

New Scheme

CA INTERMEDIATE

TAXATION
INDIRECT TAXES
GST Compiler

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Descriptive Q&A, Case Scenario and MCQ's

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About CA RAJ KUMAR

CA Raj Kumar is a dynamic & qualified Chartered Accountant. As a brilliant student and a position holder at Graduation & Post Graduation level, during his **15 years of glorious teaching experience** in the field of Indirect Taxation he has taught **over 1,65,000 students**.

He is a favorite amongst CA Students for the astute & insightful academic inputs provided by him and for his pleasing & endearing personality and **lucid art of teaching**.

He firmly believes in **blending studies with fun** and this is quite evident in his classes wherein he goes beyond theoretical reading of the subject, makes students **solve practical problems**, gives them practical **real life examples** and pushes them to achieve their goals with full precision.

In the subject Indirect Tax Laws, his students have continued to score 10 times AIR #1 and All India Highest Marks for 11 times till now. He has also been entrusted by Government agencies to **show the ropes to IRS Officers** in training, which is a **testament to his caliber** as a subject matter expert.

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

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[Topic-(I)- Direct and Indirect Taxes]

Question I (1): Differentiate between direct and indirect taxes. [ICAI Material]

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 person paying the tax to the Government collects 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.

Question I (2): Explain the salient features of indirect taxes. [ICAI Material]

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.

[Topic-(II)- Introduction of GST]

Question II (1): Discuss the concept of GST.

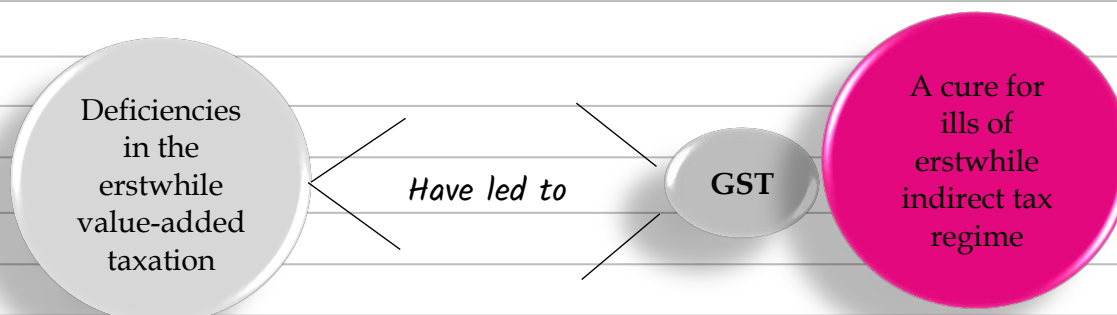
Answer: Concept of GST: - The basic concept of GST is as follows: -

- **Value Added Tax:** - GST is a value added tax levied on supply i.e., manufacture or sale of goods and provision of services.
- **Continuous Chain of Tax Credits:** - GST offers comprehensive and continuous chain of tax credits from producer's point up to the retailer's / consumer's level thereby taxing only the value added at each stage of supply chain.
- **Burden borne by Final Consumer:** - Only the final consumer bears the GST charged by the last supplier in the supply chain, with set-off benefits at all the previous stages.
- **No cascading of Taxes:** - Since, only the value added at each stage is taxed under GST, there is no cascading of taxes under GST system.

Question II (2): Describe the Need for GST in India. And also Discuss the deficiencies in the old indirect tax regime. (OR) Discuss the deficiencies in the existing indirect taxes which led to the need for ushering into GST regime.

[ICAI Material]

Answer: Need for GST in India: -



Deficiencies in the Old IDT regime: -

Despite the introduction of the principle of taxation of value added in India – at the Central level in the form of CENVAT and at the State level in the form of State VAT – its application **always remained limited** because of the following reasons:

- **Non-inclusion of several local levies** in State VAT such as luxury tax, entertainment tax, etc.
- **Cascading of taxes** on account of –
 - i) Non availability of CST,

ii) Inclusion of CENVAT/excise duty in the value for imposing VAT.

- **No CENVAT credit** after manufacturing stage.
- **Non- integration** of VAT & service tax.
- **Double Taxation** of certain transactions as both goods and services.

Question II (3): Write a short note on the Benefits of GST. (OR) List some of the benefits that GST may accrue to the economy. [ICAI material]

Answer: GST brings benefits to all the stake-holders industry, Government and the consumer. GST is a **win- win situation** for the entire country. The significant benefits of GST are discussed hereunder:

- a) **Creation of unified national market:** - GST aims to make India a **common market with common tax rates and procedures** and remove the economic barriers, thereby paving the way for an integrated economy at the national level.
- b) **Boost to "Make in India" initiative:** - GST may give a major boost to the 'Make in India' initiative of the Government of India **by making goods and services produced in India**, competitive in the national as well as international market. This would make India a **Manufacturing hub**.
- c) **Boost to investments, exports and employment:** -Under the GST regime, the principle of exporting only the cost of goods or services and not taxes is being followed. This may boost Indian exports thereby improving the balance of payments position. Exporters are being facilitated by grant of provisional refund of 90% of their claims within 7days of issue of acknowledgement of their applications, thereby resulting in the easing of position with respect to cash flows.

Further, the submitting of major Central and State taxes in GST, complete and comprehensive set-off of input tax on goods and services and phasing out of Central Sales Tax (CST) may reduce the cost of locally manufactured goods and services. Resultantly, the competitiveness of Indian Goods and services in the international market may increase to give boost to investments and Indian exports.

With a boost in exports and manufacturing activity, more employment would be generated and GDP would increase.

Question II (4): GST is a destination-based tax on consumption of goods or services or both. Discuss the validity of the statement. [ICAI Material]

Answer: The given statement is **valid**. GST is known as destination-based tax since the **tax would accrue to the taxing authority which has jurisdiction over the place of consumption** which is also termed as place of supply.

Example: - If A (Delhi) produces the goods and sells the goods to B (Haryana). In this case, the tax would accrue to the state of Haryana and not to the state of Delhi. On the other hand, **under pre-GST regime, origin-based taxation was prevailing** in such cases.

Under origin-based taxation, the tax used to accrue to the state from where the transaction originated. In the given case, under origin-based taxation, the GST would have been levied by Centre and collected by the State of Delhi and not by the State of Haryana.

Question II (5): List the Central and State levies which have been subsumed in GST in India. [ICAI Material]

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

Question II (6): Which are the commodities, which have been kept outside the purview of GST? Examine the status of taxation of such commodities after introduction of GST. [ICAI Material]

Answer: Article 366(12A) of the Constitution (as amended by 101st Constitutional Amendment Act, 2016) defines the GST as a tax on supply of goods or services or both, **except supply of alcoholic liquor for human consumption**. Therefore, alcohol for human consumption is kept out of GST by way of definition of GST in the Constitution.

Further, As per explanation to article number 246A: Five petroleum products namely **petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel have temporarily been kept out of the purview of GST** and GST Council shall decide the date from which they shall be included in GST. The erstwhile taxation system (**CST/VAT/ Central Excise**) shall still continue in respect of the said commodities.

