rs. 50,000 + GST.

XYZ did not file its annual return till October, 2018. Though debit note was received in next FY, it relates to an invoice received in FY ending March 2018. Therefore, time limit for taking ITC available on Rs. 50,000 & Rs. 4,15,000 is 20th October, 2018; being earlier of date of filing annual return for 2017-18 or return for September 2018.

Q2. XYZ Ltd. purchased goods valuing Rs. 6,00,000 (exclusive of CGST & SGST @ 9% each) under the cover of invoice dated 25.12.2018. The company made payment to the supplier on the same date. Since there was a doubt regarding admissibility of ITC on such inputs, company did not take ITC at the time of receipt of input. The company obtained clarification from a legal consultant who opined that the goods were eligible as inputs under ITC Rules. The opinion was received on 5.5.2019. The company now wants to avail ITC of the tax paid on such inputs. Can it do so? It is known that Company has filed its annual return for the year 2018-19 on 12-08-2019.

Answer: Time Limit for taking ITC as per section 16(4):

- (a) Due date of filing return u/s 39 for September following the end of FY to which such invoice pertains; or
- (b) Date of furnishing of relevant annual return, whichever is earlier.

In this case, inputs were purchased on 25.12.2018. Thus ITC on such inputs can be taken on earlier of:

- (a) 20.10.2019 being due date of furnishing return of month of September, 2019; or
- (b) 12-08-2019 being the date of furnishing of annual return.

Thus, XYZ Ltd. can avail ITC of tax on inputs till 12.8.2019.

Therefore, it can avail credit of CGST Rs. 54,000 & SGST of Rs. 54,000 on 5.5.2019.

DOCUMENTS REQUIRED FOR CLAIMING ITC [Rule 36(1)]

- (a). Invoice issued by supplier of G/&S u/s 31;
- (b). Invoice issued by recipient (under RCM) subject to payment of tax
- (c). Revised Invoice
- (d). Debit note issued by a supplier u/s 34.
- (e). Bill of entry or any similar document prescribed under Customs Act, 1962;
- (f). ISD **invoice or credit note** or any other document issued by ISD.

❖ Provided that if the said document does not contain all the specified particulars but contains details of

- Amount of tax charged,
- Description of goods or services,
- Total VoS of G/&S
- GSTIN of supplier & recipient;
- PoS in case of inter-State supply

Minimum requirements to claim ITC.

ITC may be availed by such registered person.

CRUX: ITC cannot be denied due to certain clerical mistakes in the invoice by the supplier.

No ITC of Tax paid towards demands involving Fraud [Rule 36(3)]

No ITC shall be availed by registered person of any tax that has been paid in pursuance of any order where any demand has been confirmed on account of **fraud, willful misstatement, suppression of facts.**

SOME OTHER IMPORTANT POINTS:

Goods in Lots (against same invoice)	RP shall be entitled to take ITC upon receipt of last lot/instalment.	
Depreciation	If Depreciation is claimed on 'Cost + GST'	ITC will NOT be allowed
	If Depreciation is claimed on 'Cost' only	ITC will be allowed
Normal & Abnormal Loss (in transit)	Normal Loss	Entire ITC is allowed.
	Abnormal Loss	ITC is not allowed to the extent of abnormal loss

Q3. M/s C Ltd. Chennai procured goods 10,000 Kgs @ Rs. 100 per Kg. from M/s D Ltd. of Delhi. These goods came to M/s C Ltd. of Chennai in following manner: Invoice shows 10,000 Kgs. & GST @18%.

Date of dispatch	No. of Kgs	Date of receipt	Normal loss	Abnormal loss	Received
10 th Oct	2,000	15 th Nov	2 Kgs	Nil	1,998 Kgs
2 nd Nov	5,000	20 th Nov	5 Kgs	Nil	4,995 Kgs
3 rd Dec	3,000	1 st Jan	1 Kgs	20 Kgs	2,979 Kgs

(a) Can M/s C Ltd. can avail the proportionate credit on 15th Nov & 20th Nov?

(b) When will M/s C Ltd. be eligible for input tax credit & How much credit is allowed to M/s C Ltd?

Answer:

(a) M/s C Ltd. cannot take proportionate credit on the quantity received on 15th Nov & 20th Nov.

(b) M/s C Ltd. is eligible to avail ITC on 1st Jan. ITC allowed = [(10,000 Kgs x Rs. 100) x 18% x 9980 kgs/10,000 kgs]
= Rs. 1,79,640.

APPORTIONMENT OF CREDIT [SECTION 17]

17(1)	<p>G/S used partly for business purpose & partly for other purposes.</p> <ul style="list-style-type: none"> ITC proportionate to business purpose shall be allowed. [Non-Business → NO ITC] <p>Ex: A registered person (partnership firm) purchases 5 laptops. 1 laptop is being used by son of one partners of firm. ITC will not be available on such laptop as it is used for personal purposes.</p>
17(2)	<p>G/S used partly for making taxable supplies (including zero-rated supplies) & partly for making Exempt supplies</p> <ul style="list-style-type: none"> G/S used for making 'taxable supplies & zero rated supply' → ITC Allowed. NO ITC on G/S used for making 'Exempt Supplies'.
17(3)	<p>Value of Exempt Supplies u/s 17(2) shall include: [ITC on such supply need to be reversed]</p> <ul style="list-style-type: none"> Supply made under RCM; Transactions in Securities; Sale of Land; & Sale of Building [subject to clause (b) of paragraph 5 of Schedule II] <p>Explanation: 'Value of Exempt Supply' shall not include the value of activities/transactions specified in Schedule III (Negative List), except those specified in paragraph 5 of the said Schedule. [Thus, Value of Exempt Supply shall include activities specified in paragraph 5].</p> <p>CRUX: No ITC needs to be reversed on Schedule III activities except sale of L&B.</p> <p>Ex: Out of 10 containers purchased by a registered person engaged in taxable supply of goods, 3 are used for storing non-taxable goods (exempt supply) such as petroleum. ITC on 7 containers can be availed. However, ITC on 3 containers used for non-taxable goods cannot be availed.</p>
17(4)	<p>BANKS/FIs/NBFCs engaged in supply of services of accepting deposits, giving loans/advances shall have 2 options [Option once exercised cannot be changed during FY]</p> <ol style="list-style-type: none"> To comply with the provisions of Section 17(2); Avail 50% eligible ITC on Inputs, IS & Capital goods in that month & rest shall lapse. <p>Note: 2nd Proviso: Restriction of 50% shall NOT apply to tax paid on supplies made by one registered person to another registered person having the SAME PAN (Branches).</p> <p>Rule 38 [Chapter V: ITC of CGST Rules] – Procedures to follow if 2nd option is chosen</p> <ol style="list-style-type: none"> They shall not avail ITC of <ul style="list-style-type: none"> GST paid on inputs, IS used for Non-business purpose. ITC attributable to supplies specified in sec 17(5) in GSTR-2. [Blocked Credit] They shall avail 100% ITC of tax paid on inputs & IS [referred. in 2nd proviso to sec 17(4)]. [Supply made by a registered person to another registered person having SAME PAN] On Remaining Inputs & IS, admissible ITC = 50% of input tax paid [other than (b)].

Q4. ABC Bank has availed credit of Rs. 25 lacs in Dec 2018. Total credit, out of which Rs. 5 lacs pertains to non-business purpose & Rs. 7 Lacs pertains to credit availed under 2nd proviso of sec 17(4). Find the total ITC eligible to ABC Bank. [Note: ABC Bank opted to avail ITC @ 50% of eligible credit].

Answer: Statement showing eligible ITC to ABC Bank for the month of December 2018:

Particulars	ITC Amount
ITC attributable to non-business purpose (ITC not allowed)	Nil
ITC from its other establishment (ITC fully allowed)	7,00,000
Other ITC [25 lacs – 5 lacs – 7 lacs] x 50%	6,50,000
Total ITC allowed in Form GSTR-2	13,50,000

BLOCKED CREDIT (G/S NOT ELIGIBLE FOR ITC) [Section 17(5)]

1. MOTOR VEHICLES

(a)	ITC Blocked	Motor vehicles used for transportation of PERSONS with seating capacity ≤ 13 persons (including driver).
(b)	ITC Allowed	When such motor vehicles are used for making following taxable supplies: <ul style="list-style-type: none"> ▪ Further supply of such motor vehicles (Sale); ▪ Transportation of passengers (Taxi Business); ▪ Imparting training on driving motor vehicles (Driving School).

Points to be noted:

1. ITC on motor vehicles for transportation of persons with seating capacity > 13 persons (including driver) used for any purpose is allowed.
2. ITC on any other motor vehicle used for any purpose is allowed. (Ex: motor vehicle used for transportation of goods, dumpers, tippers etc).

Examples:

1. ITC on cars purchased by a manufacturing company for official use of its employees is blocked.
2. ITC on cars purchased by a car dealer for sale to customers is allowed.
3. ITC on cars purchased by company engaged in renting cars for transportation of passengers, is allowed.
4. ITC on cars purchased by a car driving school is allowed.
5. ITC on buses purchased by a company for transportation of its employees from their residence to office & back, is allowed.
6. ITC on trucks purchased by a company for transportation of its finished goods is allowed.

2. VESSELS & AIRCRAFTS

(a)	ITC Blocked	Other than specified below.
(b)	ITC Allowed	Vessels & Aircraft when used for making following taxable supplies: <ul style="list-style-type: none"> ▪ Further supply of such vessels or aircraft (Sale); ▪ Transportation of passengers; ▪ Imparting training on navigating/flying such vessels/aircraft; ▪ Transportation of goods

Examples:

1. ITC on aircraft purchased by a manufacturing company for official use of its CEO is blocked.
2. ITC on aircraft purchased by an Aviation School providing training on flying aircrafts, is allowed.

3. INSURANCE, SERVICING, REPAIR & MAINTENANCE

(a)	ITC Blocked	General insurance, servicing, repair & maintenance relating to: <ul style="list-style-type: none"> Motor vehicles for transportation of persons with seating capacity ≤ 13 persons (including driver); Vessels & Aircraft
(b)	ITC Allowed	<ul style="list-style-type: none"> Such services relating to motor vehicles for transportation of persons with seating capacity ≤ 13 persons (including driver) when used for purposes mentioned in (b) of Motor Vehicle above. Such services relating to vessels or aircraft when used for purposes mentioned in (b) of Vessel & Aircraft above. Such services when received by a taxable person engaged: <ul style="list-style-type: none"> (i) In manufacture of such motor vehicles, vessels or aircraft; or (ii) In supply of general insurance services i.r.o such motor vehicles, vessels or aircraft insured by him.

Points to be noted:

- ITC is not allowed on services of general insurance, servicing, repair & maintenance relating to motor vehicles, vessels or aircraft, ITC on which is not allowed.
- ITC is allowed on services of general insurance, servicing, repair & maintenance relating to motor vehicles, vessels or aircraft, ITC on which is allowed.

Examples:

- ITC on **general insurance** taken on a car used by employees of a manufacturing company for official purposes, is blocked.
- ITC on maintenance & repair services availed by a company for a truck used for transporting its finished goods, is allowed.

4. Membership of Club, Health & Fitness Centre

(a)	ITC Blocked	Membership of Club, Health & Fitness Centre
(b)	ITC Allowed	Such services are provided by employer to employees under statutory obligation

5. Travel Benefits

(a)	Blocked	Travel benefits extended to employees on vacation [Ex: Leave/home travel concession]
(b)	Allowed	When such services are provided by employer to employees under statutory obligation

6. Others

(a)	Blocked	Food & beverages	Outdoor catering	Beauty treatment	Plastic (Cosmetic) surgery
		Health services		Life insurance and health insurance	
		Leasing, renting or hiring of motor vehicles/vessels/aircraft on which ITC is blocked			
(b)	Allowed	<ul style="list-style-type: none">Such goods and/or services when used by a registered person for making an outward taxable supply of the same category of goods and/or services (sub-contracting) or as an element of a taxable composite or mixed supply.When such goods and/or services are provided by an employer to its employees under a statutory obligation			

Points to be noted:

- ITC on such G&S when used for any purpose other than those mentioned in (b) of 6 above is not allowed
- When such G&S are provided by employer to employees without any statutory obligation, ITC is blocked.

Examples:

1. AB & Co., a caterer of Amritsar, has been awarded a contract for catering in a marriage to be held at Ludhiana. The firm has given the contract for supply of snacks, to be served in the marriage, to CD & Sons, a local caterer of Ludhiana. ITC on such outdoor catering services availed by AB & Co., is allowed.
2. ITC on outdoor catering services availed by a company, for a team development event organised for its employees, is blocked.
3. ITC on outdoor catering service availed by a company to run a canteen in its factory. The Factories Act, 1948 requires the company to set up a canteen in its factory. ITC on such outdoor catering is allowed.

Q5. XYZ Ltd. conducted its 50th AGM at its head office in New Delhi & availed services of Delicious caterers on that occasion. Delicious caterers charged Rs. 15,00,000 plus GST @18% for the supply of outdoor catering services. You are required to advise XYZ Ltd. if it can avail Input tax credit of the GST paid on outdoor catering service.

Ans: As per section 17(5)(b), ITC shall not be available i.r.o supply of outdoor catering service. Hence, XYZ Ltd. is not entitled to avail ITC of GST paid on outdoor catering services availed from Delicious caterers.

BLOCKED CREDIT (G/S NOT ELIGIBLE FOR ITC) [Section 17(5)]

(c) **Works Contract services** for construction of immovable property (**other than P&M**) **Except** where it is **input service for further supply** of works contract service.

ITC is allowed in the following cases:

- (a) It is an input service for further supply of works contract service (sub-contracting). [i.e only a works contractor can avail ITC on works contract services received by him]
- (b) Immovable property is Plant & Machinery. Thus ITC on works contract services used for construction of such plant and machinery is allowed.
- (c) When the value of works contract service is not capitalized. In this case, ITC is allowed to all recipients irrespective of their line of business.

Note: If re-construction, renovation, additions or alterations or repairs are not capitalized, it would not tantamount to construction under GST law.

Examples:

1. ITC on works contracts services availed by a software company for construction of its office, is blocked.
2. CD & Co., a works contractor of Noida, has been awarded a contract for construction of a commercial complex in Lucknow. The firm avails services of EF & Co., a local works contractor of Lucknow, for the construction of complex. ITC on such works contract services availed by CD & Co., is allowed.
3. ITC on works contract services availed by an automobile company for construction of a foundation on which a machinery (to be used in production process) is to be mounted permanently, is allowed.
4. ITC on works contract services availed by a manufacturing company for construction of pipelines to be laid outside its factory, is blocked.
5. A consulting firm has availed services of a works contractor for repair of its office building. The company has booked such expenditure in its profit and loss account. ITC on such services is allowed.
6. A telecommunication company has availed services of a works contractor for repair of its office building. The company has capitalized such expenditure. ITC on such services is blocked.

Q6. PQ Ltd. is engaged in supply of works contract services for construction of immovable property. It gives a part of the construction work to a sub-contractor. The sub-contractor charges GST in his invoice to PQ Ltd. You are required to advise PQ Ltd. if it can avail Input tax credit of the GST charged to it by the sub-contractor.

Ans: As per section 17(5)(c), ITC shall not be available i.r.o works contract services when supplied for construction of an immovable property. However, credit is allowed where it is an input service for further supply of works contract service. In the given case, services supplied by the sub-contractor have been used by PQ Ltd. for supply of works contract service. Thus, PQ Ltd. can avail ITC on input service provided by sub-contractor.

(d)	<p>Self-construction of Immovable property: ITC is not available.</p> <p>G/&S received by a taxable person for construction of immovable property (other than P&M) on his own account including when such G/S are used in course of business.</p> <p>Note: ITC is available when the construction is not on own account; or is of P&M.</p>
<p>Examples:</p> <ol style="list-style-type: none"> 1. A company buys material and hires a contractor to construct an office building to house the plant supervisory staff. Input tax paid on such goods and services is not allowed as credit. 2. A company buys cement, tiles etc. and avails the services of an architect for construction of its office building. ITC on such goods and services is blocked. 3. MN & Constructions procures cement, paint, iron rods and services of architects and interior designers for construction of a commercial complex for one of its clients. ITC on such G & S is allowed to MN & Co. 4. A company buys cement, tiles etc. and avails the services of an architect for renovation of its office building. The company has booked such expenditure in its profit and loss account. ITC on such G/&S is allowed. 5. ITC on G/&S used by automobile company for construction of a foundation on which a machinery (to be used in the production process) is to be mounted permanently, is allowed. 	
(e)	<p>Composition Scheme: G/S on which tax has been paid u/s 10</p>
(f)	<p>G/&S received by NRTP Except on goods imported by him.</p> <p>Note: ITC on goods imported by NRTP is allowed but ITC on services imported by him is blocked.</p>
(g)	<p>Personal Purpose: G/&S used for personal consumption.</p>
(h)	<p>Goods lost, stolen, destroyed, written off; disposed of by way of gift/free samples</p>
(i)	<p>Any tax paid in accordance with the provisions of Sections 74, 129 & 130.</p> <ul style="list-style-type: none"> ▪ Sec 74: SCN issued in case of fraud, to recover the GST. ▪ Sec 129: Tax is paid, when goods are under detention for further investigation. ▪ Sec 130: Tax paid, when the goods or conveyance are being confiscated. <p>Note: Sec 73: SCN issued in cases other than fraud to recover GST. Thus ITC <input checked="" type="checkbox"/>.</p>

Examples:

Nature of service	ITC	Comment
Cement used for construction of administration building	Not allowed	Building is not P&M.
Cement is used for foundation of pillars supporting boiler	Allowed	Structural support for P&M = P&M
Works contract services is provided by sub-contractor to contractor	Allowed	Since used for providing work contract service
Setting up telecommunication tower; Pipelines laid outside factory premises; telecommunication towers	Not Allowed	Specifically excluded from P&M

ITC i.r.o Sales Promotional Schemes

1. Free Samples & Gifts:

- ITC shall not be available to the supplier on the inputs, IS & capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration.
- However, where the activity of distribution of gifts or free samples falls within the scope of "supply" on account of the provisions contained in Schedule I, ITC shall be available.

2. Buy one get one free offer: ITC shall be available to the supplier for the inputs, input services & capital goods used in relation to supply of goods or services or both as part of such offers.

3. Discounts including 'Buy more, save more' offers: ITC shall be available to the supplier for such inputs, input services & capital goods used in relation to the supply of G/&S on such discounts.

4. Secondary discounts [Such discounts shall not be excluded VoS]

These are the discounts which are not known at the time of supply. ITC shall be available to supplier.

PROCEDURE IN RESPECT OF RETURN OF TIME EXPIRED DRUGS OR MEDICINES

In case of return of time expired medicines/drugs, either of the following two options can be followed:

1. Return of Time Expired goods to be treated as Fresh Supply

Person returning Expired Goods		Condition	Value of Returned Goods	Whether ITC available
(a)	RP (other than composition taxpayer)	return the said goods by treating it is as a fresh supply & thereby issuing an invoice for the same	as shown in the invoice/bill etc. on the basis of which the goods were supplied earlier may be taken as the value of such return supply	Recipient of such return supply eligible to avail ITC subject to T&C specified in Sec 16
(b)	Composition Taxpayer	Issue a bill of supply & pay tax @ applicable rate.		No ITC available to the recipient of return supply.
(c)	Unregistered Person	Issue any commercial document without charging any tax on it		NA

- ❖ If expired goods which have been returned by the retailer/wholesaler are destroyed by the manufacturer, he/she is required to reverse ITC availed on return supply in terms sec 17(5)(h).
- ❖ ITC which is required to be reversed in such scenario is the ITC availed on the return supply & not the ITC that is attributable to the manufacture of such time expired goods.

Ex: Supposedly, manufacturer has availed ITC of Rs. 10 at the time of manufacture of medicines valued at Rs.100. At the time of return of such medicine on the account of expiry, ITC available to the manufacturer on the basis of fresh invoice issued by wholesaler is Rs.15. So, when the time expired goods are destroyed by the manufacturer, he would be required to reverse ITC of Rs.15 & not of Rs.10

2. Return of time expired goods by issuing Credit Note

- Manufacturer/wholesaler who has supplied the goods to the wholesaler/retailer has the option to issue a credit note as per section 34(1). Retailer/wholesaler may return the time expired goods by issuing a delivery challan. There is no time limit for the issuance of a credit note in the law except with regard to the adjustment of the tax liability in case of credit notes issued prior to the month of September following the end of the financial year and those issued after it.
- If credit note is issued within time limit specified in section 34(2), tax liability may be adjusted by the supplier, subject to the condition that the person returning the time expired goods has either not availed the ITC or if availed has reversed the ITC so availed against the goods being returned.
- If time limit specified in section 34(2) has lapsed, a credit note may still be issued by the supplier for such return of goods but the tax liability cannot be adjusted by him in his hands.
- If time expired goods are returned beyond the time period specified in section 34(2) & credit note is issued consequently, there is no requirement to declare such credit note on the common portal by the supplier (i.e. by the person who has issued credit note) as tax liability cannot be adjusted in this case.
- If time expired goods (which have been returned by retailer/wholesaler) are destroyed by the manufacturer, he/she is required to reverse ITC attributable to the manufacture of such goods.

Q7.

Date of Supply	Date of Return	Treatment in terms of tax liability & credit
1.7.2017	20.9.2018	Credit note will be issued by supplier (manufacturer/wholesaler) & same to be uploaded by him on the common portal. Subsequently, tax liability can be adjusted by such supplier provided the recipient (wholesaler/retailer) has either not availed the ITC or if availed has reversed the ITC.
1.7.2017	20.10.2018	Credit note will be issued by the supplier (manufacturer /wholesaler) but there is no requirement to upload the same on common portal. Subsequently tax liability cannot be adjusted by such supplier.

Note: This Clarification may also be applicable to return of goods for other reasons.

DETERMINATION OF ITC ON INPUTS/INPUT SERVICES & REVERSAL [Rule 42]

- ITC of inputs or input services which are partly used for
- business & partly for other purposes [Sec 17(1)], or
- making taxable supplies (including zero rated supplies) & partly for exempt supplies [Sec 17(2)],
- shall be attributed to the purposes of business or for making taxable supplies
- in the following manner**

Total input tax involved on inputs & input services in a tax period	T
Input tax on inputs & input services used for ' other than business ' purposes	T₁
Input tax on inputs & input services used for making ' exempt supplies '	T₂
Input tax on inputs & input services on which ITC is not available u/s 17(5)	T₃
ITC credited to ECL of registered person = $T - (T_1 + T_2 + T_3)$	C₁
Input tax credit on inputs & input services used for making ' taxable supplies (including Zero rated supply) ' but other than exempted supply	T₄
COMMON CREDIT = $C_1 - T_4$	C₂
RP shall declare T₁, T₂, T₃, T₄ at invoice level in Form GSTR - 2 & at summary level in Form GSTR - 3B.	
ITC attributable towards exempt supplies = $C_2 \times \frac{\text{Aggregate value of Exempt supplies during tax period}}{\text{Total turnover in State of RP during tax period}}$ [D₁]	
Credit attributable to non-business purposes if common inputs & IS are used partly for business & partly for non-business purposes = 5% of Common Credit. [Denoted by D₂]	
⇒ Eligible ITC = Remaining common credit [C₃] attributed to ' business ' & for making taxable supplies (including zero rated supplies) other than exempted supplies = [C₂ - (D₁ + D₂)]	
Note: This should be computed separately for ITC of CGST, SGST/UTGST, IGST & declared in Form GSTR - 3B or through Form GST DRC - 03.	
⇒ Ineligible Credit = [D₁ + D₂] shall be added to output tax liability of registered person.	
⇒ Amount equal to [D₁ + D₂] shall be reversed by RP in FORM GSTR-3B or FORM GST DRC-03 .	

Q8. Eezee Footwear, manufacturer of 2 varieties of Hawaii slippers (which are exempted) & 5 varieties of other sandals and shoes. Dyes are used in manufacture of all footwear. However, bright pink is used only for one of the Hawaii varieties, and black is used only for the sandals and shoes. Blue and yellow are used for all the varieties. Brown is used for non-business purposes. In the inward supplies during month:

T = Total input tax: Rs. 2,55,000	T ₁ = Input tax on brown dye: Rs. 10,000
T ₂ = Input tax on bright pink dye: Rs. 90,000	T ₄ = Input tax on black dye: Rs. 40,000
Input tax on blue dye: Rs. 1,00,000 & Input tax on yellow dye: Rs. 15,000	

Turnover in October:

- Hawaii 1 + Hawaii 2: 3 crores.
 - Turnover of all varieties of taxable shoes & sandals: 2 crores
- You are required to calculate (i) Common Credit; (ii) Calculate D₁ & D₂. (iii) Eligible Credit.

Answer:

⇒ ITC credited to ECL of Eezee [C₁] = $T - (T_1 + T_2) = 2,55,000 - (10,000 + 90,000) = \text{Rs. } 1,55,000.$
⇒ Common credit [C₂] = $C_1 - T_4 = 1,55,000 - 40,000 = 1,15,000.$
⇒ D₁ (ITC attributable towards exempt supplies) = $C_2 \times \frac{\text{Aggregate value of Exempt supplies during tax period}}{\text{Total turnover in State of RP during tax period}}$ $= 1,15,000 \times \frac{3,00,000}{5,00,000} = \text{Rs. } 69,000.$
⇒ D₂ (attributable to non-business purposes) = 5% of Common Credit = $5\% \times 1,15,000 = \text{Rs. } 5,750.$
⇒ Ineligible Credit = $D_1 + D_2 = \text{Rs. } 69,000 + \text{Rs. } 5,750 = 74,750.$
⇒ C ₃ (eligible ITC) = $[C_2 - (D_1 + D_2)] = \text{Rs. } 1,15,000 - \text{Rs. } 74,750 = \text{Rs. } 40,250.$

Points to be noted:

1. If registered person does not have any turnover during said tax period or aforesaid information is not available → **Value shall be calculated by taking values of last tax period.**
2. **Here, Exempt supplies include** **[ITC attributable to such supplies need to be reversed]**
 - (a) Reverse charge supplies;
 - (b) Transactions in securities,
 - (c) Sale of Land & Sale of building when entire consideration is received either after issuance of completion certificate by competent authority or its first occupation, whichever is earlier.
3. **Here, Exempt supplies exclude** **[ITC attributable to such supplies need not be reversed]**
 - (a) Transactions/activities specified in Schedule III except sale of land & sale of building as specified in point (2) above.
 - (b) Supply of services of accepting deposits, extending loans/advances where consideration is either interest or discount.
Note: Value of such services is included in Exempt supply if they are provided by bank/FIs/NBFC.
 - (c) Transportation of goods by vessel from customs station of clearance in India to a place o/s India.
4. Aggregate value of exempt supplies & total turnover shall exclude **Central & State Excise duty & VAT.**
5. Value of exempt supply i.r.o land & building is the value adopted for paying stamp duty and for security is 1% of the sale value of such security.
6. If amount of input tax relating to inputs or input services used partly for 'other than business' purpose & partly for 'making exempt supplies' has been identified & segregated at invoice level by registered person, same shall be included in 'T₁' and 'T₂' respectively, & remaining amount of credit on such inputs or input services shall be included in 'T₄'.

- Compute $\sum (D1 + D2)$ for whole FY by taking exempted turnover & aggregate turnover for whole FY, **before due date for filing return for September in following financial year.**
- If $\sum (D1 + D2) > \text{amount already added to output tax liability every month}$, differential amount has to be added to output tax liability of any month till September in following FY & interest @ rate 18% should be paid on such differential amount from 1st April of succeeding year till date of payment.
- If amount added to output tax liability every month $> \sum (D1 + D2)$, additional amount paid has to be claimed back as **credit in return of month not later than September in next FY.**

Q9. A garment factory receives a Government order for making uniforms for a defence personnel. This supply is exempt from tax under a special notification. The fabric is separately procured for the supply, but thread, buttons & lining material for the collars are the ones which are used for other taxable products of the factory.

Turnover of other garments of the factory & exempted uniforms in July is Rs. 8 crores & Rs. 2 crores respectively. ITC on thread, button & lining material procured in July is Rs. 5,000, Rs. 25,000 & Rs. 15,000 respectively. Calculate the eligible ITC on thread, buttons & lining material.

Answer:

- Thread, buttons & lining material are inputs which are used for making taxable as well as exempt supplies. Therefore, credit on such items will be apportioned & credit attributable to exempt supplies will be added to the output tax liability in terms of rule 43 of the CGST Rules, 2017.
 - Credit attributable to Exempt supplies = Common credit x (Exempt turnover/Total turnover)
 - Common credit = Rs. 15,000 + Rs. 25,000 + Rs. 5,000 = Rs. 45,000.
 - Exempt turnover = Rs. 2 crores; Total turnover = Rs. 10 crores (Rs. 2 crores + Rs. 8 crores)
 - Credit attributable to exempt supplies = (Rs. 2 crore / Rs. 10 crore) × Rs. 45,000 = Rs. 9,000.
- Ineligible credit of Rs. 9,000 will be added to the output tax liability for the month of July, Credit of Rs. 36,000 will be eligible credit for the month of July.

DETERMINATION OF ITC ON CAPITAL GOODS & REVERSAL [Rule 43]

- Input Tax Credit of capital goods which are partly used for
- business & partly for other purposes [Sec 17(1)], OR
- making taxable supplies (including zero rated supplies) & partly for exempt supplies [Sec 17(2)],
- shall be attributed to the purposes of business or for making taxable supplies
- **in the following manner:**
 - (a) Input tax on capital goods used (intended) exclusively for non-business purposes/ for making exempt supplies → shall be indicated in FORM GSTR-2 & GSTR-3B & shall **not be credited to ECL**.
 - (b) Input tax on capital goods used (intended) exclusively for making taxable supplies including zero rated supplies → shall be indicated in FORM GSTR-2 & GSTR-3B & **shall be credited to ECL**.

INPUT TAX ON CAPITAL GOODS NOT COVERED UNDER (a) & (b) above [COMMON CREDIT]

A. Input tax on capital goods not covered in (a) & (b) above [Capital goods which are **used** (intended) **commonly** for making taxable & exempt supplies; business & non-business purposes) **[Denoted by 'A']** → **Such amount shall be credited to ECL.**

Note: Useful life of such capital goods will be taken as 5 years from date of invoice.

B. Change from exclusive use for non-business purpose/exempt supplies to common use:
Where capital goods which were initially covered under (a) above get subsequently covered under clause (c), **compute 'A'** by reducing ITC @ 5% per quarter or part thereof.
Such reduced amount will be credited to ECL.

Note: Add together the amounts of 'A' [c + d] credited to ECL to arrive at common credit **[T_c]**.

C. Change from exclusive use for taxable including zero rated supplies to common use:
Where capital goods which were initially covered under (b) above get subsequently covered under clause (c), compute 'A' by reducing ITC @ 5% per quarter or part thereof;
Add such value to common credit [T_c].

T_m (ITC attributable to a tax period on common capital goods) = **T_c/60.**

T_r = Aggregate of T_m for all such capital goods. (ITC at the beginning of tax period on all **common capital goods whose useful life remains during tax period**)

PC Note: CG which are already in use (opening balance of **T_m**) + CG covered under A.

T_e (Common credit towards exempted supplies) = **T_r × $\frac{\text{Aggregate value of Exempt supplies during tax period}}{\text{Total turnover in State of RP during tax period}}$**

Note: This should be **computed separately** for ITC of CGST, SGST/UTGST, IGST.

PC Note: This is an amount to be disallowed (i.e. add to output tax liability).

Q10. Soren Enterprises is in possession of certain capital goods & purchases more of them as per the particulars:

Particulars	Input tax on capital goods	Used for
Capital Goods A	12,000	Exclusively for non- business.
Capital Goods B	24,000	Exclusively for zero-rated supplies.
Capital Goods C	60,000	Both for taxable & exempt supplies.
Capital goods D (has been exclusively used for 2 years for exempted supplies)	1,20,000	Now there is change in use, both for taxable & exempt supplies.
Capital goods E (has been exclusively used for 3 years for taxable supplies).	1,80,000	Now there is change in use, both for taxable & exempt supplies.

Useful life of all the above capital goods is considered as 5 years. Apportion the ITC of capital goods assuming that aggregate value of exempt supplies during tax period = Rs. 6,00,000 & total turnover = Rs. 12 Lacs. **[CA Final May 18]**

Answer: Apportionment of common credit pertaining to capital goods

Capital goods	Total ITC	Added to output tax liability
A [ITC is not available since exclusively used for non-business purposes]	Nil	-
B [Taxable supplies include zero-rated supplies & thus full ITC will be allowed]	24,000	-
C [Credit pertaining to tax period = Rs. 60,000/60 = Rs. 1,000. Since 50% is for making exempted supply, therefore 50% of ITC has to be paid & added to output tax liability]	60,000	500
D [Owing to change in use from exclusively exempt to both taxable & exempt, credit to be reduced @ 5% per quarter or part] = Rs. 1,20,000 – Rs. 48,000 (Rs. 1,20,000 × 5% × 8 quarters) = Rs. 72,000. Credit pertaining to tax period = Rs. 72,000/60 = Rs. 1,200. Since 50% of the use is for making exempted supply, therefore 50% of the credit has to be paid & added to output tax liability	72,000	600
E [Capital goods earlier used for taxable supplies are subsequently used for providing taxable & exempt supplies. Full ITC has been taken at the time of receipt of goods] [Owing to change in use from exclusively taxable to both taxable & exempt, credit to be reduced @ 5% per quarter or part] = Rs. 1,80,000 – Rs. 1,08,000 (Rs. 1,80,000 × 5% × 12 quarters). Credit pertaining to tax period = Rs. 72,000/60 = Rs. 1,200. Since 50% is used for making exempted supply, 50% of ITC has to be paid & added to output tax liability	-	600
Total	1,56,000	1,700

CREDIT IN SPECIAL CIRCUMSTANCES [SECTION 18]

Sec	Persons eligible to take credit	Goods entitled to ITC		Conditions
		Inputs held in stock or CG	As on	
18(1)(a)	Person who has applied for registration within 30 days from date on which he becomes liable to registration & has been granted such registration	Inputs held in stock & inputs contained in semi-finished/FG held in stock	Day immediately preceding date from which he becomes liable to pay tax	ITC to be availed within 1 year from the date of issue of invoice by supplier [Sec 18(2)]
18(1)(b)	Person who obtains Voluntary Registration	Inputs held in stock & Inputs contained in semi-finished/FG held in stock	Day immediately preceding date of grant of registration	
Ex: Mr. Z becomes liable to pay tax on 1st August and has obtained registration on 15th August. Mr. Z is eligible for ITC on inputs held in stock and as part of semi-finished goods or finished goods held in stock as on 31st July. Mr. Z cannot take ITC on capital goods.				
Ex: Mr. A applies for voluntary registration on 5 th June & obtains registration on 22th June. Mr. A is eligible for ITC on inputs held in stock and as part of semi-finished goods or finished goods held in stock as on 21st June. Mr. A cannot take ITC on capital goods.				
18(1)(c)	RP who ceases to pay tax u/s 10 [Composition tax] & switches to regular scheme	Inputs held in stock & Inputs contained in semi-finished/FG held in stock & Capital Goods	Day immediately preceding date from which he becomes liable to pay tax under regular scheme	ITC to be availed within 1 year from the date of issue of invoice by

18(1)(d)	RP whose exempt supplies become Taxable supplies	Inputs held in stock & Inputs contained in semi-finished/FG held in stock relatable to such exempt supply & Capital goods exclusively used for such exempt supply	Day immediately preceding the date from which such supply becomes taxable	supplier [Sec 18(2)] ITC on capital Goods will be reduced by 5% per quarter of a year or part from date of invoice.
Ex: Mr. B, a registered taxable person, was paying tax under composition scheme upto 30 th July. However, w.e.f. 31 st July, Mr. B becomes liable to pay tax under regular scheme. Mr. B will be eligible for ITC on inputs held in stock and inputs contained in semi-finished/FG held in stock and on capital goods as on 30 th July. ITC on capital goods will be reduced by 5% per quarter from the date of the invoice.				
18(3)	Change in constitution of RP due to sale, merger, demerger, amalgamation, lease, transfer of business or death of sole proprietor with specific provision for transfer of liabilities, such RP shall be allowed to transfer unutilised ITC in his ECL to such sold, merged, demerged, amalgamated, leased or transferred business, successor.			
18(4)	If any RP who has availed ITC opts to pay tax u/s 10 or where G/&S supplied by him become wholly exempt, <ul style="list-style-type: none">▪ he shall pay an amount (by way of debit in ECL) or electronic cash ledger,▪ equivalent to ITC i.r.o inputs held in stock & inputs contained in semi-finished/FG held in stock and on capital goods as reduced by such percentage points as may be prescribed,▪ on the day immediately preceding date of exercising of such option or date of such exemption Provided that after payment of such amount, balance ITC lying in his ECL shall lapse.			
Ex: Capital goods have been in use for 4 years, 6 month and 15 days. The useful remaining life in months = 5 months ignoring a part of the month. ITC taken on such capital goods = C. ITC attributable to remaining useful life = $C \times 5/60$.				
18(6)	Supply of Capital Goods/P&M on which ITC has been taken RP shall pay an amount: <ul style="list-style-type: none">(i) ITC taken on such capital goods/P&M as reduced by 5% per quarter of a year or part(ii) Tax on the transaction value of such capital goods or P&M determined u/s 15. (Higher) Note: If refractory bricks, moulds & dies, jigs & fixtures as scrap are supplied , taxable person may pay tax on transaction value of such goods determined u/s 15.			

