



MUST DO LIST

GOODS &

SERVICES TAX

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CA DREAMERS
THE AVENGER

“Inspire You to Achieve Dreams”

Our Mission.....

“We are here to Help you, Motivate you, Guide you and Inspire you to Clear exam in one shot”

Our Vision.....

“Inspire to Achieve Dreams”

**“At Any How
At Any Cost**

I AM THE CHAMPION”



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CH. 1 : GST IN INDIA – AN INTRODUCTION

QUESTIONS AND ANSWERS

Q.1: Differentiate between direct and indirect taxes.

ANSWER:

Difference between direct taxes and indirect taxes:

Direct Taxes	Indirect Taxes
The person paying the tax to the Government directly bears the incidence of the tax.	The persons paying the tax to the Government collect the same from the ultimate consumer. Thus, incidence of the tax is shifted to the other person.
Progressive in nature – high rate of taxes for people having higher ability to pay.	Regressive in nature – All the consumers equally bear the burden, irrespective of their ability to pay.

Q.2: Enumerate major direct and indirect taxes.

ANSWER:

Major indirect taxes are goods and services tax and customs duty and direct tax is income tax.

Q.3: Explain the salient features of indirect taxes.

ANSWER:

Salient features of indirect taxes are:

- (i) An important source of revenue: Indirect taxes are a major source of tax revenues for Governments worldwide and continue to grow as more countries move to consumption-oriented tax regimes. In India, indirect taxes contribute more than 50% of the total tax revenues of Central and State Governments.
- (ii) Tax on commodities and services: It is levied on commodities at the time of supply or manufacture or purchase or sale or import/export thereof. Hence, it is also known as commodity taxation. It is also levied on supply of services.
- (iii) Shifting of burden: There is a clear shifting of tax burden in respect of indirect taxes. For example, GST paid by the supplier of the goods is recovered from the buyer by including the tax in the cost of the commodity.
- (iv) No perception of direct pinch: Since, value of indirect taxes is generally inbuilt in the price of the commodity, most of the time the tax payer/consumer pays the same without actually knowing that he is paying tax to the Government. Thus, tax payer does not perceive a direct pinch while paying indirect taxes.

- (v) **Inflationary:** Tax imposed on commodities and services causes an all-round price spiral. In other words, indirect taxation directly affects the prices of commodities and services and leads to inflationary trend.
- (vi) **Wider tax base:** Unlike direct taxes, the indirect taxes have a wide tax base. Majority of the products or services are subject to indirect taxes with low thresholds.
- (vii) **Promotes social welfare:** Higher taxes are imposed on the consumption of harmful products (also known as 'sin goods') such as alcoholic products, tobacco products etc. This not only checks their consumption but also enables the State to collect substantial revenue.
- (viii) **Regressive in nature:** Generally, the indirect taxes are regressive in nature. The rich and the poor have to pay the same rate of indirect taxes on certain commodities of mass consumption. This may further increase the income disparities between the rich and the poor.

Q.4: Write a short note on various Lists provided under Seventh Schedule to the Constitution of India.

ANSWER:

Seventh Schedule to Article 246 of the Constitution contains three lists which enumerate the matters under which the Union and the State Governments have the authority to make laws.

- (i) **List -I (UNION LIST):** It contains the matters in respect of which the Parliament (Central Government) has the exclusive right to make laws.
- (ii) **List -II (STATE LIST):** It contains the matters in respect of which the State Government has the exclusive right to make laws.
- (iii) **List – II (CONCURRENT LIST):** It contains the matters in respect of which both the Central & State Governments have power to make laws.

Q.5: Discuss the efficiencies in the existing indirect taxes which led to the need for ushering into GST regime.

ANSWER:

Deficiencies in the erstwhile indirect tax regime:

- (a) Certain transactions were subject to double taxation and were taxed as both goods and services, since under the earlier regime, distinction between goods and services was often blurred.
- (b) CENVAT did not include chain of value addition in the distributive trade after the stage of production. Similarly, in the State-level VAT, CENVAT load on the goods was not removed leading to the cascading of taxes.
- (c) Though CENVAT and State-Level VAT were essentially value added taxes, set off of one against the credit of another was not possible as CENVAT was a central levy and State-Level VAT was a State levy.
- (d) There were several taxes in the States, such as, Luxury Tax, Entertainment Tax, etc. which were not subsumed in the VAT. Hence for a single transaction, multiple taxes in multiple forms were required to be paid.

- (e) VAT on goods was not integrated with tax on services, at the State level, to remove the cascading effect of service tax. With service sector being the fastest growing sector in the economy, the exclusion of services from the tax base of the States potentially eroded their tax- buoyancy.
- (f) CST was another source of distortion in terms of its cascading nature since it was non-VATABLE. Being an origin-based tax, CST was also against one of the basic principles of consumption taxes that tax should accrue to the jurisdiction where consumption takes place.

Q.6: Discuss the dual GST model as introduced in India.

ANSWER:

India has adopted a Dual GST model in view of the federal structure of the country. Consequently, Centre and States simultaneously levy GST on taxable supply of goods or services or both, which takes place within a State or Union Territory, Thus, tax is imposed concurrently by the Central and States, i.e., Centre and States simultaneously tax goods and services. Now, the Centre also has the power to tax intra-State sales & States are also empowered to tax services. GST extends to whole of India including the State of Jammu and Kashmir.

Q.7: List the Central and State levies which have been subsumed in GST in India.

ANSWER:

Central levies that are subsumed in GST are as follows:

- Central Excise Duty & Additional Excise Duties
- Service Tax
- Excise Duty under Medicinal & Toilet Preparation Act
- CVD & Special CVD
- Central Sales Tax
- Central surcharges & Cesses in so far as they relate to supply of goods & services

State levies that are subsumed in GST are as follows:

- State surcharges and cesses in so far as they relate to supply of goods & services
- Entertainment Tax (except those levied by local bodies)
- Tax on lottery, betting and gambling
- Entry Tax (All Forms) & Purchase Tax
- VAT/ Sales tax
- Luxury Tax
- Taxes on advertisements

Q.8: Discuss the functions of the common GST portal.

ANSWER:

GST being a destination-based tax, the inter-State trade of goods and services (IGST) needed a robust settlement mechanism amongst the States and the Centre. A Common Portal was needed which could act as a clearing house and verify the claims and inform the respective Governments to transfer the funds. This was possible only with the help of a strong IT Infrastructure.

Resultantly, Common GST Electronic Portal – www.gst.gov.in – a website managed by Goods and Services Network (GSTN) [a company incorporated under the provisions of section 8 of the Companies Act, 2013] is set by the Government to establish a uniform interface for the tax payer and a common and shared IT infrastructure between the Centre and States.

The functions of the GSTN include facilitating registration; forwarding the returns to Central and State authorities; computation and settlement of IGST; matching of tax payment details with banking network; providing various MIS reports to the Central and the State Governments based on the taxpayer return information; providing analysis of taxpayers' profile.

Q.9: Briefly explain the liveability of GST or otherwise on petroleum crude, diesel, petrol, Aviation Turbine Fuel (ATF) and natural gas.

ANSWER:

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

Q.10: Elaborate the principles that were borne in mind while subsuming various central, State and local levies, under GST.

ANSWER:

The various central, state and local levies were examined to identify their possibility of being subsumed under GST. While identifying, the following principles were kept in mind:

- (i) Taxes or levies to be subsumed should be primarily in the nature of indirect taxes, either on the supply of goods or on the supply of services.
- (ii) Taxes or levies to be subsumed should be part of the transaction chain which commences with import/ manufacture/ production of goods or provision of services at one end and the consumption of goods and services at the other.
- (iii) The subsuming of taxes should result in free flow of tax credit in intra and inter-State levels. The taxes, levies and fees that are not specifically related to supply of goods & services should not be subsumed under GST.
- (iv) Revenue fairness for both the Union and the States individually would need to be attempted.

Q.11: GST is a simplified tax structure. Justify the statement.

ANSWER:

GST is a simplified tax structure. The statement is justified. Simpler tax regime with fewer exemptions along with reduction in multiplicity of taxes under GST has led to simplification and uniformity in tax structure. The uniformity in laws, procedures and tax rates across the country makes doing business easier. Common system of classification of goods and services across the country ensures certainty in tax administration across India.

Q.12: List the advantages that GST accrues to the trade and industry.

ANSWER:

GST accrues following advantages to the trade and industry

- (i) **Benefits to industry:** GST has given more relief to industry, trade and agriculture through a more comprehensive and wide coverage of input tax set-off and service tax set-off, subsuming of several Central and State taxes in the GST and phasing out of CST. The transparent and complete chain of set-offs which results in widening of tax base and better tax compliance also lead to lowering of tax burden on an average dealer in trade and industry.
- (ii) **Mitigation of ill effects of cascading:** By subsuming most of the Central and State taxes into a single tax and by allowing a set-off of prior-stage taxes for the transactions across the entire value chain, it helps in mitigating the ill effects of cascading, improving competitiveness and improving liquidity of the businesses.
- (iii) **Benefits to small traders and entrepreneurs:** GST has increased the threshold for GST registration for small businesses. Further, single registration is needed in one State. Small businesses have also been provided the additional benefit of composition scheme. With the creation of a seamless national market across the country, small enterprises have an opportunity to expand their national footprint with minimal investment.

Q.13: List the special category States as prescribed in Article 279A of the Constitution of India.

ANSWER:

There are 11 Special Category States, namely, States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand.

Q.14: Discuss the liveability of GST or otherwise on tobacco.

ANSWER:

Tobacco is within the purview of GST, i.e. GST is liveable on tobacco. However, Union Government has also retained the power to levy excise duties on tobacco and tobacco products manufactured in India. Resultantly, tobacco is subject to GST as well as central excise duty.

CH. 2 : SUPPLY UNDER GST

QUESTIONS AND ANSWERS

Q.1: Meghraj & Co. wishes to commence the business of supplying ready – made garments within Punjab and in the neighbouring States of Delhi and Haryana. Kindly state as to what is the taxable event under GST and leviability of CGST, SGST/ UTGST and IGST on the same?

ANSWER:

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

Q.2: Damodar Private Ltd., registered in Delhi, has transferred some goods to its branch, registered in West Bengal, so that the goods can be sold from the branch. The goods have been transferred without any consideration. The company believes that the transaction undertaken by it does not qualify as supply as no consideration is involved. Ascertain whether the transfer of goods by Damodar Private Ltd. to its branch office qualifies as supply.

ANSWER:

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

Q.3: Prithvi Associates is engaged in supply of taxable goods. It enquires from its tax advisor as to whether any activity can be treated as supply even if made without consideration in accordance with the provisions. You are required to enumerate such activities, if any.

ANSWER:

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

- (i) Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
- (ii) Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business.

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

- (iii) Supply of goods –
 - (a) By a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or

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

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

Q.4: Composite supply is treated as supply of that particular goods or services which attracts the highest rate of tax. Examine the validity of the statement.

ANSWER:

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

Q.5: Transfer of title and/ or possession is necessary for a transaction to constitute supply of goods. Examine.

ANSWER:

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

Q.6: Examine whether the following activities would amount to supply under section 7 read with Schedule I:

- (a) Sulekha Manufactures have a factory in Delhi and a depot in Mumbai. Both these establishments are registered in respective States. Finished goods are sent from factory in Delhi to the Mumbai depot without consideration so that the same can be sold.
- (b) Raman is an architect in Chennai. His brother who is settled in London is a well-known lawyer. Raman has taken legal advise from him free of cost with regard to his family dispute.
- (c) Would your answer be different if in the above case, Raman has taken advise in respect of his business unit in Chennai?

ANSWER:

- (a) Schedule I, inter alia, stipulates that supply of goods or services or both between related persons or between distinct persons as specified in section 25, is supply even without consideration provided it is made in the course or furtherance of business. Further, a person who has obtained more than one registration, whether in one State/Union territory or more than one State/Union territory shall, in respect of each such registration, be treated as **distinct persons** [Section 25(4)].
In view of the same, factory and depot of Sulekha Manufacturers are distinct persons. Therefore, supply of goods from Delhi factory of Sulekha Manufacturers to Mumbai Depot without

consideration, but in course/furtherance of business, is supply under section 7 read with Schedule I.

(b) Schedule I, inter alia, stipulates that import of services by a taxable person from a **related person** located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business. Explanation to section 15, inter alia, provides that persons shall be deemed to be “**related persons**” if they are **members of the same family**. Further, as per section 2(49), family means, —

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

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

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

Q.7: State whether the following supplies would be treated as supply of goods or supply of services as per Schedule II:

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

ANSWER:

- (a) Supply of services
- (b) Supply of goods
- (c) Supply of services
- (d) Supply of goods

Q.8: Determine whether the following supplies would be treated as supply of goods or supply of services as per Schedule II:

- (a) Temporary transfer or permitting use or enjoyment of any intellectual property right.
- (b) Any treatment or process which is applied to another person’s goods.

(c) Transfer of title in goods.

ANSWER:

- (a) Supply of services
- (b) Supply of services
- (c) Supply of goods

Q.9: The goods supplied on hire purchase basis will be treated as supply of services. Examine the validity of the statement.

ANSWER:

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

Q.10: Examine whether the activity of import of service in the following independent cases would amount to supply under section 7:

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

ANSWER:

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

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

- (ii) Schedule I, inter alia, stipulates that import of services by a taxable person from a **related person** located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business. Explanation to section 15, inter alia, provides that persons shall be deemed to be “**related persons**” if they are **members of the same family**. Further, as per section 2(49), family means, —
 - (i) the spouse and children of the person, and
 - (ii) the parents, grand-parents, brothers and sisters of the persons **(if they are wholly or mainly dependent on the said person)**.

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

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

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

Q.11: Determine whether the following supplies amount to composite supplies:

- (a) A hotel provides 4 days-3 nights package wherein the facility of breakfast and dinner is provided alongwith the room accommodation.
- (b) A toothpaste company has offered the scheme of free soap alongwith the toothpaste.

ANSWER:

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

- (a) Since supply of breakfast and dinner with the accommodation in the hotel are naturally bundled, said supplies qualify as 'composite supply'.
- (b) Since supply of soap alongwith the toothpaste are not naturally bundled, said supplies do not qualify as 'composite supply'.

Q.12: Dumdum Electronics has sold following electronic items to Akbar Retail Store.

- (i) Refrigerator (500 litres) taxable @ 18%
- (ii) Stabilizer for refrigerator taxable @ 12%
- (iii) LED television (42 inches) taxable @ 12%
- (iv) Split air conditioner (2 Tons) taxable @ 28%
- (v) Stabilizer for air conditioner taxable @ 12%

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

ANSWER:

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

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

Q.13: Manikaran, a registered supplier of Delhi, has supplied 20,000 packages at ₹ 30 each to Mukhija Gift Shop in Punjab. Each package consists of 2 chocolates, 2 fruit juice bottles and a packet of toy balloons. Determine the rate(s) of GST applicable in the given case assuming the rates of GST to be as under:

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

ANSWER:

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

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

Q.14: Gagan Engineering Pvt. Ltd., registered in Haryana, is engaged in providing maintenance and repair services for heavy steel machinery. For carrying out the repair work, Gagan Engineering Pvt. Ltd. sends its container trucks equipped with items like repair equipments, consumables, tools, parts etc. from Haryana workshop to its own repairing centres (registered under GST law) located in other States across India where the clients' machinery are being brought and are being repaired.

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

ANSWER:

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

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

However, as per CBIC circular, the inter-State movement of various modes of conveyance including, inter alia, trucks, carrying goods or passengers or both or for repairs and maintenance, between 'distinct persons' as specified in section 25(4), not involving further supply of such conveyance, may be treated 'neither as a supply of goods nor supply of service' and therefore, will not be leviable to IGST. Applicable CGST/SGST/IGST, however, shall be leviable on repairs and maintenance done for such conveyance [Circular No. 1/1/2017 IGST dated 07.07.2017].

