

NEW Scheme CA INTER GST



**Additional Questions
Related to the Newly Introduced Topics**

[Topic-(I)- Introduction]

Question I (1): Explain the significance of the place of supply of goods and services under GST.

Answer: The basic principle of GST is that it should effectively tax the consumption of such supplies at the destination thereof or as the case may be at the point of consumption. So, place of supply provision determines the place i.e. taxable jurisdiction where the tax should reach. The place of supply determines whether a transaction is intra-state or inter-state. In other words, the place of Supply of goods or services is required to determine whether a supply is subject to SGST plus CGST in a given State or union territory or else would attract IGST if it is an inter-state supply.

Question I (2): What do you mean by Intra State & Inter State supply?

Answer: As per section 8 of IGST Act, 2017, where the location of supplier and the place of supply are in the same State or same Union territory it shall be treated as an 'Intra State supply'.

As per section 7 of IGST Act, 2017, where the location of supplier and the place of supply are in

- two different States or
- two different Union territories or
- a State & a Union Territory

It shall be treated as an 'Inter State supply'.

Moreover, supply to or from SEZ even within the same state shall be treated as inter - state supply.

Question I (3): Why does GST law provide separate rules for place of supply in respect of B2B (supplies to registered persons) and B2C (supplies to unregistered persons) transactions?

Answer: In respect of B2B transactions, the taxes paid are taken as credit by the recipient so such transactions are just passing through. GST collected on B2B supplies effectively create a liability for the government and an asset for the recipient of such supplies in as much as the recipient is entitled to use the input tax credit for payment of future taxes.

For B2B transactions, the location of recipient takes care in almost all situations as further credit is to be taken by recipient.

The recipient usually further supplies to another customer. The supply is consumed only when a B2B transaction is further converted into B2C transaction.

In respect of B2C transactions, the supply is finally consumed and the taxes paid actually come to the government.

[Topic-(II)- Section 10 of IGST Act 2017]

Question II (1): In case of a domestic supply, what is the place of supply where goods are removed? [ICAI Material]

Answer: As per section 10(1)(a) of the IGST Act, the place of supply of goods is the location of the goods at the time at which the movement of goods terminates for delivery to the recipient.

Question II (2): What will be the place of supply if the goods are delivered by the supplier to another person on the direction of a third person? [ICAI Material]

Answer: As per section 10(1)(b) of the IGST Act, It would be deemed that the third person has received the goods and the

place of supply of such goods will be the **principal place of business of such person.**

Question II (3): Asha Enterprises, supplier of sewing machines, is located in Kota (Rajasthan) and registered for purpose of GST in the said State. It receives an order from Deep Traders, located in Jalandhar (Punjab) and registered for the purpose of GST in the said State. The order is for the supply of 100 sewing machines with an instruction to ship the sewing machines to Jyoti Sons, located in Patiala (Punjab) and registered in the said State for purpose of GST. Jyoti Sons is a customer of Deep Traders. Sewing machines are being shipped in a lorry by Asha Enterprises.

Briefly explain the following:

- (a) the place of supply under IGST Act, 2017;
- (b) the nature of supply: - whether inter-State or intra-State and
- (c) whether CGST/SGST or IGST as would be applicable in this case. [ICAI Material]

Answer: The supply between Asha Enterprises (Kota, Rajasthan) and Deep Traders (Jalandhar, Punjab) is a **bill to ship to supply** where the goods are delivered by the supplier [Asha Enterprises] to a recipient [Jyoti Sons (Patiala, Punjab)] on the direction of a third person [Deep Traders].

In case of such supply, it is **deemed that the said third person has received the goods and the place of supply of such goods is the principal place of business of such person** [Section 10(1)(b) of the IGST Act, 2017]. Thus, the place of supply between Asha Enterprises (Rajasthan) and Deep Traders (Punjab) will be Jalandhar, Punjab.

Since the location of supplier and the place of supply are in two different States, the supply is an inter-State supply in terms of section 7 of the IGST Act, 2017, liable to IGST.

This situation involves another supply between Deep Traders (Jalandhar, Punjab) and Jyoti Sons (Patiala, Punjab). In this case, since the **supply involves movement of goods, place of supply will be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient**, i.e. Patiala, Punjab [Section 10(1)(a) of the IGST Act, 2017].

Since the location of supplier and the place of supply are in the same State, the supply is an intra-State supply in terms of section 8 of the IGST Act, 2017, liable to CGST and SGST.

Question II (4): Priyank Sales of Pune, Maharashtra enters into an agreement to sell goods to Bisht Enterprises of Bareilly, Uttar Pradesh. While the goods were being packed in Pune godown of Priyank Sales, Bisht Enterprises got an order from Sahil Pvt. Ltd. of Shimoga, Karnataka for the said goods. Bisht Enterprises agreed to supply the said goods to Sahil Pvt. Ltd. and asked Priyank Sales to deliver the goods to Sahil Pvt. Ltd. at Shimoga.

You are required to determine the place of supply in the above situation. [ICAI Material]

Answer: Relevant Provisions: As per section 10(1)(b), where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, **it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person.**

Analysis & Conclusion: The supply between Priyank Sales (Pune) and Bisht Enterprises (Bareilly) is a bill to ship to supply

where the goods are delivered by the supplier [Priyank Sales] to a recipient [Sahil Pvt. Ltd. (Shimoga)] or any other person on the direction of a third person [Bisht Enterprises]. The place of supply in case of domestic bill to ship to supply of goods is determined in terms of **section 10(1)(b)**.

Thus, in the given case, it is deemed that the Bisht Enterprises has received the goods and the place of supply of such goods is the principal place of business of Bisht Enterprises. Accordingly, the place of supply between Priyank Sales (Pune) and Bisht Enterprises (Bareilly) will be Bareilly, Uttar Pradesh.

Relevant Provisions: Section 10(1)(a) stipulates that **where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient.**

Analysis & Conclusion: This situation involves another supply between Bisht Enterprises (Bareilly) and Sahil Pvt. Ltd. (Shimoga). The place of supply in this case will be determined in terms of section 10(1)(a).

Thus, the place of supply in second case is the location of the goods at the time when the movement of goods terminates for delivery to the recipient (Sahil Pvt. Ltd.), i.e. Shimoga, Karnataka.

Question II (5): Raman Row, a registered supplier under GST in Mumbai, Maharashtra is directed by Nero Enterprises, Kolkata, West Bengal to deliver goods valued at ₹ 12,00,000 to Fabricana of Aurangabad in Maharashtra. Raman Row makes out an invoice at 9% tax rate under CGST and SGST respectively (scheduled rate) and delivers it locally in Maharashtra.

Discuss and comment on the above levy of tax and determine the tax liability of goods in the above circumstances.

Answer: The supply between Raman Row (Mumbai, Maharashtra) and Nero Enterprises (Kolkata, West Bengal) is **a bill to ship to supply** where the goods are delivered by the supplier [Raman Row] to a recipient [Fabricana (Aurangabad, Maharashtra)] or any other person on the direction of a third person [Nero Enterprises]. In such a case, it is **deemed that the said third person has received the goods and the place of supply of such goods is the principal place of business of such person [Section 10(1)(b) of IGST Act, 2017]**.