Q11. ABC Ltd. becomes liable to pay tax on 1st Oct 2018 & has obtained registration on 20th Oct 2018. GST paid on goods lying in the premises of ABC Ltd. as on 30th September 2018 are as follows:

Raw material: Rs. 1 Lacs (Rs. 15,000 GST pertaining to invoice dated 1 st May 2017)	Capital goods: Rs. 3 Lacs
Raw material in WIP: Rs. 1,50,000	Raw material in FG: Rs. 2 Lacs

You are required to answer the following:

- (a) Eligible amount of ITC; (b) Time limit to submit declaration on common portal.
(c) Whether any certification required while availing the credit, if so from whom.

Answer:

- (a) Eligible ITC is Rs. 4,35,000 (Rs. 1,00,000 - Rs. 15,000 + Rs. 1,50,000 + Rs. 2,00,000). ITC on input in stock is admissible U/s 18(1)(a) of CGST Act, 2017.
As per section 18(2), a registered person shall not be entitled to take ITC i.r.o any supply of G/&S to him after the expiry of 1 year from the date of issue of tax invoice relating to such supply. Thus, Rs. 15,000 pertaining to invoice dated 1st May 2017 is not eligible ITC. ITC on Capital Goods is not admissible for new registration.
(b) For availment of ITC in such case, declaration in Form GST ITC-01 shall be submitted on common portal within 30 days of becoming eligible to avail ITC.
(c) Declaration regarding ITC shall be duly certified by a practicing CA or a Cost Accountant if the aggregate value of the claim on account of central tax, State tax, Union territory tax & integrated tax exceeds Rs. 2,00,000. Since, ITC is Rs. 4,50,000, certificate from a practicing Chartered Accountant or a Cost Accountant is required.

Q12. ABC Traders paying tax under composition scheme crosses the threshold & becomes liable to pay tax under regular scheme on 01-04-2019, Can it avail Input tax credit & if so calculate the amount of ITC available?

Particulars	CGST	SGST
Inputs lying in stock (invoice dated 12-03-2019)	3,600	3,600
Capital goods procured on 25-09-2018 invoice dated 25-09-2018	7,200	7,200
Inputs lying in semi finished goods in stock (Invoice dated 12-12-2018)	2,400	2,400

Answer: As per Section 18(1)(c), where any registered person ceases to pay tax u/s 10, he shall be entitled to take credit of input tax i.r.o inputs held in stock, inputs contained in semi-finished or finished goods held in stock & on capital goods on the day immediately preceding the date from which he becomes liable to pay tax u/s 9. Therefore, in given case, ABC traders shall be entitled from 01-04-2019 to avail credit available as on 31-03-2019.

As per Rule 40 of the CGST Rules, 2017, the capital goods credit is to be claimed after reducing the tax paid on such capital goods by 5% points per quarter of a year or part thereof from the date of invoice or such other documents on which the capital goods were received by the taxable person.

Input tax credit available to ABC Traders i.r.o inputs

Particulars	ITC (CGST + SGST)	Eligible ITC
Inputs lying in stock	7,200	7,200
Inputs lying in semi finished goods in stock (Invoice dated 12-12-2018)	4,800	4,800
Total Input tax credit available	12,000	12,000

Input tax credit available to ABC Traders i.r.o capital goods (amount in Rs.) :

Date of invoice of capital goods	25-09-2018
Date from which ABC traders are liable to pay tax u/s 9	01-04-2019
No. of quarters from date of invoice	3
CGST & SGST paid on capital goods procured on 25-09-2018	14,400
ITC to be reduced by Rs. $14,400 \times 5\% \times 3$ quarters	2,160
Credit (CGST & SGST) available on capital goods	12,240

Q13. M/s. XYZ a registered dealer engaged in supplying exempted goods to its customers. On 17.6.2019, exemption notification was rescinded & goods were liable for tax. M/s. XYZ has to make e-payment of tax on the due date i.e., on 20-07-2019. Determine the eligible credit for the month of June, 2019 if the following information is provided:

Particulars	Value (exclusive of CGST/SGST/IGST)	CGST @6%	SGST @6%	IGST @ 12%
Value of Inputs lying in stock as on 16-06-2019. All inputs were procured after 01-03-2019	1,00,000	-	-	12,000
Value of inputs contained in semi-finished goods lying in stock as on 16-06-2019 but only inputs worth Rs. 85,000 in semi-finished goods were procured after 16-06-2018	1,35,000	8,100	8,100	
Inputs received on 31-01-2019 lying in finished goods in stock on 16-06-2019	1,55,000	9,300	9,300	-
Capital goods procured in 10-12-2018 which is exclusively used in supplying exempted goods	8,00,000	-	-	96,000

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

As per Rule 40(1) (a) of CGST Rules, 2017, the ITC on capital goods, shall be claimed after reducing the tax paid on such capital goods by 5% points per quarter of a year or part thereof from the date of invoice or such other documents on which the capital goods were received by the taxable person.

Computation of ITC of CGST/SGST/IGST available to M/s. XYZ i.r.o inputs & capital goods

Particulars	CGST	SGST	IGST	Eligible ITC
ITC on value of inputs lying in stock [Since all inputs were acquired within 1 year prior to effective date on which the goods became taxable, hence, entire ITC would be allowed.]			12,000	12,000
ITC on value of inputs contained in semi-finished goods [WN 1]	5,100	5,100	-	10,200
ITC on value of inputs lying in stock of FG [Inputs received on 31.1.2019 lying in FG in stock on 16.6.2019 as all inputs were acquired within 1 year prior to the effective date on which the goods become taxable, therefore, entire ITC would be allowed]	9,300	9,300		18,600
Credit (IGST) available on capital goods [WN 2]	-	-	81,600	81,600
Total Input tax credit available	14,400	14,400	93,600	1,22,400

Working Notes:

- ITC on the value of inputs contained in semi-finished goods - Out of the total stock of Rs. 1,35,000, inputs totaling to Rs. 50,000 are older than 1 year from the effective date on which the goods became taxable. Therefore, ITC to this extent stands disallowed. ITC on inputs contained in stock of Rs. 85,000 would be eligible. [Eligible credit = Rs. 8,100 \times Rs. 85,000 \div Rs. 1,35,000 each i.r.o CGST & SGST]
- Credit available i.r.o capital goods:

Date of invoice of capital goods	10.12.2018
Date from which the exempt goods become taxable	17.06.2019
No. of quarters or part thereof from date of invoice	3
Percentage points to be reduced (5% per quarter)	15%
IGST paid on the capital goods used exclusively in relation to goods exempted up to 16.6.2019	96,000
ITC to be reduced by 15%	14,400
Amount of Input tax credit available i.r.o capital goods	81,600

Q14. PQR Ltd. a registered person supplying taxable goods in Jaipur has opted to pay tax on composition scheme u/s 10 with effect from 28.2.2019. It provides following information relating to balance of ITC lying on 27.2.2019:

Inputs lying in stock as such valued (inclusive of CGST & SGST @ 12%)	Rs. 1,68,000
Inputs contained in FG where tax invoice is not available relating to such inputs but it is known that market price of such inputs (inclusive of CGST & SGST @ 12%) on 28.2.2019 is	Rs. 89,600.
Input tax on capital goods purchased on 25-10-2018	Rs. 72,000
Balance in ECL	Rs. 1,10,000.

Decide whether PQR Ltd. is eligible for ITC lying on 27-02-2019.

Answer:

As per sec. 18(4), where any registered taxable person who has availed of ITC opts to pay tax under composition scheme, he shall pay an amount (by way of debit in ECL or electronic cash ledger) equivalent to the credit of input tax i.r.o inputs held in stock & inputs contained in semi-finished or FG held in stock & on capital goods, taking useful life of capital goods 5 years, on the day immediately preceding the date of exercising such option.

Therefore, in given case PQR Ltd. is required to pay following amounts:

Inputs lying in stock (Rs. 1,68,000 \times 12 \div 112)	18,000
Inputs contained in finished goods lying in stock (Rs. 89,600 \times 12 \div 112) [WN]	9,600
Input tax on Capital goods used for 4 months & 2 days, taking residual life as 5 years (Rs. 72,000 \times 55 \div 60) (55 months being remaining residual life of capital goods)	66,000
Amount to be paid by PQR Ltd. (CGST + SGST)	93,600

It can be paid by utilizing balance in ECL. Balance credit in ECL = Rs. 16,400 (Rs. 1,10,000 - Rs. 93,600) shall lapse.

Note: As per Rule 44(3), where tax invoices related to the inputs lying in stock are not available, registered person shall estimate the amount u/r 44(1) based on market price of goods on the date of opting for composition scheme.

Q15. Goods manufactured by Royal Ltd. have been exempted from GST with effect from 01-05-2019. Earlier these goods were liable to CGST & SGST @ 6% respectively. The inputs used in manufacturing were also liable to CGST & SGST @ 6% respectively. Following information is provided on 30-04-2019:

- (1) Inputs costing Rs. 1,12,000 (inclusive of CGST & SGST) are lying in stock.
- (2) Inputs costing Rs. 80,640 (inclusive of CGST & SGST) are held in process.
- (3) Finished goods valuing Rs. 5,60,000 are in stock, the input cost (inclusive of CGST & SGST) is 50% of the value.
- (4) The ITC on capital goods lying in stock is Rs. 72,000. These goods were purchased on 1-8-2018.
- (5) The balance in Electronic Credit Ledger is Rs. 1,52,000.

The department has asked Royal Ltd. to reverse the credit taken on inputs referred above. However, Royal Ltd. contends that credit once validly taken is indefeasible & not required to be reversed. Decide.

What would your answer be if the balance in Electronic Credit Ledger account as on 30-04-2019 is Rs. 1,00,000?

Answer: As per section 18(4), where any registered person who has availed ITC & G/S supplied by him become wholly exempt, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax i.e. inputs held in stock & inputs contained in semi-finished or finished goods held in stock & on capital goods taking useful life of capital goods 5 years, on the day immediately preceding the date of such exemption. The balance of ITC, if any, lying in his electronic credit ledger shall lapse.

Accordingly, Royal Ltd. will have to pay an amount computed as follows:

Inputs lying in stock (Credit = Rs. 1,12,000 × 12 ÷ 112) (Net purchase price, exclusive of tax)	12,000
Inputs in process (Rs. 80,640 × 12 ÷ 112)	8,640
Inputs contained in finished goods lying in stock (Rs. 5,60,000 × 50% × 12 ÷ 112)	30,000
Input tax on Capital goods used for 9 months taking residual life as 5 years (Rs. 72,000 × 51 ÷ 60) (51 months being remaining residual life of capital goods) (Rule 44 of CGST Rules, 2017)	61,200
Amount to be paid by Royal Ltd.	1,11,840

It can be paid by utilizing balance in ECL. Balance credit = Rs. 1,52,000 - Rs. 1,11,840 = Rs. 40,160 shall lapse.

If balance in ECL is Rs. 1,00,000: Royal Ltd. will have to pay Rs. 11,840 (Rs. 1,11,840 - Rs. 1,00,000) in cash.

Q16. XYZ Ltd. a supplier of goods has purchased capital goods under cover of invoice dated 1.10.2018 for Rs. 4,13,000 (inclusive of GST @ 18%). After taking it for business use, said capital goods were supplied for Rs. 2,85,000 on 26.4.2019. Explain Input tax credit treatment in this case.

What would be your answer if capital goods being Refractory Bricks are removed as scrap at a transaction value of Rs. 25,000 on 29-03-2019?

Answer: As per Section 18(6) of CGST Act r/w Rule 40(2), in case of supply of capital goods, on which ITC has been taken, the registered person shall pay an amount equal to higher of:

- (a) ITC taken on such capital goods - 5% for every quarter or part from date of issue of invoice for such goods; or
- (b) Tax on transaction value of such capital goods determined u/s 15.

Computation of amount of tax payable by XYZ Ltd.

Date of Invoice of purchase of capital goods		01-10-2018
Date of Supply of capital goods after taking into use		26-04-2019
No. of Quarters from the date of issue of invoice for such goods		3
CGST & SGST paid on purchase of Capital Goods [Rs. 4,13,000 × 18 ÷ 118]		63,000
Reduced by Rs. 63,000 × 5% × 3 quarters		9,450
Amount of CGST & SGST	[A]	53,550
Transaction Value on supply of Capital Goods u/s 15		2,85,000
CGST & SGST payable on supply of Capital Goods @ 18%	[B]	51,300
Amount to be payable (higher of A or B)		53,550

(b) As per Section 18(6), where refractory bricks, moulds & dies, jigs & fixtures are supplied as scrap, there shall be no requirement for reversal of ITC, taxable person may pay tax on the transaction value of such goods determined u/s 15. In the given case. Refractory bricks are cleared as scrap, the manufacturer shall pay an amount equal to the tax leviable on transaction value i.e. CGST Rs. 25,000 × 9% = Rs. 2,250 & SGST Rs. 25,000 × 9% = Rs. 2,250.

REVERSAL OF ITC IN CASE OF CANCELLATION OF REGISTRATION

- Cancellation of registration also requires reversal of ITC on inputs held in stock/ contained in semi-finished goods/FG held in stock, capital goods or P&M on the day immediately preceding the cancellation date.
- Amount to be reversed on inputs & CG is computed in the manner as applicable for Section 18(4) & 18(6).
- Such amount is then compared with output tax payable on such goods & higher of the two amounts is finally paid by RP.

MANNER OF CLAIMING CREDIT IN SPECIAL CIRCUMSTANCES [RULE 40]

(1)	<p>ITC claimed as per sec 18(1) on inputs held in stock or inputs contained in semi-finished or FG held in stock, or credit claimed on capital goods in accordance with sec 18(1)(c)/(d) shall be subject to following conditions, namely</p> <p>(a) ITC on capital goods, in terms of sec 18(1)(c)/(d) shall be claimed after reducing tax paid on such capital goods by 5% per quarter or part from date of invoice on which capital goods were received by taxable person.</p> <p>(b) Registered person shall within 30 days from date of becoming eligible to avail ITC u/s 18(1) or within such further period as may be extended by Commissioner by a notification in this behalf, shall make a declaration, electronically, on common portal in FORM GST ITC- 01 to effect that he is eligible to avail ITC.</p> <p>Provided that any extension of time limit notified by Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be notified by Commissioner.</p> <p>(c) Declaration under clause (b) shall clearly specify the details relating to inputs held in stock or inputs contained in semi-finished or finished goods held in stock, or as case may be, capital goods on day immediately preceding date</p> <ol style="list-style-type: none"> 1. from which he becomes liable to pay tax under provisions of the Act, in the case of a claim u/s 18(1)(a); 2. of grant of registration, in case of a claim u/s 18(1)(b); 3. from which he becomes liable to pay tax u/s 9 in case of a claim u/s 18(1)(c) 4. from which supplies made by registered person becomes taxable, in the case of a claim u/s 18(1)(d). <p>(d) Details furnished in declaration under clause (b) shall be duly certified by a practicing CA or a cost accountant if aggregate value of claim on account of CGST, SGST, UTGST & IGST exceeds Rs. 2 Lacs;</p> <p>(e) ITC claimed as per 18(1)(c)/(d) shall be verified with corresponding details furnished by corresponding supplier in FORM GSTR- 1 or in FORM GSTR- 4, on common portal.</p>
(2)	<p>Amount of credit in case of supply of capital goods or P&M for section 18(6), shall be calculated by reducing input tax on said goods @ 5% for every quarter or part from date of issue of invoice for such goods.</p>

TRANSFER OF INPUT TAX CREDIT ON SALE, MERGER, AMALGAMATION, LEASE OR TRANSFER OF A BUSINESS, DEATH OF SOLE PROPRIETOR [RULE 41]

(1)	<ul style="list-style-type: none"> ▪ A registered person shall, in event of sale, merger, de-merger, amalgamation, lease or transfer or change in ownership of business for any reason, ▪ furnish details of sale, merger, de- merger, amalgamation, lease or transfer of business, in FORM GST ITC-02, electronically on the common portal ▪ along with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee: <p>Provided that in case of demerger, ITC shall be apportioned in the ratio of value of assets of new units as specified in demerger scheme.</p>
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	Explanation: It is hereby clarified that the “value of assets” means the value of the entire assets of the business, whether or not input tax credit has been availed thereon.
(2)	Transferor shall also submit a copy of certificate issued by practicing CA/CMA certifying that sale, merger, de-merger, amalgamation, lease or transfer of business has been done with a specific provision for transfer of liabilities.
(3)	Transferee shall (on common portal) accept the details so furnished by transferor & on such acceptance, unutilized credit specified in FORM GST ITC-02 shall be credited to his ECL.
(4)	Inputs & capital goods so transferred shall be duly recorded by the transferee in his books.

Transfer of credit on obtaining separate registration for Multiple Places of Business within a State/UT [Rule 41A]

(1)	<p>A registered person with separate registration for multiple places of business as per rule 11 and intends to transfer, either wholly or partly, the unutilised ITC lying in his ECL to any or all of the newly registered place of business, shall furnish within 30 days from obtaining such separate registrations, the details in FORM GST ITC-02A electronically on the common portal, either directly or through a Facilitation Centre notified in this behalf by the Commissioner:</p> <ul style="list-style-type: none"> ITC shall be transferred to newly registered entities in the ratio of the value of assets held by them at the time of registration. Value of Assets means the value of the entire assets of the business (whether or not ITC has been availed thereon).
(2)	Newly registered person (transferee) shall, on the common portal, accept the details so furnished by the registered person (transferor) & upon such acceptance, unutilised ITC specified in FORM GST ITC-02A shall be credited to his electronic credit ledger.

MANNER OF REVERSAL OF CREDIT IN SPECIAL CIRCUMSTANCES [RULE 44]

(1)	<p>Amount of ITC relating to inputs held in stock, inputs contained in semi-finished & FG held in stock, & Capital goods held in stock shall, for the purposes of section 18(4) be determined as:</p> <table border="1"> <tr> <td>for inputs held in stock & inputs contained in semi-finished & FG held in stock</td><td>ITC shall be calculated proportionately on the basis of corresponding invoices on which credit had been availed by registered taxable person on such inputs</td></tr> <tr> <td>for capital goods held in stock</td><td>ITC involved in remaining useful life in months shall be computed on pro-rata basis, taking useful life as five years.</td></tr> </table>	for inputs held in stock & inputs contained in semi-finished & FG held in stock	ITC shall be calculated proportionately on the basis of corresponding invoices on which credit had been availed by registered taxable person on such inputs	for capital goods held in stock	ITC involved in remaining useful life in months shall be computed on pro-rata basis, taking useful life as five years.
for inputs held in stock & inputs contained in semi-finished & FG held in stock	ITC shall be calculated proportionately on the basis of corresponding invoices on which credit had been availed by registered taxable person on such inputs				
for capital goods held in stock	ITC involved in remaining useful life in months shall be computed on pro-rata basis, taking useful life as five years.				
(2)	Such amount specified in (1) shall be determined separately for ITC of CGST,SGST,UTGST, IGST.				
(3)	Where tax invoices related to inputs held in stock are not available, registered person shall estimate amount under sub-rule (1) based on prevailing market price of goods on effective date of occurrence of any of events specified in section 18(4) or section 29(5).				
(4)	Amount determined under sub-rule (1) shall form part of output tax liability of RP & details of amount shall be furnished in GST ITC-03 , where such amount relates to any event specified in section 18(4) & in GSTR-10 , where such amount relates to cancellation of registration.				
(5)	Details furnished in accordance with sub-rule (3) shall be certified by practicing CA/CMA.				
(6)	<p>ITC for purposes of section 18(6) relating to capital goods shall be determined in same manner as specified in clause (b) of sub-rule (1) & amount shall be determined separately for ITC of CGST, SGST, UTGST & IGST:</p> <p>If amount so determined is more than tax determined on transaction value of capital goods, amount determined shall form part of output tax liability & shall be furnished in FORM GSTR-1.</p>				

UTILIZATION OF ITC

PAYMENT OF TAX, INTEREST, PENALTY AND OTHER AMOUNTS [SECTION 49(5)]

- (a) ITC of IGST shall first be utilised towards payment of IGST & amount remaining (if any) may be utilised towards the payment of CGST & SGST in that order.
- (b) ITC of CGST shall first be utilised towards payment of CGST & amount remaining (if any) may be utilised towards the payment of IGST;
- (c) ITC of SGST shall first be utilised towards payment of SGST & amount remaining (if any) may be utilised towards payment of IGST;
Note: ITC of SGST shall be utilised towards payment of IGST only where the balance of ITC of CGST is not available for payment of IGST;
- (d) ITC of UTGST shall first be utilised towards payment of UTGST & amount remaining (if any) may be utilised towards payment of IGST;
Note: ITC of UTGST shall be utilised towards payment of IGST only where the balance of ITC of CGST is not available for payment of IGST;
- (e) CGST shall not be utilised towards payment of SGST or UTGST &
- (f) SGST or UTGST shall not be utilised towards payment of CGST.

UTILISATION OF ITC SUBJECT TO CERTAIN CONDITIONS [SECTION 49A]

- ITC of CGST, SGST/UTGST shall be utilised towards payment of IGST, CGST, SGST/UTGST (as the case may be) only after ITC of IGST has first been utilised fully towards such payment.

ORDER OF UTILIZATION OF ITC [RULE 88A]

- ITC of IGST shall first be utilised towards payment of IGST & amount remaining (if any) may be utilised towards the payment of CGST & SGST/UTGST **in any order**.
- Provided that ITC CGST, SGST/UTGST shall be utilised towards payment of IGST, CGST, SGST/UTGST only after ITC of IGST has first been utilised fully.

SUMMARY TABLE

ITC of ↓	Output tax liability ↓		
	IGST	CGST	SGST/UTGST
IGST	1	2 – In any order and in any proportion	
3. ITC of IGST to be completely exhausted mandatorily			
CGST	5	4	Not permitted
SGST/UTGST	7 [Only after ITC of CGST has been utilized fully]	Not permitted	6

- ❖ ITC of IGST should first be utilized towards payment of IGST.
- ❖ Remaining ITC of IGST (if any) can be utilized towards the payment of CGST & SGST/UTGST in any order & in any proportion. Thus Remaining ITC of IGST can be utilized:
 - first towards payment of CGST and then towards payment of SGST; or
 - first towards payment of SGST and then towards payment of CGST; or
 - towards payment of CGST & SGST simultaneously in any proportion [Ex: 50: 50/30:70/40:60 etc.
- ❖ ITC of CGST, SGST/UTGST can be utilized towards payment of IGST, CGST, SGST/UTGST only after the ITC of IGST has first been utilized fully.
- ❖ Cross-utilization of credit is available only between CGST - IGST & SGST/UTGST - IGST.

Q17. Amount of ITC available and output tax liability under different tax heads:

Head	IGST	CGST	SGST	Total
Output tax liability	1,000	300	300	1600
ITC	1300	200	200	1700

Option 1

ITC of	Discharge of output IGST liability	Discharge of output CGST liability	Discharge of output SGST liability	Balance of ITC
IGST	1000	200	100	0
ITC of IGST has been completely exhausted				
CGST	0	100	-	100
SGST/UTGST	0	-	200	0
Total	1000	300	300	100

Option 2:

ITC of	Discharge of output IGST liability	Discharge of output CGST liability	Discharge of output SGST liability	Balance of ITC
IGST	1000	100	200	0
ITC of IGST has been completely exhausted				
CGST	0	200	-	0
SGST/UTGST	0	-	100	100
Total	1000	300	300	100

Note: There can be other options also for utilization of ITC of IGST against CGST and SGST liabilities. In this example, two options for utilizing ITC of IGST against CGST and SGST liabilities are shown.

QUESTION BANK

Q1. Determine the amount of ITC admissible to ABC Ltd. i.r.o various inputs purchased during September, 2018.

	Inward supplies	GST
(1)	Goods purchased without invoice	25,000
(2)	Goods purchased from PQR Ltd. (Full Payment is made by ABC Ltd. to PQR Ltd. against such supply but tax has not been deposited by PQR Ltd.)	1,20,000
(3)	Purchases of goods not to be used for business purposes	18,000
(4)	Purchases of goods from TT Ltd. (Invoice of TT Ltd. is received in month of September 2018, but goods were received in month of October 2018)	24,000
(5)	Goods purchased against valid invoice from FF Ltd. Tax has been deposited by FF Ltd. ABC Ltd. has made payment to FF Ltd. for such purchases in the month of October 2018.	36,000

Answer: **Computation of admissible ITC to ABC Ltd. for the month of September, 2018:**

	Inward supplies	GST
(1)	Goods purchased without invoice [WN-1]	-
(2)	Goods purchased from PQR Ltd. [WN-2]	-
(3)	Purchases of goods not to be used for business purposes [WN-3]	-
(4)	Purchases of goods from TT Ltd. (Invoice of TT Ltd. is received in month of September 2018, but goods were received in month of October 2018) [WN-4]	-
(5)	Goods purchased against valid invoice from FF Ltd. Tax has been deposited by FF Ltd. ABC Ltd. has made payment to FF Ltd. for such purchases in the month of October 2018. [WN-5]	36,000
Total admissible Input Tax credit for the month of September 2018		36,000

Note:

1. No Input tax credit will be available since ABC Ltd. is not in possession of valid tax paying document.
2. As per Section 16(2), no registered person shall be entitled to ITC i.r.o any supply of goods unless tax charged i.r.o such supply has been actually paid to the Government. Since PQR Ltd. has not deposited tax, no ITC can be claimed.
3. A registered person shall be entitled to take ITC on goods which are used or intended to be used in the course or furtherance of his business. Since ABC Ltd. has purchased the goods for non business purpose, hence no credit will be admissible on such purchases.
4. Input tax credit is admissible only when registered person has received such goods. Since the goods are received in the month of October, 2018, ITC cannot be taken in the month of September, 2018.
5. ITC shall be admissible in september, 2018 even if payment is made by ABC Ltd. in month of October, 2018.

Q2. PQ Ltd., is engaged in manufacturing of taxable goods. Compute ITC available for the month of October, 2019:

SN	Inward supplies	GST	Remarks
(i)	Inputs 'A'	1,00,000	One invoice on which GST payable was Rs. 10,000, is missing
(ii)	Inputs 'B'	50,000	Inputs are to be received in two instalments. First instalment has been received in October, 2019.
(iii)	Capital goods	1,20,000	XYZ Ltd. has capitalised the capital goods at full invoice value inclusive of GST as it will avail depreciation on full invoice value.
(iv)	Input services	225,000	One invoice dated 20.01.2019 on which GST payable was Rs.50,000 has been received in October, 2019.

Note: Annual return for the FY 2018-19 was filed on 15th September, 2019.

Answer: **Computation of ITC available with XYZ Ltd. for the month of October, 2019**

SN	Inward supplies	GST
(i)	Inputs 'A' [ITC cannot be taken on missing invoice. The registered person should have the invoice in its possession to claim ITC]	90,000
(ii)	Inputs 'B' [When inputs are received in instalments, ITC can be availed only on receipt of last instalment]	Nil
(iii)	Capital goods [Input tax paid on capital goods cannot be availed as ITC, if depreciation has been claimed on such tax component]	Nil
(iv)	Input services [ITC on an invoice cannot be availed after DD of furnishing of return for September following the end of FY to which such invoice pertains or date of filing annual return, whichever is earlier. Since annual return for FY 2018-19 has been filed on 15 th Sep, 2019 (prior to due date of filing the return for September, 2019 i.e., 20th October, 2019), ITC on the invoice pertaining to FY 2018-19 cannot be availed after 15th September, 2019.	1,75,000

Q3. ABC Co. Ltd. is engaged in the manufacture of heavy machinery. It procured the following items during July.

Items	GST paid
(a) Electrical transformers to be used in the manufacturing process in factory	5,20,000
(b) Trucks used for the transport of raw material	1,00,000
(c) Raw material	2,00,000
(d) Confectionery items for consumption of employees working in the factory	25,000
(e) Moulds & dies used in the factory	26,000
(f) Pollution control equipment used in the factory	2,34,000
(g) Capital Goods purchased on which depreciation has been taken on full value including input tax thereon Capital goods used as parts purchased from supplier who paid tax of Rs. 10,000 under composition scheme & the composite tax has not been collected from X Ltd.	1,35,000

Determine the amount of ITC available with ABC Co. Ltd., for July.

Answer: **Computation of ITC available with ABC Co. Ltd. for the month of July**

Items	ITC Allowed
(a) Electrical transformers to be used in tyre manufacturing process	5,20,000
(b) Trucks used for the transport of raw material	1,00,000
(c) Raw material [Being goods used in the course of business, ITC thereon is available]	2,00,000
(d) Confectionery items for consumption of employees working in the factory	Nil
(e) Moulds & dies used in the factory	26,000
(f) Pollution control equipment used in the factory	2,34,000
(g) Capital goods purchased on which full depreciation has been taken including input tax	Nil
(h) Capital goods used as parts purchased from composition dealer	Nil
Total ITC	8,20,000

Notes:

- As per Section 2(19) "Capital goods" means goods, the value of which is capitalized in books of A/c of the person claiming ITC & which are used or intended to be used in the course or furtherance of business. Hence (a) Electrical transformers; (b) Moulds & dies; (c) Pollution control equipment, which are used/intended to be used in the course or furtherance of business are eligible for ITC as capital goods.
- As per sec 16(3), no ITC shall be admissible where registered person has claimed depreciation on tax component of the cost of capital goods & P&M.
- As per Section 17(5)(e), ITC shall not be available i.r.o goods or services or both on which tax has been paid u/s 10. Thus, no ITC shall be allowed of tax paid under composition scheme by the supplier.
- ITC on food or beverages is specifically disallowed unless the same is used for making outward taxable supply of the same category or as an element of the taxable composite or mixed supply.
- ITC on motor vehicles used for transportation of goods is allowed.

Q4. Advise regarding availability of ITC under the CGST Act, 2017 in the following independent cases:

- AMT Co. Ltd. purchased a mini bus having seating capacity of 16 persons for transportation of its employees from their residence to office and back.
- Bangur Ceramics Ltd., a manufacturing company purchased two trucks for transportation of its finished goods from the factory to dealers located in various locations within the country.
- "Hans premium" dealing in luxury cars in Chankyapuri, Delhi purchased five Skoda VRS cars for sale to customers.
- Sun & Moon Packers Pvt. Ltd. availed outdoor catering service to run a canteen in its factory. The Factories Act, 1948 requires the company to set up a canteen in its factory.

Answer:

- Section 17(5) blocks ITC i.r.o motor vehicles for transportation of persons having seating capacity of not more than 13 persons (including driver), except when they are used for certain specified purposes. Since in the given case, the mini bus has a seating capacity of 16 persons, the ITC will be allowed.
- Section 17(5) blocks ITC i.r.o motor vehicles for transportation of persons with certain exceptions. Thus, ITC on motor vehicles for transportation of goods is allowed unconditionally. Therefore, ITC on trucks purchased by Bangur Ceramics Ltd for transportation of FG from factory to dealers located in various locations is allowed.
- Section 17(5) blocks ITC i.r.o motor vehicles for transportation of persons having seating capacity of not more than 13 persons (including driver), except when they are used for making further supply of such motor vehicles. Being a dealer of cars, "Hans Premium" has purchased the cars for further supply. Therefore, ITC on such cars is allowed.
- Section 17(5) blocks ITC i.r.o outdoor catering services. However, ITC is available on such services, when provided by an employer to its employees under a statutory obligation. Thus Sun & Moon packers Pvt. Ltd. can avail ITC i.r.o outdoor catering services availed by it as the same is being provided under a statutory obligation.

Q5. SP Ltd. a registered supplier, is a manufacturer of taxable goods & provides the following information pertaining to GST paid on the purchases made/input services availed during July, 2018. Determine the amount of ITC for July 18.

SN	Particulars	GST
1	Raw Material (to be received in September, 2018)	2,50,000
2	Membership of a club availed for employees working in the factory	1,20,000
3	Inputs to be received in 5 lots, out of which 3rd lot was received during the month	50,000
4	Capital goods (out of 3 items, invoice for 1 item is missing & GST paid on it is Rs. 50,000)	1,50,000
5	Motor vehicle purchased for employees to be used for personal as well as business purposes	1,80,000
6	Motor vehicle purchased for transportation of goods within the factory	3,60,000
7	Food items for consumption of employees. These items were supplied free to the employees in lieu of services rendered by them to the manufacturer in the course of employment.	5,000
8	Rent-a-cab facility availed for employees to fulfill a statutory obligation in this regard.	60,000
9	Outdoor catering service availed on Women's day	18,000

Answer:

SN	Particulars	GST
1	Raw Material [ITC not available as raw material is not received in July, 2018]	Nil
2	Membership of a club availed for employees [Blocked credit as per sec 17(5)]	Nil
3	Inputs to be received in 5 lots, out of which 3rd lot was received during the month [In case of goods received in lots, ITC can be taken only upon receipt of the last lot]	Nil
4	Capital goods [ITC of GST paid on items for which invoice is missing is not available. So, ITC of Rs. 50,000 is not available]	1,00,000
5	Motor vehicle purchased for employees to be used for personal & business purposes [WN 1]	Nil
6	Motor vehicle purchased for transportation of goods within the factory [WN 1]	3,60,000
7	Food items for consumption of employees supplied free of cost [WN 2]	Nil
8	Rent-a-cab facility availed for employees to fulfill statutory obligation [WN 3]	60,000
9	Outdoor catering service availed on Women's day [WN 2]	Nil

Working Notes: 1. ITC on motor vehicles & other conveyances is blocked except in some specified cases. Thus, in the given case, ITC on motor vehicle purchased for transportation of goods within the factory will only be allowed
 2. ITC i.r.o food & beverages is blocked unless the same is used for making outward taxable supply of same category or as an element of the taxable composite or mixed supply. Thus, in this case, ITC of taxes paid on food is not allowed.
 3. ITC on supply of rent-a cab services is available since it is a statutory obligation.