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

Q.15: PTL Pvt. Ltd. is a retail store of merchandise located in 25 States/ UTs in the country. For the purpose of clearance of stock of merchandise and to attract consumer, PTL Pvt. Ltd. launched scheme of "Buy One Get One Free" for the same type of merchandise, for instance, one shirts to be given free with purchase of one shirt. Determine how the taxability of the goods supplied under "Buy One Get One Free" scheme is determined.

ANSWER:

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

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

Q.16: Sarvanna & Sons wishes to start supplying alcoholic liquor in the State of Tamil Nadu. Therefore, it applies for license to the Tamil Nadu Government for selling liquor for which the State Government has charged specified fee from it. Examine whether the grant of alcoholic liquor license by the Tamil Nadu Government to Sarvanna & Sons qualifies as supply.

ANSWER:

Services by way of grant of alcoholic liquor license by the State Governments have been notified to be treated neither as a supply of goods nor as a supply of service. Such licence is granted against consideration in the form of licence fee or application fee or by whatever name it is called.

This special dispensation is applicable only to supply of service by way of grant of liquor licenses by the State Governments as an agreement between the Centre and States and is not applicable/has no precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable.

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

CH. 3 : CHARGE OF GST

QUESTIONS AND ANSWERS

Q.1: State the person liable to pay GST in the following independent cases provided recipient is located in the taxable territory:

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

ANSWER:

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

Q.2: Vivek Goyal, an independent director of A2Z Pvt. Ltd., has received sitting fee amounting to ₹ 1 lakh from A2Z Pvt. Ltd for attending the Board meetings. Who is the person liable to pay tax in this case?

ANSWER:

GST on supply of services by director of a company to the said company located in the taxable territory is payable on reverse charge basis.

Therefore, in the given case, person liable to pay GST is the recipient of services, i.e. A2Z Pvt. Ltd.

Q.3: Raghu Associates provided sponsorship services to WE-WIN Cricket Academy, an LLP. Determine the person liable to pay tax in this case.

ANSWER:

In case of services provided by any person by way of sponsorship to any body corporate or partnership firm, GST is liable to be paid under reverse charge by such body corporate or partnership firm located in the taxable territory. Further, for the reverse charge purposes, Limited Liability Partnership formed and registered under the provisions of the Limited Liability Partnership Act, 2008

is also be considered as a partnership firm. Therefore, in the given case, WE-WIN Cricket Academy is liable to pay GST under reverse charge.

Q.4: 'Safe Trans', a Goods Transport Agency, transported goods of Kapil & Co., a partnership firm, which is not registered under GST. Determine the person liable to pay tax in this case.

ANSWER:

In case of services provided by Goods Transport Agency (GTA) in respect of transportation of goods by road to, inter alia, any partnership firm whether registered or not under any law; GST is liable to be paid by such partnership firm. Therefore, in the given case, Kapil & Co. is liable to pay GST under reverse charge.

Q.5: Legal Fees is received by Sushrut, an advocate, from M/s. Tatva Trading Company having turnover of ₹ 50 lakh in preceding financial year Who is the person liable to pay tax in this case?

ANSWER:

GST on legal services supplied by an advocate [Mr. Sushrut] to any business entity [M/s. Tatva Trading Company] located in the taxable territory is payable on reverse charge basis.

Therefore, in the given case, person liable to pay GST is the recipient of services, i.e., M/s. Tatva Trading Company.

Q.6: State the person liable to pay GST in the following independent cases provided recipient is located in the taxable territory:

- (a) Services supplied by an insurance agent to an insurance company.
- (b) Services supplied by a recovery agent to a car dealer.
- (c) Security services (services provided by way of supply of security personnel) provided to a registered person.

ANSWER:

(a) GST on services supplied by an insurance agent to any person carrying on insurance business located in the taxable territory is payable under reverse charge. Therefore, in the given case, GST is payable under reverse charge by the recipient – Insurance Company.

(b) GST on services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company located in the taxable territory is payable under reverse charge. However, since, in the given case, services are being supplied by a recovery agent to a car dealer, GST is payable under forward charge by the service provider - recovery agent.

(c) GST on security services (services provided by way of supply of security personnel) provided to a registered person, located in the taxable territory is payable under reverse charge. Therefore, in the given case, GST is payable under reverse charge by the recipient – registered person receiving the services.

Q.7: Sultan & Sons, a partnership firm, in Nagpur, Maharashtra is a wholesaler of a taxable product 'P' and product 'Q' exempt by way of a notification, in the State of Maharashtra. Its aggregate turnover in the preceding financial year is ₹ 130 lakh. The firm wishes to opt for composition scheme under sub-sections (1) & (2) of section 10. However, its accountant is of the view that a person engaged in making supply of exempt goods is not eligible for the said scheme. Discuss.

Note: Assume that Sultan & Sons is not engaged in manufacture of goods as notified under section 10(2)(e).

ANSWER:

The view taken by the accountant of Sultan & Sons is not valid in law. A registered person with an aggregate turnover in a preceding financial year up to ₹ 1.5 crore is eligible for composition levy, under section 10(1) & 10(2), in Delhi. Further, such person must not be engaged in making any supply of goods or services which are not leviable to tax under this Act and must not be engaged in making any inter-State outward supplies of goods or services, for being eligible to pay tax under said scheme.

In the given case, the aggregate turnover of Sultan & Sons does not exceed ₹ 1.5 crore. Further, it is engaged in making only intra-State supply of goods and Product P supplied by it is taxable and Product Q supplied by it is leviable to tax, though exempted by way of notification. Therefore, it is eligible for composition levy under section 10(1) & 10(2) in the current year.

Q.8: A person availing composition scheme, under sub-sections (1) & (2) of section 10, in Haryana during a financial year crosses the turnover of ₹ 1.5 crore in the month of December. Will he be allowed to pay tax under composition scheme for the remainder of the year, i.e. till 31st March? Please advise.

ANSWER:

No. The option to pay tax under composition scheme lapses from the day on which the aggregate turnover of the person availing composition scheme for goods during the financial year exceeds the specified limit (₹ 1.5 crore). Once he crosses the threshold, he is required to file an intimation for withdrawal from the scheme in prescribed form within 7 days of the occurrence of such event.

Every person who has furnished such an intimation, may electronically furnish at the common portal, a statement in prescribed form containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn, within a period of 30 days from the date from which the option is withdrawn.

Q.9: Determine whether the suppliers in the following cases are eligible for composition levy, under section 10(1) & 10(2), provided their turnover in preceding year does not exceed ₹ 1.5 crore:

- (i) Mohan Enterprises is engaged in trading of pan masala in Rajasthan and is registered in the same State.
- (ii) Sugam Manufacturers has registered offices in Punjab and Haryana and supplies goods in neighbouring States.

ANSWER:

- (i) A supplier engaged in the manufacture of goods as notified under section 10(2)(e), during the preceding FY is not eligible for composition scheme under section 10(1) and 10(2). Ice cream and other edible ice, whether or not containing cocoa, Pan masala, Tobacco and manufactured tobacco substitutes and aerated waters are notified under this category. However, in the given case, since Mohan Enterprises is engaged in trading of pan masala and not manufacture and his turnover does not exceed ₹ 1.5 crore, he is eligible for composition scheme subject to fulfilment of specified conditions.
- (ii) Since supplier of inter-State outward supplies of goods or services is not eligible for composition levy, Sugam Manufacturers is not eligible for composition levy.

Q.10: Subramanian Enterprises has two registered places of business in Delhi. Its aggregate turnover for the preceding year for both the places of business was ₹ 120 lakh. It wishes to pay tax under composition levy, under section 10(1) & 10(2), for one of the places of business in the current year while under normal levy for other. You are required to advise Subramanian Enterprises whether he can do so?

ANSWER:

A registered person with an aggregate turnover in a preceding financial year up to ₹ 1.5 crore is eligible for composition levy, under section 10(1) & 10(2), in Delhi. Since the aggregate turnover of Subramanian Enterprises does not exceed ₹ 1.5 crore, it is eligible for composition levy in the current year. However, all registered persons having the same Permanent Account Number (PAN) have to opt for composition scheme. If one such registered person opts for normal scheme, others become ineligible for composition scheme. Thus, Subramanian Enterprises either have to opt for composition levy for both the places of business or under normal levy for both the places of business.

Q.11: Mr. Ajay has a registered repair centre where electronic goods are repaired/serviced. His repair centre is located in State of Rajasthan and he is not engaged in making any inter-State supply of services. His aggregate turnover in the preceding financial year (FY) is ₹ 45 lakh.

With reference to the provisions of the CGST Act, 2017, examine whether Mr. Ajay can opt for the composition scheme under section 10(1) & 10(2) in the current financial year? Or whether he is eligible to avail benefit of composition scheme under section 10(2A)? Considering the option of payment of tax available to Mr. Ajay, compute the amount of tax payable by him assuming that his aggregate turnover in the current financial year is ₹ 35 lakh.

Will your answer be different if Mr. Ajay procures few items required for providing repair services from neighbouring State of Madhya Pradesh?

ANSWER:

Section 10(1) provides that a registered person, whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5 crore (₹ 75 lakh in Special Category States except Assam, Himachal Pradesh and Jammu and Kashmir), may opt to pay, in lieu of the tax payable by him, an amount calculated at the specified rates. However, as per proviso to section 10(1), person who opts to pay tax under

composition scheme may supply services other than restaurant services, of value not exceeding 10% of the turnover in a State or Union territory in the preceding financial year or ₹ 5 lakh, whichever is higher.

In the given case, since Mr. Ajay is an exclusive supplier of services other than restaurant services [viz. repair services], he is not eligible for composition scheme under section 10(1) & 10(2).

However, section 10(2A) provides an option to a registered person (subject to certain conditions) whose aggregate turnover in the preceding financial year is upto ₹ 50 lakh and who is not eligible to pay tax under composition scheme under section 10(1) & 10(2), to pay tax @ 3% [Effective rate 6% (CGST+ SGST/UTGST)] of the turnover of supplies of goods and services in the State or Union territory.

Thus, in view of the above-mentioned provisions, Mr. Ajay is eligible to avail the composition scheme under section 10(2A) as his aggregate turnover in the preceding FY does not exceed ₹ 50 lakh and he is not eligible to opt for the composition scheme under section 10(1) & 10(2).

Thus, the amount of tax payable by him as per the composition scheme under section 10(2A) is ₹ 2,10,000 [6% of ₹ 35 lakh].

A registered person cannot opt for composition scheme under section 10(2A), if, inter alia, he is engaged in making any inter-State outward supplies. However, there is no restriction on inter-State procurement of goods. Hence, answer will remain the same even if Mr. Ajay procures few items from neighboring State of Madhya Pradesh.

Q.12: M/s United Electronics, a registered dealer, is supplying all types of electronic appliances in the State of Karnataka. Their aggregate turnover in the preceding financial year by way of supply of appliances was ₹ 120 lakh.

The firm also expects to provide repair and maintenance service of such appliances from the current financial year.

With reference to the provisions of the CGST Act, 2017, examine:

- (i) Whether the firm can opt for the composition scheme, under section 10(1) and 10(2), for the current financial year, as the turnover may include supply of both goods and services?
- (ii) If yes, up to what amount, the services can be supplied?

ANSWER:

- (i) The registered persons, whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5 crore, may opt to pay tax under composition levy, under section 10(1) and 10(2).

The scheme can be availed by an intra-State supplier of goods and supplier of restaurant service.

However, the composition scheme permits supply of marginal services (other than restaurant services) for a specified value along with the supply of goods and restaurant service, as the case may be.

Thus, M/s United Electronics can opt for composition scheme for the current financial year as its aggregate turnover is less than ₹ 1.5 crore in the preceding financial year and it is not engaged in inter-State outward supplies.

(ii) The registered person opting for composition scheme, under section 10(1) and 10(2), 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, in the current financial year.

Thus, M/s United Electronics can supply repair and maintenance services up to a value of ₹ 12 lakh [10% of ₹ 120 lakh or ₹ 5 lakh, whichever is higher] in the current financial year.



CH. 4 : EXEMPTIONS FROM GST

QUESTIONS AND ANSWERS

Q.1: Exempt supply includes supply of any goods or services or both which attracts nil rate of tax and which may be wholly exempt from tax, but excludes non-taxable supply. Discuss the validity of the statement.

ANSWER:

The statement is not fully valid in law. Exempt supply has been defined as supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax and includes non-taxable supply.

Q.2: Services provided by an entity registered under section 12AA of the Income-tax Act, 1961 are exempt from GST if such services are provided by way of charitable activities. Elaborate the term 'charitable activities'.

ANSWER:

The term 'charitable activities' mean activities relating to –

- (i) Public health by way of –
 - (A) Care or counselling of
 - (I) Terminally ill persons or persons with severe physical or mental disability;
 - (II) Persons afflicted with HIV or AIDS;
 - (III) Persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or
 - (B) Public awareness of preventive health, family planning or prevention of HIV infection;
- (ii) Advancement of religion, spirituality or yoga;
- (iii) Advancement of educational programmes/skill development relating to, -
 - (A) Abandoned, orphaned or homeless children;
 - (B) Physically or mentally abused and traumatized persons;
 - (C) Prisoners; or
 - (D) Persons over the age of 65 years residing in a rural area;
- (iv) Preservation of environment including watershed, forests & wildlife.

Q.3: Examine which of the following independent services are exempt from GST:

- (a) Food supplied by the canteen run by a hospital to the in-patients as advised by the doctors.

(b) An RWA, registered under GST, collects the maintenance charges of ₹ 6,500 per month per member.

ANSWER:

- (a) Services by way of health care services by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST. Food supplied to the in-patients by a canteen run by the hospital, as advised by the doctor/nutritionists, is a part of composite supply of healthcare and not separately taxable. Thus, said services are exempt from GST.
- (b) Supply of service by a RWA (unincorporated body or a non-profit entity registered under any law) to its own members by way of reimbursement of charges or share of contribution up to an amount of ₹ 7500 per month per member for providing services and goods for the common use of its members in a housing society/a residential complex are exempt from GST. Hence, in the given case, services provided by the RWA are exempt from GST since the maintenance charges collected per month per member do not exceed ₹ 7500.

Q.4: An individual acts as a referee in a football match organized by Sports Authority of India. He has also acted as a referee in another charity football match organized by a local sports club, in lieu of a lump sum payment. Discuss whether any GST is payable on the activities undertaken by him.

ANSWER:

Services provided to a recognized sports body by an individual, inter alia, as a referee in a sporting event organized by a recognized sports body is exempt from GST.

Since in the first case, the football match is organized by Sports Authority of India, which is a recognized sports body, services provided by the individual as a referee in such football match will be exempt.

However, when he acts as a referee in a charity football match organized by a local sports club, he would not be entitled to afore-mentioned exemption as a local sports club is not a recognized sports body and thus, GST will be payable in this case.

Q.5: RXL Pvt. Ltd. manufactures a beauty soap with the brand name 'Forever Young'. RXL Pvt. Ltd. has organized a concert to promote its brand. Ms. Ahana Kapoor, its brand ambassador, who is a leading film actress, has given a classical dance performance in the said concert. The proceeds of the concert worth ₹ 1,20,000 will be donated to a charitable organization.

Examine whether Ms. Ahana Kapoor will be required to pay any GST.

ANSWER:

Services by an artist by way of a performance in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre are exempt from GST, if the consideration charged for such performance is not more than ₹ 1,50,000. However, such exemption is not available in respect of service provided by such artist as a brand ambassador.

Since Ms. Ahana Kapoor is the brand ambassador of 'Forever Young' soap manufactured by RXL Pvt. Ltd., the services rendered by her by way of a classical dance performance in the concert organized

by RXL Pvt. Ltd. to promote its brand will not be eligible for the above-mentioned exemption and thus, be liable to GST. The fact that the proceeds of the concert will be donated to a charitable organization will not have any bearing on the eligibility or otherwise to the above-mentioned exemption.