Accordingly, the place of supply between Raman Row (Mumbai, Maharashtra) and Nero Enterprises (Kolkata, West Bengal) will be Kolkata and thus, it will be an inter-State supply liable to IGST. Hence, Raman Row should charge 18% IGST on ₹ 12,00,000, which comes out to ₹ 2,16,000.

This situation involves another supply between Nero Enterprises (Kolkata, West Bengal) and Fabricana (Aurangabad, Maharashtra). The place of supply in this case will be **the location of the goods at the time when the movement of goods terminates for delivery to the recipient** i.e., Aurangabad, Maharashtra in terms of section 10(1)(a) of IGST Act, 2017. Thus, being an inter-State supply, the same will also be chargeable to IGST.

Question II (6): Answer the following question in the light of the place of supply provisions contained in the IGST Act, 2017: Quickdeal Enterprises (Ahmednagar, Gujarat) opens a new branch office at Hissar, Haryana. It purchases a building for office from Ruhani Builders (Hissar) along with pre-installed office furniture and fixtures. Determine place of supply of the pre-installed office furniture and fixtures.

Answer: Relevant Provision: - Section 10(1)(c) of the IGST Act stipulates that if the supply does not involve movement of goods, the place of supply is the location of goods at the time of delivery to the recipient.

Analysis & Conclusion: - Since there is no movement of office, furniture and fixtures in the given case, the place of supply of such goods is their location at the time of delivery to the recipient (Quickdeal Enterprises) i.e., Hissar, Haryana.

Question II (7): What is the place of supply where the goods or services are supplied on board a conveyance, such as a vessel, an aircraft, a train or a motor vehicle. [ICAI Material]

Answer: As per section 10(1)(e) of the IGST Act, in respect of goods, the place of supply is the location at which such goods are taken on board.

However, in respect of services, the place of supply is the location of the first scheduled point of departure of that conveyance for the journey, in terms of sections 12(10) and 13(11).

[Topic-(III)- Section 12 of IGST Act 2017]

Question III (1): The place of supply in relation to immovable property is the location of immovable property. Suppose a road is constructed from Delhi to Mumbai covering multiple states. What will be the place of supply of construction services? [ICAI Material]

Answer: Where the immovable property is located in more than one State, the supply of service is treated as made in each of the States in proportion to the value for services separately collected or determined, in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf [Explanation to section 12(3) for domestic supplies].

In the absence of a contract or agreement between the supplier and recipient of services in this regard, the proportionate value of services supplied in different States/Union territories (where the immovable property is located) is computed on the basis of the area of the immovable property lying in each State/ Union territories [Rule 4 of the IGST Rules].

Question III (2): The place of supply in relation to immovable property (situated in India) is the location of immovable property. Suppose a road is constructed from Delhi to Mumbai covering multiple states. What will be the place of supply of construction services? [ICAI Material]

Answer: As per Explanation to section 12(3) of the IGST Act, for domestic supplies, where the immovable property is located in more than one State, the supply of service is treated as made in each of the States in proportion to the value for services that can be separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on any other reasonable basis as may be prescribed in this behalf.

In the absence of a contract or agreement between the supplier and recipient of service in this regard, the proportionate value of services supplied in different States / UTs (where the immovable property is located) is computed on the basis of the area of the immovable property lying in each State/UTs (Rule 4 of the IGST Rules).

Question III (3): Dobriyal Technocrats Ltd., registered in Gurgaon, Haryana, is engaged in manufacturing heavy steel machinery. It enters into an agreement with Mindsharp Associates, registered in Delhi, for imparting motivational training to the top management of Dobriyal Technocrats Ltd. in a 5-day residential motivational training programme at an agreed consideration of ₹20,00,000.

Mindsharp Associates books the conference hall alongwith the rooms of Hotel Chumchum, Neemrana (registered in Rajasthan) for the training programme, for a lump sum consideration of ₹12,00,000.

You are required to determine the place of supply in respect of the supply(ies) involved in the given scenario. [RTP Nov 21]

Answer: In the given situation, two supplies are involved:

- (i) Services provided by Mindsharp Associates to Dobriyal Technocrats Ltd. by way of providing motivational training to its top management.
- (ii) Services provided by Hotel Chumchum to Mindsharp Associates by way of accommodation in said hotel for organizing the training programme.

The place of supply in respect of each of the above supplies is determined as under:

- (i) **Relevant Provision:** As per the provisions of section 12(5)(a) of the IGST Act, 2017, the place of supply of services provided in relation to training and performance appraisal to a registered person, shall be the location of such person.

Analysis & Conclusion: Therefore, the place of supply of services supplied by Mindsharp Associates to the registered recipient - Dobriyal Technocrats Ltd. by way of providing motivational training to its top management is the location of Dobriyal Technocrats Ltd., i.e. Gurgaon, Haryana.

- (ii) **Relevant Provision:** As per the provisions of section 12(3)(c) of the IGST Act, 2017, the place of supply of services, by way of accommodation in any immovable property for organizing, inter alia, any official/ business function including services provided in relation to such function at such property, shall be the location at which the immovable property is located.

Analysis & Conclusion: Therefore, the place of supply of services supplied by Hotel Chumchum to Mindsharp Associates by way of accommodation of conference hall alongwith the rooms of Hotel Chumchum for the training programme shall be the location of the Hotel Chumchum, i.e. Neemrana, Rajasthan.

Question III (4): Musicera Pvt. Ltd., owned by Nitish Daani - a famous classical singer - wishes to organise a 'Nitish Daani Music Concert' in Gurugram (Haryana). Musicera Pvt. Ltd. (registered in Ludhiana, Punjab) enters into a contract with an event management company, Supriya (P) Ltd. (registered in Delhi) for organising the said music concert at an agreed consideration of ₹10,00,000. Supriya (P) Ltd. books the lawns of Hotel Dumdum, Gurugram (registered in Haryana) for holding the music concert, for a lump sum consideration of ₹4,00,000. Musicera Pvt. Ltd. fixes the entry fee to the music concert at ₹5,000. 400 tickets for 'Nitish Daani Music Concert' are sold.

You are required to determine the CGST and SGST or IGST liability, as the case may be, in respect of the supply(ies) involved in the given scenario.

Will your answer be different if the price per ticket is fixed at ₹450?

Note: Rate of CGST and SGST is 9% each and IGST is 18%. All the amounts given above are exclusive of taxes, wherever applicable [ICAI Material]

Answer: In the given situation, three supplies are involved:

- (i) Services provided by Musicera Pvt. Ltd. to audiences by way of admission to music concert.
- (ii) Services provided by Supriya (P) Ltd. to Musicera Pvt. Ltd. by way of organising the music concert.
- (iii) Services provided by Hotel Dumdum to Supriya (P) Ltd. by way of accommodation in the Hotel lawns for organising the music concert.

The CGST and SGST or IGST liability in respect of each of the above supplies is determined as under:

- (i) **Relevant Provision:** As per the provisions of section 12(6) of the IGST Act, 2017, the place of supply of services provided by way of admission to, inter alia, a cultural event shall be the place where the event is actually held.

Analysis & Conclusion: Therefore, the place of supply of services supplied by Musicera Pvt. Ltd. to audiences by way of admission to the music concert is the location of the Hotel Dumdum, i.e. Gurugram, Haryana.