Question II (7): Briefly explain the leviability of GST or otherwise on petroleum crude, diesel, petrol, Aviation Turbine Fuel (ATF) and natural gas. [ICAI Material]

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

Question II (8): Elaborate the principles that were borne in mind while subsuming various central, State and local levies, under GST. [ICAI Material]

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.**

Question II (9): Discuss the leviability of GST or otherwise on tobacco. [ICAI Material]

Answer: Tobacco is **within the purview of GST**, i.e. GST is leviable 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.**

Question II (10): GST is a simplified tax structure. Justify the statement. [ICAI Material]

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.**

Question II (11): Bring out the salient features of cross utilization of Input Tax Credit (ITC) under the GST law?

Answer: Input Tax Credit (ITC) of CGST and SGST/UTGST and IGST is available throughout the supply chain and it can be cross utilized in the following manner as per section 49(5) subject to some restrictions: -

- ⇒ The amount of input tax credit available in the electronic credit ledger of the registered person on account of-
 - **Integrated tax** shall first be utilized towards payment of **integrated tax** and the amount remaining, if any, may be utilized towards the payment of **central tax and State tax**, OR as the case may be, **Union territory tax, in Any order and in any proportion;**
 - The **central tax** shall first be utilized towards payment of **central tax** and the amount remaining, if any, may be utilized towards the payment of **integrated tax;**
 - The **State tax** shall first be utilized towards payment of **State tax** and the amount remaining, if any, may be utilized towards payment of **integrated tax;**
 - The **Union territory tax** shall first be utilized towards payment of **Union territory tax** and the amount remaining, if any, may be utilized towards payment of **integrated tax;**

However,

- **The central tax shall not be utilized towards payment of State tax or Union territory tax; and**

- The State tax or Union territory tax shall not be utilized towards payment of central tax; and
- ITC of State tax / Union territory tax should be utilized for payment of Integrated tax, only after ITC of Central tax has been utilized fully.

[Topic-(III)- GSTN]

Question III (1): What is GSTN?

Answer: Meaning: - GSTN stands for Goods and Service Tax Network (GSTN). A Special Purpose Vehicle called the GSTN has been set up to cater to the needs of GST. The GSTN shall provide a shared IT infrastructure and services to Central and State Governments, tax payers and other stakeholders for implementation of GST.

Functions: - The following are the main functions of GSTN: -

- Facilitating registration
- Forwarding the returns to Central & State authorities
- Computation & settlement of IGST
- Matching of tax payment details with banking network
- Providing various MIS reports to the Central & the State Governments based on the taxpayer return information
- Providing analysis of taxpayer's profile
- Etc.

[Topic-(IV)- Constitution]

Question IV (1): Write a short note on various Lists provided under Seventh Schedule to the Constitution of India. [ICAI Material]

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 -III (CONCURRENT LIST):** It contains the matters in respect of which both the Central & State Governments have power to make laws.

Question IV (2): Who are the members of the GST Council? Enumerate any two recommendations that can be made by the GST Council. (OR) Enumerate any five matters on which the GST Council may make recommendations under Article 279A of the Constitution of India.

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

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

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

- (i) the taxes, cess and surcharges levied by the Union, the States and the local bodies which may be

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

Question I (1): Define the following terms-

(i) Person (ii) Supplier (iii) Recipient (or) Explain the meaning of the term "recipient of supply of goods and/or services" under the CGST Act, 2017.

Answer: (i) As per section 2(84) of CGST Act, 2017, "Person" includes—

- (a) An Individual;
- (b) A Hindu Undivided Family;
- (c) A Company;
- (d) A Firm;
- (e) A Limited Liability Partnership;
- (f) An Association of persons or a Body of individuals, whether incorporated or not, in India or outside India;
- (g) Any Corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in section 2(45) of the Companies Act, 2013.
- (h) Any Body-corporate incorporated by or under the laws of a country outside India;
- (i) A Co-operative society registered under any law relating to co-operative societies;
- (j) A Local authority;
- (k) Central Government or a State Government;
- (l) Society as defined under the Societies Registration Act, 1860.
- (m) Trust; and
- (n) Every Artificial juridical person, not falling within any of the above.

(ii) As per section 2(105) of CGST Act, the term 'Supplier' in relation to any goods or services or both, shall mean

- The person supplying the said goods or services or both
- and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied.

(iii) As per section 2(93) of CGST Act, "Recipient" of supply of goods or services or both, means—

- (a) Where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;
- (b) Where no consideration is payable for the supply of goods, the person
 - to whom the goods are delivered or made available, or
 - to whom possession or use of the goods is given or made available; and
- (c) Where no consideration is payable for the supply of a service, the person to whom the service is rendered

And any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply

and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied.

Question I (2): Define the following term as in accordance with GST

(i) Goods (ii) Services

Answer: (i) As per Section 2(52) of CGST Act 2017, "Goods" means every kind of movable property

- **Other than money & securities**
- **but includes – actionable claim, and growing crops, grass and things attached to or forming part of the land which are agreed to be served before supply or under a contract of supply.**

(ii) As per section 2(102) of CGST Act, 2017 "services" means

- **anything other than goods, money and securities**
- **but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.**

For the removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities.

Question I (3): Define the term 'Works Contract'.

Answer: As per section 2(119) of CGST Act, "works contract" means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning

- **of any immovable property**
- **wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.**

In simple wordings contract of supply of goods and services at consolidated (indivisible) price and resultant property is an immovable property.

Question I (4): Define the term 'Business' under CGST Act.

Answer: As per section 2(17) of CGST Act, 'business' includes-

- (a) **Any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;**

- (b) Any activity or transaction **in connection with or incidental or ancillary to sub-clause (a)**;
- (c) Any **activity or transaction in the nature of sub-clause (a)**, whether or not there is volume, frequency, continuity or regularity of such transaction
- (d) Supply or acquisition of goods including capital goods and services **in connection with commencement or closure of business**;
- (e) **Provision by a club, association, society, or any such body** (for a subscription or any other consideration) of the facilities or benefits **to its members**, as the case may be;
- (f) **Admission, for a consideration, of persons to any premises**;
- (g) Services supplied by a person as the **holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation**;
- (h) Activities of a **race club including by way of totalisator or a license to book maker or activities of a licensed book maker** in such club; and
- (i) Any activity or transaction **undertaken by the Central Government, a State Government or any local authority** in which they are engaged as public authorities.

Question I (5): Explain the term of 'Deemed Distinct Person'.

Answer: As per **clause (4) & clause (5) of section 25** of CGST Act, certain person shall be treated as distinct persons which states that: —

- (a) A person who has obtained or is required to obtain **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. [Sec 25(4)]
- (b) Where a person who has obtained or is required to obtain registration in a State or Union territory **in respect of an establishment, has an establishment in another State or Union territory**, then such establishments shall be treated as establishments of distinct persons. [Sec 25(5)]
- Supply between deemed distinct person shall be treated as **supply even without consideration**.

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

Question I (1): Define "Supply" in the context of GST Act. (or) Explain the meaning of supply as per provisions of Section 7(1) of Central Goods and Service Tax Act, 2017.