Q6. Mr. M a manufacturer engaged in supplying exempted as well as taxable goods. On 25th September, 2018 he purchased capital goods on which IGST paid Rs. 72,000, which were used for making exempted supplies. On 10th April, 2019 he used such capital Goods for purpose of supplying both Taxable as well as exempted supplies (i.e. partly for taxable & partly for exempted supplies). Determine implication on ITC.

Answer: As per Rule 43 of CGST Rules, 2017, where any capital goods earlier used for exempted supplies are subsequently used for providing taxable supplies also, then the eligible ITC shall be arrived at by reducing the input tax at the rate of 5% points for every quarter or part thereof i.e., Rs. 57,600 (Rs. 72,000 - (5% × 4 quarters × Rs. 72,000) shall be credited to the electronic credit ledger.

Amount of ITC attributable to April, 2019 on common capital goods during their useful life = (57,600)/60 = Rs. 960.

Q7. XYZ Ltd. is engaged in supply of passenger transportation services. In the month of September, 2018, it has purchased two motor vehicles for Rs. 36,00,000 plus GST @ 28%. You are required to advice XYZ Ltd. if it can avail Input tax credit of the GST paid by it on motor vehicles.

Answer: ITC shall not be available i.r.o Motor vehicles & other conveyances. However, ITC will be available when they are used for making taxable supplies of transportation of passengers. In this case, XYZ Ltd. is engaged in transportation of passengers & thus entitled to take ITC of GST amounting Rs. 10,08,000 i.e. [Rs. 36,00,000 × 28%] **[Sec 17(5)(a)]**

Q8. XYZ Ltd., a manufacturer, which is engaged in supply of taxable goods has purchased 10,000 kg of inputs for Rs. 10,00,000 (exclusive of CGST @6% & SGST @ 6%) on which ITC has been taken. Due to technical changes in manufacturing process, the said inputs became obsolete & their value has been written off in the books of accounts. Explain Input tax credit treatment in above case.

Answer: As per Section 17(5)(h), if the value of any goods is written off in the books of account, then no ITC shall be allowed i.r.o the said input. Where ITC has been taken i.r.o the said goods, the same has to be paid by recipient of input goods. Since in the given case, XYZ Ltd. has availed ITC, thus it has to pay Rs. 60,000 (Rs. 10,00,000 @ 6%) towards CGST & Rs. 60,000 towards SGST liability.

Q9. Determine ITC available to Posco Ltd. i.r.o the following items procured by them in Jan 2019:

SN	Inward supplies	GST
1	Input used for the manufacture of the final product	72,000
2	Goods used for providing services during warranty period	12,000
3	Goods used for setting up Telecommunication Towers being immovable property	90,000
4	Inputs stolen from the factory store	13,200
5	Goods destroyed due to natural calamities	10,000
6	Goods given as gifts	6,000

Answer: **Computation of Input Tax credit available with Posco Ltd**

Inward supplies	GST
Input used for the manufacture of the final product	72,000
Goods used for providing services during warranty period (Since used in course of business & thus ITC shall be available)	12,000
Goods used for setting up Telecommunication Towers being immovable property [WN 1]	Nil
Inputs stolen from the factory store [WN 2]	Nil
Goods destroyed due to natural calamities [WN 2]	Nil
Goods given as gifts [WN 2]	Nil
Total Input tax credit available	84,000

Notes:

- As per Section 17(5)(d), Goods received by taxable person for construction of an immovable property (other than Plant & Machinery) on his own account including when such goods used in course or furtherance of business shall be considered as ineligible input & no credit shall be allowed of tax paid on such goods. Since Telecommunication tower is an immovable property, hence no ITC shall be allowed i.r.o goods used for setting it up.
- As per Section 17(5)(h), Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples are considered as ineligible input & credit of GST paid on such goods cannot be taken.

Q10. Mr. X, a supplier of goods, pays GST under regular scheme, Mr. X is not eligible for any threshold exemption.

Outward taxable supplies in a tax period		Purchases made by him in a tax period	
Particulars	Amount	Particulars	Amount
Intra-State supply of goods	6,00,000	Intra-State purchase of goods	4,00,000
Inter-State supply of goods	2,00,000	Inter-State purchase of goods	50,000

Note: (i) ITCs available at the beginning of tax period: (a) CGST: Rs. 15,000; (b) SGST: Rs. 35,000; (c) IGST: Rs. 20,000.

(ii) Rate of CGST, SGST & IGST to be 9%, 9% & 18% respectively.

(iii) Both inward & outward supplies are exclusive of taxes, wherever applicable.

(iv) All the conditions necessary for availing the ITC have been fulfilled.

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

Answer: **Computation of GST payable by Mr. X on outward supplies**

Particulars	CGST	SGST	IGST
Intra-State supply of goods: CGST @ 9% & SGST @ 9% on Rs. 6,00,000	Rs. 54,000	Rs. 54,000	-
Inter-State supply of goods: IGST @18% on Rs. 2,00,000	-	-	Rs. 36,000
Total GST payable	Rs. 54,000	Rs. 54,000	Rs. 36,000

Computation of total ITC

Particulars	CGST	SGST	IGST
Opening Balance of ITC available	Rs. 15,000	Rs. 35,000	Rs. 20,000
Add: ITC on Intra-State purchases of goods valuing Rs. 4,00,000	Rs. 36,000	Rs. 36,000	Nil
Add: ITC on Inter-State purchases of goods valuing Rs. 50,000	Nil	Nil	Rs. 9,000
Total ITC	Rs. 51,000	Rs. 71,000	Rs. 29,000

Computation of GST payable from cash ledger

Particulars	CGST	SGST	IGST
GST payable	Rs. 54,000	Rs. 54,000	Rs. 36,000
Less: Input tax credit	Rs. 51,000	Rs. 71,000	Rs. 29,000
Net Payable	3,000	Nil	Rs. 7,000
Less: Cross Utilization	Nil	Nil	(7,000)
Net Tax Payable	3,000	Nil	Nil
Excess ITC carried forward	Nil	10,000	Nil

Q11. Determine ITC admissible to PQR Ltd. i.r.o the following goods procured by it in January, 2019:

SN	Inward supplies	GST
1.	Goods used in constructing an additional floor of office building	28,800
2.	Packing Materials used in a factory	6,000
3.	Goods used for repairing the office building & cost of such repairs is debited to P&L A/c	12,000
4.	Paper for photocopying machine used in Administrative Office	950
5.	Inputs used for tests or quality control check or trial runs	15,600
6.	Goods supplied for captive consumption in a factory	10,000

Answer: **Computation of Input tax credit available with PQR Ltd.**

Inward supplies	GST
Goods used in construction of an additional floor of office building [WN 1]	Nil
Packing Materials used in a factory (Since used in course of business hence, ITC shall be available)	6,000
Goods used for repairing office building & cost of such repairs is debited to P&L A/c [WN 3]	12,000
Paper for photocopying machine used in Administrative Office (Since used in course of business hence, ITC shall be available)	950
Inputs used for tests or quality control check (ITC allowed since used in course of business)	15,600
Goods supplied for captive consumption in a factory (Since used in course of Business & hence ITC on same shall be admissible)	10,000
Total Input Tax credit available	44,550

Notes:

- As per sec 17(5)(d), ITC shall not be available i.r.o goods or services or both received by a taxable person for construction of an immovable property (other than P&M) on his own account including when such goods or services or both are used in the course or furtherance of business. Hence, ITC shall not be available i.r.o goods used in construction of an additional floor of office building.
- As per the explanation, "Construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the immovable property. Goods used for Revenue repairs are considered as an eligible input & ITC shall be allowed on the same.

Q12. Following are the details of purchase, sales made by M/s AB & Co. a registered manufacture:

- Purchased raw material 'X' from local dealer 91,840 (inclusive of GST @ 12%).
- Purchased raw material 'Y' from local dealer 1,12,000 (inclusive of GST @ 12%).
- Purchased capital goods from within the state to be used in manufacture of the taxable goods Rs. 2,24,000 (inclusive of GST @ 12%). Depreciation @15% to be charged.
- Other direct and indirect expenses 88,000.
- Earned 5% profit margin on total cost.
- During Oct 2018, only 70% production is sold within the state and applicable GST rate being 12%

Calculate amount of CGST & SGST payable after utilizing ITC for oct. 2018 assuming no opening balance of ITC.

Answer:

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

Note: Credit will be available for CGST & SGST charged by local suppliers. Hence, the same is not to be included in the cost.

Particular	CGST	SGST
Output tax liability for Oct 2018 @ 12% (being CGST 6% & SGST 6%) [2,20,500 x 12%]	13,230	13,230
Less: Eligible input tax credit in respected of purchase of:		
Raw material 'A' [82,000 x 12%] = 9840	4,920	4,920
Raw material 'B' [1,00,000 x 12%] = 12,000	6,000	6,000
Capital goods [2,00,000 x 12%] = 24,000	12,000	12,000
CGST/SGST credit to be carried forward	-9,690	-9,690

Q13. Compute ITC available with Kia Motors Ltd i.r.o the following services availed by it in October, 2018:

SN	Inward supplies	GST
(i)	Accounting & Auditing Services	7,200
(ii)	Health insurance services for employees (not provided under Government obligation)	16,200
(iii)	Routine maintenance of the cars manufactured by Kia Motors Ltd.	18,000
(iv)	Hotel accommodation & Conveyance facility to employees on vacation	3,360
(v)	Testing services availed for car engines	9,000
(vi)	Work contract services for construction of office building	50,000
(vii)	Sales promotion services, Market research services, Quality control services	30,000

Answer: Computation of Input tax credit available with Kia Motors Ltd.

Inward supplies	ITC
Accounting & Auditing Services (ITC is eligible since such services are used in course of business)	7,200
Health insurance services provided to employees [WN 1]	Nil
Routine maintenance of the cars manufactured by Ujjwal Motors Ltd. (Input tax credit eligible since such services are used in course of business)	18,000
Hotel accommodation & conveyance facility for employee on vacation [Note]	Nil
Testing services availed for car engines (ITC is allowed since used in course of business)	9,000
Work contract services for construction of office building (Not considered as eligible input service)	Nil
Sales promotion services, Market research services, Quality control services [Note]	30,000
Total Input tax credit available	34,200

Notes:

- As per sec 17(5)(b)(iv), No ITC shall be allowed on services extended to employees on vacation.
- Input service" means any service used or intended to be used by a supplier in the course of business. So, services like: (a) Sales promotion services; (b) Market research services; (c) Quality control services, are used by supplier in the course of business. Hence, the credit of the tax paid on the aforesaid supply of services is available.

Q14. Yes Bank, having a branch in Jaipur engaged in supply of services by way of accepting deposits & extending loans opted for the option to avail credit of 50% of input tax of the month to which input tax relates u/s 17(4). Its head office is in Mumbai & branch in Ahmedabad. ITC (CGST & SGST) available for the month August, 2018 is Rs. 90,000 which includes: Total ITC includes credit relating to:

Particulars	Input tax
1. Services availed from its distinct establishment i.e., from Mumbai Head office	18,000
2. Goods that has obsolete & whose value has been written off in books	2,500
3. Auditing Services	22,500
4. Goods which are used for personal use of employees	6,500

Determine the amount of ITC of August, 2018 that can be availed by Yes bank.

Answer: As per Section 17(4), every banking company or a financial institution, including a non-banking financial company, engaged in supply of services by way of accepting deposits or extending loans or advances which is not opting for provisions of Section 17(2), has the option to avail of, every month, an amount equal to 50% of the eligible ITC on inputs, capital goods & input services in that month & the rest shall lapse.

Since, Yes bank has availed an option to avail every month, an amount equal to 50% of the eligible ITC on inputs, capital goods & input services in that month & rest shall lapse. Therefore in the given case:

Computation of Eligible Input tax Credit for August, 2018

Particulars	Eligible ITC
ITC available [excluding ITC availed from its Mumbai Head office] [Rs. 90,000 - Rs. 18,000]	72,000
Less: Credit relating to:	
- Goods that has obsolete & whose value has been written off [Credit is not available u/s 17(5)]	2,500
- Auditing Services	NIL
- Goods received which are used for personal use	6,500
Total Eligible Input tax Credit Available	48,600
(a) 50% of Eligible Input tax credit shall be availed by Yes bank [A]	24,300
(b) Input tax on Supply of services availed from its distinct establishment i.e. from Mumbai Branch [50% restriction not applicable hence full ITC can be availed] [B]	18,000
Total Eligible ITC Available i.r.o CGST & SGST [A] + [B]	42,300
Amount of ITC lapsed	24,300

Q15. M/s. Pradyumn Corporation Pvt. Ltd., a registered dealer of Mumbai furnishes you following information for the month of October, 2018. Compute GST liability for October, 2018. GST Rate: CGST - 9%, SGST - 9%.

SN	Particulars	Amount
(i)	Intra-State sale of Taxable goods (Out of above, Rs. 50,000 was received as advance in September 2018)	2,00,000
(ii)	Goods purchased from unregistered dealer (Purchase on 20 th Oct 2018) (10,000 in case of Inter State & Balance Intra-State)	50,000
(iii)	Received for services by way of labour contracts for repairing a single residential unit otherwise than as a part of residential complex (It is Intra-State transaction)	50,000
(iv)	Professional fees paid to Ms. Udadhi located in a non-taxable territory (Inter-State)	50,000
(v)	Goods transport services received from a GTA. GTA is paying tax @12% (Inter-State)	1,00,000

Note: Turnover of M/s. Pradyuman Corporation Pvt. Ltd. was Rs. 2 crores in Previous FY.

[May 2018]

Answer: **Computation of GST liability for the month of October 2018**

SN	Particulars	Value	CGST	SGST	IGST	Total
(i)	Intra-State sale of Taxable goods (out of above Rs. 50,000 was received as advance in September, 2018)[WN 1]	2,00,000	18,000	18,000	-	36,000
(ii)	Goods purchased from unregistered dealer [WN 2]	50,000	Exempt	Exempt	Exempt	-
(iii)	Received for services by way of labour contracts for repairing a single residential unit otherwise than as a part of residential complex [WN 3]	50,000	4,500	4,500		9,000
(iv)	Professional fees paid to Ms. Udadhi located in a non-taxable territory [WN 4]	50,000	-	-	9,000	9,000
(v)	Goods transport services received from GTA [WN 5]	1,00,000	-	-	-	Nil
Total GST liability			22,500	22,500	9,000	54,000

Working Note:

- All taxpayers (except composition suppliers) are exempted from paying GST at the time of receipt of advance in relation to supply of goods. Entire GST shall be payable only when the invoice for the supply of such goods is issued or ought to have been issued. Thus, no GST is payable i.r.o advance of Rs. 50,000 in september, 2018 but the same will be payable in the month of October, 2018 when the supply of goods takes place.
- Goods purchased from unregistered supplier is liable to GST on reverse charge basis. However, RCM is not applicable on supplies for G&S received by registered supplier from unregistered person till 30-09-2019.
- Services by way of pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex are exempt. This exemption is not applicable for repair service. The same shall be liable to GST.
- In case of service supplied by a person located in a non-taxable territory to a person other than non-taxable online recipient, GST is payable under RCM by such recipient.
- GST is payable by the recipient on RCM basis on the receipt of services of transportation of goods by road from GTA provided such GTA has not paid GST @ 12%. Since in the given case, services have been received from a GTA who has paid GST @ 12%, reverse charge provisions will not be applicable.

Q16. X Ltd. provides taxable as well as exempted services. Turnover of X Ltd. during October, 2018 is as under:

Particulars	Amount
Value of exempted supply of services	15,00,000
Value of taxable supply of services	32,00,000
Value of Zero rated taxable Supply of services	8,00,000
Supply of services made for personal use	5,00,000
Total	60,00,000

Details of Input tax credit for the month of October, 2018 are as under:

Particulars	CGST	SGST	IGST
Total Input tax	1,08,000	1,08,000	54,000
Above Input tax on input services includes the following:			
Input tax on input services exclusively used for supplying exempted services	18,000	18,000	7,200
Input Tax on input services exclusively used for supplying taxable services (including Zero rated supplies)	54,000	54,000	3,600
Input tax on inputs which are not eligible u/s 17(5)	18,000	18,000	6,300
Input tax on input services exclusively used for supplying services for personal use	10,800	10,800	5,400

What would be the entitlement of ITC of X Ltd. for month of October, 2018 u/r 42.

Answer: Computation of Input tax credit eligible for the tax period October, 2018

Particulars	CGST	SGST	IGST
Total Input tax in a tax period [T]	1,08,000	1,08,000	54,000
Less:			
Tax on input services exclusively used for effecting supply of services for personal use [T ₁]	10,800	10,800	5,400
Tax on input services exclusively used for effecting exempt supply of services [T ₂]	18,000	18,000	7,200
Tax on inputs which are ineligible u/s 17(5) [T ₃]	18,000	18,000	6,300
Amount of Input tax credited to electronic credit ledger [C ₁] = T - [T ₁ + T ₂ + T ₃]	61,200	61,200	35,100
Less: Credit on input services exclusively used for supplying taxable services (including Zero rated supplies) [T ₄]	54,000	54,000	3,600
Common credit of input & input services used for providing services [C ₂] = C ₁ - T ₄	7,200	7,200	31,500
Total inadmissible common credit as per Rule 42(1) [D ₂ + D ₂] [WN]	2,160	2,160	9,450
Net eligible common credit C ₃ = C ₂ - [D ₁ + D ₂]	5,040	5,040	22,050
Total credit eligible i.e. [T ₄ + C ₃]	59,040	59,040	25,650
Amount to be added to output tax liability of X Ltd. is [D ₁ + D ₂]	2,160	2,160	9,450

Working Note: Calculation of Amount of ITC towards exempt supplies & supply made for non business use:

Particulars	CGST	SGST	IGST
Aggregate Value of Exempted supply of services [E]	15,00,000	15,00,000	15,00,000
Total Turnover for October, 2018 [F]	60,00,000	60,00,000	60,00,000
Credit attributable towards exempt supplies D ₁ = [E ÷ F] × C ₂	1,800	1,800	7,875
Credit attributable for supplies made for non business purpose per Clause (j) of Rule 42(1) [D ₂ = 5% × C ₂]	360	360	1,575
Total inadmissible common credit as per Rule 42(1) [D ₁ + D ₂]	2,160	2,160	9,450

Q17. PQR Ltd. is engaged in supplying taxable goods to its customers within the state & it is not liable for registration u/s 22. From 15.2.2019 onwards, it started inter-state supply of taxable goods & hence it applied for registration on 25.2.2019 & same has been granted to him. Its CGST, SGST & IGST liability for the month of February, 2019 is Rs. 19,500, Rs. 19,500 & Rs. 40,500 respectively & it has to make e-payment of tax on the due date i.e., on 20.3.2019.

PQR Ltd. has provided the following details of stock of input held on 14.2.2019 & tax paid thereon

Particulars	CGST	SGST
Inputs received on 10.1.2019 (Invoice dated 11.1.2019) lying in stock	3,600	3,600
Inputs received on 25.10.2018 (Invoice dated 26.10.2018) lying in semi finished stock	7,500	7,500
Inputs received on 15.1.2019 (Invoice dated 15.1.2019) contained in Finished Goods	9,600	9,600

Briefly explain the tax payable by PQR (Pvt.) Ltd. in cash, if any.

Answer: Person applying for registration within 30 days from date on which he becomes liable to registration & has been granted registration shall be entitled to take ITC i.r.o input held in stock or contained in semi-finished or FG in stock on date immediately preceding the date from which he becomes liable to registration i.e., 14th February, 2019. Registered person shall not be entitled to take ITC i.r.o any supply of goods or services or both to him after the expiry of 1 year from the date of issue of tax invoice relating to such supply [Sec 18(2)]

Particulars	CGST @ 6%	SGST @ 6%
Inputs received on 10.1.2019 (Invoice on 11.01.2019) lying in stock as on 14.02.2019	3,600	3,600
Inputs received on 25.10.2018 (Invoice on 26.10.2018) lying in semi-FG on 14.02.2019	7,500	7,500
Inputs received on 15.1.2019 (Invoice on 15.01.2019) contained in FG on 14.02.2019	9,600	9,600
Total Eligible ITC	20,700	20,700

Computation of Tax payable in cash by PQR (Pvt.) Ltd. for month of February, 2019

Particulars	CGST @ 6%	SGST @ 6%	IGST @ 12%
Output tax liability for February, 2019	19,500	19,500	40,500
Less: Eligible input tax Credit available on inputs i.r.o			
CGST [See Note]	19,500	-	1,200
SGST [See Note]	-	19,500	1,200
Output Tax payable in Cash	Nil	Nil	38,100

Note: As per Section 49(5)(b)/(c), ITC of CGST shall first be utilised towards payment of CGST & the amount remaining, if any, may be utilised towards the payment of IGST. Similarly, ITC of SGST shall first be utilised towards payment of SGST & amount remaining, if any, may be utilised towards payment of IGST.

Q18. Punjab National Bank provides the following information for the month of November, 2018:

Particulars	CGST paid	SGST paid
Eligible Input tax Credit (CGST & SGST) available on Inputs received	16,020	16,020
Eligible Input tax Credit (CGST & SGST) available on Input Services availed	11,340	11,340
Value of taxable supply of services	11,00,000	-
Value of exempted supply of services	10,00,000	-

Determine ITC available to Punjab National Bank for Nov 2018 & also determine net SGST & CGST liability.

Answer: Every banking company/FIs/NBFCs engaged in supply of services by way of accepting deposits or extending loans or advances has 2 options (i) To avail (every month) ITC = 50% of the eligible ITC on inputs, IS & CG in that month or (ii) to comply with the provisions of Section 17(2) of taking credit of inputs & IS used for making taxable supplies.

Option I: In case the Bank opts for option to avail 50% Eligible Input tax credit u/s 17(4)

Particulars	CGST paid	SGST paid
Total Eligible Input tax credit available	27,360	27,360
Less: ITC credited to ECL (50% of eligible ITC on inputs, IS & CG) i.e., Rs. 27,360 × 50%	13,680	13,680
Remaining ITC Lapsed	13,680	13,680

Determination of Net Tax liability of Bank for the month of November, 2018;

Particulars	CGST @9%	SGST @9%	Total GST liability
Tax liability of bank before availing eligible ITC on taxable supply of services of Rs. 11,00,000	99,000	99,000	1,98,000
Less: Net/Eligible CGST Credit available on Inputs/Input services	13,680	-	13,680
Less: Net/Eligible SGST Credit available on Inputs/Input services	-	13,680	13,680
Net output Tax liability of bank after availing eligible Input tax Credit	85,320	85,320	1,70,640

Option II: In case Punjab National Bank opted to comply with the provisions of Section 17(2)

Particulars	CGST paid	SGST paid
Amount of ITC credited to electronic ledger	27,360	27,360
As per Rule 42 of CGST Rules, 2017, Credit of CGST paid on input/input services attributable towards Exempted supplies to be added to output tax liability = Rs. 27,360 × Rs. 10,00,000/Rs. 21,00,000	13,029	
Credit of SGST paid on input/input services attributable towards Exempted supplies to be added to output tax liability = Rs. 27,360 × Rs. 10 Lacs/Rs. 21 Lacs.		13,029

Determination of Net Tax liability of Bank for the month of November, 2018

Particulars	CGST @9%	SGST @9%	Total GST liability @ 18%
Tax liability of bank before availing eligible ITC on taxable supply of services of Rs. 11,00,000	99,000	99,000	1,98,000
Add: CGST /SGST Credit to be added to output tax liability	13,029	13,029	26,058
Less: CGST/ SGST Credit available on Inputs/Input services	27,360	27,360	54,720
Net output Tax liability of bank after availing eligible Input tax Credit	84,669	84,669	1,69,338

Q19. Mr. NY, a supplier of goods pays GST under regular scheme. Mr. NY is not eligible for any threshold exemption.

Particulars	CGST Rate	SGST Rate	IGST Rate	Amount
Intra State				
Product A	6%	6%	-	8,00,000
Product B	9%	9%	-	2,00,000
Inter State				
Product A	-	-	12%	3,00,000
Product B	-	-	18%	1,50,000

He has also furnished the following information i.r.o supplies received by him during September 2018:

Particulars	CGST	SGST	IGST	Amount
Intra State				
Product A	6%	6%	-	2,00,000
Product B	9%	9%	-	1,00,000
Inter State				
Product A	-	-	12%	1,50,000
Product B	-	-	18%	80,000

Mr. NY has following ITCs with him at the beginning of Sep 2018: CGST – 40,000; SGST - 28,000; IGST - 44,600.

Compute net GST payable by Mr. NY for the month of September 2017.

[CA Final May 2018]

Answer: **Computation of GST payable by Mr. NY for September, 2018**

Nature	Products	CGST	SGST	IGST
Intra-State	Product A	48,000	48,000	
	Product B	18,000	18,000	
Inter-State	Product A			36,000
	Product B			27,000
	Total	66,000	66,000	63,000

Computation of total ITC available

Nature	Particulars	CGST	SGST	IGST
Opening Balance		40,000	28,000	44,600
Intra-State	Product A	12,000	12,000	
	Product B	9,000	9,000	
Inter-State	Product A			18,000
	Product B			14,400
	Total	61,000	49,000	77,000

Computation of net GST payable (from cash ledger)

Particulars	CGST	SGST	IGST
GST Payable	66,000	66,000	63,000
Less: ITC utilized IGST CGST/SGST	5,000	9,000	63,000
	61,000	49,000	
Net GST Payable	NIL	8,000	NIL

Note: IGST credit can be utilized for payment of CGST/SGST in any order.



7. REGISTRATION

BY CA PRANAV CHANDAK

FOR MAY/JUNE 2020

CA/CMA INTERMEDIATE

SOME RELEVANT DEFINITIONS

Place of Business Sec 2(85)	<ul style="list-style-type: none"> Place from where business is ordinarily carried on & includes warehouse, godown (or any other place) where taxable person stores his goods, supplies or receives G/&S. Place where a taxable person maintains his books of account; or Place where a taxable person is engaged in business through agent.
Fixed Establishment Sec 2(50)	<ul style="list-style-type: none"> means a place (other than registered place of business) which is characterised by sufficient degree of permanence & suitable structure in terms of human & technical resources to supply services, or to receive & use services for its own needs.
Principal Place of Business	<ul style="list-style-type: none"> means place of business specified as principal place of business in the certificate of registration.
Registered Person	<ul style="list-style-type: none"> means a person who is registered u/s 25, but does not include a person having a Unique Identity Number.
Casual Taxable Person	<ul style="list-style-type: none"> A person who occasionally undertakes transactions involving supply of G/&S in course or furtherance of business, whether as principal, agent or in any other capacity, in a State/UT where he has no fixed place of business [Sec 2(20)]. <p>Note: CTP cannot exercise the option to pay tax under composition levy.</p>
Non-Resident Taxable Person	<ul style="list-style-type: none"> Any person who occasionally undertakes transactions involving supply of G/&S whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India. <p>Note: He cannot exercise option to pay tax under composition levy.</p>

FEATURES & ADVANTAGES OF REGISTRATION UNDER GST

- Registration in GST is PAN based. Once a supplier is liable to register, he has to obtain registration in each of the States/UTs in which he operates under the same PAN.
- There is no concept of a centralized registration. Supplier is required to obtain State-wise registration.
- A supplier has to obtain registration in every State/UT from where he makes a taxable supply provided his aggregate turnover exceeds a specified threshold limit. Thus, he is not required to obtain registration from a State/UT from where he makes a non-taxable supply.
- Normally, Supplier is required to obtain single registration in a State/UT. However, where he has multiple places of business in a State/UT, he has two options:
 1. Either to get a single registration for the said State/UT [wherein it can declare one place as principal place of business (PPoB) & other branches as additional place(s) of business (APoB)] or
 2. to get separate registrations for each place of business in such State/UT.
- Registration under GST is **not tax specific**. Thus, there is single registration for all the taxes i.e. CGST, SGST/UTGST, IGST & GST compensation cess.

ADVANTAGES OF REGISTRATION UNDER GST

- Only Registered Person can collect taxes from customers & pass on ITC of G/S supplied to recipients.
- Only Registered Person can claim ITC of taxes paid & can utilize same for payment output tax liability.
- Registered person is eligible to apply for Government bids or contracts or assignments.

PERSON LIABLE FOR REGISTRATION [SEC 22]

Aggregate Turnover > 20 Lacs

- Every supplier is liable to get registered in the state/UT (other than special category states) from where he makes taxable supply of Goods or Services or both
- if his aggregate turnover in **current FY > Rs. 20 Lacs**.
- For **Special Category State**: Limit of registration is **Rs. 10 Lacs**.

Note: For Sec. 22, Special Category States are: Mizoram, Manipur, Tripura (MMT) & Nagaland.

NN 10/2019

- Any person who is engaged in **exclusive supply of goods** shall be required to get registered when aggregate turnover in current FY exceeds Rs. 40 lacs.
- The Increased Limit of Rs. 40 Lacs is subject to prescribed T&C.

NN 10/2019 is not applicable in following cases & thus Threshold Limit is Rs. 20 Lacs:

- Persons required to take **compulsory registration u/s 24** of the CGST Act.
- Person who has opted for **voluntary registration** or such registered persons who intend to continue with their registration under the CGST Act.
- Supplier of ice cream, Pan masala & Tobacco products.**
- Persons engaged in making **Intra-State supplies** in the States of:

Uttarakhand, Arunachal Pradesh; Puducherry & Telangana; Meghalaya, Sikkim;

Manipur, Mizoram, Nagaland, Tripura → **[Limit of Rs. 10 Lacs]**.

Note: Suppliers making **Inter-State supply** of goods are liable to compulsory registration & are thus covered in (a) above.

Q1. Determine whether XYZ Ltd incorporated in Rajasthan is liable to be registered under GST Law

Particulars	Rs.
(1) Intra-State supply of goods chargeable with GST @ 5%	5,51,000
(2) Intra-State supply of goods which are wholly exempt from GST u/s 11 of CGST Act, 2017	6,00,000
(3) Intra-State supply of goods chargeable with Nil rate	8,50,000

Answer:

- ❖ Every supplier shall be liable to be registered in a State/UT from where he makes a taxable supply of G/&S if his aggregate turnover in a FY exceeds Rs. 20 lacs.
- ❖ Aggregate turnover means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on RCM), exempt supplies, exports of G or S or both & inter-State supplies of persons having same PAN, to be computed on all India basis but excludes CGST, SGST UTGST & Cess.

Computation of Aggregate turnover

Intra-State supply of goods chargeable with GST @5%	5,51,000
Intra-State supply of goods which are wholly exempt from GST	6,00,000
Intra-State supply of goods chargeable with Nil rate of GST	8,50,000
Total Value of supplies	20,01,000

Since aggregate turnover of the company exceeds Rs. 20 lacs, it is liable to get itself registered under GST Law.

Existing Law	<ul style="list-style-type: none"> ▪ Every person who is registered or holding a license under existing indirect tax law.
Transfer of Business	<ul style="list-style-type: none"> ▪ Business carried on by registered person ▪ is transferred due to succession or otherwise to another person as going concern, ▪ transferee or successor shall be liable for registration ▪ w.e.f the date of such transfer or succession.
Amalgamation or demerger	<ul style="list-style-type: none"> ▪ In case of transfer pursuant to sanction of scheme for amalgamation or demerger of two or more companies pursuant to order of HC, Tribunal or otherwise, ▪ transferee shall be liable to be registered, ▪ w.e.f date on which ROC issues certificate of incorporation.

Note: Registration is required only for place of business from where taxable supply takes place.

TABLE SHOWING THRESHOLD LIMITS FOR REGISTRATION:

Particulars	States	Threshold limit for persons engaged	
		Exclusively in supply of goods	in supply of services or both G&S
States other than Special Category States	Puducherry + Telangana	Rs. 20 Lac	Rs. 20 Lac
	Others	Rs. 40 Lac	Rs. 20 Lac
Special Category States as per Section 22	Manipur	Rs. 10 Lac	Rs. 10 Lac
	Mizoram	Rs. 10 Lac	Rs. 10 Lac
	Nagaland	Rs. 10 Lac	Rs. 10 Lac
	Tripura	Rs. 10 Lac	Rs. 10 Lac
Other States	J & K	Rs. 40 Lac	Rs. 20 Lac
	Assam	Rs. 40 Lac	Rs. 20 Lac
	Himachal Pradesh	Rs. 40 Lac	Rs. 20 Lac
	AP & UK	Rs. 20 Lac	Rs. 20 Lac
	Meghalaya	Rs. 20 Lac	Rs. 20 Lac
	Sikkim	Rs. 20 Lac	Rs. 20 Lac

Q2.

Supplier	Engaged	Aggregate turnover	Threshold limit	Registration required ?
P of Assam	Exclusively in supply of Shoes	Rs. 22 Lac	Rs. 40 Lac	×
	Exclusively in supply of Pan Masala	Rs. 22 Lac	Rs. 20 Lac	✓
	Exclusively in supply of taxable services	Rs. 22 Lac	Rs. 20 Lac	✓
	in supply of both taxable G&S	Rs. 22 Lac	Rs. 20 Lac	✓
S of Telangana	exclusively in supply of toys	Rs. 22 Lac	Rs. 20 Lac	✓
	exclusively in supply of ice cream	Rs. 22 Lac	Rs. 20 Lac	✓
	exclusively in supply of taxable services	Rs. 22 Lac	Rs. 20 Lac	✓
	in supply of both taxable G&S	Rs. 22 Lac	Rs. 20 Lac	✓
A of Manipur	exclusively in supply of paper	Rs. 12 Lac	Rs. 10 Lac	✓
	exclusively in supply of tobacco	Rs. 12 Lac	Rs. 10 Lac	✓
	exclusively in supply of taxable services	Rs. 12 Lac	Rs. 10 Lac	✓
	in supply of both taxable G&S	Rs. 12 Lac	Rs. 10 Lac	✓

AGGREGATE TURNOVER

- ❖ Aggregate turnover: includes **total turnover of all units/branches** of a person with **same PAN** & it is computed on **all India basis**.
- ❖ Here, 'Aggregate turnover' shall include all supplies made by taxable person, **whether on his own account or made on behalf of all his principals**.
Ex: Mr. A has appointed Mr. B & Associates as his agent. All the supplies of goods made by Mr. B & Associates as agent of Mr. A will also be included in aggregate Turnover of Mr. B.
- ❖ Supply of Goods (after completion of job work) by a registered job worker → treated as supply of goods by **'Principal'** & it shall not be included in aggregate T/O of registered job worker.
- ❖ **Aggregate turnover Vs. Turnover in State:**
 - Aggregate turnover → Used for determining limit for registration & eligibility for composition scheme.
 - State Turnover → Used as basis for calculation of tax payable under composition levy.