Since the location of the supplier (Ludhiana, Punjab) and the place of supply (Gurugram, Haryana) are in different States, IGST will be leviable. Therefore, IGST leviable will be computed as follows:

Consideration for supply (400 tickets @ ₹5,000 per ticket) = ₹20,00,000

IGST @ 18% on value of supply = ₹20,00,000 x 18% = ₹3,60,000.

- (ii) **Relevant Provision:** Section 12(7)(a)(i) of IGST Act, 2017 stipulates that the place of supply of services provided by way of organization of, inter alia, a cultural event to a registered person is the location of such person.

Analysis & Conclusion: Therefore, the place of supply of services supplied by Supriya (P) Ltd. to Musicera Pvt. Ltd. (Ludhiana, Punjab) by way of organising the music concert is the location of the recipient, i.e. Ludhiana (Punjab).

Since the location of the supplier (Delhi) and the place of supply (Ludhiana, Punjab) are in different States, IGST will be leviable. Therefore, IGST leviable will be computed as follows:

Consideration for supply = ₹10,00,000

IGST @ 18% on value of supply = ₹10,00,000 x 18% = ₹1,80,000

- (iii) **Relevant Provision:** As per the provisions of section 12(3)(c) of the IGST Act, 2017, the place of supply of services, by way of accommodation in any immovable property for organizing, inter alia, any cultural function shall be the location at which the immovable property is located.

Analysis & Conclusion: Therefore, the place of supply of services supplied by Hotel Dumdum (Gurugram, Haryana) to Supriya (P) Ltd. by way of accommodation in Hotel lawns for organising the music concert shall be the location of the Hotel Dumdum, i.e. Gurugram, Haryana.

Since the location of the supplier (Gurugram, Haryana) and the place of supply (Gurugram, Haryana) are in the same State, CGST and SGST will be leviable. Therefore, CGST and SGST leviable will be computed as follows:

Consideration for supply = ₹4,00,000

CGST @ 9% on value of supply = ₹4,00,000 x 9% = ₹36,000

SGST @ 9% on value of supply = ₹4,00,000 x 9% = ₹36,000

If the price for the entry ticket is fixed at ₹450, answer will change in respect of supply of service provided by way of admission to music concert, as mentioned in point (i) above. There will be no IGST liability if the consideration for the ticket is ₹450 as the inter-State services by way of right to admission to, inter alia, musical performance are exempt from IGST vide Notification No. 9/2017, if the consideration for right to admission to the event is not more than ₹500 per person. However, there will be no change in the answer in respect of supplies mentioned in point (ii) and (iii) above.

Question III (5): Answer the following question in the light of the place of supply provisions contained in the IGST Act, 2017: Supra Events, an event management company at New Delhi, organizes an award function for Chirag Diamond Merchants of Varanasi (registered in U.P.), at Mumbai. Determine place of supply of the service supplied by Supra Events. Will your answer be different, if the award function is organized at Mauritius instead of Mumbai?

Answer: Relevant Provision: Section 12(7) of the IGST Act stipulates that the place of supply of services provided by way of organization of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of services in relation to a conference, fair, exhibition, celebration or similar events is the location of recipient in a case where such service is provided to a registered person.

Analysis & Conclusion: In the given case, since the recipient (Chirag Diamond Merchants) is a registered person, the place of supply is the location of the recipient, i.e., Varanasi, U.P.

Further, the place of supply will not change even if the award function is organized at Mauritius instead of Mumbai as the location of recipient remains unchanged. Thus, in that case also, the place of supply is the location of the recipient, i.e., Varanasi, U.P.

Question III (6): Damani Industries has recruited Super Events Pvt. Ltd., an event management company of Gujarat, for organizing the grand party for the launch of its new product at Bangalore. Damani Industries is registered in Mumbai. Determine the place of supply of the services provided by Super Events Pvt. Ltd. to Damani Industries.

Will your answer be different if the product launch party is organized at Dubai? [ICAI Material]

Answer: Relevant Provision: Section 12(7)(a)(i) of IGST Act, 2017 stipulates that when service by way of organization of an event is provided to a registered person, place of supply is the location of recipient.

Analysis & Conclusion: Since, in the given case, the product launch party at Bangalore is organized for Damani Industries (registered in Mumbai), place of supply is the location of Damani Industries i.e., Mumbai, Maharashtra.

In case the product launch party is organized at Dubai, the answer will remain the same, i.e., the place of supply is the location of recipient (Damani Industries)— Mumbai, Maharashtra.

Question III (7): Mr. Murthy, an unregistered person and a resident of Pune, Maharashtra hires the services of Sun Ltd. an event management company registered in Delhi, for organising the new product launch in Bengaluru, Karnataka.

- (i) Determine the place of supply of services provided by Sun Ltd.
- (ii) What would be your answer if the product launch takes place in Bangkok?
- (iii) What would be your answer if Mr. Murthy is a registered person and product launch takes place in-

- (a) Bengaluru
 (b) Bangkok? [ICAI Material]

Answer:

- (i) **Relevant Provision:** As per section 12(7)(a)(ii) of the IGST Act, 2017 when service by way of organization of an event is provided to an unregistered person, the place of supply is the location where the event is actually held and if the event is held outside India, the place of supply is the location of recipient.

Analysis & Conclusion: Since, in the given case, the service recipient [Mr. Murthy] is unregistered and event is held in India, place of supply is the location where the event is actually held, i.e. Bengaluru, Karnataka. The location of the supplier and the location of the recipient is irrelevant in this case.

- (ii) However, if product launch takes place outside India [Bangkok], the place of supply will be the location of recipient, i.e. Pune, Maharashtra.

- (iii) **Relevant Provision:** When service by way of organization of an event is provided to a registered person, place of supply is the location of recipient vide section 12(7)(a)(i) of the IGST Act.

Analysis & Conclusion: Therefore, if Mr. Murthy is a registered person, then in both the cases, i.e. either when product launch takes place in Bengaluru or Bangkok, the place of supply will be the location of recipient, i.e. Pune, Maharashtra.

Question III (8): What would be the place of supply of services provided by an event management company for organizing a sporting event for a Sports Federation which is held in multiple States? [ICAI Material]

Answer: In case of an event, if the recipient of service is registered, the place of supply of services for organizing the event is the location of such person. However, if the recipient is not registered, the place of supply is the place where event is held.

Since the event is being held in multiple states and a consolidated amount is charged for such services, the place of supply will be deemed to be in each state in proportion to the value of services determined in terms of the contract or agreement entered into in this regard [Explanation to section 12(7) of the IGST Act].

In the absence of a contract or agreement between the supplier and recipient of service, the proportionate value of services made in each state (where the event is held) will be computed in accordance with Rule 5 of the IGST Rules, by the application of Generally accepted accounting principles.