Answer: Supply is the **taxable event** in GST. It is the key stone of the GST architecture. As per **section 7(1)** of the CGST Act, 2017, Supply includes—

- (a) **All forms of supply** of goods or services or both Such as Sale, Transfer, Barter, Exchange, License, Rental, Lease or Disposal made or agreed to be made for a consideration by a person in the course or furtherance of business,
- (aa) The activities or transactions, by a person, other than an individual,
- to its members or constituents or vice-versa,
 - for cash, deferred payment or other valuable consideration.
 - shall be treated as a supply.

Explanation: Notwithstanding anything contained in any other law or any judgment, decree or order of any Court, tribunal or authority,

- The person and its members or constituents
- shall be deemed to be two separate persons and

the supply of activities or transactions inter se shall be deemed to take place from one such person to another.

- (b) **Importation of Services**, for a consideration whether or not in the course or furtherance of business, and
- (c) The activities specified in **Schedule I**, made or agreed to be made without a consideration. [Related party, deemed distinct, permanent transfer of business assets, transaction between principal and agent, import of service by a person from the related person].

Further as per **section 7(1A)**, The activities to be treated as **supply of goods OR supply of services** as referred to in **Schedule II** i.e. this schedule clarifies whether a particular supply will be supply of goods or supply of service.

But, as per **section 7(2)**, some of the specified activities shall **not be treated as supply**, which are as follows:

- (a) Activities / transactions **specified in Schedule III**; or
- (b) Such activities / transactions **undertaken by CG or SG or Local authority** in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council [Article 243 G/W].

Question I (2): What are the necessary elements that constitute supply under CGST Act?

Answer: In order to constitute a supply, the following parameters are required to be satisfied:

1. The activity involves supply of **goods or services or both**.
2. The supply is **for a consideration** unless otherwise specifically provided for.
3. The supply is made **in the course or furtherance of business**.

Question I (3): A car dealer sells a Mercedes Car for ₹50,00,000 to earn a profit. Does it qualify as a Supply.

Answer: Relevant Provision: As per section 7(1)(a) of CGST Act, 2017, supply includes **all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.**

Analysis & Conclusion: Yes, in the above case it will be treated as supply and liable to GST.

Question I (4): An individual buys a car for personal use and after a year sells it to a car dealer. Will the transaction be a supply in terms of CGST/SGST Act? Give reasons for the answer.

Answer: Relevant Provision: As per Section 7(1)(a), supply includes **all forms of supply of goods or services or both made or agreed to be made in the course or furtherance of business.** But in this case supply is not made by the individual in the course or furtherance of business.

Analysis & Conclusion: No, it will not be treated as Supply.

Further, no input tax credit was admissible on such car at the time of its acquisition as it was meant for non-business use.

Question I (5): 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 levibility of CGST, SGST/UTGST and IGST on the same? [ICAI Material]

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

Question I (6): Whether provision of service or goods by a club or association, society to its members will be treated as supply or not?

Answer: Relevant Provision: As per **Section 7(1)(aa)**, The activities or transactions, by a person, other than an individual,

- to its members or constituents or vice-versa,
- for cash, deferred payment or other valuable consideration.

shall be treated as a supply.

Explanation: Notwithstanding anything contained in any other law or any judgment, decree or order of any Court, tribunal or authority,

- the person and its members or constituents
- shall be deemed to be two separate persons and

the supply of activities or transactions inter se shall be deemed to take place from one such person to another.

Analysis & Conclusion: Hence, Provision of facilities by a club, association, society or any such body to its members shall be treated as supply.

Question I (7): Mrs. Pragati received legal advice for her personal problems & paid 1,000 pound as a legal fee to Miss Unnati of U.K. (London).

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

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

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

Answer: Relevant Provision: 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.

Further, 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.**

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

Further, In the given case, import of service without consideration by Mrs. Pragati from her real sister - Miss Unnati [real sister, being member of the same family, is a related person] **will not be treated as supply as it is not in course or furtherance of business.**

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

Question I (8): 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. [ICAI Material]

Answer: Relevant Provision: 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 license is granted against consideration in the form of license fee or application fee or by whatever name it is called.

Analysis & Conclusion: 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.

[Topic-(II)- Section 7 (1)(b)- Import of Services]

Question II (1): Discuss the taxability of import of services under GST.

Answer: As per **section 7(1)(b)**, supply includes **the importation of services for a consideration** whether or not in the course or furtherance of business.

Thus, import of services **with consideration is taxable** in both of the following situations:

- (a) in course or furtherance of business
- (b) not in course or furtherance of business

Further, **Para 4 of Schedule I** of CGST Act, stipulates that import of services by a person from a **related person** or from his establishments located outside India is treated as "supply" even if made without consideration if it is **provided in the course or furtherance of business.**

Question II (2): Mr. Santosh (an unregistered person) plans to pursue his higher education in Canada. He receives career consultancy services from Mr. Prakash a Canada based consultant for ₹10,00,000. Does it qualify as a supply?

Answer: Relevant Provision: As per **section 7(1)(b)**, (**Para 4 schedule I**) supply includes import of services for a consideration **whether or not in the course or furtherance of business.**

Analysis & Conclusion: Yes, in the above case it will be treated as supply. However, it would be exempted as per exemption notification no. 9/2017 (IGST).

Question II (3): Jacky Shroff Constructions Ltd. (a registered taxable person) receives architectural design supplied by a foreign architect to design a residential house to be built in Kashmir for a consideration of ₹50,00,000. Does it qualify as supply?

Answer: Relevant Provision: As per **section 7(1)(b)**, (**Para 4 schedule I**) Importation of **services for a consideration whether or not in the course or furtherance of business** is covered under supply.

Analysis & Conclusion: In the above case it will be treated as supply.

Question II (4): With reference to provisions of the CGST Act, 2017 discuss in brief, when "Importation of services" is to be considered as supply and when it is not to be considered as supply. [Nov 2020 Marks 5]

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

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

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

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

[Topic-(III)- Section 7(1)(c)- Schedule II

Question III (1): List the activities to be treated as Supply even if made without consideration.

Answer: Schedule I of CGST Act, 2017 provides the following activities to be treated as supply even if made without consideration:

- (a) **Permanent transfer/disposal of business assets:** where input tax credit has been availed on such assets.
- (b) **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.

Provided that gifts upto ₹50,000 in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

- (c) **Supply of goods—**
 - (i) By a principal to his agent where the agent undertakes to supply such goods on behalf of the principal, or
 - (ii) By an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.
- (d) **Importation of services:** by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

Question III (2): Whether goods supplied on hire purchase basis will be Supply of goods or supply of services? Give reason.

Answer: As per para 1 of Schedule II, Supply of goods on hire purchase shall be treated as supply of goods as there is transfer of title, at a future date. To qualify as supply of goods, title as well as possession both has transferred for a transaction.

In hire purchase transaction, there is an agreement where possession is transferred immediately but title is transferred at a future date upon payment of full consideration, then it is termed as supply of goods.

Question III (3): PQR and Co. a manufacturer of technical equipment donated such equipment to charitable schools on account of renovation of office. The company has taken input tax credit on the computers so donated. Does it qualify as a supply?

Answer: Relevant Provisions: – As per section 7(1)(c) read with Para 1 schedule I of CGST Act, 2017, Permanent transfer or disposal of business assets where input tax credit has been availed shall be treated as supply even made without consideration.

Analysis & Conclusion: – Hence, donation equipment to charitable schools shall qualify as supply since input tax credit has been availed by XYZ and Co.