Ex: Raghav of Assam is exclusively engaged in intra-State supply of readymade garments. Its turnover in current FY from Assam showroom is Rs. 28 Lacs. It has another showroom in Tripura with a turnover of Rs. 11 Lacs in current FY. Since Raghav is engaged in supplying garments from a Special Category State, applicable threshold limit for him gets reduced to Rs. 10 Lacs. Further, Raghav is liable to get registered under GST in both Assam & Tripura on his aggregate turnover crossing the threshold limit of Rs. 10 lacs.

Ex: Uday Enterprises is engaged in supply of taxable goods in Maharashtra. It also supplies alcoholic liquor for human consumption from Nagaland. Its turnover in current FY is Rs. 34 Lacs in Maharashtra & Rs. 8 Lacs in Nagaland. Since Uday Enterprises is exclusively engaged in making taxable supplies of goods from Maharashtra, the applicable threshold limit for obtaining registration is Rs. 40 Lacs. However, threshold limit will not be reduced to Rs. 10 Lacs in this case, as supply of alcoholic liquor for human consumption from Nagaland (one of the Special Category States) are non-taxable supplies. In given case, since the aggregate turnover of Uday Enterprises exceeds the applicable threshold limit of Rs. 40 Lacs, it is liable to obtain registration. It will obtain registration in Maharashtra, but is not required to obtain registration in Nagaland as he is not making any taxable supplies from said State.

Q3. Pure Oils, Delhi has started the supply of machine oils & high speed diesel in the month of April, 20XX. The following details have been furnished by it for the said month. Determine whether Pure Oils is liable for registration.

Particulars	Amount excluding GST
Supply of machine oils in Delhi	Rs. 2,00,000
Supply of high speed diesel in Delhi	Rs. 4,00,000
Supply made through Fortis Lubricants - an agent of Pure Oils in Delhi	Rs. 3,75,000
Supply made by Pure Oils from its branch located in Punjab	Rs. 1,80,000

(b) What if Pure Oils has a branch in Nagaland from where he supplies machine oils amounting to Rs. 2,50,000?

Answer:

Computation of Aggregate turnover (AT)

Particulars	Amount
Supply of machine oils in Delhi [Intra-state supply of taxable goods & thus includible in AT]	2,00,000
Supply of high speed diesel in Delhi [Intra-state supply of goods which is non-taxable under GST. Non-taxable supply is included in the definition of Exempt Supply & thus includible in AT]	4,00,000
Supply made through Fortis Lubricants - an agent of Pure Oils in Delhi [Transfer of goods to agent for further supply is also treated as 'supply'. Sec 7(1)(c) r/w Schedule I (Para 3) covers transfer of goods to agent. It is an intra-state supply of goods which is taxable under GST. It shall be includible in 'aggregate turnover']	3,75,000
Supply made by Pure Oils from its branch located in Punjab [Supply is made from branch office in Punjab. Since ATO is computed on all India basis (establishments operating with same PAN), it shall be includible in 'aggregate turnover']	1,80,000
Aggregate Turnover	11,55,000

As per section 22, every supplier is liable to be registered in the State/UT from where he makes a taxable supply of G/&S, if his aggregate turnover in a FY exceeds Rs. 20 lacs (Rs. 40 Lacs for exclusive supplier of goods).

Since the aggregate turnover is not exceeding Rs. 20 Lacs, Pure Oils is not liable to be registered.

(b) In case where Pure Oils has a branch in Nagaland from where it supplies machine oils amounting to Rs. 2,50,000, then aggregate turnover in that case will be 14,05,000 (11,55,000 + 2,50,000).

Further, in this situation, the applicable threshold for registration will be Rs. 10 lacs as Nagaland is one of the specified Special Category States. Thus, in such situation Pure Oils, Delhi shall be liable to be registered.

COMPULSORY REGISTRATION [SEC 24]	[No Limit in below cases]
1. Person making any Inter-State taxable supply . Note: However, limit of Rs. 20/10 lacs is available in case of Inter-State supply of taxable Services & Specified Handicraft Goods .	
2. Casual Taxable Persons making taxable supply. Note: However, limit of Rs. 20/10 lacs is available in case of Inter-State taxable supply of Specified Handicraft Goods & availing the benefit of NN 10/2019 .	
3. Persons who are required to pay tax under Reverse Charge . Note: If a person is engaged exclusively in making supplies, tax on which is payable on RCM basis is not required to obtain registration	

4. Non-resident taxable person making taxable supply
5. Electronic Commerce; (a) Every ECO who is required to collect tax at source u/s 52 [AMD] ; (b) Persons who supply G/&S through ECO who is required to collect tax at source u/s 52 [other than specified u/s 9(5)]. But, but threshold limit of Rs. 20 lacs (Rs. 10 lacs: MMT, Nagaland) is available in case of suppliers supplying only services through ECO.
6. Persons required to deduct tax at source u/s 51 (whether or not separately registered under GST)
7. Persons making taxable supply of G/&S on behalf of other taxable person (as agent/otherwise)
8. Input Service Distributor (ISD) [whether or not separately registered under GST]
9. Every person supplying OIDAR services <ul style="list-style-type: none"> from a place outside India to a person in India (other than registered person)
10. Person required to pay tax on RCM basis u/s 9(5) of CGST;

Example:

	Supplier to ECO	ECO	Representative of ECO in India	Registration required by (Even if aggregate T/O ≤ Rs. 20/10 lacs)
1	P provides his taxi service in Mumbai through AB Cab USA. Aggregate T/O of X (i) > Rs. 20/10 Lacs (ii) ≤ Rs. 20/10 Lacs	AB Cab USA	A & Co., Mumbai	(i) AB Cab USA (ii) A & Co., Mumbai
2	Y Ltd. (it owns a hotel) provides lodging facility in Bengaluru through rooms Inc (a USA based website) Aggregate T/O of Y Ltd. ≤ Rs. 20/10 Lacs	Rooms Inc., USA	B (Hyderabad)	(i) Rooms Inc USA (ii) B Hyderabad
3	Z [house-keeping service provider in Chennai] provides services through housekeeping.com (Dubai based website) [Aggregate turnover of Z ≤ Rs. 20/10 Lacs]	HK Ltd., Dubai	Dhoni, individual of Ranchi	(i) HK Ltd Dubai (ii) Dhoni of Ranchi
4	PQ Ltd. Supplies G/S in India through Ezee (Singapore based website) (not covered by above cases) Aggregate T/O of PQ Ltd is (i) > Rs. 20/10 Lacs (ii) ≤ Rs. 20/10 Lacs	Ezee Ltd., Singapore	D Ltd., Chandigarh	(i) Ezee Ltd. (ii) D Ltd. (iii) PQ Ltd. (if it is supplier of goods) [Note 3]

Notes:

- In Case 1, X is required to get registration only if his aggregate turnover > Rs. 20 lacs/Rs. 10 lacs.
- Y Ltd. (in Case 2) & Z (in Case 3) are not required to get registration (their aggregate T/O ≤ Rs. 20/10 Lacs)
- In Case 4, if PQ Ltd. is supplier of services & aggregate turnover ≤ Rs. 20/10 Lacs, registration is not required.
- In Case 1 – 3, GST on supplies shall be paid by ECO (through its Indian representative). All the provisions of GST shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services. This rule is given by section 9(5).
- In Case 4, ECO is required to collect 1% of "net value of taxable supplies" (net of supply returned) made through it, where the consideration with respect to such supplies is to be collected by such operator.

PERSONS NOT LIABLE FOR REGISTRATION [SEC 23]

1. Person engaged **exclusively** in supply of **Non-taxable or Exempt** G/&S.

Ex: Madhur Oils is exclusively engaged in supplying petrol. Supply of petrol is not leviable to GST. Thus, Madhur Oils is not liable for registration as it is engaged exclusively in supplying wholly exempt goods.

Ex: Supply of services by way of charitable activities → Not liable for registration.

Q4. Whether a person dealing in online commodities like metal, food grain etc. at the Commodities Exchange is required to take registration?

Ans: No, the same will be covered under the definition of securities.

2. Agriculturist (Individual/HUF), to the extent of 'supply of produce out of cultivation of land'.

Ex: Deshbandhu is an agriculturist engaged in cultivation of wheat in his field in Punjab. He was exclusively engaged in supply of wheat cultivated in his field in the previous year. Thus, he was not liable to registration as he was exclusively engaged in supply of produce out of cultivation of land.

In current year, he decides to start trading in rice along with supplying his wheat produce. His turnover in current year is Rs. 32 lacs from supply of wheat produced & Rs. 9 lacs from trading of rice.

Since he is engaged in trading of rice, he is not covered u/s 23 above. Threshold limit for registration applicable to a person exclusively engaged in supply of goods in Punjab is Rs. 40 lacs. Aggregate turnover of Deshbandhu in current year is Rs. 41 lacs [32 lacs + 9 lacs] which > threshold limit. Thus, he is liable to registration.

3. Persons making **only RCM supplies**. [Under RCM, tax is payable by the recipient]

Ex: Manikaran Transporters is a Goods Transport Agency (GTA) engaged exclusively in supplying GTA services liable to tax under reverse charge [since tax is payable on GTA services @ 5% in the given case]. Thus, it is exempt from registration as it is engaged exclusively in making supplies, tax on which is liable to be paid on RCM.

Further, Manikaran Transporters supplies said service to Diwakar Manufacturing Pvt. Ltd. whose aggregate turnover does not exceed threshold limit. Since Diwakar Manufacturing Pvt. Ltd. has to pay tax on GTA services [@ 5%] under RCM, it is required to obtain registration mandatorily irrespective of its aggregate turnover.

4. Persons making inter-State supplies of taxable **services upto Rs. 20/10 Lacs**.

Ex: Dhola & Co., located in Delhi, is engaged in supply of taxable goods in the neighbouring States of Punjab & Haryana. Its aggregate turnover in current FY is Rs. 10 lacs. Since it is engaged in making inter-State taxable supply of goods, it is required to register mandatorily under GST irrespective of its aggregate turnover.

However, if in above case, Dhola & Co. is engaged in inter-State supply of taxable services instead of goods, it will be eligible for exemption from registration till its aggregate turnover does not exceed Rs. 20 lacs.

5. CTP making taxable supplies of **specified handicraft goods upto Rs. 20/10 Lacs**.

6. Person making **Inter-state supplies of specified handicraft goods upto Rs. 20/10 Lacs**.

Note: Such person must have obtained a PAN & generated an e-way bill.

Ex: Ariza Pvt. Ltd., located in Madhya Pradesh, is a supplier of taxable & notified handicraft goods. It supplies these goods in the neighbouring States of Uttar Pradesh & Orissa. Its aggregate turnover in the month of April is Rs. 15 lacs. Although Ariza Pvt. Ltd. is engaged in making inter-State supplies of taxable goods, it is not liable to obtain registration till its aggregate turnover does not exceed Rs. 20 lacs.

Ex: Mr. A sells agricultural produce by utilizing the services of Mr. B who is a commission agent as per APMC Act of the State. Mr. B identifies the buyers & sells the agricultural produce on behalf of Mr. A for which he charges a commission from Mr. A. In cases where the invoice is issued by Mr. B to the buyer, Mr. B is an agent as covered under Para 3. of Schedule I. Hence, services supplied by commission agent Mr. B on behalf of the principal without consideration shall be deemed to be a supply.

Registration requirements of the commission agents in such cases have been clarified as follows:

Since services provided by commission agent for sale/purchase of agricultural produce are exempt, such commission agents (even when they qualify as agent under Schedule I) are not liable to be registered.

Person is liable for mandatory registration if he makes taxable supply of G/&S on behalf of other taxable persons.

Accordingly, commission agent will be liable to get mandatorily registered when both following conditions are satisfied:

(i) Principal should be a taxable person; (ii) supplies made by the commission agent should be taxable.

However, generally, a commission agent under APMC Act makes supplies on behalf of an agriculturist who is not a taxable person if he supplies produce out of cultivation of land. Thus, a commission agent, who is making supplies on behalf of non-taxable person [viz. agriculturist], is not liable for compulsory registration under this provision.

Where a commission agent is liable to pay tax under RCM, such agent will be required to get registered compulsorily.

Ex: B is an advocate. He provides legal services to Tata Chemicals (annual receipt from consultancy being Rs. 35 lacs). He does not have any other income. In this case, aggregate turnover is more than Rs. 20 lacs. However, registration is not required (B is only engaged in providing legal services, GST on which is payable by Tata Chemicals, the recipient of supply, under reverse charge mechanism).

Ex: C is an advocate. He provides legal services to Tata Chemicals (annual receipt from consultancy being Rs. 35 lakh). Besides, he has rental income of Rs. 500 from letting out of commercial property. He does not have any other income. In this case, aggregate turnover is Rs. 35,00,500. Registration is required. C is not exclusively engaged in making taxable supply, GST on which is payable by recipient. Apart from providing legal service, C is also engaged in renting of immovable property.

Q5. Examine whether the supplier is liable to get registered in the following independent cases:

- Raghav of Assam is exclusively engaged in intra-State supply of readymade garments. His TO in current FY from Assam showroom is Rs. 28 lacs. He has another showroom in Tripura with TO of Rs. 11 lacs in current FY.
- Pulkit of Goa is exclusively engaged in intra-State supply of shoes. His aggregate TO in current FY is Rs. 22 lacs.
- Harshit of Himachal Pradesh is exclusively engaged in intra-State supply of pan masala. His aggregate turnover in the current FY is Rs. 24 lacs.
- Ankit of Assam is exclusively engaged in intra-State supply of taxable services. His aggregate turnover in the current FY is Rs. 25 lacs.
- Sanchit of Assam is engaged in intra-State supply of both taxable G&S. His aggregate TO in current FY is Rs. 30 lacs.

Answer:

❖ As per section 22 r/w NN 10/2019, a supplier is liable to be registered in the State/UT from where he makes a taxable supply of G&S, if his aggregate turnover in current FY exceeds the threshold limit.

Threshold limit for a person making exclusive intra - State taxable supplies of goods is as under:

- Mizoram, Tripura, Manipur & Nagaland: Rs. 10 lacs
- Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana & Uttarakhand: Rs. 20 lacs
- Rest of India: Rs. 40 lacs

However, higher limit of Rs. 40 lacs is not available to persons engaged in making supplies of ice cream, Pan masala & Tobacco & manufactured tobacco substitutes.

❖ Threshold limit for a person making exclusive taxable supply of services or supply of both G&S is as under:

- Mizoram, Tripura, Manipur & Nagaland: Rs. 10 lacs; Rest of India: Rs. 20 lacs.

- Since Raghav is engaged in supplying readymade garments from a Special Category State i.e. Tripura, threshold limit is Rs. 10 lacs. Thus, Raghav is liable to get registered under GST as his turnover exceeds Rs. 10 lacs. Further, he is required to obtain registration in both Assam & Tripura as he is making taxable supplies from both States.
- Threshold limit for registration for Pulkit Rs. 40 lacs as he is exclusively engaged in intra-State taxable supply of goods. Thus, he is not liable to get registered under GST as his turnover is less than the threshold limit.
- Threshold limit for registration is Rs. 20 lacs since Harshit is exclusively engaged in supply of pan masala. Thus, Harshit is liable to get registered.
- Mr. Ankit is exclusively engaged in intra-State supply of taxable services. Thus he is not eligible for higher threshold limit of Rs. 40 Lacs. Threshold limit for registration is Rs. 20 lacs & hence, Ankit is liable to get registered.
- Since Sanchit is engaged in supply of both taxable goods & services, threshold limit for registration is Rs. 20 lacs. Thus, Sanchit is liable to get registered under GST as his turnover is more than the threshold limit.

Q6. Examine whether the supplier is liable to get registered in the following independent cases:

- Agent supplying goods on behalf of some other taxable person & its aggregate turnover does not exceed Rs. 20 lacs during current FY.
- An agriculturist who is only engaged in supply of produce out of cultivation of land.
- Mr. AC is having a rental income from residential house given on rent of Rs. 12 Lacs & he is also having a kirana shop which has a turnover of Rs. 10 Lacs.
- Kuldeep is a trader & he is trading 100% in alcohol for human consumption. His turnover from supply of alcohol for human is Rs. 2 Crore.
- Mr. A is a salaried employee (salary income being Rs. 1 crore). Besides, he owns a residential property which is let out for residential purposes for annual rent being Rs. 30 lacs.

Answer:

- Person supplying goods/services or both on behalf of other taxable persons whether as an agent or not is liable to be compulsorily registered even if its aggregate turnover does not exceed Rs. 20 lacs during current FY.
- Agriculturist who is only engaged in supply of produce out of cultivation of land is not required to obtain registration.
- Aggregate turnover of Mr. AC = Rs. 12 Lacs (from exempt supply of rent from residential property) + Rs. 10 Lacs (from taxable supply of Kirana Store). Therefore, Gaurav would be liable to be registered in GST as his aggregate turnover is more than Rs. 20 Lacs.
- Alcohol for human consumption is a non-taxable supply as it is not leviable to tax under the law. Exempt supply includes non-taxable supply. As per section 23, any person engaged exclusively in business of supplying G/S that are not liable to tax or wholly exempt from tax would not be required to be registered. Thus Kuldeep, exclusively supplying Alcohol for human consumption (which is not liable to tax) would not be liable to be registered.
- Aggregate turnover is Rs. 30 lacs as rent received from residential property renting. Since service of renting of residential property for residential purpose is exempt supply, Mr. A shall be exempt from registration as section 23 of CGST Act provides for exemption from registration where a person is exclusively engaged in making exempt supplies. Since Mr. A is not making supply of any taxable services, he is not liable for registration.

REGISTRATION & ITS PROCEDURE [SEC 25, 26 & 27]

State-wise Registration	<ul style="list-style-type: none"> There are no centralized registrations under GST. A business entity having its branches in multiple States will have to take separate State-wise registration for the branches in different States.
<p>Q7. Is there an option to take centralized registration for services under GST Law?</p> <p>Ans: No, the tax payer has to take separate registration in every State from where he makes taxable supplies.</p>	
Separate Registration for different PoB within a State (OPTIONAL)	<ul style="list-style-type: none"> Within a State, entity with different branches would have single registration; However, he can declare one place as Principal PoB & other branches as APoB. Provided that a person having multiple places of business in a State or UT MAY be granted a separate registration for each such place of business. Separate registration for each place of business shall be granted provided all separately registered places of business of such person pay tax on supply of goods/services/both made to another registered place of business, of such person & issue a tax invoice/bill of supply, for such supply. Separate registration application needs to be filed for each place of business.
<p>Q8. Amit, a taxable person, is operating in Tamilnadu, Punjab & West Bengal, with the same PAN. Can he operate with a single registration in West Bengal?</p> <p>Ans: No. Amit cannot operate with a single registration in West Bengal if he is making taxable supplies from Tamilnadu & Punjab also. Every person who is liable to take a registration will have to get registered separately for each of the States where he has a business operation & is liable to pay GST. However, if he is not making taxable supplies from T amilnadu & Punjab, he can operate with a single registration in West Bengal.</p> <p>Q9. When a person engaged in the provision of services having registration in the Maharashtra goes to Kolkata to provide services to its client & stays therefore a period of 3 months & also take a residence in that State is required to take separate registration in that State.</p> <p>Ans: No, mere residence is not a business establishment & therefore he need not take a registration in West Bengal.</p>	
Distinct Persons or Establishments of Distinct Persons [25(4) & 25(5)]	<ul style="list-style-type: none"> A person who has obtained/is required to obtain more than one registration, whether in one State/UT or more than one State/UT shall be treated as distinct persons (in respect of each such registration). Further, where a person who has obtained/is required to obtain registration in a State/UT in respect of an establishment, has establishment in another State/UT, then such establishments shall be treated as establishments of distinct persons.

Composition levy in case of separate registration for different PoB in a state/UT	
<ul style="list-style-type: none"> ▪ If one of the business verticals of taxable person is paying tax under normal levy [Sec 9], all other business vertical shall pay tax under normal levy only. ▪ If one of the business vertical [separately registered] becomes ineligible for composition levy, all other business verticals would also become so ineligible. 	
PAN [Sec 26(6)]	<ul style="list-style-type: none"> ▪ PAN is mandatory to be eligible for grant of registration. Exception: <ul style="list-style-type: none"> ✓ Person required to deduct tax at source (TDS) u/s 51 can get registration by using his TAN (issued under the Income-tax Act). ✓ NRTP can apply for registration by using a valid passport (& need not have a PAN number in India). [Sec 26(7)] ✓ Business entity incorporated or established o/s India, has to submit the application for GST registration along with its tax identification number or unique number on the basis of which the entity is identified by the Government of that country or its Permanent Account Number (if available).
Unique Identity Number (UIN)	<ul style="list-style-type: none"> ▪ Any specialized agency of UNO or any Multilateral FI & organization as notified under UN (Privileges & Immunities) Act, 1947, consulate/embassy of foreign countries & any other person notified by Commissioner is required to obtain a UIN from GSTN portal. ▪ This UIN is needed for claiming refund of taxes paid on notified supplies of G/S received by them, & for other notified purposes. ▪ UIN granted is a centralized UIN (it shall be applicable to the territory of India) ▪ A person having UIN is not registered person & thus, is not a taxable person. ▪ Proper officer may (upon submission of an application or after receiving a recommendation from the Ministry of External Affairs, Government of India) assign a UIN to the said person & issue registration certificate within 3 working days from the date of submission of application.
SEZ unit or SEZ Developer & ISDs	<ul style="list-style-type: none"> ▪ A person who owns a SEZ unit or who is SEZ developer shall have to apply for a separate registration, as distinct from his place of business located outside SEZ in same State or Union territory. ▪ ISDs shall make a separate application for registration as such ISD.
Ex: Suvarna Industries is engaged in manufacturing activities in Uttar Pradesh. It has two manufacturing units in UP - one in SEZ & another outside SEZ. Under GST, one registration per State is required. However, since in this case, one of the two units of Suvarna Industries is located in SEZ, it will have to compulsorily make a separate application for registration as a place of business distinct from unit located outside SEZ.	
Voluntary registration [Sec 25(3)]	<ul style="list-style-type: none"> ▪ A person who is not liable to be registered may get himself registered voluntarily. ▪ However, once a person obtains voluntary registration, he has to pay tax even though his aggregate turnover does not exceed Rs. 20/10 lacs.
Suo-motu registration by proper officer [Sec 25(8) r/w rule 16]	<ul style="list-style-type: none"> ▪ If pursuant to any survey, enquiry, inspection, search or any other proceedings under the Act, PO finds that a person liable to registration under the Act has failed to apply for such registration, PO may register said person on a temporary basis. ▪ Such person shall either: <ol style="list-style-type: none"> (a) submit an application for registration within 90 days from the date of grant of temporary registration, or (b) file an appeal against such temporary registration. <p>However, if Appellate Authority upholds (continue) the liability to registration, application for registration shall be submitted within 30 days from the date of issuance of such order of the Appellate Tribunal.</p> <p>Note: GSTIN granted shall be effective from date of order of PO granting temporary registration.</p>

When to apply	Type of person	When to apply
	Person liable to register u/s 22/24	within 30 days from the date on which he becomes liable to registration.
	CTP or NRTP	at least 5 days prior to commencement of business.
	Voluntary Registration	When he desires so.
Effective date of registration [Rule 10]	Cases	Effective date
	If application is submitted within 30 days from the date of becoming liable to registration	Date of becoming liable to registration
	If application is submitted after 30 days from the date of becoming liable to registration	Date of grant of registration
<p>Q9. Determine the effective date of registration in the following independent cases:</p> <p>(a) Aggregate turnover of Varun Industries of Mumbai has exceeded Rs. 20 Lacss on 1st Aug 2018. It submits the application for registration on 20th Aug 2018. Registration certificate granted on 25th Aug 2018.</p> <p>(b) Sweta InfoTech Services are the provider of internet services in Pune. Aggregate turnover of them exceeds Rs. 20 lacs on 25th Sep 2018. It submits the application for registration on 27th Oct 2018. Registration certificate is granted on 5th Nov 2018.</p> <p>Answer:</p> <p>(a) Every supplier becomes liable to registration if his turnover exceeds Rs. 20 lacs [in a State/UT other than Special Category States] in a FY. Since in the given case, turnover of Varun Industries exceeded Rs. 20 lacs on 1st August, it becomes liable to registration on said date. Since application for registration has been submitted within 30 days from such date, effective date of registration shall be the date on which person becomes liable to registration. Therefore, effective date of registration is 1st August, 2018.</p> <p>(b) Since in the given case, the turnover of Sweta InfoTech Services exceeds Rs. 20 lacs on 25th September, 2018, it becomes liable to registration on said date. Further, since the application for registration has been submitted after 30 days from the date such person becomes liable to registration, the registration shall be effective from the date of grant of registration. Therefore, the effective date of registration is 5th November, 2018.</p>		
Deemed Registration [Section 26]	<ul style="list-style-type: none"> Grant of registration/UIN under any SGST Act/UTGST Act is deemed to be registration/UIN granted under CGST Act provided application for registration has not been rejected under CGST Act. 	

Ex: Sugam Services Ltd. is engaged in taxable supply of services in Madhya Pradesh. The turnover of Sugam Services Ltd. exceeded Rs. 20 lacs on 1st November. It is liable to get registered by 1st December [30 days] in the State of Madhya Pradesh. It applies for registration on 28th November & is granted registration certificate on 5th December. Effective date of registration of Sugam Services Ltd. is 1st November. In above example, if Sugam Services Ltd. applies for registration on 3rd Dec & is granted registration certificate on 10th Dec. Effective date of registration is 10th December.

PROCEDURE FOR REGISTRATION [Section 25 read with rules 8, 9 & 10]	
Applicability	Procedure for registration prescribed u/r 8, 9 & 10 are also applicable to a <ul style="list-style-type: none"> Person paying tax under composition levy; Every person seeking voluntary registration & CTP.
Non – Applicabilty	<ul style="list-style-type: none"> NRTP; Person required to deduct tax at source u/s 51 or collect tax at source u/s 52; Person supplying OIDAR services from o/s India to a non-taxable online recipient.
Application	<ul style="list-style-type: none"> Application for registration in GST REG 01 is divided into 2 Parts (i) A & (ii) B. Application for registration has to be submitted electronically at Common Portal duly signed/verified through Electronic Verification Code (EVC) [Aadhar OTP].

Documents	<ul style="list-style-type: none"> Permanent Account Number (PAN), mobile number, e-mail address, State/UT. 				
Verification	<ul style="list-style-type: none"> PAN → from CBDT database; Mob. No. & E-mail → OTP sent on it. 				
TRN	<ul style="list-style-type: none"> Temporary Reference Number is generated & communicated to the applicant. Applicant shall electronically submit application in Part B along with specified documents at the Common Portal using TRN. 				
Acknowledgement	<ul style="list-style-type: none"> On receipt of such application, an acknowledgement in the prescribed form shall be issued to the applicant electronically. CTP gets a TRN for making an advance deposit of tax in his electronic cash ledger & an acknowledgement is issued only after said deposit. 				
Forwarded	<ul style="list-style-type: none"> Application shall be forwarded to the Proper Officer. 				
Examination by PO	<ul style="list-style-type: none"> If application & accompanying documents are found to be in order, PO shall grant registration to applicant within 3 working days from date of submission of application. 				
Deficiency in application	<ul style="list-style-type: none"> If application is found to be deficient, PO may issue a notice to applicant electronically in Form GST REG-03 within 3 working days from date of submission of application. 				
Clarification by applicant	<ul style="list-style-type: none"> Applicant shall furnish clarification, information or documents electronically, in Form GST REG-04, within 7 working days from the date of receipt of notice. If PO is satisfied with clarification, information, etc., he may grant registration to applicant within 7 working days from the date of the receipt of such clarifications. 				
Rejection by PO	<ul style="list-style-type: none"> Where no reply is furnished by the applicant (or where the proper officer is not satisfied with the clarifications), the proper officer may reject such application & inform the applicant electronically in Form GST REG-05. 				
Deemed approval	<ul style="list-style-type: none"> If PO fails to take any action within 3 days (7 days in the case of deficiency), the application for grant of registration shall be deemed to have been approved. 				
Registration certificate [Rule 10]	<ul style="list-style-type: none"> Where the application for grant of registration has been approved, a certificate of registration in Form GST REG-06 will be issued. It shows the principal place of business & additional place or places of business & is made available to the applicant on the common portal & a Goods & Services Tax Identification Number (GSTIN) shall be assigned. GSTIN contains the following characters: [15 characters] <table border="1" data-bbox="451 1332 1401 1431"> <tr> <td>2 characters for State code;</td><td>10 characters for PAN or TAN</td></tr> <tr> <td>2 characters for the entity code</td><td>1 checksum character</td></tr> </table> 	2 characters for State code;	10 characters for PAN or TAN	2 characters for the entity code	1 checksum character
2 characters for State code;	10 characters for PAN or TAN				
2 characters for the entity code	1 checksum character				

Q10. At the time of registration, will the assessee have to declare all his places of business?

Ans: Yes. Taxpayer will have to declare the principal place of business as well as the details of additional places of business in the registration form.

Q11. Is it necessary for the Government organization to get registration?

Ans: Yes, the government organizations which are required to deduct tax at source u/s 51 of GST Law, shall mandatorily obtain registration under the Act.

DISPLAY OF REGISTRATION CERTIFICATE & GSTIN ON THE NAME BOARD [RULE 18]

- ❖ Every RP shall display his registration certificate in prominent location at his PPoB & every APoB.
- ❖ GSTIN has to be displayed on the name board exhibited at the entry of his PPoB & at every APoB.

VERIFICATION OF BUSINESS PREMISES AFTER GRANT OF REGISTRATION [RULE 25]

- ❖ If PO is satisfied that physical verification of the place of business of a registered person is required after grant of registration, he may get such verification done &
- ❖ verification report along with other documents, including photographs, shall be uploaded on GST Common Portal, within 15 working days following the date of such verification.

REGISTRATION FOR CTP & NRTP [Sec 25 & 27 r/w rules 13 & 15]	
Compulsory Registration	<ul style="list-style-type: none"> CTP & NRTP making taxable supply in India has to take compulsory registration as there is no threshold limit for registration.
Application	<ul style="list-style-type: none"> CTP is required to obtain GST registration under a special category at least 5 days prior to the undertaking business. There is no special form. CTP can use GST REG-01 used by other taxable persons. NRTP is required to obtain GST registration at least 5 days prior to commencing business using a valid passport. NRTP cannot use normal form used by other taxable persons for registration. GST REG-09 is required to be filled.
Advance Payment	<ul style="list-style-type: none"> CTP & NRTP has to make advance deposit of tax equivalent to the estimated tax liability for the period for which registration is sought.
Validity of Registration	<ul style="list-style-type: none"> Registration shall be valid for period specified in application or 90 days from effective date of registration, whichever is earlier. [Max. Extension of 90 days] NRTP: Application in FORM GST REG-11 shall be submitted electronically through Common Portal, either directly or through Facilitation Centre notified by the Commissioner, before the end of validity of registration granted to him. CTP & NRTP shall make an advance payment of tax equivalent to estimated tax liability for extended period of registration.

Q12. Should a casual taxable person or non-resident taxable person apply for registration in every State from which that person is operating or is the registration common for all the States?

Ans: In terms of sec 22(1) r/w sec 25(1), such persons need to obtain a separate registration in every such States.

AMENDMENT OF REGISTRATION [SEC 28 R/W RULE 19]	
<ul style="list-style-type: none"> Where there is any change in any of the particulars furnished in application for registration/UIN, registered person shall, within a period of 15 days of such change, submit an application electronically in Form GST REG-14, along with the documents relating to such change. If change related to core fields of information, PO may approve or reject amendments in the registration particulars. Such amendment shall take effect from the date of occurrence of event warranting such amendment (if approved by PO). 	
<p>Note: Core field of Information:</p> <p>(a) Legal name of business; (b) Address of PPOB or APoB; (c) Addition, deletion or retirement of partners or directors, Karta, Managing Committee, Board of Trustees, CEO or equivalent.</p>	
<ul style="list-style-type: none"> If change relates to non-core fields of information, registration certificate shall stand amended upon submission of the application for amendment on the Common Portal. If change in constitution of any business results in change of PAN of registered person, the said person shall apply for fresh registration. Where the proper officer is of the opinion that the amendment sought is not warranted (or the documents furnished therewith are incomplete), he may, within 15 working days serve a notice in Form GST REG-03. This SCN can be replied within 7 working days (in Form GST REG-04). Any rejection/approval of amendments under SGST shall be deemed to be a rejection/approval under CGST. If PO fails to take action within the time-limits given above, certificate of registration shall stand amended to the extent applied for & amended certificate shall be made available to registered person. 	
<p>Points to be noted:</p> <ul style="list-style-type: none"> ❖ Application for amendment of registration cannot be filed for change in PAN because GST registration is PAN-based. Fresh application for registration is required in case there is change in PAN. Thus, where a change in constitution of business results in change of PAN of RP, he shall apply for fresh registration. ❖ Application for amendment of registration form cannot be filled if there is change in PoB from one State to another because GST registrations are State-specific. If one wishes to relocate his business to another State, he must voluntarily cancel his current registration & apply for a fresh registration in relocating state. 	

CANCELLATION OF REGISTRATION [SEC 29 R/W Rules 20 – 23]

On application by RP (Legal representative)

PO may cancel registration in following cases:

- ✓ Business has been discontinued, transferred fully for any reason (including death of the proprietor, amalgamated, demerged or otherwise disposed of).
- ✓ There is any change in the constitution of the business.
- ✓ Taxable person (other than voluntary registration) is no longer liable to be registered u/s 22 or 24.

SUSPENSION OF REGISTRATION DURING PENDENCY OF PROCEEDINGS:

- Provided that during pendency of the proceedings relating to cancellation of registration filed by registered person, registration may be suspended for such period & in such prescribed manner.
- Thus, taxpayer is freed from the routine compliances, including filing returns, under GST law during pendency of the proceedings related to cancellation of registration.

EFFECTIVE DATE OF SUSPENSION OF REGISTRATION

A Where registered person has applied for cancellation of registration: Where a registered person has applied for cancellation of registration, the registration shall be deemed to be suspended from:

- (a) date of submission of the application
- (b) date from which the cancellation is sought, whichever is later

pending the completion of proceedings for cancellation of registration.

B Where cancellation of Registration has been initiated by the Department on its own motion: Where PO has reasons to believe that the registration of a person is liable to be cancelled, he may, after affording the said person a reasonable opportunity of being heard, suspend the registration of such person **w.e.f a date to be determined by him**, pending the completion of the proceedings for cancellation of registration.

- ❖ A registered person, whose registration has been suspended as above:
 - shall not make any taxable supply during the period of suspension &
 - shall not be required to furnish any return under section 39.
- ❖ Suspension of registration shall be deemed to be revoked upon completion of cancellation proceedings by PO. Such revocation shall be effective from the date on which suspension had come into effect.

