

CA INTER GST REBOOT QUESTIONNAIRE

(CHAPTERS PDF BY CA YASHVANT MANGAL)

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LEVY OF GST

CHAPTER

02

Section A – ICAI Study Material Questions

Question 1

Meghraj & Co. wishes to commence the business of supplying ready-made garments within Punjab and in the neighbouring States of Delhi and Haryana. Kindly state as to what is the taxable event under GST and leviability of CGST, SGST/UTGST and IGST on the same?

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

Question 2

Damodar Private Ltd., registered in Delhi, has transferred some goods to its branch, registered in West Bengal, so that the goods can be sold from the branch. The goods have been transferred without any consideration. The company believes that the transaction undertaken by it does not qualify as supply as no consideration is involved. Ascertain whether the transfer of goods by Damodar Private Ltd. to its branch office qualifies as supply.

Answer : As per Schedule I of the CGST Act, supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business, is deemed as supply even if made without consideration. In the given case, since the Damodar Private Ltd. and its branch located in another State are distinct persons, supply of goods between them qualifies as supply.

Question 3

Prithvi Associates is engaged in supply of taxable goods. It enquires from its tax advisor as to whether any activity can be treated as supply even if made without consideration in accordance with the provisions of the CGST Act. Enumerate such activities, if any.

OR

List the activities to be treated as supply under CGST Act, 2017 even if made without consideration.

[CA Inter Exams May 2018, 5 Marks]

Answer : Section 7 stipulates that the supply should be for a consideration and should be in the course or furtherance of business. However, Schedule I of the CGST Act enumerates the cases where an activity is treated as supply, even if the same is without consideration. These are as follows:

- (i) Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.

(ii) Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business.

However, gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

(iii) Supply of goods –

(a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or

(b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

(iv) Import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

Question 4

Composite supply is treated as supply of that particular goods or services which attracts the highest rate of tax. Examine the validity of the statement.

Answer : The statement is not correct. Composite supply is treated as supply of the principal supply. It is the mixed supply that is treated as supply of that particular goods or services which attracts the highest rate of tax.

Question 5

Transfer of title and/or possession is necessary for a transaction to constitute supply of goods. Examine.

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

Question 6

Examine whether the following activities would amount to supply under section 7 read with Schedule I of the CGST Act:

(a) Sulekha Manufacturers have a factory in Delhi and a depot in Mumbai. Both these establishments are registered in respective States. Finished goods are sent from factory in Delhi to the Mumbai depot without consideration so that the same can be sold.

(b) Raman is an architect in Chennai. His brother who is settled in London is a well-known lawyer. Raman has taken legal advice from him free of cost with regard to his family dispute.

(c) Would your answer be different if in the above case, Raman has taken advice in respect of his business unit in Chennai?

[MTP Nov. 2019, 6 Marks]

Answer :

(a) Schedule I of CGST Act, inter alia, stipulates that supply of goods or services or both between related persons or between distinct persons as specified in section 25, is supply even without consideration provided it is made in the course or furtherance of business. Further, a person who has obtained more than one registration, whether in one State/Union territory or more than one State/Union territory shall, in respect of each such registration, be treated as distinct persons [Section 25(4) of the CGST Act].

In view of the same, factory and depot of Sulekha Manufacturers are distinct persons. Therefore, supply of goods from Delhi factory of Sulekha Manufacturers to Mumbai Depot without consideration, but in course/furtherance of business, is supply under section 7 read with Schedule I of the CGST Act.

(b) Schedule I of CGST Act, inter alia, stipulates that import of services by a 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. Explanation to section 15, inter alia, provides that persons shall be deemed to be “related persons” if they are members of the same family. Further, as per section 2(49) of the CGST Act, 2017, family means, –

- (i) the spouse and children of the person, and
- (ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.

In the given case, Raman has received free of cost legal services from his brother. However, in view of section 2(49)(ii) above, Raman and his brother cannot be considered to be related as Raman’s brother is a well-known lawyer and is not wholly/mainly dependent on Raman. Further, Raman has taken legal advice from him in personal matter and not in course or furtherance of business. Consequently, services provided by Raman’s brother to him would not be treated as supply under section 7 read with Schedule I of the CGST Act.

