

Mock Test Paper - Series I: March, 2024

Date of Paper: 9 March, 2024

Time of Paper: 2 P.M. to 5 P.M.

**INTERMEDIATE COURSE**  
**PAPER – 3: TAXATION**  
**SECTION – A: INCOME TAX LAW**  
**SOLUTIONS**

**Division A – Multiple Choice Questions**

MCQ No.	Sub-part	Most Appropriate Answer	MCQ No.	Most Appropriate Answer
1.	(i)	(d)	3.	(c)
	(ii)	(a)	4.	(b)
	(iii)	(b)		
2.	(i)	(c)		
	(ii)	(d)		
	(iii)	(d)		

**Division B – Descriptive Questions**

1. **Computation of total income of Mr. Amit as per section 115BAC for A.Y. 2024-25**

Particulars	₹
Net profit as per profit and loss account	50,85,000
<b>Less:</b> Income-tax refund credited in the profit and loss account, out of which interest on such refund is only taxable, which is to be considered separately under the head “Income from other sources”	<u>30,000</u>
	50,55,000
<b>Add: Expenses either not allowable or to be considered separately but charged in the profit &amp; loss account</b>	
- Salary paid to brother disallowed to the extent considered unreasonable [Section 40A(2)]	5,000
- Advertisement in the souvenir of political party not allowable as per section 37(2B) <b>(See Note 1)</b>	2,500
- Payment made to political party by cheque <b>(See Note 2)</b>	1,00,000
- Penalty levied by the Goods and Services tax department for delayed filing of returns not allowable as being paid for infraction of law <b>(See Note 3)</b>	5,300

- Depreciation as per books		1,07,250
- 30% of interest paid on loan paid to Mr. Mohit, a resident, without deduction of tax at source not allowable as per section 40(a)(ia)		24,000
		<b>52,99,050</b>
<b>Less:</b> Depreciation allowable as per Income-tax Act, 1961	65,000	
Depreciation on building [₹ 20 lakhs x 10%]	2,00,000	2,65,000
<b>Profits and gains from business or profession</b>		<b>50,34,050</b>
<b>Income from Other Sources</b>		
Interest on income-tax refund		4,570
<b>Gross Total Income</b>		<b>50,38,620</b>
<b>Less:</b> Deduction under section 80GGC [Contribution to Political Party] [Not allowable]		Nil
<b>Total Income</b>		<b>50,38,620</b>

**Notes –**

- (1) The amount of ₹ 2,500 paid for advertisement in the souvenir issued by a political party attracts disallowance under section 37(2B).
- (2) Payment to political party is not an expenditure incurred wholly and exclusively for business purpose and hence not allowance under section 37(1). Since the amount has been debited to profit and loss account, the same has to be added back for computing business income.
- (3) The interest of ₹ 12,750 paid on the delayed deposit of goods and services tax is for breach of contract and hence, is allowable as deduction. However, penalty of ₹ 5,300 for delay in filing of returns is not allowable since it is for breach of law.
- (4) Deduction under section 35AD is not allowable as per section 115BAC(2). However, normal depreciation u/s 32 is allowable.

**Computation of tax liability as per section 115BAC**

Particulars	₹	₹
<b>Tax on total income of ₹ 50,38,620</b>		
Upto ₹ 3,00,000	Nil	
₹ 3,00,001 – ₹ 6,00,000 [@5% of ₹ 3 lakhs]	15,000	
₹ 6,00,001 – ₹ 9,00,000 [@10% of ₹ 3 lakhs]	30,000	
₹ 9,00,001 – ₹ 12,00,000 [@15% of ₹ 3 lakhs]	45,000	
₹ 12,00,001 – ₹ 15,00,000 [@20% of ₹ 3 lakhs]	60,000	
₹ 15,00,001 – ₹ 50,38,620 [@30% of ₹ 35,38,620]	<u>10,61,586</u>	
		12,11,586

<i>Add:</i> Surcharge @10% [Since, the total income exceeds ₹ 50 lakhs but does not exceed ₹ 1 crore]	<u>1,21,159</u>
	13,32,745
<i>Less:</i> Marginal relief ( <b>See computation below</b> )	<u>94,125</u>
	12,38,620
<i>Add:</i> Health and education cess@4%	<u>49,545</u>
<b>Total tax liability</b>	<b><u>12,88,165</u></b>
<b>Total tax liability (Rounded off)</b>	<b>12,88,170</b>