Q.6: Determine the GST payable @ 18% with respect to each of the following independent services provided by the registered persons:

Particulars	Gross amount charged (₹)
Fees charged for yoga camp conducted by a charitable trust registered under section 12AA of the Income-tax Act, 1961	50,000
Amount charged by business correspondent from banking company for the services provided to the rural branch of a bank with respect to Savings Bank Accounts	1,00,000
Amount charged by cord blood bank for preservation of stem cells	5,00,000
Amount charged for service provided by selectors to a recognized sports body	5,20,000

ANSWER:

Computation of value of taxable supply

Particulars	Amount (₹)	GST Payable @ 18% (₹)
Fees charged for yoga camp conducted by a charitable trust registered under section 12AA of the Income-tax Act, 1961 [Note-1]	Nil	Nil
Amount charged by business correspondent for the services provided to the rural branch of a bank with respect to Savings Bank Accounts [Note-2]	Nil	Nil
Amount charged by cord blood bank for preservation of stem cells [Note-3]	Nil	Nil
Service provided by selectors to a recognized sports body [Note-4]	5,20,000	5,20,000

Notes:

- (1) Services by an entity registered under section 12AA of the Income-tax Act, 1961 by way of charitable activities are exempt from GST. The activities relating to advancement of yoga are included in the definition of charitable activities. So, such activities are exempt from GST.
- (2) Services by business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch have been exempted from GST.

- (3) Services provided by cord blood banks by way of preservation of stem cells/any other service in relation to such preservation are exempt from GST.
- (4) Services provided to a recognized sports body only by an individual 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. Thus, services provided by selectors are liable to GST.

Q.7: Examine whether GST is exempted on the following independent supplies of services:

- (i) Service provided by a private transport operator to Scholar Boys Higher Secondary School in relation to transportation of students to and from the school.
- (ii) Services provided by way of vehicle parking to general public in a shopping mall.

ANSWER:

- (i) Yes. Services provided TO an educational institution by way of transportation of students are exempted from GST.
- (ii) No. Services provided by way of vehicle parking to general public are not exempted from GST. Therefore, GST is payable on the same.

Q.8: A State transport Undertaking has hired motor vehicles meant to carry 8 – 10 passengers from Fast Cab Renting, a motor vehicle renting company. Give your comments as to whether any GST is payable in this case.

ANSWER:

Services by way of giving on hire, inter alia, to a State Transport Undertaking, a motor vehicle meant to carry more than 12 passengers is exempt from GST.

Since the motor vehicles given on hire by Fast Cab Renting to the State Transport Undertaking are meant to carry 8-10 passengers, the same would not be eligible for exemption and would thus, be liable to GST.

Q.9: Indiana Engineering College, a recognised educational institution, has conducted an entrance test examination for various courses run by it and charged entrance fees from the applicants. Determine whether Indiana Engineering College is liable to pay GST on the same.

ANSWER:

Services provided by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee are exempt from GST.

Since in the given case, services provided by Indiana Engineering College -an educational institution - are by way of conduct of entrance examination against entrance fee, the same is exempt and thus, GST is not payable in this case.

Q.10: Ram, an agriculturist, has stored sugarcane in a warehouse. He has taken fumigation services in the said warehouse from Gupta Pest Control Co. for which he paid the

consideration of ₹ 6,000. He seeks your advise on the taxability or otherwise of the service so availed by him.

ANSWER:

Services by way of fumigation in a warehouse of agricultural produce are exempt from GST. In the present case, since Gupta Pest Control Co. provides services by way of fumigation in the warehouse of sugarcane [being an agricultural produce], said services are exempt and GST is not payable on the same.

Q.11: Poorva acts as a team manager for Indian Sports Authority (ISA), a recognised sports body, for a tennis tournament organised by a multinational company and received a remuneration of ₹ 2,00,000. Determine whether GST is payable on the remuneration received by Poorva.

ANSWER:

Services provided by a team manager to a recognised sports body for participation in a sporting event are exempt from GST provided said sporting event is organised by a recognized sports body.

In the given case, the services are being provided by a team manager to a recognised sports body, but the sporting event is not organised by a recognised sports body. Therefore, the services provided by Poorva are not exempt from GST.

Q.12: Babloo Transporters, a Goods Transport Agency, transported relief materials meant for victims of Kerala floods, a natural disaster, by road from Delhi to Ernakulam, for a company. Babloo Transporters is of the view that it is not liable to pay GST on the said services provided as said services are exempt. You are required to advise it on the said issue.

ANSWER:

Services provided by a goods transport agency, by way of transport in a goods carriage of relief materials meant for victims of, inter alia, natural or man-made disasters, calamities, are exempt from GST. Therefore, services provided by Babloo Transporters will be exempt from GST.

Q.13: Keyan Enterprises, an event organizer, provided services to Breathing Wall Ltd. by way of organizing business exhibition in New Delhi as part of Make in India initiative. Keyan Enterprises claims that it is not required to pay GST as the services provided by way of organizing business exhibition are exempt from GST. Examine the technical veracity of the claim of Keyan Enterprises, in the given case.

ANSWER:

No, the claim made by Keyan Enterprises that it is not required to pay GST is not correct. Services provided by an organiser to any person in respect of a business exhibition are exempt from GST only when such business exhibition is held outside India. However, since in the given case, the exhibition is being organized in India, the services of organization of event by Keyan Enterprises will not be exempt from GST.

Q.14: Ekta Charitable trust, registered under section 10(23C)(v) of the Income-tax Act, 1961, manages a temple in Rohini, Delhi. It has given on rent a community hall located within temple premises, to public for celebration of Teej Mela. Rent charged is ₹ 9,500. You are required to determine whether the services provided by Ekta Charitable trust are liable to GST.

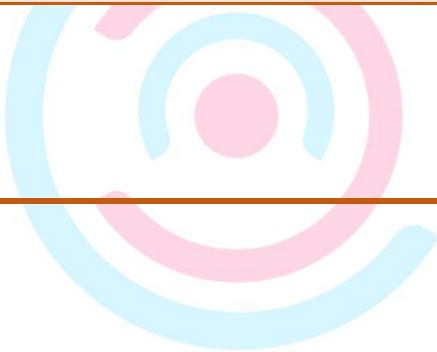
ANSWER:

Services by a person by way of renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a trust or an institution under section 10(23C)(v) of the Income-tax Act are exempt provided renting charges of premises, community halls, kalyanmandapam or open area are not ₹ 10,000 or more per day. Thus, in the given case, renting of community hall by Ekta Charitable Trust is exempt from GST, as rent is less than ₹ 10,000 per day.

Q.15: ST Ltd. has given on hire 5 trucks to Titu Transporters of Delhi (a goods transport agency) for transporting goods in Central and West Delhi. The hiring charges for the trucks are ₹ 7,500 per truck per day. Examine whether GST is payable in the given case.

ANSWER:

GST is not payable in case of hiring of trucks to Titu Transporters since services by way of giving on hire, inter alia, to a goods transport agency, a means of transportation of goods are exempt.



CA DREAMERS
THE AVENGER

CH. 5 : TIME AND VALUE OF SUPPLY

UNIT-I: TIME OF SUPPLY

QUESTIONS AND ANSWERS

Q.1: Explain the significance of time of supply under GST law.

ANSWER:

GST is payable on supply of goods or services. Time of supply indicates the point in time when the liability to pay tax arises. However, it is important to note that though the liability to pay tax arises at the time of supply, the same can be paid to the Government by the due date prescribed with reference to the said 'time of supply'. The CGST Act provides separate provisions for time of supply for goods and services vide sections 12 and 13.

Q.2: GST is payable on advance received for supply of goods and services taxable under forward charge.

Do you agree with the statement? Support your answer with legal provisions.

ANSWER:

The statement is not correct. While GST is payable on advance received for supply of services taxable under forward charge, the same is not payable in case of advance received for supply of goods taxable under forward charge.

As per section 13, the time of supply of services taxable under forward charge is –

➤ Date of issue of invoice or date of receipt of payment, whichever is earlier, if the same is issued within 30 days from the date of supply of service;

OR

➤ Date of provision of service or date of receipt of payment, whichever is earlier, if the invoice is not issued within 30 days from the date of supply of service.

Thus, in case of services, if the supplier receives any payment before the provision of service or before the issuance of invoice for such service, the time of supply gets fixed at that point in time and the liability to pay tax on such payment arises. However, the tax can be paid by the due date prescribed with reference to such time of supply.

As regards time of supply of goods taxable under forward charge is concerned, Notification No. 66/2017 CT dated 15.11.2017 provides that a registered person (excluding composition supplier) should 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. Therefore, in case of goods, tax is not payable on receipt of advance payment.

Q.3: Determine the time of supply in the following cases assuming that GST is payable under reverse charge:

S. No.	Date of receipt of goods	Date of payment by the recipient of goods	Date of issue of invoice by the supplier of goods
(i)	July 1	August 10	June 29
(ii)	July 1	June 25	June 29
(iii)	July 1	Part payment made on June 30 and balance amount paid on July 20	June 29
(iv)	July 5	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1
(v)	July 1	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29
(vi)	August 1	August 10	June 29

ANSWER:

S.No.	Date of receipt of goods	Date of payment by the recipient of goods	Date of issue of invoice by the supplier of goods	Date immediately following 30 days from the date of invoice	Time of supply of goods [Earlier of (1), (2) & (4)]
	(1)	(2)	(3)	(4)	(5)
(i)	July 1	August 10	June 29	July 30	July 1
(ii)	July 1	June 25	June 29	July 30	June 25
(iii)	July 1	Part payment made on June 30 and balance amount paid on July 20	June 29	July 30	June 30 for part payment made and July 1 for balance amount
(iv)	July 5	Payment is entered in the books of account on June 28 and debited in	June 1	July 2	June 28 (i.e., when payment is entered in the books of

		recipient's bank account on June 30			account of the recipient)
(v)	July 1	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29	July 30	June 26 (i.e., when payment is debited in the recipient's bank account)
(vi)	August 1	August 10	June 29	July 30	July 30 (i.e., 31 st day from issuance of invoice)

Q.4: Determine the time of supply in the following cases assuming that GST is payable under reverse charge:

S. No.	Date of payment by the recipient for supply of services	Date of issue of invoice by the supplier of services
(i)	August 10	June 29
(ii)	August 10	June 1
(iii)	Part payment made on June 30 and balance amount paid on September 1	June 29
(iv)	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1
(v)	Payment is entered in the books of account on account on June 30 and debited in recipient's bank account on June 26	June 29

ANSWER:

S. No.	Date of payment by the recipient for supply of services	Date of issue of invoice by the supplier of services	Date immediately following 60 days from invoice	Time of supply of goods [Earlier of (1) & (3)]
	(1)	(2)	(3)	
(i)	August 10	June 29	August 29	August 10
(ii)	August 10	June 1	August 1	August 1

(iii)	Part payment made on June 30 and balance amount paid on September 1	June 29	August 29	June 30 for part payment and August 29 for balance amount
(iv)	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1	August 1	June 28 (i.e. when payment is entered in the books of account of the recipient)
(v)	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29	August 29	June 26 (i.e. when payment is debited in the recipient's bank account)

Q.5: Kabira Industries Ltd. engaged the services of a transporter for road transport of a consignment on 17th June and made advance payment for the transport on the same date, i.e. date, i.e. 17th June. However, the consignment could not be sent immediately on account of a strike in the factory, and instead was sent on 20th July. Invoice was received from the transporter on 22nd July.

What is the time of supply of the transporter's service?

ANSWER:

Time of supply of service taxable under reverse charge is the earlier of the following two dates in terms of section 13(3):

- Date of payment
- 61st day from the date of issue of invoice

In this case, the date of payment precedes 61st day from the date of issue of invoice by the supplier of service. Hence, the date of payment, i.e. 17th June, will be treated as the time of supply of service [Section 13(3)(a)].

Q.6: Raju Pvt Ltd. receives the order and advance payment on 5th January for carrying out an architectural design job. It delivers the designs on 23rd April. By oversight, no invoice is issued at that time, and it is issued much later, after the expiry of prescribed period for issue of invoice.

When is the time of supply of service?

ANSWER:

Since the invoice has not been issued within the prescribed time period, time of supply of service will be the earlier of the following two dates in terms of section 13(2)(b):

- Date of provision of service
- Date of receipt of payment

The payment was received on 5th January and the service was provided on 23rd April. Therefore, the date of payment, i.e. 5th January is the time of supply of the service in this case.

Q.7: Investigation shows that 150 cartons of ceramic capacitors were dispatched on 2nd August but no invoice was raised and the transaction (dispatch of cartons) were not entered in the accounts. There was no evidence of receipt of payment.

What is the time of supply of 150 cartons for the purpose of payment of tax?

ANSWER:

As per Notification No. 66/2017 CT dated 15.11.2017, 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.

In this case since the invoice has not been issued, the time of supply for the purpose of payment of tax will be the last date on which the invoice is required to be issued.

The invoice for supply of goods must be issued on or before the dispatch of goods, i.e. on 2nd August. Therefore, the time of supply for the purpose of payment of tax for the goods will be 2nd August, the date when the invoice should have been issued.

Q.8: An order is placed on Ram & Co. on 18th August for supply of a consignment of customized shoes. Ram & Co. gets the consignment ready and informs the customer and issues the invoice on 2nd December. The customer collects the consignment from the premises of Ram & Co. on 7th December and electronically transfers the payment on the same date, which is entered in the accounts on the next day, 8th December.

What is the time of supply of the shoes for the purpose of payment of tax?

ANSWER:

As per Notification No. 66/2017 CT dated 15.11.2017, 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.

In this case, the invoice is issued before the removal of the goods and is thus, within the time limit prescribed under section 31(1). Therefore, the time of supply for the purpose of payment of tax is the date of issue of invoice, which is 2nd December.

Q.9: Meal coupons are sold to a company on 9th August for being distributed to the employees of the said company. The coupons are valid for six months and can be used against purchase of food items. The employees use them in various stores for purchases of various edible items on different dates throughout the six months.

What is the date of supply of the coupons?

ANSWER:

As the coupons can be used for a variety of food items, which are taxed at different rates, the supply cannot be identified at the time of purchase of the coupons. Therefore, the time of supply of the coupons is the date of their redemption in terms of section 12(4).

Q.10: A firm of advocates issues invoice for services to ABC Ltd. on 17th Feb. The payment is contested by ABC Ltd. on the ground that on account of negligence of the firm, the company's case was dismissed by the Court for non-appearance, which necessitated further appearance for which the firm is billing the company. The dispute drags on and finally payment is made on 3rd November.

Identify the time of supply of the legal services.

ANSWER:

Tax on services supply by a firm of advocates by way of legal services to any business entity is payable under reverse charge by such firm of advocates. Time of supply of services that are taxable under reverse charge is earliest of the following two dates in terms of section 13(3):

- Date of payment [3rd November]
- 61st day from the date of issue of invoice [19th April]

The date of payment comes subsequent to the 61st day from the issue of invoice by the supplier of service. Therefore, the 61st day from the date of supplier's invoice has to be taken as the time of supply. This fixes 19th April as the time of supply.

Q.11: Modern Security Co. provides service of testing of electronic devices. In one case, it tested a batch of devices on 4th and 5th September but could not raise invoice till 19th November because of some dispute about the condition of the devices on return. The payment was made in December.

What is the method to fix the time of supply of the service?

ANSWER:

The time of supply of services, if the invoice is not issued in time, is the date of payment or the date of provision of service, whichever is earlier [Section 13(2)(b)]. In this case, the service is provided on 5th September but not invoiced within the prescribed time limit. Therefore, 5th September, the date of provision of service, being earlier than the date of payment, will be the time of supply.

Q.12: XYZ & Co., firm of Chartered Accountants, issued invoice for services rendered to Mr. A on 7th September. Determine the time of supply in the following independent cases:

- (1) The provision of service was completed on 1st August and payment was received on 28th September.
- (2) The provision of service was completed on 14th August and payment was received on 28th September.
- (3) Mr. A made the payment on 3rd August. However, provision of service was remaining to be completed at that time.

(4) Mr. A made the payment on 15th September. However, provision of service was remaining to be completed at that time.

ANSWER:

The time of supply of services is the date of issue of invoice if the same is issued within 30 days from the date of supply of service OR the date of receipt of payment, whichever is earlier [Section 13(2)(a)].

In case the invoice is not issued within 30 days from the date of supply of service, time of supply is the date of provision of service OR the date of receipt of payment, whichever is earlier [Section 13(2)(b)].