Question III (9): Determine the place of supply for the following independent cases under the IGST Act, 2017:

- (i) Grand Gala Events, an event management company at Kolkata, organises two award functions for Narayan Jewellers of Chennai (Registered in Chennai, Tamilnadu) at New Delhi and at Singapore. [ICAI Material]
 (ii) Perfect Planners (Bengaluru, Karnataka) is hired by Dr. Kelvin (unregistered person based in Kochi, Kerala) to plan and organise his son's wedding at Mumbai, Maharashtra. Will your answer be different if the wedding is to take place at Malaysia? [ICAI Material]

Answer:

- (i) **Relevant Provision:** When service by way of organization of an event is provided to a registered person, place of

supply is the location of recipient in terms of **section 12(7)(a)(I)** of IGST Act, 2017.

Analysis & Conclusion: Since, in the given case, the award functions at New Delhi and Singapore are organized for Narayan Jewellers (registered in Chennai), place of supply in both the cases is the location of Narayan Jewellers i.e., Chennai, Tamil Nadu.

- (ii) **Relevant Provision:** As per section 12(7)(a)(ii) of IGST Act, 2017, when service by way of organization of an event is provided **to an unregistered person**, the place of supply is the location where the event is actually held and if the event is **held outside India**, the place of supply is the **location of recipient**.

Analysis & Conclusion: Since, in the given case, the service recipient [Dr. Kelvin] is unregistered and event is held in India, place of supply is the location where the event is actually held i.e., Mumbai, Maharashtra.

However, if the wedding is to take place outside India [Malaysia], the place of supply is the location of recipient, i.e. Kochi, Kerala.

Question III (10): What is the place of supply of services by way of transportation of goods, including by mail or courier when both the supplier and the recipient of the services are located in India? [ICAI Material]

Answer: If the **recipient is registered**, the **location of such person** is the place of supply.

However, if the recipient is **not registered**, the place of supply is the **place where the goods are handed over for transportation**. Further, if the goods are transported **outside India**, the **destination of such goods** is the place of supply [Section 12(8)].

Question III (11): M/s Kingsize Airlines has issued a ticket/pass to Mr Saxena, the winner of annual lucky draw, for travelling to anywhere in India Determine the place of supply in this case.

Answer: Relevant Provision: As per **section 12(9)** of the IGST Act, 2017, the place of supply of passenger transportation service to a person **other than a registered person**, shall be the **place where the passenger embarks on the conveyance for a continuous journey**.

In the above case, the place of embarkation will **not be available at the time of issue of invoice as the right to passage is for future use**. Accordingly, **place of supply cannot be the place of embarkation**.

The **proviso to section 12(9)** provides that where the **right to passage is given for future use and the point of embarkation is not known** at the time of issue of right to passage, the place of supply of such service shall be **determined in accordance with the provisions of 12(2)**.

Analysis & Conclusion: Thus, in such cases, the default rule shall apply i.e. the place of supply of services made to any person other than a registered person shall be the location of the recipient where the address on record exists and the location of the supplier of services in other cases.

Question III (12): What will be the place of supply of passenger transportation service, if a person travels from Mumbai to Delhi and back to Mumbai? [ICAI Material]

Answer: As per Section 12(9) of IGST Act, If the person is registered, the place of supply will be the location of recipient. If

the person is not registered, the place of supply for the forward journey from Mumbai to Delhi will be Mumbai, the place where he embarks.

However, As per **Explanation to section 12(9)** of the IGST Act for the **return** journey, the place of supply will be **Delhi** as the return journey has to be treated as separate journey, even if the tickets for onward and return journey are issued at the same time.

Question III (13): What is the place of supply for mobile connection? Can it be the location of supplier? [ICAI Material]

Answer: For domestic supplies: -

No, the location of supplier of mobile services cannot be the place of supply as the mobile companies are providing services in multiple states and many of these services are inter-state.

The consumption principle will be broken if the location of supplier is taken as place of supply and all the revenue may go to a few states where the suppliers are located.

The **place of supply for mobile connection would depend on whether the connection is on postpaid or prepaid basis.**

As per **section 12(11)** of IGST Act, in case of postpaid connections, the place of supply is the **location of billing address of the recipient of service on the records of supplier of services.**

In case of **pre-paid connections**, if the service is supplied: -

- (i) **through a selling agent or a re-seller or a distributor** of SIM card or re-charge voucher, the place of supply is the place of address of the selling agent or re-seller or distributor as per the record of the supplier at the time of supply; or
- (ii) **by any person to the final subscriber**, the place of supply is the location **where such pre-payment is received or such vouchers are sold;**
- (iii) in **other cases**, the place of supply is the **address of the recipient as per the records of the supplier** of services and where such address is not available, the place of supply shall be the location of the supplier of services.

However, **if the recharge is done through internet /e-payment**, the location of recipient of service on record of the **supplier** will be taken as the place of supply [Section 12(11)].

Question III (14): A person from Mumbai goes to Kullu - Manali and takes some services from ICICI Bank in Manali. What is the place of supply? [ICAI Material]

Answer: As per **section 12(12)** of IGST Act, the place of supply in case of banking services to any person shall be the **location of the recipient** of services on the records of the supplier of services. However, if the **location of recipient of services is not on the records of the supplier**, the place of supply shall be the **location of the supplier** of services, i.e., Kullu-Manali, Himachal Pradesh.

Question III (15): An unregistered person from Gurugram travels by Air India flight from Mumbai to Delhi and gets his travel insurance done in Mumbai. What is the place of supply of insurance services? [ICAI Material]

Answer: As per Section 12(13) of the IGST Act, When insurance service is provided to an unregistered person, the **location**

of the recipient of services on the records of the supplier of insurance services is the place of supply. So Gurugram is the place of supply.

Question III (16): 'PQ', a statutory body, deals with all the advertisement and publicity of the Government. It has issued a release order to 'Moon Plus' channel (registered in State 'A') for telecasting an advertisement relating to one of the schemes of the Government in the month of September 20XX. The advertisement will be telecasted in the States of 'A', 'B', 'C', 'D' and 'E'. The total value of the service contract entered into between 'Moon Plus' and 'PQ' is ₹ 10,00,000 (exclusive of GST).

You are required to determine the place of supply of the services in the instant case as also the value of supply attributable to the States of 'A', 'B', 'C', 'D' and 'E'.

Further, compute the GST liability [CGST & SGST or IGST, as the case may be] of 'Moon Plus' as also advise it as to whether it should issue one invoice for the entire contract value or separate State-wise invoices.

The other relevant information is given hereunder:

Table 1

States	Viewership figures of 'Moon Plus' channel in the last week of June 20XX as provided by the Broadcast Audience Research Council
A	50,000
B + C	1,00,000
D + E	50,000

Table 2

States	Population as per latest census (in crores)
A	50
B	180
C	20
D	100
E	25

The applicable rate of tax is as under:

CGST	SGST	IGST
9%	9%	18%

Answer: Relevant Provision: As per section 12(14) of the IGST Act, 2017, the place of supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for the States or Union territories identified in the contract or agreement is taken as being in each of such States or Union territories, where the advertisement is broadcasted/run/ played/disseminated.

Analysis & Conclusion: Therefore, in the given case, the place of supply of advertisement service is in the States of 'A', 'B', 'C', 'D' and 'E'.

The value of the supply of such advertisement services specific to each State/Union territory is in proportion to the amount attributable to the services provided by way of dissemination in the respective States/Union territories determined in terms of the contract or agreement entered into in this regard.

In the absence of such a contract or agreement between the supplier and recipient of services, the proportionate value of advertisement services attributable to different States/Union territories (where the advertisement is broadcasted/run/played/ disseminated) is computed in accordance with rule 3 of the IGST Rules, 2017.

Relevant Provision: As per rule 3(f) of the IGST Rules, 2017, in the case of advertisement on television channels, the amount attributable to the value of advertisement service disseminated in a State shall be calculated on the basis of the viewership of such channel in such State, which in turn, shall be calculated in the following manner, namely:

- (i) the channel viewership figures for that channel for a State or Union territory shall be taken from the figures published in this regard by the Broadcast Audience Research Council;
- (ii) the figures published for the last week of a given quarter shall be used for calculating viewership for the succeeding quarter;
- (iii) where such channel viewership figures relate to a region comprising of more than one State or Union territory, the viewership figures for a State or Union territory of that region, shall be calculated by applying the ratio of the populations of that State or Union territory, as determined in the latest Census, to such viewership figures;
- (iv) the ratio of the viewership figures for each State or Union territory as so calculated, when applied to the amount payable for that service, shall represent the portion of the value attributable to the dissemination in that State or Union territory.

Analysis & Conclusion: Therefore, value of supply attributable to 'A', 'B', 'C', 'D' and 'E', will be computed as under:

States	Viewership figures of 'Moon Plus' channel as provided by the Broadcast Audience Research Council in the last week of June 20XX	Viewership ratio of 'Moon Plus' channel in the States 'A', ('B' + 'C') and ('D' + 'E')	Proportionate value of advertisement services for States A, ('B' + 'C') and ('D' + 'E')
A	50,000	50,000: 1,00,000: 50,000 = 1:2:1	₹10,00,000 × 1/4 = ₹2,50,000
B + C	1,00,000		₹10,00,000 × 2/4 = ₹5,00,000
D + E	50,000		₹10,00,000 × 1/4 = 2,50,000

States	Population as per latest census (in crores)	Population ratio in the States 'B' & 'C' and 'D' & 'E'	Proportionate value of advertisement services in the States 'A', 'B', 'C', 'D' & 'E'
A	50		₹ 2,50,000
B	180	B:C = 180:20 = 9:1	₹ 5,00,000 × 9/10 = ₹ 4,50,000
C	20		₹ 5,00,000 × 1/10 = ₹ 50,000
D	100	D:E = 100:25 = 4:1	₹ 2,50,000 × 4/5 = ₹ 2,00,000
E	25		₹ 2,50,000 × 1/5 = ₹ 50,000

Since, there are five different places of supply in the given case, 'Moon Plus' channel will have to issue five separate invoices for each of the States namely, 'A', 'B', 'C', 'D' & 'E' indicating the value pertaining to that State. The GST liability of 'Moon Plus' channel will, therefore, be worked out as under:

Computation of GST liability of 'Moon Plus'

States	Proportionate value of advertisement services (₹)	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)
A	2,50,000	22,500	22,500	
B	4,50,000			81,000
C	50,000			9,000
D	2,00,000			36,000
E	50,000			9,000

Only in case of supply of services in State 'A', the location of supplier (State 'A') and the place of supply are in the same State, hence the same is an intra-State supply in terms of section 8(1) of the IGST Act, 2017 and is thus, liable to CGST and SGST. In all the remaining cases of supply of services, the location of the supplier (State 'A') and the places of supply (States 'B', 'C', 'D' & 'E') are in two different States, hence the same are inter-State supplies liable to IGST [Section 7(1)(a) of the IGST Act, 2017 read with section 5(1) of that Act].

[Topic-(I)- Section 35 - Accounts and Other Records]

Question I (1): Who is required to maintain books of accounts and at which place in terms of Section 35 read with relevant rules?

Answer: Every registered person shall keep and maintain, his books of accounts at his principal place of business and books of account relating to additional place of business as mentioned in the certificate of registration. Where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business.

Question I (2): Whether the transporters, who are not registered under the GST, are required to maintain any records under the provisions of CGST Act, 2017? Also explain, if any other unregistered persons who are required to maintain records under GST. [Jan 2021, 2 Marks]

Answer: The transporters, who are not registered under GST, shall obtain a unique enrollment number on GST common portal and maintain records of goods transported, delivered and goods stored in transit by them along with GSTIN of the registered consignor and consignee for each of his branches.

Every owner or operator of warehouse/godown/any other place used for storage of goods, even if unregistered, is also required to maintain records under GST.

Question I (3): List any four records required to be maintained by an agent under the CGST Rules, 2017. [Dec 2021, 4 Marks]

Answer: Every agent shall maintain accounts depicting the-

- (a) particulars of authorisation received by him from each principal to receive or supply goods or services on behalf of such principal separately;
- (b) particulars including description, value and quantity (wherever applicable) of goods or services received on behalf of every principal;
- (c) particulars including description, value and quantity (wherever applicable) of goods or services supplied on behalf of every principal;
- (d) details of accounts furnished to every principal; and
- (e) tax paid on receipts or on supply of goods or services effected on behalf of every principal.

Question I (4): Essel Groups has started making taxable supplies and gets registered under GST law. You are required to advice it about the accounts and records required to be maintained by it as required under section 35 (1). [ICAI Material]

Answer: Section 35(1) stipulates that a true and correct account of following is to be maintained:

- (a) production or manufacture of goods;
- (b) inward and outward supply of goods or services or both;
- (c) stock of goods;
- (d) input tax credit availed;

- (e) output tax payable and paid
- (f) such other particulars as may be prescribed.

Question I (5): Swad Restaurant has opted for composition scheme in the current financial year. Discuss the records which are not to be maintained by a supplier opting for composition levy though required to be maintained by a normal tax-payer as enumerated in rule 56. [ICAI Material]

Answer: Following records are **not required to be maintained** by a supplier who has opted for composition scheme as per rule 56(2) and (4), but are required to be maintained by a normal tax payer:

- (I) **Stock of goods:** Accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.
- (II) **Details of tax:** Account, containing the details of tax payable (including tax payable under reverse charge), tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.

Question I (6): ABC Manufacturers Ltd. engages Raghav & Sons as an agent to sell goods on its behalf wherein the invoice for supply or procurement on behalf of ABC Manufacturers Ltd. is issued by Raghav & Sons in its own name. For the purpose, ABC Manufacturers Ltd. has supplied the goods to Raghav & Sons located in Haryana. Enumerate the accounts required to be maintained by Raghav & Sons as per rule 56(11). [ICAI Material]

Answer: Rule 56(11) provides that **every agent shall maintain** accounts depicting the-

- (a) particulars of authorisation received by him from each principal to receive or supply goods or services on behalf of such principal separately;
- (b) particulars including description, value and quantity (wherever applicable) of goods or services received on behalf of every principal;
- (c) particulars including description, value and quantity (wherever applicable) of goods or services supplied on behalf of every principal;
- (d) details of accounts furnished to every principal; and
- (e) tax paid on receipts or on supply of goods or services effected on behalf of every principal.

Question I (7) : Mr. Harsh Manjula is engaged in the business of works contract services and request your guidance as to specific records required to be maintained by him under GST law, if any. [ICAI Material]

Answer: Mr. Harsh Manjula, executing works contract shall keep separate accounts for works contract showing -

- * The names and addresses of the persons on whose behalf the works contract is executed;
- * description, value and quantity (wherever applicable) of goods/services received for the execution of works contract;
- * description, value and quantity (wherever applicable) of goods/services utilized in the execution of works contract;
- * The details of payment received in respect of each works contract; and

The names and addresses of suppliers from whom he received goods or services.

Question I (8) : Chill Chain Cold is operating cold storage warehouse and seeks your guidance on the GST accounts and records to be maintained by them in terms of Section 35. [ICAI Material]

Answer: Chill Chain Cold shall maintain records of the consigner, consignee and other relevant details of the goods in the prescribed manner.

Chill Chain Cold shall also maintain books of accounts with respect to the period for which particular goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt, and disposal of such goods.

Chill Chain Cold shall store the goods in such manner that they can be identified item-wise and owner-wise and shall facilitate any physical verification or inspection by the proper officer on demand.

Question I (9) : Mr. X is of the view that records are to be mandatorily maintained manually only. You are required to examine the view taken by Mr. X? [ICAI Material]

Answer: The view taken by Mr. X is not valid in law. Books of account include any electronic form of data stored on any electronic device. The registered person may keep and maintain such accounts and other particulars in electronic form stored on any electronic device and record so maintained shall be authenticated by means of a digital signature. The registered person maintaining electronic records shall produce, on demand, the relevant records or documents, duly authenticated by him, in hard copy or in any electronically readable format.

Where the accounts and records are stored electronically by any registered person, he shall, on demand, provide the details of such files, passwords of such files and explanation for codes used, where necessary, for access and any other information which is required for such access along with a sample copy in print form of the information stored in such files.

[Topic-(II)-Section 36 Period of Retention of Accounts]

Question II (1): Mala Services Ltd. is a supplier of management consultancy services registered in Haryana. It has approached you to ascertain the period for which the books of accounts or other records need to be maintained? [ICAI Material]

Answer: Section 36 stipulates that every registered person required to keep and maintain books of account or other records in accordance with the provisions of sub-section (1) of section 35 shall retain them until the expiry of 72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records.

However, a registered person, who is a party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of one year after final disposal of such appeal or revision or proceedings or investigation, or for the period specified above, whichever is later.

[Topic-(I)- Basic Questions]

Question I (1): Who is liable to pay GST?

Answer: **General Rule** - Supplier of goods or services is liable to pay GST.

Specific circumstances –

- Import supplies – Recipient of goods or services has to pay tax under reverse charge.
- The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies, of which shall be paid by the electronic commerce operator, if such services are supplied through it.
- TDS – If total value of supply under contract > ₹ 2.5 lakhs, then Central and State Government, Local authority, Government agencies is liable to deduct TDS and pay the same to the government
- TCS - E-commerce operators are required to collect tax (TCS) on the aggregate value of supply reduced by returns in a month.

[Topic-(II)- Section 51- Tax deducted at Source]

Question II (1): What is TDS?

Answer: TDS stands for Tax Deducted at Source (TDS).

As per section 51, this provision is meant for Government and Government undertakings and other notified entities making contractual payments where total value of such supply under a contract exceeds ₹ 2.5 Lakhs to suppliers.

While making any payments under such contracts, the concerned Government/authority shall deduct 1% of the total payment made and remit it into the appropriate GST account.

Question II (2): Whether the rate of tax of 1% notified under section 52 is CGST or SGST or a combination of both CGST and SGST? [ICAI Material]

Answer: The rate of TCS as notified under CGST Act is payable under CGST and the equal rate of TCS is expected under the SGST Act also, in effect aggregating to 1%.

Question II (3): How will the Supplier account for this TDS while filing his return?

Answer: Any amount shown as TDS will be reflected in the electronic cash ledger of the concerned supplier. He can utilize this amount towards discharging his liability towards tax, interest fees and any other amount.

Question II (4): State whether the provisions pertaining to tax collected at source under section 52 of CGST Act, will be applicable in below mentioned scenarios -

- (a) Fitan sells watch on its own through its own website
- (b) ABC limited who is dealer of Fitan brand sells watches through Slipkart, an electronic commerce operator. [ICAI Material]

Answer: Answers for both the scenarios is as follows:

As per **Section 52**, every electronic commerce operator not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of-

(a) the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.

Hence, if the person sells on his own, provisions pertaining to tax collected at source (TCS) won't be applicable.

(b) If ABC limited who is dealer of Fitan brand sells watches through Slipkart, then the provision of TCS will be applicable to Slipkart.

Question II (5):

(i) A Central Government Department located at Uttar Pradesh is registered with the Commercial Tax Department UP State for deducting GST. It enters into a contract with a Public Sector Undertaking (PSU), registered under GST in the State of Delhi, for supplying goods valued ₹ 3,50,000. The PSU argues that no tax is deductible on this supply by the Central Government Department as it is located outside the State of Uttar Pradesh and therefore not liable to tax under CGST and SGST as it is a local levy and IGST tax deduction is not applicable if it is located in another State, other than the State in which the Department is registered. You are required to comment on this.

(ii) Would there be any difference, if instead of the PSU if it was an entity in the private sector? Applicable tax rate for deduction is 1% CGST, 1% SGST and 2% IGST.

(iii) If the private sector entity undertakes works contract, for the above Department in New Delhi. What would be the position of tax deduction when the contract value is ₹ 5,00,000? [Nov 2020, 4 Marks]

Answer:

(i) Certain specified persons are required to deduct tax from the payment made to the supplier of taxable goods and/or services, where the total value of such supply [excluding GST] under a contract, exceeds ₹ 2,50,000.

However, the tax is not liable to be deducted at source when supply of goods and/or services has taken place between one specified person to another specified person. Since both Central Government Department and PSU are the specified persons, tax is not deductible in case of supply of goods between them.

(ii) Central Government Department is mandatorily required to deduct IGST @ 2% since a private entity is not the specified person.

(iii) Since, in the given case, the location of supplier and place of supply is in the same State, i.e., Delhi and location of recipient is in UP, Central Government Department is not required to deduct TDS although the total value of supply under the contract is more than ₹ 2,50,000.

It has been assumed that the location of private entity and the place of supply are in Delhi and the Central Government Department is in U.P.

Question II (6): Yash Shoppe, a registered supplier of Jaipur, is engaged in supply of various goods and services exclusively to Government departments, agencies, local authority and persons notified under section 51.

You are required to briefly explain the provisions relating to tax deduction at source under section 51 and also determine the amount of tax, if any, to be deducted from each of the receivables given below (independent cases) assuming that the payments as per the contract values are made on 31st October. The rates of CGST, SGST and IGST may be assumed to be 6%, 6% and 12% respectively.

- (1) Supply of computer stationery to Public Sector Undertaking (PSU) located & registered in Mumbai. Total contract value is ₹ 2,72,000 (inclusive of GST)
- (2) Supply of air conditioner to GST department located & registered in Delhi. Total contract value is 2,55,000 (exclusive of GST)
- (3) Supply of generator renting service to Municipal Corporation of Jaipur (not exempt under GST law). Total contract value is ₹ 3,50,000 (inclusive of GST). [ICAI Material]

Answer: Relevant Provisions: As per section 51, Government departments, agencies, local authority and notified persons are required to deduct tax @ 2% (1% CGST + 1% SGST/UTGST) or IGST @ 2% from payment made to the supplier of taxable goods and/ or services where the total value of such supply [excluding tax and compensation cess indicated in the invoice], under a contract, exceeds ₹ 2,50,000.