#### Computation of marginal relief

Particulars		₹
<b>(A)</b>	Tax payable including surcharge on total income of ₹ 50,38,620 as per section 115BAC	13,32,745
<b>(B)</b>	Tax payable on total income of ₹ 50 lakhs as per section 115BAC	<u>12,00,000</u>
<b>(C)</b>	Excess tax payable (A-B)	<u>1,32,745</u>
<b>(D)</b>	Marginal relief (₹ 1,32,745 – ₹ 38,620, being the amount of income in excess of ₹ 50 lakhs)	<b>94,125</b>

**Note** - An individual paying tax u/s 115BAC is not liable to alternate minimum tax u/s 115JC.

#### Computation of total income of Mr. Amit for A.Y. 2024-25 under normal provisions of the Act

Particulars	₹	₹
<b>Gross Total Income as per default tax regime under section 115BAC</b>		50,38,620
<i>Add:</i> Depreciation on building [₹ 20 lakhs x 10%]		<u>2,00,000</u>
		52,38,620
<i>Less:</i> Warehousing charges		<u>22,50,000</u>
<b>Gross Total Income excluding profits and gains from specified business under section 35AD</b>		29,88,620
<b>Profits and gains from specified business under section 35AD</b>		
Warehousing charges	22,50,000	
<i>Less:</i> Deduction under section 35AD ( <b>See Note 1</b> )	<u>20,00,000</u>	<u>2,50,000</u>
<b>Gross Total Income as per normal provisions of the Act</b>		32,38,620
<i>Less:</i> Deduction under section 80GGC for contribution to Political Party ( <b>See Note 2</b> )		1,00,000
<b>Total Income as per regular provisions of the Act</b>		<b>31,38,620</b>

**Notes –**

- (1) Deduction @100% of the capital expenditure is available under section 35AD in respect of specified business of setting up and operating a warehouse facility for storage of agricultural produce which commences operation on or after 1.04.2009.
- (2) Payment to political party qualifies for deduction under section 80GGC since the payment is made by way of a cheque.

**Computation of tax liability of Mr. Amit for A.Y. 2024-25 under the regular provisions of the Act**

Particulars	₹	₹
<b>Tax on total income of ₹ 31,38,620</b>		
Upto ₹ 2,50,000	Nil	
₹ 2,50,001 – ₹ 5,00,000 [@5% of ₹ 2.50 lakh]	12,500	
₹ 5,00,001 – ₹ 10,00,000 [@20% of ₹ 5,00,000]	1,00,000	
₹ 10,00,001- ₹ 31,38,620 [@30% of ₹ 21,38,620]	<u>6,41,586</u>	7,54,086
<i>Add: Health and education cess@4%</i>		<u>30,163</u>
<b>Total tax liability</b>		<b><u>7,84,249</u></b>
<b>Total tax liability (rounded off)</b>		<b>7,84,250</b>

**Computation of adjusted total income and AMT of Mr. Amit for A.Y. 2024-25**

Particulars	₹	₹
<b>Total Income (computed above as per regular provisions of income tax)</b>		<b>31,38,620</b>
<i>Add: Deduction under section 35AD</i>	20,00,000	
<i>Less: Depreciation under section 32 on building [₹ 20 lakhs x 10%]</i>	<u>(2,00,000)</u>	<b><u>18,00,000</u></b>
<b>Adjusted Total Income</b>		<b><u>49,38,620</u></b>
Alternative Minimum Tax@18.5%		9,13,645
<i>Add: Health and education cess@4%</i>		<u>36,546</u>
<b>Total tax liability</b>		<b><u>9,50,191</u></b>
<b>Total tax liability (rounded off)</b>		<b>9,50,190</b>

Since the regular income-tax payable is less than the alternate minimum tax payable, the adjusted total income shall be deemed to be the total income and tax is leviable @18.5% thereof plus cess@4%. Therefore, liability as per section 115JC is ₹ 9,50,190.

Since the tax liability of Mr. Amit under section 115JC is lower than the tax liability as computed u/s 115BAC, it would be beneficial for him to opt out of the default tax regime under section 115BAC for A.Y. 2024-25 and pays tax

under regular provisions of the Act. Moreover, benefit of alternate minimum tax credit is also available to the extent of tax paid in excess of regular tax.