Cancellation in case of default

- PO may cancel the registration from such date (including retrospective date) if
- ✓ Registered person has contravened prescribed provisions of the Act or rules;
 - ✓ Person paying tax under Composition scheme has not furnished returns for **3 consecutive years**;
 - ✓ RP (other than composition scheme) has not furnished returns for **continuous period of 6 months**;
 - ✓ Where any person (who has taken voluntary registration) has not commenced business within 6 months from the date of registration.
 - ✓ Registration has been obtained by means of fraud, wilful misstatement or suppression of facts
 - ✓ does not conduct any business from the declared place of business,
 - ✓ issues invoice without supply of G/S in violation of the provisions of this Act.

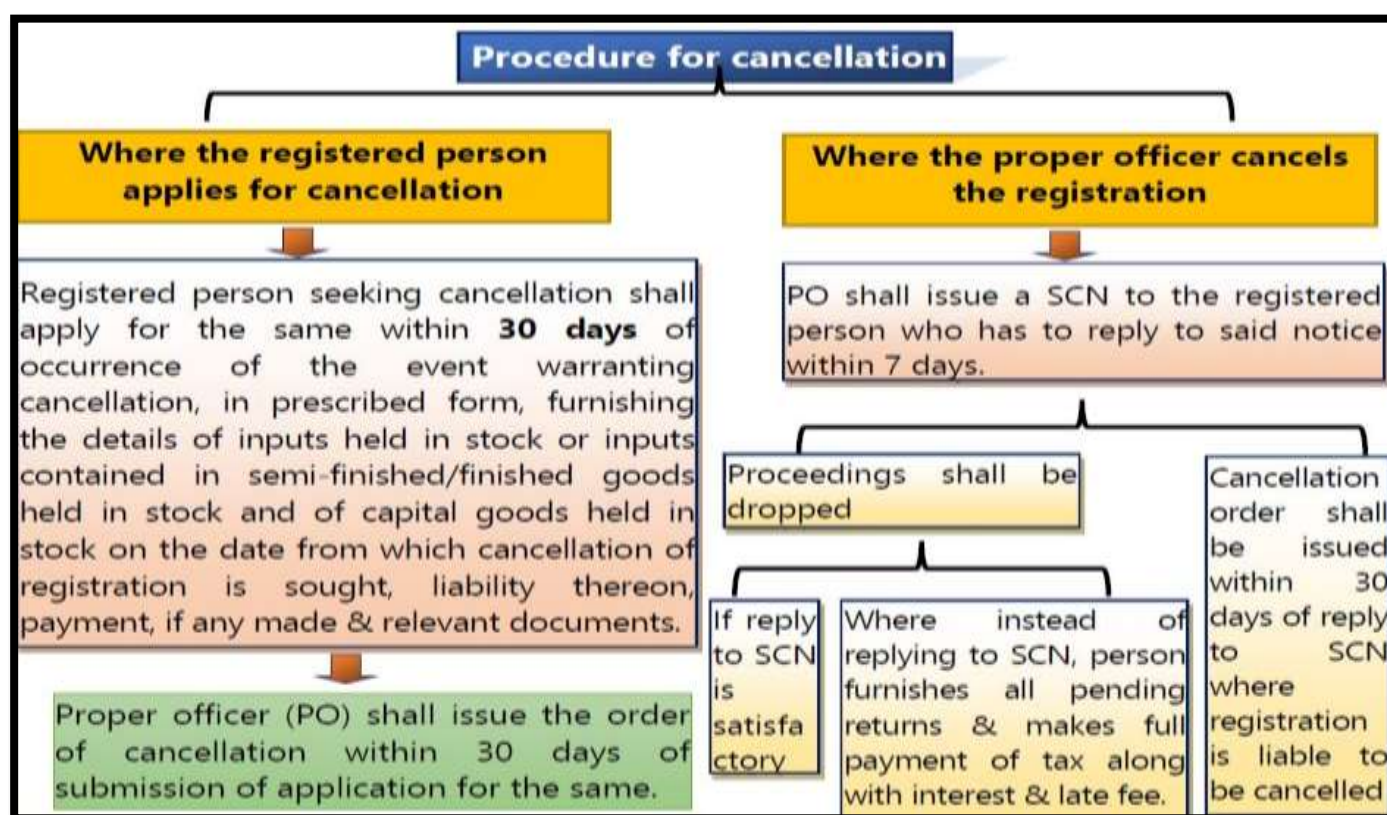
Note: Opportunity of being heard shall be given before cancellation.

Suspension of Registration during pendency of Proceedings: Same as Above.

No Discharge of liability

Cancellation does not discharge liability of taxpayer for any period prior to the date of cancellation (whether or not such tax & other dues are determined before or after the date of cancellation).

Concurrent Cancellation	Cancellation of registration under SGST Act/UTGST Act shall be deemed to be a cancellation of registration under CGST Act.
Payment of dues	Every RP whose registration is cancelled shall pay amount equivalent to higher of: (a) Reversal of ITC claimed in respect of inputs held in stock & inputs contained in semi-finished or FG held in stock or capital goods or P&M or (b) Output tax payable on such goods on immediately preceding day of cancellation. Note: In case of Capital Goods or P&M, amount payable shall be reduced by 5% per quarter or part thereof. Such payment can be made by way of debit in ECL or electronic cash ledger.
Some other cases of Cancellation	⇒ RP does not conduct any business from the declared place of business. ⇒ RP issues invoice without supply of G/S in violation of the provisions of the Act. ⇒ RP violates the provisions pertaining to Anti-profiteering measure of sec 171.
UIN	❖ Person to whom a UIN has been granted u/r 17 cannot apply for cancellation.



REVOCATION OF CANCELLATION OF REGISTRATION [SEC 30]

(1)	Any RP whose registration is cancelled by PO on his own motion, may apply to such officer for revocation of cancellation of registration within 30 days from date of service of cancellation order. Note: If registration is cancelled due to non-filing of return, application for revocation can be filed only after such returns are filed & tax is deposited with interest, penalty & late fee i.r.o said returns.
(2)	PO may by order, either revoke cancellation of registration or reject the application within 30 days of receipt of application & communicate the same to applicant. In case of rejection: PO has to issue SCN to the applicant who shall furnish the clarification within 7 working days of service of SCN.
(3)	Revocation of cancellation of registration under SGST/UTGST Act shall be deemed to be a revocation of cancellation of registration under CGST Act.

WHERE REGISTRATION WAS CANCELLED FOR FAILURE OF RP TO FURNISH RETURNS

- RP needs to file such returns before applying for revocation of cancellation.
- Registration may have been cancelled by PO
 - (a) either from the date of order of cancellation of registration or
 - (b) from a retrospective date.

(a) Where registration has been cancelled w.e.f the date of order of cancellation of registration

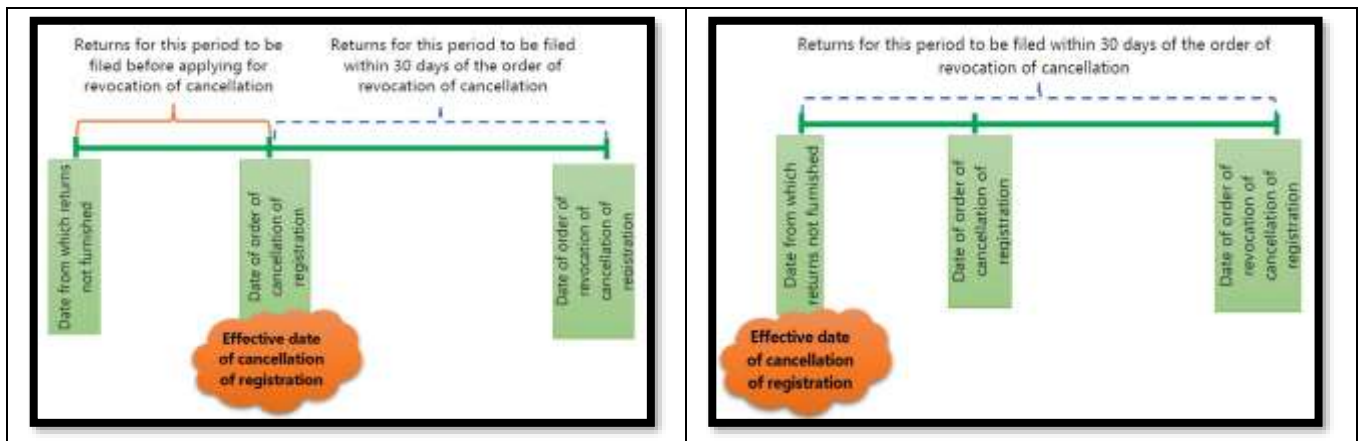
Common portal does not allow furnishing of returns after effective date of cancellation, but returns for the earlier period (i.e. period before date of cancellation mentioned in cancellation order) can be furnished after cancellation of registration.

Where registration is cancelled w.e.f date of order of cancellation of registration, person applying for revocation of cancellation has to furnish all returns due till date of such cancellation before application for revocation can be filed & has to pay any amount due as tax, in terms of such returns along with any interest, penalties or late fee payable in respect of the said returns.

However, since the portal does not allow to furnish returns after the date of cancellation of registration, all returns due for the period from the date of order of cancellation till the date of order of revocation of cancellation of registration have to be furnished within 30 days from the date of the order of revocation.

(b) Where the registration has been cancelled with retrospective effect

It is not possible to furnish returns before filing application for revocation of cancellation of registration. In that case, application for revocation of cancellation of registration is allowed to be filed, subject to the condition that all returns relating to the period from effective date of cancellation of registration till the date of order of revocation of cancellation of registration shall be filed within 30 days from the date of order of such revocation of cancellation of registration.



Point to be Noted:

- ✓ UIN Holders (i.e. UN Bodies, Embassies & Other Notified Persons), GST Practitioner cannot apply for revocation of cancelled registration.
- ✓ In case the registration is cancelled on the request of the taxpayer or his legal heir, one cannot apply for revocation of cancelled registration.

Q13. State whether the following statements are True or False with reasons.

1. When the change in constitution of business results in change in PAN, business entity can apply for amendment of registration in prescribed manner within 15 days."
2. Registration under the CGST Act, 2017 can be cancelled by the proper officer, if the voluntarily registered person has not commenced the business within three months from the date of registration.
3. A Person cannot get himself voluntarily registered when he is not liable to pay GST.
4. A Person opting for voluntary registration can apply for cancellation of registration.

Answer:

1. False. When a change in constitution of a business results in change of PAN of RP, said person shall apply for fresh registration. Reason for the same is that GSTIN is PAN based. Any change in PAN would warrant a new registration.
2. False. Registration can be cancelled by PO, if voluntarily registered person has not commenced the business within 6 months from the date of registration.
3. False. A Person though not liable to be registered u/s 22 or u/s 24 may get himself registered voluntarily. Once a person obtains voluntary registration, he has to pay tax even though his aggregate turnover < Rs. 20/Rs. 10 Lacs.
4. False. Taxable person (other than voluntary registration) can apply for cancellation of registration when they are no longer liable to be registered u/s 22/24. [Sec 29 r/w Rules 20 – 23].

QUESTION BANK

Q1. Who are the persons liable for compulsory registration u/s 24?

Answer:

1. Person making any Inter-State taxable supply.
However, limit of Rs. 20/10 Lacs is available in case of Inter-State supply of taxable Services & Specified Handicraft Goods.
2. Casual Taxable Persons making taxable supply.
However, limit of Rs. 20/10 lacs is available in case of Inter-State taxable supply of Specified Handicraft Goods & availing the benefit of NN 10/2019.
3. Persons who are required to pay tax under RCM Basis.
If a person is engaged exclusively in making supplies, tax on which is payable on RCM basis is not required to obtain registration.
4. Non-resident taxable person making taxable supply.
5. Electronic Commerce;
 - (a) Every ECO who is required to collect tax at source u/s 52 [AMD];
 - (b) Persons who supply G/&S through ECO collecting tax at source u/s 52 [other than specified u/s 9(5)].
But, threshold limit of Rs. 20 lacs (Rs. 10 lacs: MMT, Nagaland) is available in case of suppliers supplying only services through ECO.
6. Persons required to deduct tax at source u/s 51 (whether or not separately registered under GST).
7. Persons making taxable supply of G/&S on behalf of other taxable person (as agent/otherwise)
8. Input Service Distributor (ISD) [whether or not separately registered under GST]
9. Every person supplying OIDAR services
 - from a place outside India
 - to a person in India (other than registered person)

Q2. Who are the persons not liable for registration?

Answer:

1. Person engaged exclusively in supply of Non-taxable or Exempt G/&S.
2. Agriculturist (Individual/HUF), to the extent of 'supply of produce out of cultivation of land'.
3. Persons making only RCM supplies. [Under RCM, tax is payable by the recipient]
4. Persons making inter-State supplies of taxable services upto Rs. 20/10 Lacs.
5. CTP making taxable supplies of specified handicraft goods upto Rs. 20/10 Lacs.
6. Person making Inter-state supplies of specified handicraft goods upto Rs. 20/10 Lacs.
Note: Such person must have obtained a PAN & generated an e-way bill.

Q3. Whether the registration granted to any person is permanent?

Answer: Yes. unless it is surrendered, cancelled, suspended or revoked.

Q4. Rishabh Enterprises - a sole proprietorship firm - started an air-conditioned restaurant in Virar, Maharashtra in the month of February wherein the customers are served cooked food as well as cold drinks/non-alcoholic beverages. In March, the firm opened a liquor shop in Raipur, Uttarakhand for trading of alcoholic liquor for human consumption. Determine whether Rishabh Enterprises is liable to be registered under GST with the help of following information:

Particulars	Feb *	March *
Serving of cooked food & cold drinks/non-alcoholic beverages in restaurant in Maharashtra	5,50,000	6,50,000
Sale of alcoholic liquor for human consumption in Uttarakhand		5,00,000
Interest received from banks on the fixed deposits	1,00,000	1,00,000
Export of packed food items from restaurant in Maharashtra	1,50,000	2,00,000

*excluding GST. You are required to provide reasons for treatment of various items given above. [RTP May 2018]

Answer:

- ❖ Every supplier shall be liable to be registered in a State/UT from where he makes a taxable supply of G/&S if his aggregate turnover in a FY exceeds Rs. 20 lacs.
- ❖ Threshold limit is not reduced to Rs. 10 lacs as sale of alcoholic liquor for human consumption from Uttarakhand (one of the specified Special Category States) are non-taxable supplies in terms of Section 9(1) of CGST Act, 2017.

- ❖ Aggregate turnover means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on RCM), exempt supplies, exports of goods or services or both & inter-State supplies of persons having same PAN, to be computed on all India basis but excludes GST & cess.

Computation of Aggregate turnover of Rishabh Enterprises

Particulars	Turnover of Feb	Cumulative turnover of Feb & March
Serving of cooked food & cold drinks/non-alcoholic beverages in restaurant in Maharashtra	5,50,000	12,00,000 [5,50,000 + 6,50,000]
Add: Sale of Alcoholic liquor in Uttarakhand [WN1]		5,00,000
Add: Interest received from banks on the Fixed Deposits [WN2]	1,00,000	2,00,000 [1,00,000 + 1,00,000]
Add: Export of packed food items from restaurant in Maharashtra	1,50,000	3,50,000 [1,50,000 + 2,00,000]
Aggregate Turnover	8,00,000	22,50,000

Working Notes:

- As per Section 2(47) of the CGST Act, 2017, exempt supply includes non-taxable supply. Thus, supply of alcoholic liquor for human consumption in Uttarakhand, being a non-taxable supply, is an exempt supply & is, therefore, includible while computing the aggregate turnover.
- Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) is exempt vide Notification No. 12/2017 CT (R) dated 28-06-2017. Thus, interest received from banks on the fixed deposits is an exempt supply & is, therefore, includible while computing the aggregate turnover.

Conclusion: Rishabh Enterprises was not liable to be registered in February since its aggregate turnover did not exceed Rs. 20 lacs in that month. However, since its aggregate turnover exceeds Rs. 20 lacs in the month of March, it should apply for registration within 30 days from the date on which it becomes liable to registration.

Q5. Mr. A, a dealer (situated in Mumbai) dealing with Intra State supply of G&S has place of business in India furnished the following information in FY 2018-19:

Sale of taxable goods by Head Office located in Chennai	Rs. 2,00,000
Supply of taxable services by Branch office at Delhi	Rs. 1,00,000
Supply of goods exempted from GST	Rs. 10,000
Export of goods	Rs. 2,00,000

Answer:

Computation of Aggregate turnover

Particulars	Amount
Sale of taxable goods by Head Office located in Chennai	2,00,000
Supply of taxable services by Branch office at Delhi	1,00,000
Supply of goods exempted from GST	10,000
Export of goods & services	2,00,000
Aggregate Turnover	5,10,000

- Though aggregate turnover is not exceeding Rs. 20 lacs, but since he is engaged in exports which are treated as inter-state supplies, his registration falls u/s 24 which provides for compulsory registration (without any limit).
- Export supplies are zero-rated. For availing benefit of zero-rating, registration is mandatory. [Sec 16(3) of IGST Act gives benefit to 'registered person'].

Q6. ABC Ltd. of Jaipur, Rajasthan has effected intra-State supplies of taxable goods amounting Rs. 12,00,000 till 31.12.2018. On 1.1.2019 it has effected inter-State supply of taxable goods amounting Rs. 1,00,000. ABC Ltd. is of the opinion that it is not required to get registered under GST since its aggregate turnover is not likely to exceed Rs. 20 lacs during FY 2018-19. As a consultant of the company you are required to advise the company relating to registration requirements.

Answer: The opinion of ABC Ltd is not correct. As per provisions of Section 24 of CGST Act, 2017, person making inter state taxable supply are compulsorily required to obtain registration. Hence, ABC Ltd. is mandatorily required to obtain registration.

As per section 25, every person who is liable to be registered u/s 22 or u/s 24 shall apply for registration in every such State/UT in which he is so liable within 30 days from the date on which he becomes liable to registration.

Thus, ABC Ltd. is required to obtain registration upto 31.1.2019.

Q7. XYZ Ltd. has two manufacturing units located in Rajasthan. One unit located in Bhilwara is engaged in manufacture of yarn & another unit located in Banswara is engaged in manufacture of fabric. Can separate registration be granted for its two units though located in same state.

Answer: According to Section 25(2) of CGST Act, 2017, A person having multiple place of business in a State/UT may be granted a separate registration for each place of business subject to such conditions as may be prescribed. Separate registration for each place of business shall be granted provided all separately registered places of business of such person pay tax on supply of goods/services/both made to another registered place of business, of such person & issue a tax invoice/bill of supply, for such supply.

Q8. State the time-period within which registration needs to be obtained in following independent cases:

(a) Casual taxable person (b) Person making inter-State taxable supply.

Answer: Time Limit within which registration needs to be obtained as per section 25(1) is as follows:

Casual taxable person or Non-resident taxable person	at least 5 days prior to the commencement of business
Person making inter-State taxable supply (Person liable to obtain registration u/s 22 or u/s 24)	within 30 days of becoming liable to registration

Q9. Mr. A has aggregate turnover of Rs 10 Lacss (entire turnover intra-State) in a FY from State of Maharashtra. He has a property located in Ahmedabad, which is currently in dispute & has engaged lawyer for representing his case in dispute. Will Mr. A be required to register himself U/s 24 considering persons required to pay under RCM?

Answer:

- Mr. A is a business entity making intra-state supplies in Maharashtra only. He is unregistered, as his aggregate turnover is not exceeding Rs. 20 lacs in current FY.
- Now, he has received legal services which attracts reverse charge & thus, making recipient liable to pay GST. Presuming that legal services have been sought in relation to business, such service is exempt from payment of GST as Mr. A is a business entity with aggregate turnover not exceeding Rs. 20 lacs.
- Such service being exempt, the recipient, Mr. A, is actually not required to pay GST under RCM.
- Thus, he is not required to take compulsory registration U/s 24 of CGST Act.

Q10. Is it necessary for the UN bodies to get registration under GST?

Answer:

- Yes. In terms of section 25(9), any specialized agency of UNO or any Multilateral FI & organization as notified under UN (Privileges & Immunities) Act, 1947, consulate/embassy of foreign countries & any other person notified by Commissioner is required to obtain a unique identification number from GSTN portal.
- UIN is needed for claiming refund of taxes paid on notified supplies of G/S received by them & for notified purposes.
- UIN granted is a centralized UIN (it shall be applicable to the territory of India) i.e. common for Centre & States.
- Proper officer may (upon submission of an application or after receiving a recommendation from the Ministry of External Affairs, Government of India) assign a UIN to the said person & issue registration certificate within 3 working days from the date of submission of application.

Q11. Can the Department, through the proper officer, suo-moto proceed to register of a person?

Answer:

- As per sec 25(8) r/w rule 16, If pursuant to any survey, enquiry, inspection, search or any other proceedings under the Act, PO finds that a person liable to registration under the Act has failed to apply for such registration, PO may register the said person on a temporary basis.
- Such person shall either:
 - submit an application for registration within 90 days from the date of grant of temporary registration, or
 - file an appeal against such temporary registration.
 However, if Appellate Authority upholds (continue) the liability to registration, application for registration shall be submitted within 30 days from the date of issuance of such order of the Appellate Tribunal.
- GSTIN granted shall be effective from the date of order of PO granting temporary registration.

Q12. Person must have a PAN to be eligible for grant of registration. Is there any exception to this rule?

Answer: PAN is mandatory for registration under GST Law. However, following are the exceptions to this rule:

- Person required to deduct tax at source u/s 51 can get registration by using his TAN (issued under Income-tax Act).
- NRTP can apply for registration by using a valid passport (& need not have PAN in India). [Sec 26(7)]. He has to submit a self attested copy of his valid passport along with application signed by his authorized signatory who is Indian Resident having valid PAN & application will be submitted in different prescribed form [Sec 25(6) & (7)].
- Business entity incorporated or established o/s India, has to submit the application for GST registration along with its tax identification number or unique number on the basis of which the entity is identified by the Government of that country or its Permanent Account Number (if available).

Q13. Does cancellation of registration impose any tax obligations on the person whose registration is so cancelled?

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

Q13. What will be the time limit for the decision on the on-line registration application?

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

Q14. What will be the time of response by the applicant if any query is raised in the online application?

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

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

Q15. What could be the liabilities (in so far as registration is concerned) on transfer of a business?

Answer: Transferee/successor shall be liable to be registered w.e.f such transfer or succession & he will have to obtain a fresh registration w.e.f the date of such transfer or succession [Section 22(3)].

Q16. There is a dairy farm selling milk & milk products in Delhi. What is the registration liability under GST for the above mentioned person assuming he has same PAN? The turnover of his dairy farm is as below:

Milk (Exempted)	Rs. 19,90,000	Butter (Taxable)	Rs. 50,000
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Answer:

- Every supplier becomes liable to registration if his aggregate turnover in a FY exceeds Rs. 20 Lacs in a State/UT [Rs. 10 Lacs in case of 4 Special Category States].
- Further, aggregate turnover, means the aggregate value of all taxable supplies as well as exempt supplies.
- Thus, in the given case, aggregate turnover: = Rs. 19,90,000 + Rs. 50,000 = Rs. 20,40,000.
- Since aggregate turnover of the dairy farm in Delhi exceeds ` 20 Lacs, it is liable to get registered.

Q17. Happy Ltd. located at Alwar (Rajasthan), exclusively manufactures & sells the product "Shine & Shine", which is exempt from GST. Happy Ltd. sells "Shine & Shine" only within Rajasthan. The turnover of Happy Ltd. in the previous year was Rs. 60 Lacss. Happy Ltd. purchased additional machinery (Capital Goods) for manufacturing "Shine & Shine" on 1st April, 2018. The invoice for supply of machinery also was issued on 1st April, 2018. The purchase price of the machinery was Rs. 25 Lacs exclusive of CGST & SGST @ 12% (6% + 6%). On 1st December, 2018 exemption available on the product "Shine & Shine" was withdrawn by the Central Government & CGST & SGST @18% (9% + 9%) was imposed thereon. The turnover of Happy Ltd. on 30th September, 2018 was Rs. 45 lacs. Examine the issue & answer

(a) Does Happy Ltd. have to register under CGST Act, 2017?

(b) Can Happy Ltd. take ITC on machinery purchased & amount of ITC that can be availed? **[CA Final Nov 2018]**

Answer:

- (a) As per section 22 of the CGST Act, 2017, a supplier is liable to be registered under GST in the State/ UT from where he makes the taxable supply if his aggregate turnover in a FY (FY) exceeds Rs. 20 Lacs in such State/UT (Rs. 10 Lacs in specified Special Category State). The term 'aggregate turnover' includes exempt turnover also. However, a person exclusively engaged in making exempt supplies is not liable to registration in terms of section 23(1) of CGST Act, 2017. In view of combined reading of above provisions, although the 'aggregate turnover' of Happy Ltd. exceeds the applicable threshold limit of Rs. 20 Lacs on 30.09.2018 [Rs. 45 Lacs], it was not required to be registered till 30.11.2018 as it supplied only exempted goods till that day. Therefore, Happy Ltd. needs to register within 30 days from 01.12.2018 (the date on which its supplies became taxable) as its turnover had already exceeded the threshold limit of Rs. 20 Lacs on 01.12.2018.
- (b) As per section 17, ITC on capital goods used or intended to be used exclusively for effecting exempt supplies is disallowed. However, where an exempt supply by a registered person becomes a taxable supply, such person gets entitled to take proportionate ITC on such capital goods in terms of section 18(1)(d) of CGST Act, 2017. Thus, a

non-registered person cannot take ITC on capital goods under this provision. Further, a person who has applied for registration within thirty days from the date on which he becomes liable to registration & has been granted such registration is also not entitled to take ITC on capital goods held with him on the day immediately preceding the date from which he becomes liable to pay tax in terms of section 18(1)(a) of CGST Act, 2017. In the given case, Happy Ltd. is not registered at the time when its exempt supply becomes taxable. Thus, company cannot take proportionate ITC on capital goods as mentioned above. Further, company will also not be entitled for credit on capital goods held with it when it applies for registration in the prescribed manner.

Q18. Mr. Andrew, a non-resident person, wishes to provide taxable supply of goods. He has no fixed place of business or residence in India. He seeks your advise on the following aspects, relating to CGST Act, 2017:

- (a) When shall he apply for registration?
- (b) Is PAN mandatory for his registration?
- (c) What is the period of validity of RC granted to him?
- (d) Will he be able to extend the validity of his registration? If yes, what will be the period of extension?

Answer:

- (a) Mr. Andrew, being a non-resident person, should apply for registration, irrespective of the threshold limit, at least 5 days prior to the commencement of business.
- (b) No, PAN is not mandatory for his registration. He has to submit a self-attested copy of his valid passport along with the application signed by his authorized signatory who is an Indian Resident having valid PAN.
However, in case of a business entity incorporated or established outside India, the application for registration shall be submitted along with its tax identification number or unique number on the basis of which the entity is identified by the Government of that country or its PAN, if available.
- (c) Registration Certificate granted to Mr. Andrew will be valid for:
 - Period specified in the registration application, or
 - 90 days from the effective date of registration (whichever is earlier).
- (d) Yes, Mr. Andrew can get the validity of his registration extended. Registration can be extended further by a period not exceeding 90 days.

Q19. There is an assessee located in New Delhi & registered under GST at Delhi. He wishes to participate in a 15-day trade exhibition in Tamil Nadu where he does not have a permanent place of business. Would such assessee be liable for registration in the state of Tamil Nadu? In case yes, what would be the procedure for his registration?

Answer: A person who occasionally undertakes business transactions in G/&S in State where he doesn't have a fixed PoB is considered as a casual taxable person. Such person would be considered as CTP for the State of Tamil Nadu. CTP is required to make an application for registration in a state where he doesn't have a permanent place of business. Such person is required to deposit a sum called advance deposit which is equal to the estimated liability of tax for the period he wishes to operate in the respective state. For making advance deposit of money, such CTP will be allotted a temporary identification number by GSTN.

Q20. ABC Pvt. Ltd., Mumbai provides consultancy services. Company supplies its services exclusively through an e-commerce website owned & managed by XYZ Pvt. Ltd., Pune. Turnover of ABC Pvt. Ltd. in current FY is Rs. 19 lacs. Advise ABC Pvt. Ltd., as to whether they are required to obtain registration. Will your advice be any different if ABC Pvt. Ltd. sell readymade garments exclusively through e-commerce website owned & managed by XYZ Pvt. Ltd.?

Answer: As per section 22, every supplier of goods or services or both is required to obtain registration in State/UT from where he makes taxable supply if his aggregate turnover exceeds Rs. 20/10 Lacs in a FY.

As per Section 24, Persons who supply goods or services or both through such as ECO who is required to collect tax at source u/s 52 are mandatorily required to obtain registration.

However, Persons making supplies of services, other than supplies specified u/s 9(5) through ECO who is required to collect tax at source u/s 52 & having aggregate turnover to be computed on all India basis, not exceeding an amount of Rs. 20/10 Lacs in a FY have been exempted from obtaining registration.

Thus, ABC Pvt. Ltd. is not required to obtain registration since its turnover from consultancy services < Rs. 20 Lacs.

In second case, ABC Pvt. Ltd. sells readymade garments through ECO. Exemption under Notification No. 65/2017-CT dated 15-11-2017, is granted only to supplier of services & not to supplier of goods. Thus, in second case, ABC Pvt. Ltd. will not be entitled for threshold exemption & will have to compulsorily obtain registration.



8. TAX INVOICE, DEBIT & CREDIT NOTES AND E-WAY BILL

BY CA PRANAV CHANDAK

FOR MAY/JUNE 2020

CA/CMA INTERMEDIATE

- Under GST regime, an "invoice" or "tax invoice" means the tax invoice referred to in section 31.
- Tax invoice is an essential document for the recipient to avail ITC.
- Invoice is an important indicator of the time of supply.
- There is no prescribed format for Tax Invoice. Only certain fields are prescribed as mandatory fields.
- Invoices may be issued manually or electronically. Issuance of electronic invoices is not mandatory.
- **It is not necessary that only a person supplying G/S needs to issue an invoice.** Under GST, any registered person buying goods or services from an unregistered person needs to issue a payment voucher at the time of making payment & tax invoice on the date of receipt of G/&S.

Some important points which students need to know before proceeding further:

Tax Invoice	If a registered person is making supplies or receiving supplies from unregistered persons, then a tax invoice needs to be issued by such registered person.
Bill of Supply	If a registered person is dealing only in exempted supplies or is availing the composition scheme (composition dealer), then bill of supply is to be issued in lieu of tax invoice.
No Invoice	If value of supply < Rs. 200, invoice or a bill of supply need not be issued. (T&C)*
Advance	Registered person (on receipt of advance payment) w.r.t any supply of G/S shall issue a receipt voucher or any other document evidencing receipt of such payment.

CONTENTS OF TAX INVOICE

[No particular format is prescribed]

1. Name, address and GSTIN of the supplier.

2. A consecutive serial number (not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters & any combination thereof, unique for a FY).

3. Date of its issue.

4. If recipient is registered - Name, address and GSTIN or UIN of the recipient.

5. **If recipient is unregistered & value of taxable supply ≥ Rs. 50,000:** Name & Address of the recipient & address of delivery, along with the name of the State and its code.

6. **If recipient is unregistered & value of taxable supply < Rs. 50,000:** Name & address of the recipient and the address of delivery, along with the name of the State and its code (if the recipient requests that such details be recorded in the tax invoice).

7. Harmonised System of Nomenclature (HSN) code for goods or services.

Annual TO in last FY	Upto 1.5 Crore	> 1.5 Crore & upto 5 Cr	> 5 Crore
No. of digits of HSN Code	Nil	2	4

8. Description of goods or services.

9. Quantity in case of goods and unit or Unique Quantity Code thereof.

10. Total value of supply of goods or services or both.

11. Taxable value of supply of G/S taking into account discount or abatement, if any.

12. Rate of tax (CGST, SGST, IGST, UTGST or GST cess).

13. Amount of tax charged i.r.o taxable G/S (CGST, SGST, IGST, UTGST or GST cess).

14. PoS along with the name of State (in case of inter-State supply).

15. Address of delivery where the same is different from the place of supply.

16. Whether the tax is payable on reverse charge basis.

17. Signature or digital signature of the supplier or his authorised representative.

Note: Signature or digital signature shall not be required in the case of issuance of electronic invoice.

MANNER OF ISSUING INVOICE [RULE 48 OF CGST ACT, 2017]

Goods	Services
<ul style="list-style-type: none"> ➤ In Triplicate <ul style="list-style-type: none"> ▪ Original for Recipient ▪ Duplicate for Transporter ▪ Triplicate for Supplier 	<ul style="list-style-type: none"> ➤ In Duplicate <ul style="list-style-type: none"> ▪ Original for Recipient ▪ Duplicate for Supplier
➤ Serial number of invoices issued during a year shall be furnished electronically in GSTR-1 .	

NO TAX INVOICE IF VOS < Rs. 200

A registered person may **not issue a tax invoice** if:

VoS of G/&S < Rs 200	Recipient is not a registered person	& Recipient does not require invoice
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Note: RP (who supplied G/S) shall issue a consolidated tax invoice for such supplies at the close of each day i.r.o all such supplies.

Q1. Gemini Traders is a registered trader dealing in stationery items & has undertaken following sales during the day:

SN	Recipient of supply	Amount
(1)	Kamlesh Traders [a registered retail dealer under composition levy]	185
(2)	Kalpesh Stationers [an unregistered trader]	425
(3)	Hussain - Painter [unregistered]	675
(4)	Shanti Charitable Trust [an unregistered entity]	195
(5)	Manisha - a Student [unregistered]	140

None of the recipients require a tax invoice. Determine i.r.o which of the above supplies, Gemini Traders may issue a Consolidated Tax Invoice instead of Tax Invoice at the end of the day?

Answer: Gemini Traders can issue a Consolidated Tax Invoice only w.r.t. supplies made to Shanti Charitable Trust [worth Rs. 195] & Manisha [worth Rs. 140] as the VoS to these recipients < Rs. 200 as also these recipients are unregistered & don't require a tax invoice. As regards the supply made to Kamlesh Traders, although the VoS to it is less than Rs. 200, Kamlesh Traders is registered under GST & thus, Consolidated Tax Invoice cannot be issued. Consolidated Tax Invoice cannot be issued for supplies of goods made to Kalpesh Stationers & Hussain although both of them are unregistered. The reason for the same is that the value of goods supplied is not less than Rs. 200.

BILL OF SUPPLY [Sec 31(3)(c) of CGST Act, 2017 r/w Rule 49 of CGST Rules 2017]

- Bill of supply is similar to tax invoice except that bill of supply does not contain any tax amount.
- **A bill of supply is issued in cases where tax cannot be charged:**
 - Registered person is selling exempted goods/services.
 - Registered person who has opted for composition scheme.
 - Registered person who has opted to pay tax under NN 2/2019.

CONTENTS OF BILL OF SUPPLY

- Name, address and GSTIN of the supplier
- A consecutive serial number (not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters & any combination thereof, unique for a FY).
- Date of its issue.
- Name, address & GSTIN or UIN of the recipient (If recipient is registered)
- Description of goods or services & Harmonised System of Nomenclature (HSN) code for G/&S
- Taxable value of supply of G/S taking into account discount or abatement, if any.
- Signature or digital signature of the supplier or his authorised representative.