Question III (4): Krishna Ltd. provides Patency services without charge to Rama Ltd. in which Krishna Ltd. has controlling rights. The said consultancy has been provided for benefit of entire group. Does it qualify as a supply?

Answer: Relevant Provisions: - As per section 7(1)(c) read with Para 2 of schedule I of CGST Act, 2017, supply of goods or services between related persons is treated as supply even if it is without consideration.

As per Explanation to Section 15 of CGST Act, 2017, persons shall be deemed to be "Related Persons" if "one of them directly or indirectly controls the other".

Analysis & Conclusion: - Since, Krishna Ltd. has controlling rights of Rama Ltd., they will be treated as related person and the said transaction will qualify as supply.

Question III (5): Modest Ltd., registered in Delhi dealing in supply of electronic items transferred some of its stock to its unit located in Haryana (inter-state transfer). Whether such self-supplies are taxable under GST?

Answer: Relevant Provisions: - As per section 7(1)(c) read with para 2 of schedule I of CGST Act:

- Supply of goods or services or both between related persons or **between distinct persons as specified in section 25 of the CGST Act**, is taxable under GST.
- Further, where a person who has obtain registration in two different States in respect of his two establishment then such establishments shall be treated as establishments of distinct persons [Section 25 of the CGST Act].

Analysis & Conclusion: - In view of the same, two different units of Modest Ltd. are deemed as establishments of two distinct persons. It is further **assumed that goods supplied are not exempted goods.**

Therefore, supply of goods/stock transfer from Delhi Unit of Modest Ltd. to Haryana Unit in course/furtherance of business, is deemed supply as per section 7 of the CGST Act and hence taxable under GST.

Question III (6): Examine whether the following activities would amount to supply under section 7 of the CGST Act:

- (a) Selecta Manufacturers have a factory in Delhi and a depot in Mumbai. Both these establishments are registered in respective States. Finished goods are sent from factory, in Delhi to the Mumbai depot without consideration so that the same can be sold.
- (b) Raman is an Electronic Commerce Operator in Chennai. His brother who is settled in ban London is a well-known lawyer. Raman has taken legal advice from him free of cost with regard to his family dispute.
- (c) Management consultancy services by Mr. Ramlal but not in course or furtherance of business.

Answer:

- (a) **Relevant Provisions:** Schedule I para 2 of CGST Act, stipulates that supply of goods or services or both between **related persons or between distinct persons as specified in section 25 of the CGST Act**, is supply even without consideration, provided it is made in the course or furtherance of business. Further, where a person who has obtain registration in two different States in respect of his two establishment then such establishments shall be treated as establishments of distinct persons [Section 25].

Analysis & Conclusion: - In view of the same, factory and depot of Selecta Manufacturers are deemed as establishments of two 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 of the CGST Act.

- (b) **Relevant Provisions:** - Schedule I para 4 of CGST Act, stipulates that import of services by a person from a related person located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business.

Analysis & Conclusion: - In the given case, Raman has received legal services from his brother free of cost in a personal matter and not in course or furtherance of business. Hence, services provided by Raman's brother to him would not be treated as supply under section 7 of the CGST Act.

- (c) **Relevant Provisions:** - Section 7 of the CGST Act, 2017 stipulates that in order to qualify as supply,

- (i) Supply should be of goods and/or services.
- (ii) Supply should be made for a consideration
- (iii) Supply should be made in the course or furtherance of business.

Analysis & Conclusion: - As in the given case, Services provided are not in course or furtherance of business. Hence, services provided by Mr. Ramlal would not be treated as supply.

Question III (7): Examine whether the activity of import of service in the following independent cases would amount to supply under section 7?

- (i) Miss Shrinithi 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 Shrinithi 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 Shrinithi]. Further, Miss Shrinithi did not pay any consideration for the said service.
- (iii) Will your answer change if in the above case, if Miss Shrinithi has taken interior decoration services with regard to her business premises and not her residence? [ICAI Material]

Answer:

- (i) **Relevant Provisions:** - As per section 7(1)(b) of the CGST Act 2017, Supply includes-

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

Analysis & Conclusion: - Thus, although the import of service for consideration by Miss. Shrinithi Kaushik, it is not in course or furtherance of business, as the interior decoration service have been availed in respect of her residence, it would amount to supply.

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

that import of services by a taxable person from a related person located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business.

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-

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

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

- (iv) 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.

Question III (8): Sahab Sales, an air-conditioner dealer in Janakpuri, Delhi needs 4 air-conditioners for his newly constructed house in Safdarjung Enclave. Therefore, he transfers 4 air-conditioners [on which ITC has already been availed by it] from its stock, for the said purpose. Examine whether the said activity amounts to supply under section 7 of the CGST Act, 2017.

Further, a Janakpuri resident, Aakash, approached Sahab Sales. He sold an air-conditioner to Sahab Sales for ₹5,000. Aakash had bought the said air-conditioner six months before, for his residence. Does sale of the air conditioner by Aakash to Sahab Sales amount to supply under section 7 of the CGST Act, 2017?

Answer: Relevant Provisions: - Section 7 stipulates that in order to qualify as supply-

- (a) Supply should be of **goods and/or services**.
- (b) Supply should be **made for a consideration**
- (c) Supply should be **made in the course or furtherance of business**.

Further, Schedule I of the CGST Act, 2017 illustrates the activities to be treated as **supply even if made without consideration**.

One such activity is **permanent transfer or disposal of business assets where input tax credit has been availed on such assets** then the said activity is to be treated as supply even if made without consideration.

Analysis & Conclusion: - In view of said provisions, permanent transfer of air conditioners by Sahab Sales from its stock for personal use at its residence without consideration, would amount to supply.

Sale of air-conditioner by Aakash to Sahab Sales will **not qualify as supply** under section 7 of the CGST Act, 2017 as although it is made for a consideration, but it is not in the course or furtherance of business.

Question III (9): A dealer of air-conditioners permanently transfers an air conditioner from his stock in trade, for personal use at his residence. Will the transaction constitute a supply?

Answer: Relevant Provisions: - As per section 7(1)(c) read with Para 1 schedule I of CGST Act, 2017, **Permanent transfer or disposal of business assets where input as credit has been availed** on such assets shall constitute a supply under GST even where no consideration is involved.

Analysis & Conclusion: - Hence, transfer of Air Conditioner at residence shall be treated as Supply.

Question III (10): ABC Shoeshines Ltd. engages "Easy-Beezee Ltd" as an agent to sell Shoes on its behalf. For this purpose, ABC shoeshines Ltd. has supplied 500 shoes to the showroom of "Easy-Beezee Ltd." located in Jaipur. Does it qualify as supply?

Answer: Relevant Provisions: As per section 7(1)(c) read with Para 3 of schedule I of CGST Act, 2017, **supply of goods by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal** shall be treated as supply even if made without consideration.

Analysis & Conclusion: By referring the above view, supply of shoes by ABC Shoeshines Ltd. to Easy-Beezee Ltd. will qualify as supply.