(c) In the above case, if Raman has taken advice with regard to his business unit, services provided by Raman’s brother to him would still not be treated as supply under section 7 of the CGST Act read with Schedule I as although the same are provided in course or furtherance of business, such services have not been received from a related person.

Question 7

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

- (a) Renting of immovable property.
- (b) Goods forming part of business assets are transferred or disposed of by/under directions of person carrying on the business.
- (c) Transfer of right in goods without transfer of title in goods.
- (d) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date.

Answer : (a) Supply of services (b) Supply of goods
(c) Supply of services (d) Supply of goods

Question 8

Determine whether the following supplies would be treated as supply of goods or supply of services as per Schedule II of the CGST Act:

- (a) Temporary transfer or permitting use or enjoyment of any intellectual property right.
- (b) Supply of goods by an unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.
- (c) Any treatment or process which is applied to another person’s goods.

(d) Transfer of title in goods.

Answer :

- (a) Supply of services
- (b) Supply of goods [as per Sec. 7(1)(aa) of the CGST Act, 2017]
- (c) Supply of services
- (d) Supply of goods

Question 9

The goods supplied on hire purchase basis will be treated as supply of services. Examine the validity of the statement. [MTP May 2023, 2 Marks]

Answer : The statement is not correct. Supply of goods on hire purchase shall be treated as supply of goods as there is transfer of title, albeit at a future date.

Question 10

Examine whether the activity of import of service in the following independent cases would amount to supply under section 7 of the CGST Act, 2017:

- (i) Miss Shriniti Kaushik received interior decoration services for her residence located at Bandra, Mumbai from Mr. Racheal of Sydney (Australia). The amount paid for the said service is 5,000 Australian dollar.
- (ii) Miss Shriniti Kaushik received interior decoration services for her residence located at Bandra, Mumbai from her brother, Mr. Varun residing in Sydney (Australia) [wholly dependent on Miss Shriniti]. Further, Miss Shriniti did not pay any consideration for the said service.
- (iii) Will your answer change if in the above case, if Miss Shriniti has taken interior decoration services with regard to her business premises and not her residence?

Note: Any specific exemption by way of notification needs to be ignored.

Answer :

- (i) Supply, under section 7 of the CGST Act, 2017, inter alia,
 - includes import of services for a consideration
 - even if it is not in the course or furtherance of business.

Thus, although the import of service for consideration by Miss. Shriniti Kaushik is not in course or furtherance of business [as the interior decoration services have been availed in respect of residence], it would amount to supply.

- (ii) Schedule I of CGST Act, inter alia, stipulates that import of services by a 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. Explanation to section 15, inter alia, provides that persons shall be deemed to be "related persons" if they are members of the same family. Further, as per section 2(49) of the CGST Act, 2017, family means, –
 - (i) the spouse and children of the person, and
 - (ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.

In the given case, Miss Shriniti Kaushik has received interior decoration services from her brother. In view of section 2(49)(ii) above, Miss Shriniti and her brother shall be considered to be related as Miss Shriniti's brother is wholly dependent on her.

However, Miss Shrinti has taken interior decoration services for her residence and not in course or furtherance of business. Consequently, services provided by Miss Shrinti's brother to her would not be treated as supply under section 7 read with Schedule I of the CGST Act.

(iii) In the above case, if Miss Shriniti has taken interior decoration services with regard to her business premises, services provided by Miss Shriniti's brother to her would be treated as supply under section 7 of the CGST Act read with Schedule I of the CGST Act, 2017.

Question 11

Dumdum Electronics has sold the following electronic items to Akbar Retail Store.

Refrigerator (500 litres) taxable @ 18%

Stabilizer for refrigerator taxable @ 12%

LED television (42 inches) taxable @ 12%

Split air conditioner (2 Tons) taxable @ 28%

Stabilizer for air conditioner taxable @12%

Dumdum Electronics has issued a single invoice, indicating price of each of the above items separately in the same. Akbar Retail Store has given a single cheque of Rs. 1,00,000/- for all the items as a composite discounted price. State the type of supply and the tax rate applicable in this case.