In accordance with the aforesaid provisions, the time of supply in the four independent cases will be:

- (1) 1st August since the invoice is not issued within 30 days of supply of service.
- (2) 7th September since the invoice is issued within 30 days of supply of service and the payment is received after the issuance of invoice.
- (3) 3rd August viz., earlier of date of issuance of invoice (7th September) or date of receipt of payment (3rd August)
- (4) 7th September viz., earlier of date of issuance of invoice (7th September) or date of receipt of payment (15th September)

Q.13: M/s Pranav Associates, a partnership firm, provided recovery agent services to Newtron Credits Ltd., a non-banking financial company and a registered supplier, on 15th January. Invoice for the same was issued on 7th February and the payment was made on 18th April by Newtron Credits Ltd. Bank account of the company was debited on 20th April.

Determine the following:

- (i) Person liable to pay GST
- (ii) Time of supply of service

ANSWER:

(i) Tax on services supplied by a recovery agent to, inter alia, a non-banking financial company (NBFC) is payable under reverse charge by such non-banking financial company.

Therefore, in the given case, person liable to pay GST is the NBFC - Newton Credits Ltd.

(ii) As per section 13(3), the time of supply of service on which GST is payable under reverse charge is earlier of the following:-

- Date of payment as entered in the books of account of the recipient (18th April) or the date on which the payment is debited in his bank account (20th April), whichever is earlier;
- Date immediately following 60 days since issue of invoice by the supplier, i.e. 9th April.

Thus, time of supply of service is 9th April.

Q.14: Mr. X supplied goods for ₹ 50,000 to its customer Miss Diyana on 1st January on the condition that payment for the same will be made within a week. However, Miss Diyana made payment for the said goods on 2nd February and thus, paid interest amounting to ₹ 2,000.

What is the time of supply with regard to addition in the value by way of interest in lieu of delayed payment of consideration?

ANSWER:

As per section 12(6), the time of supply with regard to an addition in value on account of interest, late fee or penalty or delayed payment of consideration is the date on which the supplier received such additional consideration.

Thus, time of supply in respect of interest would be the date on which the supplier has received such additional consideration. i.e. 2nd February.

Q.15: Mansh & Vansh Trading Company, a registered supplier, is liable to pay GST under forward charge. It has furnished the following information:

- (i) Goods were supplied on 3rd October
- (ii) Invoice was issued on 5th October
- (iii) Payment received on 9th October

Determine the time of supply of goods for the purpose of payment of tax.

ANSWER:

As per Notification No. 66/2017 CT dated 15.11.2017, 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.

Further, a registered person is required to issue a tax invoice before or at the time of removal of goods for supply to the recipient. Thus, in the given case, the invoice for supply of goods should have been issued on or before the removal of goods i.e., on 3rd October.

However, since the invoice has not been issued within the prescribed time, the time of supply for the purpose of payment of tax will be the last date on which the invoice is required to be issued i.e., 3rd October.

QUESTIONS AND ANSWERS

Q.1: Are post-supply discounts eligible for deduction from the value of supplies in all situations? Explain.

ANSWER:

No, the post-supply discounts are not eligible for deduction from the value of supplies in all situations. Such discounts are allowed as a deduction from the value of supply only in the situations where the following two conditions are satisfied:

- (i) The discount is in terms of an agreement that existed at the time of supply and can be worked out invoice-wise; and
- (ii) Proportionate input tax credit (ITC) is reversed by the recipient – The buyer would have availed ITC of GST payable on the gross value specified in the invoice. Thus, when a credit note is issued to him by the supplier for the discount, the buyer will reverse the proportionate credit; consequent to which, the suppliers output tax liability will be reduced by the same amount.

If any of the above conditions are not satisfied, post-supply discount is not allowed as a deduction from the value of supply and consequently, GST liability of the supplier does not get reduced.

Q.2: 'Consideration under GST law includes both monetary and non-monetary considerations.'

Discuss the correctness or otherwise of the statement with reference to the definition of term 'consideration' provided under the CGST Act.

ANSWER:

The statement is correct. As per the definition of the term 'consideration' provided under the CGST Act, consideration under the GST law includes both payment in money or otherwise made by the recipient or any other person and also takes within its sweep the monetary value of any act or forbearance for the supply by the recipient or any other person. Further, it includes within its ambit any deposit which is applied as a consideration for the supply but excludes the subsidies provided by the State or Central Government.

The term money has also been defined under the CGST Act and it not only includes cash (Indian as well as foreign currency) but also cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveler's cheque, money order, postal/electronic remittance or any such similar instrument recognized by RBI. Non-monetary consideration essentially means consideration in kind.

Q.3: Sharp Minds Institute provides coaching for engineering entrance examinations. Monthly fee charged by the Institute from a student is ₹ 10,000. The Institute is known for its commitment to provide education to underprivileged children. It trains 10 students every year for entrance examinations free of cost.

The Institute has received ₹ 3,00,000 as coaching fees during a month. Nav Jeevan, an NGO working in the area of education for underprivileged children, has given a subsidy of ₹ 10,000 (in lumpsum) during the month to the Institute as it is serving the cause of underprivileged children.

Determine the value of supply of education services made by Sharp Minds Institute during the month.

ANSWER:

As per section 15(2)(e), the value of a supply includes subsidies directly linked to the price, excluding subsidies provided by the State Governments and the Central Government.

In the given case, though the subsidy is given by a non-Government body, the same is not includible in the value as it is given in lumpsum and not directly linked to the price of the supply being valued. Therefore, the value of supply made by Sharp Minds during the month is ₹ 3,00,000.

Q.4: Furniture Wala is a chain of retail showrooms selling both modern and classic furniture. In order to build strong customer association, the showroom provides free delivery of the furniture at the premises of the customers if the distance between the showroom and the customer's premises is upto 20 kms. Where the distance is more than 20 kms, the showroom charges a concessional freight of ₹ 10 for every additional km.

Ms. Leena Kapoor purchases a double bed, a dressing table and a centre table for ₹ 2,00,000 from Furniture Wala. Ms. Leena gets free delivery of the furniture as her residence is located at a distance of 18 km from the showroom. The showroom incurs an expenditure of ₹ 1000 for delivering the furniture at Ms. Leena's residence.

Determine the value of taxable supply made by Furniture Wala. Will your answer change if residence of Ms. Leena is 50 km away from the showroom?

ANSWER:

In the given case, the showroom is not charging any amount towards freight from Ms. Leena but incurring the same out of its own pocket. Therefore, the same should not be added to the value. Hence, the value of supply will be ₹ 2,00,000.

However, the answer will change in the second case when the showroom will charge ₹ 300 for freight [(50 Km – 20 Km) x ₹ 10] from Ms. Leena. In this case, the supply will be a composite supply (principal supply being the supply of furniture) and value thereof will be ₹ 2,00,300.

Q.5: AKJ Foods Pvt. Ltd. gets an order for supply of processed food from a customer. The customer wants the consignment tested for gluten and specified chemical residues. AKJ Food Pvt. Ltd. does the testing before the supply and charges a testing fee for the same from the part of the consideration for the sale as it is a separate activity.

Is the company's argument correct in the light of section 15?

ANSWER:

Section 15(2) mandates addition of certain elements in the value of supply. Clause (c) of section 15(2) specifies that amount charged for anything done by the supplier in respect of the supply at the time of or before delivery of goods or supply of services shall be included in the value of supply.

Since AKJ Foods Pvt. Ltd. does the testing before the delivery of goods, the charges therefor will be included in the value of the consignment. Therefore, AKJ Foods Pvt. Ltd.'s argument is not correct. The testing fee should be added to the price to arrive at value of the consignment.

Q.6: A philanthropic association makes a substantial donation each year to a reputed private management institution to subsidize the education of low-income group students who have gained admission there. The fee for these individuals is reduced thereby coming to ₹ 3 lakh a year compared to ₹ 5 lakh a year for other students.

What would be the value of the service of coaching and instruction provided by the institution to the low-income group students?

ANSWER:

As per section 15(2)(e), the value of a supply includes subsidies directly linked to the price, excluding State Government and Central Government subsidies. In this case, the subsidy is not received from the Government but from a philanthropic association. Therefore, the subsidy is to be added back to the price to arrive at the value, which comes to ₹ 5 lakh a year.

Q.7: Mezda Banners, an advertising firm, gives its customers an interest – free credit period of 30 days for payment. Its customer ABC paid for the supply 32 days after the supply of service. Mezda Banners waived the interest payable for delay of two days.

The department wants to add interest for two days to the value of supply. Should notional interest be added to the value?

ANSWER:

This is a supply that is valued as per transaction value under section 15(1) as the price is the sole consideration for the supply and the supply is made to unrelated person. The value of a supply includes certain elements like interest which are actually payable. Once waived, the interest is not payable and is therefore, not to be added to the value.

Q.8: Crunch Bakery Products Ltd sells biscuits and cakes through its dealers, to whom it charges the list minus standard discount and pays GST accordingly. When goods remain unsold with the dealers, it offered additional discounts on the stock as an incentive to push the sales.

Can this additional discount be reduced from the price at which the goods were sold, and concomitant tax adjustments made?

ANSWER:

The discounts were not known or agreed for at the time of supply of goods to the dealers. Therefore, in terms of section 15(3), such discounts cannot be reduced from the price on which tax had been paid.

Q.9: Red Pepper Ltd., Delhi a registered supplier, is manufacturing taxable goods. It provides the following details of taxable inter-State supply made by it during the month of March.

S. No.	Particulars	Amount (₹)
(i)	List price of taxable goods supplied inter-State (exclusive of taxes)	15,00,000
(ii)	Subsidy received from the Central Government for supply of taxable goods to Government School (exclusively related to supply of goods included at S. No. 1)	2,10,000
(iii)	Subsidy received from an NGO for supply of taxable goods to an old age home (exclusively related to supply of goods included at S. No. 1)	50,000
(iv)	Tax levied by Municipal Authority	20,000
(v)	Packing charges	15,000
(vi)	Late fee paid by the recipient of supply for delayed payment of consideration (Recipient has agreed to pay ₹ 6,000 in lump sum and no additional amount is payable by him)	6,000

The list price of the goods is net of the two subsidies received. However, the other charges/taxes/fee are charged to the customers over and above the list price.

Calculate the total value of taxable supplies made by Red Pepper Ltd. during the month of March. Rate of IGST is 18%.

ANSWER:

Computation of total value of taxable supplies made by Red Pepper Ltd. during the month of March

Particulars	Amount (₹)
List price of the goods	15,00,000
Subsidy amounting to ₹ 2,10,000 received from the Central Government [Since the subsidy is received from the Government, the same is not includible in the value in terms of section 15(2)(e)]	NIL
Subsidy received from NGO [Since the subsidy is received from a non-Government body and directly linked to the supply, the same is includible in the value in terms of section 15(2)(e)]	50,000
Tax levied by the Municipal Authority [Includible in the value as per section 15(2)(a)]	20,000
Packing charges [Being incidental expenses, the same are includible in the value as per section 15(2)(c)]	15,000

Late fees paid by recipient of supply for delayed payment [Includible in the value as per section 15(2)(d) - As the amount of interest received is a lump sum amount, the same has to be taken as inclusive of GST] [₹ 6,000 x 100/118] rounded off	<u>5,085</u>
Total value of taxable supplies	15,90,085

Q.10: M/s Flow Pro, a registered supplier, sold a machine to BP Ltd. it provides the following information in this regard: -

S. No.	Particulars	Amount (₹)
(i)	Price of the machine [excluding taxes and other charges mentioned at S. Nos. (ii) and (iii)]	25,000
(ii)	Third party inspection charges [Such charges were payable by M/s Flow Pro but the same have been directly paid by BP Ltd. to the inspection agency. These charges were not recorded in the invoice issued by M/s Flo Pro.]	5,000
(iii)	Freight charges for delivery of the machine [M/s Flow Pro has agreed to deliver the goods at BP Ltd.'s premises]	2,000
(iv)	Subsidy received from the state Government on sale of machine under Skill Development Programme [Subsidy is directly linked to the price]	5,000
(v)	Discount of 2% is offered to BP Ltd. on the price mentioned at S. No. (i) above and recorded in the invoice	

Note: Price of the machine is net of the subsidy received.

Determine the value of taxable supply made by M/s Flow Pro to BP Ltd.

ANSWER:

Computation of value of taxable supply made by M/s. Flo Pro to BP Ltd.

Particulars	Amount (₹)
Price of the machine [Since the subsidy is received from the State Government, the same is not includible in the value of supply in terms of section 15(2)(e)]	25,000
Third party inspection charges [Any amount that the supplier is liable to pay in relation to the supply but has been incurred by the recipient and not included in the price actually paid or payable for the goods, is includible in the value of supply in terms of section 15(2)(b)]	5,000
Freight charges for delivery of the machine	2,000

[Since arranging freight is the liability of supplier, it is a case of composite supply and thus, freight charges are added in the value of principal supply.]	
Total	32,000
Less: Discount @ 2% on ₹ 25,000 being price charged to BP Ltd. [Discount given before or at the time of supply if duly recorded in the invoice is deductible from the value of supply in terms of section 15(3)(a)]	<u>500</u>
Value of taxable supply	31,500

Q.11: Shri Krishna Pvt. Ltd., a registered supplier, furnishes the following information relating to goods sold by it to Shri Balram Pvt. Ltd. -

S. No.	Particulars	Amount (₹)
(i)	Price of the goods [excluding taxes and other charges mentioned at S. Nos. (iii), (v) and (vi)]	1,00,000
(ii)	Municipal tax	2,000
(iii)	Inspection charges	15,000
(iv)	Subsidy received from Shri Ram Trust [Subsidy is directly linked to the goods supplied]	50,000
(v)	Late fees for delayed payment inclusive of GST [Shri Balram Pvt. Ltd. paid the late fees. However, these charges were ultimately waived by Shri Krishna Pvt. Ltd. and the amount was refunded to Shri Balram Pvt. Ltd. during the same month]	1,000
(vi)	Weighment charges [Such charges were paid by Shri Balram Pvt. Ltd. to Radhe Pvt. Ltd. on behalf of Shri Krishna Pvt. Ltd.]	2,000

Note: Price of the goods is net of the subsidy received.

Determine the value of taxable supply made by Shri Krishna Pvt. Ltd. to Shri Balram Pvt. Ltd.

ANSWER:

Computation of value of taxable supply made by Shri Krishna Pvt. Ltd. to Shri Balram Pvt. Ltd.

Particulars	Amount (₹)
Price of the goods	1,00,000
Municipal tax [Includible in the value as per section 15(2)(a)]	2,000
Inspection charges	15,000

[Any amount charged for anything done by the supplier in respect of the supply of goods at the time of / before delivery of goods is includible in the value as per section 15(2)(c)]	
Subsidy received from Shri Ram Trust [Since the subsidy is received from a non-Government body and directly linked to the supply, the same is includible in the value in terms of section 15(2)(e)]	50,000
Late fees for delayed payment [Not includible since the same is waived off]	Nil
Weighment charges paid to Radhe Pvt. Ltd. on behalf of Shri Krishna Pvt. Ltd. [Any amount that the supplier is liable to pay in relation to the supply but has been incurred by the recipient and not included in the price actually paid or payable for the goods, is includible in the value of supply in terms of section 15(2)(b)]	<u>2,000</u>
Value of taxable supply	1,69,000

Q.12: Koli Ltd., a registered supplier, has supplied machinery to Ghisa Ltd. (a supplier registered in the same State). It provides following particulars regarding the same:

S. No.	Particulars	Amount (₹)
(i)	Price of machinery (exclusive of taxes and discounts)	5,50,000
(ii)	Part fitted in the machinery at the premises of Ghisa Ltd. [Amount has been paid by Ghisa Ltd. directly to the supplier. However, it was Koli Ltd.'s liability to pay the said amount. The said amount has not been recorded in the invoice issued by Koli Ltd.]	20,000
(iii)	Installation and testing charges for machinery, not included in price	25,000
(iv)	Discount @ 2% on price of the machinery mentioned at S. No. (i) above (recorded in the invoice)	
(v)	Koli Ltd. provides additional discount @ 1% at year end, based on additional purchase of other machinery for which adjustment is made at the end of the financial year without any change in individual transactions.	