Question III (11): The temple of ancestral tutelary deity of Mr. Aman goel and his family is located at Beri, Haryana. The temple is run by a charitable organisation registered under section 12AA of the Income Tax Act, 1961. The family has got unshakeable faith in their ancestral tutelary deity. Mr. Aman is a big entrepreneur having flourishing business of tiles in Gurugram. Upon the birth of their first child, he donated ₹ 10 lakh to the said temple for construction of a sitting hall in the temple. On the main door of the sitting hall, a name plate was placed stating "Donated by Mr. Aman Goel upon birth of his first child".

You are required to examine the leviability of GST on the donation received from Mr. Aman Goel?

Answer: Relevant Provisions: It has been clarified vide Circular No. 116/35/2019 that when the name of the donor is displayed in the religious institution premises, by placing a name plate or similar such acknowledgement, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation). There is no obligation (*quid pro quo*) on part of recipient of the

donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration.

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

Question III (12): 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. [ICAI Material]

Answer: Relevant Provisions: 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.

Analysis & Conclusion: In the given case, since the Damodar Private Ltd. and its branch located in another State are distinct persons, supply of goods between them qualifies as supply.

Question III (13): 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. [ICAI Material]

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 or services or both.
- (iii) Supply of goods —
 - (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or
 - (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

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

Question III (14): Examine whether the following activities would amount to supply under section 7 read with Schedule I:

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

Answer:

(a) Relevant Provisions: 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)].

Analysis & Conclusion: 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) Relevant Provisions: 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.

Analysis & Conclusion: 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.**

Question III (15): 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? [ICAI Material]

Answer:

(i) **Relevant Provisions:** 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.

Analysis & Conclusion: 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) **Relevant Provisions:** 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, —

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

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

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

Question III (16): 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. [ICAI Material]

Answer: Relevant Provisions: 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 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].

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

Question III (17): PTL Pvt. Ltd. is a retail store of merchandise located in 25 States/UTs in the country. For the purpose of clearance of stock of merchandise and to attract consumers, PTL Pvt. Ltd. launched scheme of "Buy One Get One Free" for the same type of merchandise, for instance, one shirt to be given free with purchase of one shirt. Determine how the taxability of the goods supplied under "Buy One Get One Free" scheme is determined. [ICAI Material]

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.

[Topic-(IV)- Schedule II]

Question IV (1): Whether the following will be treated as supply of goods or services?

- (a) Works contracts and Catering services
- (b) Supply of software
- (c) Goods supplied on hire purchase basis

Answer:

- (a) As per para 6 of schedule II, Works contracts and Catering services shall be treated as **supply of services.**
- (b) As per para 5 of schedule II, Development, design, programming, customization, adaption, upgradation, enhancement, implementation of information technology software shall be treated as **supply of services.**
- (c) As per para 1 of schedule II, Supply of goods on hire purchase shall be treated as **supply of goods** as there is transfer of title at a future date.

Question IV (2): Aspire Ltd enters into contract with Beta Ltd for execution of works contract for ₹50,00,000 excluding taxes for following activities pertaining to construction of a complex. Determine whether the following activities fall under the ambit of 'works contract'

- (i) Erection & installation of structural designs to the complex which involved material.
- (ii) Fabrication works relating to the structure of complex no material is involved.
- (iii) Assembling of units pertaining to movable property which involved material and goods.
- (iv) Tiling & painting work of the entire building which involved material.

Answer: Relevant Provisions: - As per section 2(119) of CGST Act, Works contract means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.

Analysis & Conclusion: - Based on the above definition, the given activities can be analyzed as follows: -

- (i) **Yes**, the given activity is in relation to an immovable property thus qualifies as a works contract.
- (ii) **No**, even though the given activity of fabrication is in relation to immovable property thus it does not qualify as works contract because material is not involved.
- (iii) **No**, the activity of assembling units will not qualify as works contract as it is relation to a movable property.
- (iv) **Yes**, the given activity is in relation to building which is immovable property & thus qualifies as works contract.

Question IV (3): State whether the following supplies would be treated as supply of goods or supply of services as per Schedule II of the CGST Act: - [ICAI Material]

Supply	Nature of Supply
Renting of immovable property	Supply of services [Para 5 of Schedule III]
Goods forming part of business assets are transferred or disposed of by/under directions of person carrying on the business, So as no longer to form part of those assets, whether or not for consideration	Supply of goods [Para 4 of Schedule III]
Transfer of right in goods without transfer of title in goods	Supply of services [Para 1 of Schedule III]
Transfer of title in goods under an agreement which stipulates that property shall pass at a future date	Supply of goods [Para 1 of Schedule III]
Leasing or License to occupy immovable property	Supply of services [Para 2 of Schedule III]
Sale of Under Construction Property	Supply of services [Para 5 of Schedule III]
Transfer of right in goods as well as title in goods.	Supply of goods [Para 1 of Schedule III]
Any Treatment or Process applied on another person's goods	Supply of services [Para 3 of Schedule III]
Temporary Transfer of use of any Intellectual Property Right	Supply of services [Para 5 of Schedule III]
Agreeing to the obligation to refrain from an act or to do an act	Supply of services [Para 5 of Schedule III]

Supply	Nature of Supply
Supply of goods by any unincorporated association to a member thereof	Supply of goods [Section 7(1)(aa)]
Works contracts	Supply of services [Para 6 of Schedule II]

Question IV (4): The goods supplied on hire purchase basis will be treated as supply of services. Examine the validity of the statement. [ICAI Material]

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

Question IV (5): Whether transfer of title and/or possession is necessary for a transaction to constitute supply of goods? [ICAI Material]

Answer: Yes.

Title as well as possession **both has to be transferred** for a transaction to be considered as a **supply of goods** in terms of **Schedule II (1)(a)**.

In case, **title is not transferred**, the transaction would be treated as **supply of service** in terms of **Schedule II (1) (b)** of the CGST Act.

In some cases, possession may be transferred immediately but title may be transferred **at a future date** like in case of sale on approval basis or hire purchase arrangement. Such transactions will also be termed as **supply of goods**.

Question IV (6): ABC Consultancy, registered in Mumbai, supplies technical consultancy services to its clients. It has been providing technical services to XY Ltd, Mumbai since past two years. Consideration is settled by XY Ltd assignment wise. XY Ltd paid ₹45 lakh to ABC Consultancy on 10th January, 20XX on which ABC consultancy agreeing to not provide similar technical services to any other business entity in India or abroad for a period of 8 years. ABC Consultancy is of the view that ₹45 lakh is not chargeable to GST.

You are required to examine whether the view taken by ABC Consultancy is valid in law. Calculate GST liability of ABC Consultancy, if any. The technical services provided by ABC consultancy is otherwise chargeable to GST at the rate of 18%. It may be noted that XY Ltd is not ready to pay any further amount to ABC Consultancy in addition to the amount already agreed.

Answer: The view taken by ABC Consultancy is **not valid** in law.

Relevant Provisions: The scope of supply is defined by section 7(1). It includes deemed supply given under Schedule I. Para 5(e) of Schedule II provides that **agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act is treated as supply of service.**

Analysis & Conclusion: Thus, any consideration received for agreeing to the obligation to refrain from an act, is subject to GST. Consideration received for non-compete agreement is deemed as consideration for supply of services. Consideration of ₹45 lakh received on the promise of ABC consultancy of not providing similar services to any other person, is consideration for supply which is chargeable to GST.