Answer : In the given case, the items supplied by Dumdum Electronics are not naturally bundled in the ordinary course of business. Therefore, such supply is not a composite supply. Further, although Akbar Retail Store has paid a composite discounted price for these goods, Dumdum Electronics has not charged a single price for the said supply. Therefore, said supply is also not a mixed supply.

Supply of these goods is, therefore, supply of individual items which are taxable at the respective rates applicable to them.

Question 12

Manikaran, a registered supplier of Delhi, has supplied 20,000 packages at Rs. 30 each to Mukhija Gift Shop in Punjab. Each package consists of 2 chocolates, 2 fruit juice bottles and a packet of toy balloons. Determine the rate(s) of GST applicable in the given case assuming the rates of GST to be as under:

Goods/services supplied	GST rate
Chocolates	18%
Fruit juice bottles	12%
Toy balloons	5%

Answer : As per section 2(74) of the CGST Act, 2017, mixed supply means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

Supply of a package containing chocolates, fruit juice bottles and a packet of toy balloons is a mixed supply as each of these items can be supplied separately and is not dependent on any other. Further, as per section 8(b) of the CGST Act, 2017, the mixed supply is treated as a supply of that particular supply which attracts the highest rate of tax. Thus, in the given case, supply of packages is treated as supply of chocolates [since it attracts the highest rate of tax] and the rate of GST applicable on the package of Rs. 6,00,000 (20,000 X Rs. 30) is 18%.

Question 13

Gagan Engineering Pvt. Ltd., registered in Haryana, is engaged in providing maintenance and repair services for heavy steel machinery. For carrying out the repair work, Gagan Engineering Pvt. Ltd. sends its container trucks equipped with items like repair equipments, consumables, tools, parts etc. from Haryana workshop to its own repairing centres (registered under GST law) located in other States across India where the clients' machinery are being brought and are being repaired.

Discuss the leviability of GST on the inter-State movement of trucks from the workshop of Gagan Engineering Pvt. Ltd. in Haryana to its own repairing centres located in other States across India.

[MTP Nov. 2023, 4 Marks]

Answer : As per section 25(4), a person who has obtained more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as 'distinct persons'.

Schedule I to the CGST Act specifies situations where activities are to be treated as supply even if made without consideration. Supply of goods and/or services between 'distinct persons' as specified in section 25, when made in the course or furtherance of business is one such activity included in Schedule I under para 2.

However, in view of the GST Council's recommendation, it has been clarified that the inter-State movement of various modes of conveyance between 'distinct persons' as specified in section 25(4), not involving further supply of such conveyance, including trucks carrying goods or passengers or both; or for repairs and maintenance, may be treated 'neither as a supply of goods nor supply of service' and therefore, will not be leviable to IGST [Circular No. 1/1/2017 IGST dated 07.07.2017].

Thus, in the given case, inter-State movement of trucks from the workshop of Gagan Engineering Pvt. Ltd. located in Haryana to its repair centres located in other States is 'neither a supply of goods nor supply of service'.

Question 14

Sarvanna & Sons wishes to start supplying liquor in the State of Tamil Nadu. Therefore, it applies for license for selling liquor to the Tamil Nadu Government. The Tamil Nadu Government has charged specified fee for it. Examine whether the grant of alcoholic liquor license by the Tamil Nadu Government to Sarvanna & Sons qualifies as supply.

Answer : Services by way of grant of alcoholic liquor license by the State Governments have been notified to be treated neither as a supply of goods nor as a supply of service. Such licence is granted against consideration in the form of licence fee or application fee or by whatever name it is called. This special dispensation is applicable only to supply of service by way of grant of liquor licenses by the State Governments as an agreement between the Centre and States and is not applicable/has no precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable.

Thus, in the given case, the grant of alcoholic liquor license by the Tamil Nadu Government to Sarvanna & Sons is neither a supply of goods nor a supply of service.