Note: Signature or digital signature shall not be required in case of issuance of electronic invoice.

Note: If RP is supplying taxable & exempted G/S to unregistered person → he can issue a single **"invoice-cum-bill of supply"** for all such supplies.

REVISED INVOICE [Sec 31(3)(a)]

- Every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue Revised Tax Invoices.
- Such invoices shall be issued against the invoices already issued during said period.
- Revised Tax Invoices shall be issued within 1 month from the date of issuance of certificate of registration.
- Registered person may issue a revised invoice against the invoice already issued from effective date of registration till date of issuance of certificate of registration **within 1 month from the date of issuance of certificate of registration.**
- This provision is necessary to fill time lag b/w date of grant of certificate of registration & effective date of registration.
- For supplies made by such person during this intervening period, the law enables the issuance of a revised invoice, so that ITC can be availed by the recipient on such supplies.

Ex: Sarabhai Private Ltd. commenced business of supply of goods on 1st April in Delhi. Its turnover exceeded the applicable threshold limit on 3rd September. Thus, it became liable to registration on 3rd September. It applied for registration on 29th September and was granted registration certificate on 5th October. Since it applied for registration within 30 days of becoming liable to registration, registration granted is effective from 3rd September. Sarabhai Private Ltd. may issue Revised Tax Invoices i.r.o taxable supplies effected b/w 3rd September & 5th October.

Consolidated Revised Tax Invoices

RP may issue a Consolidated Revised Tax Invoice i.r.o all taxable supplies made to an unregistered recipient during such period.

However, in case of inter-State supplies, a consolidated Revised Tax Invoice cannot be issued i.r.o all unregistered recipients if value of a supply > Rs. 2,50,000.

Q2. AB Ltd. engaged in the supply of gifts articles provides you the following details:

SN	Particulars	Date
1.	Date of Commencement of the business	1.8.2019
2.	Turnover exceeds Rs. 10,00,000 on	15.8.2019
3.	Turnover exceeds Rs. 20,00,000 on	5.9.2019
4.	Application for registration made on	28.9.2019
5.	Registration certificate granted on	6.10.2019

AB Ltd. seeks your advice as to how it should raise revised tax invoices for supplies made. Is there any specific provision for issuance of revised tax invoices to unregistered customers? Explain.

Answer:

- A supplier whose aggregate turnover in a FY exceeds Rs. 20 Lacs in a State/UT [Rs. 10 Lacs in 4 special category states] is liable to apply for registration within 30 days from the date of becoming liable to registration (i.e., the date of crossing the threshold limit of Rs. 20 Lacs/Rs. 10 Lacs) as per section 22 of CGST Act, 2017.
- Where the application is submitted within 30 days, effective date of registration is the date on which the person becomes liable to registration; otherwise it is the date of grant of registration.
- Every registered person who has been granted registration with effect from a date earlier than the date of issuance of registration certificate to him, may issue revised tax invoices i.r.o taxable supplies effected during this period within 1 month from the date of issuance of registration certificate.
- Since AB Ltd. has made the application for registration within 30 days of becoming liable for registration, effective date of registration becomes the date on which the company becomes liable to registration i.e. 5.9.2019.
- Thus AB Ltd. may issue revised tax invoices against the invoices already issued during the period between effective date of registration (5.9.2019) & date of issuance of registration certificate (6.10.2019), within 1 month from 6.10.2019.
- Further, AB Ltd. may issue a consolidated revised tax invoice i.r.o all taxable supplies.

RECEIPT VOUCHER ON RECEIPT OF ADVANCE PAYMENT [Sec 31(3)(d)]

- Whenever a registered person receives an advance payment with respect to any supply of G/S, he has to issue 'receipt voucher' or any other document evidencing the receipt of such payment.
- Proviso to Rule 50 of the CGST Rules, 2017, if at the time of receipt of advance,

Rate of tax is not determinable	Tax may be paid @ 18% .
Nature of supply is not determinable	It shall be treated as inter-State supply .

CONTENTS OF RECEIPT VOUCHERS

1. Name, address and GSTIN of the supplier.
2. A consecutive serial number (not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters & any combination thereof, unique for a FY).
3. Date of its issue.
4. If recipient is registered - Name, address and GSTIN or UIN of the recipient.
5. Description of goods or services.
6. **Amount of advance taken**
7. Rate of tax (CGST, SGST, IGST, UTGST or GST cess).
8. Amount of tax charged i.r.o taxable G/S (CGST, SGST, IGST, UTGST or GST cess).
9. PoS along with the name of State (in case of inter-State supply).
10. Whether the tax is payable on reverse charge basis.
11. Signature or digital signature of the supplier or his authorised representative.

Note: Signature or digital signature shall not be required in case of issuance of electronic invoice.

REFUND VOUCHER [Sec 31(3)(e) r/w Rule 51]

- If Advance is received by registered dealer & receipt voucher is issued by him to the payee;
- But subsequently no supply is made and no tax invoice is issued.
- Such registered person may issue to the other party, a refund voucher against such payment.

CONTENTS OF REFUND VOUCHERS

1. Name, address and GSTIN of the supplier.
2. A consecutive serial number (not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters & any combination thereof, unique for a FY).
3. Date of its issue.
4. If recipient is registered - Name, address and GSTIN or UIN of the recipient.
5. **Name & date of receipt voucher issued.**
6. Description of goods or services i.r.o which refund is made.
7. **Amount of refund made.**
8. Rate of tax (CGST, SGST, IGST, UTGST or GST cess).
9. Amount of tax charged i.r.o taxable G/S (CGST, SGST, IGST, UTGST or GST cess).
10. Whether the tax is payable on reverse charge basis.
11. Signature or digital signature of the supplier or his authorised representative.

Note: Signature or digital signature shall not be required in case of issuance of electronic invoice.

INVOICE & PAYMENT VOUCHER [Sec 31(3)(f) & (g) r/w 2nd provision to Rule 46 & 52]

- **Invoice:** Registered person [who is liable to pay tax under RCM u/s 9(3)/(4)] shall issue an invoice on the date of receipt of G/&S i.r.o G/&S **RECEIVED** by him from unregistered supplier.
- **Payment voucher:** Such registered person also has to issue a payment voucher “at the time of making payment to the supplier”.
- **Consolidated Invoice:** Consolidated invoice may be issued **at the end of a month** for supplies covered u/s 9(4) (Aggregate value of such supplies > Rs. 5,000 in a day from all/any suppliers).

CONTENTS OF PAYMENT VOUCHERS

1. Name, address and GSTIN of the supplier.
2. A consecutive serial number (not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters & any combination thereof, unique for a FY).
3. Date of its issue.
4. Name, address and GSTIN or UIN of the recipient.
5. Description of goods or services.
6. **Amount paid.**
7. Rate of tax (CGST, SGST, IGST, UTGST or GST cess).
8. Amount of tax charged i.r.o taxable G/S (CGST, SGST, IGST, UTGST or GST cess).
9. PoS along with the name of State (in case of inter-State supply).
10. Signature or digital signature of the supplier or his authorised representative.

Note: Signature or digital signature shall not be required in case of issuance of electronic invoice.

SUPPLIER PERMITTED TO ISSUE ANY DOCUMENT OTHER THAN TAX INVOICE
[Section 31(2) & proviso to section 31(1) r/w rules 54 & 55]

Following suppliers may **issue** a tax invoice, but they are also permitted to issue any other document in lieu of tax invoice, by whatever name called:

Supplier	Document in lieu of Tax invoice	
	Optional information	Mandatory information
Insurer/Banking Company/FIs/NBFC	<ul style="list-style-type: none"> ▪ Serial number of invoices) ▪ Address of recipient of service. ▪ Signature or digital signature of supplier shall not be required in the case of issuance of a consolidated tax invoice or any other document in lieu thereof. 	<ul style="list-style-type: none"> ▪ Customer may avail numerous services from bank/insurer in a given tax period. Consolidated tax invoice/statement may be issued for supply of services made during a month at the end of the month. ▪ Other prescribed information for Tax Invoice u/r 46.
GTA Service Provider in relation to transportation of goods by road in a goods carriage		<ul style="list-style-type: none"> ▪ Gross weight of consignment ▪ Name of consignor & consignee ▪ Registration No. of goods carriage in which the goods are transported ▪ Details of goods transported ▪ Place of origin & destination ▪ GSTIN of person liable for paying tax ▪ Other Prescribed information for a tax invoice u/r 46
Supplier of Passenger transportation service	<ul style="list-style-type: none"> ▪ Serial No. of invoices/ document) ▪ Address of recipient of service. 	<ul style="list-style-type: none"> ▪ Invoice shall include ticket (any form) ▪ Other Prescribed information for a tax invoice u/r 46. ▪ Signature of supplier shall not be required in case of issuance of ticket.

CREDIT NOTE [Sec 34(1) & (2)]

➤ Where **one or more tax invoices** has been issued for supply of any G/S or both;

➤ Subsequently it is found that i.r.o such supply

(a) Taxable value in invoice > taxable value of supply; OR

(b) Tax charged in invoice > Tax payable on such supply

(c) Recipient has returned the goods,

(d) G/S or both are found to be deficient

A Dealer may issue
One Credit note for multiple Invoices.

supplier may issue a **one or more credit notes** for supplies made in FY to the recipient.

❖ A registered person who issues such a credit note has to declare details of such credit note in the return for the month during which such credit note has been issued **but not later than**

(a) September following the end of FY in which such supply was made **OR**

(b) Date of furnishing of relevant annual return **[whichever is earlier]**

Tax liability of registered person will be adjusted in accordance with the credit note issued.

However, **no reduction in output tax liability** of the supplier shall be permitted, **if incidence of tax & interest on such supply has been passed on to any other person.**

Note: Credit note(s) are not permitted to be issued in case secondary discounts are allowed by the supplier since the tax liability of the supplier does not get reduced in such case. However, supplier can issue financial/commercial credit note(s) to reduce VoS payable by the recipient to supplier.

DEBIT NOTE [Sec 34 (3) & (4)]

[Shall include 'Supplementary invoice']

➤ Where **one or more tax invoices** has been issued for supply of any G/S or both;

➤ Subsequently it is found that i.r.o such supply

(a) Taxable value in invoice < taxable value of supply; OR

(b) Tax charged in invoice < Tax payable on such supply

supplier may issue **one or more debit notes** for supplies made in FY to the recipient.

➤ A registered person who issues such a debit note has to **declare details** of such debit note **in the return for the month during which such debit note has been issued.**

➤ Tax liability of registered person will be adjusted in accordance with the debit note issued.

CONTENTS OF 'REVISED TAX INVOICE' & 'CREDIT OR DEBIT NOTE'

- Name, address and GSTIN of the supplier
- Nature of the document
- A consecutive serial number containing alphabets or numerals or special characters or any combination thereof, unique for each FY.
- Date of issue of the document
- Name, address & GSTIN/UIN of the recipient (if registered)
- Name & address of recipient; delivery address along with State name & code (unregistered)
- Serial number and date of the corresponding tax invoice or bill of supply.
- Value of taxable supply of G/S; rate of tax & amount of tax credited or debited to the recipient.
- Signature or digital signature of the supplier or his authorized representative.

DELIVERY CHALLAN [RULE 55]

Rule 55 gives the cases goods may be removed on delivery challan & invoice may be issued after delivery.

Nature of Supply	Delivery challan to be issued	Particulars of delivery challan
1. Supply of liquid gas where quantity at time of removal from PoB of supplier is not known, 2. Transportation of goods for job work, 3. Transportation of goods for reasons other than by way of supply, 4. Other Notified supplies	Serially numbered not exceeding 16 characters in one or multiple series at the time of removal of goods for transportation.	<ul style="list-style-type: none"> ▪ Date & number of delivery challan ▪ Name, address & GSTIN of consigner. ▪ Name, address & GSTIN of consignee ▪ HSN code & description of goods, ▪ Quantity (provisional, where the exact quantity being supplied is not known) ▪ Taxable value ▪ Rate & amount of GST where transportation is for supply to consignee ▪ PoS in case of inter- state movement ▪ Signature

SOME OTHER POINTS

Triplicate Copy	Original copy	Duplicate copy	Triplicate copy
	For Consignee	For Transportor	For Consignor
Declaration in EWB	Where goods are being transported on a delivery challan in lieu of invoice, the same shall be declared in E-Way Bill.		
Tax invoice to be issued after delivery of goods	Where goods being transported are for supply to the recipient but tax invoice could not be issued at the time of removal of goods for supply, supplier shall issue a tax invoice after delivery of goods.		
Goods transported in SKD/CKD condition or in batches or lots	Where goods are being transported in SKD/CKD condition or in batches/ lots, (a) Supplier shall issue the complete invoice before dispatch of the first consignment; (b) Supplier shall issue delivery challan for each of subsequent consignments, giving reference of invoice; (c) Each consignment shall be accompanied by copies of the corresponding delivery challan along with a duly certified copy of the invoice; & (d) Original copy of the invoice shall be sent along with the last consignment.		

GOODS MOVED WITHIN THE STATE OR FROM STATE OF REGISTRATION TO ANOTHER STATE FOR SUPPLY ON APPROVAL BASIS & ART WORKS SENT BY ARTISTS TO GALLERIES FOR EXHIBITION

- ❖ Suppliers of jewellery etc. who are registered in one State may have to visit other States (other than their State of registration) & need to carry the goods (such as jewellery) along for approval. In such cases, if jewellery etc. is approved by the buyer, then supplier issues a tax invoice only at the time of supply. Since the suppliers are not able to ascertain their actual supplies beforehand & while ascertainment of tax liability in advance is a mandatory requirement for registration as CTP, supplier is not able to register as a casual taxable person. Such goods are also carried within the same State for the purposes of supply.
- ❖ It is clarified that goods which are taken for supply on approval basis can be moved from PoB of registered supplier to another place within the same State or to a place outside the State on a delivery challan along with E-Way Bill (wherever applicable) & invoice may be issued at the time of delivery of goods. Person carrying goods for such supply can carry the invoice book with him so that he can issue the invoice once the supply is fructified [Circular No. 10/10/2017 GST dated 18.10.2017].
- ❖ Similarly, Where artists supply art works in different States - other than the State in which they are registered as a taxable person & if art work is selected by buyer, then supplier issues a tax invoice only at the time of supply, it is clarified that the art work for supply on approval basis can be moved from the PoB of registered person (artist) to another place within the same State or to a place outside the State on a delivery challan along with E-Way Bill & invoice may be issued at the time of actual supply of art work.

QUESTION BANK

Q1. Snowwhite Industries Ltd., Delhi, entered into a contract with Glowwhite Entrepreneurs, Delhi, for supply of parts of a machine on 10th September, 2018. The spare parts were to be delivered on 30th September, 2018. Snowwhite Industries Ltd. removed the finished spare parts from its factory on 29th September, 2018. Determine the date by which invoice must be issued by Snowwhite Industries Ltd. under GST law. [ICAI]

Answer: As per section 31, invoice shall be issued before or at the time of removal of goods for supply to the recipient, where the supply involves movement of goods. Accordingly, invoice must be issued on/before 29th September, 2018.

Q2. Aggregate turnover of Kamlesh Enterprises Ltd. exceeded Rs. 20 lacs on 10th Oct 2018. It applied for registration on 27th Oct 2018 & was granted registration certificate on 1st Nov 2018. What is effective date of registration in its case. It has also sought your advice regarding period for issuance of Revised Tax Invoices. [ICAI]

Answer: As per Section 25 r/w CGST Rules, 2017, where an applicant submits application for registration within 30 days from the date he becomes liable to registration, effective date of registration is the date on which he becomes liable to registration. Since, Kamlesh Enterprises Ltd.'s turnover exceeded Rs. 20 lacs on 10th Oct 2018, it became liable to registration on same day. Further, it applied for registration within 30 days of so becoming liable to registration, the effective date of registration is the date on which it becomes liable to registration, i.e. 10th Oct 2018.

As per Section 31 r/w CGST Rules, 2017, every registered person who has been granted registration w.e.f a date earlier than the date of issuance of certificate of registration to him, may issue Revised Tax Invoices, Revised Tax Invoices shall be issued within 1 month from the date of issuance of certificate of registration. Revised Tax Invoices shall be issued within 1 month from the date of issuance of registration i.r.o taxable supplies effected during the period starting from the effective date of registration till the date of issuance of certificate of registration. Therefore, in the given case, Kamlesh Enterprises Ltd. has to issue the Revised Tax Invoices i.r.o taxable supplies effected during the period starting from the effective date of registration (10th October, 2018) till the date of issuance of certificate of registration (1st Nov 2018) within 1 month from the date of issuance of certificate of registration, i.e. on or before 1st December, 2018.

Q3. Chidanand Products Pvt. Ltd. started its business of supply of goods on 1st Aug 2018. Its turnover exceeds Rs. 20 Lacs on 5th Sep 2018. It applied for registration on 28th Sep 2018 & granted registration certificate on 6th Oct 2018. Guide the company regarding invoices to be issued b/w 5th Sep 2018 to 6th Oct 2018 to registered dealers. Further it had also made supplies to unregistered dealers in that period. How it can raise invoices? [4 Marks, May 2018]

Answer: Chidanand Products Pvt. has to issue the Revised Tax Invoices i.r.o taxable supplies effected during the period starting from effective date of registration (5 Sep 2018) till the date of issuance of certificate of registration (6th Oct 2018) within 1 month from the date of issuance of certificate of registration, i.e. on or before 6 November, 2018.

A registered person may issue a Consolidated Revised Tax Invoice i.r.o all taxable supplies made to an unregistered recipient during such period. However, in case of inter-State supplies, a consolidated Revised Tax Invoice cannot be issued i.r.o all unregistered recipients if the value of a supply exceeds Rs. 2,50,000.

Q4. MBM Caretakers, a registered person, provides the services of repair and maintenance of electrical appliances. On April 1, it has entered into an annual maintenance contract with P for its Air Conditioner and Washing Machine. As per the terms of contract, maintenance services will be provided on the first day of each quarter of the relevant FY and payment for the same will also be due on the date on which service is rendered. During the year, it provided the services on April 1, July 1, October 1, and January 1 in accordance with the terms of contract. When should MBM Caretakers issue the invoice for the services rendered?

Answer: Continuous supply of service means supply of any service which is provided, or agreed to be provided continuously or on recurrent basis, under a contract, for period exceeding 3 months with periodic payment obligations. Therefore, in the given situation is a case of continuous supply of service as repair & maintenance services have been provided by MBM Caretakers on quarterly basis, under a contract, for 1 year with the obligation for quarterly payment. In terms of section 31, in case of continuous supply of service, where due date of payment is ascertainable from the contract (as in the given case), invoice shall be issued on or before the due date of payment.

Therefore, MBM Caretakers should issue quarterly invoices on or before April 1, July 1, October 1 & January 1.

Q5. What is the time limit for issuance of credit note & When can a taxable person not issue credit note?

Answer: Supplier cannot issue a credit note pertaining to a supply of G/&S of a particular FY later than:

- (a) September following the end of the FY in which such supply was made, or
- (b) Date of furnishing of the relevant annual return. Whichever is earlier.

According to proviso to Sec 34 (2) of the CGST Act, 2017, no credit note shall be issued by the taxable person if the incidence of tax and interest on such supply has been passed by the supplier to the recipient.

No reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

Q6. When can a debit note be issued? Is there any time limit for issue of debit note?

Answer: Debit note can be issued by the supplier of the goods or services or both, to the recipient, when subsequent to the issue of tax invoice he comes to know that taxable value or tax charged in that tax invoice is less than the taxable value or tax payable with respect to such supply. There is no time limit for issuance of debit note.

Q7. ABC Ltd. located in Pune received the advance to supply training services. Supplier may have to impart training to Jaipur or Mumbai branch (both are registered) as per the requirement. What should be the treatment under GST?

Answer: At the time of receiving advance, supplier does not know the place where he has to give training. But, supplier is required to issue the receipt voucher at the time of receipt of advance.

It will be treated that nature of supply is inter-State supply & supplier will have to pay IGST on it.

If later, it is known that training was given in Mumbai Branch (intra-State supply), then as per section 19 of IGST Act, supplier will have to pay CGST + SGST being intra-State supply) without interest & he can claim refund of IGST.

Q8. Determine with reason whether the following statements are true or false:

(a) A registered person shall issue separate invoices for taxable and exempted goods when supplying both taxable as well as exempted goods to an unregistered person.

(b) NBFC can issue a consolidated tax invoice at the end of every month for the supply made during that month.

Answer:

(a) **False.** Where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single "invoice-cum-bill of supply" may be issued for all such supplies.

(b) **True.** A non-banking financial company has been allowed to issue a consolidated tax invoice or any other document in lieu thereof for the supply of services made during a month at the end of the month.

Q9. Is a registered person liable to pay tax u/s 9(3)/9(4) required to issue an invoice? Discuss.

Answer: Recipient is liable to pay tax on RCM basis where he receives supply of such G/&S which are notified for reverse charge purposes. Such supplies can be received from a registered or unregistered supplier [Section 9(3)].

Registered person is also liable to pay tax where taxable G/&S have been received from unregistered supplier [Sec 9(4)]

RP who is liable to pay tax under RCM [u/s 9(3)/9(4)] shall issue invoice i.r.o G/&S received by him from supplier who is not registered on the date of receipt of G/&S. Besides RP who is liable to pay tax under RCM [u/s 9(3)/9(4)] shall issue Payment Voucher at time of making payment to supplier. [Section 31(3)(f) & (g) r/w 2nd Proviso to rule 46 & 52].

Q10. What are the mandatory details required in the invoice/ document issued by a Goods Transport Agency?

Answer: A GTA supplying services in relation to transportation of goods by road in a goods carriage, is required to have the following details in its invoices (in addition to other details required):

Gross weight of consignment	Details of place of origin & destination
Details of goods transported	Registration No. of goods carriage in which goods are transported
Name of Consignor & Consignee	GSTIN of the person liable to pay tax (whether as consignor, consignee or GTA).

Q11. ABC Ltd., a registered supplier has made following taxable supplies to Mr. P in the quarter ending 30th June, 2018.

Date	Bill No.	Particulars	Invoice value (including GST)
5th April, 2018	102	Notebooks [10 in numbers]	Rs. 1,200
10th May, 2018	197	Chart Paper [4 in number]	Rs. 600
20th May, 2018	230	Crayon colors [2 packets]	Rs. 500
2nd June, 2018	254	Poster colors [5 packets]	Rs. 900
22nd June, 2018	304	Pencil box [4 sets]	Rs. 700

Goods i.r.o bill no. 102, 230 & 254 have been returned by Mr. P. You are required to advise ABC Ltd. whether it can issue consolidated credit note against all the three invoices?

Answer:

- Where one or more tax invoices have been issued for supply of any goods and/or services &
 - (a) taxable value/tax charged in tax invoice is more than taxable value/tax payable i.r.o such supply,
 - (b) where the goods supplied are returned by the recipient, or
 - (c) where goods and/or services supplied are found to be deficient,
 registered person, who has supplied such goods and/or services, may issue to the recipient one or more credit notes for supplies made in a FY containing prescribed particulars.
- Thus, one (consolidated) or more credit notes can be issued i.r.o multiple invoices issued in a FY without linking the same to individual invoices.
- Hence, ABC Ltd. can issue a consolidated credit note for the goods returned i.r.o all the three invoices.

10B. E-WAY BILL [Section 68 of CGST Act]

WHAT IS E-WAY BILL?

- A waybill is a receipt or a document giving details & instructions relating to the shipment of a consignment of goods.
- It includes details like name of consignor, consignee, point of origin & destination of consignment & route.
- E-Way Bill is a compliance mechanism by way of a digital interface in which the person causing the movement of goods uploads the relevant information **prior to the commencement of movement of goods** and generates e-way bill on the GST portal.
- E-Way bill is an electronic document generated on GST portal evidencing movement of goods.
- Once E-Way bill is generated, it cannot be edited for any mistake. However, it can be cancelled within 24 hours of generation.
- E-Way Bill may be updated with vehicle number any number of times.

BENEFITS OF E-WAY BILL

- Physical interface to pave way for digital interface resulting in elimination of state check-posts.
- It will facilitate faster movement of goods
- It will improve the turnaround time of trucks and help the logistics industry by increasing the average distances travelled, reducing the travel time as well as costs.

HOW TO GENERATE E-WAY BILL?

- E-way Bill is generated electronically in Form GST EWB 01 on www.ewaybillgst.gov.in.
- Facility of generation, cancellation, updation & assignment of e-way bill is available to supplier, recipient & transporter.
- E-way Bill can be generated through various modes like Web (Online), Android App, SMS, using Bulk Upload Tool & API (Application Program Interface) based site to site integration etc.
- Person who generates e-way bill should be a registered person on GST portal & he should register on the e-way bill portal.
- If transporter is not registered person under GST it is mandatory for him to get enrolled on e-waybill portal (<https://ewaybillgst.gov.in>) before generation of the e-way bill.

WHEN TO GENERATE E-WAY BILL?

⇒ If there is a **movement of goods** of **consignment value > Rs. 50,000**

- in relation to a 'supply',
- for reasons other than a 'supply', (Ex: return)
- due to inward 'supply' from an unregistered person;

the registered person who causes such movement of goods shall furnish the information relating to the said goods as specified in **Part A** of GST EWB-01 **before commencement** of such movement.

Note: E-Way bill can be generated even if **value of goods < Rs. 50,000. [NOT COMPULSORY]**

MEANING OF 'CONSIGNMENT VALUE'

- **Value determined** in accordance with the provisions of **section 15**,
- declared in invoice, bill of supply or delivery challan issued i.r.o said consignment;
- also includes GST (if any) in the document
- **but exclude** 'value of exempt supply of goods' where invoice is issued i.r.o both exempt & taxable supply of goods.

PERSON CAUSING MOVEMENT OF GOODS

Case	Movement caused by
Supplier is registered & undertakes to transport the goods	Supplier
Recipient arranges transport	Recipient
Goods are supplied by unregistered supplier to registered recipient	Registered Recipient

COMPULSORY GENERATION OF E-WAY BILL (Even if Value of Consignment < Rs. 50,000)

Inter-State movement of Goods by Principal to Job Worker	Where goods are sent by a principal located in one State/UT to a job worker located in any other State/UT, e-way bill shall be generated either by the principal or job worker (if registered).
Inter-State Transport of Handicraft goods	Where handicraft goods are transported from one State/UT to another State/UT, e-way bill shall be generated.

WHO IS MANDATORILY REQUIRED TO GENERATE E-WAY BILL?

Cases	Who shall generate E-way bill?
1. If Goods are transported by registered person (Either by supplier or by recipient) [whether in his own conveyance or hired one or a public conveyance, by road]	Registered person transporting the goods shall generate E-way bill by furnishing information in Part B of GST EWB-01.
2. If E-Way bill is not generated by RP & Goods are handed over to the transporter	E-way bill shall be generated by transporter on the basis of information furnished by RP in Part A
3. If both 'consignor' & 'consignee' have not created E-way bill	E-way bill shall be generated by transporter by filling out PART A of GST EWB-01 on the basis of invoice/bill of supply/delivery challan.
4. Goods are transported by Air, Ship, Railways	E-way bill shall be generated by the registered person, being the supplier or the recipient, who shall, either before or after the commencement of movement, furnish, information in part B.
5. Goods are supplied by unregistered supplier to registered recipient	Compliance to be done by Recipient as if he is the Supplier.

Note: If Goods are transported by railways, there is no requirement to carry e-way bill along with the goods, but railways has to carry invoice or delivery challan or bill of supply along with goods.

Railways shall not deliver goods unless e-way bill is produced at the time of delivery.

E-WAY BILL IN CASE OF 'BILL-TO-SHIP-TO' TRANSACTIONS

- ❖ Although bill-to-ship-to transactions could sometimes result in twin-supply transactions, they require a **single EWB** since the movement is singular.
- ❖ In the e-way bill form, there are two portions under the 'to' section.
- ❖ **In left-hand-side:** 'Billing to' GSTIN and trade name is entered; and
- ❖ **In right-hand-side:** 'Ship to' address of the destination of the movement is entered.
- ❖ The other details are entered as per the invoice.
- ❖ If 'ship-to' State is different from 'Bill-to' State, tax components are entered as per the details of the 'bill-to' person (Bill-to State).

Ex: If "Bill-to" location is inter-state for the supplier, IGST is entered & if "Bill-to" person is located in same State as supplier, then SGST & CGST are entered irrespective of place of delivery.

- ❖ In a typical "Bill to Ship to" model of supply, there are three persons involved in a transaction:
 1. 'A' is the person who has ordered 'B' to send goods directly to 'C'.
 2. 'B' is the person who is sending goods directly to 'C' on behalf of 'A'.
 3. 'C' is the recipient of goods.

In this scenario, 2 supplies are involved & accordingly 2 tax invoices are required to be issued:

Invoice -1: Issued by 'B' to 'A';

Invoice -2: Issued by 'A' to 'C'.

- ❖ It is clarified that as per CGST Rules, 2017 either 'A' or 'B' can generate the E-Way Bill but it may be noted that only one e-Way Bill is required to be generated as per the following procedure:

Case 1: E-Way Bill is generated by 'B', following fields shall be filled in Part A of GST EWB-01:

Bill From	Bill from: In this field details of 'B' are supposed to be filled.
Dispatch From	Dispatch from: This is the place from where goods are actually dispatched. It may be the principal or additional place of business of 'B'.
Bill To	Bill to: In this field details of 'A' are supposed to be filled.
Ship To	Ship to: In this field address of 'C' is supposed to be filled.
Invoice Details	Invoice Details: Details of Invoice-1 are supposed to be filled

Case 2: E-Way Bill is generated by 'A', following fields shall be filled in Part A of GST EWB-01:

Bill From	In this field details of 'A' are supposed to be filled.
Dispatch From	This is the place from where goods are actually dispatched. It may be the principal or additional place of business of 'B'.
Bill To	In this field details of 'C' are supposed to be filled.
Ship To	In this field address of 'C' is supposed to be filled.
Invoice Details	Details of Invoice-2 are supposed to be filled

Ex: Goods supplied from Baroda to intermediate in Chennai but directly delivered to Kolkata. EWB to be generated 'before' commencement of movement with 'bill to Chennai' and 'ship to Kolkata' and the GSTIN of original supplier (Baroda) and intermediate (Chennai).

Ex: Car sold by Dealer in Bangalore to Bank in Mumbai but delivered to Lessee in Bangalore. EWB to be issued 'before' commencement of movement with 'bill to Mumbai' and 'ship to Bangalore'.

INFORMATION TO BE FURNISHED IN E-WAY BILL (E-way bill Form GST EWB-01 contains two parts:)

1. Part A is to be furnished by registered person who is causing movement of goods.

It comprises of the following details:

- GSTIN of supplier & recipient; Place of delivery (indicating PIN Code also); Value of goods;
- Document (Tax invoice, Bill of Supply, Delivery Challan or Bill of Entry) number & date,
- HSN code & Reasons for transportation, etc

Note: Information in Part-A may be furnished:

- by the transporter, on authorization received from such registered person or
- by ECO or courier agency on an authorization received from consignor (where goods to be transported are supplied through such e-commerce operator or a courier agency).

2. Part B (transport details) to be furnished by the person who is transporting the goods.

It comprises of the following details:

- Transporter document no. (Goods Receipt/Railway Receipt/Airway Bill/Bill of Lading No.)
- Vehicle number (in case of transport by road).

WHEN DETAILS OF CONVEYANCE IN PART B of GST EWB-01 → NOT NECESSARY

If goods are transported for a distance of upto **50 km within** the State/UT

- ✓ from PoB of consignor to PoB of transporter **for further transportation**
- ✓ from PoB of transporter finally to PoB of the consignee.

CHANGE OF CONVEYANCE (Transfer of goods from one conveyance to another)

- Consignor or recipient or transporter (before transfer & further movement) shall update the details of conveyance in Part B of e-way bill on common portal.

Press Release No. 144/2018 dated 31.03.2018 → Consignor/recipient (who has furnished the information in Part A) or transporter, may assign e-way bill number to another registered transporter for updating the information in Part B for further movement of the consignment. However, once the details of the conveyance have been updated by the transporter in Part B, e-way bill cannot be assigned to another transporter.

Ex: A consignor is required to move goods from City X to City Z. He appoints Transporter A for movement of his goods. Transporter A moves the goods from City X to City Y. For completing the movement of goods i.e., from City Y to City Z, Transporter A now hands over the goods to Transporter B. Thereafter, the goods are moved to the destination i.e. from City Y to City Z by Transporter B. In such a scenario, only one e-way bill would be required. Part A can be filled by the consignor and then the e-way bill will be assigned by the consignor to Transporter A. Transporter A will fill the vehicle details, etc. in Part B and will move the goods from City X to City Y. On reaching City Y, Transporter A will assign the said e-way bill to the Transporter B. Thereafter, Transporter B will be able to update the details of Part B. Transporter B will fill the details of his vehicle and move the goods from City Y to City Z.

CASES WHEN NO E-WAY BILL IS REQUIRED TO BE GENERATED

- Consignor transporting goods to or from between place of business & a weighbridge for **weightment** at a distance of **20 kms**, accompanied by a Delivery challan.
- Mode of transport is **non-motor vehicle**.
- Goods transported from Customs port, airport, air cargo complex or land customs station to Inland Container Depot (ICD) or Container Freight Station (CFS) for clearance by Customs.
- Goods transported under Customs supervision or under customs seal
- Goods transported under Customs Bond from ICD to Customs port; from a custom station to another.
- Transit cargo transported to or from Nepal or Bhutan
- Movement of goods caused by defence formation under Ministry of defence as consignor/ consignee.
- Empty Cargo containers are being transported
- Movement of empty cylinders for packing of LPG other than for supply
- Goods being transported by rail where the Consignor of goods is CG/SG/LA.
- **Transport of certain specified goods:** Includes **exempt supply of goods, goods not treated as supply as per Schedule III** (negative list), Certain schedule to CGST notifications.
- Goods [other than de-oiled cake], being transported, are exempt from tax [5 Petroleum Products]
- Goods specified as exempt from E-Way bill requirements in respective State/UT GST Rules.
- where the goods being transported are the ones given below:

LPG for supply to household and non- domestic exempted category (NDEC) customers
Kerosene oil sold under PDS
Postal baggage transported by Department of Posts
Natural or cultured pearls; Precious or semi-precious stones; Precious metals & metals clad with precious metal (Chapter 71)
Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71)
Currency
Used personal and household effects
Coral, unworked (0508) and worked coral (9601)]

VALIDITY OF E-WAY BILL (based on distance travelled by the goods)

Type of Conveyance	Distance	Validity from Relevant Date
Over dimensional cargo	Upto 20 Kms	1 Day
	For every additional 20 Kms or part	Additional 1 Day
Other than Over dimensional cargo	Upto 100 Kms	1 Day
	For every additional 100 Kms or part	Additional 1 Day

❖ **Validity of E-way bill starts when first entry is made in Part-B** (Vehicle entry or first transport document no. entry is made for first time. Validity is not re-calculated for subsequent entries in Part-B).

Ex: A consignor hands over his goods for transportation on Friday to transporter. However, the assigned transporter starts the movement of goods on Monday. The validity period of e-way bill starts only after the details in Part B are updated by the transporter for the first time. In the given situation, Consignor can fill the details in Part A on Friday and handover his goods to the transporter. When the transporter is ready to move the goods, he can fill Part B i.e. the assigned transporter can fill the details in Part B on Monday and the validity period of the e-way bill will start from Monday.