Since **GST is not separately collected**, it will be assumed that it is included in ₹45 lakh. **Rule 35** of CGST Rules, 2017 provides that where the value of supply is inclusive of GST, the tax amount is determined in the following manner: -

Tax amount = (Value inclusive of taxes x tax rate in % of IGST or, CGST, SGST or UTGST) ÷ (100 + sum of tax rates, as applicable, in %)

Consequently, value of taxable supply will be ₹38,13,559 (i.e., ₹45,00,000 x 100/118). GST liability on ₹38,13,559 will be calculated as follows-

Particulars	Amount in ₹
Taxable value of supply	38,13,559
Add- CGST @ 9% of ₹38,13,559	3,43,220
SGST @ 9% of ₹38,13 559	3,43,220
Total GST liability	6,86,440

[Topic-(V)- Schedule III]

Question V (1): Enumerate the activities or transactions which shall be treated neither as a supply of goods nor a supply of services.

Answer: Schedule III specifies transactions/activities which shall be neither treated as supply of goods nor a supply of services: -

1. Services by an **employee to the employer** in the course of or in relation to his employment.

Note: Any perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are in lieu of the services provided by employee to the employer in relation to his employment. Hence it will not be subjected to GST.

2. Services by any court or Tribunal established under any law for the time being in force.
3. (a) Functions performed by the **Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities** and Members of other local authorities;

- (b) Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or
- (c) Duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before commencement of this clause.
4. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
5. Sale of land and constructed or completed building.
- [Note: Land may be sold either as it is or after some development such as levelling, laying down of drainage lines, water lines, electricity lines, etc. It is clarified that sale of such developed land is also sale of land and is covered by Schedule III and accordingly does not attract GST. However, it may be noted that any service provided for development of land, like levelling, laying of drainage lines (as may be received by developers) shall attract GST at applicable rate for such services.]
6. Actionable claims, other than lottery, betting and gambling.
7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.
8. (a) Supply of warehoused (custom bonded warehouse) goods to any person before clearance for home consumption;
- (b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.

Question V (2): Whether actionable claims are liable to GST?

Answer: As per sec. 2(52) of the CGST, Definition of Goods includes actionable claims. Further, Schedule III read with sec.7 of the CGST Act lists the activities or transactions which shall be treated neither as supply of goods nor supply of services. The schedule lists actionable claims other than lottery, betting and gambling as one of such transactions.

Thus, only lottery, betting and gambling shall be treated as supplies under the GST regime. All other actionable claims shall not be liable to GST.

Question V (3): Employer provides bus service, meal coupon, telephone at residence, gives vehicle for official and personal use, uniform and shoes, to employee. Explain implication of GST?

Answer: Relevant Provisions: - As per Sec 7(2) of CGST Act read with Para 1 of Schedule III any service provided by an employee to employer in the course of or in relation to employment then it is not called as supply.

Further, as per Schedule I para 2 any gift given by the employer to an employee upto ₹50,000 in a financial year does not qualify as a supply.

Further, Any perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are in lieu of the services provided by employee to the employer in relation to his employment,

Analysis & Conclusion: - In given case bus, service, meal coupon etc. are provided by the employer in course or in relation to employment then no GST is payable, but if it is provided as a gift & not as a part of employment, then GST is payable if value thereof exceed ₹50,000 in a financial year.

Question V (4): "Coop", a cooperative society gives Diwali Gifts to employee worth ₹5,00,000. Does it qualify as a supply? Would your answer be different if gifts of ₹40,000 has been given to employee?

Answer: Relevant Provisions: - As per section 7(1)(c) read with Para 2 schedule I of CGST Act, 2017, supply of goods or services between related persons is treated as supply even if it is without consideration. As per **Explanation to Section 15** of CGST Act, 2017, persons shall be deemed to be "relating persons" if such persons are employer and employee. Thus, Diwali gifts to employee worth ₹5,00,000 will qualify as supply and such supply would be leviable to GST.

Analysis & Conclusion: - If gifts of ₹40,000 is given instead of ₹5,00,000, the answer will not qualify as supply since it has been specifically provided that gifts not exceeding ₹50,000 in value in a financial year by an employer shall not be treated as supply of goods and services or both.

Question V (5): ABC Associates received management consultancy services from its head office located in Malaysia. The head office has rendered such services free of cost to its branch office. Does it qualify as supply?

Answer: Relevant Provisions: - As per section 7(1)(c) read with Para 4 schedule I of CGST Act, 2017, **Import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business** will be treated as supply even if made without consideration.

Analysis & Conclusion: - Thus, management consultancy services received by ABC Associates will qualify as supply even though the head office has not charged anything from it and will be liable to GST.

Question V (6): Mr. Zombi, a supplier registered in Hyderabad (Telangana), procures goods from China and directly supplies the same to a customer in US. With reference to the provisions of GST law, examine whether the said activity of supply of goods by Mr. Zombi to customer in US is taxable under GST. If yes, determine the place of supply of the same.

Answer: Relevant Provisions: - Schedule III to the CGST Act specifies transactions/activities which shall be neither treated as supply of goods nor supply of services. One of such activity/transaction is **supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India, under Para 7 of Schedule III.**

Analysis & Conclusion: - Therefore, in view of the above-mentioned provisions, the said activity is not a supply. Hence, it is not leviable to GST since "supply" is the taxable event for chargeability of GST. Therefore, since the transaction is not leviable to GST, the question of place of supply does not arise in the given case.

[Topic (VI)- Composite and Mixed Supply]

Question VI (1): What do you mean by composite supply & mixed supply? Briefly discuss the manner in which the tax liability on composite supplies and mixed supplies is determined?

Answer: As per section 8 of CGST Act, 2017

Composite supply means-

- a supply made by a taxable person to a recipient and:
- Comprises 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.

This means that in a composite supply, goods or services or both are bundled owing to natural necessities. The elements in a composite supply are dependent on the 'principal supply'.

Determination of tax liability on composite supplies:-

A composite supply comprising of two or more taxable supplies, one of which is a principal supply, shall be treated as a supply of such principal supply.

Example: - Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply.

Mixed supply means:

- two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person
- For a single price where such supply does not constitute a composite supply.

The individual supplies are independent of each other and are not naturally bundled.

Determination of tax liability on mixed supplies:-

A mixed supply comprising of two or more supplies shall be treated as supply of that particular supply that attracts highest rate of tax.

Example: - A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other however It shall not be a mixed supply if these items are supplied separately. GST in case of mixed supplies shall be determined on the basis of that element which attracts highest tax rate.

Question VI (2): "Diligent Force" a professional training institute gets its training material of "Aptitude Quotient" printed from "Durga printing House" a printing press. The content of the material is provided by the Diligent

Force who owns the usage rights of the same while the physical inputs including paper used for printing belong to the Durga Printing House.

Ascertain whether supply of training material by the Durga Printing House constitutes supply of goods or supply of services.

Answer: Relevant Provisions: - Circular No. 11/11/2017 has clarified that supply of books printed with contents supplied by the recipient of such printed goods, is composite supply and the question, whether such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply.

Principal supply has been defined in section 2(90) of the CGST Act as supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

Analysis & Conclusion: - In the case of printing of books where content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and such supplies would constitute supply of service.

Thus, the supply of training material by the Durga Printing House would constitute supply of services.