Question 15

Determine whether the following supplies amount to composite supplies:

A hotel provides 4 days – 3 nights package wherein the facility of breakfast and dinner is provided alongwith the room accommodation.

A toothpaste company has offered the scheme of free soap alongwith the toothpaste.

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

since, supply of breakfast and dinner with the accommodation in the hotel are naturally bundled, said supplies qualify as 'composite supply'.

since supply of soap alongwith the toothpaste are not naturally bundled, said supplies do not qualify as 'composite supply'.

Question 16

PTL Pvt. Ltd. is a retail store of merchandise located in 25 States/UTs in the country. For the purpose of clearance of stock of merchandise and to attract consumers, PTL Pvt. Ltd. launched scheme of "Buy One Get One Free" for the same type of merchandise, for instance, one shirt to be given free with purchase of one shirt. Determine how the taxability of the goods supplied under "Buy One Get One Free" scheme is determined.

Answer : As per section 7(1)(a), the goods or services which are supplied free of cost (without any consideration) are not treated as "supply" except in case of activities mentioned in Schedule I of the CGST Act. Under "Buy One Get One Free" scheme, it may appear at first glance that in case of offers like "Buy One, Get One Free", one item is being "supplied free of cost" without any consideration. However, it is not an individual supply of free goods, but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.

Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined accordingly.

Section B – Additional Questions

Past RTPs, MTPs, And Exams Papers

Question 17

List any 5 (Five) activities/transactions specified under Schedule III of the CGST Act, 2017 which shall be neither treated as supply of goods nor as supply of services. Detailed explanations is not required.

[CA Intermediate May 2023,5 Marks]

Answer : Activities or transactions which shall be treated neither as a supply of goods nor a supply of services are as under:-

- 1) Services by an employee to the employer in the course of or in relation to his employment.
- 2) Services by any court or Tribunal established under any law for the time being in force.
- 3) Functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities.
- 4) Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity.
- 5) Duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.
- 6) Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
- 7) Sale of land and, subject to paragraph 5(b) of Schedule II, sale of building. (i.e. in case, where entire consideration for sale of building received after issuance of completion certificate or after its first occupation, whichever is earlier).
- 8) Actionable claims, other than specified actionable claims ("specified actionable claim" means the actionable claim involved in or by way of betting, casinos, gambling, horse racing, lottery or online money gaming.)
- 9) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.

Question 18

Mrs. Pragati received legal advice for her personal problems & paid 1,000 pound as a legal fees to Miss Unnati of U.K. (London).

Explain whether the above activity of import of service would amount to supply u/s 7 of the CGST Act, 2017?

If in above case both of them are real sisters & no consideration is paid then will it change your answer?

Further in the above case if both of them are real sisters & Mrs. Pragati receives legal advice for her business & she doesn't pay any consideration then what will be your answer?

[CA Inter Exams May 2018, 5 Marks]

Answer : Supply, under section 7 of the CGST Act, 2017, inter alia,

- includes import of services for a consideration
- even if it is not in the course or furtherance of business.

Thus, although the import of service for consideration by Mrs. Pragati is not in course or furtherance of business, it would amount to supply.

Further, import of services by a 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, import of service without consideration by Mrs. Pragati from her real sister – Miss Unnati [real sister (It has been most logically assumed that Miss Unnati is wholly/mainly dependent on Mrs. Pragati), being member of the same family, is a related person] will not be treated as supply as it is not in course or furtherance of business.

However, import of service without consideration by Mrs. Pragati from her sister – Miss Unnati (related person) will be treated as supply if she receives legal advice for her business, i.e. in course or furtherance of business.

Question 19

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

- (i) Works contract services
- (ii) Sale of personal car to dealer.

[CA Inter Exams Nov. 18, 5 Marks]

Answer :

- (i) As per Schedule-II of CGST Act, 2017, works contract services would be treated as supply of services.
- (ii) As per Schedule-II of CGST Act, 2017, sale of personal car to dealer would be treated as supply of goods as any transfer of the title in goods is a supply of goods.