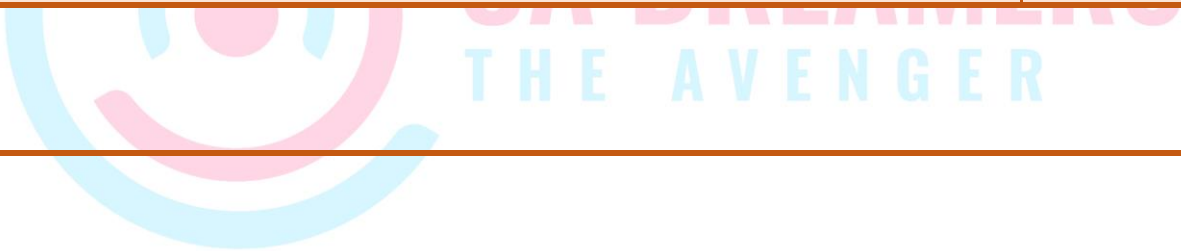
Determine the value of taxable supply made by Koli Ltd. to Ghisa Ltd.

ANSWER:

Computation of value of taxable supply made by Koli Ltd. to Ghisa Ltd.

Particulars	Amount (₹)
Price of machinery (exclusive of taxes and discounts)	5,50,000

<p>Amount paid by Ghisa Ltd. directly to the supplier for the part fitted in the machinery</p> <p>[Any amount that the supplier is liable to pay in relation to a supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods is includible in the value of supply in terms of section 15(2)(b).]</p>	20,000
<p>Installation and testing charges</p> <p>[Any amount charged for anything done by the supplier in respect of the supply of goods at the time of/before delivery of goods is includible in the value of supply in terms of section 15(2)(c).]</p>	25,000
<p>Less: Discount @ 2% on the price of machinery [₹ 5,50,000 × 2%]</p> <p>[Since discount is given at the time of supply of machinery and recorded in the invoice, the same is deductible from the value of the supply in terms of section 15(3)(a).]</p>	11,000
<p>Less: Additional 1% discount at year end</p> <p>[Though the additional discount is established before/at the time of supply, it is not deductible from the value of supply in terms of section 15(3)(b) as the same is not linked to any specific transaction and is adjusted by the parties at the end of the financial year.]</p>	<u>Nil</u>
Value of taxable supply	5,84,000



CH. 6 : INPUT TAX CREDIT

QUESTIONS AND ANSWERS

Q.1: What is input tax?

ANSWER:

Input tax means the central tax (CGST), State tax (SGST), integrated tax (IGST) or Union territory tax (UTGST) charged on supply of goods or services or both made to a registered person. It also includes tax paid on reverse charge basis and integrated goods and services tax charged on import of goods. It does not include tax paid under composition levy.

Q.2: What are the conditions necessary for availing ITC?

ANSWER:

Following four conditions are to be satisfied by the registered taxable person for obtaining ITC:

- (a) He is in possession of tax invoice or debit note or such other tax paying documents as may be prescribed;
- (b) He has received the goods or services or both;
- (c) Subject to section 41, the supplier has actually paid the tax charged in respect of the supply to the Government; and
- (d) He has furnished the return under section 39.

Q.3: Can a person take ITC without payment of consideration for the supply along with tax?

ANSWER:

Yes, the recipient can take ITC. However, he is required to pay the consideration along with tax within 180 days from the date of issue of invoice. This condition is not applicable where tax is payable on reverse charge basis.

Q.4: What is the time limit for taking ITC and reasons therefor?

ANSWER:

Refer point (vi) “Time limit for availing ITC: Due date of filing return for the month of September of succeeding financial year or date of filing of annual return, whichever is earlier” under Heading No. 3 “Eligibility and Conditions for Taking Input Tax Credit [Section 16]”.

Q.5: What is the ITC entitlement of a newly registered person?

ANSWER:

A person applying for registration can take input tax credit of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of grant of registration. If the person was liable to take registration and he has applied for registration within thirty days from the date on which he became liable to registration, then ITC of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date on which he became liable to pay tax can be taken.

In case of voluntary registration, ITC of such goods held in stock on the day immediately preceding the date of registration can be taken.

Q.6: What is the tax implication of supply of capital goods by a registered person who had taken ITC on such capital goods?

ANSWER:

In case of supply of capital goods or plant and machinery on which ITC has been taken, the registered person shall pay an amount equal to the ITC taken on the said capital goods or plant and machinery reduced by 5% per quarter or part thereof from the date of invoice or the tax on the transaction value of such capital goods, whichever is higher.

However, in case of refractory bricks, moulds and dies, jigs and fixtures when these are supplied as scrap, the person can pay tax on the transaction value.

Q.7: A registered person transfers its business to another person.

In such registered person allowed to transfer the unutilized ITC lying in its electronic credit ledger to such transferred business? Discuss.

ANSWER:

As per section 18(3), in case of sale, merger, demerger, amalgamation, transfer or change in ownership of business etc., the ITC that remains unutilized in the electronic credit ledger of the registered person can be transferred to the new entity, provided there is a specific provision for transfer of liabilities in such change of constitution.

The registered person should furnish the details of change in constitution on the common portal and submit a certificate from practicing Chartered Account/Cost Accountant certifying that the change in constitution has been done with a specific provision for transfer of liabilities. Upon acceptance of such details by the transferee on the common portal, the unutilized ITC gets credited to his electronic credit ledger. The transferee should record the inputs and capital goods so transferred in his books of account.

Q.8: Swastik Pvt. Ltd. is a manufacturer of taxable goods. It purchased a machinery for ₹ 8,00,000 on which IGST of ₹ 14,400 is paid. The company has claimed depreciation under the Income-tax Act, 1961 on the full value of the machine, i.e. including the IGST component as also availed ITC of ₹ 14,400 paid by it as IGST.

Examine if the stand taken by the company is correct in law.

ANSWER:

As per section 16(3), if the person taking the ITC on capital goods and plant and machinery has claimed depreciation on the tax component of the cost of the said items under the Income-tax Act 1961, the ITC on the said tax component shall not be allowed.

Since in the given case, Swastik Pvt. Ltd. has claimed depreciation on the tax component of the cost of the machine, it cannot claim ITC of IGST of ₹ 14,400 paid by it on the machine. It can either claim depreciation on the tax component or avail ITC of such tax but cannot avail both the benefits simultaneously.

Q.9: Sigma Consultants, an LLP of finance professionals, provides financial consultancy services. It made an advance payment of ₹ 1,18,000 (inclusive of IGST @ 18%) in the month of October to Azuro Computer Services for developing a software. The software would be used by the LLP to enhance the precision of the financial advice given by it to various clients. The balance payment is to be made after the successful test run of the software in the month of December. Sigma Consultants has availed ITC of IGST of ₹ 18,000 in the month of October.

Do you think Sigma Consultants can avail such ITC? Examine the scenario with reference to the relevant legal provisions.

ANSWER:

As per section 16(2)(b), tax paid on supply of goods and/or services can be availed as ITC only if such goods and/or services are received by the registered person.

In the given case, Sigma Consultants has paid IGST of ₹ 18,000, in the month of October, on advance for IT services intended to be used in the course or furtherance of business. However, it cannot avail ITC of such tax in the month of October as the services in relation to which the advance payment has been made have not been received in that month.

Q.10: A taxable person is in the business of information technology. He buys a car (maximum seating capacity – 5 persons) for use of his Executive Directors.

Can he avail the ITC in respect of GST paid on purchase of such car?

ANSWER:

No. ITC on motor vehicles for transportation of persons with seating capacity of up to 13 persons (including driver), can be availed only if the taxable person is in the business of transport of passengers or is providing the services of imparting training on driving such motor vehicles or is in the business of supply of such motor vehicles.

Q.11: A technical testing agency tests and certifies each batch of machine tools before dispatch by BMT Ltd. Some of these tools are dispatched to a unit in a SEZ without payment of GST as these supplies are not taxable.

The finance personnel of BMT Ltd. want to know whether they need to carry out reversal of ITC on the testing agency's services to the extent attributable to the SEZ supplies. Give your comments.

ANSWER:

ITC is disallowed only to the extent it pertains to supplies used for non-business purposes or supplies other than taxable and zero-rated supplies. Supplies to SEZ units are zero rated supplies in terms of section 16(1) of the IGST Act. Thus, full ITC is allowed on inward supplies of BMT Ltd. used for effecting supplies to the unit in the SEZ.

Q.12: 'AB', a registered person, was paying tax under composition scheme up to 30th July. However, w.e.f. 31st July, 'AB' becomes liable to pay tax under regular scheme.

Is 'AB' eligible for any ITC?

ANSWER:

'AB' is eligible for ITC on inputs held in stock and inputs contained in semi – finished or goods held in stock and capital goods as on 30th July. ITC on capital goods will be reduced by 5% per quarter or part thereof from the date of invoice.

Q.13: Babla Enterprises is exclusively engaged in making exempt supply of goods and is thus, not registered under GST. On 1st October, the exemption available on its goods gets withdrawn. On that day, the turnover of Babla Enterprises was ₹ 50 lakh.

Examine the eligibility of Babla Enterprises for availing ITC, if any.

ANSWER:

Since the exemption available on goods being supplied by Babla Enterprises gets withdrawn, it becomes liable to registration as its turnover has crossed the threshold limit on the day when the exemption is withdrawn.

Assuming that Babla Enterprises applies for registration within 30 days of 1st October and it obtains such registration, it will 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 it becomes liable to pay tax, i.e. 30th September [Section 18(1)(a)]. Input tax paid on capital goods will not be available as ITC in this case.

Q.14: Mamta Trade Links trades in exempt goods and provides taxable services. It is registered under GST. On 1st October, the exemption available on its goods gets withdrawn.

Analyze the scenario and determine the eligibility of Mamta Trade Links for availing ITC, if any, on inputs and/ or capital goods used in the supply of exempt goods.

ANSWER:

If the exempt supply made by a **registered person** becomes a taxable supply, provisions of section 18(1)(d) become applicable. In the given case, since Mamta Trade Links is a registered person, section 18(1)(d) will be applicable.

As per section 18(1)(d), Mamta Trade Links will 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 relating to such exempt supply and on capital goods exclusively used for such exempt supply on the day

immediately preceding the date from which such supply becomes taxable, i.e. 30th September. ITC on capital goods will be reduced by 5% per quarter or part thereof from the date of invoice.

Q.15: Harshgeet Pvt. Ltd., a registered supplier, is engaged in the manufacture of taxable goods. The company provides the following information pertaining to purchases made/ services availed by it during the month of July:

S.No.	Particulars	GST (₹)
(1)	Raw material (to be received in the month of September)	2,50,000
(2)	Membership of a club availed for employees working in the factory	1,45,000
(3)	Inputs to be received in 5 lots, out of which 3 rd lot was received during the month	80,000
(4)	Trucks used for transport of raw material	40,000
(5)	Capital goods (out of 3 items, invoice for 2 items is missing and GST paid on those items is ₹ 80,000)	1,50,000

Determine the amount of ITC available with Harshgeet Pvt. Ltd. for the month of July by giving the necessary explanation for treatment of various items. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

ANSWER:

Computation of ITC available with Harshgeet Pvt. Ltd. for the month of July

Particulars	ITC (₹)
Raw Material [ITC not available as raw material is not received in July]	Nil
Membership of a club availed for employees working in the factory [Blocked credit in terms of section 17(5)]	Nil
Inputs to be received in 5 lots, out of which 3 rd lot was received during the month [In case of goods received in lots, ITC can be taken only upon receipt of the last lot]	Nil
Trucks used for transport of raw material [ITC of GST paid on motor vehicles used for transportation of goods is allowed unconditionally]	40,000
Capital goods [ITC can be availed only on the basis of a valid document (invoice). Thus, GST paid on items for which invoice is missing, i.e. ₹ 80,000, is not available.]	70,000
Total ITC	1,10,000

Q.16: Jamku Ltd., a registered person, is engaged in the business of spices. It provides following details in relation to GST paid on inward supplies procured by it during the month of October.

S.No.	Particulars	GST (₹)
(1)	Raw spices purchase – Raw spices sold to customers – Raw spices used for personal use of directors	50,000 20,000
(2)	Electric machinery purchased for being used in the manufacturing process	25,000
(3)	Motor vehicle used for transportation of the employee	55,000
(4)	Payment made to contractor for construction of staff quarter	1,25,000

Determine the amount of ITC available with Jamku Ltd. for the month October by giving the necessary explanation for treatment of various items. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

ANSWER:

Computation of ITC available with jamku Ltd. for the month of October

Particulars	ITC (₹)
Purchase of raw spices which are sold to customers [Every registered person is entitled to take credit of input tax charged on any supply of goods to him which are used or intended to be used in the course or furtherance of his business.]	50,000
Purchase of raw spices for personal use of directors [ITC is not available on goods used for personal consumption.]	Nil
Electric machinery purchased for being used in the manufacturing process [Every registered person is entitled to take credit of input tax charged on any supply of goods to him which are used or intended to be used in the course or furtherance of his business.]	25,000
Motor vehicle used for transportation of employee [ITC on motor vehicles for transportation of persons with seating capacity \leq 13 persons (including the driver) is blocked except when the same are used for (i) making further taxable supply of such motor vehicles (ii) making taxable supply of transportation of passengers (iii) making taxable supply of imparting training on driving such motor vehicles. In the given case, since the supplier is in the business of spices, ITC on motor vehicle used for transportation of the employee is blocked credit.]	Nil
Payment made to contractor for construction of staff quarter	Nil

[ITC is not available on goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.]	
Total ITC	75,000

Q.17: Dina Ltd., a registered supplier from Maharashtra, is engaged in the manufacture of passenger autos. The company provides the following details of purchases made/ services availed by it during the month of March:

S.No.	Particulars	GST (₹)
(1)	Purchase of iron which is used as a raw material [Goods were received in two instalments - first in March and the second in April]	2,50,000
(2)	Purchase of accessories which were delivered directly to the dealers of the company on the direction of Dina Ltd. [Only invoice was received by Dina Ltd.]	90,000
(3)	Purchase of bus (seating capacity 15) for the transportation of employees from their residence to company and back	1,97,000
(4)	General insurance taken on a car used by executives of the company for official purposes	5,200

You are required to determine the ITC available with Dina Ltd. for the month of March, by giving brief explanations for treatment of various items. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

ANSWER:

Computation of ITC available with Dina Ltd. for the month of March

Particulars	ITC (₹)
Purchase of iron used as a raw material [When inputs are received in instalments, ITC can be availed only on the receipt of last instalment. Hence, since last instalment is received in April, ITC cannot be availed in March.]	Nil
Purchase of accessories delivered directly to the dealers of the company [Goods delivered to another person on the direction of the registered person by way of transfer of documents of title or otherwise, either before or during the movement, are deemed to have been received by such registered person. Thus, ITC is available to the registered person, on whose order/direction the goods are delivered to a third person.]	90,000
Bus for the transportation of employees [ITC on motor vehicles for transportation of persons with seating capacity > 13 persons (including the driver) used for any purpose is allowed.]	1,97,000

<p>General insurance taken on car used by executives of the company for official purpose</p> <p>[ITC on motor vehicles for transportation of persons with seating capacity \leq 13 persons (including the driver) is blocked except when the same are used for (i) making further taxable supply of such motor vehicles (ii) making taxable supply of transportation of passengers (iii) making taxable supply of imparting training on driving such motor vehicles. Further, ITC is not allowed on services of general insurance relating to such ineligible motor vehicles.</p> <p>Since, the car is not used for any of the eligible purposes, ITC thereon is blocked and thus, ITC on general insurance taken on such car is also blocked.]</p>	Nil
Total ITC	2,87,000

Q.18: Comfortable (P) Ltd. is registered under GST in the State of Odisha. It is engaged in the business of manufacturing of iron and steel products. It has received IT engineering services from High-Fi Infotech (P) Ltd. for ₹ 11,00,000/- (excluding GST @ 18%) on 28th October. Invoice for service rendered was issued on 5th November.