**AMT credit to be carried forward under section 115JEE**

Particulars	₹
Tax liability under section 115JC	9,50,190
Less: Tax liability under the regular provisions of the Income-tax Act, 1961	7,84,250
	<b>1,65,940</b>

2. (a) As per section 6(1), an Indian citizen or a person of Indian origin who, being outside India, comes on a visit to India would be resident in India if he or she stays in India for a period of 182 days or more during the relevant previous year in case such person has total income, other than the income from foreign sources, not exceeding ₹ 15 lakhs. However, if such person has total income, other than the income from foreign sources, exceeding ₹ 15 lakhs, he would also be a resident if he has been in India for at least 120 days during the relevant previous year and has been in India during the 4 years immediately preceding the previous year for a total period of 365 days or more. In such a case, he would be resident but not ordinarily resident in India.

Income from foreign sources means income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India) and which is not deemed to accrue or arise in India.

In this case, total income, other than the income from foreign sources, of Mr. Akash for P.Y. 2023-24 would be

Particulars	Amount (₹)
Salary from ABC Inc., California received in California (Computed) (Not included in total income, since it is income from foreign source)	-
Dividend from Indian companies (Included in total income, since it is deemed to accrue or arise in India)	5,00,000
Agricultural income from land situated in Nepal (Not included in total income, since it is accrued or arisen outside India and received outside India)	-
Rent received/receivable from house property in Delhi (Included in total income, since it is deemed to accrue or arise in India)	5,50,000
Less: 30% of ₹ 5.50 lakhs	<u>1,65,000</u>
Profits from a profession in California, which was set up in India, received there	6,00,000
<b>Total income, other than the income from foreign sources</b>	<b>14,85,000</b>

Since, Mr. Akash is an Indian citizen who comes on a visit to India only for 121 days in the P.Y. 2023-24 and his total income, other than income from foreign sources does not exceed ₹ 15 lakhs, he would be non-resident for the A.Y. 2024-25.

A non-resident is chargeable to tax in respect of income received or deemed to receive in India and income which accrues or arises or is deemed to accrue or arise to him in India. Accordingly, his total income would be as follow –

Particulars	Amount (₹)
Salary from ABC Inc., California received in California (Computed) (Not taxable, since it neither accrues or arises in India nor is it received in India)	-
Dividend from Indian companies (Taxable, since deemed to accrue or arise in India)	5,00,000
Agricultural income from land situated in Nepal (Not taxable, since it neither accrues or arises in India nor is it received in India)	-
Rent received/receivable from house 5,50,000 property in Delhi (Taxable, since it is deemed to accrue or arise in India)	5,50,000
Less: 30% of ₹ 5.50 lakhs	<u>1,65,000</u>
Profits from a profession in California, which was set up in India, received there	-
<b>Gross Total Income/ Total income</b>	<b>8,85,000</b>

**(b) TDS implications**

- (i) Section 194-I, which governs the deduction of tax at source @10% on payment of rent, exceeding ₹ 2,40,000 p.a., is applicable to all persons except individuals and HUF, whose turnover/gross receipts do not exceed ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession during the financial year immediately preceding the financial year in which such rent is credited or paid.

In the present case, State Bank of India has to deduct at source @ 10% on rental payment to Mr. Kunal.

Tax deducted at source = ₹ 72,000 (₹ 7,20,000 x 10%)

Section 196, however, provides exemption in respect of payments made to Government from application of the provisions of tax deduction at source.

Therefore, no tax is required to be deducted at source by State Bank of India from rental payments to the Government.

- (ii) As per section 194C, no tax is required to be deducted at source on payment to transporter if the following conditions are satisfied:

- (1) He owns ten or less goods carriages at any time during the previous year.
- (2) He is engaged in the business of plying, hiring or leasing goods carriages;
- (3) He furnishes a declaration to this effect along with his PAN.

In the present case, since Mr. Deepak has not furnished his PAN, tax is required to be deducted at source @ 20% under section 206AA on ₹ 2,50,000, since the same exceeds the threshold limit of ₹ 1,00,000.

Tax deducted at source = ₹ 50,000 (₹ 2,50,000 x 20%)

**3. (a) Computation of Income under the head “Salaries” in the hands of Mr. Sahil for the A.Y. 2024-25**

Particulars	₹
Basic Salary [₹ 55,000 x 12]	6,60,000
Dearness allowance [10% of basic salary]	66,000
Bonus	60,000
Fixed Medical Allowance [Taxable]	50,000
Reimbursement of Medical expenditure incurred for his father [Fully taxable]	6,500
Facility of laptop [Facility of laptop is an exempt perquisite, whether used for official or personal purpose or both]	Nil
Reimbursement of salary of domestic servant [₹ 8,000 x 12] [Fully taxable, since perquisite includes any sum paid by the employer in respect of any obligation which would have been payable by the employee]	96,000
Value of equity shares allotted [700 equity shares x ₹ 110 (₹ 280, being the fair market value – ₹ 170, being the amount recovered)]	77,000
Professional tax paid by the employer [Perquisite includes any sum paid by the employer in respect of any obligation which would have been payable by the employee]	1,400
<b>Gross Salary</b>	<b>10,16,900</b>
<i>Less:</i> Deduction under section 16	
Professional tax paid [Not allowed]	-
Standard Deduction (Lower of ₹ 50,000 or amount of salary)	50,000
<b>Taxable Salary</b>	<b>9,66,900</b>

(b) **Computation of income from house property of Mr. Kushal for A.Y. 2024-25**

Particulars	₹	₹
<b>1. Income from let-out property in New York [See Note 1 below]</b>		
<sup>1</sup> Gross Annual Value (\$ 5,000 p.m. x 12 months x ₹ 81)		48,60,000
Less: Municipal taxes paid during the year [\$ 2,000 (\$ 1,250 + \$ 750) x ₹ 81] <sup>2</sup>		<u>1,62,000</u>
Net Annual Value (NAV)		46,98,000
Less: Deductions under section 24		
(a) 30% of NAV	14,09,400	
(b) Interest on housing loan	<u>-</u>	<u>14,09,400</u>
		<b><u>32,88,600</u></b>
<b>2. Income from self-occupied property in Ahmedabad</b>		
Annual Value [Nil, since the property is self-occupied]		NIL
[No deduction is allowable in respect of municipal taxes paid in respect of self-occupied property]		
Less: Deduction in respect of interest on housing loan [See Note 2 below]		<u>2,00,000</u>
		<b><u>(2,00,000)</u></b>
<b>Income from house property [₹ 32,88,600 – ₹ 2,00,000]</b>		<b>30,88,600</b>

**Notes:**

(1) Since Mr. Kushal is a resident but not ordinarily resident in India for A.Y. 2024-25, income which is, *inter alia*, received in India shall be taxable in India, even if such income has accrued or arisen outside India by virtue of the provisions of section 5(1). Accordingly, rent received from house property in New York would be taxable in India since such income is received by him in India.

(2) **Interest on housing loan for construction of self-occupied property allowable as deduction under section 24**

Interest for the current year (₹ 30,00,000 x 10%)      ₹ 3,00,000

<sup>1</sup> In the absence of information related to municipal value, fair rent and standard rent, the rent receivable has been taken as the GAV

<sup>2</sup> Both property tax and sewerage tax qualify for deduction from gross annual value



**Pre-construction interest**

For the period 01.09.2018 to 31.03.2020  
 (₹ 30,00,000 x 10% x 19/12) = ₹ 4,75,000

₹ 4,75,000 allowed in 5 equal installments      ₹ 95,000  
 (₹ 4,75,000/5)

₹ 3,95,000

In case of self-occupied property, interest  
 deduction to be restricted to      ₹ 2,00,000

**4. (a) Computation of Total Income of Mr. Vishal for A.Y. 2024-25**

Particulars	Amount (₹)	Amount (₹)
<b>Income from house property</b>		
<b>House in Delhi</b> [Since Mr. Vishal receives direct or indirect benefit from income arising to his brother's daughter, Ms. Deepika, from the transfer of house to her without consideration, such income is to be included in the total income of Mr. Vishal, even though the transfer may not be revocable during lifetime of Ms. Deepika]		
Gross Annual Value <sup>3</sup>	5,50,000	
Less: Municipal taxes	<u>-</u>	
Net Annual Value	5,50,000	
Less: Deductions from Net Annual Value		
(a) 30% of Net Annual Value	1,65,000	
(b) Interest on loan	<u>-</u>	
		3,85,000
<b>Capital Gains</b>		
Long term capital gain from sale of property	15,000	
<b>Less:</b> Short-term capital loss can be set-off against both short-term capital gains and long-term capital gains. Short term capital loss of ₹ 16,000 set off against long-term capital gains to the extent of ₹15,000. Balance short term capital loss of ₹ 1,000 to be carry forward to A.Y.2025-26	<u>15,000</u>	-

<sup>3</sup> Rent receivable has been taken as the gross annual value in the absence of other information.

<b>Income from other sources</b>		
Dividend on preference shares [Taxable in the hands of Mr. Vishal as per section 60, since he transferred the income, i.e., dividend, without transferring the asset, i.e., preference shares]	4,50,000	
Interest from saving bank account	1,75,000	
Cash gift [Taxable as per section 56(2)(x), since sum of money exceeding ₹ 50,000 is received from his niece, who is not a relative]	75,000	
Income from betting [No loss is allowed to be set off against such income]	25,000	
Income from card games [No loss is allowed to be set off against such income]	<u>46,000</u>	<u>7,71,000</u>
<b>Gross Total Income</b>		<b>11,56,000</b>
<b>Less: Deduction under Chapter VI-A</b>		
Deduction under section 80TTA [Interest from savings bank account]	<u>10,000</u>	10,000
<b>Total Income</b>		<b>11,46,000</b>

**Losses to be carried forward to A.Y. 2025-26**

<b>Particulars</b>	<b>Amount (₹)</b>
Short term capital loss [₹ 16,000 – ₹ 15,000]	1,000
Loss on maintenance of race horses [Loss incurred on maintenance of race horses cannot be set-off against income from any source other than the activity of owning and maintaining race horses.]	14,600

**(b) First alternative**

As per section 139(3), an assessee is required to file a return of loss within the due date specified u/s 139(1) for filing return of income.

As per section 80, certain losses which have not been determined in pursuance of a return filed under section 139(3) on or before the due date specified under section 139(1) cannot be carried forward and set-off. Thus, the assessee has to file a return of loss under section 139(3) within the time allowed u/s 139(1) in order to carry forward and set off of following losses:

- loss under the head “Capital Gains”,
- loss from activity of owning and maintaining race horses.
- business loss,

- speculation business loss and
- loss from specified business.

However, following can be carried forward for set-off even if the return of loss has not been filed before the due date:

- Loss under the head "Income from house property" and
- Unabsorbed depreciation

(b) **Second alternative**

	<b>Transaction</b>	<b>Is quoting of PAN mandatory in related documents?</b>
1.	Sale of scooter for ₹ 70,000	No, quoting of PAN is not mandatory on sale of scooter.
2.	Payment of life insurance premium of ₹ 67,000 to insurance company	Yes, since the amount paid exceeds ₹ 50,000.
3.	Purchase of plot for ₹ 9 lakhs while the stamp duty of the same is ₹ 11 lakhs	Though the amount of consideration does not exceed ₹ 10 lakhs, Mr. Vishnu has to quote PAN since stamp duty of plot exceeds ₹ 10 lakhs.
4.	Applied to PNB for issue of credit card	Yes, quoting of PAN is mandatory on making an application to a banking company for issue of credit card.

**SECTION B – GOODS AND SERVICES TAX (50 MARKS)**

**SUGGESTED ANSWERS**

**Division A - Multiple Choice Questions**

Question No.	Answer
<b>1</b>	<b>(b)</b> Invoice shall be issued before or at the time of removal of smartphones to distributors.
<b>2</b>	<b>(b)</b> ITC of Rs. 18 lakh can be claimed and depreciable value of asset in the books shall be Rs. 1 crore
<b>3</b>	<b>(a)</b> The demerged entity shall be treated as related party of the Company.
<b>4</b>	<b>(d)</b> 72 months from due date of furnishing annual return for the relevant financial year
<b>5</b>	<b>(a)</b> 45 days
<b>6</b>	<b>(c)</b> The restriction of 180 days for payment of consideration is not applicable in the present case.
<b>7</b>	<b>(b)</b> 2 days
<b>8</b>	<b>(c)</b> Both (a) and (b)

**Division B - Descriptive Questions**

**1. (a) Computation of GST payable on outward supplies**

S. No.	Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)
(i)	Intra-State supply of goods for ₹ 4,00,000 [Note-1]	36,000	36,000	Nil
(ii)	Services rendered by way of labour contracts for repairing a single residential unit otherwise than as a part of residential complex [Note-2]	9,000	9,000	Nil
(iii)	Services provided by way of training in recreational activities relating to sports [Note-3]	Nil	Nil	1,800
(iv)	Inter-State security services provided to Bharat higher secondary school for their annual day function to be held in Kaman Auditorium.[Note-4]	Nil	Nil	2,700
	<b>Total GST payable</b>	<b>45,000</b>	<b>45,000</b>	<b>4,500</b>

## Notes

1. 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 of the CGST Act, 2017, i.e. date of issue of invoice or the last date on which invoice ought to have been issued. Thus, liability to pay tax on the advance received in January will also arise in the month of February, when the invoice for the supply is issued.
2. Services by way of pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex are exempt. Labour contracts for repairing are thus, taxable.
3. Services by way of training in sports is exempt under GST, only if provided by charitable entities registered under section 12AA or section 12AB of the Income-tax Act, 1961. Thus, in the given case, said service is taxable.
4. Security services provided to Bharat higher secondary School for Annual Day function organised outside the school campus will be taxable as only the security services performed within the premises of the higher secondary school are exempt.

### Computation of total ITC

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)
Opening ITC	57,000	Nil	50,000
Add: Purchase of goods from a composition dealer [ITC is not available in case of supply of goods where tax has been paid under composition scheme]	Nil	Nil	Nil
Add: Membership of a club [Blocked credit]	Nil	Nil	Nil
Add: Goods transport services received from GTA [Input tax credit is available for the services received from GTA as the same are used in the course or furtherance of business.]	Nil	Nil	24,000
Add: Inputs to be received in 4 lots, out of which 2 <sup>nd</sup> 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	Nil	Nil
<b>Total ITC</b>	<b>57,000</b>	<b>Nil</b>	<b>74,000</b>

**Computation of minimum GST payable from electronic cash ledger**

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)
GST payable	45,000	45,000	4,500
Less: ITC [First ITC of IGST should be utilized in full - first against IGST liability and then against CGST and SGST liabilities in a manner to minimize cash outflow]	(24,500) IGST (3)	(45,000) ) IGST (2)	(4,500) IGST (1)
Less: ITC of CGST to be used against CGST	(20,500) CGST		
Minimum GST payable in cash	<b>Nil</b>	<b>Nil</b>	<b>Nil</b>

**Note:** Since sufficient balance of ITC of CGST is available for paying CGST liability and cross utilization of ITC of CGST and SGST is not allowed, ITC of IGST has first been used to pay SGST (after paying IGST liability) and then CGST to minimize cash outflow.

**(b) Computation of GST liability**

S. No.	Particulars	Mridul Traders (₹)	Kalu Motors Ltd. (₹)
(i)	Price of goods	10,000	30,000
(ii)	Add: Packing charges (Note-1)	500	
(iii)	Add: Commission (Note-1)	500	
(iv)	Add: Weightment charges (Note-1)	-	2,000
(v)	Less: Discount for prompt payment (Note-2)	-	<u>1,000</u>
	Value of taxable supply	11,000	31,000
	<b>IGST payable @ 18% (Note-3)</b>	<b>1,980</b>	
	<b>CGST payable @ 9% (Note-4)</b>		<b>2,790</b>
	<b>SGST payable @ 9% (Note-4)</b>		<b>2,790</b>

**Notes:**

- Incidental expenses, including commission and packing, charged by supplier to recipient of supply is includible in the value of supply. Weightment charges are also incidental expenses, hence includible in the value of supply [Section 15 of the CGST Act, 2017].
- Since discount is known at the time of supply, it is deductible from the value in terms of section 15 of the CGST Act, 2017.
- Section 10 of the IGST Act, 2017 provides that where the supply

involves movement of goods, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient. Thus, place of supply is Gujarat.

Further, where the location of the supplier and the place of supply are in two different States, supply of goods shall be treated as a supply of goods in the course of inter-State trade or commerce. Since supply made to Mridul Traders is an inter-State supply, IGST is payable.

**2. (a)**

<b>S. No.</b>	<b>Particulars</b>	<b>Taxability</b>
(i)	Supply of manpower for cleanliness of roads not involving any supply of goods. [Pure services provided to Government are exempt.]	Exempt
(ii)	Service provided by Fair Price Shops by way of sale of sugar under Public Distribution System [Service provided by Fair Price Shops to Government by way of sale of sugar under Public Distribution System against consideration in the form of commission is exempt.]	Exempt
(iii)	Service of maintenance of street lights in a Municipal area involving replacement of defunct lights and other spares constituting 35% of the supply of service. [Composite supply of goods and services to Government in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply is exempt. Since, in this case value of supply of goods constitutes 35% of the supply of composite service, same is taxable.]	Taxable
(iv)	Service of brochure distribution provided under a training programme. [Services provided to the Government under any training programme for which 75% or more of the total expenditure is borne by the Government is exempt. Since in the given case, 70% of the total expenditure is borne by the Government, it is taxable.]	Taxable

- (b) (i)** As per Para I of Schedule III of the CGST Act, 2017 services by an employee to the employer in the course of or in relation to his employment are non-supplies, i.e. they are neither supply of goods nor supply of services. Services provided by the independent directors who are not employees of the said company to such

company, in lieu of remuneration as the consideration for the said services, are clearly outside the scope of Schedule III of the CGST Act and are therefore taxable. Further, such remuneration paid to the directors is taxable in hands of the company, on reverse charge basis.

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

- (ii) The part of director's remuneration which is declared as salaries in the books of a company and subjected to TDS under section 192 of the Income-tax Act (IT Act), is not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment in terms of Schedule III of the CGST Act, 2017.

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

In lieu of the above provisions, ₹ 60,000 declared as salaries in the books of Star Company Private Limited and subjected to TDS under section 192 of the Income-Tax Act (IT Act), is not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment in terms of Schedule III of the CGST Act, 2017.

Further, ₹ 65,000 declared separately other than salaries in the Star Company Private Limited's accounts and subjected to TDS under section 194J of the IT Act as professional services is treated as consideration for providing services which is outside the scope of Schedule III of the CGST Act, 2017 and is therefore, taxable. The recipient of the said services i.e. the Star Company Private Limited, is liable to discharge the applicable GST on it on reverse charge basis.

3. (a) As per section 22 of the CGST Act, 2017 read with *Notification No. 10/2019 CT dated 07.03.2019*, a supplier is liable to get 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 fly ash bricks/blocks, building bricks, bricks of fossil meals, earthen/roofing tiles, 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) The benefit of enhanced threshold limit of registration of ₹ 40 lakh is not applicable for Om Sai brothers even though it is exclusively engaged in intra-State taxable supply of goods in Delhi as it is engaged in making supplies of building bricks. Thus, the applicable threshold limit for registration for Om Sai Builders in the given case is ₹ 20 lakh. Thus, it is liable to get registered under GST as its turnover is more than the threshold limit.
  - (ii) Hukum Chand could have been eligible for enhanced threshold limit of turnover for registration, i.e. ₹ 40 lakh as he is exclusively engaged in intra-State supply of goods. However, since Hukum Chand is engaged in supplying footwear from a Special Category State i.e. Nagaland, the threshold limit gets reduced to ₹ 10 lakh. Thus, Hukum Chand is liable to get registered under GST as his turnover exceeds ₹ 10 lakh. Further, he is required to obtain registration in both Himachal Pradesh and Nagaland as he is making taxable supplies from both the States.
- (b) A supplier who has opted for composition scheme is not required to maintain records relating to;
- (i) **Stock of goods:** Accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of the opening balance, receipt, supply, goods lost stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.
  - (ii) **Details of tax:** Account, containing the details of tax payable (including tax payable under reverse charge), tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.

Thus, Mr. Mehta is not required to maintain above mentioned records.

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

Since the event is being held in multiple states and a consolidated amount is charged for such services, the place of supply will be deemed to be in each State in proportion to the value for services determined in terms of the contract or agreement entered into in this regard.

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

**Or**

- (a)** It has been clarified vide a circular that securities are considered neither as goods nor as services in terms of definition of goods and the definition of services. Further, securities include 'shares' as per definition of securities.

This implies that the securities held by the holding company in the subsidiary company are neither goods nor services. Further, purchase or sale of shares or securities, in itself is neither a supply of goods nor a supply of services. For a transaction/activity to be treated as supply of services, there must be a supply as defined under section 7 of the CGST Act, 2017. It cannot be said that a service is being provided by the holding company to the subsidiary company, solely on the basis that there is a specific SAC entry in the scheme of classification of services, unless there is a supply of services by the holding company to the subsidiary company in accordance with section 7 of the CGST Act, 2017.

Therefore, the activity of holding of shares of subsidiary company by the holding company *per se* cannot be treated as a supply of services by a holding company to the said subsidiary company and cannot be taxed under GST.

- (b)** 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.

Omission or incorrect particulars discovered in the returns filed under section 39 of the CGST Act, 2017 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 30<sup>th</sup> November 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.