However, it is also possible to take view that sale of personal car to dealer is not a supply per se as supply is not made by the individual in the course or furtherance of business – in terms of CBIC FAQs.

Note: The question may be answered on the basis of either of the two views.

Question 20

Explain the meaning of supply as per provisions of Section 7(1) of Central Goods and Service Tax Act, 2017.

[CA Inter Exams Nov. 2018, 5 Marks]

Answer : As per section 7(1) of CGST Act, 2017, the term supply includes –

- (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person, in the course or furtherance of business;
- (aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.
- (b) import of services for a consideration whether or not in the course or furtherance of business; and
- (c) the activities specified in Schedule I, made or agreed to be made without a consideration;.

Question 21

Explain the services provided by way of tolerating non-performance of a contract and its chargeability under the provisions of the CGST Act, 2017. [CA Inter Exams May 2019, 4 Marks] [MTP May 2020, 5 Marks]

Answer : Non-performance of a contract is the failure to fulfill the obligations under a contract. It is generally one of the conditions stipulated in any contract for supply of goods/services.

The agreement entered into between the parties stipulates that both the service provider and service recipient abide by the terms and conditions of the contract. In case any of the parties breach the contract for any reason including non-performance of the contract, then such person is liable to pay damages in the form of fines or penalty to the other party.

As per Circular issued by CBIC, fines or penalty paid for non-performance of the contract is not a consideration for any supply at all. It's merely flow of money. Therefore, tolerating non-performance of a contract is not supply at all. So, it will not be chargeable to GST.

Question 22

With reference to provisions of the CGST Act, 2017 discuss in brief, when "Importation of services" is to be considered as supply and when it is not to be considered as supply. [CA Inter Exams Nov. 2020, 5 Marks]

Answer : Importation of services for a consideration whether or not in the course or furtherance of business is to be considered as supply.

Importation of services by a person without consideration is deemed as supply provided the following two conditions are satisfied:-

- (a) such import is from related person or from his establishments located outside India, and
- (b) such import is in the course or furtherance of business.

In case any or both of the above two conditions is/are not satisfied, the import of services without consideration shall not be deemed as supply.

Question 23

Explain the composite supply and mixed supply. If a trader launches a package sales for marriage containing double bed, refrigerator, washing machine, wooden wardrobe at a single rate. He is issuing invoice showing value of each goods separately. Whether this is case of mixed supply or composite supply. Explain. [CA Inter Exams July 2021, 4 Marks]

Answer : Composite supply comprises of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply. Mixed supply means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply. Items such as double bed, refrigerator, washing machine and wooden wardrobe are not naturally bundled and also the invoice for the supply shows separate values for each item i.e., the package is not supplied for a single price. Therefore, supply of such items as a package will neither constitute a composite supply nor a mixed supply. Thus, the various items of the package will be treated as being supplied individually.

Note: The question specifies that the various items are supplied at a 'single rate'. The "single rate" expression is construed as single rate of tax in the above answer. Further, the "single rate" may also be construed as single price as given in the below mentioned answer. Items such as double bed, refrigerator, washing machine and wooden wardrobe are not naturally bundled. Therefore, supply of such items as a package will not constitute composite supply. Further, a single price has been charged for the package. Consequently, supply of such items as a package will be treated as mixed supply.

Question 24

Examine whether the following activities would amount to "supply" under GST law?

- (i) Glory Ltd. is engaged in manufacturing and selling of cosmetic products. Seva Trust, a charitable organisation, approached Glory Ltd. to provide financial assistance for its charitable activities. Glory Ltd. donated a sum of Rs. 2 lakh to Seva Trust with a condition that Seva Trust will place a hoarding at the entrance of the trust premises displaying picture of products sold by Glory Ltd. [CA Inter Exams May 2022, 2 Marks]
- (ii) Mr. Swamy of Chennai is working as a manager with ABC Bank. He consulted M/s. Jacobs and Company of London and took its advice for buying a residential house in Mumbai and paid them consultancy fee of 200 UK Pound for this import of service. [CA Inter Exams May 2022, 2 Marks]