Comfortable (P) Ltd. made part payment of ₹ 4,20,000/- on 30th November. Being unhappy with service provided by High-fi Infotech (P) Ltd., it did not make the balance payment. Deficiency in service rendered was made good by High-Fi Infotech (P) Ltd. by 15th April of next year. Comfortable (P) Ltd. made the balance payment on 6th July of next year.

Examine the availability of ITC with Comfortable (P) Ltd. in respect of IT engineering services received by it from High-Fi Infotech (P) Ltd.

ANSWER:

Every registered person is entitled to take credit of input tax charged on any supply of goods and/or services which are used or intended to be used in the course or furtherance of his business if, inter alia, he is in possession of a tax invoice issued by a supplier and he has received the goods and/or services.

The registered person must pay to the supplier, the value of the goods and/or services along with the tax within 180 days from the date of issue of invoice. In the event of failure to do so, the corresponding credits availed by the registered person would be added to his output tax liability, with interest. However, once the recipient makes the payment of value of goods and/or services along with tax, he will be entitled to avail the credit again without any time limit. In case part-payment has been made, proportionate credit would be allowed.

In the given case, High-fi Infotech (P) Ltd. provides the service in the month of October and Comfortable (P) Ltd. receives the invoice in the month of November. Therefore, in view of the above provisions and assuming all other conditions required for availing ITC having been fulfilled, ITC of ₹ 1,98,000 ($\text{₹ } 11,00,000 \times 18\%$) will be availed by Comfortable (P) Ltd. in the month of November when it receives the invoice issued by High-fi Infotech (P) Ltd.

However, proportionate ITC amounting to ₹ 1,33,932 $\Rightarrow [(\text{₹ } 12,98,000 - \text{₹ } 4,20,000)/118] \times 18]$ will be added to the output tax liability of Comfortable (P) Ltd. as full payment has not been made within 180 days of issuance of the invoice, i.e. by 4th May of next year. ITC of ₹ 1,33,932 can, however, be availed again by Comfortable (P) Ltd. in the month of July next year when it makes the balance payment.

Q.19: M/s. Diwan & Sons of New Delhi, has placed an order for 250 kg of plastic granules @ ₹ 50 per kg (exclusive of GST) on M/s. Karim & Bros. of Noida, U.P. M/s. Karim & Bros. has agreed to deliver the goods at the warehouse of M/s. Diwan & Sons at New Delhi.

While the order was getting packed at the factory of M/s. Karim & Bros., M/s. Diwan & Sons got an order from Shubhkamna Sales of Hapur, U.P. for 250 kg of plastic granules @ ₹ 60 per kg (exclusive of GST). In order to save on transportation cost, M/s. Diwan & Sons asks M/s. Karim & Bros. to directly deliver the plastic granules to Shubhkamna Sales at its godown located in Hapur. Accordingly, M/s. Karim & Bros. has delivered the plastic granules at the godown of Shubhkamna Sales at Hapur.

Examine the availability of ITC with M/s. Diwan & Sons & M/s. Karim & Bros.

Note: All the parties are registered under GST and rate of GST is 18%.

ANSWER:

One of the conditions for availing ITC is that the registered person taking the ITC must have received the goods and / or services. However, goods delivered to a third person on the direction of the registered person by way of transfer of documents of title or otherwise, either before or during the movement, are deemed to have been received by such registered person. So, ITC is available to the registered person, on whose order the goods are delivered to a third person even though the registered person does not receive the goods.

In the given case, goods have been delivered by M/s. Karim & Bros. (supplier) to Shubhkamna Sales (third person) on the direction of M/s. Diwan & Sons (registered person). Therefore, in view of the above provisions, ITC of ₹ 2,250 ($₹ 50 \times 250 \times 18\%$) will be available to M/s. Diwan & Sons (registered person) on the purchase of 250 kg of plastic granules @ 50 per kg.

Further, in this case there is another supply between Diwan & Sons (supplier) and Shubhkamna Sales (recipient). Therefore, Shubhkamna Sales can avail ITC of ₹ 2,700 ($₹ 60 \times 250 \times 18\%$) on the purchase of 250 kg of plastic granules @ 60 per kg.

Q.20: Paritosh & Co., a supplier of goods, pays GST under regular scheme. It has made the following outward taxable supplies in a tax period:

Particulars	Amount (₹)
Intra-State supply of goods	10,00,000
Inter-State supply of goods	8,00,000

It has also furnished the following information in respect of purchases made by it in that tax period:

Particulars	Amount (₹)
Intra-State purchases of goods	3,00,000
Inter-State purchase of goods	2,50,000

Paritosh & Co. has following ITCs with it at the beginning of the tax period:

Particulars	Amount (₹)
CGST	57,000
SGST	60,000
IGST	1,40,000

Note:

- (i) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively.
- (ii) Both inward and outward supplies are exclusive of taxes, wherever applicable.
- (iii) All the conditions necessary for availing ITC have been fulfilled.

Compute the minimum GST, payable in cash, by Paritosh & Co. for the tax period and the ITC to be carried forward to the next month. Make suitable assumptions as required.

ANSWER:

Computation of GST payable on outward supplies

S.No.	Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)	Total (₹)
(i)	Intra-State supply of goods for ₹ 10,00,000	90,000	<u>90,000</u>		1,80,000
(ii)	Inter-State supply of goods for ₹ 8,00,000			1,44,000	1,44,000
	Total GST payable				3,24,000

Computation of total ITC

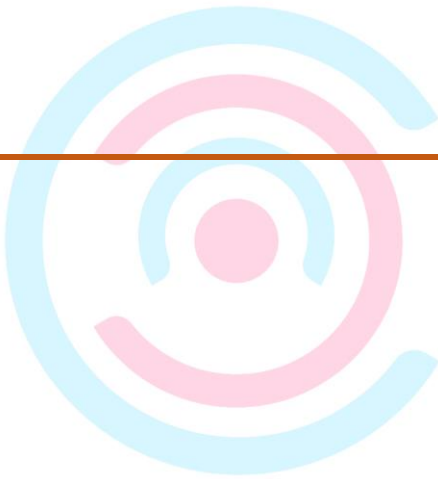
Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)
Opening ITC	57,000	60,000	1,40,000
Add: ITC on Intra-State purchases of goods valuing ₹ 3,00,000	27,000	27,000	Nil
Add: ITC on Inter-State purchases of goods valuing ₹ 2,50,000	Nil	Nil	45,000
Total ITC	84,000	87,000	1,85,000

Computation of minimum GST payable from electronic cash ledger

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)	Total (₹)
GST payable	90,000	90,000	1,44,000	3,24,000
Less: ITC [First ITC of IGST should be utilized in full – First against IGST liability and then	(38,000) IGST	(3,000) IGST	(1,44,000) IGST	1,85,000

against CGST and SGST liabilities in a manner to minimize cash outflow]				
	(52,000) CGST	(87,000) SGST		1,39,000
Minimum GST payable in cash	Nil	Nil	Nil	Nil
ITC balance to be carried forward next month	32,000	Nil	Nil	32,000

Note : The above computation is one of the many ways to set off the ITC of IGST (₹ 41,000-after set off against IGST liability) against CGST and SGST liability to compute minimum GST payable in cash. To illustrate, IGST of ₹ 10,000 can be set off against SGST payable and IGST of ₹ 31,000 can be set off against CGST payable. In this situation also, the net GST payable will be nil but the ITC of CGST and SGST to be carried forward will be ₹ 25,000 and ₹ 7,000 (totaling to ₹ 32,000) respectively. However, if the entire ITC of ₹ 41,000 is set off against CGST payable, then SGST of ₹ 3,000 will be payable in cash thus, increasing the cash outflow. Therefore, such a set off would not be advisable for computing the minimum GST payable.



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CH. 7 : REGISTRATION

QUESTIONS AND ANSWERS

Q.1: Determine the effective date of registration in following cases:

- (a) The aggregate turnover of Dhampur Footwear Industries of Delhi has exceeded the applicable threshold limit of ₹ 40 lakh on 1st September. It submits the application for registration on 20th September. Registration certificate is granted to it on 25th September.
- (b) Mehta Teleservices is an architect in Lucknow. Its aggregate turnover exceeds ₹ 20 lakh on 25th October. It submits the application for registration on 27th November. Registration certificate is granted to it on 5th December.

ANSWER:

- (a) Every supplier becomes liable to registration if his turnover exceeds the applicable threshold limit [₹ 40 lakh in this case] in a financial year [Section 22 read with Notification No. 10/2019 CT dated 07.03.2019].

Since in the given case, the turnover of Dhampur Industries exceeded ₹ 40 lakh on 1st September, it becomes liable to registration on said date.

Further, since the application for registration has been submitted within 30 days from such date, the registration shall be effective from the date on which the person becomes liable to registration [Section 25 read with rule 10]. Therefore, the effective date of registration is 1st September.

- (b) Since in the given case, the turnover of Mehta Teleservices exceeds the applicable threshold limit [₹ 20 lakh] on 25th October, it becomes liable to registration on said date.

Further, since the application for registration has been submitted after 30 days from the date such person becomes liable to registration, the registration shall be effective from the date of grant of registration. Therefore, the effective date of registration is 5th December.

Q.2: In order to be eligible for grant of registration, a person must have a Permanent Account Number issued under the Income – tax Act, 1961. State one exception to it.

ANSWER:

A Permanent Account Number is mandatory to be eligible for grant of registration. One exception to this is a non-resident taxable person. A non-resident taxable person may be granted registration on the basis of other prescribed documents instead of PAN. He has to submit a self-attested copy of his valid passport along with the application signed by his authorized signatory who is an Indian Resident having valid PAN and application will be submitted in a different prescribed form [Section 25(6) & (7)].

Q.3: State which of the following suppliers are liable to be registered:

- (a) Agent supplying taxable goods on behalf of some other taxable person and its aggregate turnover does not exceed the applicable threshold limit during the financial year.
- (b) An agriculturists who is only engaged in supply of produce out of cultivation of land and its aggregate turnover exceeds the applicable threshold limit during the financial year.

ANSWER:

- (a) Section 22 stipulates that every supplier becomes liable to registration if his turnover exceeds the applicable threshold limit in a financial year. However, as per section 24, a person making taxable supply of goods/services or both on behalf of other taxable persons whether as an agent or not is liable to be compulsorily registered even if its aggregate turnover does not exceed the applicable threshold limit during the financial year.
- (b) As per section 23, an agriculturist who is only engaged in supply of produce out of cultivation of land is not required to obtain registration even if his turnover exceeded the applicable threshold limit for registration.

Q.4: Pure Oils, Delhi has supplied machine oil and high-speed diesel in the month of April as per the details given in table below. Pure Oils is not yet registered.

Sl.No.	Particulars	Amount (₹)*
(i)	Supply of machine oil in Delhi	15,00,000
(ii)	Supply of high speed diesel in Delhi	10,00,000
(iii)	Supply of machine oil made in Punjab by Pure Oils from its branch located in Punjab	10,00,000

*excluding GST

Determine whether Pure Oils is liable for registration.

ANSWER:

As per section 22 read with Notification No. 10/2019 CT dated 07.03.2019, 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:-

- (a) ₹ 10 lakh for the Special Category States of Mizoram, Tripura, Manipur and Nagaland.
- (b) ₹ 20 lakh for the States, namely, States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.
- (c) ₹ 40 lakh for rest of India except persons engaged in making supplies of ice cream and other edible ice, whether or not containing cocoa, Pan masala and Tobacco and manufactured tobacco substitutes.

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

- (a) ₹ 10 lakh for the Special Category States of Mizoram, Tripura, Manipur and Nagaland.

(b) ₹ 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 computed on all India basis. Further, the aggregate turnover excludes central tax, State tax, Union territory tax, integrated tax and cess. Moreover, the value of inward supplies on which tax is payable under reverse charge is not taken into account for calculation of 'aggregate turnover'.

Section 9(2) provides that CGST is not leviable on five petroleum products i.e. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel. As per section 2(47), exempt supply includes non-taxable supply. Thus, supply of high speed diesel in Delhi, being a non-taxable supply, is an exempt supply and is, therefore, includible while computing the aggregate turnover.

In the backdrop of the above-mentioned discussion, the aggregate turnover of Pure Oils for the month of April is computed as under:

S.No.	Particulars	Amount (₹)*
(i)	Supply of machine oils in Delhi	15,00,000
(ii)	Add: Supply of high speed diesel in Delhi	10,00,000
(iii)	Add: Supply of machine oil made by Pure Oils from its branch located in Punjab	<u>10,00,000</u>
	Aggregate Turnover	35,00,000

Pure Oils is making exclusive supply of goods and hence the threshold limit for registration would be ₹ 40,00,000. Since the aggregate turnover does not exceed ₹ 40,00,000, Pure Oils is not liable to be registered.

Q.5: What will be your answer if in question 8 above, in S.No. (ii), Pure Oils supplies the high speed diesel in Delhi in the capacity of an agent of Mixed Oils Ltd.?

ANSWER:

In case Pure Oils makes the supply in capacity of an agent of Mixed Oils Ltd.:

Section 24 provides that an agent who is engaged in making taxable supplying of goods on behalf of other taxable persons, shall be liable to obtain registration irrespective of the threshold turnover limit. However, in the present case, if Pure Oils supply high speed diesel on behalf of Mixed Oil Ltd. in Delhi as its agent, it shall still not be liable to obtain registration in Delhi since section 24 comes into play only when agent is making taxable supply of goods on behalf of principal whereas in the given case, Pure Oils is supplying non-taxable goods on behalf of Mixed Oils Ltd.

Q.6: Examine whether the supplier of goods is liable to get registered in the following independent cases:-

- (i) Raghav of Assam is exclusively engaged in intra-State taxable supply of readymade garments. His turnover in the current financial year (FY) from Assam showroom is ₹ 33 lakh. He has another showroom in Tripura with a turnover of ₹ 11 lakh in the current FY.
- (ii) Pulkit of Panjim, Goa is exclusively engaged in intra-State taxable supply of shoes. His aggregate turnover in the current financial year is ₹ 22 lakh.
- (iii) Harshit of Himachal Pradesh is exclusively engaged in intra-State supply of pan masala. His aggregate turnover in the current financial year is ₹ 24 lakh.

ANSWER:

As per section 22 read with *Notification No. 10/2019 CT dated 07.03.2019*, 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:-

- (a) ₹ 10 lakh for the Special Category States of Mizoram, Tripura, Manipur and Nagaland.
- (b) ₹ 20 lakh for the States, namely, States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.
- (c) ₹ 40 lakh for rest of India except persons engaged in making supplies of ice cream and other edible ice, whether or not containing cocoa, Pan masala and Tobacco and manufactured tobacco substitutes.

In the light of the afore-mentioned provisions, the answer to the independent cases is as under:-

- (i) Raghav is eligible for higher threshold limit of turnover for registration, i.e. ₹ 40 lakh as he is exclusively engaged in intra-State supply of goods. However, since Raghav is engaged in supplying readymade garments from a Special Category State i.e. Tripura, the threshold limit gets reduced to ₹ 10 lakh. Thus, Raghav is liable to get registered under GST as his turnover exceeds ₹10 lakh. Further, he is required to obtain registration in both Assam and Tripura as he is making taxable supplies from both the States.
- (ii) The applicable threshold limit for registration for Pulkit in the given case is ₹ 40 lakh as he is exclusively engaged in intra-State taxable supply of goods in Goa. Thus, he is not liable to get registered under GST as his turnover is less than the threshold limit.
- (iii) Harshit being exclusively engaged in supply of pan masala is not eligible for higher threshold limit of ₹40 lakh. The applicable threshold limit for registration in this case is ₹20 lakh. Thus, Harshit is liable to get registered under GST.

Q.7: Examine whether the supplier is liable to get registered in the following independent cases:-

- (i) Ankit of Assam is exclusively engaged in intra-State supply of taxable services. His aggregate turnover in the current financial year is ₹ 25 lakh.
- (ii) Sanchit of Assam is engaged in intra-State supply of both taxable goods and services. His aggregate turnover in the current financial year is ₹ 30 lakh.

