

for
CA/CMA/CS Final

**[Exemption Scoring:
60 Questions]**
**INDIRECT
TAXATION**

(GST and Customs)

For May/Nov, 2023 Examinations

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2023 Edition

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About CA RAJ KUMAR

CA Raj Kumar is a dynamic & qualified Chartered Accountant. As a brilliant student and a position holder at Graduation & Post Graduation level, during his **15 years of glorious teaching experience** in the field of **Indirect Taxation** he has taught **over 1,55,000 students**.

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In the subject Indirect Tax Laws, his students have continued to score **All India Highest Marks for 11 times till now**. He has also been entrusted by Government agencies to **show the ropes to IRS Officers** in training, which is a **testament to his caliber** as a subject matter expert.

He is famous for **concepts linkage** from the very beginning till the end which helps in understanding the topic, acing the exams and in post CA life as well. **His unique use of GST portal during the class** to link theory with Practical makes him stand apart from the crowd. His **classes are practical, conceptual and concise**. He is also the author of bestselling titles 'GST Compact Book'.

CA FINAL

A- B- C ANALYSIS (ANALYSIS OF 7 PAST EXAM PAPERS)

FOR CA FINAL MAY/NOV 2023 EXAMS

GOODS AND SERVICES TAX

Chapter name	Nov 2019 Exam	Nov 2020 Exam	Jan 2021 Exam	July 2021 Exam	Dec 2021 Exam	May 2022 Exam	Nov 2022 Exam	ABC CATEGORY BASED ON 5 EXAMS A1,A2,B1,B2,C1,C2
Introduction	-	-	-	-	-	-	-	C2
Constitution	Theoretical 5 Marks Article 279A	Theoretical 5 Marks Article 279A	Theoretical 2 Marks Article 246A Theoretical 4 Marks Significant provisions of Constitutional, amendment act	-	-	-	-	B1
Definitions	-	-	-	-	-	-	-	C2
Administration	-	-	-	-	-	-	-	C2
IGST	-	-	-	-	-	-	-	C2
Goods and services	-	-	-	-	-	-	-	C2

Supply	Numerical 4 Marks Composite supply	-	-	-	-	Numerical 2+2 Marks Composite and Mixed supply	Numerical 4 Marks Schedule II	C1
Place of supply	-	Case study 4 Marks	Case study- Multiple transactions 9 Marks	-	Case study 4 Marks	Case study 1 Marks	Case study 5 Marks	A1
Taxable person	-	Case study 4 Marks	-	Numerical 4 Marks	Case study multiple 4 Marks	-	Case study multiple 4 Marks	A2
Exemptions	Numerical 9 Marks	-	-	-	Case study multiple 5 marks	Numerical with RCM Provisions 9 Marks ----- Numerical 2 Marks Bill discounting	Case study 5 marks	A1 Because it becomes a part of other questions
Computation	Numerical 14 Marks In support with- ITC Booking (Sec 16,17), ITC Utilisation (Section 49), RCM	Numerical 14 Marks In support with – ITC Booking (Sec 16,17), ITC Utilisation (Section 49), RCM	Numerical 14 Marks ITC Booking (Sec 16,17), ITC Utilisation (Section 49), RCM [MAIN COMPONEN T OF ITC]	Numerical 14 Marks In support with – ITC Booking (Sec 16,17), ITC Utilisation (Section 49), RCM	Numerical 14 Marks In support with – ITC Booking (Sec 16,17), ITC Utilisation (Section 49), RCM	Numerical 14 Marks In support with – ITC Booking (Sec 16,17), ITC Utilisation (Section 49), RCM, Rule 86B	Numerical 14 Marks In support with – ITC Booking (Sec 16,17), ITC Utilisation (Section 49), RCM	A1
	Numerical 5 marks Composition scheme	Numerical 5 marks Rule 32 forex	Numerical 5 marks In support with – ITC Booking (Sec 16,17), ITC Utilisation (Section 49)	Numerical 5 marks Composition scheme	Numerical 5 marks Valuation Rules	Numerical 2 Marks Delayed Interest		

RCM	-	Numerical 5 Marks	-	Case study 4 marks	-			A1 Because it becomes a part of other questions
Invoice		-	-	-	-	Theory 4 Marks Dynamic QR Code		C2
Time of supply	-	Numerical 5 Marks	-	Numerical 5 Marks	-			B2
Registration	Theoretical 4 Marks Cancellation	-	-		-	Case Study 2 Marks Effective date of Registration Sec 25		B2
Input tax credit	-	Numerical 5 marks ISD Sec.20	Numerical 5 marks Booking of ITC sec 16, 17(5)	Numerical 4 marks Booking of ITC sec 16, 17(5)	-	Case Study 4 Marks Sec 19	Numerical 9 marks Booking of ITC sec 16, 17(5)	A1 Because it becomes a part of other questions
Manner of payment	-	Case study 4 Marks TDS	Numerical 4 Marks TDS/TCS	-	-	Numerical 5 Marks Utilization of ITC	-	B1
Filing of Return	-	-	-	-	-	-	Theory QRMP Scheme	C2
Records	-		Theoretical 2 Marks Sec 35	-	Theoretical 4 Marks Sec 35	Case Study 2 Marks Keeping Books of Accounts Sec 35		B1
Refund	Numerical 5 Marks Zero rated supply	-	-	-	Numerical 5 Marks Inverted tax rate structure	-	-	B1

					Theoretical 4 marks Doctrine of unjust enrichment			
Assessments	-	-	-	Theoretical 5 Marks Sec 63 Assessment of Non registrant	-	-	Theory Summary Assessment Sec 64	C1
Advance Ruling	-	-	-	-	-	-	Theory 4 Marks	C2
Audit, Inspections	-	-	-	-		Theory 5 Marks Sec 67		C2
Demand & recovery	Mini case study 5 Marks Section 74	case study 4 Marks Section 73	-	Mini case study 5 Marks Section 74	case study 4 Marks Section 74	Theory 4 Marks Sec 90 Liability of Partner		A1
				Mini case study 5 Marks Section 73, 74,75				
				Mini case study 5 Marks Section 90 partner's Liability				
Penalties	Mini case study 4 Marks Compounding fee	-	Theoretical 4 Marks Sec 132	-	Mini case study 4 Marks Sec 122	-	Case study 5 Marks Sec 138 (compounding of offences)	A2

	Mini case study 4 marks Seizure, sec. 129						----- Case study 4 Marks Sec 129	
Appeal	-	Mini case study 5 Marks Sec 108	Mini case study 5 Marks Mix	-	-	Case Study 5 Marks Sec 107	-	B2
E-way bill	-	-	Case study 5 Marks	-	-	-	-	C1

Custom Laws Laws

Chapter name	Nov 2019 Exam	Nov 2020 Exam	Jan 2021 Exam	July 2021 Exam	Dec 2021 Exam	May 2022 Exam	Nov 2022 Exam	ABC CATEGORY BASED ON LAST 5 EXAMS A1,A2,B1,B2,C1,C2
Introduction	-	-	-	-	-			C2
Definitions	-	-	-	-	-			C2
Levy and Exemption/ Remission/ Abatement [BASICS]	-	-	case study 5 Marks General Theoretical 5 Marks General	Case study 5 Marks Abatement	Case study @ multiple 5 Marks Pilferage, Abatement		Theory 5 Marks	A1 (because of latest trending)
Customs (IGCRDMEG) Rules, 2017/2022	-	-		-	-	-	Numerical 5 Marks Clearance of capital Goods	C2

Import and Export Procedure	-	-		-	-	-	-	C2
Transit and Transshipment	-	-		-	-	-	-	C2
Warehousing	-	-		-	-	-	-	A1 as it is re-introduced in syllabus
Assessment	Numerical 5 Marks [Section 20]	Case study 4 Marks Sec 18 Provisional Assessment	Numerical 5 Marks [Section 20]	-	-	Case Study 5 Marks Provisional Assessment Sec 18	-	B1
Valuation	Numerical 5 Marks Section 14 + Rule 10 And Valuation Rules: 7/8	Numerical 14 Marks Section 14 + Rule 10	Numerical 5 Marks Section 14 + Rule 10	Numerical 5 Marks Section 14 + Rule 10	Numerical 5 Marks Section 14 + Rule 10	Numerical 5 Marks Section 14 + Rule 10 <hr/> Case Study 2 Marks Rule 10	Numerical 5 Marks Rule 4 (Identical Goods)	A1
Types of duties	Theoretical 5 Marks Safeguard duty	Numerical 5 marks Anti - dumping duty	Case study 4 marks Application of IGST	Numerical 5 marks Calculation if ID	Theoretical 5 Marks Anti- dumping duty	-	-	A1
Duty Drawback	Mini case study 5 Marks Section 74(2)	Numerical 5 Marks Section 74(2)	-	Theoretical 5 Marks Section 75	Theoretical 4 Marks Section 74(2)	-	-	A1

Baggage	Numerical 5 Marks Computation of ID	-	-	-	Numerical 5 marks Computation of ID	Case Study 3 Marks	Numerical 5 marks Computation of ID	B1
Import Export by Post	-	-	-	-	-	-	-	C2
Refund	-	-	Theoretical 5 Marks	-	-	-	Theory 5 Marks Sec 27	C1
Classification	-	-	-	-	-	Case Study 5 Marks	-	C2
Foreign Trade Policy	-	Numerical 5 Marks	-	-	-	Theory 5 Marks DFIA	-	C1

Goods and services Tax

A1	A2	B1	B2	C1	C2
Exemptions	Penalties	Constitution	Place of supply	Supply	Introduction
Computation/Valuation	-	Taxable person	Time of supply	Registration	Definitions
RCM	-	Refund	Manner of payment	Assessments	Administration
Input Tax Credit	-	-	Records	E-way bill	IGST
Demand & recovery	-	-	Appeal	-	Goods and services
-	-	-	-	-	Invoice
-	-	-	-	-	Filing of Return
-	-	-	-	-	Advance Ruling
-	-	-	-	-	Audit, Inspections

Custom Laws

A1	A2	B1	B2	C1	C2
Levy and Exemption/ Remission/Abatement [BASICS]	-	Assessment		Refund	Introduction
Warehousing [VDO Available on my channel with notes in description]	-	Baggage	-	Foreign Trade Policy	Definitions
Valuation	-	-	-	-	Customs (IGCRDMEG) Rules, 2017/2022
Types of duties	-	-	-	-	Import and Export Procedure
Duty Drawback	-	-	-	-	Transit and Transshipment
-	-	-	-	-	Import Export by Post
-	-	-	-	-	Classification

Category	Approach
Category : A	DIL SE PADHO
Category : B	DIMAAG SE PADHO
Category : C	AANKHO SE PADHO, BAS NIHAAR LO

GST

1

Introduction and Constitution

Question 1: Who are the members of the GST Council? Enumerate any two recommendations that can be made by the GST Council. [Nov 2020, 5 Marks]

(OR) Enumerate any five matters on which the GST Council may make recommendations under Article 279A of the Constitution of India. [Nov 2019, 5 marks]

Answer: The GST Council shall consist of the following members, namely: —

- (a) the **Union Finance Minister** is the Chairperson;
- (b) the **Union Minister of State in charge of Revenue or Finance** is the Member;
- (c) the **Minister in charge of Finance or Taxation or any other Minister nominated** by each State Government are the Members.

The **recommendations** that can be made by GST Council are as under: -

- (i) the **taxes, cess and surcharges levied** by the Union, the States and the local bodies which may be **subsumed** in GST;
- (ii) the **goods and services that may be subjected to, or exempted** from GST;
- (iii) model GST **Laws, principles of levy, apportionment of GST** levied on supplies in the course of inter-State trade or commerce and the principles governing the **place of supply**;
- (iv) the **threshold limit of turnover below which goods and services may be exempted** from GST;
- (v) the **rates** including floor rates with bands of GST;
- (vi) any **special rate(s)** for a specified period, to raise additional resources during any natural calamity/disaster;
- (vii) special provision with respect to **Special Category States**;
- (viii) the **date on which the GST be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel**;
- (ix) any **other matter** relating to the GST, as the Council may decide.

[Topic-(I)- Section 7(1)(a)- Supply]

Question 2: 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 Vaastu consultancy 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 Vaastu consultancy services for her residence located at Bandra, Mumbai from her son, Mr. Varun residing in Sydney (Australia). Further, Miss Shriniti did not pay any consideration for the said service.
- (iii) Miss Shriniti Kaushik received Vaastu consultancy services for her business premises located at Bandra, Mumbai from her son, Mr. Varun residing in Sydney (Australia). Further, Miss Shriniti did not pay any consideration for the said service.

Answer:

- (i) As per **section 7(1)(b)** of the CGST Act 2017, Supply 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, it is not in course or furtherance of business, as the vaastu consultancy service has been availed in respect of her residence, **it would amount to supply.**

- (ii) Section 7 of the CGST Act, 2017 read with **Para 4 of Schedule I** provides 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.**

In the given case, import of service without consideration by Miss Shriniti from her son– Mr. Varun [son, 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.

- (iii) Section 7 of the CGST Act, 2017 read with **Para 4 of Schedule I** provides that import of services by a taxable person from a related person located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business.

Thus, import of service without consideration by Miss Shriniti from her son– Mr. Varun (son, being member of the same family, is a related person) **will be treated as supply** as she receives Vaastu consultancy service for her business.

Question 3: Mrs. Kajal, a registered supplier of Jaipur (Rajasthan), has made the following supplies in the month of January:

- (i) Supply of a laptop along with the laptop bag to a customer of Mumbai for ₹ 55,000 (exclusive of GST).
- (ii) Supply of 10,000 kits (at ₹ 50 each) amounting to ₹ 5,00,000 (exclusive of GST) to Ram Fancy Store in Kota (Rajasthan). Each kit consists of 1 hair oil, 1 beauty soap and 1 hair comb.

- (iii) 100 kits are given as free gift to Jaipur customers (all unrelated) on the occasion of Mrs. Kajal's birthday. Each kit consists of 1 hair oil and 1 beauty soap. Cost of each kit is ₹ 35. Input tax credit has not been taken on the goods contained in the kit.
- (iv) Event management services provided free of cost to her brother (wholly dependent on her) for his son's marriage function in Indore (Madhya Pradesh). Cost of providing said services is ₹ 80,000.
- (v) 1,400 chairs and 100 coolers hired out to Function Garden, Ajmer (Rajasthan) for ₹ 3,30,000 (exclusive of GST) including cost of transporting the chairs and coolers from Mrs. Kajal's godown at Jaipur to Function Garden, Ajmer. Since Mrs. Kajal is not a GTA, transportation services provided by her are exempt vide Notification No. 12/2017 CT (R) dated 28.06.2017¹.

Assume rates of GST to be as under:-

S. No.	Particulars	Rate of GST
1	Laptop	18%
2	Laptop bag	28%
3	Hair oil	18%
4	Beauty soap	28%
5	Hair comb	12%
6	Event management service	5%
7	Service of renting of chairs and coolers	12%
8	Transportation service	5%

From the above information, examine each of the above supplies made by Mrs. Kajal for the month of January and determine the rate of GST applicable on the same. [ICAI Material]

Answer:

S. No.	Particulars	Rate of GST
(i)	Supply of laptop bag along with laptop to Mumbai customer [Being naturally bundled , supply of laptop bag along with the laptop is a composite supply which is treated as the supply of the principal supply [viz. laptop] in terms of section 8(a) . Accordingly, rate of principal supply, i.e. laptop will be charged.]	18%
(ii)	Supply of kits to Ram Fancy Store [It is a mixed supply and is treated as supply of that particular supply which attracts highest tax rate [viz. beauty soap] in terms of section 8(b) .]	28%
(iii)	Free gifts to customers [Cannot be considered as supply under section 7 read with Schedule I as the gifts are given to unrelated customers without consideration.]	Nil
(iv)	Event management services provided free of cost to her brother for his son's marriage shall be considered as supply as the services are being provided to a related person . Since it is an individual supply, it will be taxed at the rate applicable on said service.	5%

¹ Notification No. 12/2017 CT(R) dated 28.06.2017 (containing the list of services exempt from GST) has been discussed in Chapter 4 – Exemptions under GST.

S. No.	Particulars	Rate of GST
(v)	Chairs and coolers hired out to Function Garden [Transportation services provided by Mrs. Kajal are exempt . However, since chairs and coolers are hired out along with their transportation, it is a case of composite supply wherein the principal supply is hiring out of chairs and coolers . Accordingly, transportation service will also be taxed at the rate applicable for renting of chairs and coolers*]	12%

*Note: As per **section 2(30)**, composite supply means a supply made by a taxable person to a recipient consisting of two or more taxable supplies. Since in point (v), **service of hiring out of chairs & coolers is taxable while transportation service is exempt, it is possible to take a view that this is not a case of composite supply. In that case, the two services will be treated as independent services and taxed accordingly.**

4

Place of Supply

[Topic-(I)- Introduction]

Question 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 supplie(s) 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) 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**. 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) **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**. 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) 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**.

Chapter 4 ⇒ Place of Supply

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 5: Determine place of supply along with reasons in the following cases:

- (i) Mr. X, an architect (Kolkata), provides interior decorator services to Mr. Y of New York (USA) in relation to his immovable property located in New Delhi.
- (ii) Mr. A (a Chartered Accountant registered in Kolkata) supplies services to his client in Bhubaneswar (registered in Bhubaneswar, Odisha).
- (iii) ABC Ltd. of Patna imported certain goods from XYZ Inc. of USA. The goods were imported through vessel and delivery of goods was taken at Kolkata, whereafter the movement terminates and the goods are stored.
- (iv) Mr. X, registered in Guwahati, has availed land-line services from BSNL. The telephone is installed in residential premises in Kolkata and the billing address is office of Mr. X in Guwahati.
- (v) Mr. X, residing in Chennai, is travelling with an Indian Airline aircraft and is provided with movie-on-demand service for ₹100 as on-board entertainment during Delhi-Chennai leg of a Bangkok-Delhi-Chennai flight.
- (vi) Mr. X of Kolkata purchased online tickets for Aquatica water park in Mumbai.
- (vii) Mr. Z, an unregistered person of Kolkata, sends a courier from New Delhi to his friend in Chennai, Tamil Nadu while he was on trip to New Delhi.
- (viii) Mr. X, a registered person in Ranchi, Jharkhand, buys shares from a broker in Patna on NSE, Mumbai. Determine the place of supply of brokerage service.
- (ix) XYZ Ltd., New Delhi entered into contract with an Indian airline for the supply of biscuit packets for further supply by airline to the passengers in Kolkata-Guwahati route. The biscuits were loaded on board in Lucknow. [Jan 21, 9 marks]

Answer

- (i) New Delhi: In a case where location of the supplier or location of recipient of service is **outside India**, the place of supply of services supplied directly in relation to an immovable property including that of interior decorators is the **place where the immovable property is located**.
- (ii) Bhubaneswar, Odisha: The place of supply of services, except the specified services made **to a registered person, is the location of such person**.
- (iii) Patna: The place of supply of goods imported into India is the **location of the importer**.
- (iv) Kolkata: The place of supply of services by way of fixed telecommunication line is the **location where the telecommunication line is installed** for receipt of services.
- (v) Bangkok: The place of supply of services on board an aircraft is the **location of the first scheduled point of departure of that aircraft or flight for the journey**.

- (vi) Mumbai: The place of supply of services provided by way of admission to an amusement park **is the place where the park is located.**
- (vii) New Delhi: The place of supply of services by way of transportation of goods by courier to a person other than a registered person is the **location at which such goods are handed over for their transportation.**
- (viii) Ranchi, (Jharkhand): The place of supply of stock broking services to any person shall be the **location of the recipient of services on the records of the supplier** of services.
- (ix) Where the supply involves movement of goods, the place of supply of such goods is the **location of the goods at the time at which the movement of goods terminates for delivery to the recipient.** Therefore, the place of supply of biscuit packets sold by XYZ Ltd. to Indian Airlines is Lucknow.
Further, where the goods are supplied on board an aircraft, the place of supply shall be the **location at which such goods are taken on board.** Thus, the place of supply of biscuit packets sold by Indian Airlines to the passengers in Kolkata-Guwahati route is Lucknow.

Note: - 1) It has been assumed that the location of the recipient of service is available in the records of the supplier of service.

2) It has been assumed that in the given case, the movement of goods (biscuit packets) terminates at Lucknow.

5

Taxable Person

Question 6: Comment on the liability to get registered under the GST law in the given independent situations for the financial year 20XX-XY. Your answer should also include relevant provisions of law, notifications or circulars.

- (i) Miss Riddhima is exclusively engaged in the export of readymade garments from the State of Rajasthan and her export turnover during the year is ₹ 17 lakh. Apart from export turnover, she has earned interest on bank FDR for ₹ 2 lakh also.
- (ii) Ajanta Enterprises is exclusively engaged in the trading of exempt goods under GST in the State of Haryana and has not taken the GST registration. During the year, its turnover from exempt supplies is ₹ 47 lakh and Ajanta Enterprises also sold old generator for ₹ 1.25 lakh during the year.
- (iii) Mr. P has presence in two States, one in Haryana and other in Rajasthan. He is registered in the State of Rajasthan even without crossing the threshold limit. His turnover during the year in Rajasthan is ₹ 32 lakh and in Haryana is ₹ 5 lakh. Is he mandatorily required to get registered in the State of Haryana also?
- (iv) Mr. John is engaged in the business of buying and selling of shares on his own account from the secondary market and his income from this activity is assessed as business income under the Income-tax Act 1961. During the year his total sales turnover from shares was ₹ 90 lakh. [Dec 2021, 4Marks]

Answer:

- (i) Export of goods is treated as **inter-State supply**.
Miss Riddhima is liable to obtain registration **compulsorily** irrespective of the quantum of her aggregate turnover since she is engaged in making inter-State supply (exports) of goods.
- (ii) Any person engaged **exclusively in making exempt supplies is not liable to registration**. However, Ajanta Enterprises is liable to get registered as it has also made a taxable supply along with exempt supplies during the year and its aggregate turnover (₹ 48.25 lakh) exceeds the threshold limit for registration.
- (iii) Since registration in GST is **PAN based**, once a supplier is liable to register, he has to obtain registration **in each of the States/UTs in which he operates under the same PAN**. Therefore, Mr. P is liable to get registered in Haryana also, provided he is not engaged exclusively in making exempt supplies from Haryana.
However, it is also possible to take a view that a person who is voluntarily registered in one State needs to obtain registration in other States from where he makes a taxable supply only if his aggregate turnover exceeds applicable threshold limit for registration. In that case, Mr. P is not liable to obtain registration from Haryana **since the aggregate turnover does not exceed the threshold limit for registration**.
- (iv) A supplier is liable to **obtain registration in a State/UT from where he makes a taxable supply** of goods and/or services. **Shares are excluded from the definition of goods as well as services**. Hence, buying and selling of shares is not a supply of goods and/or services under GST law. Thus, Mr. John is not liable to obtain registration since he is not engaged in making a taxable supply of goods and/or services.

It has been assumed that the exporter of goods – Miss Riddhima – has availed the export benefits available under GST.

Question 7: Mahadev Enterprises, a sole proprietorship firm, opened a shopping complex dealing in supply of ready-made garments at multiple locations, i.e. in Himachal Pradesh, Uttarakhand and Tripura in the month of June.

It has furnished the following details relating to the supply made at such multiple locations for the month of June: -

Particulars	Himachal Pradesh (₹)*	Uttarakhand (₹)*	Tripura (₹)*
Intra-State supply of taxable goods	22,50,000	-	7,00,000
Intra-State supply of exempted goods	-	-	6,00,000
Intra-State supply of non-taxable goods	-	21,00,000	40,000

*Excluding GST

With the help of the above-mentioned information, answer the following questions giving reasons: -

- (1) Determine whether Mahadev Enterprises is liable to be registered under GST law and what is the threshold limit of taking registration in this case assuming that it is not required to pay any tax on inward supplies under reverse charge.
- (2) Explain with reasons whether your answer in (1) will change in the following independent cases:
 - (a) If Mahadev Enterprises is dealing exclusively in taxable supply of goods only from Himachal Pradesh;
 - (b) If Mahadev Enterprises is dealing in taxable supply of goods and services only from Himachal Pradesh;
 - (c) If Mahadev Enterprises is dealing in taxable supply of goods only from Himachal Pradesh and has also affected inter-State supplies of taxable goods (other than notified handicraft goods and notified hand-made goods) amounting to ₹ 4,00,000.

Answer: As per **section 22** read with **N/N 10/2019**, a supplier is liable to be registered in the State/ Union territory from where he makes a **taxable supply** of goods and/or services, if his **aggregate turnover in a financial year exceeds the threshold limit**. The threshold limit for a person making **exclusive intra-State taxable supplies of goods** is as under: -

- (i) ₹ 10 lakh for the States of **Mizoram, Tripura, Manipur and Nagaland**.
- (ii) ₹ 20 lakh for the States of **Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand**.
- (iii) ₹ 40 lakh for **rest of India**.

The threshold limit for a person exclusively making taxable supply of **services or supply of both goods and services** is as under:-

- (i) ₹ 10 lakh for the States of **Mizoram, Tripura, Manipur and Nagaland**.
- (ii) ₹ 20 lakh for the **rest of India**.

As per **section 2(6)**, aggregate turnover includes the aggregate value of:

- (i) all taxable supplies,
- (ii) all exempt supplies,
- (iii) exports of goods and/or services and
- (iv) all inter-State supplies of persons having the same PAN.

The above is to be computed on **all India basis**.

In the light of the afore-mentioned provisions, the aggregate turnover of Mahadev Enterprises is computed as under:

Computation of State-wise aggregate turnover of Mahadev Enterprises

Particulars	Himachal Pradesh (₹)*	Uttarakhand (₹)*	Tripura (₹)*
Intra-State supply of taxable goods	22,50,000	-	7,00,000
Intra-State supply of exempted goods	-	-	6,00,000
Intra-State supply of non-taxable goods [As per section 2(47), exempt supply includes non-taxable supply. Thus, intra-State supply of non-taxable goods in Uttarakhand, being a non-taxable supply, is an exempt supply and is, therefore, included in the aggregate turnover]	-	21,00,000	40,000
Aggregate Turnover	22,50,000	21,00,000	13,40,000

In the given case, Mahadev Enterprises is engaged in **exclusive intra-State supply of goods** from Himachal Pradesh, Tripura and Uttarakhand. However, since Mahadev Enterprises makes taxable supply of goods **from one of the specified Special Category States (i.e. Tripura)**, it will **not be eligible for the higher threshold limit of ₹ 40 lakh**; instead, the threshold limit for registration will be reduced to ₹ 10 lakh.

- (1) In view of the above-mentioned provisions, Mahadev Enterprises is liable to be registered under GST law with the aggregate turnover amounting to ₹ 56,90,000 (computed on all India basis) the States of Himachal Pradesh and Tripura since the applicable threshold limit of registration in this case is ₹ 10 lakh. Further, he is not liable to be registered in Uttarakhand since he is not making any taxable supply from Uttarakhand.
- (2) (a) If Mahadev Enterprises is dealing in supply of goods only from Himachal Pradesh, the applicable threshold limit of registration would be **₹ 40 lakh**. Thus, Mahadev Enterprises will not be liable for registration as its aggregate turnover would be ₹ 22,50,000.
 - (b) If Mahadev Enterprises is dealing in taxable supply of goods and services only from Himachal Pradesh then higher threshold limit of **₹ 40 lakh will not be applicable** as the same applies only in case of exclusive supply of goods. Therefore, in this case, the applicable threshold limit will be ₹ 20 lakh and hence, Mahadev Enterprises will be liable to registration.
 - (c) In case of inter-State supplies of taxable goods other than notified handicraft goods or notified hand-made products, **section 24 requires compulsory registration irrespective of the quantum of aggregate turnover**. Thus, Mahadev Enterprises will be liable to registration.

6

Exemptions

Question 8: BODMAS Ltd., providing educational services, furnishes you with the following information for the various services provided by it for the month of March, 20XX:

Particulars	Amount (₹)
Receipts from running a Boarding School (including receipts for providing residential dwelling service of ₹ 14,00,000)	30,00,000
Receipts of 'Gyan Uday' - an Industrial Training Institute (ITI) affiliated to the National Council for Vocational Training (NCVT)	2,00,000
Receipts of 'Lakshya', an institute, registered with Directorate General of Employment and Training (DGET), Union Ministry of Labour and Employment, running a Modular Employable Skill Course (MESC) approved by the National Council for Vocational Training (NCVT)	1,00,000
Receipts of 'Wizard', a Commercial Coaching Institute providing commercial coaching in the field of arts and science (no certificate was issued on completion of the training)	80,000
Fees from prospective employers for campus interview	4,00,000
Renting of furnished flats for temporary stay to different persons	5,00,000
Receipts of 'Concepts', a Commercial coaching institute providing coaching in the field of commerce (a certificate was awarded to each trainee after completion of the training)	1,40,000
Receipts of Gurukul School providing education upto higher secondary	5,00,000

Compute the value of taxable supply assuming that all the above receipts are exclusive of GST. [Nov 2019, 9 Marks]

Answer:

As per Entry No. 66, N/N 12/2017, Services provided **by an educational institution to its students, faculty and staff are exempt**. Further, an educational institution means, inter alia, an institution providing services by way of-

- (i) education up to higher secondary school or equivalent;
- (ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;
- (iii) education as a part of an approved vocational education course.

Chapter 6 ⇒ Exemptions

In view of the aforesaid provisions, value of taxable supply of BODMAS Ltd. for the month of March, 20XX has been computed as follows:

Particulars	Amount (₹)
Receipts from Boarding School including receipts for residential dwelling service [Educational institution providing education up to higher secondary school or equivalent]	Exempt
Receipts of Gyan Uday [Educational institution running approved vocational education course (assuming that such courses are run in designated trades)]	Exempt
Receipts of Lakshya running Modular Employable Skill Course [Educational institution running approved vocational education course]	Exempt
Receipts of Wizard - a coaching institute [Taxable since coaching institute is not an educational institution]	80,000
Fees from prospective employers for campus interview [Taxable since such services are not specifically exempt]	4,00,000
Renting of furnished flats for temporary stay to different persons [Not exempt since services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, are taxable.]	5,00,000
Receipts of Concepts – a coaching institute [Taxable since coaching institute is not an educational institution]	1,40,000
Receipts of Gurukul School providing education upto higher secondary	Exempt
Value of taxable supply	11,20,000

7

I. Computation of GST (Valuation)

Question 9: Kaya Trade Links Pvt. Ltd. is a registered manufacturer of premium ceiling fans. It sells its fans exclusively through distributors appointed across the country. The maximum retail price (MRP) printed on the package of a fan is ₹ 10,000. The company sells the ceiling fans to distributors at ₹ 7,000 per fan (exclusive of applicable taxes). The applicable rate of GST on ceiling fans is 18%.

The stock is dispatched to the distributors on quarterly basis - stock for a quarter being dispatched in the second week of the month preceding the relevant quarter. However, additional stock is dispatched at any point of the year if the company receives a requisition to that effect from any of its distributors. The company charges ₹ 1,000 per fan from distributors towards packing expenses.

The company has a policy to offer a discount of 10% (per fan) on fans supplied to the distributors for a quarter, if the distributors sell 500 fans in the preceding quarter. The discount is offered on the price at which the fans are sold to the distributors (excluding all charges and taxes).

The company appoints Prakash Sales as a distributor on 1st April and dispatches 750 fans on 8th April as stock for the quarter April-June. Prakash Sales places a purchase order of 1,000 fans with the company for the quarter July-September. The order is dispatched by the company on 10th June and the same is received by the distributor on 18th June. The distributor makes the payment for the fans on 26th June and avails applicable input tax credit. The distributor reports sales of 700 fans for the quarter April-June and 850 fans for the quarter July-September.

Examine the scenario with reference to section 15 of the CGST Act, 2017 and compute the taxable value of fans supplied by Kaya Trade Links Pvt. Ltd. to Prakash Sales during the quarter July- September.

Note: Make suitable assumptions, wherever necessary.

Answer: Section 15(3)(a) of the CGST Act allows discounts to be deducted from the value of taxable supply if the same is given before or at the time of the supply and if such discount has been duly recorded in the invoice issued in respect of such supply. In other words, **pre-supply discounts recorded in invoices are allowed as deduction.**

Further, **post supply discounts are also allowed as deduction from the value of supply under section 15(3)(b)** of the CGST Act if-

- (i) **such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices;** and
- (ii) **input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient** of the supply.

In the given case, Prakash Sales is entitled for 10% discount on fans supplied by Kaya Trade Links Pvt. Ltd. for the quarter July-September as it has sold more than 500 fans in the preceding quarter April-June. However, since the entire stock for the quarter July-September has already been dispatched by Kaya Trade Links Pvt. Ltd. in the month of June, the discounts on the fans supplied to Prakash Sales for the quarter July-September will be a post-supply discount.

Such post-supply discount will be allowed as a deduction from the value of supply since the discount policy was known before the time of such supply and the discount can be specifically linked to relevant invoices (invoices pertaining to fans supplied to Prakash Sales for the quarter July-September) provided Prakash Sales reverses the input tax credit attributable to the discount on the basis of document issued by Kaya Trade Links Pvt. Ltd.

Chapter 7 ⇒ I. Computation of GST (Valuation)

The value of supply will thus, be computed as under:

Particulars	Amount (₹)
Price at which the fans are supplied to Prakash Sales [Note 1]	7,000
Add: Packing expenses [Note 2]	1,000
Less: Discount [Note 3]	(700)
Value of taxable supply of one unit of fan	7,300
Value of taxable supply of fans for the quarter July-September [₹ 7,300 x 1,000]	73,00,000

Notes:

- (1) The value of a supply is the transaction value, which is the price actually paid or payable for the said supply, in terms of **section 15(1)** of the CGST Act presuming that the supplier and the recipient of supply are not related and price is the sole consideration for the supply.
- (2) The value of supply **includes incidental expenses like packing charges in terms of section 15(2)(c)** of the CGST Act.
- (3) Since **all the conditions specified in section 15(3)(b) of the CGST Act have been fulfilled, the post-supply discount will be allowed** as deduction from the value of supply presuming that Prakash Sales has reversed the input tax credit attributable to such discount on the basis of document issued by Kaya Trade Links Pvt. Ltd. The input tax credit to be reversed will work out to be ₹ 1.26 lakh [1,000 x (7,000 x 10%) x 18%].

Question 10: Sudhir Works Ltd., Gurgaon (Haryana) is a supplier of machinery used for making electric motors. The supply of machinery is affected as under:

- (i) The wholesale price of the machinery (excluding all taxes and other expenses) at which it is supplied in the ordinary course of the business to various customers is ₹ 21,00,000. However, the actual price at which the machinery is supplied to an individual customer varies within a range of ± 10% depending upon the terms of contract of supply with the particular customer.
- (ii) Apart from the price of the machinery, Sudhir Works Ltd. charges from the customer the following incidental expenses:
 - associated handling and loading charges of ₹ 5,000
 - Weighment charges of ₹ 10,000
 - Installation and commissioning charges of ₹ 40,000

The machinery can be dismantled and erected at another site, if required. The above charges are compulsorily levied in every case of supply of machinery.

- (iii) Transportation of machinery to the customer's premises is arranged by Sudhir Works Ltd. through a third-party service provider [Goods Transport Agency (GTA)]. The customer enters into a separate service contract with the GTA and pays the freight directly to it.
- (iv) One year free warranty is provided for the machinery, by the company. However, an extended two-year warranty is also provided by the company on payment of additional charge of ₹ 1,50,000.
- (v) A cash discount of 2% on the price of the machinery is offered at the time of supply, if the customer agrees to make the payment within 15 days of the receipt of the machinery at his premises. In the event of failure to make the payment within the stipulated time, the company-
 - recovers the discount given; and
 - charges interest @ 1% per month or part of the month on the total amount due from the customer (towards the machinery supplied) from the date of making the supply till the date of payment. However, no interest is charged on the tax dues.

- (vi) For every machinery supplied, Sudhir Works Ltd. Receives a grant of ₹ 1,00,000 from its holding company Randhir Engineering Ltd.

Sudhir Works Ltd. has supplied a machinery to Durga Pvt. Ltd. on September 1, 20XX at a price of ₹ 20,00,000 (excluding all taxes). Durga Pvt. Ltd. has its corporate office in Noida (U.P.). However, the machinery has been installed at its manufacturing unit located in New Delhi. Durga Pvt. Ltd. has paid the freight directly to the GTA and opted for 2 year warranty. Discount @ 2% was given to Durga Pvt. Ltd. as it agreed to make the payment within 15 days. However, Durga Pvt. Ltd. paid the consideration on 30th November, 20XX.

Assume the rates of taxes to be as under:

Electric Motor making machine		
CGST – 6%	SGST – 6%	IGST – 12%
Service of transportation of goods		
CGST – 2.5%	SGST – 2.5%	IGST – 5%
Other services involved in the above supply		
CGST – 9%	CGST – 9%	CGST – 9%

Calculate the GST payable [CGST & SGST or IGST, as the case may be] on the machinery and support your conclusions with legal provisions in the form of explanatory notes.

Make suitable assumptions, wherever needed. [ICAI Material]

Answer:

Computation of GST liability of Sudhir Works Ltd.

Particulars	(₹)
Price of machine [Note 1]	20,00,000
Handling and loading charges [Note 2]	5,000
Weighment charges [Note 2]	10,000
Installation and commissioning charges [Note 3]	40,000
Transportation cost [Note 4]	Nil
Additional warranty cost [Note 5]	1,50,000
Grant from Randhir Engineering Ltd. [Note 6]	<u>1,00,000</u>
Total price of the machine	23,05,000
Less: 2% cash discount on price of machinery = ₹ 20,00,000 × 2% [Note 7]	<u>40,000</u>
Taxable value of supply	22,65,000
Tax liability for the month of September, 20XX [Note 11]	
IGST @ 12% [Note 8 and Note 9]	2,71,800
Tax liability for the month of November, 20XX [Note 11]	
Interest collected @ 3% on ₹ 22,05,000 [Note 10]	66,150
Add: Cash discount recovered [Note 10]	40,000
Cum-tax value of interest and cash discount	1,06,150
IGST = (₹ 1,06,150/112) × 12%	11,373
Total IGST payable on the machinery	2,83,173

Notes:

- (1) As per **section 15(1)** of the CGST Act, 2017, the value of a supply is the transaction value i.e., the **price actually paid or payable for the said supply when the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply**. It is assumed that Sudhir Works Ltd. and Durga Pvt. Ltd are not related and the price is the sole consideration for the supply.
- (2) **All incidental expenses charged by the supplier to the recipient of a supply are includible** in the value of supply in terms of section 15(2)(c) of CGST Act, 2017.
- (3) **Any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is includible** in the value of supply in terms of section 15(2)(c) of CGST Act, 2017.
- (4) **Transportation cost has not been included** in the value of supply of the machinery as it is a separate service contract between the customer and the third-party service provider. The customer pays the freight directly to the service provider.
The supplier (Sudhir Works Ltd.), in this case, merely arranges for the transport and does not provide the transport service on its own account. Tax will be separately levied on the supply of service of transportation of goods under reverse charge.
- (5) **Warranty cost is includible in the value of the supply since transaction value includes all elements of the price excluding those that can be specifically excluded** as per section 15 of the CGST Act.
- (6) **Subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments are includible** in the value of supply in terms of section 15(2)(e) of the CGST Act, 2017.
- (7) Cash discount was deducted by Sudhir Works Ltd. upfront at the time of supply on September 1, 20XX and hence, the **same is excluded** from the value of supply as it did not form part of the transaction value.
- (8) In the given case-the location of the supplier is in Gurgaon (Haryana); and The place of supply of machinery is the place of installation of the machinery i.e., New Delhi in terms of **section 10(1)(d)** of the IGST Act, 2017.
Therefore, the given supply is an inter-State supply as the location of the supplier and the place of supply are in two different States [Section 7(1)(a) of IGST Act, 2017]. Thus, the supply will be leviable to IGST in terms of section 5(1) of the IGST Act, 2017.
- (9) The given supply is a **composite supply involving supply of goods (machinery) and services (handling and loading and installation and commissioning) where the principal supply is the supply of goods**.
As per section 8(a) of the CGST Act, 2017, a composite supply is treated as a supply of the principal supply involved therein and charged to tax accordingly. Thus, tax rate applicable to the goods (machinery) has been considered.
- (10) **Interest for the delayed payment of any consideration for any supply is includible** in the value of supply in terms of section 15(2)(d) of the CGST Act, 2017. Further, cash discount recovered will also be includible in the value of supply.
The cash discount not allowed and interest have to be considered as cum tax value and tax payable thereon has to be computed by making back calculations in terms of Rule 35 of CGST Rules, 2017.
- (11) It has been assumed that the invoice for the supply has been issued on September 1, 20XX, the date on which the supply is made. Thus, the time of supply of goods is September 1, 20XX in terms of section 12(1)(a) of the CGST Act, 2017.
As per **section 12(6)** of the CGST Act, 2017, the time of supply in case of addition in value by way of interest, late fee, penalty etc. for delayed payment of consideration for goods is the date on which the supplier receives such addition in value. Thus, the time of supply of interest received and cash discount recovered on account of delayed payment of consideration is 30th November, 20XX, the

date when the full payment was made. The supplier may issue a debit note for such interest and cash discount recovered.

Question 11: Kaushal Manufacturers Ltd., registered in Delhi, is a manufacturer and supplier of electronic home appliances. It is paying tax under regular scheme. It supplies the electronic home appliances in the domestic as well as overseas market. For supplies in other States of India, the company has appointed consignment agents in each such State, except Gurgaon, Haryana and Noida, Uttar Pradesh, where the goods are supplied directly from its Delhi warehouse.

In the month of January, consignments of electronic home appliances were sent to Cardinal Electricals Pvt. Ltd. and Rochester Technos – agents of Kaushal Manufacturers Ltd. in Punjab and Madhya Pradesh respectively. Cardinal Electricals Pvt. Ltd. and Rochester Technos supplied these electronic home appliances under their invoices to the stores located in their respective States for ₹ 40,00,000 and ₹ 70,00,000 respectively. Open market value of such appliances is not available.

Further, in January, electronic home appliances have been supplied to Ronn Technomart - a wholesale dealer of electronic home appliances in Noida, Uttar Pradesh for consideration of ₹ 23,00,000, from its Delhi warehouse. Kaushal Manufacturers Ltd. owns 75% shares of Ronn Technomart. Open market value of the electronic home appliances supplied to Ronn Technomart is ₹ 30,00,000. Further, Ronn Technomart is not eligible for full input tax credit.

Kaushal Manufacturers Ltd. also provides repair and maintenance services to electronic appliance manufacturers located in India.

The company has also furnished the following information for the month of January:

Particulars	₹
Supply of electronic home appliances to wholesale dealers of such appliances in Delhi	84,00,000
Electronic home appliances supplied to Anchor Electricals Inc., USA under LUT [Consideration received in convertible foreign exchange]	1,26,00,000
Repair and maintenance services provided to Unitech Ltd., an electronic appliance manufacturer, located in Delhi	8,40,000
Advance received towards repair and maintenance services to be provided to Orelec Ltd., an electronic appliance manufacturer, located in Delhi [Repair and maintenance services have been provided in February and invoice is issued on 28th February]	7,00,000
Advance received for electronic home appliances to be supplied to Novick Electricals, a wholesale dealer of such appliances in Gurgaon, Haryana [Invoice for the goods is issued at the time of delivery of the electronic appliances in March]	8,40,000

You are required to determine the gross GST liability [CGST & SGST and/or IGST] of Kaushal Manufacturers Ltd. for the month of January.

Note:

- All the given amounts are exclusive of GST, wherever applicable.
- Assume the rates of GST to be as under:

Goods/services supplied	CGST	SGST	IGST
Electronic home appliances	2.5%	2.5%	5%
Repair and maintenance services	9%	9%	18%

You are required to make suitable assumptions, wherever necessary. [RTP Nov 2021]

Answer: Computation of gross GST Liability of Kaushal Manufacturers Ltd. for the month of January

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Supply of electronic home appliances to consignment agents - Cardinal Electricals Pvt. Ltd. and Rochester Technos of Punjab and Madhya Pradesh [Note - 1]			4,95,000 [99,00,000 × 5%]
Supply of electronic home appliances to Ronn Technomart of Noida, Uttar Pradesh [Note - 2]			1,50,000 [30,00,000 × 5%]
Supply of electronic home appliances to wholesale dealers of such appliances in Delhi [Note - 3]	2,10,000 [84,00,000 × 2.5%]	2,10,000 [84,00,000 × 2.5%]	
Electronic home appliances supplied to Anchor Electricals Inc., USA under LUT [Note - 4]			Nil
Supply of repair and maintenance services to Unitech Ltd., an electronic appliance manufacturer, located in Delhi [Note - 5]	75,600 [8,40,000 × 9%]	75,600 [8,40,000 × 9%]	
Advance received for repair and maintenance services supplied to Orelec Ltd., a electronic appliances manufacturer, located in Delhi [Note - 6]	63,000 [7,00,000 × 9%]	63,000 [7,00,000 × 9%]	
Advance received for electronic home appliances to be supplied to Novick Electricals, a wholesale dealer of electronic appliances in Gurgaon, Haryana [Note - 7]			Nil
Total GST liability	3,48,600	3,48,600	6,45,000

Notes:

- Value of supply of goods made through an agent is determined as per **rule 29** of the CGST Rules, 2017. Accordingly, the value of supply of goods between the principal and his agent is the **open market value of the goods being supplied, or at the option of the supplier, is 90% of the price charged for the supply of goods of like kind and quality by the recipient to his unrelated customer, where the goods are intended for further supply by the said recipient.**

In the given case, since open market value is not available, value of electronic home appliances supplied to consignment agents - Cardinal Electricals Pvt. Ltd. and Rochester Technos – will be ₹ 99,00,000 [90% of (40,00,000 + 70,00,000)]. Further, being an inter-State supply of goods, supply of electronic home appliances to the consignment agents is subject to IGST @ 5%.

- If any **person directly or indirectly controls another person**, such persons are **deemed as related persons**. [Clause (a)(v) of explanation to section 15 of the CGST Act]. In the given case, since Kaushal Manufacturers Ltd. owns 75% shares of Ronn Technomart, both are related persons.

Value of supply of goods between related persons (other than through an agent) is determined as per **rule 28** of the CGST Rules, 2017. Accordingly, the value of supply of goods between related persons is **the open market value of such goods and not the invoice value**. Furthermore, **since Ronn Technomartis not eligible for full input tax credit, value declared in the invoice cannot be deemed to be the open market value of the goods.**

Thus, open market value of the electronic home appliances supplied to Ronn Technomart, i.e. ₹ 30,00,000 is the value of supply of such goods. Further, being an inter-State supply of goods, supply of electronic home appliances to Ronn Technomartis subject to IGST @ 5%.

3. Being an intra-State supply of goods, supply of electronic home appliances to wholesale dealers of said appliances in Delhi is subject to CGST and SGST @ 2.5 % each.
4. **Section 2(5)** of the IGST Act defines **export of goods as taking goods out of India to a place outside India**. In view of the said definition, supply of the electronic home appliances to Anchor Electricals Inc. of USA under LUT is export of goods.
Export of goods is a **zero-rated supply** [Section 16(1) of the IGST Act]. A zero-rated supply under LUT is made without payment of integrated tax [Section 16(3)(a) of IGST Act].
5. Being an intra-State supply of services, supply of repair and maintenance services to Unitech Ltd. of Delhi is subject to CGST and SGST @ 9% each.
6. Being an intra-State supply of services, supply of repair and maintenance services to Orelec Ltd. of Delhi is subject to CGST and SGST @ 9% each. Further, in terms of section 13(2) of the CGST Act, **the time of supply of services is the earlier of the date of invoice or date of receipt of payment, if the invoice is issued within 30 days of the supply of service**. In the given case, invoice is issued within 30 days of the supply of service. Therefore, time of supply of services will be date of receipt of advance and hence, GST is payable on the advance received in January.
7. Being an inter-State supply of goods, supply of electronic home appliances to Novick Electricals of Gurgaon, Haryana is subject to IGST @ 5%. Further, in terms of section 12(2) of the CGST Act, the time of supply of goods is the earlier of the date of issue of invoice/last date on which the invoice is required to be issued or date of receipt of payment.

However, **Notification No. 66/2017** specifies that time of supply of goods for the purpose of payment of tax is the **date of issue of invoice/last date when the invoice ought to have been issued under section 31**.

Thus, GST is not payable at the time of receipt of advance against supply of goods. The time of supply of the advance received for electronic home appliances to be supplied to Novick Electricals is the time of issue of invoice, which is in March. Thus, said advance will be taxed in March and not in January.

Question 12: Rolly Polly Manufacturers Ltd., registered in Mumbai (Maharashtra), is a manufacturer of footwear. It imports a footwear making machine from USA.

Rolly Polly Manufacturers Ltd. enters into a contract with Rudra Logistics, a licensed customs broker with its office at Ahmedabad (Gujrat), to meet all the legal formalities in getting the said machine cleared from the customs station.

Apart from this, Rolly Polly Manufacturers Ltd. authorises Rudra Logistics to incur, on its behalf, the expenses in relation to clearance of the imported machine from the customs station and bringing the same to the warehouse of Rolly Polly Manufactures Ltd. Which shall be reimbursed by Rolly Polly Manufactures Ltd. To Rudra Logistics on the actual basis in addition to agency charges.

Rudra Logistics provides the following details in the invoice issued by it to Rolly Polly Manufacturers Ltd.:

S. No.	Particulars	Amount* (₹)
(i)	Agency Charges	5,00,000
(ii)	Unloading of machine at Kandla, Gujrat	50,000
(iii)	Charges for transportation of machine from Kandla port, Gujrat to its Rudra Logistics' godown in Ahmedabad, Gujrat	25,000
(iv)	Charges for transportation of machine from Rudra Logistics' Ahmedabad godown to the warehouse of Rolly Polly Export Import House in Mumbai, Maharashtra	28,000
(v)	Prepared and submitted Bill of Entry and paid customs duty	5,00,000
(vi)	Dock Dues paid	50,000
(vii)	Port Charges	50,000

Chapter 7 ⇒ I. Computation of GST (Valuation)

S. No.	Particulars	Amount* (₹)
(viii)	Hotel expenses	45,000
(ix)	Travelling Expenses	50,000
(x)	Telephone Expenses	2,000

Compute the value of supply made by Rudra Logistics with the help of given information.

Would your answer be different if Rudra Logistics charges ₹ 13,00,000 as a lump sum consideration for getting the imported machine from the customs station and bringing the same to the warehouse of Rolly Polly Manufacturers Ltd.? [ICAI Material]

Answer: As per **explanation to rule 33** of the CGST Rules, 2017, a “**pure agent**” means a person who-

- enters into a **contractual agreement** with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;
- neither intends to hold nor holds any title** to the goods or services or both so procured or supplied as pure agent of the recipient of supply;
- does **not use for his own interest** such goods or services so procured; and
- receives only the actual amount incurred** to procure such goods or services **in addition to the amount received for supply he provides on his own account.**

The supplier needs to fulfil **ALL** the above conditions in order to qualify as a pure agent.

In the given case, Rudra Logistics has entered into a contractual agreement with recipient of supply, Rolly Polly Manufacturers Ltd., to incur, on behalf of such recipient, the **expenses mentioned in S. No. (ii) to (vii)** incurred in relation to clearance of imported machine from the customs station and bringing the same to the warehouse of the recipient. Further, Rudra Logistics does not hold any title to said services and does not use them for his own interest.

Lastly, Rudra Logistics receives only the actual amount incurred to procure such services in addition to agency charges. Thus, Rudra Logistics qualifies as a pure agent.

Further, **rule 33** of the CGST Rules, 2017 stipulates that notwithstanding anything contained in the provisions of Chapter IV – Determination of Value of Supply, the **expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied**, namely-

- the **supplier acts as a pure agent** of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;
- the **payment** made by the pure agent on behalf of the recipient of supply has been **separately indicated in the invoice issued** by the pure agent to the recipient of service; and
- the **supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.**

Since conditions (I) to (III) mentioned above are satisfied in the given case, expenses (ii) to (vii) incurred by Rudra Logistics as a pure agent of Rolly Polly Manufacturers Ltd. shall be excluded from the value of supply.

Accordingly, value of supply made by Rudra Logistics is as follows:

Particulars	Amount (₹)
Agency charges	5,00,000
Add: Unloading of machine at Kandla Port, Gujrat	Nil
Add: Charges for transport of machine from Kandla port, Gujrat to its godown in Ahmedabad, Gujrat	Nil

Add: Charges for transport of machine from Rudra Logistics' Ahmedabad godown to the warehouse of Rolly Polly Export Import House in Mumbai, Maharashtra	Nil
Add: Customs duty	Nil
Add: Dock charges	Nil
Add: Port charges	Nil
Add: Hotel expenses	45,000
Add: Travelling expenses	50,000
Add: Telephone expenses	2,000
Value Of Supply	5,97,000

Yes, the answer would be different. If lump sum amount of ₹13,00,000 is paid then the value of supply shall be ₹13,00,000 and tax shall be charged on value of supply since individual costs are not given.

II. Computation of GST (Composition Scheme)

Question 13: Examine whether the suppliers are eligible for composition levy under section 10 in the following independent cases in the beginning of the current financial year:

- (a) Technology Enterprises, registered in Jalandhar, Punjab, is engaged in manufacturing computer systems. Its aggregate turnover in the preceding financial year is ₹ 125 lakh. Technology Enterprises supplies the computer systems manufactured by it within the State of Punjab only. With a view to expand its business operations, it will also start providing the repairing services of computer systems in Punjab in the current financial year.
- (b) M/s. Siddharth & Sons, registered in Delhi, owns a restaurant 'Tasty Foods' with a turnover of ₹ 112 lakh in the preceding financial year. In view of the growing customer demand, it will also start intra-State trading of juices in Delhi.
- (c) Sitaram Associates, registered in Sikkim, is engaged in running a restaurant chain 'Veg Kitchen' in the State. It has a turnover of ₹ 73 lakh in the preceding financial year. In the current financial year, it decides to shut down the food chain owing to huge losses being incurred in the said business. Instead, it will start providing intra-State architect services.
- (d) Deepti Services Ltd., registered in Uttarakhand, is exclusively providing intra-state hair styling services. It has turnover of ₹ 34 lakh in the preceding financial year.

Will your answer be different, if Deepti Services Ltd. also start intra-state supply of beauty products alongwith providing hair styling services in the current financial year? [ICAI Material]

- (ii) Varun & Arun Associates started a partnership firm of architects in Bhopal (Madhya Pradesh) on 01.04.2020. The firm provides architecture services, in Madhya Pradesh. It provided the following details of its turnover:

April - June	₹ 20 lakh
July - Sept	₹ 30 lakh
Oct - Dec	₹ 20 lakh

The firm has obtained the registration under section 22 of the CGST Act, 2017 and pays tax under composition scheme. Determine the tax liability of Varun & Arun Associates for the quarters: Apr-Jun, Jul-Sept and Oct-Dec.

Note: The rates of tax on architectural services are CGST- 9% and SGST-9%. [ICAI Material]

Answer:

- (i) As per **section 10(1)**, the following registered persons, whose aggregate turnover in the preceding financial year did **not exceed ₹ 1.5 crore**, may opt to pay tax under composition levy:
 - (i) Manufacturer,
 - (ii) Persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II (restaurant services), and
 - (iii) Any other supplier eligible for composition levy.

The composition scheme under sub-sections (1) and (2) of section 10 can essentially be availed in respect of goods and only one service namely, restaurant service. However, the scheme permits supply of other marginal services for a specified value along with the supply of goods and restaurant service, as the case may be. Such marginal services can be supplied for a value **up to 10% of the**

turnover in the preceding year or ₹ 5 lakh, whichever is higher. Further, the registered person should not be engaged in making any inter-State outward supplies of goods.

Furthermore, newly inserted **section 10(2A)** of the CGST Act, 2017 provides an option to a **registered person, who is not eligible to pay tax under section 10(1) and 10(2), of paying tax @ 6% (CGST-3% and SGST/UTGST-3%) provided his aggregate turnover in the preceding financial year is upto ₹ 50 lakh.** Said person can pay tax @ 6% of the turnover in State or turnover in Union territory up to an aggregate turnover of ₹ 50 lakh, subject to specified conditions. **One of such conditions is that the registered person should not be engaged in making any inter-State outward supplies of goods or services.**

In view of the above-mentioned provisions, the answer to the given independent cases is as under: -

(a) The **turnover limit** for being eligible for composition scheme under sub-sections (1) and (2) of section 10 for Jalandhar (Punjab) is **₹ 1.5 crore** in the preceding financial year. Thus, Technology Enterprises can opt for said composition scheme as its aggregate turnover is less than ₹ 1.5 crore in the preceding financial year and it is making intra-State supplies. Further, since the registered person opting for composition scheme can also supply services (other than restaurant services) for **a value up to 10% of the turnover in the preceding year or ₹ 5 lakh, whichever is higher.** Thus, Technology Enterprises can supply repair services up to a value of ₹ 12.5 lakh [10% of ₹125 lakh] in the current financial year.

(b) In the given case:-

- (i) the turnover in the preceding year is **less than the eligible turnover limit** under composition scheme under sub-sections (1) and (2) of section 10 for Delhi, i.e. ₹ 1.5 crore.
- (ii) the supplier is engaged in providing **restaurant service which is an eligible supply** under said composition scheme.
- (iii) the supplier wants to **engage in trading of goods which is also an eligible supply** under said composition scheme.

Thus, M/s. Siddharth & Sons is **eligible** for composition scheme under sub-sections (1) and (2) of section 10.

(c) The **turnover limit** for being eligible for composition scheme under sub-sections (1) and (2) of section 10 **for Sikkim is ₹ 75 lakh** in the preceding financial year. However, a registered person who is **exclusively engaged in supplying services other than restaurant services are not eligible** for said composition scheme. Thus, Sitaram Associates cannot opt for composition scheme under sub-sections (1) and (2) of section 10.

However, the benefit of composition scheme under **section 10(2A)** of the CGST Act, 2017 is available in case of a **registered person who is not eligible** to pay tax under sub-sections (1) and (2) of section 10 **provided its aggregate turnover in the preceding financial year does not exceed ₹ 50 lakh.**

Thus, in view of the above-mentioned provisions, Sitaram Associates cannot avail the benefit of composition scheme under section 10(2A) also as its aggregate turnover in the preceding financial year is more than ₹ 50 lakh.

(d) A **service provider can opt** for the composition scheme under sub-sections (1) and (2) of section 10 **only if he is engaged in supply of restaurant services.** Said scheme permits supply of marginal services for a specified value, but only when the same are supplied along with goods and/ or restaurant service.

Since Deepti Services Ltd. is exclusively engaged in supply of services other than restaurant services, it is **not eligible** for composition scheme sub-sections (1) and (2) of section 10 even though its turnover in the preceding year is less than ₹ 75 lakh, the eligible turnover limit for Uttarakhand.

However, since Deepti Services Ltd. is **not eligible** to opt for composition scheme under sub-sections (1) and (2) of section 10 and its **aggregate turnover in the preceding financial year**

Chapter 7 ⇒ II. Computation of GST (Composition Scheme)

does not exceed ₹ 50 lakh, Deepti Services Ltd. is entitled to avail benefit of composition scheme under section 10(2A) in the current financial year.

Further, the answer will remain the same even if Deepti Services Ltd. also start supplying beauty products alongwith providing hair styling services in the current financial year since it fulfils the conditions laid down for availing the benefit of composition scheme under section 10(2A) of the CGST Act. It can avail the benefit of composition scheme under section 10(2A) till the time its aggregate turnover in the current year doesn't exceed ₹ 50 lakh.

Question 14: B & D Company, a partnership firm, in Nagpur, Maharashtra is a wholesaler of a taxable product 'P' and product 'Q' exempt by way of a notification. The firm supplies these products only in the eastern part of Maharashtra. All the procurements (both goods and services) of the firm are from the suppliers registered under regular scheme in the State of Maharashtra. The firm pays tax under composition scheme.

B & D Company has furnished the following details with respect to its turnover (exclusive of taxes):

Particulars	Turnover for the quarter ended 30th June (₹)	Turnover for the quarter ended 30th September (₹)
'P'	60,00,000	50,00,000
'Q'	17,65,000	17,00,000

The extract of the only bill book maintained by the firm showed the following details-

Bill No.	Date	Value of products (exclusive of taxes)		
		'P' (₹)	'Q' (₹)	Total (₹)
2306	1st October	2,00,000	3,000	2,03,000
2307	1st October	1,36,000	2,250	1,38,250
2308	2nd October	67,000	39,250	1,06,250
2309	3rd October	58,750	33,750	92,500
2310	5th October	1,00,000	-	1,00,000
2311	6th October	94,000	6,000	1,00,000
2312	6th October	-	17,000	17,000
2313	8th October	50,000	6,000	56,000
2314	9th October	60,000	9,000	69,000
2315
.....

Further, B & D Company paid freight of ₹ 1,40,000 to Goods Transport Agency during the period April to October. Assume equal amount of freight is paid each month on the 10th day of each month. Also, assume that the goods for which the freight is paid on 10th day of the month are transported between 11th to 20th day of the month.

All the above amounts are exclusive of taxes, wherever applicable.

Compute the GST liability (ignoring ITC provisions) of B & D Company for the period April to October under composition scheme under sub-sections (1) and

(2) of section 10 showing calculations for each quarter separately.

Note: Make suitable assumptions wherever required. Rate of CGST and SGST on service of transportation of goods by GTA is 2.5% each. Stock is valued at cost price.

Answer: As per section 10(3) read with N/N 14/2019 CT dated 07.03.2019 as amended, the option availed by a registered person to pay tax under composition scheme under sub-sections (1) and (2) of section 10 shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds ₹ 1.5 crore [₹ 75 lakh in case of Special Category States except Assam, Himachal Pradesh and Jammu and Kashmir].

As per section 2(6), aggregate turnover means the **aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same PAN, to be computed on all India basis but excludes CGST, SGST/UTGST, IGST and GST Compensation Cess.**

In the given case, the firm is registered under the composition scheme in the State of Maharashtra. The aggregate turnover of the firm exceeds ₹ 1.5 crore on 3rd October [aggregate of both taxable and exempt turnover from 1st April to 3rd October, i.e. ₹ 1,50,05,000 (₹ 1,44,65,000 + ₹ 2,03,000 + ₹ 1,38,250 + ₹ 1,06,250 + ₹92,500)]

The inward supplies of goods transportation services in respect of which the firm has to pay tax under reverse charge have not been included in the aggregate turnover in terms of section 2(6). The tax is payable under reverse charge on such services as the applicable rate of tax on such services is given as 5% and not 12%, in which case the GTA would have been liable to pay tax under forward charge [Notification No. 13/2017 CT (R) dated 28.06.2017 as amended].

Thus, the firm will have to pay tax under regular scheme (Section 9) from 3rd October.

Output tax liability of B & D Company under composition scheme:

During the period when the firm pays tax under composition scheme, i.e. from 1st April to 2nd October, tax will be payable on quarterly basis and no ITC will be available [Section 10(4) read with sub-sections (2) and (7) of section 39]. Further, since the firm is trading in goods, tax will be payable @ ½% [Effective rate - 1% (½% CGST + ½% SGST)] of the turnover of taxable supplies of goods and services (i.e. ‘P’) in the State [Section 10(1) read with rule 7].

The tax liability for the quarters ended June, September and December under composition scheme will be computed as under-

Particulars	Quarter ended 30th June (₹)	Quarter ended 30th September (₹)	Quarter ended 31st December (₹)
Turnover of ‘P’ (Taxable supplies)	60,00,000	50,00,000	4,03,000 [2,00,000 + 1,36,000 + 67,000]
CGST @ 0.5% [A1]	30,000	25,000	2,015
SGST @ 0.5% [B1]	30,000	25,000	2,015
Inward supply on which tax is payable under reverse charge [Service of goods transportation availed from a GTA @ 5%]	60,000 [(1,40,000/7) x 3]	60,000 [(1,40,000/7) x 3]	Nil [Paid on 10th day for goods transported between 11th to 20th day of the month, so the same will be assessed under regular scheme]
CGST @ 2.5% [A2]	1,500	1,500	-
SGST @ 2.5% [B2]	1,500	1,500	-
Total CGST [A1 + A2]	31,500	26,500	2,015
Total SGST [B1 + B2]	31,500	26,500	2,015
Total CGST liability for the period from 1st April to 2nd October		60,015 [31,500 + 26,500 + 2,015]	
Total SGST liability for the period from 1st April to 2nd October		60,015 [31,500 + 26,500 + 2,015]	

8

Reverse Charge

Question 15: Pethalal has obtained registration in the current financial year in Uttar Pradesh. His turnover in the preceding financial year was ₹ 19,90,000. He has received the following amounts in respect of the activities undertaken by him in the month of September:

S. No.	Particulars	Amount (₹)
(i)	Funeral services	8,80,000
(ii)	Services of warehousing of jaggery	50,000
(iii)	Electrically operated buses given on hire to Municipal Corporation	5,00,000
(iv)	Service provided to recognized sports body as commentator	2,00,000
(v)	Commission received as an insurance agent from insurance company	65,000
(vi)	Commission received as business facilitator for the services provided to the urban branch of a nationalized bank with respect to savings bank accounts	15,000
(vii)	Security services (supply of security personnel) provided to Damodar Engineering College (DEC)* [registered under GST] for the security of the college premises *All the engineering courses run by DEC are recognised by the law [The All India Council for Technical Education (AICTE)]	28,000

Further, he has received following services in the month of September:

S. No.	Particulars	Amount (₹)
(a)	Freight paid to unregistered goods transport agency for his business activities relating to serial number (i) above	1,00,000
(b)	Legal advice received from M/s Kanoon Associates, a partnership firm, seeking advice in relation to a tax dispute of the business	50,000

All the transactions stated above are intra-State transactions and amounts given are exclusive of GST, wherever applicable.

You are required to calculate net GST payable by Pethalal for the month of September. There was no opening balance of input tax credit. Rate of CGST and SGST is 9% each for all the outward supplies made by Pethalal.

Answer: Computation of net GST payable by Pethalal

Particulars	Amount (₹)	CGST (₹)	SGST (₹)
<u>Supplies on which Pethalal is liable to pay GST under forward charge</u>			
Funeral services [Note 1]	8,80,000	-	-

Particulars	Amount (₹)	CGST (₹)	SGST (₹)
Services of warehousing of jaggery [Note 2]	50,000	4,500	4,500
Services by way of giving on hire electrically operated buses to Municipality [Note 3]	5,00,000	-	-
Service provided to recognized sports body as commentator [Note 4]	2,00,000	= 2,00,000 × 9% = 18,000	= 2,00,000 × 9% = 18,000
Commission received as an insurance agent from insurance company [Note 5]	65,000	-	-
Commission received as business facilitator for the services provided to the urban branch of a nationalised bank with respect to savings bank accounts [Note 6]	15,000	-	-
Security services (supply of security personnel) provided to DEC for the security of the college premises [Note 7]	28,000	=	=
Value of taxable supply	2,00,000	-	-
Total tax liability on outward supplies (A)		22,500	22,500
<u>Supplies on which Pethalal is liable to pay GST under reverse charge</u>			
Services received from GTA [Note 8]	1,00,000	= 1,00,000 × 2.5% = 2,500	= 1,00,000 × 2.5% = 2,500
Legal services received [Note 9]	50,000		
Value of taxable supply	1,00,000		
Total tax liability on inward supplies under reverse charge (B) - payable in cash [Note 10]		2,500	2,500
ITC available on input services [Note 8]		Nil	Nil
Net GST payable (A) + (B)		25,000	25,000

Notes:

(1) Funeral services being **covered in entry 4 of Schedule III** to the CGST Act, 2017 are **not a supply** and thus, are outside the ambit of GST.

(2) Services by way of **storage/ warehousing of, inter alia, jaggery are taxable now.**

(3) Services by way of **giving on hire to a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers are exempt** as per **Entry no. 22, N/N 12/2017**. Buses are EOVs meant to carry more than 12 passengers. Hence, services of giving electrically operated buses on hire to Municipal Corporation are exempt from GST.

(4) Services provided to a **recognized sports body by an individual only as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body are exempt** from GST as per **Entry no. 68, N/N 12/2017**. Thus, service provided as commentator is liable to GST.

(5) Though **commission for providing insurance agent's services to any person carrying on insurance business is liable to GST, the tax payable thereon is to be paid by the recipient of service i.e., insurance company, under reverse charge** as per **Sl. No. 7, N/N 13/2017**. Thus, Pethalal will not be liable to pay GST on such commission.

(6) Services provided **by a business facilitator to a banking company with respect to accounts in its rural area branch are exempt** from GST as per **Entry no. 39**, N/N 12/2017. Thus, services provided by him in respect of urban area branch of the bank will be taxable. However, the tax payable thereon is to be paid by the recipient of service i.e., banking company, under reverse charge in terms of reverse charge notification. Hence, Pethalal will not be liable to pay GST on commission received for said services.

(7) Services provided **to an educational institution, by way of security services performed in such educational institution are exempt** from GST only when said services are provided to an institution providing services by way of **pre-school education and education up to higher secondary school or equivalent**, as per **Entry no. 66**, N/N 12/2017. Thus, in the given case, security services provided to DEC are not exempt. Further, the tax on **security services (supply of security personnel) provided by any person other than a body corporate to a registered person is payable by the recipient of service under reverse charge** as per **Sl. No. 14**, N/N 13/2017. Hence, Pethalal will not be liable to pay GST in the given case.

(8) GST on services provided **by a GTA, inter alia, a registered person is payable by the recipient of service** i.e., the registered person, under reverse charge as per **Sl. No. 1**, N/N 13/2017. Since in the given case, GTA is unregistered, Pethalal is liable to pay tax under reverse charge @ 5% (CGST @ 2.5% and SGST @ 2.5%). Further, since said input services are being exclusively **used for effecting non-taxable supplies [funeral services], input tax credit of the GST paid on the same will not be available**.

(9) **Legal services provided by a partnership firm of advocates to a business entity (with an aggregate turnover up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017) are exempt** from GST as per **Entry no. 45**, N/N 12/2017. Since the aggregate turnover of Pethalal did not exceed ₹ 20 lakh [the applicable threshold limit for registration for Pethalal being a supplier of services] in the preceding FY, legal services received by him are exempt from GST.

(10) As per **section 49(4)** of the CGST Act, 2017, amount available in the electronic credit ledger may be used for making payment towards output tax. However, **tax payable under reverse charge is not an output tax in terms of section 2(82)** of the CGST Act, 2017. Therefore, tax payable under reverse charge cannot be set off against the input tax credit and thus, will have to be paid in cash.

(11) Since all the transactions given hereunder are **intra-State**, CGST and SGST are payable in terms of section 9(1) of the CGST Act, 2017

Question 16: An international trade exhibition is going to be held in United States of America in January. Aayaat Niryat Export House (ANEH) has participated in it. It intends to send 100 units of taxable goods manufactured by it to USA for display in the said exhibition.

ANEH is of the view that the activity of sending the goods out of India for exhibition is a zero-rated supply. However, its tax advisor does not concur with its view. Examine whether the view of ANEH is correct.

Assuming that ANEH could not sell any goods at the exhibition and brings back entire 100 units to India (i) in February, (ii) in August,

Discuss the requirement to issue invoice, if any, in each of the above independent cases.

Would your answer be different if ANEH sells an aggregate of 65 units of the taxable goods in USA exhibition on different dates in January and remaining 35 units are brought back on 31st January. The tax advisor of ANEH advises ANEH that the export of 65 units qualify as zero-rated supply and it should apply for refund of the unutilized ITC in respect of the same. Examine the technical veracity of the tax advisor's advice.

Answer: No, the view of ANEH that the activity of sending the goods out of India for exhibition is a zero-rated supply, is not correct. As per **section 7** of the CGST Act, for any activity or transaction to be considered a supply, it must **satisfy twin tests** namely-

- (i) it should be **for a consideration** by a person; and
- (ii) it should be **in the course or furtherance of business**.

The **exceptions** to the above are the activities enumerated in **Schedule I** of the CGST Act which are treated as **supply even if made without consideration**. Further, **section 2(21)** of the IGST Act defines "supply", wherein it is clearly stated that it shall have the same meaning as assigned to it in section 7 of the CGST Act.

Section 16 of the IGST Act defines "zero rated supply" as any of the following supplies of goods or services or both, namely:-

- (a) **export** of goods or services or both; or
- (b) supply of goods or services or both **to a Special Economic Zone developer or a Special Economic Zone unit**.

Thus, only such "supplies" which are either "export" or are "supply to SEZ unit/ developer" would qualify as zero-rated supply.

In view of the above provisions, **Circular No. 108/27/2019** clarified that the **activity of sending/ taking the goods out of India for exhibition or on consignment basis for export promotion, except when such activity satisfy the tests laid down in Schedule I of the CGST Act, do not constitute supply as the said activity does not fall within the scope of section 7** of the CGST Act as there is **no consideration** at that point in time. Since such activity is not a supply, the same cannot be considered as "zero rated supply" as per the provisions contained in **section 16** of the IGST Act.

The said circular further clarified that the activity of sending/taking goods out of India for exhibition is in the nature of "**sale on approval basis**" wherein the goods are sent/ taken outside India for the

approval of the person located abroad and it is **only when the said goods are approved that the actual supply from the exporter located in India to the importer located abroad takes place.**

The activity of sending/taking specified goods is covered under the provisions of **section 31(7)** of the CGST Act, 2017 read with **rule 55** of CGST Rules, 2017. As per said provisions, in case of the goods being sent or taken on approval for sale, the invoice shall be issued **before/at the time of supply or 6 months from the date of removal, whichever is earlier.** The goods which are taken for supply on approval basis **can be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery challan.**

In view of the said provisions, ANEH is not required to issue invoice at the time of taking the goods out of India since the activity of merely sending/ taking the taxable goods out of India is not a supply. However, the goods shall be accompanied with a delivery challan. Further,

- (i) In case the **entire quantity of goods (100 units) sent to USA is not sold but brought back by ANEH in February, i.e. within the stipulated period of 6 months from the date of removal, no tax invoice is required** to be issued as no supply has taken place in such a case.
- (ii) In case, the **entire quantity of goods (100 units) sent to USA is not sold and brought back by ANEH in August, i.e. after 6 months from the date of removal, a tax invoice is required to be issued for entire 100 units** of taxable goods in accordance with the provisions contained in section 12 [determining time of supply of goods] and section 31 [tax invoice] of the CGST Act, 2017 read with rule 46 [tax invoice] of the CGST Rules, 2017 within the time period stipulated under section 31(7) of the CGST Act, 2017.

However, **if an aggregate of 65 units of the goods are sold in USA exhibition by ANEH on different dates in January** (i.e. within the stipulated period of 6 months), a **tax invoice would be required to be issued for these units, at the time of each of these sales,** in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules. When the **goods are sold in exhibition, actual supply from the exporter in India to the importer located abroad takes place and this supply qualifies as export.** Export of goods is a zero-rated supply in terms of section 16(1)(a) of the IGST Act, 2017.

If the remaining 35 units are **brought back on 31st January, i.e. within the stipulated period of 6 months from the date of removal, no tax invoice** is required to be issued as no supply has taken place in such a case.

Further, tax advisor's advice is technically correct. Since the activity of sending / taking specified goods out of India is **not a zero-rated supply**, execution of a bond/Letter of Undertaking (LUT), as required under **section 16** of the IGST Act, is **not required.**

However, the sender can **prefer refund claim even when the specified goods were sent / taken out of India without execution of a bond/LUT**, if he is otherwise eligible for refund as per the provisions contained in section 54(3) of the CGST Act, 2017 read with rule 89(4) of the CGST Rules, 2017 in respect of zero-rated supply of 65 units.

10

Time of Supply

Question 17: Andes Pvt. Ltd., a registered supplier, manufactures product 'A' and 'B'. While 'A' is taxable under forward charge, 'B' is taxable under reverse charge. The following details are provided in relation to two individual supplies of products

'A' and 'B' made by the company:

S. No.	Date	Event
(i)	10th February	Payment of ₹ 1,00,000 made by buyer for supply of 'A' to be delivered in the month of March
(ii)	13th February	Receipt of ₹ 1,00,000 [as mentioned in point (i) above]
(iii)	17th February	Payment of ₹ 2,00,000 made by buyer for supply of 'B' to be delivered in the month of March
(iv)	20th February	Receipt of ₹ 2,00,000 [as mentioned in point (iii) above]
(v)	5th March	Product 'A' manufactured and removed
(vi)	6th March	Receipt of product 'A' [as mentioned in point (v) above] by the buyer
(vii)	10th March	Product 'B' manufactured and removed
(viii)	23rd March	Receipt of product 'B' [as mentioned in point (vii) above] by the buyer
(ix)	4th March	Invoice for ₹ 2,00,000 issued for supply of 'A'
(x)	11th March	Invoice for ₹ 4,00,000 issued for supply of 'B'
(xi)	25th March	Payment made by the buyer of 'A'
(xii)	31st March	Payment [as mentioned in point (xi) above] received
(xiii)	1st April	Payment made by the buyer of 'B'
(xiv)	4th April	Payment [as mentioned in point (xiii) above] received

Determine the time of supply(ies) of goods for the purpose of payment of tax. [ICAI Material]

Answer: In terms of **section 12(2)**, the time of supply of goods is the **earlier of, the date of issue of invoice/last date on which the invoice is required to be issued or date of receipt of payment**. However, **Notification No. 66/2017** specifies that a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in **section 12(2)(a)**, i.e. **date of issue of invoice or the last date on which invoice ought to have been issued** in terms of section 31.

Also, it is important to note that the **relief of not paying GST at the time of receipt of advance is available only in case of supply of goods, the tax on which is payable under forward charge. In case of reverse charge, GST is payable at the time of payment, if payment is recorded/made before receipt of goods (advance payment) [Section 12(3)]**.

Therefore, time of supply of product 'A', which is taxable under forward charge, is 4th March being the date of issue of invoice. However, time of supply of product 'B', which is taxable under reverse charge, is 17th February to the extent of ₹ 2,00,000 paid as advance being the earliest of the three stipulated dates namely, date of receipt of goods (23rd March), date of payment (17th February) and date immediately following 30 days of issuance of invoice (11th April). For balance ₹ 2,00,000, the time of supply of product 'B' is 23rd March being the earliest of the three stipulated dates namely, date of receipt of goods (23rd March), date of payment (1st April) and date immediately following 30 days of issuance of invoice (11th April).

11

Input Tax Credit

[Topic-(I)- Section 16]

Question 18: M/s. XYZ, a registered supplier, supplies the following goods and services for construction of buildings and complexes-

- Excavators for required period at a per-hour rate.
- Manpower for operation of the excavators at a per day rate
- Soil- testing and seismic evaluation at a per sample rate.

The excavators are invariably hired out along with operators. Similarly, excavator operators are supplied only when the excavators is hired out.

M/s. XYZ receives the following services:

- Annual maintenance services for excavators.
- Health insurance for operators for the excavator.
- Scientific and technical consultancy for soil testing and seismic evaluation.

For a given month, the receipts (exclusive of GST) of M/s XYZ are as follows:

- Hire charges for excavators ₹ 18,00,000
- Service charges for supply of manpower of operation of the excavator ₹ 20,000
- Service charges for soil testing and seismic evaluation at three sites ₹ 2,50,000.

The GST paid during the said month on services received by M/s XYZ is as follows:

- Maintenance for excavators ₹ 1,00,000
- Health insurance for excavator operators ₹ 11,000
- Scientific and technical consultancy for soil testing and seismic evaluation- ₹ 1,00,000.

Compute the net GST payable by M/s. XYZ from Electronic Cash Ledger for the given month.

Assume the rates of GST to be as under:

Hiring out of excavators-12%

Supply of manpower services and soil- testing and seismic evaluation services-18%

(Ignore CGST, SGST or IGST for the sake of simplicity).

Note: Opening balance of ITC of GST is nil. [ICAI Material]

Answer: Computation of net GST payable by M/s. XYZ

Particulars	GST payable (₹)
Gross GST liability (Refer working note 1 below)	2,63,400
Less: Input tax credit (Refer working Note 2 below)	2,00,000
Net GST payable from Electronic Cash Ledger	63,000

Working Notes:

(1) Computation of gross GST liability

Particulars	Value Received (₹)	Rate of GST (₹)	GST Payable (₹)
Hiring charges for excavators	18,00,000	12%	2,16,000

<u>Particulars</u>	<u>Value Received (₹)</u>	<u>Rate of GST (₹)</u>	<u>GST Payable (₹)</u>
Service charges for supply of manpower for operation of excavators (Refer Note 1)	20,000	12%	2,400
Service charges for soil testing and seismic evaluation (Refer Note 2)	2,50,000	18%	45,000
Gross GST Liability			2,63,400

Notes:

(i) Since the excavators are invariably hired out along with operators and excavators operated are supplied only when the excavator is hired out, it is a case of composite supply under section 2 (30) of the CGST Act, 2017 wherein the principal supply is the hiring out of the excavator.

As per section 8 (a) of the CGST Act, 2017, the composite supply is treated as the supply of the principal supply. Therefore, the supply of manpower for operation of the excavators will also be taxed at the rate applicable for hiring out of the excavator (principal supply), which is 12%.

(ii) Soil testing and seismic evaluation services being independent of the hiring out of excavator will be taxed at the rate applicable to them, which is 18%.

(2) Computation of input tax credit available for set off

<u>Particulars</u>	<u>GST Paid (₹)</u>	<u>ITC Available (₹)</u>
Maintenance services for excavators (Refer Note 1)	1,00,000	1,00,000
Health insurance for excavators operators (Refer Note 2)	11,000	-
Scientific and technical Consultancy (Refer Note 1)	1,00,000	1,00,000
Total input tax credit available		2,00,000

Notes:

(i) Section 17(5)(d) blocks credit on goods and/or services received by a taxable person for construction of an immovable property on his own account. Here, though the excavators are used for building projects, the same are not used by M/s. XYZ on its own account for construction of immovable property, instead they are used for outward taxable supply of hiring out of machinery. Further, excavators are special purpose vehicles whose credit is not restricted under section 17(5)(a), therefore, ITC on maintenance service for excavators shall be allowed.

Therefore, the maintenance service for the excavators does not get covered by the bar under section 17 and the credit thereon will be available. The same applies for scientific & technical consultancy for construction projects because in this case also, the service is used for providing the outward taxable supply of soil testing and seismic evaluation service and not for construction of immovable property.

(ii) Section 17(5)(b)(i) allows input tax credit on health insurance only where an inward supply of such services is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply or where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.

In the given case, it is assumed that it is not obligatory for employer to provide health insurance to its employees under any law for the time being in force, therefore the credit there on will not be allowed.

Question 19: Pari Ltd. of Jodhpur (Rajasthan) is a registered manufacturer of cosmetic products. Pari Ltd. has furnished following details for a tax period:

<u>Particulars</u>	<u>₹</u>
Details of Outward Supplies:	
(i) Supplies in Rajasthan	8,75,000

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Particulars	₹
(ii) Supplies in States other than Rajasthan	3,75,000
(iii) Export under LUT	6,25,000
Details of Expenses:	
(i) Raw Materials purchased from registered suppliers located in Rajasthan	1,06,250
(ii) Raw Materials purchased from unregistered suppliers located in Rajasthan	37,500
(iii) Raw Materials purchased from Punjab from registered supplier	1,00,000
(iv) Integrated tax paid on raw materials imported from USA	22,732
(v) Consumables purchased from registered suppliers located in Rajasthan including high speed diesel (Excise and Vat paid) valuing ₹ 31,250 for running the machinery in the factory	1,56,250
(vi) Monthly rent for the factory building to the owner in Rajasthan	1,00,000
(vii) Salary paid to employees on rolls	6,25,000
(viii) Premium paid on life insurance policies taken for specified employees. Life insurance policies for specified employees have been taken by Pari Ltd. to fulfill a statutory obligation in this regard. The life insurance service provider is registered in Rajasthan.	2,00,000
All the above amounts are exclusive of all kinds of taxes, wherever applicable. However, the applicable taxes have also been paid by Pari Ltd.	
The opening balance of ITC with Pari Ltd. for the given tax period is-	
CGST ₹ 20,000	
SGST ₹ 15,000	
IGST ₹ 15,000	

Assume CGST, SGST and IGST rates to be 9%, 9% and 18% respectively, wherever applicable.

Assume that all the other necessary conditions to avail the ITC have been complied with by Pari Ltd., wherever applicable.

Compute (i) ITC available with Pari Ltd. for the tax period; and

(ii) Net GST payable (CGST and SGST or IGST as the case may be) from Electronic Cash Ledger by Pari Ltd. for the tax period. [ICAI Material]

Answer: **Computation of ITC available with Pari Ltd.**

S. No.	Particulars	Eligible input tax credit		
		CGST ₹	SGST ₹	IGST ₹
1.	Raw Material:			
	Purchased from local registered suppliers [Note 1(i)] (₹ 1,06,250 x 9%)	9,562.50	9,562.50	
	Purchased from local unregistered suppliers [Note 1(ii)]	Nil	Nil	
	Purchased from Punjab from registered supplier [Note 1(i)] (₹ 1,00,000 x 18%)			18,000
	Raw material imported from USA [Note 1(iii)]			22,732
2.	Consumables [Note 2] [(1,56,250-31,250) x 9%]	11,250	11,250	
3.	Monthly rent for the factory building to the owner in Rajasthan [Note 3]	9,000	9,000	
4.	Salary paid to employees on rolls [Note 4]	Nil	Nil	Nil

S. No.	Particulars	Eligible input tax credit		
		CGST ₹	SGST ₹	IGST ₹
5.	Premium paid on life insurance policies taken for specified employees [Note 5] (₹ 2,00,000 x 9%)	18,000	18,000	
	Total	47,812.50	47,812.50	40,732
	Add: Opening balance of ITC	<u>20,000</u>	<u>15,000</u>	<u>15,000</u>
	Total ITC [Note 7]	67,812.50	62,812.50	55,732

Computation of Net GST Payable

Particulars	CGST ₹	SGST ₹	IGST ₹
Intra-State supply	78,750	78,750	
Inter-State supply			67,500
Exports under LUT [Note 6]	<u>Nil</u>	<u>Nil</u>	<u>Nil</u>
Total output tax liability	78,750	78,750	67,500
Less: ITC	67,812.50	62,812.50	55,732
Net GST payable	10,937.50	15,937.50	11,768

Notes:

- Credit of input tax (CGST & SGST/ IGST) paid on raw materials used in the course or furtherance of business is available in terms of section 16.
 - Tax on procurements made by a registered person from an unregistered supplier is levied only in case of notified goods and services in terms of section 9(4). Therefore, since no GST is paid on such raw material purchased, there does not arise any question of ITC on such raw material.
 - IGST paid on imported goods qualifies as input tax in terms of section 2(62). Therefore, credit of IGST paid on imported raw materials used in the course or furtherance of business is available in terms of section 16.
- ITC on consumables, being inputs used in the course or furtherance of business, is available. However, since levy of GST on high speed diesel has been deferred till a date to be notified by Government, there cannot be any ITC of the same.
- ITC on monthly rent is available as the said service is used in the course or furtherance of business.
- Services by employees to employer in the course of or in relation to his employment is not a supply in terms of section 7 read with Schedule III to the CGST Act. Therefore, since no GST is paid on such services, there cannot be any ITC on such services.
- ITC on life insurance service is available if the same is obligatory for an employer to provide to its employees under any law for the time being in force as per proviso to section 17(5)(b).
- Export of goods is a zero rated supply in terms of section 16 (1)(a) of the IGST Act. A zero rated supply under LUT/bond is made without payment of IGST in terms of section 16(3)(a).
- Since export of goods is a zero rated supply, there will be no apportionment of ITC and full credit will be available as per section 17(2).

Question 20: XYZ Pvt. Ltd. is a manufacturing company registered under GST in the State of Uttar Pradesh. It manufactures two taxable products 'Alpha' and 'Beta' and one exempt product 'Gama'. On 1st October, while product 'Beta' got exempted through an exemption notification, exemption available on 'Gama' got withdrawn on the same date. The turnover (exclusive of taxes) of 'Alpha', 'Beta' and 'Gama' in the month of October was ₹ 9,00,000, ₹ 10,00,000 and ₹ 6,00,000.

XYZ Pvt. Ltd. has furnished the following details:

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S. No.	Particulars	Price (₹)	GST (₹)
(a)	Machinery 'U' purchased on 1st October for being used in manufacturing all the three products	2,00,000	36,000
(b)	Machinery 'V' purchased on 1st October for being used in manufacturing product 'Alpha' and 'Gama'	1,00,000	18,000
(c)	Machinery 'W' purchased on 1st October for being exclusively used in manufacturing product 'Beta'	3,00,000	54,000
(d)	Machinery 'Y' purchased on 1st October four years ago for being exclusively used in manufacturing product 'Beta'. From 1st October, such machinery will also be used for manufacturing product 'Gama'.	4,00,000	72,000
(e)	Machinery 'Z' purchased on 1st October two years ago for being used in manufacturing all the three products	3,00,000	54,000
(f)	Raw Material used for manufacturing 'Alpha' purchased on 5th October	1,50,000	27,000
(g)	Raw Material used for manufacturing 'Beta' purchased on 10th October	2,00,000	36,000
(h)	Raw Material used for manufacturing 'Gama' purchased on 15th October	1,00,000	18,000

Compute the following:

- Amount of ITC to be credited to Electronic Credit Ledger, for the month of October
- Amount of aggregate value of common credit (T_c)
- Common credit attributable to exempt supplies, for the month of October
- GST liability of the company payable through Electronic Cash Ledger, for the month of October if opening balance of ITC is nil.

Note: Assume that all the procurements made by the company are from States other than Uttar Pradesh. Similarly, the company sells all its products in States other than Uttar Pradesh. Rate of IGST is 18%. Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled. Ignore interest, if any and make suitable assumptions wherever required. [ICAI Material]

Answer:

S. No.	Particulars	ITC (₹)
(i)	Amount of ITC credited to Electronic Credit Ledger, for the month of October	
	Machinery 'U' - 'A' [Note 1]	36,000
	Machinery 'V' [Note 2]	18,000
	Machinery 'W' [Note 3]	-
	Machinery 'Y' [Note 4]	-
	Machinery 'Z' [Note 5]	-
	Raw Material used for manufacturing 'Alpha' [Note 6]	27,000
	Raw Material used for manufacturing 'Beta' [Note 6]	-
	Raw Material used for manufacturing 'Gama' [Note 6]	<u>18,000</u>
	Amount of ITC credited to Electronic Credit Ledger, for the month of October	99,000
(ii)	Aggregate value of common credit (T_c) – Note 7	
	Value of 'A' for Machinery 'U' purchased on 1st October	36,000
	Value of 'A' for Machinery 'Z' purchased on 1st October 2 years ago for effecting both taxable and exempt supplies	54,000

S. No.	Particulars	ITC (₹)
	Input tax claimed on Machinery 'Y' purchased on 1st October 4 years ago for effecting taxable supplies but used for effecting both taxable and exempt supplies from 1st October in the current year [Note 8]	<u>72,000</u>
	Aggregate value of common credit (T_c)	1,62,000
(iii)	Common credit attributable to exempt supplies, for the month of October	
	Common credit for the month of October (T _m) [Note 9]	2,700
	Common credit attributable to exempt supplies, for the month of October (T_c) – Note 10	1,080
(iv)	Computation of GST liability of the company for October payable through Electronic Cash Ledger	
	IGST payable on 'Alpha' [₹ 9,00,000 x 18%]	1,62,000
	IGST payable on 'Beta' [Exempt]	Nil
	IGST payable on 'Gama' [₹ 6,00,000 x 18%]	<u>1,08,000</u>
	Total IGST payable on outward supply	2,70,000
	Common credit attributable to exempt supplies for the month of October [Note 11]	<u>1,080</u>
	Total output tax liability of October	2,71,080
	Less: ITC available in the Electronic Credit Ledger	<u>99,000</u>
	IGST payable from Electronic Cash Ledger	1,72,080

Notes:

- (1) ITC in respect of capital goods used commonly for effecting taxable supplies and exempt supplies denoted as 'A' shall be credited to the electronic credit ledger [Rule 43(1)(c)].
- (2) ITC in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies but including zero rated supplies shall be credited to the electronic credit ledger [Rule 43(1)(b)].
- (3) ITC in respect of capital goods used or intended to be used exclusively for effecting exempt supplies shall not be credited to electronic credit ledger [Rule 43(1)(a)].
- (4) Machinery 'Y' is being used for effecting both taxable and exempt supplies from 1st October. Prior to that it was exclusively used for effecting taxable supplies. Therefore, ITC in respect of such machinery would have already been credited to the electronic credit ledger.
- (5) Machinery 'Z' is being used for effecting both taxable and exempt supplies from 1st October two years ago. Therefore, ITC in respect of such machinery would have already been credited to the electronic credit ledger.
- (6) ITC in respect of inputs used for effecting taxable supplies will be credited in Electronic Credit Ledger. ITC in respect of inputs used for effecting exempt supplies will not be credited in the electronic credit ledger [Rule 42].
- (7) The aggregate of the amounts of 'A' credited to the electronic credit ledger in respect of common capital goods whose useful life remains during the tax period, to be denoted as 'T_c', shall be the common credit in respect of such capital goods [Rule 43(1)(d)].
- (8) Where any capital goods which were used exclusively for effecting taxable supplies are subsequently also used for effecting exempt supplies, the ITC claimed in respect of such capital goods shall be added to arrive at the aggregate value of common credit 'T_c' [Proviso to rule 43(1)(d)].

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- (9) ITC attributable to a month on common capital goods during their useful life (T_m) shall be computed in accordance with rule 43(1)(e) as under:

$$\begin{aligned} &= T_e \div 60 \\ &= ₹ 1,62,000 \div 60 \\ &= ₹ 2,700 \end{aligned}$$

The useful life of any capital goods shall be considered as five years from the date of invoice and the said formula shall be applicable during the useful life of the said capital goods

- (10) The amount of common credit attributable towards exempted supplies, be denoted as 'Te', and shall be calculated as:

$$T_e = (E \div F) \times T_r^* \text{ where,}$$

'E' is the aggregate value of exempt supplies, made, during the tax period, and

'F' is the total turnover in the State of the registered person during the tax period [Rule 43(1)(g)].

$$\begin{aligned} &= T_r \times \frac{\text{Turnover of exempt supplies during the month of October}}{\text{Total turnover of XYZ Pvt. Ltd. during the month of October}} \\ &= ₹ 2,700 \times \frac{10,00,000}{25,00,000} = ₹ 1,080 \end{aligned}$$

- (11) Common credit attributable to the exempt supplies (T_e) along with the applicable interest (which is to be ignored in this case) shall, during every tax period of the useful life of the concerned capital goods, be added to the output tax liability of the person making such claim of credit [Rule 43(1)(h)].

*Prior to the amendment vide N/N 16/2020 read with clause (f) of rule 43(1) provided that the amount of ITC, at the beginning of a tax period, on all common capital goods whose useful life remains during the tax period, be denoted as 'T_r' and shall be the aggregate of 'T_m' for all such capital goods. However, clause (f) has been omitted vide the said notification. Consequently, the term "T_r" becomes redundant in the formula provided in rule 43(1)(g). However, for the sake of computation of common credit attributable to exempt supply, value of 'T_m' has been used here. It may be noted that as per the erstwhile clause (f) of rule 43(1) value of 'T_r' was the aggregate of 'T_m'.

Question 21: Arise India Pvt. Ltd., a company engaged in manufacturing of various goods, has its corporate office at Mumbai and manufacturing units in Pune and Chennai and service centres in Kolkata and Bengaluru. The manufacturing units at Pune and Chennai and service centres at Kolkata and Bengaluru are registered in Maharashtra, Tamil Nadu, West Bengal and Karnataka respectively. The corporate office is registered as an input service distributor. All the units and centres of Arise India Pvt. Ltd. are operational in the current year. The corporate office intends to distribute input tax credit (ITC) for the month of October 20XX. The following details are available for such distribution:

Table 1

Unit/centre	Turnover for the quarter ending September 20XX* (₹)	Eligible ITC on input services attributable to a specific unit/centre, for the month of October 20XX (₹)
Pune	20,00,000	IGST – ₹ 3,00,000; CGST – ₹ 30,000; SGST – ₹ 30,000
Chennai	30,00,000	IGST – ₹ 24,000; CGST – ₹ 6,000; SGST – ₹ 6,000
Kolkata	10,00,000	Nil
Bengaluru	40,00,000	Nil

*Note: Turnover excludes all taxes and duties

Table 2

S. No.	Particulars	CGST	SGST	IGST
(i)	Input services used by all units and centres			
	(a) Eligible ITC under the provisions of the GST law	1,20,000	1,20,000	2,40,000
	(b) Ineligible ITC in terms of section 17(5)	40,000	40,000	80,000
(ii)	Inputs used by Pune unit and Kolkata centre	60,000	60,000	
(iii)	Input services used by Chennai unit and Bengaluru centre (ITC pertaining to such invoices is eligible ITC under the provisions of the GST law)	30,000	30,000	10,000

Chennai unit manufactures exempted products.

Compute the amount of ITC to be distributed to each of the units and centres.

Answer: Computation of ITC to be distributed by ISD

S. No.	Particulars	Pune unit (₹)	Chennai unit (₹)	Kolkata centre (₹)	Bengaluru centre (₹)
(i)	IGST credit of ₹ 3,00,000, CGST credit of ₹ 30,000 and SGST credit of ₹ 30,000 specifically attributable to Pune unit [Note 1]	3,00,000 (IGST) 30,000 (CGST) 30,000 (SGST)			
(ii)	IGST credit of ₹ 24,000, CGST credit of ₹ 6,000 and SGST credit of ₹ 6,000 specifically attributable to Chennai unit [Note 2]		36,000 (IGST)		
(iii)	Eligible ITC pertaining to input services used by all units and centres [Note 3]	24,000 (CGST) 24,000 (SGST) 48,000 (IGST)	1,44,000 (IGST)	48,000 (IGST)	1,92,000 (IGST)
(iv)	Ineligible ITC pertaining to input services used by all units and centres [Note 4]	8,000 (CGST) 8,000 (SGST) 16,000 (IGST)	48,000 (IGST)	16,000 (IGST)	64,000 (IGST)
(v)	Inputs used by Pune unit and Kolkata centre [Note 5]	Nil	Nil	Nil	Nil
(vi)	Input services used by Chennai unit and Bengaluru centre [Note 6]		30,000 (IGST)		40,000 (IGST)

Notes:

(1) IGST credit of ₹ 3,00,000, CGST credit of ₹ 30,000 and SGST credit of ₹ 30,000 specifically attributable to Pune unit will be distributed as IGST credit of ₹ 3,00,000, CGST credit of ₹ 30,000 and SGST credit of ₹ 30,000 respectively, only to Pune unit, since recipient is located in the same State in which ISD is located [Section 20(2)(c) read with clauses (e) & (f)(i) of sub-rule (1) of rule 39].

(2) Total GST credit (CGST+ SGST + IGST) of ₹ 36,000 specifically attributable to Chennai unit will be distributed as IGST credit of ₹ 36,000, only to Chennai unit, since recipient and ISD are located in different States [Section 20(2)(c) read with clauses (e) & (f)(ii) of sub-rule (1) of rule 39].

(3) Eligible ITC of CGST [₹ 1,20,000], SGST [₹ 1,20,000] and IGST [₹ 2,40,000] will be distributed among the units and centres in the ratio of their turnover of the last quarter [Section 20(2)(e) read with clause (a)(ii) of the explanation to the said section and rule 39(1)(b)].

Ratio of the turnover of the units and centres in last quarter, previous to the month during which ITC is to be distributed:

= 20 lakh : 30 lakh : 10 lakh : 40 lakh

= 2: 3: 1: 4

Therefore, Pune unit will get - ₹ 24,000 [1,20,000 x (2/10)] as CGST credit, ₹ 24,000 [1,20,000 x (2/10)] as SGST credit and ₹ 48,000 [2,40,000 x (2/10)] as eligible IGST credit [Clauses (e) & (f)(i) of sub-rule (1) of rule 39].

Chennai unit will get – ₹ 1,44,000 [₹ 4,80,000* x (3/10)] as IGST credit [Clauses (e) & (f)(ii) of sub-rule (1) of rule 39]. The credit attributable to a recipient is distributed even if such recipient is making exempt supplies [Clause (d) of sub-rule (1) of rule 39].

[* Note- 1,20,000+1,20,000+2,40,000 = 4,80,000]

Kolkata centre will get - ₹ 48,000 [₹ 4,80,000 x (1/10)] as IGST credit [Clauses (e) & (f)(ii) of sub-rule (1) of rule 39].

Bengaluru will get - ₹ 1,92,000 [₹ 4,80,000 x (4/10)] as IGST credit [Clauses (e) & (f)(ii) of sub-rule (1) of rule 39].

(4) Ineligible ITC of CGST [₹ 40,000], SGST [₹ 40,000] and IGST [₹ 80,000] will also be distributed among the units and centres in the ratio of their turnover of the last quarter [Section 20(2)(e) read with clause (a)(ii) of the explanation to the said section and rule 39(1)(b)].

Ratio of the turnover of the units and centres in last quarter, previous to the month during which ITC is to be distributed:

= 20 lakh : 30 lakh : 10 lakh : 40 lakh

= 2: 3: 1: 4

Therefore, Pune unit will get - ₹ 8,000 [40,000 x (2/10)] as CGST credit, ₹ 8,000 [40,000 x (2/10)] as SGST credit and ₹ 16,000 [80,000 x (2/10)] as eligible IGST credit.

Chennai unit will get – ₹ 48,000 [₹ 1,60,000 x (3/10)] as IGST credit.

Kolkata centre will get - ₹ 16,000 [₹ 1,60,000 x (1/10)] as IGST credit.

Bengaluru will get - ₹ 64,000 [₹ 1,60,000 x (4/10)] as IGST credit.

(5) ISD mechanism is meant only for distributing the credit on common invoices pertaining to input services only and not goods (inputs or capital goods).

(6) Eligible ITC of CGST [₹ 30,000], SGST [₹ 30,000] and IGST [₹ 10,000] will be distributed among the Chennai unit and Bengaluru centre in the ratio of their turnover of the last quarter [Section 20(2)(d) read with clause (a)(ii) of the explanation to the said section and rule 39(1)(b)].

Ratio of the turnover of the Chennai unit and Bengaluru centre in last quarter, previous to the month during which ITC is to be distributed:

= 30 lakh : 40 lakh

= 3 : 4

Therefore, Chennai unit will get – ₹ 30,000 [₹ 70,000 x (3/7)] as IGST credit.

Bengaluru unit will get – ₹ 40,000 [₹ 70,000 x (4/7)] as IGST credit.

Question 22: Sukhdev is a mining engineer. He has crossed the threshold limit for registration under the GST law and is duly registered in the State of Maharashtra. He effects the following transactions in the month of March, 20XX and wants you to compute the tax payable in cash. He has filed bond/ LUT to claim benefits from zero-rated supplies. The following are the particulars furnished by him.

SI. No	Particulars	Value of supply in ₹
(a)	Sukhdev, being an operating member in mining and exploration services at Mumbai High, has provided certain services to the Joint Venture (JV) in which he is also a participant. He believes that the consideration received from the JV is 'Cost Petroleum' and not taxable.	12,00,000
(b)	He has purchased certain machinery from outside the State, to render services to the JV at Mumbai High.	6,00,000
(c)	He has obtained legal opinion from a local firm of advocates to enter into the contract with the JV, for providing services to it.	1,00,000
(d)	He has obtained accommodation from the State Government to locate his office close to the sea shore.	2,00,000
(e)	He gets a portion of the petroleum silt as part of the compensation while exploring the petroleum reserves in the Bombay High- which as per the contract with the Government is part of 'Cost Petroleum'.	6,00,000
(f)	He sells the petroleum silt to a SEZ Developer in Mumbai	6,80,000
(g)	Consideration is received towards transfer of tenancy rights, which according to Sukhdev is not liable to GST as it has suffered stamp duty.	8,00,000
(h)	On violation of the terms in production sharing agreement, Sukhdev has paid liquidated damages to the Government.	3,00,000
(i)	He has been assigned the right to collect royalty on behalf of Maharashtra Government, as 'Excess Royalty Collection Contractor'. He has noticed that the mining lease holders have short paid 2,00,000 as IGST from what had been exempted to him under the assignment.	--
(j)	He has sold self-fabricated machinery through his agent in Mumbai, that has been used for 2 years, the value of which is not available in the open market. The agent sells it immediately to an unrelated customer in Mumbai.	10,00,000
(k)	Opening Balance and brought forward tax credits are as follows:	
	- Electronic Cash Ledger – CGST	12,000
	- Electronic Credit Ledger – CGST	18,000
	- Electronic Credit Ledger – SGST	12,000
	- Electronic Credit Ledger – IGST	60,000
(l)	Supply value is exclusive of taxes. Supply of services are taxable at CGST 9%, SGST 9% and IGST 18% and supply of goods are taxable at CGST 2.5%, SGST 2.5% and IGST 5%. Determine the tax payable in cash. Provide suitable notes where required.	

[Nov 2019, 14 Marks]

Answer: Computation of tax payable in cash

S. No.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
A.	GST liability on outward supply				
(i)	Consideration for services provided as an operating member to the Joint Venture [The operating member is providing the mining and exploration service to the joint venture, and thus, the consideration received therefor is not cost petroleum and hence, is liable to tax.]	12,00,000	1,08,000	1,08,000	
(ii)	Compensation received in the form of petroleum silt, which, as per the contract with the Government, is part of cost petroleum	6,00,000	Nil	Nil	
	[Cost petroleum is not a consideration for service to the Government and thus, is not taxable.]				
(iii)	Sale of petroleum silt to a SEZ developer [Supply to SEZ developer is a zero-rated supply and no tax is payable on the same if made under a bond/LUT.]	6,80,000			Nil
(iv)	Consideration for transfer of tenancy rights [Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable even though stamp duty has been paid on the same.]	8,00,000	72,000	72,000	
(v)	Sale of self-fabricated machinery (Note-1) [Since open market value of the machine is not available, the value will be 90% of the price charged for the supply of machinery by the agent to his unrelated customer.] (Note-2)	9,00,000	22,500	22,500	
Total tax liability on outward supplies			2,02,500	2,02,500	
B.	GST liability on inward supplies under reverse charge				
(i)	Legal services provided by a firm of advocates to Sukhdev, i.e. a business entity (Note-3)	1,00,000	9,000	9,000	
(ii)	Renting of immovable property provided by the State Government to Sukhdev (a registered person)	2,00,000	18,000	18,000	
(iii)	Assignment, by the State Government, of the right to collect royalty from mining lease holders to the extent the exemption is not available				2,00,000
Total tax liability on inward supplies under reverse charge			27,000	27,000	2,00,000

S. No.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
C.	Input tax credit				
(i)	Opening balance		18,000	12,000	60,000
(ii)	Inter-State purchase of machinery	6,00,000			30,000
(iii)	Legal services	1,00,000	9,000	9,000	
(iv)	Renting of immovable property	2,00,000	18,000	18,000	
(v)	Assignment of right to collect royalty				2,00,000
	Total ITC [ITC may be availed for making zero rated supply even if such a supply is an exempt supply. Sale of petroleum silt, being a non-taxable supply, is an exempt supply but since it is also a zero-rated supply, ITC can be availed for making such supply.]		45,000	39,000	2,90,000
D.	Computation of tax payable in cash				
	Total tax liability on outward supplies		2,02,500	2,02,500	
	Less: ITC of IGST		1,26,500	1,63,500	
	Less: ITC of CGST and SGST		45,000 (CGST)	39,000 (SGST)	
	Forward charge liability on outward supplies payable in cash after set off of ITC		31,000		
	Reverse charge liability payable in cash without set off of ITC [Tax payable under reverse charge, being not an output tax, cannot be set off against ITC and thus, will have to be paid in cash.]		27,000	27,000	2,00,000
	Total tax liability payable in cash [Since ₹12,000 (CGST) is available in Electronic Cash Ledger as opening balance, additional ₹ 46,000 (CGST) needs to be paid in cash.]		58,000	27,000	2,00,000
	Payment of liquidated damages to the Government [Services provided by the Government by way of tolerating non-performance of a contract for which consideration in the form of liquidated damages is payable to the Government under such contract, is exempt from GST. Hence, no tax will be payable by Sukhdev on such input service.]	3,00,000	Nil	Nil	

Note 1- It has been assumed that the value of ₹ 10 lakh at which the agent sells the self fabricated machinery to unrelated customer is known to Sukhdev at the time he sells the machinery to the agent.

Chapter 11 ⇒ Input Tax Credit

Note 2- It has been assumed that the supplier has opted to value the goods at 90% of the value charged by the agent to the unrelated customer.

Note 3- It has been assumed that aggregate turnover of Sukhdev in the preceding financial year exceeds ₹ 20 lakh.

Note 4- In terms of **section 49B**, full (100%) IGST credit of ₹ 2,90,000 must be utilised first before using CGST or SGST credit. However, the said IGST credit can be set off against the CGST and SGST liability in any order and in any proportion. Thus, the final answer in each case would vary.

Question 23: Cash and Credit Ltd. is registered with GST Department in the State of Maharashtra. It has its registered office at Mumbai. It is engaged in the business of production, manufacture and supply of fresh fruits, vegetables, fresh juices and fruit pulp etc. It has made the following intra-State supplies during the month of April, 20XX:

S. No.	Particular	Amount in lakh (₹)
1.	Fresh fruits	1100
2.	Vegetables	1100
3.	Fresh juices	2000
4.	Carbonated fruit drink	200

GST rate as applicable on above supplies is as follows:

S. No.	Particular	CGST	SGST	IGST
1.	Fresh fruits	Nil	Nil	Nil
2.	Vegetables	Nil	Nil	Nil
3.	Fresh juices	6%	6%	12%
4.	Carbonated fruit drink	14%	14%	28%

Further, for making the supplies of fruit juices, it has used the services of Goods Transport Agency ("GTA") based in Ahmedabad who have charged them ₹ 20 lakh as charges for their services. Such GTA have not charged any tax on their invoices. Rate of tax on GTA under reverse charge is 5%.

In respect of the above supply, the company has received the following inward supplies:

S. No.	Particular	Amount of purchase (₹in lakh)	Amount of input tax credit thereon (₹in lakh)		
			CGST	SGST	IGST
1.	Fresh fruits for supply	800	Nil	Nil	Nil
2.	Vegetables for supply	1200	Nil	Nil	Nil
3.	Fruit pulp used for fruit juice and carbonated drink	200	20	20	Nil
4.	Sugar used for fruit juice and carbonated drink	100	6	6	Nil
5.	Preservatives for fruit juice and carbonated drink	100	Nil	Nil	12
6.	Water for fruit juice and carbonated drink	20	Nil	Nil	Nil
7.	Administrative expenses (common)	40	2	2	Nil
8.	Marketing expenses (common)	50	Nil	Nil	10
9.	Purchase of machinery (capital goods) for fruit drink manufacture	40	Nil	Nil	8
10.	Motor vehicle for director official use	100	14	14	Nil

Compute the output GST liability, available ITC and payment to be made from Electronic Cash and Credit Ledger for the month of April, 20XX (considering that the entire ITC shall be utilized for payment of tax). [Jan 2021, 14 Marks]

Answer: Computation of ITC available with Cash and Credit Ltd. for April, 20XX

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

Computation of net GST payable for the month of April, 20XX

Particulars	Value ₹ [in lakh]	CGST ₹ [in lakh]	SGST ₹ [in lakh]	IGST ₹ [in lakh]
Intra-State sale of fresh fruits	1100	Nil	Nil	Nil
Intra-State sale of vegetables	1100	Nil	Nil	Nil
Intra-State sale of fresh juices	2000	120	120	
Intra-State sale of carbonated fruit drinks	200	28	28	

Chapter 11 ⇒ Input Tax Credit

Particulars	Value ₹ [in lakh]	CGST ₹ [in lakh]	SGST ₹ [in lakh]	IGST ₹ [in lakh]
Total output tax liability		148	148	
Less: Payment from Electronic Credit Ledger				
IGST credit being set off against SGST liability as it can be set off against CGST and SGST liability in any order and in any proportion			(26)	
CGST and SGST credit set off against CGST and SGST liability respectively		(27)	(27)	
Net GST payable from Electronic Cash Ledger [A]		121	95	
GST payable on inward supply of GTA services under reverse charge through Electronic Cash Ledger [B] [Tax payable under reverse charge, being not an output tax, cannot be set off against ITC and thus, will have to be paid in cash.]				1
Net GST payable through Electronic Cash Ledger [A] + [B]		121	95	1
Total GST payable by cash		217		

Note: In the above answer, tax payable from Electronic Cash Ledger has been computed by setting off the IGST credit against SGST liability. However, since IGST credit can be set off against CGST and SGST liability in any order and in any proportion, the same can be set off against CGST and/or SGST liabilities in different ways as well. In all such cases, net CGST and net SGST payable from Electronic Cash Ledger will differ though the total amount of net GST payable (₹ 217 lakh) in cash will remain the same.

Note: It has been assumed that the amounts given hereunder are exclusive of GST.

[Topic-(II)- Combined Questions]

Question 24: LMN Pvt. Ltd., Coimbatore, Tamil Nadu, exclusively manufactures and sells product 'X' which is exempt from GST vide a notification issued under relevant GST legislations. The company sells 'X' only within Tamil Nadu and is not registered under GST. Further, all the inward supply of the company are taxable under forward charge. The turnover of the company in the previous year was ₹ 45 lakh. The company expects the sales to grow by 30% in the current year. The company purchased additional machinery for manufacturing 'X' on 1st July. The purchase price of the capital goods was ₹ 30 lakh exclusive of GST @ 18%.

However, effective from 1st November, exemption available on 'X' was withdrawn by the Central Government and GST @ 12% was imposed thereon. The turnover of the company for the half year ended on 30th September was ₹ 45 lakh.

- (a) Examine the above scenario and advise LMN Pvt Ltd. whether it needs to get registered under GST.
- (b) If the answer to the above question is in affirmative, advise LMN Pvt. Ltd. whether it can avail input tax credit on the additional machinery purchased exclusively for manufacturing "X"? [ICAI Material]

Answer: (a) **Section 22(1)** read with N/N 10/2019 inter alia provides that every supplier who is **engaged in intra-State exclusive supply of goods** is liable to be registered under GST in the State/ Union territory from where he makes the taxable supply of goods only when aggregate turnover in a financial year exceeds ₹ 40,00,000.

However, the above provisions are not applicable to few specified States, i.e. States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand.

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

In the given case, the turnover of the company for the half year ended on 30th September is ₹ 45 lakh which is more than the applicable threshold limit of ₹ 40 lakh. Therefore, as per above mentioned provisions, the company should be **liable to registration**. However, since LMN Pvt. Ltd. supplied exempted goods till 31st October, it was not required to be registered till that day; though voluntary registration was allowed under **section 25(3)**.

However, the position will change from 1st November as the supply of goods become taxable from that day and the turnover of company is above ₹ 40 lakh. It is important to note here that in terms of **section 2(6)**, the **aggregate turnover limit of ₹ 40 lakh includes exempt turnover also**.

Therefore, turnover of 'X' prior to 1st November will also be considered for determining the limit of ₹ 40 lakh even though the same was exempt from GST. Therefore, the company needs to register within 30 days from 1st November (the date on which it becomes liable to registration) in terms of section 25(1).

(b) **Section 18(1)(a)** provides that a person who has applied for registration within 30 days from the date on which he becomes liable to registration and has been granted such registration shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act.

Thus, LMN Pvt. Ltd. cannot avail credit for additional machinery purchased exclusively for manufacturing X as input tax credit of only inputs is allowed when a person gets registered for the first time

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Manner of Payment

Question 25: ABC Ltd. has belatedly filed GST return (under section 39) for the month of January after 60 days from the due date for filing such return. Total tax paid in such return is as below:

Particulars	IGST (₹)	CGST (₹)	SGST (₹)
Output tax payable	4,50,000	2,85,000	2,85,000
Tax payable under reverse charge	18,000	32,000	32,000
Input tax available for utilisation	2,50,000	55,000	55,000
Tax paid through Electronic Cash Ledger	2,18,000	2,62,000	2,62,000

Examine the interest payable as per the provisions of GST law with the help of above information.

What would be your answer, if entire tax for the month of January has to be paid through Electronic Credit Ledger except taxes to be paid on reverse charge basis? [ICAI Material]

Answer: Proviso to section 50 lays down that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period **furnished after the due date in accordance with the provisions of section 39**, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, **shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.**

In the given scenario, ABC Ltd. has filed its return belatedly and as per the above provisions, interest is payable on the tax component paid through Electronic Cash Ledger only. A point relevant to note here is that tax payable on reverse charge basis also carries interest for the period of delay in remittance of tax and input tax credit cannot be used to pay the same (i.e. tax payable under reverse charge has to be paid in cash).

Accordingly, interest under section 50 payable for the tax paid through Electronic Cash Ledger is computed as below:

$$\text{IGST: } 218,000 * 18\% * 60/365 = 6,450$$

$$\text{CGST: } 262,000 * 18\% * 60/365 = 7,752$$

$$\text{SGST: } 262,000 * 18\% * 60/365 = 7,752$$

Further, if entire tax payable for January is paid through Electronic Credit ledger, except for the taxes to be paid under reverse charge basis, **then interest under section 50 is applicable only on the remittance of tax under reverse charge basis and not for tax payable on forward charge basis.** Interest payable is given as below:

$$\text{IGST: } 18,000 * 18\% * 60/365 = 532$$

$$\text{CGST: } 32,000 * 18\% * 60/365 = 946$$

$$\text{SGST: } 32,000 * 18\% * 60/365 = 946$$

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TDS-TCS

Question 26: 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: 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

Chapter 13A ⇒ TDS-TCS

- (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.**

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. No.	Particulars	Total contract value (₹)	Payment due (₹)	Tax to be deducted		
				CGST (₹)	SGST (₹)	IGST (₹)
(i)	Supply of stationery to Fisheries Department, Kolkata (Note-1)	2,60,000	15,000	--		
(ii)	Supply of car rental services to Municipal Corporation of Delhi (Note-2)	2,95,000	20,000	--		
(iii)	Supply of a heavy machinery to Public Sector Undertaking located in Uttarakhand (Note-3)	5,90,000	25,000			500
(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 (Note-4)	6,49,000	50,000	500	500	
(v)	Interior decoration of Andhra Bhawan located in Delhi (Note-5)	12,39,000	12,39,000	--		
(vi)	Supply of printed books and printed post cards to a West Delhi Post Office (Note-6)	9,72,000		--		
(vii)	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:
 $= ₹ 2,60,000 \times 100 / 118$
 $= ₹ 2,20,339$ (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.

3. 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.

4. 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.

Question 27: Padmavati Traders, registered in Karnataka, is engaged in supply of taxable goods. Its turnover in the preceding financial year was ₹230 lakh and was furnishing its GST return on monthly basis.

In the beginning of April month in the current financial year, it sought advice from its tax consultant, Dua Consultants, whether it can furnish its GST returns on quarterly basis from now onwards. Dua Consultants advised Padmavati Traders that it cannot furnish its return on quarterly basis as the GST law does not provide for quarterly return under any circumstances. Discuss the technical veracity of the advice given by Dua Consultants. [RTP Nov 2021]

Answer: No, the advice given by Dua Consultants is not valid in law. With effect from 01.01.2021, a **quarterly return has been introduced under GST law where the payment of tax is to be made on monthly basis.** The scheme is known as Quarterly Return Monthly Payment (QRMP) Scheme.

The scheme has been introduced as a trade facilitation measure and in order to further ease the process of doing business. It is an **optional return filing scheme, introduced for small taxpayers having aggregate annual turnover (PAN based) of upto ₹ 5 crore in the current and preceding financial year to furnish their Form GSTR-1 and Form GSTR-3B on a quarterly basis while paying their tax on a monthly basis through a simple challan.** Thus, the taxpayers need to file only 4 GSTR-3B returns instead of 12 GSTR-3B returns in a year. Similarly, they would be required to file only 4 GSTR-1 returns since Invoice Filing Facility (IFF) is provided under this scheme.

Opting of QRMP scheme is GSTIN wise. Distinct persons can avail QRMP scheme option for one or more GSTINs. It implies that some GSTINs for a PAN can opt for the QRMP scheme and remaining GSTINs may not opt for the said scheme.

Since the aggregate turnover of Padmavati Traders does not exceed ₹ 5 crores in the preceding financial year, it is eligible for furnishing the return on quarterly basis till the time its turnover in the current financial year does not exceed ₹ 5 crore. In case its aggregate turnover crosses ₹ 5 crore during a quarter in the current financial year, it shall no longer be eligible for furnishing of return on quarterly basis from the first month of the succeeding quarter and needs to opt for furnishing of return on a monthly basis, electronically, on the common portal, from the first month of the quarter, succeeding the quarter during which its aggregate turnover exceeds ₹ 5 crore.

Question 28: Essel Groups has started making taxable supplies and gets registered under GST law. You are required to advise 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.

d above, whichever is later.

16

Refunds

Question 29: Kailash Global (P) Ltd. supplies various goods in domestic and international markets. It is engaged in both manufacturing and trading of goods. The company is registered under GST in the State of Karnataka. The company exports goods without payment of tax under letter of undertaking in accordance with the provisions of section 16(3)(a) of the IGST Act, 2017.

The company has made the following supplies during a tax period:

S. No.	Particulars	(₹)
(i)	Export of product 'A' to UK for \$ 10,000. Assessable value under customs in Indian rupees. [Export duty is levied on product 'A' at the time of exports. Further, value of like goods domestically supplied by the similarly placed supplier is ₹ 6,00,000]	7,00,000
(ii)	Domestic supplies of taxable product 'B'* during the period [excluding tax @ 5%] [Inputs used in manufacturing of such goods are taxable @ 18%] *not notified as a product, in respect of which refund of unutilised ITC shall not be allowed under section 54(3)(ii)	10,00,000
(iii)	Supply of goods to Export Oriented Unit [excluding tax @ 18%] [ITC has been claimed by the recipient]	5,00,000
(iv)	Export of exempt supplies of goods (Value of like goods domestically supplied by the similarly placed supplier is ₹ 5,00,000)	6,00,000

The ITC available for the above tax period is as follows:

S. No.	Particulars	(₹)
(i)	On inputs	3,50,000
(ii)	On capital goods	1,20,000

Determine the maximum amount of refund admissible to Kailash Global (P) Ltd. for the given tax period. [ICAI Material]

Answer:

Computation of maximum Amount of refund admissible to Kailash Global (P) Ltd.

Particulars	(₹)
Exports of product 'A' to UK [Note (i)]	Nil
Domestic supplies of taxable product 'B' during the period [Note (ii)]	75,000
Supply of goods to Export Oriented Unit [Note (iii)]	Nil
Export of exempt supplies [Note (iv)]	75,000
Total refund claim admissible	1,50,000

Notes:

- (i) **Export of goods is a zero rated supply** in terms of section 16(1)(a) of the IGST Act, 2017. Further, Kailash Global (P) Ltd. exports goods without payment of tax under letter of undertaking in accordance with the provisions of section 16(3)(a) of the IGST Act, 2017. Therefore, as per **clause (i) of first proviso to section 54(3), a registered person may claim refund, of any unutilised ITC in the case of zero rated supply made without payment of tax** at the end of any tax period. However, second proviso to section 54(3) lays down that **refund of unutilised ITC is not allowed if the goods exported out of India are subjected to export duty.**
- (ii) Refund of unutilised ITC is **allowed in case of inverted duty structure**, i.e. where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies) except supplies of goods or services or both as may be notified by the Government on the recommendations of the GST Council [**Clause (ii) of the first proviso to section 54(3)**].

Rule 89(5) stipulates that in the case of refund on account of inverted duty structure, refund of ITC is granted as per the following formula –

$$\text{Maximum Refund Amount} = \frac{\text{Turnover of inverted rated supply of goods \& services}}{\text{Adjusted Total Turnover}} \times \text{Net ITC} - \text{Tax Payable on such inverted rated supply X of goods \& services} \left\{ \frac{\text{Net ITC}}{\text{ITC availed on input \& input Services}} \right\}$$

where,-

"**Net ITC**" means input tax credit availed on inputs during the relevant period;

Adjusted Total Turnover means the sum total of the value of-

- the turnover in a State or a Union territory, as defined under section 2(112), excluding the turnover of services; and
- the turnover of zero-rated supply of services determined in specified manner and non-zero-rated supply of services,

excluding-

- the value of exempt supplies other than zero-rated supplies; and
- the turnover of supplies in respect of which refund is claimed under rule 89(4A) or rule 89(4B) or both, if any, during the relevant period.

Relevant period means the period for which the claim has been filed.

Tax payable on inverted rated supply of goods = ₹ 10,00,000 × 5% = ₹ 50,000

Here, Net ITC = ₹ 3,50,000, Adjusted Total Turnover = ₹ 28,00,000 [₹ 7,00,000 + ₹ 10,00,000 + ₹ 5,00,000 + ₹ 6,00,000] and Turnover of inverted rated supply of goods = ₹ 10,00,000

Thus, maximum refund amount under rule 89(5) = ₹ 3,50,000 × 10,00,000 / ₹ 28,00,000 - ₹ 50,000 = ₹ 75,000

- (iii) As per **section 2(39), deemed exports means such supplies of goods as may be notified under section 147**. Supplies to EOU is notified as deemed export under section 147 vide Notification No. 48/2017. In respect of supplies regarded as deemed exports, the application of refund can be filed **by the supplier of deemed export supplies only in cases where the recipient does not avail of ITC on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund [Third proviso to rule 89(1)]**. Therefore, since in the given case, the recipient is claiming ITC, Kailash Global (P) Ltd. (supplier of deemed exports) cannot claim refund of ITC.
- (iv) **Section 16(2)** of the IGST Act, 2017 stipulates that subject to the provisions of section 17(5) of the CGST Act, **ITC may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply**. Section 54(3) allows refund of ITC in the case of zero rated supply made without payment of tax.

Chapter 16 ⇒ Refunds

Rule 89(4) stipulates that in the case of zero-rated supply of goods or services or both without payment of tax under bond/LUT in accordance with the provisions of section 16(3) of the IGST Act, 2017, refund of ITC shall be granted as per the following formula:

$$\text{Refund Amount} = \frac{(\text{Turnover of zero-rated supply of goods} + \text{Turnover of zero-rated supply of services}) \times \text{Net ITC}}{\text{Adjusted Total Turnover}}$$

where-

“**Net ITC**” means ITC availed on inputs and input services during the relevant period other than the ITC availed for which refund is claimed under sub-rules (4A) or (4B) or both.

“**Turnover of zero-rated supply of goods**” means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond/LUT, or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both.

“**Adjusted total turnover**” means the same as explained in point ii above.

Here, Turnover of zero rated supply of goods = ₹ 6,00,000

(Lower of ₹ 6,00,000 or 1.5 times of ₹ 5,00,000 i.e. 7,50,000 whichever is lower),

Net ITC = ₹ 3,50,000 and

Adjusted Total Turnover = ₹ 28,00,000 (as computed in point ii above)

Thus, maximum refund amount under rule 89(4) =

₹ 3,50,000 x ₹ 6,00,000 / ₹ 28,00,000 = ₹ 75,000.

Question 30: Synotex Pvt. Ltd. manufactures taxable goods, ‘Q’ and exempt goods ‘S’. Product ‘S’ is sold in international markets without payment of tax under letter of undertaking. The company is registered under GST in the State of Maharashtra.

The company provides the following information in relation to various supplies made by it during a tax period:

- (a) Product ‘S’ has been exported to UK for ₹ 12,000
- (b) Product ‘Q’ has been supplied to Betty Enterprises within India for ₹ 20,00,000

Note: The above amounts are exclusive of taxes, wherever applicable.

The company provides the following information in relation to tax paid on inward supplies received during the said tax period:

- (a) GST of ₹ 5,00,000 has been paid on inputs
- (b) GST of ₹ 2,40,000 has been paid on capital goods
- (c) GST of ₹ 2,00,000 has paid on input services
- (d) All the above inputs, input services and capital goods are used in the manufacturing process

Following additional information is also provided:

- (i) Value of product ‘S’ exported to UK in Indian rupees is ₹ 12,00,000. However, value of such product when supplied domestically by the company in similar quantities is ₹ 10,00,000.
- (ii) Betty Enterprises is a 100% export-oriented undertaking. It has claimed the ITC on goods supplied to it by Synotex Pvt. Ltd.
- (iii) The balance in the electronic credit ledger of Synotex Pvt. Ltd. at the end of the tax period for which the refund claim is being filed after GSTR-3B for the said period has been filed is ₹ 5,80,000.
- (iv) The balance in the electronic credit ledger of Synotex Pvt. Ltd. at the time of filing the refund application is ₹ 3,00,000.

Compute the amount refundable to Synotex Pvt. Ltd. for the tax period.

Answer: Export of product 'S'-

Export of goods is a zero rated supply in terms of **section 16(1)(a)** of the IGST Act, 2017. Section 16(2) of the IGST Act, 2017 stipulates that subject to the provisions of section 17(5) of the CGST Act, 2017, **ITC may be availed for making zero-rated supplies even if such supply may be an exempt supply.** As per **section 54(3)(i)**, a registered person may claim refund, of any unutilised ITC at the end of any tax period in the case of zero rated supply made without payment of tax.

Therefore, in the given case, Synotex Pvt. Ltd. will be **eligible to claim ITC for export of exempt product 'S' in terms of section 16(2)** of the IGST Act, 2017 and will thus, be able to claim refund of unutilised ITC in terms of section 54(3)(i).

As per **rule 89(4)**, refund of unutilized ITC in case of zero rated supply without payment of tax under letter of undertaking is granted in accordance with the following formula:

$$\text{Refund Amount} = \frac{(\text{Turnover of zero rated supply of goods} + \text{Turnover of zero rated supply of services})}{\text{Adjusted Total Turnover}} \times \text{Net ITC}$$

Here,

Net ITC = ₹ 7,00,000

[Net ITC includes ITC on inputs and input services but not ITC on capital goods].

Turnover of zero-rated supply of goods (Product 'S') = ₹ 12,00,000

[Lower of the value of zero rated supply of goods (₹ 12,00,000) or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier (₹ 15,00,000)].

Adjusted total turnover = ₹ 32,00,000 [₹ 20,00,000 + ₹ 12,00,000]

Thus, refund amount under rule 89(4)

= ₹ 7,00,000 x ₹ 12,00,000 / ₹ 32,00,000 = ₹ 2,62,500.

Circular No. 125/44/2019 provides that amount refundable to the applicant is **least** of the following amounts:

- (a) **Maximum refund amount as per the formula in rule 89(4)** [₹ 2,62,500]
- (b) **Balance in the electronic credit ledger at the end of the tax period for which the refund claim is being filed after GSTR-3B** for the said period has been filed [₹ 5,80,000]
- (c) **Balance in the electronic credit ledger at the time of filing the refund application** [₹ 3,00,000]

Thus, amount refundable to Synotex Pvt. Ltd. of unutilized ITC is ₹ 2,62,500.

Supply of product 'R' to Betty Enterprises, a 100% EOU

Supplies to EOU is notified as deemed export under **section 147 vide N/N 48/2017**. In respect of supplies regarded as deemed exports, the application of refund can be filed by the supplier of deemed export supplies only in cases where the recipient does not avail of ITC on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund [Third proviso to rule 89(1)]. Therefore, since in the given case, Betty Enterprises (recipient) is claiming ITC, Synotex Pvt. Ltd. (supplier of deemed exports) cannot claim refund of ITC.

Therefore, amount refundable to Synotex Pvt. Ltd. is ₹ 2,62,500.

[Topic I: Section 60- Provisional Assessment]

Question 31: Kulbhushan & Sons has entered into a contract to supply two consignments of certain taxable goods. However, since it is unable to determine the value of the goods to be supplied by it, it applies for payment of tax on such goods on a provisional basis along with the required documents in support of its request.

On 12th January, the Assistant Commissioner of Central Tax issues an order allowing payment of tax on provisional basis indicating the value on the basis of which the assessment is allowed on provisional basis and the amount for which the bond is to be executed and security is to be furnished.

Kulbhushan & Sons complies with the same and supplies both the consignments of goods on 25th January thereafter paying the tax on provisional basis in respect of both the consignments on 19th February.

Consequent to the final assessment order passed by the Assistant Commissioner of Central Tax on 21st march, a tax of ₹ 1,80,000 becomes due on 1st consignment.

Kulbhushan & Sons pays the tax due on 09th April. Determine the interest payable, if any, by Kulbhushan & Sons in the above case.

Assuming all the other facts remaining the same, if consequent to the final assessment order passed on 21st march, a tax of ₹ 4,20,000 becomes refundable on the consignment, refund of which is applied by Kulbhushan & Sons on 9th April and tax was refunded to it on 5th June, determine the interest receivable, if any, by Kulbhushan & Sons in the given case. [ICAI Material]

Answer: Section 60(4) of the CGST Act, 2017 stipulates that where the tax liability as per the **final assessment is higher than under provisional assessment** i.e. tax becomes due consequent to order of final assessment, the registered person shall be liable to pay interest on tax payable on supply of goods but not paid on the due date, at the rate specified under section 50(1) [18% p.a.], **from the first day after the due date of payment of tax in respect of the goods supplied under provisional assessment till the date of actual payment, whether such amount is paid before or after the issuance of order for final assessment.**

In the given case, due date for payment of tax on goods cleared on 25th January under provisional assessment is 20th February.

In view of the provisions of section 60(4), in the given case, Kulbhushan & Sons is liable to pay following interest in respect of the consignment of goods supplied:

$$= ₹ 1,80,000 \times 18\% \times 48/365$$

$$= ₹ 4,261 \text{ (rounded off)}$$

If, in the given case, it is assumed that consequent to the final assessment order passed on 21st march, a tax of ₹ 4,20,000 becomes refundable to Kulbhushan & Sons, answer would be as follows:

Section 60(5) of the CGST Act, 2017 stipulates that where the tax liability as per the **final assessment is less than in provisional assessment** i.e. **tax becomes refundable consequent to the order of final assessment, the registered person shall be paid interest at the rate specified under section 56 [6% p.a.] from the date immediately after the expiry of 60 days from the date of receipt of application under section 54(1) till the date of refund of such tax.**

However, since in the given case, refund has been made (05th June) **within 60 days from the date of receipt of application of refund** (09th April), interest is not payable to Kulbhushan & Sonson tax refunded.

Question 32: Explain the situation in which access to business premises is allowed under section 71? Also, list the records which are to be produced during access to business premises? [ICAI Material]

Answer: During the course of any enquiry under this Act, the duly empowered officer can have access to any business premises, which may be required for the purpose of such enquiry. During such access, **the officers can inspect the books of accounts, documents, computers, computer programs, computer software and such other things as may be required.**

It is the duty of the persons in charge of such premises to furnish the required documents. Similarly, the persons in charge of business premises are also **duty bound to furnish such documents to the audit party deputed by the proper officer or the Chartered Accountant or Cost Accountant, who has been deputed by the Commissioner to carry out special audit.** The following records are covered by this provision and are to be produced, if called for:

- (i) the records prepared and maintained by the registered person and declared to the proper officer in the prescribed manner.
- (ii) **trial balance** or its equivalent.
- (iii) statements of **annual financial accounts**, duly audited.
- (iv) **cost audit report**, if any.
- (v) the **income - tax audit report**, if any.
- (vi) any other relevant record.

Question 33: Mr. Jagjeevan has filed Form GSTR 3B after the due date prescribed for filing it. The adjudicating authority is of the opinion that penalty has to be levied under section 73(9) & (11), and has decided to pass an order for levying penalty of 10% of the tax or ₹ 10,000, whichever is higher, on the grounds that amount collected as tax has not been paid within a period of 30 days from the due date of payment of tax. Discuss the decision of the adjudication authority as to its correctness or otherwise.

Also, discuss the law of limitation period for issuing the show cause notice and passing the adjudication order under section 73. [Nov 2020, 4 Marks]

Answer: The decision of the adjudicating authority is not correct in law.

The provisions of section 73(11) can be invoked only when the provisions of section 73 are invoked and the provisions of section 73 are generally not invoked in case of delayed filing of the return in Form GSTR-3B because tax along with applicable interest has already been paid.

Thus, penalty under the provisions of section 73(11) is not payable in such cases although a general penalty may be imposed since the tax has been paid late in contravention of the provisions of the CGST Act, as clarified vide **Circular No. 76/50/2018**.

The **time-limit for issuance of SCN is 2 years and 9 months and time-limit for passing the adjudication order is within 3 years from:**

- (i) the due date of filing annual return for the financial year to which the demand pertains or
- (ii) the date of erroneous refund, as the case may be.

Question 34: Mr. Arihant is engaged in supply of taxable goods and is registered in the State of Orissa. A demand notice under GST law of ₹ 50 lakh is served on him on 5th April. On 10th April, despite having knowledge of said notice, Mr. Arihant transferred his ancestral property located in Punjab in the name of his wife Soma for a consideration of ₹ 2 lakh without taking any permission from the authorities under GST. The value for the purpose of stamp duty valuation was ₹ 80 lakh.

Subsequently, he filed a reply to said demand notice on 15th April stating that he would not be able to pay the amount of tax demanded in the notice due to his distressed financial situation.

Determine the validity of the act of transferring of property by Mr. Arihant to his wife Soma, under the provisions of the GST law. [RTP May 2022]

Answer: **Section 81** stipulates that where a person, after any amount has become due from him, creates a charge on or parts with the property belonging to him or in his possession by way of sale, mortgage, exchange, or any other mode of transfer whatsoever of any of his properties in favour of any other person with the intention of defrauding the Government revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the said person.

However, such charge or transfer shall not be void if it is made for adequate consideration, in good faith and without notice of the pendency of such proceedings under this Act or without notice of such tax or other sum payable by the said person, or with the previous permission of the proper officer.

In view of the above provisions, in the given case, transfer of property by Mr. Arihant to his wife Soma is void and the property will still be considered in the hands of Mr. Arihant under GST law for the purpose of recovery of dues under GST from him.

[Topic-(V)- Section 132- Punishments for Certain Offences]

Question 35: Examine the implications as regards the bailability and quantum of punishment on prosecution, in respect of the following cases pertaining to the period December under CGST Act, 2017;

(i) 'X' collects ₹ 245 lakh as tax from its clients and deposits ₹ 241 lakh with the Central Government. It is found that he has falsified financial records and has not maintained proper records.

(ii) "Y" collects ₹ 550 lakh as tax from its clients but deposits only ₹ 30 lakh with the Central Government.

What will be the implications with regard to punishment on prosecution of 'X' and 'Y' for the offences? What would be the position, if 'X' and 'Y' repeat the offences?

It may be assumed that offences are proved in the court. [ICAI Material]

Answer: (i) As per section 132(1)(d)(iii), failure to pay any amount collected as tax beyond 3 months from due date of payment is punishable with specified imprisonment and fine provided the amount of tax evaded exceeds at least ₹ 100 lakh. Therefore, failure to deposit ₹ 4 lakh collected as tax by 'X' will not be punishable with imprisonment.

Further, falsification of financial records by 'X' is punishable with **imprisonment up to 6 months or with fine or both vide section 132(1)(f)(iv)** assuming that falsification of records is with an intention to evade payment of tax due under the CGST Act, 2017, and the said offence is **bailable in terms of section 132(4)**.

(ii) Failure to pay any amount collected as tax beyond 3 months from due date is punishable with imprisonment upto 5 years and with fine, if the amount of tax evaded exceeds ₹ 500 lakh in terms of section 132(1)(d)(i) of the CGST Act, 2017.

Since the amount of tax evaded by 'Y' exceeds ₹ 500 lakh (₹ 550 lakh - ₹ 30 lakh = 520 Lakh), "Y" is liable to **imprisonment upto 5 years and with fine**. It has been assumed that amount of ₹ 520 lakh collected as tax is not paid to the Government beyond 3 months from the due date of payment of tax. Further, the imprisonment shall be minimum 6 months in the absence of special and adequate reasons to the contrary to be recorded in the judgment vide section 132(3). Such offence is **non-bailable in terms of section 132(5)**.

If 'X' and 'Y' **repeat the offence, they shall be punishable for second and for every subsequent offence with imprisonment upto 5 years and with fine in terms of section 132(2)**. Such imprisonment shall also be **minimum 6 months** in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court.

Question 36: State the prosecution, arrest and bail implications, if any, in respect of the following independent cases pertaining to June:

(i) 'Ashuram' fraudulently avails input tax credit of ₹ 200 lakh without any invoice or bill. However, he is yet to utilize the same.

(ii) 'Bahubali' fraudulently avails the refund of tax of ₹ 550 lakh. The said tax has been recovered from the buyer also.

(iii) 'Chintamani' knowingly supplies false information sought by the CGST Officer. The amount of tax involved is ₹ 250 lakh.

(iv) 'Deendayal' collects ₹ 650 lakh as tax in January from its clients but has deposited only ₹ 50 lakh with the Central Government till date.

Chapter 21 ⇒ Penalties

Note: Assume that in all above cases, offence, if any, has been committed for the first time. [May 2022 RTP]

Answer:

Person	Offence	Prosecution	Arrest	Bail
‘Ashuram’	Non-cognizable offence [Section 132(1)(c) read with section 132(4)]	Upto 1 year [Section 132(1)(c)(iii)]	No arrest [Section 69(1)]	Bailable Offence [Section 132(4)]
‘Bahubali’	Non-cognizable offence [Section 132(1)(e) read with section 132(4)]	Upto 5 years [Section 132(1)(e)(i)]	No arrest [Section 69(1)]	Bailable Offence [Section 132(4)]
‘Chintamani’	Non-cognizable offence [Section 132(1)(f) read with section 132(4)]	Upto 3 years [Section 132(1)(f)(ii)]	No arrest [Section 69(1)]	Bailable Offence [Section 132(4)]
‘Deendayal’	Cognizable offence [Section 132(1)(d) read with section 132(5)]	Upto 5 year [Section 132(1)(d)(i)]	Arrest can be ordered by Commissioner without arrest warrant [Section 69(1)]	Non-Bailable [Section 132(5)]

Question 37: Pursuant to audit conducted by the tax authorities under section 65, a show cause notice was issued to Home Furnishers, Surat, a registered supplier, alleging that it had wrongly availed the input tax credit without actual receipt of goods for the month of July. In the absence of a satisfactory reply from Home Furnishers, Joint Commissioner of Central Tax passed an adjudication order dated 20th August (received by Home Furnishers on 22nd August) confirming a tax demand of ₹ 50,00,000 and imposing a penalty of equal amount under section 122.

Home Furnishers does not agree with the order passed by the Joint Commissioner. It decides to file an appeal with the Appellate Authority against the said adjudication order. It has approached you for seeking advice on the following issues in this regard:

- (1) Can Home Furnishers file an appeal to Appellate Authority against the adjudication order passed by the Joint Commissioner of Central Tax? If yes, till what date can the appeal be filed?
- (2) Does Home Furnishers need to approach both the Central and State Appellate Authorities for exercising its right of appeal?
- (3) Home Furnishers is of the view that there is no requirement of paying pre-deposit of any kind before filing an appeal with the Appellate Authority. Give your opinion on the issue. [ICAI Material]

Answer:

- (1) **An appeal against a decision/order passed by any adjudicating authority under the CGST Act or SGST Act/UTGST Act is appealable before the Appellate Authority [Section 107(1)].** Thus, Home Furnishers can file an appeal to Appellate Authority against the adjudication order passed by the Joint Commissioner of Central Tax.

Further, such appeal can be filed **within 3 months from the date of communication of such decision/order [Section 107(1)]**. Thus, Home Furnishers can file the appeal to Appellate Authority on or before 22nd November. Further, the Appellate Authority can also **condone the delay in filing of appeal by 1 month** if it is satisfied that there was sufficient cause for such delay [Section 107(4)].

- (2) GST law makes provisions for cross empowerment between CGST and SGST/UTGST officers so as to ensure that **a proper officer under the CGST act is also treated as the proper officer of SGST/UTGST act and vice versa. Thus, a Proper officer can issue orders with respect to both, the CGST as well as the SGST/UTGST laws.**

GST law also provides that where a proper officer under one Act (say CGST) has passed an order, any appeal/review/revision/rectification against the said order will lie only with the proper officers of that Act only (CGST Act). Accordingly, **if any order is passed by the proper officer of SGST, any appeal/review/ revision/rectification against the said order will lie only with the proper officer of that SGST only.** Thus, Home Furnishers is required to file an appeal only with the Central Tax Appellate Authority [Section 6].

- (3) Home Furnishers' view is not correct in law. **Section 107(6)** provides that no appeal shall be filed before the Appellate Authority, unless the appellant has paid—
 - (a) full amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
 - (b) a sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order subject to a maximum of ₹ 25 crore. (Note-1)

[Note-1- Equivalent amount is required to be deposited with respect to SGST liability.]

Since in the given case, Home Furnishers disagrees with the entire tax demanded, it has to make a **pre-deposit of 10% of the amount of tax in dispute arising from the impugned order**, i.e., 10% of ₹ 50,00,000 which is ₹ 5,00,000 (i.e., CGST ₹2,50,000 and SGST ₹2,50,000).

Question 38: In an order dated 20th August issued to GH (P) Ltd., the Joint Commissioner of CGST has confirmed IGST demand of ₹ 280 crore. The company is disputing the entire demand of IGST and wants to know the amount of pre-deposit it has to make under the IGST Act for filing an appeal before the Appellate Authority against the order of the Joint Commissioner.

Assuming that the Appellate Authority also confirms the order of the Joint Commissioner and the company wants to file an appeal before the Appellate Tribunal against the order of the Appellate Authority, determine the amount of pre-deposit to be made by the company for filing the said appeal. [ICAI Material]

Answer: Section 107(6) read with section 20 of the IGST Act provides that no appeal shall be filed with the Appellate Authority unless the applicant has paid in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him and a sum equal to 10% of the remaining amount of tax in dispute arising from the said order subject to a maximum of ₹ 50 crore. Thus, the amount of pre-deposit for filing an appeal with Appellate Authority cannot exceed ₹ 50 crore (for tax in dispute) where IGST demand is involved.

In the given case, the amount of pre-deposit for filing an appeal with the Appellate Authority against the order of Joint Commissioner, where entire amount of tax is in dispute, is:

- (i) ₹ 28 crore [10% of the amount of tax in dispute, viz. ₹ 280 crore]
- or
- (ii) ₹ 50 crore,
- whichever is less.
- = ₹ 28 crore.

Further, section 112(8) provides that no appeal shall be filed with the Appellate Tribunal unless the applicant has paid in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him and a sum equal to 20% of the remaining amount of tax in dispute, in addition to the amount paid as pre-deposit while filing appeal to the Appellate Authority, arising from the said order subject to a maximum of ₹ 100 crores.

Thus, in the given case, the amount of pre-deposit for filing an appeal with the Appellate Tribunal against the order of the Appellate Authority, where entire amount of tax is in dispute, is:

- (i) ₹ 56 crores [20% of the amount of tax in dispute, viz. 280 crores]
- or
- (ii) ₹ 100 crores,
- whichever is less.
- = ₹ 56 crores.

Question 39: Beauty Cosmetics Ltd. has multiple wholesale outlets of cosmetic products in Mumbai, Maharashtra. It receives an order for cosmetics worth ₹ 1,20,000 (inclusive of GST leviable @ 18%) from Prasanna, owner of a retail cosmetic store in Delhi. While checking the stock, it is found that order worth ₹ 55,000 can be fulfilled from the company's Dadar (Mumbai) store and remaining goods worth ₹ 65,000 can be sent from its Malad (Mumbai) store. Both the stores are instructed to issue separate invoices for the goods sent to Prasanna. The goods are transported to Prasanna in Delhi, in a single conveyance owned by Radhey Transporters.

You are required to advise Beauty Cosmetics Ltd. with regard to issuance of e-way bill(s). [ICAI Material]

Answer: Beauty Cosmetics Ltd. would be required to prepare two separate e-way bills since each invoice value exceeds ₹ 50,000 and each invoice is considered as one consignment for the purpose of generating e-way bills.

The FAQs on E-way Bill issued by CBIC clarify that **if multiple invoices are issued by the supplier to one recipient, that is, for movement of goods of more than one invoice of same consignor and consignee, multiple e-way bills have to be generated.** In other words, for each invoice, one e-way bill has to be generated, irrespective of the fact whether same or different consignors or consignees are involved. **Multiple invoices cannot be clubbed to generate one e-way bill. However, after generating all these e-way bills, one consolidated e-way bill can be prepared for transportation purpose, if goods are going in one vehicle.**

Question 40: M/s. ABC Manufacturers, registered in West Bengal, sold air-conditioner to a retail seller in Bhubaneswar, at a value of ₹49,000 (excluding GST leviable @ 18%). Now, it wants to send the consignment of air-conditioning machine to the retail seller in Bhubaneswar. You are required to advise M/s. ABC Manufacturers on the following issues along with suitable explanations:

- (i) Whether e-way bill is mandatorily required to be generated?
- (ii) What will be the consequence for non-issuance of e-way bill? [Jan 2021, 5 Marks]

Answer:

- (i) E-way bill is mandatorily required to be generated whenever there is a movement of goods of **consignment value exceeding ₹ 50,000, inter alia, in relation to a supply.**

Consignment value of goods includes the central tax, State/Union territory tax, integrated tax and cess charged, if any.

Thus, the consignment value of goods, in the given case, will be ₹ 57,820 [₹ 49,000 + (₹ 49,000 × 18%)].

Since in the given case the movement of goods is in relation to supply of goods and the consignment value exceeds ₹ 50,000, e-way bill is mandatorily required to be generated in respect of movement of goods from West Bengal to Bhubaneswar.

- (ii) **Non-issuance of e-way bill** may result in the following consequences:
 - (a) imposition of penalty of ₹ 10,000/- or tax sought to be evaded (wherever applicable), whichever is greater
 - (b) **detention and seizure of goods and the conveyance** used to transport the said goods and the same will be released only on payment of appropriate tax and penalty
 - (c) **confiscation of goods and the conveyance** used to transport the said goods if the tax and penalty is not paid within 14 days of detention or seizure.

CUSTOMS

2

Levy and Exemptions/ Remission/ Abatement

Question 41: An importer imported a consignment weighing 10,000 tons. The importer filed a bill of entry for home consumption. The Assistant Commissioner passed an order for clearance of goods and applicable duty was paid by them. The importer thereafter found, on taking delivery from the Port Trust Authorities i.e., before the clearance for home consumption, that only 9,000 tonnes of inputs were available at the docks although he had paid duty for the entire 10,000 tonnes.

There was no short-landing of cargo. The short- delivery of 10,000 tonnes was also substantiated by the Port Trust Authorities, who gave a weightment certificate to the importer.

On filing a representation to the Customs Department, the importer has been directed in writing to justify as to which provision of the Customs Act, 1962 governs his claim for remission of duty on the 10,000 tonnes not delivered by the Port Trust_ Examine the issue and tender your opinion as per law, giving reasons.

Answer: As per section 23(1) of the Customs Act, 1962, where it is shown to the satisfaction of Assistant or Deputy Commissioner that any imported goods have been lost or destroyed, otherwise than as a result of pilferage at any time before clearance for home consumption, the Assistant or Deputy Commissioner shall remit the duty on such goods. Therefore, duty shall be remitted only if loss has occurred before clearance for home consumption.

In the given case, it is apparent from the facts that quantity of inputs received in India was 10,000 tonnes and 1,000 tonnes thereof was lost when it was in custody of Port Authorities i.e., before clearance for home consumption was made.

Further, the loss of 1,000 tonnes of inputs cannot be construed to be pilferage, as loss of such huge quantity cannot be treated as "Petty Theft".

Hence, the aforesaid provisions of law justify the importer's claim for remission of duty.

Note: The words –“short-delivery” of 10,000 tonnes’ in the question may be read as –“short-delivery” of 1,000 tonnes-.

Question 42: Precise Finishing Ltd. imported consignment of graphic design system and one electronic flat knitting machine. The graphic design system is a computer system required to design the artwork which shall be knitted by the flat knitting machine. Graphic design system is not an integral part of electronic flat knitting machine.

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, an exemption had been granted in respect of electronic flat knitting machine and falling within Chapter 85 of the First Schedule to the Customs Tariff Act, 1975. The exemption does not include any specific mention of accessories to the machine. Precise Finishing Ltd. has claimed exemption of the said notification in respect of Graphic Design System also as accessory of Flat Knitting Machine.

The Customs Department rejected the importer's claim for exemption on Graphic Design System. Examine whether the Department's action is sustainable in law.

(Jan 2021, 5 Marks)

Answer: The graphic design system is not an integral part of the electronic flat knitting machine. It is an accessory to the machine.

Hence, electronic flat knitting machine and graphic design system cannot be treated as one single unit and should be classified and assessed separately.

In the given case, the exemption had been granted under the customs law specifically in respect of the electronic flat knitting machine falling under Chapter 85 of the First Schedule to the Customs Tariff Act, 1975 and not to its accessory – the graphic design system.

Therefore, the benefit of the exemption notification available in respect of the electronic flat knitting machine will not be available to graphic design system. The Department's action is sustainable in law.

3

Import and Export Procedures

Question 43: An importer filed a bill of entry after 60 days of filing Import General Manifest. The Deputy Commissioner of Customs imposed a penalty of ₹ 10,000 for late filing of the bill of entry. Since, importer wanted to clear the goods urgently, he paid the penalty. Can penalty be imposed for late filing of the bill of entry? Can bill of entry be filed in advance? Examine the issue regarding period available for filing bill of entry in the light of relevant statutory provisions?

Answer: Yes, charges are payable for late filing of bill of entry if an importer fails to present the bill of entry before the end of the day (including holidays) preceding the day

- on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station
- at which such goods are to be cleared for home consumption or warehousing:
- **However, Board may, in Specified cases prescribe different time limits for presentation of the bill of entry, which shall not be later than the end of the day of such arrival.**

S. No.	Customs Station	Bill of Entry is Required to be Filed Maximum by -1 DAY from arrival	Bill of Entry is Required to be Filed Maximum by Zero DAY from arrival ie at arrival day.
1.	Sea Port	Imports consigned from all other countries	Imports consigned from following countries viz. Bangladesh, Maldives, Myanmar, Pakistan, Sri Lanka
2.	Airport	-	All imports
3.	Land Customs Station (LCS)	-	All imports
4.	ICD/AFS	<i>All imports</i>	-

Yes, a bill of entry can be filed in advance. It can be presented within 30 days of the expected arrival of the aircraft/vessel/vehicle by which the goods have been shipped for importation into India vide proviso to section 46(3) of the Customs Act, 1962.

In the given case also, the time period as described above will be available - with reference to the date of arrival of vessel/aircraft - for filing the bill of entry.

4A

Warehousing

Question 44: Siya imported certain goods in May, 20XX. An 'into Bond' bill of entry was presented on 14th May, 20XX and goods were cleared from the port for warehousing. Assessable value on that date was US \$ 1,00,000. The order permitting the deposit of goods in warehouse for 4 months was issued on 21st May, 20XX. Siya deposited the goods in warehouse on the same day but did not clear the imported goods even after the warehousing period got over on 21st September, 20XX. A notice was issued under section 72 of the Customs Act, 1962, demanding duty and interest. Siya cleared the goods on 14th October, 20XX.

Compute the amount of customs duty and interest payable by Siya while removing the goods on the basis of the following information:

Particulars	14-05-20XX	21-09-20XX	14-10-20XX
Rate of exchange per US \$ (as notified by CBIC)	₹ 65.20	₹ 65.40	₹ 65.50
Basic customs duty	15%	10%	12%

Integrated tax leviable under section 3(7) of the Customs Tariff Act, 1975 is exempt.

Answer:

Computation of customs duty payable by Siya

Particulars	Amount (US \$)
Assessable value	1,00,000
	Amount (₹)
Value in Indian currency (US \$ 1,00,000 x ₹ 65.20) [Note 1]	65,20,000
Customs duty @ 10% [Note 2]	6,52,000
Add: SWS @ 10%	65,200
Total customs duty payable	<u>7,17,200</u>

Notes:

- As per third proviso to section 14(1) of the Customs Act, 1962, assessable value has to be calculated with reference to the rate of exchange prevalent on the date on which the into bond bill of entry is presented for warehousing under section 46 of the Customs Act, 1962.
- Goods which are not removed within the permissible period are deemed to be improperly removed in terms of section 72 of the Customs Act, 1962 on the day they should have been removed [*Kesoram Rayon (SC)*]. The applicable rate of duty in such a case is the rate of duty prevalent on the last date on which the goods should have been removed.

As per section 61(2) of the Customs Act, 1962, if goods (not meant for being used in an 100% EOU, STP unit, EHTP unit) remain in a warehouse beyond a period of 90 days from the date on which the order under section 60(1) of the Customs Act, 1962 is made, interest is payable at such rate as may be fixed by the Central Government under section 47 of the Customs Act, 1962 [i.e. 15% p.a.], on the amount of duty payable at the time of clearance of the goods, for the period from the expiry of the said 90 days till the date of payment of duty on the warehoused goods.

Chapter 4A ⇒ Warehousing

Therefore, interest payable will be computed as under:

Period of ninety days commencing from the date of order made under 60(1) of the Customs Act, 1962 expires on	19.08.20XX
No. of days for which interest shall be payable [12 days of August + 30 days of September + 14 days of October]	56 days
Interest payable = ₹ $(6,71,560 \times 15/100) \times 56/365$ (Rounded off) 1	₹ 15,455

Question 45: Radheysham is engaged in manufacture of goods in Rajasthan. It imported certain goods for using in the manufacture of the finished goods in the month of May. However, it did not clear the goods from the port for home consumption. Instead, it presented an 'into bond' bill of entry on 14th May. Assessable value on that date was US \$ 2,35,000. The order permitting the deposit of goods in warehouse for 4 months was issued on 21st May. Radheysham deposited the goods in warehouse on the same day, but did not clear the imported goods even after the warehousing period got over on 21st September.

A notice was issued under section 72 of the Custom Act, 1962, demanding duty and interest. Radheysham cleared the goods on 14th October. Customs duty paid on removal of the goods is ₹ 8,28,000.

You are required to compute interest payable on such removal, explaining the provisions of the Customs Act, 1962 assuming that the imported goods are not meant for being used in an 100% EOU, STP unit, EHTP unit.

(RTP May 2022)

Answer: As per section 61(2) of the Customs Act, 1962, if goods (not meant for being used in an 100% EOU, STP unit, EHTP unit) remain in a warehouse beyond a period of 90 days from the date on which the order permitting deposit in a warehouse is made, interest is payable @ 15% p.a., on the amount of duty payable at the time of clearance of the goods, for the period from the expiry of the said 90 days till the date of payment of duty on the warehoused goods.

Therefore, in the given case, interest payable will be computed as under:

- Period of 90 days commencing from the date of order permitting deposit in a warehouse expires on – 19th August.
- No. of days for which interest shall be payable = 56 days [12 days of August + 30 days of September + 14 days of October]

(iii) Interest payable = ₹ 8,28,000 × $\frac{15}{100} \times \frac{56}{365}$ = ₹ 19,055 (rounded off)

5

Assessment

Question 46: Great Year Ltd. imported a offset printing machine from Germany for ₹5.00 crores and the bill of entry for home consumption was cleared in October, 2019 on payment of duty. However, due to certain technical glitches, the said machine could not be started functioning and the said machine was sent-back to the supplier for repairs in November, 2019. The manufacturer of machinery in Germany had made necessary repairs and had sent back the machine again to Great Year Ltd.

Accordingly, Great Year Ltd. re-imported the machine without any re-manufacturing or reprocessing in March 2020. Since the machine was having manufacturing defect, therepairs were carried out by the machine manufacturer without charging any amount for the repairs. However, the fair cost of repairs carried out including cost of material consumed during repairs for ₹ 70 lakh, would have been ₹ 90 lakh.

Actual insurance and freight charges incurred were ₹ 7.5 lakh each side from India to Germany and from Germany to India. Assume the rate of basic customs duty is 10%, social welfare surcharge is 10% and integrated tax is 18%.

You are required to compute the amount of customs duty payable (if any) on re-importation of the machine. Make the necessary assumptions, if required. Also, provide the exemption, if any, with regard to re-importation of goods which had been exported for repairs abroad.

(Jan 2021, 5 Marks)

Answer: Duty payable on re-importation of goods which had been exported for repairs abroad is the duty of customs which would be leviable if the value of re-imported goods after repairs were made up of the fair cost of repairs carried out including cost of materials used in repairs (whether such costs are actually incurred or not), insurance and freight charges, both ways. However, following conditions need to be satisfied for availing this concession:

- goods must be re-imported within 3 years, extendable by further 2 years, after their exportation;
- exported goods and the re-imported goods must be the same;
- Ownership of the goods should not change.

Since all the conditions specified above are fulfilled in the given case, the customs duty payable on re-imported goods will be computed as under:

Particulars	₹ in lakh
Value of goods re-imported after exports [₹ 90lakh (including cost of materials) + (insurance and freight charges, both ways ₹7.5 × 2) lakh]	105.000
Add: Basic customs duty @ 10% (A)	10.500
Add: Social welfare surcharge @ 10% on ₹10.5(B)	1.050
Value for computing integrated tax	116.550
Integrated tax @ 18% (₹ 117 lakh x 18%) - (C)	20.979
Customs duty and integrated tax payable [(A) +(B)+ (C)]	32.529

6

Valuation

Question 47: Product “Z” was imported by Mr X by air. The details of the import transaction are as follows:

Particulars	US \$
Price of 'Z' at exporter's factory	8,500
Freight from factory of the exporter to load airport (airport in the country of exporter)	250
Loading and handling charges at the load airport	250
Freight from load airport to the airport of importation in India	1300
Insurance charges	2,000

Though the aircraft arrived on 22.08.20XX, the bill of entry for home consumption was presented by Mr. X on 20.08.20XX. The other details furnished by Mr. X are:

	20.08.20XX	22.08.20XX
Rate of basic customs duty	20%	10%
Exchange rate notified by CBIC	₹ 60 Per US\$	₹ 63 Per US\$
Exchange rate prescribed by RBI	₹ 60 Per US\$	₹ 62 Per US\$
Integrated tax leviable under section 3(7) of the Customs Tariff Act, 1975	18%	12%
Social Welfare Surcharge	10%	10%

Compute-

- Value of product “Z” for the purpose of levying customs duty.
- Customs duty and tax payable.

Answer:

Computation of assessable value of product 'Z'

Particulars	Amount
Ex-factory price of the goods	8,500 US \$
Freight from factory of the exporter to load airport (airport in the country of exporter)	250 US \$
Loading and handling charges at the load airport	250 US \$
FOB	9000 US \$
Add: Cost of transport	1,300 US \$
Insurance (actual)	2,000 US \$
CIF for customs purpose	12,300 US\$
Value for customs purpose	12,300 US\$
Exchange rate as per CBIC [Note 1]	₹ 60 per US\$

Particulars	Amount
	Amount (₹)
Assessable value (₹ 60 x 12,300 US \$)	7,38,000
Add: Basic customs duty @ 10% [Note 2]	73,800
Add- SWS[10% of ₹ 73,800]	7,380
Value for the purpose of levying integrated tax [Note 3]	8,19,180
Add: Integrated tax leviable under section 3(7) @ 12%	98,301.60
Total duty & tax payable (rounded off)	1,79,482

Notes:

- (1) Rate of exchange determined by CBIC is to be considered [Explanation to section 14 of the Customs Act, 1982]
- (2) Section 15 the Customs Act, 1962 provides that rate of duty shall be the rate in force on the date of presentation of bill of entry or the rate in force on the date of arrival of aircraft, whichever is later.
- (3) Integrated tax is levied on the sum total of the assessable value of the imported goods and customs duties [Section 3(8) of the Customs Tariff Act, 1962].

Question 48: An importer from Cochin imports goods from an exporter in US. The vessel carrying the goods reaches Mumbai port first and from there goods are transhipped to Cochin port.

Determine the assessable value of the imported goods under the Customs Act, 1962 from the following particulars:

S.No.	Particulars	Amount
(i)	Cost of the machine at the factory of the exporter	US \$ 20,000
(ii)	Transport charges from the factory of exporter to the port for shipment	US \$ 1,000
(iii)	Handling charges paid for loading the machine in the ship	US \$ 100
(iv)	Buying commission paid by the importer	US \$ 100
(v)	Freight charges from exporting country to India	US \$ 2,000
(vi)	Actual insurance charges paid are not ascertainable	----
(vii)	Charges for design and engineering work undertaken for the machine in US	US \$ 5,000
(viii)	Unloading and handling charges paid at the place of importation	₹ 1,500
(ix)	Transport charges from Mumbai to Cochin port	₹ 25,000
(x)	Exchange rate to be considered 1\$ - ₹ 60	

Answer:**Computation of assessable value of imported goods**

Particulars	Amount (US \$)
Price of the machine at the factory of the exporter	20,000
Add. Transport charges up to the port in the country of the exporter [Note 1]	1,000
Handling charges at the port in the country of the exporter [Note 1]	100
Charges for design and engineering work undertaken for the machine in US [Note 2]	5,000
Buying commission [Note 3]	<u>Nil</u>
FOB value	26,100.00

Chapter 6 ⇒ Valuation

Particulars	Amount (US \$)
Freight charges up to India	2,000
Insurance charges @ 1.125% of FOB [Note 4]	293.63
Transport charges from Mumbai to Cochin port [Note 5]	<u>Nil</u>
CIF value	<u>28,393.63</u>
Add Unloading and handling charges paid at the place of importation [Note 6]	<u>Nil</u>
Assessable value	<u>28,393.63</u>
Assessable value in Indian rupees @ ₹ 60/- per \$	₹ 17,03,617.80
Assessable value (rounded off)	₹ 17,03,618

Notes:

- (1) The cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation are includible in the assessable value [Rule 10(2)(a) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR)].
- (2) Design and engineering work undertaken elsewhere than in India and necessary for the production of the imported goods is includible in the assessable value [Rule 10(1)(b)(iv) of the CVR].
- (3) Buying commission is not included in the assessable value [Rule 10(1)(a)(i) of the CVR].
- (4) If insurance cost is not ascertainable, the same shall be added @ 1.125% of FOB value of the goods [Third proviso to rule 10(2) of the CVR].
- (5) Cost of insurance: transport, loading, unloading, handling charges associated with transshipment of imported goods to another customs station in India is not included in the assessable value [Sixth proviso to rule 10(2) of the CVR].
- (6) By virtue of the amendment carried out in rule 10(2) of the CVR vide Notification No. 91/2017 only charges incurred for **delivery of goods "to" the place of importation** are includible in the transaction value.

Question 49: Maxiline Corp, not being an EOU, had imported technical instruments from USA for ₹ 180 lakh on payment of duty. It had to subsequently send back the same to the supplier for repairs. The supplier has agreed to provide discount of 50% of the fair cost of repairs, resulting in Maxiline Corp paying USD 15,000.

Following further particulars are available:

Particulars	Date	Rate of Duty	Inter Bank Exchange rate	Rate notified by CBIC
Bill of Entry	21-02-2018	20%	60	62
Aircraft arrival	26-02-2018	15%	62	61

IGST u/s 3(7) of Customs Tariff Act, 1975 -12%.

	Outwards (Amt. in ₹)	Inwards (Amt. in ₹)
Insurance	20,000	30,000
Air Freight	80,000	1,20,000

Other Details

- (a) Goods are reimported within 3 years of despatch for repairs.
- (b) Both the exported and imported goods are the same.
- (c) There is no change in the ownership of technical instruments.

- (d) The export is not from a public/private warehouse and repairs does not amount to manufacture.
 (e) SWS @10%

Determine total duty payable with appropriate notes for your computation.

Answer: In case of re-importation of goods exported for repairs, duty is payable on fair cost of repairs carried out, insurance and freight charges, both ways, subject to fulfillment of specified conditions in terms of Notification No. 94/96 Cus. dated 16.12.1996.

Following conditions are to be satisfied in this regard :-

- (a) The time limit for re-importation is 3 years
 (b) The exported goods and the re-imported goods must be the same.
 (c) The ownership of the goods should not have changed.

Since all the specified conditions are fulfilled in the given case, total duty payable will be computed as under:-

Computation of Duty Payable by Maxiline Corp.

Particulars

Fair cost of repairs (in dollars) = \$15,000/50%	\$ 30,000
	₹
Fair cost of repairs (in rupees)	18,60,000.00
= \$30,000 × ₹ 62 [Note-1]	
Add: Inward and outward insurance [₹ 20,000 + ₹ 30,000]	50,000.00
Add: Inward and outward air freight [₹ 80,000 + ₹ 1,20,000]	<u>2,00,000.00</u>
Assessable Value	21,10,000.00
Add: Basic customs duty (BCD) @15% [Note-2]	3,16,500.00
Add: SWS @ 10% of BCD	31,650.00

Value for computing IGST	24,58,150.00
IGST @ 12%	2,94,978.00
Total duty and tax payable	6,43,128
= [₹ 3,16,500 + ₹ 31,650 + ₹ 2,94,978.00] (rounded off)	

Notes

1. Rate of exchange notified by the CBIC on date of presentation of bill of entry would be the applicable rate in terms of third proviso to section 14(1) of the Customs Act, 1962.
2. Rate of duty is the rate in force on date of presentation of bill of entry or arrival of aircraft, whichever is later in terms of proviso to section 15(1) of the Customs Act, 1962.

Question 50: Sambhav Industries imported a machine for manufacturing steel equipment from George Inc., USA through vessel. The cost of the said machine at the factory of George Inc. is US \$ 10,000. George Inc. incurred the cost of US \$ 500 for transporting the said machine from its factory to the port of New York and New Jersey from which the machinery was shipped for export to Mumbai port, India. It further paid US \$ 50 as handling charges for loading the machine in the ship.

You are required to determine the assessable value of the machine imported by Sambhav Industries under the Customs Act, 1962 taking into account the following additional information:

- (i) Buying commission paid by Sambhav Industries US \$ 50
 (ii) Freight charges from port of New York and New Jersey to Mumbai port US \$ 1,000
 (iii) Exchange rate to be considered: 1\$ = ₹ 70
 (iv) Actual insurance charges paid are not ascertainable

(v) Lighterage charges paid by Sambhav Industries at Mumbai port	₹12,000
(vi) Unloading and handling charges paid at Mumbai port	₹ 24,000
	(RTP Nov 2021)

Answer

Computation of assessable value of the imported machine

	US \$
(i) Cost of the machine at the factory	10,000.00
(ii) Transport charges up to port	500.00
(iii) Handling charges at the port	<u>50.00</u>
FOB value in US \$	10,550.00
	₹
FOB value in Indian rupees @ ₹ 70 per \$	7,38,500.00
(iv) Freight charges up to India [US \$ 1,000 × ₹ 70]	70,000.00
(v) Insurance charges @ 1.125% of FOB [Note 1]	8308.13
(vi) Lighterage charges paid by the importer [Note 2]	12,000
(vi) Unloading and handling charges paid at Mumbai port [Note-3]	<u>Nil</u>
CIF/Assessable value	8,28,808.13
Assessable value (rounded off)	8,28,808

Notes:

- (1) Insurance charges have been included @ 1.125% of FOB value of goods [Third proviso to rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].
- (2) Cost of transport of the imported goods includes lighterage charges [Explanation to rule 10(2) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].
- (3) As per rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, only charges incurred for delivery of goods “to” the place of importation are includible in the transaction value. Thus, loading, unloading and handling charges associated with the delivery of the imported goods at the place of importation are not to be added to the assessable value of the goods.
- (4) Buying commission is not included in the assessable value [Rule 10(1)(a)(i) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].

7

Types of Duties

Question 51: ABC Industries Ltd. of Mumbai imported one machine through vessel from Japan, in the month of September, 2018.

The Following particulars are made available

S. No.	Particulars	Amount in Japanese Yen (¥)
(i)	Cost upto port of exportation incurred by exporter	6,00,000
(ii)	Loading charges at port of exportation	25,000
(iii)	Freight charges from port of export to port of import in India.	1,00,000

Following additional amounts paid by ABC Industries Ltd:

S. No.	Particulars	Amount in Indian rupees (₹)
(i)	Designing charges, necessary for such machine, paid to consultancy firm in New Delhi	8,00,000
(ii)	Commission paid (not the buying commission) to local agent of exporter.	1,25,000
(iii)	Actual landing charges paid at the place of importation.	15,000
(iv)	Actual insurance charges paid to the place of importation are not ascertainable.	-
(v)	Lighterage charges paid at the port of importation	20,000

Other Information

- (i) Rate of basic customs duty is 10%
- (ii) Rate of social welfare surcharge is 10%
- (iii) Integrated tax leviable under section 3(7) of Customs Tariff Act, 1975 is 12%.
- (iv) Ignore GST compensation cess.
- (v) Rate of exchange to be taken is 1 Japanese Yen (¥) = ₹ 0.65

Arrive at the total customs duty, including integrated tax payable under section 3(7) of the Customs Tariff Act, 1975 with appropriate working notes.

Answer: Computation of assessable value of the imported goods

	Japanese Yen
Cost upto port of exportation	6,00,000
Add: Loading charges at the port of exportation [Note-1]	25,000
Total in Japanese Yen	6,25,000

	Japanese Yen
Total in Indian rupees @ ₹ 0.65 per Japanese Yen	4,06,250.00
Add: Commission paid to local agent of exporter [Note-3]	1,25,000.00
FOB value as per customs	5,31,250.00
Add: Freight charges from port of export to port of import in India [Note-1] [1,00,000 Japanese Yen × 0.65 = ₹ 65,000]	65,000.00
Add: Lighterage charges paid by the importer at port of importation [Note-1]	20,000
Add: Insurance charges @ 1.125% of FOB [₹ 5,31,250 × 1.125%] [Note-4]	5,976.56
CIF value	6,22,226.56
Assessable Value (rounded off)	6,22,227
Add: Basic customs duty @ 10% of ₹ 6,22,227 (rounded off) (A)	62,223
Add: Social welfare surcharge @ 10% of ₹ 62,223 (rounded off) (B)	6,222
Total	6,90,672
Add: Integrated tax @ 12% of ₹ 6,90,672 (rounded off) (C)	82,881
Total custom duty and integrated tax payable [(A) +(B) + (C)] (rounded off)	1,51,326

Notes

- (1) The cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation are includible in the assessable value [Rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR)]. Further, explanation to rule 10(2), *inter alia*, clarifies that cost of transport of the imported goods includes lighterage charges.
- (2) Design and engineering work is includible in the assessable value only when the same is undertaken elsewhere than in India and necessary for the production of the imported goods [Rule 10(1) of the CVR].
- (3) Buying commission is not included in the assessable value [Rule 10(1) of the CVR]. Commission paid to local agent of exporter is includible in the assessable value since it is not buying commission.
- (4) If insurance cost is not ascertainable, the same shall be added @ 1.125% of FOB value of the goods [Rule 10(2) of the CVR].
- (5) Cost of insurance, transport, loading, unloading, handling charges associated with transshipment of imported goods to another customs station in India is not included in the assessable value [Rule 10(2) of the CVR].

Question 52: PCB Limited has imported printed circuit boards for sale in India from Country X, which are liable for anti-dumping duty. You are provided with the following details.

Country X does not sell these goods in its domestic market

However, it exports the same printed circuit boards at USD 200 per piece to another third country.

- (i) The printed circuit board is sold in domestic industry @ USD 175 per piece.
- (ii) PCB Limited has imported the printed circuit boards at USD 100 per piece.
- (iii) Landed value of the printed circuit boards is USD 125 per piece.

Compute the anti-dumping duty payable by PCB Limited for 1,000 pieces of printed circuit boards it has imported during the year assuming conversion rate @ ₹ 75 per USD.

(Nov 2020, 5 Marks)

Answer: The quantum of anti-dumping duty is:

(i) margin of dumping or (ii) injury margin, whichever is lower.

Margin of dumping is the difference between export price and normal value of the imported article and injury margin is the difference between the fair selling price [non-injurious price (NIP)] due to the domestic industry and the landed value of the dumped imports.

In the given case, anti-dumping duty per piece is:

(i) Margin of dumping is USD 100 [USD 200 - USD 100] or

(ii) Injury margin is USD 50 [USD 175 – USD 125]

whichever is lower i.e. USD 50

Anti-dumping duty for 1,000 pieces (in rupees) = USD 50 × 1,000 pieces × ₹ 75 = ₹ 37,50,000

1. When there are no sales of the like article in the domestic market of the exporting country, normal value is taken as the comparable representative price of the like article when exported from the exporting country to an appropriate third country.
2. Export price is price of the article exported from the exporting country.
3. Fair Selling Price/Non-Injurious Price is that level of price, which the industry is, expected to have charged under normal circumstances in the Indian market. It has been most logically assumed that the “domestic industry” referred to in point (ii) of the question refers to the domestic Indian market.
4. Landed Value

Question 53: GER Ltd. of Germany supplies luxurious car worth ₹ 1 crore to IND Ltd. of India. Before the car reached Indian port but after crossing of the territorial waters of India, IND Ltd. sells it to T1 Ltd. by way of transfer of documents of title.

T1 Ltd. clears the said car for warehousing and stores said goods in customs bonded warehouse.

T1 Ltd. sells the said car from warehouse to T2 Ltd., and T2 Ltd. clears the said car from the customs bonded warehouse.

Answer the following with brief reasons:

(i) Is GST leviable on import of goods from GER Ltd. by IND Ltd.?

(ii) Is GST leviable on supply of goods by IND Ltd. to T1 Ltd.?

(iii) Is GST leviable on supply of goods by T1 Ltd. to T2 Ltd.?

(iv) Is GST leviable on clearance of goods by T2 Ltd. from the customs bonded warehouse?

(Jan 2021, 5 Marks)

Answer

(i) GST on import of goods is levied at the time when customs duty is levied on the said goods under the Customs Act, 1962, i.e., on importation. Importation gets completed when the goods become part of the mass of goods within the country¹.

Thus, GST is not leviable on import of goods from GER Ltd. by IND Ltd. since the import of goods is not complete.

(ii) GST is not leviable on supply of goods by IND Ltd. to T1 Ltd. as supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption is treated neither as a supply of goods nor a supply of services.

¹ Garden Silk Mills Ltd. UOI 1999 AIR SCW 4150 (SC 3-member bench).

Chapter 7 ⇒ Types of Duties

- (iii) GST is not leviable on supply of goods by T1 Ltd. to T2 Ltd. since supply of warehoused goods to any person before clearance for home consumption is treated neither as a supply of goods nor a supply of services.
- (iv) Yes, GST is leviable on clearance of goods by T2 Ltd. from the customs bonded warehouse as customs duty is levied on warehoused goods at the time of clearance thereof from the warehouse and as mentioned in point (i), GST on import of goods is levied at the time when customs duty is levied thereon

Question 54: Determine the customs duty payable under the Customs Tariff Act, 1975 including the safeguard duty of 25% under section 8B of the said Act with the following information made available by the importer:

Assessable value of fibre granules imported from three developing countries during July 2020	₹ 25,00,000
Share of imports of fibre granules from three developing countries taken together against total imports of fibre granules to India	10%
Rate of basic customs duty	10%
Rate of integrated tax	12%
Rate of social welfare surcharge	10%

(July 2021, 5 Marks)

Answer**Computation of customs duty payable including the safeguard duty payable thereon**

Particulars	Amount (₹)
Assessable value of fibre granules imported	25,00,000
Add: Basic custom duty @ 10% (₹ 25,00,000 × 10%)	2,50,000
Safeguard duty @ 25% on ₹ 25,00,000 [Safeguard duty is imposable in the given case since share of imports of fibre granules from the three developing countries taken together exceeds 9% of the total imports of fibre granules into India.]	6,25,000
Social welfare surcharge @ 10% of ₹ 2,50,000	25,000
Total	34,00,000
Integrated tax (₹ 34,00,000 × 12%) [Value for calculation of integrated tax shall also include safeguard duty amount.]	4,08,000
Total customs duty payable ₹ (2,50,000 + 6,25,000 + 25,000 + 4,08,000)	13,08,000

8

Duty Drawback

Question 55: Lunar Technologies Ltd. has imported a machine from its holding company in Japan on 25th February after paying customs duty of ₹ 38,00,000 for use in its factory and is re-exported on 10th October. You are required to advise Lunar Technologies Ltd. regarding duty drawback that will be available to the company, when it sends back the machinery to its holding company after completion of the project. Will your answer be different if, other things remaining the same, instead of machinery, the company had imported and re-exported the X-ray films after using the same for the aforementioned period. (RTP May 2022)

Answer: Since in the given case, the imported goods have been used for more than 6 months but not more than 9 months before re-exportation, 75% of the import duty paid shall be allowed as duty drawback to Lunar Technologies Ltd. Thus, amount of duty drawback available to Lunar Technologies Ltd. is:

$$= ₹ 38,00,000 \times 75\%$$

$$= ₹ 28,50,000$$

However, no drawback of import duty is allowed in respect of X-ray films, if they are used after their importation in India. Hence, if, other things remaining the same, instead of machinery, Lunar Technologies Ltd had imported and re-exported the X-ray films after using the same, no duty drawback will not be allowed to it.

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Baggage

Question 56: Gregory Peg of foreign origin has come on travel visa, to tour in India. He carries with him, As part of baggage, the following

Particulars	Value in ₹
Travel Souvenir	85,000
Other articles carried on in person	1,50,000
120 sticks of cigarettes of ₹100 each	12,000
Fire arm with 100 cartridges (value includes the value of cartridges at @ ₹ 500 per cartridge).	1,00,000

Determine customs duty payable, if the effective rate of customs duty is 38.50% inclusive of SWS.

Answer: As per rule 3 of Baggage Rules, 2016, tourist of foreign origin excluding infant is allowed duty free clearance of

- travel souvenirs; and
- Articles up to the value of ₹ 15,000 (excluding *inter alia* fire arms, cartridges of fire Arms exceeding 50 and cigarettes exceeding 100 Sticks) if carried on in person arms exceeding 50 and cigarettes exceeding 100 sticks), if carried on in person.

Computation of customs duty payable	₹
Travel souvenir	Nil
Articles carried on in person	1,50,000
Cigarettes [100 sticks can be accommodated in General Free Allowance (GFA)]	10,000
Fire arms cartridge (50 cartridges can be accommodated in GFA)	<u>25,000</u>
Baggage than can be accommodated in GFA	1,85,000
<i>Less:</i> GFA	<u>15,000</u>
Baggage on which duty is payable	<u>1,70,000</u>
Duty payable @ 38.5%	65,450

Note: Fire arms, cartridges of firearms exceeding 50 and cigarettes exceeding 100 sticks are not chargeable to rate applicable to baggage [Notification No. 26/2016 Cus. dated 31.03.2016]. These items are charged @ 100% [Rate of duty] applicable to baggage under Heading 9803 of the Customs Tariff.

Question 57: Rishabh Traders is engaged in trading of cast iron moulds. It imported a total of 600 units of cast iron moulds in two consignments of 200 and 400 units which has been valued at ₹1,500 per unit. The customs duty on the imported moulds has been assessed at ₹ 250 per unit. Rishabh Traders sells the moulds for ₹ 2,030 per unit after adding its profit margin of ₹280 per unit.

After one month of selling the entire consignment of cast iron moulds, Rishabh Traders found that there had been an error in payment of amount of duty, in which duty for the consignment of 200 units was paid as if it was 400 units, resulting in excess payment of duty. Rishabh Traders files an application for refund for ₹ 50,000 (200 X 250). You are required to determine whether the unjust enrichment is attracted in the given case?

(RTP Nov 2021)

Answer: As per section 27 of the Customs Act, 1962, the importer or his agent, or the buyer who has been charged the duty by the importer, has to establish that he has not passed the burden of duty to another person, in order to be given refund of duty. Otherwise, the refund amount is credited to the Consumer Welfare Fund.

First proviso to section 27(2) of the Customs Act, 1962, *inter alia*, provides that the amount of refund shall be paid to the applicant instead of being credited to the fund in case where such amount is relatable to the duty paid by the importer/exporter, if he had not passed on the incidence of such duty and interest to any other person and in case where such amount is relatable to the duty paid in excess by the importer before an order permitting clearance of goods for home consumption is made where such excess payment of duty is evident from the bill of entry in the case of self-assessed bill of entry.

Rishabh Traders' invoices establish that it collected ₹ 250 per unit (duty amount) on 600 moulds from the buyer(s). However, it paid the extra import duty on 200 moulds. This payment, in the normal course, was made before the order permitting the clearance of the goods and excess payment of duty on 200 units would be evident from the bill of entry. Thus, Rishabh Traders' case falls within the exceptions to unjust enrichment as discussed above. Hence, it will be able to refute the charge of unjust enrichment.

12

Classification of Goods

Question 58: Product: Letter closing and sealing machine

*Sub-heading 8422 30 00: Machinery for filling, closing, sealing or labeling bottles, cans, boxes, bags or other containers; machinery for capsuling bottles, jars, tubes and similar containers; machinery for aerating beverages.

*Sub-heading 8472 30 00 *inter alia* covers machines for closing or sealing mails.

Determine the sub heading for such product.

Answer: Both the headings appear to be relevant for the product in question.

However, chapter note 2 to chapter 84 *inter alia* provides that Heading No. 8422 does not cover office machinery of Heading No. 8472. Therefore, the product in question will be classified under 8472 30 00

Question 59: Examine whether benefit of Service Exports from India Scheme (SEIS) can be availed with respect to notified services provided by service providers located in India in the current financial year in the following independent cases:

- (i) Net Foreign exchange earned by Mr. Aniket, a service provider, in the preceding financial year is USD 3,000.
- (ii) X and Y Brothers, a firm of service providers, has earned net foreign exchange to the tune of USD 16,500 in the preceding financial year.
- (iii) Mr. Ishaan, a service provider, has earned net foreign exchange of USD 12,000 in the preceding financial year. Out of this, USD 3,000 has been paid to Mr. Ishaan through the credit card of the foreign client.

Note: All the above service providers have an active IEC at the time of rendering services.

Answer: In order to be eligible for duty credit scrip entitlement under SEIS:-

- (a) Service provider must be located in India.
- (b) It must provide only notified services in specified manner.
- (c) It must have an active IEC at the time of rendering such services for which rewards are claimed.
- (d) An individual service provider/Sole-proprietorship should have minimum net foreign exchange earnings of USD 10,000 and a service provider other than individual/Sole-proprietorship should have minimum NFE of USD 15,000, in preceding financial year.

Free foreign exchange earned through International Credit Cards and other instruments as permitted by RBI for rendering of service are also be taken into account for computation of NFE.

In the light of the above provisions, the cases are examined as under:

- (i) Mr. Aniket is not eligible for SEIS Scheme as his net foreign exchange earnings are less than USD 10,000 (minimum limit for individuals).
- (ii) X and Y Brothers are eligible for the Scheme as their net foreign exchange earnings exceed the limit of USD 15,000 (minimum limit for firms).
- (iii) Foreign exchange earned through credit cards is counted for the purpose of computing the limit of minimum net foreign exchange required for being eligible to SEIS Scheme. Thus, Mr. Ishaan is eligible for SEIS Scheme.

Question 60: List out the conditions for eligibility for duty credit scrip entitlement under Service Exports from India Scheme (SEIS) and determine whether the following cases are eligible for benefit under SEIS.

- (i) Mr. Raj has received USD 12,500 as consideration for services provided, during the year. He has also paid USD 3,000 towards services received from abroad. He has also received USD 4,000 towards employment rendered abroad during the year.
- (ii) Services Ltd. has received the USD 16,000 as foreign exchange during the year towards share capital.
- (iii) Mrs. Anita has received USD 15,000 as consideration for services provided, during the year.

Assume that except for in case (iii) above, others have an active IEC.

(Nov 2020, 5 Marks)

Answer

The conditions for eligibility for duty credit scrip entitlement under SEIS are as under:—

- (1) Service provider must be located in India.
- (2) It must provide notified services from India either to any other country or to service consumers of any other country in India.
- (3) It must have an active IEC at the time of rendering such services for which rewards are claimed.
- (4) While an individual service provider/sole-proprietorship should have minimum net foreign exchange earnings (NFE) of USD 10,000, other service providers should have minimum NFE of USD 15,000, in the year of rendering service.

In view of the aforesaid provisions, the eligibility of the given cases for the benefit under SEIS has been determined as under:

- (i) $\text{NFE} = \text{Gross earnings of foreign exchange} - \text{Total expenses/payment/remittances of foreign exchange by the IEC holder, relating to service sector in the financial year}$
 $= \text{USD } 12,500 - \text{USD } 3,000 = \text{USD } 9,500$

Receipt of USD 4,000 towards employment rendered abroad during the year is not related to service sector and thus should not be considered for calculating NFE.

Therefore, Mr. Raj is not eligible for SEIS scheme as his NFE is less than USD 10,000 (minimum limit for individuals).

- (ii) Foreign exchange remittances which are earned for rendering of notified services are only considered for calculating NFE. Thus, foreign exchange earned towards share capital cannot be taken into account for calculation of SEIS entitlement.

Thus, Services Ltd. is not eligible for SEIS scheme.

- (iii) Since Mrs. Anita does not have an active IEC, she is not eligible for SEIS scheme irrespective of her NFE.

Note: The above answer is based on the assumption that service provider (in all the three independent cases) is located in India and provides notified services from India either to any other country or to service consumers of any other country in India.