Answer :

- (i) An activity qualifies as supply under GST only if it is for a consideration and is in course/furtherance of business. Donations received by the charitable organizations are treated as consideration only when there's an obligation on part of the recipient of the donation to do anything. Since in the given case, the display of products sold by the donor – Glory Ltd. – in charitable organization's premises aims at advertising/promotion of its business, it is supply for consideration in course/furtherance of business and thus, qualifies as supply under GST law.
- (ii) Supply includes importation of services, for a consideration whether or not in the course/furtherance of business. Thus, in the given case, the import of services by Mr. Swamy amounts to supply although it is not in course/furtherance of business.

Question 25

Briefly explain the leviability of GST or otherwise on petroleum crude, diesel, petrol, Aviation Turbine Fuel (ATF) and natural gas. [MTP May 2021, 5 Marks]

Answer : Petroleum crude, diesel, petrol, ATF and natural gas are presently not leviable to GST. GST will be levied on these products from a date to be notified on the recommendations of the GST Council. Till such date, central excise duty continues to be levied on manufacture/production of petroleum crude, diesel, petrol, ATF and natural gas and inter-State/intra-State sale of the same is subject to CST/ VAT respectively.

Question 26

The temple of ancestral deity of Mr. Aman goel and his family is located at Beri, Haryana. The temple is run by a charitable organisation registered under section 12AA of the Income Tax Act, 1961. The family has got unshakeable faith in their ancestral deity. Mr. Aman is a big entrepreneur having flourishing business of tiles in Gurugram. Upon the birth of their first child, he donated Rs. 10 lakh to the said temple for construction of a sitting hall in the temple. On the main door of the sitting hall, a name plate was placed stating "Donated by Mr. Aman Goel upon birth of his first child". You are required to examine the leviability of GST on the donation received from Mr. Aman Goel? [RTP May 2020]

Answer : It has been clarified vide Circular No. 116/35/2019 GST dated 11.10.2019 that when the name of the donor is displayed in the religious institution premises, by placing a name plate or similar such acknowledgement, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for

a consideration (in the form of donation). There is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration.

In the given case, there is no reference or mention of any business activity of the donor which otherwise would have got advertised. Thus, since the gift or donation is made to a charitable organization, the payment has the character of gift or donation and the purpose is philanthropic (i.e., it leads to no commercial gain) and not advertisement, hence GST is not leviable.

Question 27

Mr. Priyam, director of Sun Moon Company Private Limited, provided service to the company for remuneration of Rs. 1,25,000. Briefly answer whether GST is applicable in the below mentioned independent cases? If yes, who is liable to pay GST?

- (i) Mr. Priyam is an independent director of Sun Moon Company Private Limited and not an employee of the company.
- (ii) Mr. Priyam is an executive director, i.e. an employee of Sun Moon Company Private Limited. Out of total remuneration amounting to Rs. 1,25,000, Rs. 60,000 has been declared as salaries in the books of Sun Moon Company Private Limited and subjected to TDS under section 192 of the Income-Tax Act (IT Act). However, Rs. 65,000 has been declared separately other than salaries in the Sun Moon Company Private Limited's accounts and subjected to TDS under section 194J of the IT Act as professional services. [RTP May 2021]

Answer :

- (i) As per Para I of Schedule III of the CGST Act, services by an employee to the employer in the course of or in relation to his employment are non-supplies, i.e. they are neither supply of goods nor supply of services. Services provided by the independent directors who are not employees of the said company to such company, in lieu of remuneration as the consideration for the said services, are clearly outside the scope of Schedule III of the CGST Act and are therefore taxable. Further, such remuneration paid to the directors is taxable in hands of the company, on reverse charge basis.

Thus, GST is applicable in this case and Sun Moon Company Private Limited is liable to pay GST.

- (ii) The part of director's remuneration which is declared as salaries in the books of a company and subjected to TDS under section 192 of the Income-tax Act (IT Act), is not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment in terms of Schedule III.