ANSWER:

As per section 22 read with *Notification No. 10/2019 CT dated 07.03.2019*, 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 taxable supply of services or supply of both goods and services is as under:-

- (a) ₹ 10 lakh for the Special Category States of Mizoram, Tripura, Manipur and Nagaland.
- (b) ₹ 20 lakh for the rest of India.
 - (i) Though Ankit is dealing in Assam, he is not entitled for higher threshold limit for registration as the same is applicable only in case of exclusively supply of goods and he is exclusively engaged in providing services. Thus, the applicable threshold limit for registration in this case is ₹ 20 lakh and hence, Ankit is liable to get registered under GST.
 - (ii) Since Sanchit is engaged in supply of both taxable goods and services, the applicable threshold limit for registration in his case is ₹ 20 lakh. Thus, Sanchit is liable to get registered under GST as his turnover is more than the threshold limit.

Q.8: What are the advantage of taking registration in GST?

ANSWER:

Registration will confer following advantages to the business:

- Legally recognized as supplier of goods or services.
- Proper accounting of taxes paid on the input goods or services which can be utilized for payment of GST due on supply of goods or services or both by the business.
- Legally authorized to collect tax from his purchasers and pass on the credit of the taxes paid on the goods or services supplied to purchasers or recipients.
- Become eligible to avail various other benefits and privileges rendered under the GST laws.

Q.9: Can a person without GST registration collect GST and claim ITC?

ANSWER:

No, a person without GST registration can neither collect GST from his customers nor can claim any input tax credit of GST paid by him.

Q.10: If person is making taxable supplies from different States, with the same PAN number, can he operate with a single registration?

ANSWER:

No. Every person who is liable to take a registration will have to get registered separately for each of the States where he has a business operation (and making taxable supplies) provided his aggregate turnover exceeds applicable threshold limit.

Q.11: Can a person having multiple places of business in a State obtain separate registrations for each place of business?

ANSWER:

Yes. In terms of the proviso to sub-section (2) of section 25, a person having multiple places of business in a State may obtain a separate registration for each place of business, subject to such conditions as may be prescribed.

Q.12: Is there a provision for a person to get himself voluntarily registered though he may not be liable to pay GST?

ANSWER:

Yes. In terms of sub-section (3) of section 25, a person, though not liable to be registered under sections 22 or 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered taxable person, shall apply to such person.

Q.13: Can the Department, through the proper officer, suo-moto proceed to register a person under GST?

ANSWER:

Yes. In terms of sub-section (8) of section 25, where a person who is liable to be registered under GST law fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under CGST Act, or under any other law for the time being in force, proceed to register such person in the manner as is prescribed in the CGST Rules.

Q.14: Whether the registration granted to any person is permanent?

ANSWER:

Yes, the registration certificate once granted is permanent unless surrendered, cancelled, suspended or revoked.

Q.15: Is it necessary for the UN bodies to get registration under GST?

ANSWER:

In terms of section 25(9), all notified UN bodies, Consulate or Embassy of foreign countries and any other class of persons so notified would be required to obtain a unique identification number (UIN) from the GST portal.

The structure of the said ID would be uniform across the States in conformity with GSTIN structure and the same will be common for the Centre and the States. This UIN will be needed for claiming refund of taxes paid on notified supplies of goods and services received by them, and for any other purpose as may be notified.

Q.16: What is the responsibility of the taxable person making supplies to UN bodies?

ANSWER:

The taxable supplier making supplies to UN bodies is expected to mention the UIN on the invoices and treat such supplies as supplies to another registered person (B2B).

Q.17: What is the validity period of the registration certificate issued to a casual taxable person and non-resident taxable person?

ANSWER:

In terms of section 27(1) read with proviso thereto, the certificate of registration issued to a “casual taxable person” or a “non-resident taxable person” shall be valid for a period specified in the application for registration or 90 days from the effective date of registration, whichever is earlier. However, the proper officer, at the request of the said taxable person, may extend the validity of the aforesaid period of 90 days by a further period not exceeding 90 days.

Q.18: What happens when the registration is obtained by means of wilful mis-statement, fraud or suppression of facts?

ANSWER:

In such cases, the registration may be cancelled with retrospective effect by the proper officer [Section 29(2)(e)].

Q.19: Is there an option to take centralized registration for services under GST Law?

ANSWER:

No, the tax payer has to take separate registration in every State from where he makes taxable supply of services.

Q.20: What could be the liabilities (in so far as registration is concerned) on transfer of a business?

ANSWER:

The transferee or the successor shall be liable to be registered with effect from such transfer or succession and he will have to obtain a fresh registration with effect from the date of such transfer or succession [Section 22(3)].

Q.21: At the time of registration, will the assessee have to declare all his places of business?

ANSWER:

Yes. The principal place of business and place of business have been separately defined under section 2(89) & 2(85) respectively. The taxpayer will have to declare the principal place of business as well as the details of additional places of business in the registration form.

Q.22: Does cancellation of registration impose any tax obligations on the person whose registration is so cancelled?

ANSWER:

Yes, as per section 29(5), every registered taxable person whose registration is cancelled shall pay an amount, by way of debit in the electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher.



CH. 8 : TAX INVOICE; CREDIT AND DEBIT NOTES;

E-WAY BILL

QUESTIONS AND ANSWERS

Q.1: Sultan Industries Ltd., Delhi, entered into a contract with Prakash Entrepreneurs, Delhi, for supply of spare parts of a machine on 7th September. The spare parts were to be delivered on 30th September. Sultan Industries Ltd. removed the finished spare parts from its factory on 29th September. Determine the date by which invoice must be issued by Sultan Industries Ltd. under GST law.

ANSWER:

As per the provisions of section 31, invoice shall be issued before or at the time of removal of goods for supply to the recipient, where the supply involves movement of goods. Accordingly, in the given case, the invoice must be issued on or before 29th September.

Q.2: MBM Caretakers, a registered person, provides the services of repair and maintenance of electrical appliances. On April 1, it has entered into an annual maintenance contract with P for its Air Conditioner and Washing Machine. As per the terms of contract, maintenance services will be provided on the first day of each quarter of the relevant financial year and payment for the same will also be due on the date on which service is rendered. During the year, it provided the services on April 1, July 1, October 1, and January 1 in accordance with the terms of contract. When should MBM Caretakers issue the invoice for the services rendered?

ANSWER:

Continuous supply of service means, *inter alia*, supply of any service which is provided, or agreed to be provided continuously or on recurrent basis, under a contract, for a period exceeding 3 months with the periodic payment obligations.

Therefore, the given situation is a case of continuous supply of service as repair and maintenance services have been provided by MBM Caretakers on a quarterly basis, under a contract, for a period of one year with the obligation for quarterly payment.

In terms of section 31, in case of continuous supply of service, where due date of payment is ascertainable from the contract (as in the given case), invoice shall be issued on or before the due date of payment.

Therefore, in the given case, MBM Caretakers should issue quarterly invoices on or before April 1, July 1, October 1, and January 1.

Q.3: The aggregate turnover of Sangri Services Ltd., Delhi, exceeded ₹ 20 lakh on 12th August. He applied for registration on 3rd September and was granted the registration certificate on 6th September. You are required to advice Sangri Services Ltd. as to what is

the effective date of registration in its case. It has also sought your advice regarding period for issuance of Revised Tax Invoices.

ANSWER:

As per section 25 read with CGST Rules, where an applicant submits application for registration within 30 days from the date he becomes liable to registration, effective date of registration is the date on which he becomes liable to registration. Since, Sangri Services Ltd.'s turnover exceeded ₹ 20 lakh on 12th August, it became liable to registration on same day. Further, it applied for registration within 30 days of so becoming liable to registration, the effective date of registration is the date on which he becomes liable to registration, i.e. 12th August.

As per section 31 read with CGST Rules, every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue Revised Tax Invoices. Revised Tax Invoices shall be issued within 1 month from the date of issuance of certificate of registration. Revised Tax Invoices shall be issued within 1 month from the date of issuance of registration in respect of taxable supplies effected during the period starting from the effective date of registration till the date of issuance of certificate of registration.

Therefore, in the given case, Sangri Services Ltd. has to issue the Revised Tax Invoices in respect of taxable supplies effected during the period starting from the effective date of registration (12th August) till the date of issuance of certificate of registration (6th September) within 1 month from the date of issuance of certificate of registration, i.e. on or before 6th October.

Q.4: Shyam Fabrics has opted for composition levy scheme in the current financial year. It has approached you for advice whether it is mandatory for it to issue a tax invoice. You are required to advise him regarding same.

ANSWER:

A registered person paying tax under the provisions of section 10 [composition levy] shall issue, instead of a tax invoice, a bill of supply containing such particulars and in such manner as may be prescribed [Section 31(3)(c) read with CGST Rules, 2017].

Therefore, in the given case, Shyam Fabrics cannot issue tax invoice. Instead, it shall issue a Bill of Supply.

Q.5: Royal Fashions, a registered supplier of designer outfits in Delhi, decides to exhibit its products in a Fashion Show being organised at Hotel Park Royal, Delhi on 4th January. For the occasion, it gets the service by way of makeover of its models from Aura Beauty Services Ltd., Ashok Vihar, for which a consideration is ₹ 5,00,000 (excluding GST) has been charged. Aura Beauty Services Ltd. issued a duly signed tax invoice on 10th February showing the lumpsum amount of ₹ 5,90,000 inclusive of CGST and SGST @ 9% each for the services provided. Answer the following questions:

- (i) Examine whether the tax invoice has been issued within the time limit prescribed under law.
- (ii) Tax consultant of Royal Fashions objected to the invoice raised suggesting that the amount of tax charged in respect of the taxable supply should be shown separately in the invoice raised by Aura Beauty Services Ltd. However, Aura Beauty Services Ltd.

contended that there is no mandatory requirement of showing tax component separately in the invoice. You are required to examine the validity of the objection raised by tax consultant of Royal Fashions.

ANSWER:

(i) As per section 31 read with the CGST Rules, in case of taxable supply of services, invoices should be issued before or after the provision of service, but within a period of 30 days [45 days in case of insurer/ banking company or financial institutions including NBFCs] from the date of supply of service.

In view of said provisions, in the present case, the tax invoice should have been issued in the prescribed time limit of 30 days from the date of supply of service i.e. upto 3rd February. However, the invoice has been issued on 10th February.

(ii) Section 31 read with the CGST Rules, inter alia, provides that tax invoice in addition to other mandatory details shall also contain the amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess). Further, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made.

The objection raised by the tax consultant of Royal Fashions suggesting that the amount of tax charged in respect of the taxable supply of makeover services should be shown separately in the invoice raised by Aura Beauty Services Ltd., is valid in law.

Q.6: Kidzee Toys Ltd., a wholesaler of toys registered in Chandigarh, is renowned in the local market for the variety of toys and their reasonable prices. Kidzee Toys Ltd. makes supply of 100 pieces of baby's learning laptops and chat learning phones to Nancy General Store on 25th September by issuing a tax invoice amounting to ₹ 1,00,000.

However, the said toys were returned by Nancy General Store on 30th September. Discuss which document Kidzee Toys Ltd. is required to issue in such a case?

ANSWER:

Kidzee Ltd. is required to issue a credit note in such a case.

As per section 34, where one or more tax invoices have been issued for supply of any goods or services or both and the goods supplied are returned by the recipient the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed. Therefore, Kidzee Ltd. is required to issue a credit note to Nancy General Store for the good returned.

Q.7: Rana Sanga Ltd., a registered supplier, has made following taxable supplies to its customer Babur in the quarter ending 30th June.

Date	Bill No.	Particulars	Invoice value (including GST) [₹]
5 th April	102	Notebooks [10 in numbers]	1,200

10 th May	197	Chart Paper [4 in number]	600
20 th May	230	Crayon colors [2 packets]	500
2 nd June	254	Poster colors [5 packets]	900
22 nd June	304	Pencil box [4 sets]	700

Goods in respect of bill no. 102, 230 and 254 have been returned by Babur. You are required to advise Rana Sanga Ltd. whether it can issue a consolidated credit note against all the three invoices?

ANSWER:

Where one or more tax invoices have been issued for supply of any goods and/or services and

- (a) the taxable value/tax charged in that tax invoice is found to exceed the taxable value/tax payable in respect of such supply, or
- (b) where the goods supplied are returned by the recipient, or
- (c) where goods and/or services supplied are found to be deficient,

the registered person, who has supplied such goods and/or services, may issue to the recipient one or more credit notes for supplies made in a financial year containing prescribed particulars.

Thus, one (consolidated) or more credit notes can be issued in respect of multiple invoices issued in a financial year without linking the same to individual invoices.

Hence, in view of the above-mentioned provisions, Rana Sanga Ltd. can issue a consolidated credit note for the goods returned in respect of all the three invoices.

Q.8: Chidanand Products Pvt. Ltd. is a registered supplier who has opted for composition levy in the current financial year. He wishes to know whether the issue of a bill of supply can be dispensed with under any circumstances. You are required to advise him.

ANSWER:

Yes, Chidanand Products Pvt. Ltd. may not issue a bill of supply if the value of the goods or services or both supplies is less than ₹ 200 subject to the condition that:

- (a) the recipient is not a registered person; and
- (b) the recipient does not require such bill of supply,

and he shall issue a consolidated bill of supply for such supplies at the close of each day in respect of all such supplies.

Q.9: A registered person has to mandatorily issue separate invoice for taxable and exempted goods when supplying both taxable as well as exempted goods to an unregistered person. Examine the validity of the statement.

ANSWER:

The statement is not valid in law. As per the CGST Rules, where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single “invoice-cum-bill of supply” may be issued for all such supplies.

Q.10: A non-banking financial company can issue a consolidated tax invoice at the end of every month for the supply made during that month. Examine the validity of the statement.

ANSWER:

The said statement is valid in law. A customer may avail numerous services from a non-banking financial company in a given tax period. It may issue a consolidated tax invoice/ statement/ advice, any other document in lieu thereof, by whatever name called may be issued/ made available, physically/ electronically, for supply of services made during a month at the end of the month.

Q.11: Sakthi Enterprises, Kolkata entered into a contract with Suraj Enterprises, Surat for supply of goods and the delivery shall be made on or before 31st October. The goods were removed from the factory at Kolkata on 11th October. As per the agreement, the goods were to be delivered on or before 31st October. Suraj Enterprises has received the goods on 14th October. Determine the time of issue of invoice as per the provisions of CGST Act.

ANSWER:

A registered person supplying taxable goods shall issue a tax invoice, before or at the time of removal of goods for supply to the recipient, where the supply involves movement of goods.

Therefore, in the given case, invoice has to be issued on or before, 11th October (the time of removal of goods).

Q.12: Trust and Fun Ltd., an event management company, has provided its services for an event at Kapoor Film Agencies, Mumbai on 5th June. Payment for the event was made on 19th June. Determine the time of issue of invoice as per the provision of CGST Act.

ANSWER:

A registered person [other than an insurer/ banking company/ financial institution, including an NBFC] supplying taxable services shall issue a tax invoice before or after the provision of services. But within a period of 30 days from the date of supply of service.

Thus, in the given case, invoice has to be issued within 30 days of 5th June (date of supply of service), i.e. on or before, 5th July.

Q.13: Udai Singh, a registered supplier, has received advance payment with respect to services to be supplied to Sujamal. His accountant asked him to issue the receipt voucher with respect to such services to be supplied. However, he is apprehensive as to what would happen in case a receipt voucher is issued, but subsequently no services are supplied. You are required to advise Udai Singh regarding the same.

ANSWER:

Udai Singh is required to issue a receipt voucher at the time of receipt of advance payment with respect to services to be supplied to Sujamal. A receipt voucher is a document evidencing receipt of advance money towards a supply of goods and/or services or both. A registered person, on receipt of advance payment with respect to any supply of goods or services or both, shall issue a receipt voucher or any other document, evidencing receipt of such payment.

Where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment. Therefore, in case subsequently no services are supplied by Udai Singh, and no tax invoice is issued in pursuance thereof, Udai Singh may issue a refund voucher against such payment to Sujamal.