Analysis & Conclusion: Since in the given case, Yash Shoppe is supplying goods and services exclusively to Government departments, agencies, local authority and persons notified under section 51 of the CGST Act, 2017, applicability of TDS provisions on its various receivables is examined in accordance with the above-mentioned provisions as under:

S.N.	Particulars	Total contract value due to be received [excluding GST] (₹)	Tax to be deducted		
			CGST @ 1% (₹)	SGST @ 1% (₹)	IGST @ 2% (₹)
(1)	Supply of computer stationery to PSU in Mumbai [Since the total value of supply under the contract [excluding IGST (being inter-State supply)] does not exceed ₹ 2,50,000, tax is not required to be deducted.]	2,42,857 [2,72,000 × 100 / 112]	-	-	
(2)	Supply of air conditioner to GST Department in Delhi [Since the total value of supply under the contract [excluding IGST (being inter-State supply)] exceeds ₹ 2,50,000, tax is required to be deducted.]	2,55,000	-		5,100

(3)	Supply of a generator renting service to Municipal Corporation of Jaipur [Since the total value of supply under the contract [excluding CGST and SGST (being intra-State supply)] exceeds ₹ 2,50,000, tax is required to be deducted.]	3,12,500 [3,50,000 × 100 / 112]	3,125	3,125	
	Total		3,125	3,125	5,100

Question II (7): Manihar Enterprises, registered in Delhi, is engaged in supply of various goods and services exclusively to Government departments, agencies etc. and persons notified under section 51. It has provided the information relating to the supplies made, their contract values and the payment due against each of them in the month of October, respectively as under:

S. No.	Particulars	Total contract value (inclusive of GST) (₹)	Payment due in October (₹)
(i)	Supply of stationery to Fisheries Department, Kolkata	2,60,000	15,000
(ii)	Supply of car rental services to Municipal Corporation of Delhi	2,95,000	20,000
(iii)	Supply of a heavy machinery to Public Sector Undertaking located & registered in Uttarakhand	5,90,000	25,000
(iv)	Supply of taxable goods to Delhi office of National Housing Bank, a society established by Government of India under the Societies Registration Act, 1860	6,49,000	50,000
(v)	Interior decoration of Andhra Bhawan located in Delhi. Service contract is entered into with the Government of Andhra Pradesh (registered only in Andhra Pradesh)	12,39,000	12,39,000
(vi)	Supply of printed books and printed post cards to a West Delhi Post Office [Out of total contract value of ₹ 9,72,000, contract value for supply of books (exempt from GST) is ₹ 7,00,000 and for supply of printed post cards (taxable under GST) is ₹ 2,72,000.]	9,72,000	50,000 for books & 20,000 for printed post cards
(vii)	Maintenance of street lights in Municipal area of East Delhi* [The maintenance contract entered into with the Municipal Corporation of Delhi also involves replacement of defunct lights and other spares. However, the value of supply of goods is not more than 25% of the value of composite supply.] *an activity in relation to any function entrusted to a Municipality under article 243W of the Constitution	3,50,000	3,50,000

You are required to determine amount of tax, if any, to be deducted from each of the receivable given above assuming the rate of CGST, SGST and IGST as 9%, 9% and 18% respectively.

Will your answer be different, if Manihar Enterprises is registered under composition scheme? [ICAI Material]

Answer: **Relevant Provisions:** As per section 51 read with section 20 of the IGST Act, 2017 and Notification No. 50/2018, following persons are required to deduct CGST @ 1% [Effective tax 2% (1% CGST + 1% SGST/UTGST)] or IGST @ 2% from the payment made/credited to the supplier (deductee) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds ₹ 2,50,000:

- (a) a department or establishment of the Central Government or State Government; or
- (b) local authority; or
- (c) Governmental agencies; or
- (d) an authority or a board or any other body, -
 - (i) set up by an Act of Parliament or a State Legislature; or
 - (ii) established by any Government, with 51% or more participation by way of equity or control, to carry out any function; or
- (e) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860, or
- (f) Public sector undertakings.

Further, for the purpose of deduction of tax, the value of supply shall be taken as the amount excluding CGST, SGST/UTGST, IGST and GST Compensation Cess indicated in the invoice.

Analysis & Conclusion: Since in the given case, Manihaar Enterprises is supplying goods and services exclusively to Government departments, agencies etc. and persons notified under section 51, applicability of TDS provisions on its various receivables is examined in accordance with the above-mentioned provisions as under:

S.N.	Particulars	Total contract value (₹)	Payment due (₹)	Tax to be deducted		
				CGST (₹)	SGST (₹)	IGST (₹)
	Supply of stationery to Fisheries Department, Kolkata (Note-1)	2,60,000	15,000	-		
	Supply of car rental services to Municipal Corporation of Delhi (Note-2)	2,95,000	20,000	-		
	Supply of a heavy machinery to Public Sector Undertaking located in Uttarakhand (Note-3)	5,90,000	25,000			500
	Supply of taxable goods to Delhi office of National Housing Bank, a society established by Government of India under the Societies Registration Act, 1860 (Note-4)	6,49,000	50,000	500	500	

Interior decoration of Andhra Bhawan located in Delhi (Note-5)	12,39,000	12,39,000	-		
Supply of printed books and printed post cards to a West Delhi Post Office (Note-6)	9,72,000		-		
Maintenance of street lights in Municipal area of East Delhi (Note-7)	3,50,000	3,50,000	-		

Notes:

- Being an inter-State supply of goods, supply of stationery to Fisheries Department, Kolkata is subject to IGST @ 18%. Therefore, total value of taxable supply [excluding IGST] under the contract is as follows:

$$= ₹ 2,60,000 \times 100 / 118$$

$$= ₹ 2,20,339 \text{ (rounded off)}$$
 Since the total value of supply under the contract does not exceed ₹ 2,50,000, tax is not required to be deducted.
- Being an intra-State supply of services, supply of car rental services to Municipal Corporation of Delhi is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

$$= ₹ 2,95,000 \times 100 / 118$$

$$= ₹ 2,50,000$$
 Since the total value of supply under the contract does not exceed ₹ 2,50,000, tax is not required to be deducted.
- Being an inter-State supply of goods, supply of heavy machinery to PSU in Uttarakhand is subject to IGST @ 18%. Therefore, total value of taxable supply [excluding IGST] under the contract is as follows:

$$= ₹ 5,90,000 \times 100 / 118$$

$$= ₹ 5,00,000$$
 Since the total value of supply under the contract exceeds ₹ 2,50,000, PSU in Uttarakhand is required to deduct tax @ 2% of ₹ 25,000, i.e. ₹ 500.
- Being an intra-State supply of goods, supply of taxable goods to National Housing Bank, Delhi is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

$$= ₹ 6,49,000 \times 100 / 118$$

$$= ₹ 5,50,000$$
 Since the total value of supply under the contract exceeds ₹ 2,50,000, National Housing Bank, Delhi is required to deduct tax @ 2% (1% CGST + 1% SGST) of ₹ 50,000, i.e. ₹ 1,000.