Further, the part of employee director's remuneration which is declared separately other than salaries in the company's accounts and subjected to TDS under section 194J of the IT Act as fees for professional or technical services are treated as consideration for providing services which are outside the scope of Schedule III and is therefore, taxable. The recipient of the said services i.e. the company, is liable to discharge the applicable GST on it on reverse charge basis.

In lieu of the above provisions, Rs. 60,000 declared as salaries in the books of Sun Moon Company Private Limited and subjected to TDS under section 192 of the Income-Tax Act (IT Act), is not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment in terms of Schedule III.

- (a) When painting is completed.
- (b) When painting is sent for exhibition in Mumbai.
- (c) When painting is displayed at the exhibition in Mumbai.
- (d) When painting is purchased by one of the visitors in the exhibition.

Question 5

Which of the following is not covered under Schedule III of CGST Act, 2017?

[RTP May 20]

- (a) Director's monthly salary under employment agreement
- (b) Sitting fees to independent directors for attending AGMs
- (c) Payment to employee for providing broking services to the employer for purchase of commercial property. Such services do not form part of the employment contract entered into by the employer with the employee.
- (d) Both (b) and (c)

Question 6

Which of the following services received, in the course or furtherance of business, without consideration amount to supply?

[MTP May 2020, 2 Marks]

- (i) Import of services by a person in India from his son well-settled in USA
 - (ii) Import of services by a person in India from his brother well-settled in Germany
 - (iii) Import of services by a person in India from his brother (wholly dependent on such person in India) in France
 - (iv) Import of services by a person in India from his daughter (wholly dependent on such person in India) in Russia
- (a) i, iii and iv (b) ii, iii and iv (c) ii and iii (d) i and ii

Question 7

Which of the following is not a supply of services?

[MTP Nov. 2019]

- (a) Renting of Commercial Office Complex
- (b) Payment of Non-Compete Fee by a competitor
- (c) Repairing of Mobile Phone
- (d) Permanent transfer of business assets on which ITC is availed

Question 8

Which of the following activities is a supply of services?

- (i) Transfer of right in goods/ undivided share in goods without transfer of title in goods
 - (ii) Transfer of title in goods
 - (iii) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date upon payment of full consideration as agreed.
- (a) (i) (b) (iii) (c) (i) and (iii) (d) (i), (ii) and (iii)

Question 9

Which of the following statements is true under GST law?

- (a) Grand-parents are never considered as related persons to their grand-son/grand-daughter
- (b) Grand-parents are always considered as related persons to their grand-son/grand-daughter

- (c) Grand-parents are considered as related persons to their grand-son/grand-daughter only if they are wholly dependent on their grand-son/grand-daughter
- (d) Grand-parents are considered as related persons to their grand-son/grand-daughter only if they are not dependent on their grand-son/grand-daughter

Question 10

Which of the following is not considered as 'goods' under the CGST Act, 2017?

- (i) Ten-paisa coin having sale value of Rs. 100.
- (ii) Shares of unlisted company
- (iii) Lottery tickets

- (a) (i) (b) (ii) (c) (ii) and (iii) (d) (i), (ii) and (iii)

Question 11

Determine which of the following independent cases will be deemed as supply even if made without consideration in terms of Schedule I of the CGST Act, 2017? [RTP Nov. 2021]

- (i) AB & Associates transfers stock of goods from its Mumbai branch to Kolkata depot for sale of such goods at the depot.
- (ii) Mr. Raghuveer, a dealer of air-conditioners permanently transfers the motor vehicle free of cost. ITC on said motor vehicle was blocked and therefore, was not availed.
- (iii) Mrs. Riddhi, an employee of Sun Ltd., received gift from her employer on the occasion of Diwali worth Rs. 21,000.

- (a) (i) (b) (ii) (c) (iii) (d) Both (i) and (ii)

Answer Key

01	(d)	02	(d)	03	(d)	04	(d)	05	(d)	06	(a)	07	(d)	08	(a)	09	(c)	10	(b)	11	(a)
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How's the josh...???

"High, Sir!"