Q.14: Bhoj Raj, a registered person, has availed GTA services on which he is liable to pay tax under reverse charge. He wishes to know whether he is required to issue an invoice. Please advise him discussing the relevant provisions under CGST Act and rules thereunder.

ANSWER:

Bhoj Raj is required to issue an invoice with regard to the GTA services availed by him. A registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 (i.e. where the recipient is liable to discharge GST on reverse charge basis) shall issue an invoice in respect of goods or services or both received by him from the supplier on the date of receipt of goods or services or both.

Q.15: Sitaram Textiles has to send cloth for dyeing to its job-worker. It wishes to know whether it needs to issue a tax invoice at the time of sending the goods to Job-worker. Please advise him with reference to the provisions of the CGST Act.

ANSWER:

Sitaram Textiles has to issue a delivery challan and not the tax invoice at the time of sending the goods to job-worker. Rule 55, inter alia, stipulates that for the purposes of transportation of goods for job work, the consignor may issue a delivery challan, serially numbered, in one or multiple series, in lieu of invoice at the time of removal of goods for transportation, containing the following details, namely:

-
- (i) date and number of the delivery challan;
- (ii) name, address and Goods and Services Tax Identification number of the consignor, if registered;
- (iii) name, address and Goods and Services Tax Identification number of Unique Identity Number or the consignee, if registered;
- (iv) Harmonised System of Nomenclature code and description of goods;
- (v) Quantity (provisional, where the exact quantity being supplied is not known);
- (vi) Taxable value;
- (vii) Tax rate and tax amount – central tax, State tax, integrated tax, Union territory tax or cess, where the transportation is for supply to the consignee;

(viii) Place of supply, in case of inter-State movement; and

(ix) Signature.

The delivery challan shall be prepared in triplicate, in case of supply of goods, in the following manner, namely: -

- (a) The original copy being marked as ORIGINAL FOR CONSIGNEE;
- (b) The duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and
- (c) The triplicate copy being marked as TRIPLICATE FOR CONSIGNER.



CH. 9 : PAYMENT OF TAX

QUESTIONS AND ANSWERS

Q.1: Examine the authority vested under CGST Act, 2017 for preventing a registered person from utilising the input tax credit availed in a fraudulent manner?

ANSWER:

Every registered person, shall avail the input tax credit through a return filed under Section 39 of CGST Act, 2017. Input Tax credit availed shall be credited to electronic credit ledger under section 41 of the CGST Act, 2017 on a provisional basis. As per provisions contained in Rule 86A, In case the Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner, has reasons to believe that ITC available in the electronic credit ledger has been fraudulently availed or is ineligible, he may prohibit use of ITC for discharge of any liability under section 49 or for claim of any refund of any unutilised amount.

Q.2: Mr. A has deposited a sum of ₹ 30,000 under minor head of “Interest” column for the major head “IGST”. At the time of filing GSTR-3B for a particular tax period, he noticed that there is no sufficient amount under the minor head ‘Tax’ towards payment of ₹ 30,000. When approached with the Jurisdictional Tax officer, Mr. A was guided to deposit the tax amount under proper head of account and claim a refund for the remittance of amount deposited under head “interest”. Examine the relevant provisions of CGST Act, 2017 towards payment of tax and compliance with the law.

ANSWER:

Provisions of Section 49(10) of CGST Act, 2017 permit a registered person for transferring the amount deposited under any of the minor head i.e. tax, interest, penalty, fees or others to any of the heads under IGST/CGST/SGST/UTGS and make the payment of taxes there upon. Accordingly, Mr. A need not deposit the tax amount under head “ tax” and claim a refund for the remittance of amount deposited under head ”interest. Rather, using the Form GST PMT 09, such amount can be transferred suo-moto on the common portal from “interest” to “tax” head and tax liability be paid

Q.3: PPC Ltd., has availed Input Tax credit for ₹ 54,000/- IGST during February 2021 on a particular purchase. Accounting records for the above purchase, indicate that IGST paid to the supplier is ₹ 45,000/- as per the bill received. GSTR1 uploaded by the supplier for the above supply indicates ₹ 45,000/- as tax paid. Examine as per GST provisions, what value shall be updated in the ledgers maintained on behalf of PPC Ltd., on the common portal?

ANSWER:

PPC Ltd., have accounted and paid ₹ 45,000/- as IGST to the supplier concerned. However, availment of input tax credit has been made for ₹ 54,000/-.

As per Section 49(2) of CGST Act, 2017 “The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with section 41, to be maintained in such manner as may be prescribed.”

Q.4: M/s ABC & Co., have defaulted in filing the return under Section 39 of CGST Act, 2017 i.e. GSTR-3B for the month of March, 2021 within the specified due date. Reason for such delay is attributable to delay in closure of Books for March 2021, which have been finalised during May 2021. The GST Common portal prompted for payment of late fees payable under Section 47 of CGST Act, 2017 for a sum of ₹ 2,000 under CGST and SGST each. Accountant, of M/s ABC & Co., sought your confirmation for payment of such late fees through the balance available in Electronic Credit Ledger for the late fees. Give your guidance in this regard

ANSWER:

Section 49(3) of the CGST Act, 2017 provides that the amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made there under in prescribed manner.

Further, section 49(4) provides that the amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in prescribed manner.

Accordingly, as per the combined reading of the above provisions, late fees shall be paid only through electronic cash ledger and not possible through electronic credit ledger. Thus, contention of the accountant of M/s ABC & Co., is not correct and the above amount shown on the common portal has to be deposited in Electronic Cash Ledger under appropriate minor head, through any of the specified modes.

Q.5: How many types of electronic ledger/ register are there?

ANSWER:

- (a) Electronic cash ledger
- (b) Electronic credit ledger
- (c) Electronic liability register

Q.6: What are the main features of GST payment process?

ANSWER:

The main features of GST payment process are as follows:-

- (a) Electronically generated challan from GSTN common portal in all modes of payment and no use of manually prepared challan;
- (b) Facilitation for the tax payer by providing hassle free, anytime, anywhere mode of payment of tax;
- (c) Convenience of making payment online;

- (d) Realtime data for tax collection in electronic format;
- (e) Faster remittance of tax revenue to the Government Account;
- (f) Paperless transactions;
- (g) Speedy Accounting and reporting;
- (h) Electronic reconciliation of all receipts;
- (i) Simplified procedure for banks;
- (j) Warehousing of Digital Challan.

Q.7: Are principles of unjust enrichment applicable for payment made under GST?

ANSWER:

Yes, as per Section 49(9) of the CGST Act, 2017 every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.

Q.8: State the name of output tax under GST, where any of the input tax credit under GST can be availed?

ANSWER:

IGST, IGST, CGST, UTGST i.e. all input tax credit can be availed against output tax liability known as IGST.

Q.9: Sahil is a supplier of taxable goods in Karnataka. He got registered under GST in the month of September, 2021 and wishes to pay his IGST liability for the month. Since he is making the GST payment for the first time, he is of the view that he needs to mandatorily have the online banking facility to make payment of GST; offline payment is not permitted under GST. You are required to apprise Sahil regarding the various modes of deposit in the electronic cash ledger. Further, advise him with regard to following issues:

- (a) Are manual challans allowed under GST?
- (b) What is the validity period of the challan?
- (c) Is cross utilization among Major and Minor heads of the electronic cash ledger permitted?

ANSWER:

As per the provisions of CGST Act, 2017 read with relevant rules, the deposit in electronic cash ledger can be made through any of the following modes, namely:-

- (i) Internet Banking through authorised banks;
- (ii) Credit card or Debit card through the authorised bank;
- (iii) National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or

- (iv) Over the Counter payment through authorised banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft.

Thus, offline mode is also permitted under GST subject to specified conditions.

- (a) Manual or physical Challans are not allowed under the GST regime. It is mandatory to generate Challans online on the GST Portal.
- (b) Challan is valid for a period of 15 days.
- (c) A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the CGST Act, 2017 to the electronic cash ledger for integrated tax, central tax, State tax or Union territory tax or cess.

Q.10: Suhasini is a registered software consultant. On account of her ill health, she could not provide any services during the month of October. However, she had to incur all the expenses relating to her office. She paid ₹ 75,000 to various vendors. The total input tax involved on the goods and services procured by her is ₹ 13,500. Out of the total bills paid by her, one bill for ₹ 15,000 relates to security services availed for security of her office, tax on which is payable under reverse charge. Input tax involved in such bill is ₹ 2,700.

Suhasini is of the opinion that for the month of October, no GST is payable from electronic cash ledger as she has sufficient balance of ITC for payment of GST under reverse charge on security services.

Do you think Suhasini is right? Explain with reasons.

ANSWER:

The amount available in the electronic credit ledger, i.e. ITC may be used for making any payment towards output tax [Section 49(4)]. Output tax in relation to a taxable person, means the tax chargeable on tax taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis [Section 2(82)].

Therefore, ITC cannot be used to pay the tax liability under reverse charge. The same is always required to be paid through electronic cash ledger and not electronic credit ledger. Thus, Sushasini is wrong and she will need to pay the GST of ₹ 2,700 on security service through electronic cash ledger.

CH. 10 : RETURNS

QUESTIONS AND ANSWERS

Q.1: Mr. X, a registered taxpayer under regular scheme, did not make any taxable supply during the month of July.

Is he required to file a GSTR-3B?

ANSWER:

A registered taxpayer is required to furnish a return u/s 39 for every month even if no supplies have been effected during such period. In other words filing of Nil GSTR-3B is also mandatory.

Therefore, Mr. X is required to file GSTR-3B even if he did not make any taxable supply during the month of July.

Q.2: If a return has been filed, how can it be revised if some changes are required to be made?

ANSWER:

In GST since the returns are built from details of individual transactions, there is no requirement for having a revised return. Any need to revise a return may arise due to the need to change a set of invoices or debit/ credit notes. Instead of revising the return already submitted, the system allows amendment in the details of those individual details of those transactions (invoices or debit/credit notes) that are required to be amended. They can be amended in any of the future GSTR- 1 in the tables specifically provided for the purposes of amending previously declared details.

As per section 39(9), omission or incorrect particulars discovered in the returns filed u/s 39 can be rectified in the return to be filed for the month during which such omission or incorrect particulars are noticed. Any tax payable as a result of such error or omission will be required to be paid along with interest. The rectification of errors/omissions is carried out by entering appropriate particulars in “Amendment Tables” contained in GSTR-1. However, no such rectification of any omission or incorrect particulars is allowed after the due date for furnishing of return for the month of September or second quarter (in case of quarterly filers) following the end of the financial year to which such details pertain, or the actual date of furnishing of relevant annual return, whichever is earlier

Q.3: M/s Cavenon Enterprises, a registered supplier of designer wedding dresses under regular scheme, has aggregate annual turnover of ₹ 30 lakh in the preceding financial year. It is of the view that in the current financial year, it is permitted to file its statement of outward supplies (GSTR-10) on a quarterly basis while its accountant advises it to file the same on a monthly basis.

You are required to advise M/s Cavenon Enterprises on the same.

ANSWER:

Section 37 stipulates that GSTR-1 for a particular month is required to be filed on or before that 10th day of the immediately succeeding month, i.e. on a monthly basis.

However, presently, as a measure of easing the compliance requirement for small taxpayers, the details of outward supplies of goods or services of both to a registered person can be furnished, for the first and second months of a quarter, up to a cumulative value of fifty lakh rupees in each of the months, using invoice furnishing facility (IFF) electronically on the common portal, from the 1st day of the month succeeding such month till the 13th day of the said month. The taxpayers opting for furnishing details of outward supply on quarterly basis can file GSTR 1 on quarterly basis. The option to file return on quarterly basis is available for taxpayers having aggregate turnover up to ₹ 5 crores in preceding financial year.

In view of the same, M/s Cavenon Enterprises can file its GSTR-1 on quarterly basis if it has opted to furnish the outward supply related details on quarterly basis and filing IFF on monthly basis as its aggregate turnover does not exceed ₹ 5 crore in the preceding financial year.

Q.4: Mr. Kohli is a registered supplier in the State of Gujarat. He is filing GSTR-1 every month. During the month of February, he went out of India and thus, could not do any business transaction during that month. He believes that as there is no transaction, there is no need to file GSTR-1 for the month of February.

Is he correct? Explain.

ANSWER:

No, Mr. Kohli is not correct. GSTR-1 needs to be filed even if there is no business activity in the tax period. Therefore, in the given case, even though Mr. Kohli was out of India and thus, could not do any business transaction during the month of February, he is still required to file GSTR-1 for that month.

Q.5: Mr. Kalpesh is a registered dealer in Kerala paying tax under composition levy from 1st April. However, he opts to pay tax under regular scheme from 1st December.

Is he liable to file GSTR-4 for the month of November? Discuss.

ANSWER:

Where a taxpayer opts to withdraw from the composition scheme, he has to file GSTR-4 for the period prior to his opting for payment of tax under regular scheme. Therefore, in the given case, Mr. Kalpesh is liable to file GSTR-4 for the month of October since he was paying tax under composition scheme during the month of October.

Q.6: Mrs. Zarina, a registered dealer in Rajasthan, did not file GSTR-3B for the month of June but she wants to file GSTR-3B for the month of July.

Is it possible? Answer with reference to section 39 of the CGST Act.

ANSWER:

As per section 39(10), a registered person is not allowed to furnish a return for a tax period if the return for a tax period if the return for any of the previous tax periods has not been furnished by him

Therefore, in the given case, Mrs. Zarina cannot file GSTR-3B for July if she has not filed GSTR-3B for the preceding month, i.e., June.

Q.7: X has not made any outward supply during the month of September. However, X has procured certain input services during the month. X is of the opinion that he can file Nil GSTR-3B for the month of September through SMS.

Whether the understanding of X is correct? Explain.

ANSWER:

Nil GSTR-3B means that the return has nil or no entry in all its Tables. Since in the present case X has received certain input services, he cannot file Nil GSTR-3B through SMS as the said input services will need to be disclosed in the Table for Eligible ITC in GSTR-3B.

Q.8: A is a chartered accountant in practice and is registered under GST. On a query regarding return filing process by a potential client, A has represented him as a GST practitioner. A is of the view that since he is a qualified chartered accountant with a GST registration in the name of his proprietorship firm, he also qualifies as GST practitioner.

Is the understanding off A correct? Discuss.

ANSWER:

The understanding of A is not correct.

A chartered accountant can become a GST practitioner (GSTP). However, holding a certificate of practice as a chartered accountant and having GST registration does not imply that such chartered accountant is a GST practitioner as well. For becoming a GSTP, even a chartered accountant in practice has to follow the enrolment process of GSTP as provided under the GST law and only upon approval of such enrolment can a chartered accountant represent himself as a GSTP.

Q.9: Quicktax, a GST return filing service provider, has asked its clients to provide the scanned copies of the invoices issued to B2B customers for uploading on the GST portal and filing the return.

Whether the process followed by Quicktax is correct?

ANSWER:

No, the process followed by Quick tax is not correct.

The registered persons supplying goods or services to B2B customers are required to upload the invoice wise details of supplies made during the tax period. However, there is no requirement to upload the scanned copies of the invoices issued to the customers on the GST portal at the time of filing returns. Only information required as per GST returns is to be captured in the return filing utility and the same is to be uploaded on the GST portal and not the scanned copies of the actual invoices.

Q.10: X Ltd. is winding up its business in Rajasthan. The Tax Consultant of X Ltd. has suggested that X Ltd. will have to file either the annual return or the final return at the time of voluntary cancellation of registration in the state of Rajasthan.

Do you agree with the stand taken by Tax Consultant of X Ltd.? Offer your comments.

ANSWER:

No, the stand taken by Tax Consultant of X Ltd. is not correct.

Annual return is required to be filed by every registered person paying tax as a normal taxpayer. Final return is filed by the registered persons who have applied for cancellation of registration within three months of the date of cancellation or the date of cancellation order.

In the given case, X Ltd., a registered person, is winding up its business and has thus, applied for cancellation of registration. Therefore, it is required to file both annual return and final return.