❖ **Relevant Date:** Date on which E-way bill has been generated.

Note: Each day shall be counted as the period expiring at midnight of the day immediately following the date of generation of e-way bill.

Ex: (i) Suppose an e-way bill is generated at 00:04 hrs. on 14th March. Then first day would end on 12:00 midnight of 15 -16 March. Second day will end on 12:00 midnight of 16 -17 March and so on.

(ii) Suppose an e-way bill is generated at 23:58 hrs. on 14th March. Then first day would end on 12:00 midnight of 15-16 March. Second day will end on 12:00 midnight of 16 -17 March and so on.

❖ **Extension of Validity of E-Way Bill:**

- Validity of E way bill **can be extended** also.
- Transporter may extend the validity period after updating the details in Part B, if required.
- Transporter can extend it either 8 hours before expiry or within 8 hours after its expiry.

❖ **Over dimensional cargo:** Cargo carried as a single indivisible unit & which exceeds the dimensional limits prescribed in rule 93 of Central Motor Vehicle Rules, 1989.

CANCELLATION OF E-WAY BILL

- ❖ If goods are either not transported or are not transported as per the details furnished in E-way bill after generation of E-way bill, e-way bill may be cancelled electronically on common portal **within 24 hours of its generation**. [Rule 138(9)].
- ❖ **However, an e-way bill cannot be cancelled if it has been verified in transit.**
- ❖ Unique EWB No. generated is valid for 15 days for updation of Part B [Second proviso to rule 138(9)].

ACCEPTANCE OF E-WAY BILL

- ❖ The details of the e-way bill generated shall be made available to the
 - (a) Registered Supplier: If information in Part A has been furnished by recipient/transporter;
 - (b) Registered recipient: If information in Part A has been furnished by supplier/transporter;
 on the common portal & supplier/recipient (as the case may be) shall communicate his acceptance or rejection of the consignment covered by the e-way bill.
- ❖ If the person to whom the information in Part-A is made available, does not communicate his acceptance or rejection within specified time, it shall be deemed that he has accepted the said details.
- ❖ **Time-limit specified is (Earlier of)**
 - (a) Time of delivery of goods
 - (b) 72 hours of the details being made available to him on the common portal

DOCUMENTS OR DETAILS REQUIRED TO GENERATE E-WAY BIL

- ✓ Invoice/Bill of Supply/Challan related to the consignment of goods
- ✓ **Transport by road:** Transporter ID or Vehicle number
- ✓ **Transport by rail, air, ship:** Transporter ID, Transport document no. & date on document.

DOCUMENTS & DEVICES TO BE CARRIED BY PERSON-IN-CHARGE OF CONVEYANCE [Rule 138A]

1. Person in charge of a conveyance shall carry:
 - (a) invoice or bill of supply or delivery challan, as the case may be; and
 - (b) a copy of e-way bill in physical form or e-way bill number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance in notified manner by the Commissioner (except for movement of goods by rail or by air or vessel) [Rule 138A(1)]
 2. RP may obtain '**Invoice Reference No**' from common portal by uploading a tax invoice issued by him in FORM GST INV-1 & produce the same for verification by the proper officer in lieu of the tax invoice & such number shall be valid for 30 days from the date of uploading.
 3. In such case, RP will not have to upload the information in Part A of E-Way bill for generation of E-Way bill & the same shall be auto-populated by common portal on the basis of the information furnished in FORM GST INV-1.
 4. The Commissioner may, by notification, require a class of transporters to obtain a unique Radio Frequency Identification Device and get the said device embedded on to the conveyance & map the e-way bill to Radio Frequency Identification Device prior to the movement of goods.
 5. Commissioner may, by notification, require the person-in-charge of the conveyance to carry the following documents instead of the e-way bill
 - (a) Tax invoice or Bill of supply or Bill of entry; **OR**
 - (b) Delivery challan (where goods are transported for reasons other than by way of supply)
- Note:** Person in-charge of the conveyance shall also carry a copy of 'bill of entry' in case of imported goods but date & document number must be mentioned in Part A of GST EWB-01.

Examples:

1. Goods imported from China arrive at Mumbai port. These goods are transported from Mumbai port to factory in Pune. This is inter-State supply from China to Pune, but it is intra-State movement from Mumbai to Pune. Thus Requirement of EWB is to be determined under SGST Law.
2. Goods are sold from Lucknow by Supplier to Customer in Delhi with instructions for these goods to be delivered to job-worker in Noida. This is an inter- State supply from Lucknow to Delhi but an intra-State movement within UP – Requirement of EWB to be determined under the State GST Law.
3. Generator installed in basement of building being sold to Landlord on termination of lease agreement. EWB will NOT BE REQUIRED as there is 'no movement' in this supply.
4. Contractor carrying portable crane to customer site, both located in same State, is intra-State movement – Requirement of EWB to be determined under the State GST Law.
5. Laptop carried by an employee of a Company in Delhi, having no other branches, to client-location in Bangalore on business. This movement is not supply but is incidental to 'services of employee to employer' under schedule III. EWB will NOT BE REQUIRED for this movement. Contract-staff carrying company laptop not excluded from EWB requirement.
6. LPG cylinders transported from dealership to bottling plant of Oil Company, is 'excluded' from requirement. EWB will NOT BE REQUIRED for this movement. But EWB will be required for movement of cylinders supplied by fabricator to Oil Company.

VERIFICATION OF DOCUMENTS & CONVEYANCES [Rule 138B]

- ❖ Commissioner or an officer empowered by him may authorize PO to intercept any conveyance to verify the e-way bill in physical or E-form for all inter-State & intra-State movement of goods.
- ❖ The Commissioner shall get Radio Frequency Identification Device readers installed at places where verification of movement of goods is required to be carried out & verification of movement of vehicles shall be done through such device readers where the e-way bill has been mapped with the said device.
- ❖ Physical verification of conveyances shall be carried out by PO as authorised by Commissioner or officer empowered by him in this behalf:
- ❖ On receipt of specific information on evasion of tax, physical verification of a specific conveyance can also be carried out by any other officer after obtaining necessary approval of Commissioner or authorised officer.
- ❖ After interception of the vehicle, officer has 3 days time to prepare & submit summary report of inspection in Part B of Form EWB-03. Such period can be extended by 3 days by Commissioner or authorised officer.

INSPECTION & VERIFICATION OF GOODS [RULE 138C]

- ❖ If physical verification of goods being transported on any conveyance has been done during transit at one place within the State/UT or in any other State/UT, no further physical verification of the said conveyance shall be carried out again in the State/UT, unless a specific information relating to evasion of tax is made available subsequently.
- ❖ A summary report of every inspection of goods in transit shall be recorded online by PO in Part A of the prescribed form within 24 hours of inspection & final report in Part B of said form shall be recorded within 3 days of such inspection.
- ❖ **Extension of Time:** Commissioner or any other officer authorised by him, may on sufficient cause being shown, extend the time for recording of **final report** in Part B of said form, for a further period not exceeding 3 days.
- ❖ 24 hours/3 days shall be counted from midnight of the date on which vehicle was intercepted.

[Rule 55A] → Person-in-charge of the conveyance shall carry a copy of tax invoice or bill of supply (if such person is not required to carry e-way bill) with him during transportation of goods.

GST CIRCULAR RELATING TO E-WAY BILL

- ❖ In case of transportation of goods by railways, goods will not be delivered unless the e-way bill is produced at the time of delivery.
- ❖ Where goods move from DTA unit to SEZ unit (or vice versa) located in same State, there is no requirement to generate an e-way bill (this exemption is applicable only if state has exempted the same.)
- ❖ In case, the goods have reached the transporter's godown i.e additional place of business then the transportation under the e-way bill will be deemed to be concluded. There will be no need of an extension of e-way bill's validity.
- ❖ **E-way bill in case of storing of goods in godown of transporter:**
 - If consignee/recipient taxpayer stores his goods in the godown of the transporter, then the transporter's godown has to be declared as APoB by the recipient taxpayer.
 - In such cases, mere declaration by the recipient taxpayer to this effect with the concurrence of the transporter in the said declaration will suffice.
 - Where the transporter's godown has been declared as APoB by the recipient taxpayer, the transportation under the e-way bill shall be deemed to be concluded once the goods have reached the transporter's godown (recipient taxpayer's additional place of business).
 - Hence, e-way bill validity in such cases will not be required to be extended.
 - Further, whenever the goods are transported from the transporters' godown which has been declared as APoB of the recipient taxpayer, to any other premises of the recipient taxpayer then, the relevant provisions of the e-way bill rules shall apply.

Hence, whenever goods move from the transporter's godown (i.e, recipient taxpayer's APoB) to the recipient taxpayer's any other PoB, a valid e-way bill shall be required, as per the State-specific e-way bill rules.

QUESTION BANK

Q1. What are the cases when no E-way bill is required to be generated?

Answer:

- Consignor transporting goods to or from between place of business & a weighbridge for **weightment** at a distance of **20 kms**, accompanied by a Delivery challan.
- Mode of transport is **non-motor vehicle**.
- Goods transported from Customs port, airport, air cargo complex or land customs station to Inland Container Depot (ICD) or Container Freight Station (CFS) for clearance by Customs.
- Goods transported under Customs supervision or under customs seal
- Goods transported under Customs Bond from ICD to Customs port; from a custom station to another.
- Transit cargo transported to or from Nepal or Bhutan
- Movement of goods caused by defence formation under Ministry of defence as consignor/ consignee.
- Empty Cargo containers are being transported
- Movement of empty cylinders for packing of LPG other than supply
- Goods being transported by rail where the Consignor of goods is CG/SG/LA.
- **Transport of certain specified goods:** Includes **exempt supply of goods, goods not treated as supply as per Schedule III** (negative list), Certain schedule to CGST notifications.
- Goods [other than de-oiled cake], being transported, are exempt from tax
- Goods specified as exempt from E-Way bill requirements in respective State/UT GST Rules.
- where the goods being transported are the ones given below:

LPG for supply to household and non- domestic exempted category (NDEC) customers
Kerosene oil sold under PDS
Postal baggage transported by Department of Posts
Natural or cultured pearls; Precious or semi-precious stones; Precious metals & metals clad with precious metal (Chapter 71)
Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71)
Currency
Used personal and household effects
Coral, unworked (0508) and worked coral (9601)]

Q2. A farmer carries the goods from his farm to Mandi for the purpose of sale. Whether E-Way bill is required?

Answer: If items to be transported is exempted from GST, there is no need to generate EWB. However, if it is in the nature of taxable goods, EWB has to be generated.

Q3. Mr. A, a registered dealer under GST wants to supply certain stock of goods from his factory located in Bhiwandi, Maharashtra to the location of Mr. B at Hyderabad, Telangana. Invoice issued by Mr. A contains: Item X: Value Rs. 40,000, GST Rs. 4,800; Item Y: Value Rs. 50,000, Exempt from GST. Determine whether E-way bill need to be generated?

Answer: As per Rule 138 of CGST Rules, value of consignment shall be determined in accordance with Section 15 i.e. value declared in invoice and also includes CGST/SGST/IGST/UTGST but excludes value of exempt supply.

In given case, consignment value of goods including GST amount would be Rs. 44,800 (Item X) & thus no E-way bill is required to be generated as the value of consignment is less than/up to Rs. 50,000.

Q4. An outdoor catering company is transporting utensils and other accessories for catering outside the kitchen, interstate or intra state. Whether EWB is necessary?

Answer: EWB is required for every movement of goods, even if it is for the purpose other than supply. When goods are transported by caterer for using in the course of making supply of catering services, it could be said to be movement of goods by him for himself/self-use. Though there is no supply of utensils to the customer, yet there is movement of goods & hence EWB is required. Such EWB may be generated against delivery challan, by providing 'Outward movement for own use' under the reason for transportation.

Q5. Can the EWB be deleted?

Answer: EWB once generated cannot be deleted. However, it can be cancelled by generator within 24 hours of its generation. If it has been verified by any PO within 24 hours, then it cannot be cancelled. Further, EWB can be cancelled if, either goods are not transported or are not transported as per the details furnished in the EWB. A recipient has right to cancel/ reject the EWB within 72 hours of its generation or actual receipt of goods, whichever is earlier.

Q6. Decide whether E-way bill needs to be generated in the following cases:

- (a) A truck contains 3 consignments i.e. 1st consignment: Total invoice value Rs. 1,00,000; 2nd consignment: Total invoice value Rs. 25,000 & 3rd Consignment: Total invoice value Rs. 50,001.
- (b) Mr. A sent goods for job work worth Rs. 10,000 from Delhi to Hyderabad.
- (c) Mr. A, an unregistered person sent handicraft goods worth Rs. 25,000 from Delhi to Jammu.
- (d) Mr. A sent goods worth Rs. 1,20,000 from hand rickshaw from Andheri to Malad (distance 11 KM).

Answer:

- (a) E-way bill shall be generated when value of consignment exceeds Rs. 50,000. So in this case, e-way bill shall be generated for 1st consignment & 3rd consignment where value exceeds Rs. 50,000.
- (b) In case of inter-State movement of goods for job work, it is mandatory to generate e-way bill irrespective of the amount. Thus, in this case e-way bill needs to be generated.
- (c) In case of inter-State supply of handicraft goods, it is mandatory to generate e-way bill irrespective of amount. Thus in this case, e-way bill needs to be generated even though Mr. A is an unregistered person.
- (d) E-way bill needs to be generated only for motor vehicles. Thus no need to generate e-way bill since hand rickshaw is not a motor vehicle.

Q7. Mr. X is moving his goods for renting purpose. State the requirement of E-Way Bill.

Answer: Consignment value is the value of goods to be determined u/s 15 of the CGST Act including GST. Rent charged represents the value of service portion whereas EWB is to be generated for the value of goods for which movement is to be undertaken. Hence, in such cases, E-Way bill is not required to be generated.

Q8. Whether any other document needs to be provided to transporter in addition to EWB, for movement of goods?

Answer: In accordance with Rule 55A r/w Rule 138A of CGST Rules, person in-charge of conveyance shall carry

- Tax Invoice or Delivery Challan or Bill of Supply, as the case may be; and
- a copy of the EWB in physical form or the EWB number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner:

EWB is an additional document and not a substitute for Tax Invoice, delivery challan or any other prescribed document for the said transaction.

Q9. Whether multiple invoices can be clubbed in one E way bill? If yes, then to what extent?

Ans: The value of goods determined in the invoice shall be regarded as the value of consignment, on the basis of which it is decided whether the consignor or consignee is required to generate EWB or not. Therefore, a separate EWB is required to be generated for every individual invoice where value of corresponding consignment exceeds Rs.50,000.

Q10. How to generate E-Way Bill in case goods are to be moved to a weighbridge situated outside factory?

Answer: EWB is not required to be generated where the goods are to be transported up to a distance of 20 kms for the purpose of weighment from the place of business of consignor to a weighbridge, or, from the weighbridge back to place of consignor. However, such movement should be along with delivery challan.

Q11. When to generate E-Way Bill?

Answer:

If there is a movement of goods of consignment value > Rs. 50,000

- in relation to a 'supply',
- for reasons other than a 'supply', (Ex: return)
- due to inward 'supply' from an unregistered person;

registered person who causes such movement of goods shall furnish the information relating to the said goods as specified in Part A of GST EWB-01 before commencement of such movement.

Q12. How to generate E-Way Bill?

Answer:

- E-way Bill is generated electronically in Form GST EWB 01 on www.ewaybillgst.gov.in.
- The facility of generation, cancellation, updation and assignment of e-way bill shall be made available through SMS to the supplier, recipient & transporter, as the case may be.
- E-way Bill can be generated through various modes like Web (Online), Android App, SMS, using Bulk Upload Tool & API (Application Program Interface) based site to site integration etc.
- Person who generates e-way bill should be registered on GST portal & he should register on E-way bill portal.
- If the transporter is not registered person under GST it is mandatory for him to get enrolled on e-waybill portal (<https://ewaybillgst.gov.in>) before generation of the e-way bill.

Q13. Who all can generate E-way bill (EWB)?

Answer: Every registered person who causes movement of goods of consignment value exceeding Rs. 50,000 or the threshold prescribed (in each State/Union Territory) in relation to supply; or reasons other than supply; or inward supply from unregistered person shall generate EWB.

It means, the consignor or consignee, as a registered person or a transporter of the goods can generate the EWB. Unregistered transporter can enroll on the common portal & generate EWB for movement of goods for his clients.

Q14. Whether E-Way Bill is required to be generated even if consignment value is less than Rs. 50,000?

Answer:

Proviso 3 & 4 to Rule 138(1) mandatorily requires a registered person to generate an EWB irrespective of the value of consignment where:

- (a) Goods are to be sent by principal located in one State/UT to a job worker in other State/UT.
- (b) Handicraft goods are transported from one State/UT to another State/UT by a person who has been exempted from the requirement of obtaining registration under clauses (i) & (ii) of section 24 of the CGST Act.

Q15. Who has been casted with ultimate responsibility of generating EWBs? Consignor, consignee or transporter?

Answer: The primary responsibility to generate EWB shall be of the registered person who causes the movement of goods, i.e. the consignor or the consignee, as the case may be. However, if such consignor or consignee doesn't generate the EWB, it may be generated by transporter as well, if authorized by the registered person.

In case of supply of goods by an unregistered person to registered person, liability to generate EWB is on recipient.

Q16. In what circumstances details of conveyance in Part B of GST EWB 01 is not necessary?

Answer:

If goods are transported for a distance of upto **50 km within** the State/UT,

- from PoB of consignor to PoB of transporter **for further transportation**
- from PoB of transporter finally to PoB of the consignee,

details of conveyance in Part B of GST EWB 01 is not necessary.

Q17. Write a note on "Cancellation of E-Way Bill".

Answer:

- If goods are either not transported or are not transported as per the details furnished in E-way bill after its generation, E-Way bill may be cancelled electronically on common portal within 24 hours of its generation. [Rule 138(9)].
- However, an e-way bill cannot be cancelled if it has been verified in transit.

Q18. How shall one calculate the distance and validity of goods in case of supply through multi-modal transport?

Answer: The distance and the validity of EWB shall remain the same even if the goods are supplied through a multi-modal transport. In order to calculate the validity of the EWB, the distance to be covered by all the modes combined together must be taken into consideration. The validity provided in the CGST Rules is as under:

Type of Conveyance	Distance	Validity from Relevant Date
Over dimensional cargo	Less Than 20 Kms	1 Day
	For every additional 20 Kms or part	Additional 1 Day
Other than Over dimensional cargo	Less Than 100 Kms	1 Day
	For every additional 100 Kms or part	Additional 1 Day

- Relevant Date: Date on which E-way bill has been generated.
- Validity of E-way bill starts when first entry is made in Part-B (Vehicle entry or first transport document no. entry is made for first time. Validity is not re-calculated for subsequent entries in Part-B.
- Each day shall be counted as the period expiring at midnight of the day immediately following the date of generation of e-way bill.
- Validity of E way bill can be extended also. Generator can extend it either 8 hours before expiry or within 8 hours after its expiry.



9. PAYMENT OF TAX

BY CA PRANAV CHANDAK

FOR MAY/JUNE 2020

CA/CMA INTERMEDIATE

VARIOUS PAYMENTS REQUIRED TO BE MADE UNDER GST

Nature of supply	Taxes to be paid	Credited to
Intra-state supply	CGST + SGST/UTGST	CGST → CG; SGST → Concerned SG.
Inter-state supply	IGST	Component of both CGST & SGST.

Note: Once a taxpayer is registered on common portal (GSTN), two E-Ledgers (Cash & Credit ledger) & Electronic tax liability register will be automatically opened & displayed on his dash board.

ELECTRONIC CASH LEDGER [SECTION 49(1) & 49(3) r/w RULE 87]

Amount credited to E-Cash Ledger	Amount utilized for
<ul style="list-style-type: none"> Every deposit made towards tax, interest, penalty, late fee etc by a person by internet banking or by using credit/debit cards; NEFT; RTGS or by other mode shall be credited to his E-cash ledger. [Sec 49(1)] 	<ul style="list-style-type: none"> Making any payment towards Tax, Interest, penalty, fees or any other amount which is payable. [Sec 49(3)]
<ul style="list-style-type: none"> E-Cash Ledger contains a summary of all the deposits/payments made by a taxpayer. Payment of challan ≤ Rs. 10,000 can be done over the counter with cash/cheques/DD through authorised banks; Payments > Rs. 10,000 can be made through digital mode only. <p>Note: Restriction for deposit of upto Rs. 10,000 per challan in case of Over the Counter payment shall not apply to deposit to be made by</p> <ul style="list-style-type: none"> ✓ Government Departments ✓ PO or any other officer authorised to recover outstanding dues from any person; ✓ PO or any other officer authorised for the amounts collected by way of cash, cheque or demand draft during any investigation or enforcement activity or any ad hoc deposit: <ul style="list-style-type: none"> E-Cash ledger shall be maintained in FORM GST PMT-05 on common portal for crediting amount deposited & debiting payments towards tax, interest, penalty, fees etc. [Rule 87(1)] Person depositing the amount in E-Cash ledger shall generate a challan in FORM GST PMT-06 on common portal & enter the details of the amount to be deposited by him towards tax, interest, penalty, fees etc. Such challan 14-digit unique Common Portal Identification Number (CPIN) & shall be valid 15 days. There is single Challan prescribed for all taxes, fees, penalty, interest & other payments under GST. Unregistered person shall make payment on the basis of a temporary identification number. If a person has claimed refund of any amount from E-Cash ledger, such amount shall be debited to E-Cash ledger. <p>Manner of utilization of amount reflected in Electronic Cash Ledger</p> <ul style="list-style-type: none"> Ledger is displayed major head-wise [IGST, CGST, SGST/UTGST, and CESS]. Each major head is divided into five minor heads: Tax, Interest, Penalty, Fee, and Others. Information is kept minor head-wise for each major head. 	

Sec 49(5)	Students are advised to Refer Section 49(5) in Chapter “INPUT TAX CREDIT”
Sec 49(6)	Balance in electronic cash ledger or electronic credit ledger after payment of tax, interest, penalty, fee or any other amount payable may be refunded as per sec 54.

ELECTRONIC CREDIT LEDGER [SEC 49(2),(4) & (5), 49A, 49B r/w RULE 86 & 88A]

- ❖ ITC as self-assessed in the return of a RP shall be credited to his electronic credit ledger [Sec 49(2)]
- ❖ Credit in this ledger can be used to make payment of ONLY TAX & not other amounts such as interest, penalty, fees etc [Sec 49(4)].
- ❖ ITC cannot be utilised for tax payable under reverse charge mechanism.
- ❖ E-Credit ledger shall be maintained in FORM GST PMT-02 for each RP eligible for ITC on the common portal and every claim of ITC shall be credited to the said ledger.
- ❖ E-Credit ledger shall be debited to the extent of discharge of any liability as per section 49/**49A/49B**.
- ❖ Where a registered person has claimed refund of any unutilized amount from E-Credit ledger as per section 54, such amount (to the extent of the claim) shall be debited in the said ledger.

ELECTRONIC LIABILITY LEDGER [SEC 49(7),(8) & (9), 49A, 49B r/w RULE 85]

- ❖ All liabilities of taxable person under GST shall be recorded & maintained in this ledger [Sec 49(7)].
- ❖ **ORDER OF ADJUSTMENT IN SETTLING TAX LIABILITY**
 1. First self-assessed tax; & other dues related to returns of **previous tax periods**
 2. Self-assessed tax, and other dues related to the return of the **current tax period**;
 3. Any other amount payable under this Act including the **demand determined u/s 73/74**.

Note: 'Tax dues' means the tax payable under this Act and does not include interest, fee and penalty; 'Other dues' means interest, penalty, fee or any other amount payable under this Act or rules made
- ❖ It shall be maintained in FORM GST PMT-01 for each person liable to pay tax, interest, penalty, late fee etc. on the common portal and all amounts payable by him shall be debited to the said register.
- ❖ E-Liability register of the person shall be debited by:
 - Tax, interest, late fee etc. payable as per the return furnished by the said person;
 - Tax, interest, penalty etc. payable as determined by PO in pursuance of any proceedings
 - Tax & interest payable as a result of mismatch u/s 42/43/50;
 - Interest that may accrue from time to time.
- ❖ Payment of every liability by a registered person as per his return shall be made by debiting E-Credit ledger or E-Cash ledger & E-Liability register shall be credited accordingly.

Note: Amount deducted u/s 51; amount collected u/s 52; amount payable on RCM basis; amount payable u/s 10; amount payable towards interest, penalty, fee etc. shall be paid by debiting E-Cash ledger & E-Liability register shall be credited accordingly.
- ❖ Every person who has paid the tax on G/S shall be deemed to have passed on full incidence of such tax to the recipient of such G/S [Sec 49(9)].

Q1. Are principles of unjust enrichment applicable for payment made under GST?

Ans: Yes, as per Section 49 (9) of the CGST Act, 2017 every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.

Q2. X Ltd. has following tax liabilities under the provisions of Act-

SN	Particulars	Amount
1.	Tax liability of CGST, SGST/UGST, IGST for supplies made during August 2018	1,00,000
2.	Interest & Penalty on delayed payment and filing of returns belonging to August 2018	20,000
3.	Tax liability of CGST, SGST/UGST, IGST for supplies made during September 2018	1,20,000
4.	Interest & Penalty on delayed payment & filing of returns belonging to September 2018	20,000
5.	Demand raised u/s 73/74 under CGST Act, 2017 belonging to July 2018	8,00,000
6.	Demand raised as per the old provisions of Indirect Taxes	1,00,000

X Ltd. has Rs. 5,00,000 in Electronic cash ledger. Suggest X Ltd. in discharging the tax liability.

Answer: Balance in Electronic cash ledger can be used in following manner to discharge tax liability

Particulars	Amount
Balance available in Electronic cash ledger	5,00,000
Less:	
Tax liability of CGST, SGST/UGST, IGST for supplies made during August 2018	(1,00,000)
Interest & Penalty on delayed payment and filing of returns belonging to August 2018	(20,000)
Tax liability of CGST, SGST/UGST, IGST for supplies made during September 2018	(1,20,000)
Interest & Penalty on delayed payment and filing of returns belonging to September 2018	(20,000)
Demand raised u/s 73/74 under CGST Act, 2018	(2,40,000)
Balance in electronic cash ledger	Nil

INTEREST ON DELAYED PAYMENT OF TAX BY TAX PAYER [SECTION 50]

Section	Case	Rate
50(1)	Delayed payment of tax	18% p.a
50(3)	Interest on undue or excess claim of ITC u/s 42(10); Interest on undue or excess reduction in output tax liability u/s 43(10)	24% p.a

Points to Remember:

1. Interest u/s 50(1) shall be calculated from next day of due date of payment of tax.
2. Interest payable for actual period of delay, not for whole month.
3. Interest is payable even if duty is paid before issue of show cause notice.

Q3. M/s Rajendra Dyeing Pvt. Ltd. supplied goods worth Rs. 10 lacs to M/s Y Ltd in Sep 2018 + GST 12%. M/s Rajendra Dyeing Pvt. Ltd. paid GST on 5th Dec 2019. ITC available in books is Rs. 70,000. Calculate interest.

Answer: Tax Payable = Tax liability – ITC = Rs. 1,20,000 – Rs. 70,000 = Rs. 50,000.

Interest shall be calculated from the next day of due date of payment from 21st Oct 2018 to actual date of payment i.e. 5th Dec 2019. Thus, Interest = Rs. 50,000 × 18% × 411/365 = Rs. 10,134.

Q4. M/s AB Ltd reduced Rs. 1,50,000 from output tax liability in contravention of provisions of sec 42(10) for April 2018, which is ineligible credit. A show cause notice was issued by Tax Department to pay tax along with interest. M/s AB Ltd. paid the tax and interest on 31st July, 2018. Calculate Interest liability (Ignore Penalty).

Answer: A taxable person who makes an undue or excess claim of input tax credit shall pay interest @ 24% p.a. on such undue or excess claim in terms of section 50.

- Period of interest will be from the date following the due date of payment to the actual date of payment of tax.
- Due date of payment is 20th May, 2018. Period for which interest is due = 21st May to 31st July, 2018 = 72 days.
- Thus, interest liability = Rs. 1,50,000 × 24% × 72/365 = Rs. 7,101 (approx.)

TRANSFER OF INPUT TAX CREDIT [SEC 53 OF CGST ACT & SEC 18 OF IGST ACT]

- If the amount of CGST is utilised towards dues of IGST then, in terms of section 53 of the CGST Act, there shall be reduction in the amount of CGST, equal to the credit so utilized & CG shall transfer such amount equivalent to the amount so reduced in CGST account to the IGST account.
- Similarly, if the amount of IGST is utilised towards dues of CGST/UTGST then, in terms of section 18 of IGST Act, there shall be reduction in the amount of IGST, equal to the credit so utilized & CG shall transfer such amount equivalent to the amount so reduced in IGST account to CGST/UTGST account.
- However, if amount of IGST is utilised towards dues of SGST then, in terms of section 18 of IGST Act, there shall be reduction in the amount of IGST, equal to the credit so utilized, & will be apportioned to appropriate SG & CG shall transfer the amount so apportioned to the account of respective SG.

QUESTION BANK

Q1. Can ITC be used for payment of interest, penalty & payment under reverse charge?

Answer:

- No, as per sec. 49(4), amount available in E-Credit ledger may be used for making any payment towards 'output tax' & not for payment of other amounts such as interest, penalty, fees etc.
- As per sec. 2(82), output tax means CGST/SGST chargeable under this Act on taxable supply of G/&S made by him or by his agent and excludes tax payable by him on RCM basis.
- Since definition of output tax u/s 2(82) specifically excludes tax payable under RCM basis, ITC cannot be used for payment of tax under RCM basis.
- Therefore, input tax credit cannot be used for payment of interest, penalty, and payment under reverse charge.
- Interest, Penalty & payment under RCM can be paid only using E-Cash Ledger.

Q2. What are the possible debits and credits to Electronic tax liability register?

Answer:

Debit	Credit
<ul style="list-style-type: none"> ▪ Tax, interest, late fee or any other amount payable as per the return filed by the said person; ▪ Tax, interest, penalty or any other amount payable as determined by PO in pursuance of any proceeding or as ascertained by the said person; ▪ Amount of tax & interest payable as a result of mismatch u/s 42/43/50; ▪ Interest that may accrue from time to time 	<ul style="list-style-type: none"> ▪ Electronic credit ledger (Payment of Amount deducted u/s 51 or amount collected u/s 52, amount payable on Reverse Charge basis) ▪ Amount payable u/s 10, any amount payable towards interest, penalty, fee etc. under the Act) ▪ Electronic cash ledger ▪ Relief given by Appellate Authority/Tribunal/Court ▪ Reduction in penalty (if any)

Q3. What are the possible debits and credits to Electronic credit ledger?

Answer:

Debit	Credit
<ul style="list-style-type: none"> ▪ Discharge of any liability in accordance with Sec 49 ▪ Towards claim for refund of unutilized amount. 	<ul style="list-style-type: none"> ▪ Input tax credit claimed; ▪ Reversal of amount debited earlier, on account of final rejection of refund (FORM GST PMT-03).

Q4. What are the possible debits and credits to Electronic cash ledger?

Answer:

Debit	Credit
<ul style="list-style-type: none"> ▪ Discharge of any liability in accordance with Sec 49. ▪ Towards claim for refund of unutilized amount. 	<ul style="list-style-type: none"> ▪ Payment made through challan on receipt of CIN; ▪ Amount deducted u/s 51 & claimed in FORM GSTR-02 by registered taxable person from whom the said amount was deducted ▪ Amount collected u/s 52 claimed in FORM GSTR-02 by registered taxable person from whom the said amount was collected ▪ Reversal of amount debited earlier on account of final rejection of refund (FORM GST PMT-03)

Q5. Will the input tax credit claimed by a taxable person get added to the balance in electronic cash ledger?

Answer: No. ITC will appear separately in the 'electronic credit ledger' maintained in the common portal.

Q6. Mr. X is a supplier of taxable goods in Maharashtra. He got registered for the first time in August 2019. He is confused about the mode of payment in E-Cash Ledger. He thinks that he mandatorily has to use online banking facility to make payment of GST; offline payment is not permitted under GST. Advice him about various modes of deposit in the electronic cash ledger. He also wants your help for following issues:

(a) Are manual challans allowed under GST?

(b) What is the validity period of the challan?

(c) Is cross utilization among Major and Minor heads of the electronic cash ledger permitted?

Answer: Section 49(1) of CGST Act, 2017 provides that deposit in electronic cash ledger can be made through:

- (i) Internet Banking through authorised banks;
- (ii) Credit card or Debit card through the authorised bank;
- (iii) National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or
- (iv) Over the Counter payment through authorised banks. Thus, offline mode is also permitted under GST.

- (a) Manual/Physical Challans are not allowed under GST. It is mandatory to generate Challans online on GST Portal.
- (b) E-challan is valid for a period of 15 days.
- (c) Amount entered under any Minor head (Tax, Interest, Penalty, etc.) & Major Head (CGST, IGST, SGST) of E-Cash Ledger can be utilized only for that liability. Cross-utilization among Major & Minor heads is not possible.

Q7. Mr. X, a registered dealer in Pune reports following details of purchases & sales in July, 2018:

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

Above sales amount given is exclusive of tax. Compute the net CGST, SGST & IGST liability & ITC for July, 2018.

Answer:

Computation of GST liability

Particulars	CGST	SGST	IGST
Inter-State Sale:			
Goods A' sold to Kolkata (IGST @ 12%)	-	-	4,800
Goods 'B' sold to Kolkata (IGST @ 18%)	-	-	4,500
Intra-State Sale:			
Goods 'B' sold within state (CGST/SGST @ 9% each)	3,150	3,150	-
Less: Eligible ITC [(Rs. 50,400 × 100/112) × 12%] [(Rs. 82,600 × 100/118) × 18%]	2,700	2,700	12,600
Net amount of CGST/ SGST/ IGST	450	450	-3,300
Less: IGST used to set off payment liability of CGST & SGST in order	450	450	-900
Net amount of IGST credit to be carried forward	Nil	Nil	-2,400

Q8. ABC Ltd., a registered manufacturer in Chennai provides the following particulars for January, 2019.

Particulars	Amount
Inputs purchased within state (includes GST @ 12%)	Rs. 1,00,800
Machinery purchased on 1.1.2019 from a local dealer eligible for ITC. Depreciation @ 30% (excluding 18% GST).	Rs. 1,50,000
Manufacturing expenses including profits	Rs. 3,00,000
Goods produced were sold outside Tamilnadu with IGST @ 12% on sales.	

Calculate CGST & SGST payable after utilizing ITC for January, 2019 assuming no opening balance of ITC.

Answer:

Computation of Invoice value and Tax liability

Particulars	Amount
Inputs purchased from local dealer [WN1]	90,000
Depreciation expense (1,50,000 × 30% × 1/12)	3,750
Manufacturing Expense and profits	3,00,000
Total Sales Value	3,93,750
Output tax liability (IGST @ 12%)	47,250
Less: ITC available on Inputs [WN2]	
CGST	5,400
SGST	5,400
Less: ITC available on Capital goods [WN2]	
CGST	13,500
SGST	13,500
IGST to be deposited in cash	9,450

Working Note:

1. Credit will be available for CGST & SGST charged by local suppliers, hence same is not to be included in the cost.
2. Credit of CGST & SGST is to be utilised for payment of CGST & SGST respectively; Any amount remaining thereafter shall be utilised towards IGST liability.