Question VI (3): Agrawal Carriers is a Goods Transport Agency (GTA) engaged in transportation of goods by road. As per the general business practice, Agrawal Carriers also provides intermediary and ancillary services like loading/ unloading, packing/unpacking, transshipment and temporary warehousing, in relation to transportation of goods by road.

With reference to the provisions of GST law, analyze whether such services are to be treated as part of the GTA service, being a composite supply, or as separate supplies.

Answer: Relevant Provisions: - Composite supply means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply [Section 2(30) of the CGST Act].

Analysis & Conclusion: - The GTA provides various intermediary and ancillary services, such as, loading/unloading, packing/unpacking, transshipment and temporary warehousing, which are provided in the course of transport of goods by road. These services are not provided as independent services but as ancillary to the principal service, namely, transportation of goods by road. The invoice issued by the GTA for providing the said service includes the value of intermediary and ancillary services.

In view of this, if any intermediary and ancillary service is provided in relation to transportation of goods by road, and charges, if any, for such services are included in the invoice issued by the GTA, **such service would form part of the GTA service, being a composite supply**, and would not be treated as a separate supply. However, **if such incidental services are provided as separate services and charged separately, whether in the same invoice or separate invoices, they shall be treated as separate supplies.**

Question VI (4): Determine whether the following supplies amount to composite supplies:

- (a) A hotel provides 4 days-3 night's package wherein the facility of breakfast and dinner is provided along with the room accommodation.
- (b) A toothpaste company has offered the scheme of free toothbrush along with the toothpaste
- (c) A package consisting of canned foods, sweets, chocolates, dry fruits supplied for a single price. [ICAI Material]

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

Analysis & Conclusion: 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 toothbrush along with the toothpaste are **not naturally bundled**, said supplies do not qualify as 'composite supply'.
- (c) Since these items **can be supplied separately and are not naturally bundled**, said supplies do not qualify as 'composite supply'.

Question VI (5): Mahajan Ltd. is a manufacturer of gift items and other related products, supplied a "FAMILY PACKAGE" consisting of toys (GST rate- 18%), beauty cream (GST rate- 28%), baby- care products (GST rate- 28%) and Cosco balls (GST rate- 12%). The price per package is ₹1,000 (exclusive of taxes). 25000 packages are supplied by the company to its dealers. Determine the nature of supply and its tax liability.

Answer: Relevant Provisions: This supply would be regarded as **mixed supply**, since in this case **each of the goods in the package have individual identity and can be supplied separately, but are deliberately supplied conjointly for a single consolidated price.**

The tax rates applicable in case of mixed supply would be the rate of tax attributable to that one supply (goods or services) which suffers the **highest rate of tax** from amongst the supplies forming part of the mixed supply.

Therefore, the package will be chargeable to 28% GST.

Analysis & Conclusion: The tax liability will be arrived as under:

Particulars	Amount
Value of taxable supply per package	1000
No. of packages	25,000
Total taxable value of supply	2,50,00,000
Applicable GST rate	28%
Total tax liability	70,00,000

Question VI (6): Explain the composite supply and mixed supply. If a trader launches a package sales for marriage containing double bed, refrigerator, washing machine, wooden wardrobe at a single rate. He is issuing invoice showing value of each goods separately . Whether this is case of mixed supply or composite supply. Explain. [July 2021 Marks 4]

Answer: Relevant Provisions: Composite supply comprises of two or more taxable supplies of goods or services or both, or any combination thereof , which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

Mixed supply means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price, where such supply does not constitute a composite supply.

Analysis & Conclusion: Items such as double bed, refrigerator, washing machine and wooden wardrobe are not naturally bundled and also the invoice for the supply shows separate values for each item i.e., the package is not supplied for a single price .

Therefore, supply of such items as a package will neither constitute a composite supply nor a mixed supply. Thus, the various items of the package will be treated as being supplied individually.

Note: The question specifies that the various items are supplied at a 'single rate'. The "single rate" expression is construed as **single rate of tax** in the above answer. Further, the "single rate" may also be construed as **single price** as given in the below mentioned answer.

Items such as double bed, refrigerator, washing machine and wooden wardrobe are not naturally bundled. Therefore, supply of such items as a package will not constitute composite supply. Further, a single price has been charged for the package.

Consequently, supply of such items as a package will be treated as mixed supply.

Question VI (7): Dum Dum Electronics has sold the 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. [ICAI Material]

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

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

Question VI (8): 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: [ICAI Material]

Goods / Services Supplied	GST Rate %
Chocolates	18%
Fruit Juice Bottles	12%
Toy Balloons	5%

Answer: Relevant Provisions:- 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.

Analysis & Conclusion: - 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%.

[Topic-(I)- Introduction]

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

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

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

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

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

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

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

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

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

Answer: In respect of B2B transactions, the taxes paid are taken as credit by the recipient so such transactions are just passing through. GST collected on B2B supplies effectively create a liability for the government and an asset for the recipient of such supplies in as much as the recipient is entitled to use the input tax credit for payment of future taxes. For B2B transactions, the location of recipient takes care in almost all situations as further credit is to be taken by recipient. The recipient usually further supplies to another customer. The supply is consumed only when a B2B transaction is further converted into B2C transaction.

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

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

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

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

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

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

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

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

Briefly explain the following:

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

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

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

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

This situation involves another supply between Deep Traders (Jalandhar, Punjab) and Jyoti Sons (Patiala, Punjab). In this case, since the supply involves movement of goods, place of supply will be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient, i.e. Patiala, Punjab [Section 10(1)(a) of the IGST Act, 2017]. Since the location of supplier and the place of supply are in the same State, the supply is an intra-State supply in terms of section 8 of the IGST Act, 2017, liable to CGST and SGST.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Answer: As per Explanation to section 12(3) of the IGST Act, for domestic supplies, where the immovable property is located in more than one State, the supply of service is treated as made in each of the States in proportion to the value for services that can be separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on any other reasonable basis as may be prescribed in this behalf. In the absence of a contract or agreement between the supplier and recipient of service in this regard, the proportionate value of services supplied in different States / UTs (where the immovable property is located) is computed on the basis of the area of the immovable property lying in each State/UTs (Rule 4 of the IGST Rules).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (i) **Relevant Provision:** As per the provisions of section 12(6) of the IGST Act, 2017, the place of supply of services provided by way of admission to, inter alia, a cultural event shall be the place where the event is actually held.
Analysis & Conclusion: Therefore, the place of supply of services supplied by Musicera Pvt. Ltd. to audiences by way of admission to the music concert is the location of the Hotel Dumdum, i.e. Gurugram, Haryana.

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

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

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

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

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

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

Consideration for supply = ₹10,00,000

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

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

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

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

Consideration for supply = ₹4,00,000

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Answer:

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

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

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

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

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

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

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

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

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

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

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

Answer:

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

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

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

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

Analysis & Conclusion: Since, in the given case, the service recipient [Dr. Kelvin] is unregistered and event is held in India, place of supply is the location where the event is actually held i.e., Mumbai, Maharashtra. However, if the wedding is to take place outside India [Malaysia], the place of supply is the location of recipient, i.e. Kochi, Kerala.