5. Proviso to section 51(1) stipulates that no tax shall be deducted if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.

Section 12(3) of the IGST Act, 2017, inter alia, stipulates that the place of supply of services, directly in relation to an immovable property, including services provided by interior decorators, shall be the location at which the immovable property is located or intended to be located. Accordingly, the place of supply of the interior decoration of Andhra Bhawan shall be Delhi.

Since the location of the supplier (Manihar Enterprises) and the place of supply is Delhi and the State of registration of the recipient i.e. Government of Andhra Pradesh is Andhra Pradesh, no tax is liable to be deducted in the given case.

6. If the contract is made for both taxable supply and exempted supply, tax shall be deducted if the total value of taxable supply in the contract exceeds ₹ 2,50,000. Being an intra-State supply of goods, supply of printed post cards to a West Delhi Post Office is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

$$= ₹ 2,72,000 \times 100 / 118$$

$$= ₹ 2,30,509 \text{ (rounded off)}$$

Since the total value of taxable supply under the contract does not exceed ₹ 2,50,000, tax is not required to be deducted.

7. Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply provided to, inter alia, local authority by way of any activity in relation to any function entrusted to a Municipality under article 243W of the Constitution is exempt from GST. Thus, maintenance of street lights (an activity in relation to a function entrusted to a Municipality) in Municipal area of East Delhi involving replacement of defunct lights and other spares where the value of supply of goods is not more than 25% of the value of composite supply is a service exempt from GST. Since tax is liable to be deducted from the payment made or credited to the supplier of taxable goods or services or both, no tax is required to be deducted in the given case as the supply is exempt.

The answer will remain unchanged even if Manihar Enterprises is registered under composition scheme. Tax will be deducted in all cases where it is required to be deducted under section 51 of the CGST Act, 2017 including the scenarios when the supplier is registered under composition scheme.

[Topic-(III)- Section 52- Tax Collected at Source]

Question III (1): What is Tax Collected at Source (TCS)?

Answer: This provision is applicable only for E-Commerce Operator under section 52 of CGST/SGST Act. Every E-Commerce Operator, not being an agent, needs to withhold an amount calculated at the rate not exceeding one percent of the "net value of taxable supplies" made through it where the consideration with respect to such supplies is to be collected by the operator. Such withheld amount is to be deposited by such E-Commerce Operator to the appropriate GST account by the 10th of the next month. The amount deposited as TCS will be reflected in the electronic cash ledger of the supplier.

Question III (2): Is every e-commerce operator required to collect tax on behalf of actual supplier? [ICAI Material]

Answer: Yes, every e-commerce operator is required to collect tax where consideration with respect to the supply is being collected by the e-commerce operator.

However, no TCS is required to be collected in the following cases:-

- (i) on supply of services notified under section 9(5) of the CGST Act, 2017.
- (ii) on exempt supplies
- (iii) on supplies on which the recipient is required to pay tax on reverse charge basis.

Question III (3): From the following information of independent cases, your expert advice, with appropriate reasoning, is sought on the applicability of TDS/TCS provisions of the CGST Act, 2017. You shall also quantify the amount of TDS/TCS, as the case be, if the same is applicable.

- (i) Top Fashions, a designer cloth dealer and registered in the State of West Bengal, effected supply through 'QUICK DEAL', an electronic commerce operator. Net value of taxable intra-State supplies effected for the month of October 2019 was ₹ 1,50,000.
- (ii) M/s Super Builders, a registered supplier in Tamil Nadu, was awarded a works contract by Government of Tamil Nadu amounting to ₹ 4,30,000. Of this, value of exempt supply was ₹ 1,00,000.
- (iii) Tasty Caterers, a registered supplier of Kerala, provided catering services in Kochi, Kerala to Government of Andhra Pradesh for its annual training camp held for its staff. Value of said services was ₹ 4,50,000. [Jan 2021, 4Marks]

Answer:

- (i) **Relevant Provisions:** An electronic commerce operator (ECO) is required to collect TCS - an amount @ 1% (CGST 0.5% and SGST @ 0.5%) of the net value of taxable supplies made through it by other suppliers.

Analysis & Conclusion: Therefore, as per the given Details-

$$= ₹ 1,50,000 \times 0.5\%$$

$$= ₹ 750 \text{ (CGST)}$$

$$= ₹ 750 \text{ (SGST)}$$

- (ii) **Relevant Provisions:** A State Government is required to deduct tax from the payment made to the supplier of taxable goods and/or services, where the total value of such supply [excluding GST] under a contract, exceeds ₹ 2,50,000.

Analysis & Conclusion: TDS to be deducted in the given intra-State supply (since place of supply and location of supplier is in Tamil Nadu) is as follows:

= ₹ (4,30,000 - 1,00,000) × 1%

= ₹ 3,300 (CGST)

= ₹ 3,300 (SGST)

(iii) Since, in the given case, the **location of supplier and place of supply are in the same State, i.e., Kerala** and location of recipient is in Andhra Pradesh, Andhra Pradesh Government is not required to deduct TDS although the total value of supply under the contract is more than ₹ 2,50,000.

Note: In above question, it has been assumed that the value given is exclusive of GST, wherever applicable, since the rate of tax is not given in the question.

Question III (4): A is an e-commerce operator supplying goods through its electronic portal in capacity of an agent. The goods belong to B and the consideration for such supplies is received by A and remitted to B as per the contractual arrangement. A requires your help in arriving at the rate at which tax shall be collected from the amount which is received by it against the supplies? [ICAI Material]

Answer: Relevant Provisions: As per **Section 52(1)**, the TCS provisions are not applicable in cases where the ECO is an agent of the supplier.

Analysis & Conclusion: In the present case, A being an ECO is supplying goods through the electronic portal in capacity of an agent and hence the liability to collect tax as per Section 52 shall not arise in this case.

Question III (5): X booked a Hotel in Udaipur, Rajasthan through an e-commerce portal for an amount of ₹ 25,000. As per the terms and conditions, the amount was payable at the hotel at the time of check in. Whether TCS provisions shall apply in the present case? [ICAI Material]

Answer: Relevant Provisions: As per the provisions under Section 52 the TCS provisions shall trigger only when the ECO is receiving the consideration for supply from the recipient of supply.

Analysis & Conclusion: In the present case the supplier i.e. the hotel is directly receiving the consideration from the recipient of the services i.e. X. Hence, the present transactions shall not trigger the TCS provisions under Section 52.

Question III (6): There is no onus of filing any monthly & annual statements by ECO. Examine the technical veracity of the statement by explaining relevant provisions. [ICAI Material]

Answer: The given statement is invalid. An electronic statement has to be filed by the ECO containing details of the outward supplies of goods and/ or services effected through it, including the supplies returned through it and the amount collected by it as TCS during the month within 10 days after the end of the each month in which supplies are made.

Additionally, the ECO is also mandated to file an Annual Statement on or before 31st day of December following the end of the financial year.

The Commissioner has been empowered to extend the due date for furnishing of monthly and annual statement by the person collecting tax at source.