Q9. Insight Ltd. is operating in West Bengal. The tax liability for the month of August, 2017 is as follows:

Tax Liability	Output Tax Payable			Input Tax Paid		
	CGST	SGST	IGST	CGST	SGST	IGST
Amount	24,000	9,000	3,000	7,000	14,000	12,000

Calculate tax payable and carry forward for the month of August, 2017.

Answer: **Computation of net tax payable and carry forward for the month of August, 2017**

Particulars	Output IGST	Output CGST	Output SGST	Balance of ITC
Output tax payable	3,000	24,000	9,000	-
ITC of IGST [Rs. 12,000]	(3000)	(9000)	-	Nil
ITC of CGST [Rs. 7000]	-	(7000)	-	Nil
ITC of SGST [Rs. 14,000]	-	-	(9000)	5000
Net Tax Payable	Nil	8000	Nil	-

Q10. From the following information, compute the Net GST payable for the month of March, 2018:

Particulars	Output GST	Opening ITC as Per credit ledger
CGST	2,000	Nil
SGST	15,000	1,000
IGST	24,000	37,000

Answer: **Computation of net GST payable for the month of March, 2018**

Particulars	Output IGST	Output CGST	Output SGST	Balance of ITC
Output tax payable	24000	2000	15000	-
ITC of IGST [Rs. 37,000]	(24000)	(2000)	(11000)	Nil
ITC of CGST [Nil]	-	-	-	-
ITC of SGST [Rs. 1,000]	-	-	(1000)	-
Net Tax Payable	Nil	Nil	3000	-

Q11. Following are details of purchases, sales, etc. effected by M/s. TAB & Co. a registered manufacturer:

Particulars	Amount
Purchased Raw material 'A' from local dealer (inclusive of GST @ 5%)	Rs. 86,100
Purchased Raw material 'B' from local dealer (inclusive of GST @ 12%)	Rs. 1,12,000
Purchased capital goods from within the state to be used in manufacture of the taxable goods (inclusive of GST @ 12%). Depreciation @ 15% to be charged.	Rs. 1,96,000
Other Direct & Indirect expenses	Rs. 55,460
Profit margin on total cost	5%
Sales to production ratio during October, 2018 within the state. [GST rate = 12%]	70% of production

Calculate CGST & SGST payable after utilising ITC for October, 2018. [Note: No opening balance of ITC]

Answer: **Computation of Net GST payable**

Particulars	CGST	SGST	IGST
Output tax liability			
Inter-State Sale: Rs. 10,00,000 [IGST leviable @ 18%]			1,80,000
Intra-State Sale: Rs. 2,00,000 [CGST @ 9% & SGST @ 9%]	18,000	18,000	
Total output tax liability	18,000	18,000	1,80,000
Less: Input tax credit			
Opening balance	20,000	30,000	25,000
Purchases during the month			
Intra-State purchases - Rs. 5,00,000 [CGST @ 9% & SGST @ 9%]	45,000	45,000	-
Total Input tax credit	65,000	75,000	25,000
Less: Extra credit of CGST & SGST can be used for payment of IGST	47,000	57,000	1,04,000
Net amount of CGST/ SGST/ IGST payable	Nil	Nil	51,000

Q12. What is CIN?

Answer: CIN is Challan Identification Number. It is generated by the banks indicating that the payment has been realized and credited to the appropriate government account against a generated challan.



10. GST RETURNS

BY CA PRANAV CHANDAK

FOR MAY/JUNE 2020

CA/CMA INTERMEDIATE

PURPOSE OF FILING RETURNS

[Not for Exams]

- Mode for transfer of information to tax administration;
- Compliance verification program of tax administration;
- Finalization of the tax liabilities of the taxpayer within stipulated period of limitation;
- Providing necessary inputs for taking policy decision;
- Management of audit and anti- evasion programs of tax administration.

MODES OF FILING RETURNS

[Not for Exams]

1. GSTN portal (www.gst.gov.in)
2. Offline utilities provided by GSTN
3. GST Suvidha Providers (GSPs)

All Returns under GST laws are to be filed **Electronically**.

LIST OF VARIOUS TYPES OF RETURNS UNDER GST LAW

GSTR	Particulars	Frequency	Due Date
1	Details of Outward Supplies of taxable G/S (Sec 37)	Monthly	10 th of the next month
2	Details of inward supplies of taxable G/S effected claiming ITC (Section 38).	Monthly	15 th of the next month
3	Monthly return on the basis of finalization of details of outward supplies & inward supplies along with payment of amount of tax (Sec 39(1)).	Monthly	20 th of the next month
3B	Simple return for Jul 2017- September 2019	Monthly	20th of the next month
4	Return for compounding taxable person (Section 39(2) of the CGST Act, 2017)	Quarterly	18 th of the month succeeding quarter
5	Return for Non-Resident foreign taxable person (Section 39(5) of the CGST Act, 2017)	Monthly	20 th of next month OR within 7 days after last day of the period of registration specified u/s 27(1), whichever is earlier
6	Return for ISD [Section 39(4)]	Monthly	13 th of the next month
7	Return for authorities deducting tax at source (Section 39(3) of the CGST Act, 2017)	Monthly	10 th of the next month
8	Details of supplies effected through ECO & amount of tax collected	Monthly	10 th of the next month
9	Annual Return (section 44) Who Files: Registered Person (other than ISD, TDS/TCS Taxpayer, CTP & NRTP).	Annually	31 st December of next FY
10	Final Return (Section 45) [When registration is cancelled or surrendered]	Once	Within 3 Months of the date of cancellation or Date of cancellation order, whichever is later.
11	Details of Inward supplies to be furnished by a person having UIN & claiming refund.	Monthly	28 th of the month following the month for which statement is filed

Note: For CA – INTER, only GSTR-1/3B/4/5/9/10 are relevant.

GSTR 1: DETAILS OF OUTWARD SUPPLIES [SEC 37 r/w Rule 59 of CGST Act]			
Who shall file	❖ Every Registered Person + CTP shall furnish details of outward supplies Except ↓		
	<div><div><div>▪ ISD</div><div>▪ NRTP</div><div>▪ Composition Dealer u/s 10</div><div>▪ Person deducting tax at source u/s 51 (TDS)</div><div>▪ Person collecting tax at source u/s 52 [ECO (not being agent)]</div><div>▪ Supplier of OIDAR Services</div></div></div>		<div>GSTR – 1 NOT REQUIRED</div>
Frequency	❖ Monthly ❖ Quarterly by Small tax payers with Aggregate TO upto Rs. 1.5 crore in Preceding FY or current FY.		
Due Date	❖ On or before 10 th of the immediately succeeding month.		
	Points to be noted: <div><div>▪ GSTR-1 of a month can be filed any time b/w 1st – 10th day of succeeding month.</div><div>▪ GSTR-1 cannot be filed during the period from 11th – 15th day of succeeding month</div><div>▪ A taxpayer cannot file GSTR-1 before the end of Current Tax Period.</div></div> Exception to this rule: <div><div>(1) CTP after the closure of their business</div><div>(2) Cancellation of GSTIN of normal taxpayer (after confirming receipt of application)</div></div>		
Ex: Details of outward supplies pertaining to the month of October will be required to be furnished on or before 10 th Nov & GSTR-1 for October cannot be filed b/w 11 th Nov to 15 th November.			
Basic Details	<div><div>▪ GSTIN; Legal name & Trade name; Aggregate T/O in previous year; Tax period</div><div>▪ Details of documents issued; HSN-wise summary of outward supplies;</div><div>▪ Advances received/advances adjusted</div></div>		
Content	<div><div>▪ Outward supplies including zero rated supplies & deemed export, export made</div><div>▪ Inter-State supplies; Return of inward supplies &</div><div>▪ Relevant debit/credit notes or supplementary invoices for the month.</div></div>		
Uploading of invoices	Nature	B2C	B2B
	Intra state	Consolidated details for each rate of tax	
	Inter state	Invoice value > Rs. 2.5 Lacs → Invoice wise details	
Invoice value ≤ Rs. 2.5 Lacs → Consolidated details for each rate of tax for each state (State-wise summary)			
<div><div>▪ For B2B supplies, all invoices will have to be uploaded because recipient will take ITC.</div><div>▪ For B2C supplies, uploading in general may not be required as buyer will not be taking ITC.</div></div>			
Some other Points: <div><div>▪ Invoices can be uploaded any time during tax period & not just at the time of filing of GSTR-1.</div><div>▪ Invoices can be modified/deleted any number of times till submission of GSTR-1 of a tax period.</div><div>▪ Uploaded invoice details are in a draft version till GSTR-1 is submitted & can be changed.</div><div>▪ Scanned copies of invoices are not required to be uploaded. Only certain prescribed fields of information from invoices need to be uploaded [Ex: Invoice no., date, taxable value, rate & amount of tax etc].</div><div>▪ Description of each item in the invoice will not be uploaded. Only HSN code in respect of supply of goods & accounting code in respect of supply of services will have to be fed.</div><div>▪ Indication of HSN Details [Depends on T/O in the last year]</div></div>			
Annual TO in lasy FY		Upto 1.5 Crore	> 1.5 Crore & upto 5 Cr
No. of digits of HSN Code		Nil	2
			4

Communication to Recipient	Details of outward supplies for a month furnished by the supplier are communicated & made available electronically (auto populated) to respective recipients in Part A of Form GSTR-2A/Form GSTR-4A (in case of composition dealer/NN 2/2019) through the common portal after 10 th day of succeeding month (due date of filing of GSTR-1).
Amendment table	Particulars furnished in GSTR-1 of the prior period can be amended by way of Amendment tables given in GSTR-1 of subsequent periods.
Errors	If supplier discovers any error or omission, he shall rectify the same in the tax period during which such error or omission is noticed ; & pay tax & interest (in case of short payment) in the return to be furnished for such tax period.
Time Limit for Rectification	(a) Date of filing of monthly return u/s 39 for September following the end of FY to which such details pertain OR (b) Date of filing of relevant Annual Return [whichever is Earlier]

Ex: An entity has furnished annual return for FY 2018-19 on 15th Aug of succeeding FY 2019-20. An error is discovered in respect of a transaction pertaining to Nov of FY 2018-19. Entity has filed the returns for Sep of FY 2019-20 on 20th Oct of FY 2019-20. In this case, the rectification of the error pertaining to the transaction in Nov of FY 2018-19 cannot be rectified beyond 15th Aug of FY 2019-20.

Points to Remember:

1. GSTR 1 needs to be filed **even if there is no business activity** (Nil Return) in the tax period.
2. Taxpayer opting for voluntary cancellation of GSTIN will have to file GSTR-1 for active period.
3. In cases where a taxpayer has been converted from a normal taxpayer to composition taxpayer, GSTR 1 will be available for filing only for the period during which taxpayer was registered as normal taxpayer. GSTR 1 (for said period) even if filed with delay would accept invoices for the period prior to conversion.

GSTR 2: FURNISHING DETAILS OF INWARD SUPPLIES [Section 38]

By whom	Taxable Person including those under RCM & IGST with relevant debit/credit notes
Frequency	Monthly
Due Date	On or before 15 th of the immediately succeeding month.
Matching mechanism	Details of GSTR-2 will mostly be auto-populated from GSTR-1 of the counter-party making supplies. Auto-populated details can be modified, validated, deleted & additional invoices or debit/credit can also be added in case such details are missed out by the supplier.

GSTR 3: MONTHLY RETURN [SEC 39(1)]

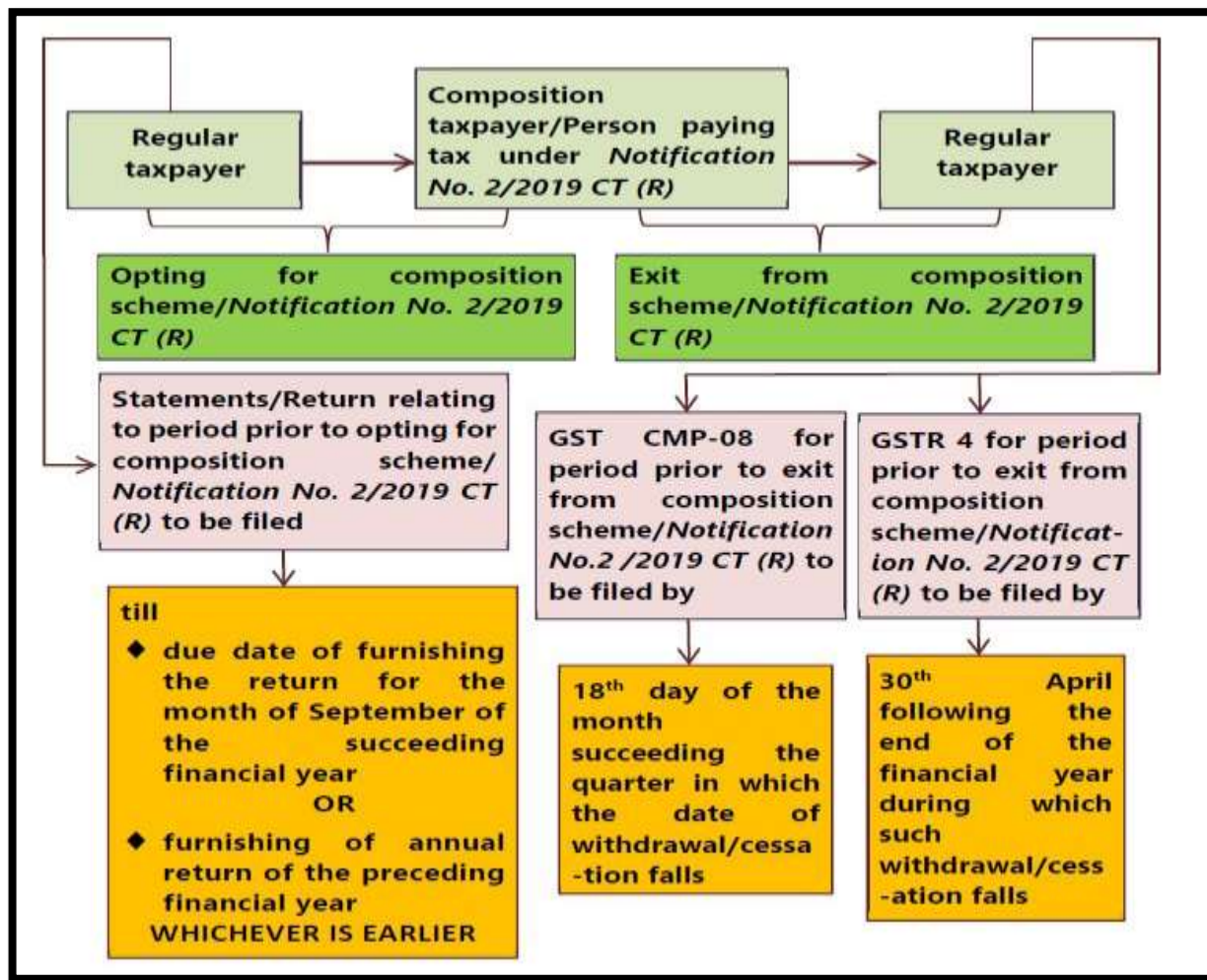
By whom	<p>❖ Every Registered Person + CTP shall file monthly return Except ↓</p> <ul style="list-style-type: none"> ▪ ISD ▪ NRTP ▪ Composition Dealer u/s 10 ▪ Person deducting tax at source u/s 51 (TDS) ▪ Person collecting tax at source u/s 52 [ECO (not being agent)] ▪ Supplier of OIDAR Services
Frequency	Monthly
Due Date	On/before 20 th of the month succeeding the relevant calendar month/part thereof.
Deferred	Filing of GSTR-3 has been deferred by GST Council till September, 2019.

GSTR 3 NOT REQUIRED

GSTR 3B: MONTHLY RETURN [SEC 37]	
By Whom	Every Registered persons who are required to file GSTR-3.
Frequency	Monthly
Due Date	On/before 20 th of the immediately succeeding month.
Content	<p>Summarized details of</p> <ul style="list-style-type: none"> ▪ Outward supplies & inward supplies liable to RCM ▪ Inter-State supplies made to unregistered persons, composition dealers & UIN holders ▪ Values of exempt, nil-rated & non-GST inward supplies ▪ Eligible ITC ▪ Payment of tax; TDS/TCS credit <p>Note: GSTR-3B does not require invoice-wise data of outward supplies.</p>
PC Note	<p>✓ GSTR-3B cannot be revised.</p> <p>✓ Tax liability of GSTR-3B must be paid by last date of filing GSTR-3B for that month.</p>

GSTR 4: RETURN FOR COMPOSITION SUPPLIER & Person paying tax under NN 2/2019	
By Whom	Every Registered persons paying tax under composition scheme or NN 2/2019.
Frequency	Annually. By 30 th day of April following the end of such FY.
<p>Quarterly statement for payment of self-assessed tax: Persons required to file GSTR-4 are also required to furnish a statement in FORM GST CMP-08 containing details of payment of self- assessed tax, for every quarter (or part of the quarter), by 18th day of the month succeeding such quarter.</p>	
Basic Content	<ul style="list-style-type: none"> ▪ GSTIN; Legal name and Trade name ▪ TDS credit received [Table 9] ▪ Tax payable & paid [Table 10]; Interest, Late fees payable & paid [Table 11] ▪ Refund claimed from Electronic cash ledger [Table 12] ▪ Debit entries in electronic cash ledger for tax/interest payment [Table 13]
Content	<ul style="list-style-type: none"> ▪ Invoice-wise details of all inward supplies including RCM supplies [Table 4]. ▪ Consolidated details of outward supplies (intra-state) [Table 6] ▪ Tax on outward supplies (net of advances & goods returned) ▪ Consolidated statement of advances paid/adjusted on receipt of supply [Table 8] ▪ Amendments of inward & outward supplies for earlier tax period [Tables 5 & 7]
<p>Note: Amendments in outward supplies not be reported invoice-wise. But it would be necessary to mention the relevant past quarter in which the error had occurred & sought to be rectified.</p>	
GSTR 4A	<p>Inward supplies of a composition supplier received from registered persons filing GSTR-1 will be auto populated in FORM GSTR-4A.</p> <p>Composition supplier can view auto-populated details of inward supplies in GSTR-4A.</p>
Statements for prior period	<p>If a registered person opts for composition scheme from the beginning of FY, he will have to furnish statements/return relating to period prior till: [Earlier of]</p> <p>(a) Due date of furnishing return for September of succeeding FY OR</p> <p>(b) Furnishing of annual return of preceding FY.</p>
<p>Note: Composition dealer will not be eligible to avail of ITC on receipt of invoices or debit notes from the supplier for the period prior to his opting for the composition scheme.</p>	
Statements in case of EXIT	<p>Composition dealer (withdrawing from composition scheme) will have to furnish GSTR-4 & GST CMP-08 relating to the period prior to his exiting from composition levy till:</p> <p>GSTR-4: 30th April following the end of FY during which such withdrawal/cessation falls.</p> <p>GST CMP-08: 18th of the month succeeding the quarter in which date of withdrawal falls.</p>

Note: Since a composition dealer & person paying tax under NN 2/2019 is not eligible to take ITC, he will discharge his tax liability only by debiting electronic cash ledger.



GSTR 5: RETURN FOR NON-RESIDENT TAXABLE PERSON [Sec 39(5) r/w Rule 63]

Frequency	Monthly
Due Date of filing Return	<ul style="list-style-type: none"> Within 20 days after the end of calendar month OR Within 7 days after last day of validity period of registration [whichever is earlier]
Content	Details of outward supplies and inward supplies
Payment	Tax, interest, penalty, fees etc. shall be paid till the last date of filing GSTR 5. However, NRTP or CTP are required to make advance deposit of tax of an estimated tax liability for a period for which registration is sought/extended period.
Note	NRTP is not required to file annual return.
Due date for payment of tax	<ul style="list-style-type: none"> Due dates for payment of tax i.r.o persons required to file GSTR- 3B & GSTR-5 are linked with the due dates for filing of such returns i.e., the last dates (due dates) of filing such returns are also due dates for payment of tax i.r.o persons required to file such returns. In case of persons paying tax u/s 10 & NN 2/2019, due date for payment of tax & filing of GSTR-4 is delinked. While GSTR-4 for a financial year is required to be filed by 30th April of the following year, tax for a quarter is to be paid by 18th of the month succeeding such quarter.

FIRST RETURN [SECTION 40]

- ❖ **Purpose of Section 40:** To enable RP to declare the taxable supplies made by him for the period b/w the date on which he became liable to registration till date on which registration has been granted so that ITC can be availed by the recipient on such supplies.
- ❖ Firstly, RP may **issue Revised Tax Invoices** against the invoices already issued during said period **within 1 month** from date of issuance of certificate of registration [Sec 31(3)(a) r/w rule 53]
- ❖ Further, section 40 provides that registered person shall declare his outward supplies made during said period in the first return furnished by him after grant of registration.
- ❖ **The format for this return is the same as that for regular return.**

Note: When a person becomes liable to registration after his turnover crosses Rs. 20/10 lacs, he may apply for registration within 30 days of becoming liable.

ANNUAL RETURN [SECTION 44] FORM GSTR – 9/9A (for composition supplier)

By Whom	Every Registered Person shall furnish Annual Return Except <ul style="list-style-type: none"> ➤ CTP & NRTP ➤ Input Service Distributor ➤ Person paying tax u/s 51 (TDS) ➤ Person paying tax u/s 52 (TCS)
Due Date	31 st December of the next FY
Reconciliation Statement	Every registered person who is required to get his accounts audited by CA/CMA (if his aggregate T/O during FY > Rs. 2 crores) is required to furnish electronically (i) Audited annual accounts & (ii) A Reconciliation Statement.

ANNUAL RETURN NOT REQUIRED

GSTR 10: FINAL RETURN [SECTION 45]

By Whom	Every registered person who is required to furnish return u/s 39(1) & whose registration has been surrendered or cancelled shall file a Final Return .
Due Date	Final Return has to be filed within 3 months of: [Later of (a) or (b)] (a) Date of cancellation OR (b) Date of order of cancellation

GSTR 11: DETAILS OF INWARD SUPPLIES OF PERSONS HAVING UIN [RULE 82]

UIN issued for	Details to be furnished by person having UIN
Claiming refund of taxes paid on inward supplies	Details of Inward taxable supplies of G/S on which refund has been claimed along with application for such refund claim.
Other purposes (not for refund of taxes paid)	Such person shall furnish the details of inward supplies of taxable G/S as may be required by PO .

DEFAULT IN FURNISHING RETURN [SECTION 46 & 47]

Particulars	Requirements & Consequences
Notice to Defaulters (Sec 46)	<ul style="list-style-type: none"> ▪ Notice shall be given to RP who fails to furnish Normal Return u/s 39; Annual Return u/s 44; Final Return u/s 45; TCS statement u/s 52; ▪ Such RP shall furnish such return within 15 days.
Late fees for delay in filing (a), (b), (c)	Any RP who fails to furnish following by the due date shall pay Late fees: (a) Outward Supplies Statement u/s 37; (b) Returns u/s 39; (c) Final Return u/s 45 Late Fee = Lower of (a) Rs. 100 per day or (b) Rs. 5,000.
Delay in filing Annual Return	(a) Rs. 100 per day or (b) 0.25% of turnover (in state/UT) [whichever is Lower]

RECTIFICATION OF ERRORS/OMISSIONS [SECTION 39(9)]

- In GST, there is NO Concept of Revised Return. Any need to revise a return may arise due to change in a set of invoices or debit/credit notes. In GST, system allows a person to change the details of those transactions (invoices or debit/credit notes) that are required to be amended.
- They can be amended in any of the future GSTR-1 in the tables specifically provided for the purposes of amending previously declared details.
- Omission/incorrect particulars discovered in the returns filed u/s 39 can be rectified in return to be filed for the month/quarter during which such omission/incorrect particulars are noticed.
- Any tax payable as a result of such error/omission will be required to be paid along with interest.

Note: Section 39(9) does not permit rectification of error or omission discovered on account of scrutiny, audit, inspection or enforcement activities by tax authorities. Hence, assessee may not be able to pass on ITC to the receiver for tax payments made by him in pursuance of any of the aforementioned situations.

TIME LIMIT FOR RECTIFICATION [Earlier of (1) or (2)]

1. Due date of filing of return for the month of September/quarter ending September following the end of FY [i.e. 20th October of next FY] **or**
2. Actual date of filing of the relevant annual return.

Ex: Last date of filing of annual return for FY is 31st Dec of next FY. Hence, if annual return for FY 2017-18 is filed before 20th Oct 2018, then no rectification of errors/omissions in returns pertaining to FY 2017-18 would be permitted thereafter.

Points to Remember:

1. Return furnished u/s 39(1) on which full self- assessed tax has been paid → Considered as valid return.
2. **Filing of returns for current month is possible only after filing returns of previous month(s).**
3. Taxpayer needs to electronically sign submitted returns [otherwise it will be considered not-filed].
4. Taxpayers can electronically sign their returns using
 - DSC (mandatory for all companies & LLPs),
 - E-sign (Aadhaar-based OTP verification),
 - EVC (Electronic Verification Code sent to registered mobile no. of authorized signatory).

GOODS AND SERVICES TAX PRACTITIONERS [SECTION 48]

- RP may authorise an approved GSTP to furnish information on his behalf to Government.
- GSTN will provide separate user ID & Password to GSTP to enable him to work on behalf of his clients without asking for their user ID & passwords. They can do all the work on behalf of taxpayers as allowed under GST Law.
- A taxpayer may choose a different GSTP by simply unselecting the previous one and then choosing a new GSTP on GST portal.
- **A GSTP enrolled in any State/UT shall be treated as enrolled in the other States/UTs.**

ELIGIBILITY CRITERIA FOR GSTP

- ❖ A person who is:
 - Indian Citizen; Person of Sound Mind; Not Adjudicated as insolvent & not been convicted &
- ❖ **Person satisfying ANY of the following conditions:**
 - Retired officer of Commercial Tax Department of any SG/CBEC who had worked in a post not lower than rank of a Group-B gazetted officer for ≥ 2 years.
 - Enrolled as a Sales Tax Practitioner or Tax Return Preparer under the earlier indirect tax law for a period of not less than 5 years.
 - **Has acquired any of the prescribed qualifications**
 - ✓ Graduate/PG or equivalent examination having a degree in Commerce, Law, Banking including Higher Auditing, Business Administration, Business Management from any Indian University

established by any law for the time being in force

- ✓ Degree examination of any Foreign University recognised by any Indian University as equivalent to the degree examination mentioned above.
- ✓ Any degree examination of Indian University or Foreign University recognized by any Indian University as equivalent of the degree examination.
- ✓ Has passed final examination of ICAI/ ICSI/ Institute of Cost Accountants of India.
- ✓ Any other examination notified by Government on recommendation of GST Council.

ACTIVITIES UNDERTAKEN BY GSTP ON BEHALF OF REGISTERED PERSON

- Furnish details of outward & inward supply
- Furnish monthly, quarterly, annual or final return
- Make deposit in electronic cash ledger
- File a refund claim
- Application for registration amendment/cancellation (only after prior approval of RP)
- Appear as authorised representative before any officer of Department, Appellate Authority or Appellate Tribunal, on behalf of such RP (if he is enrolled as GSTP u/r 83).
- furnish information for generation of **e-way bill**;
- furnish details of challan in the prescribed form;
- file an application for amendment or cancellation of enrolment under rule 58 &
- file an intimation to pay tax under composition scheme or withdraw from the said scheme.

FURNISHING RETURNS THROUGH GSTP

When a registered person opts to furnish his return through GSTP, such registered person:

- Gives his consent in prescribed form to any GSTP to prepare & furnish his return.
- Before confirming submission of any statement prepared by GSTP, RP shall ensure that the facts mentioned in the return are true & correct. [Deemed confirmation if RP did not respond].
- GSTP can undertake only such tasks as indicated in the prescribed form.
- The registered person may, at any time, withdraw such authorization.

Note: Any statement furnished by GSTP shall be made available to RP on GST Common Portal. For every statement furnished by GSTP, confirmation shall be sought from RP over email or SMS.

Responsibility for correctness of any particulars furnished in the return or other details filed by the GSTP continues to rest with registered person on whose behalf such return and details are furnished.

PROCEDURE FOR ENROLMENT AS GSTP

- An application may be made electronically through common portal for enrolment as GSTP.
- Application shall be scrutinised & GST practitioner certificate shall be granted.
- If application is rejected, proper reasons shall have to be given.
- Enrolment once done remains valid till it is cancelled.
- Any person who has been enrolled as GSTP by virtue of him being enrolled as Sales Tax Practitioner or TRP under earlier Indirect Tax law shall remain enrolled only for **30 months** from appointed date unless he passes the said examination within 30 months. **[AMD]**
- No person enrolled as a GSTP shall be eligible to remain enrolled unless he passes such examination conducted at such periods by NACIN.

QUESTION BANK

Q1. How can a return filed be revised if some changes are required to be made under GST?

Answer:

- Since returns are built from details of individual transactions in GST, provision of revised return is not required.
- Any need to revise a return may arise due to the need to change a set of invoices or debit/ credit notes.
- Instead of revising the return already submitted, the system allows changing the details of those transactions (invoices or debit/credit notes) that are required to be amended.
- They can be amended in any of the future GSTR- 1 in the tables specifically provided for the purposes of amending previously declared details.
- As per section 39(9), omission or incorrect particulars discovered in the returns filed u/s 39 can be rectified in the return to be filed for the month/quarter during which such omission or incorrect particulars are noticed.
- Any tax payable as a result of such error or omission will be required to be paid along with interest. Rectification of errors/omissions is carried out by entering appropriate particulars in 'Amendment Tables' contained in GSTR-1.

Q2. XYZ Ltd. furnished the annual returns for FY 2018-19 on 25th August 2019. An error is discovered i.r.o a transaction pertaining to outward supplies of Nov. 2018. What is the time limit to rectify the mistake in case return of Sep. 2018 is furnished on 19th October 2019? (b) What if annual return for FY 2018-19 is furnished on 25.12.2019?

Answer:

- Time Limit for Rectification of Errors is Earlier of (a) or (b)
(a) Due Date of filing return u/s 39 for the month of September following the end of FY to which such details pertain,
(b) Date of filing of relevant annual return.
- In this case, annual return for FY 2018-19 has been furnished by XYZ Ltd. on 25th August 2019 & due date for return for month of September 2019 is 20th October 2019.
- Rectification of the error pertaining to a transaction in November 2018 cannot be made beyond 25th August 2019.
- Once annual return for FY 2018-19 is filed before due date of filing of return for the month of September 2019, no amendments relating to FY 2018-19 will be permitted thereafter & in such case, mismatch will become permanent & liability to that extent will be fastened on the receiver.

Q3. ABC limited filed the return for GST under section 39(1) for the month of November on 20th December showing self-assessed tax of Rs. 2,50,000 which was not paid. Explain the implications for ABC Ltd.?

Answer:

- As per sec. 2(117), 'Valid return' means a return furnished u/s 39(1) on which self-assessed tax has been paid in full.
- Hence, in such a case, the return is not considered as a valid return &
- Input tax credit will not be allowed to the recipient of supplies.

Q4. Who is required to furnish Final Return under CGST Act, 2017 & what is the time limit?

Answer:

- Every registered person who is required to furnish a return u/s 39(1) of the CGST Act, 2017 & whose registration has been surrendered or cancelled shall file a Final Return electronically in prescribed form through common portal.
- Final Return has to be filed within 3 months of:
(a) Effective date of cancellation or
(b) Date of order of cancellation whichever is later.

Q5. Explain the provision relating to filing of Annual Return u/s 44.

Answer:

- Every registered person [other than (a) ISD; (b) Person deducting/collecting tax at source; (c) CTP & (d) NRTP] shall furnish an annual return for every FY electronically on/before 31st December following the end of such FY.
- Every registered person who is required to get his accounts audited u/s 35(5) except those **whose audit is required to be conducted by C&AG** shall furnish the annual return electronically along with a copy of the audited annual accounts & a reconciliation statement, reconciling the value of supplies declared in the return furnished for the FY with audited annual financial statement & other prescribed particulars.

Q6. Tax payer can file GSTR-1 only after the end of the current tax period. State exceptions to this rule.

Answer:

- (a) Casual taxpayers, after the closure of their business
- (b) Cancellation of GSTIN of a normal taxpayer

Q7. M/s Cavenon Enterprises, a registered supplier of designer wedding dresses under regular scheme, has aggregate annual turnover of Rs. 30 Lacs in the preceding FY. It is of the view that in the current FY, it is permitted to file its monthly statement of outward supplies – GSTR-1 - on a quarterly basis while its accountant advises it to file the same on a monthly basis. You are required to advise M/s Cavenon Enterprises on the same.

During a given tax period in current FY, owing to an off-season, M/s Cavenon Enterprises has not made any taxable supply. Therefore, M/s Cavenon Enterprises opines that no return under GST is required to be filed for the said period. You are required to examine the technical veracity of the opinion of M/s Cavenon Enterprises.

Answer:

- Section 37 of the CGST Act, 2017 stipulates that GSTR-1 for a particular month is required to be filed on or before the 10th day of the immediately succeeding month, i.e. on a monthly basis.
- However, presently, as a measure of easing the compliance requirement for small tax payers, GSTR-1 has been allowed to be filed quarterly by small tax payers with aggregate annual turnover up to Rs. 1.5 crore in preceding FY or current FY. However, Tax payers with annual aggregate turnover above Rs. 1.5 crore will continue to file GSTR-1 on a monthly basis.
- In view of the same, M/s Cavenon Enterprises can file its GSTR-1 on quarterly basis as its aggregate turnover does not exceed Rs. 1.5 crore in the preceding FY.
- Further, GSTR-1 needs to be filed even if there is no business activity in a tax period. Thus, even if no supply has been made by M/s Cavenon Enterprises, a nil return is required to be filed for relevant tax period.

Q8. Is it compulsory for a taxpayer to file return by himself?

Answer: No. A registered taxpayer can also get his return filed through a Goods and Services Tax Practitioner.

Q9. Mr. X was liable to get registered from 22nd September 2018. Registration certificate was issued to Mr. X on 5 October 2018. Mr. X wants your advice as to how he should disclose the details of supplies effected during 22nd September 2018 to 5th October 2018?

Answer: As per Section 40, a registered taxable person is required to file First Return to disclose the details of supplies effected during the period between the date on which he became liable to registration till the date on which registration is granted. Therefore, Mr. X will disclose the details from 22nd September 2018 to 5th October 2018 in October Return.

Q10. Whether returns have to be filed if the assessee has not effected any inward/outward supply during a tax period?

Answer:

- Yes, assessee has to file Nil GSTR-1 /Form 3B return electronically even though not effected any supply.
- However, NRTP, ISD, a person liable to deduct tax at source & person liable to collect tax at source would not be liable to furnish returns (in Forms GSTR-5, GSTR-6, GSTR-7 & GSTR-8, respectively) if they have not effected any supplies requiring them to furnish the respective forms (as mentioned above).