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

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

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

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

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

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

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

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

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

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

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

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

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

Answer: For domestic supplies: -

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

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

The place of supply for mobile connection would depend on whether the connection is on postpaid or prepaid basis. As per section 12(11) of IGST Act, in case of postpaid connections, the place of supply is the location of billing address of the recipient of service on the records of supplier of services.

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

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

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

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

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

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

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

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

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

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

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

The other relevant information is given hereunder:

Table 1

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

Table 2

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

The applicable rate of tax is as under:

CGST	SGST	IGST
9%	9%	18%

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

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

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

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

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

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

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

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

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

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

Computation of GST liability of 'Moon Plus'

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

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

[Topic-(I)- Basic Concepts]

Question I (1): What are the advantage of taking registration in GST? [ICAI Material]

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.

Question I (2): Can a person without GST registration collect GST and claim ITC? [ICAI Material]

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.

[Topic-(II)- Aggregate Turnover]

Question II (1): P Ltd, a registered person provided following information for the month of October, 20XX:

Particulars	Amount (₹)
Intra-State outward supply	8,00,000
Inter-State exempt outward supply	4,00,000
Turnover of exported goods	20,00,000
Payment of IGST	1,20,000
Payment of CGST and SGST	45,000 each
Payment of custom duty on export	40,000
Payment made for availing GTA services	3,00,000

GST is payable on Reverse Charge for GTA services.

Explain the meaning of aggregate turnover u/s 2(6) of the CGST Act and compute the aggregate turnover of P Ltd. for the month of October, 20XX. All amounts are exclusive of GST.

Answer: Relevant Provisions: - The term aggregate turnover means the aggregate value of:

- (i) all taxable supplies
- (ii) exempt supplies,
- (iii) exports of goods or service s or both and

- (iv) inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excluding
- (a) central tax, State tax, Union territory tax, integrated tax and cess.
- (b) the value of inward supplies on which tax is payable by a person on reverse charge basis.

Analysis & Conclusion: -**Computation of aggregate turnover of P Ltd. for the month of October, 20XX**

Particulars	Amount (₹)
In terms of the definition of the aggregate turnover given above, the aggregate turnover of P Ltd. has been computed as follows:	
Intra-State outward supply	8,00,000
Inter-State exempt outward supply	4,00,000
Turnover of exported goods	20,00,000
Payment of IGST	Nil
Payment of CGST and SGST	Nil
Payment of customs duty on export	40,000
Payment made under reverse charge for availing GTA services	Nil
Aggregate turnover	32,40,000

Question II (2): Mr. X of DL has effected following supplies within the state of Delhi. Determine whether he is required to obtain registration under GST or not:

(1) Intra state supply of goods wholly exempt from GST u/s 11 of CGST Act, 2017	5,00,000
(2) Intra state supply of goods chargeable with GST @ 5%	7,00,000
(3) Intra state transfer of goods to job worker	16,00,000
(4) Inter state supply of services	5,00,000

Total value **33,00,000**

Answer: Computation of Aggregate value of taxable supplies:

(1) Intra state supply of goods wholly exempt from GST u/s 11 of CGST Act, 2017	5,00,000
(2) Intra state supply of goods chargeable with GST @ 5%	7,00,000
(3) Intra state transfer of goods to job worker	NIL
(4) Inter state supply of services	5,00,000
Total value of taxable supplies	17,00,000

Since value of taxable supplies is less than 20,00,000 so Mr. X is not required to obtain registration under GST.

Working Notes:

- (1) Intra state transfer of goods to job worker is not a supply.
- (2) Intra state supply of goods which are wholly exempt from GST u/s 11 and those which are chargeable to GST, both are included for determination of aggregate turnover.

Question II (3): From the following information you are required to determine whether ABC Ltd incorporated in Rajasthan is liable to be registered under GST law if the company has effected following supplies within the state of Rajasthan:

Particulars	₹
(1) Intra state supply of goods chargeable to GST @ 12%	5,25,000
(2) Intra state supply of goods chargeable with NIL rate	8,00,000
(3) Intra state supply of goods which are wholly exempt from GST u/s 11 of CGST Act, 2017	6,25,000
Total value of supplies	19,50,000

Answer: Computation of aggregate turnover

Particulars	Amount ₹
(1) Intra state supply of goods chargeable to GST @ 12%	6,25,000
(2) Intra state supply of goods chargeable with NIL rate	8,00,000
(3) Intra state supply of goods which are wholly exempt from GST u/s 11 of CGST Act, 2017	7,25,000
Total value of taxable supplies	19,50,000

Since aggregate turnover of ABC Ltd is less than 40,00,000, so, registration is not required.

Question II (4): Presume in the above case, ABC Ltd was incorporated in MANIPUR. Will the registration now be required?

Answer: Since MANIPUR is a special category state, so registration is required since value of taxable supplies exceeds 10,00,000.

[Topic-(III)- Section 22]

Question III (1): Q Ltd. is engaged exclusively in supply of taxable goods from the following states. The particulars of intra-state supplies for the month of May 20XX are as follows:

State	Turnover ₹
Madhya Pradesh	5,00,000
Gujarat	14,00,000

Tripura	12,00,000
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- (i) Q Ltd. seeks to know whether it is liable for registration under GST. Give your explanation.
- (ii) Will your answer be different if Q Ltd. supplies only petrol & diesel from Tripura instead of any other taxable goods? [Dec 2021, 4 Marks]

Answer: Relevant Provision: Every person engaged in making a taxable supply is required to obtain registration if his aggregate turnover exceeds ₹20 lakh in a financial year. An enhanced threshold limit for registration of ₹ 40 lakh is available to persons engaged exclusively in intra-State supply of goods in specified States. However, the applicable threshold limit for registration gets reduced to ₹ 10 lakh in case a person is engaged in making supply from a specified Special Category State provided such supply is a taxable supply.

Analysis & Conclusion:

(i) Since Q Ltd. is making supply of taxable goods from Tripura – a specified Special Category State, the applicable threshold limit will get reduced to ₹10 lakh.

Thus, it is liable to be registered under GST as its aggregate turnover [₹ 31 lakh] exceeds the said threshold limit.

(ii) In case Q Ltd. is making supply of non-taxable goods [petrol and diesel] from Tripura, the applicable threshold limit will not be reduced to ₹10 lakh; enhanced threshold limit of ₹40 lakh will be applicable.

Thus, it is not liable to be registered under GST as its aggregate turnover [₹ 31 lakh] does not exceed the said threshold limit.

Question III (2): Answer the following-

(i) There is a dairy farm selling milk and milk products in Delhi. The turnover of his dairy farm is as below:

Milk (Exempted): ₹ 19,90,000

Butter (Taxable): ₹ 50,000

What is the registration liability under GST for the above mentioned person assuming he has same PAN?

(ii) Amit, a taxable person, is operating in Tamil Nādu, Punjab and West Bengal, with the same PAN. Can he operate with a single registration in West Bengal?

Answer:

(i) **Relevant Provisions:** -Every supplier becomes liable to registration if his aggregate turnover in a financial year exceeds ₹ 20 lakh/₹ 40 lakh in a State/UT [₹ 10 lakh in case of 4 Special Category States].

Further, aggregate turnover, means the aggregate value of all taxable supplies as well as exempt supplies.

Analysis & Conclusion: -Thus, in the given case, aggregate turnover: