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Dec 2021

Question 1

Jupiter Chemicals Ltd. (JC) is a manufacturer of industrial chemicals. It has its factory at Haridwar, Uttarakhand and is registered under GST. It has its subsidiary company, Angel Traders Pvt. Ltd. (AT), with holding of 75% of its share capital. AT is engaged in trading of chemicals manufactured by JC in North India and is registered under GST in Delhi at warehouse address. JC has also appointed a consignment agent - Popular Distributors (PD) - in Chennai which is catering the Southern India market. JC has also setup a state of art research and development centre along with laboratory near the Haridwar factory and undertakes testing and development services for chemicals from outside customers across the country. Following information is available for the month of April 2021 of JC Haridwar:

S. No.	Particulars	Amount (₹)
(i)	JC supplies the chemicals to PD Chennai during the month. (PD sold the above said goods to the unrelated wholesalers in the States of Tamil Nadu and Andhra Pradesh for ₹ 60,00,000 during the same month). Open market value is ₹ 55,00,000	45,00,000
(ii)	JC supplied chemicals to AT during the month. (AT further sold the said chemicals to unrelated retailers in Delhi for ₹ 42,00,000 and AT is not eligible for full input tax credit). Open Market value is ₹ 38,00,000	30,00,000
(iii)	JC exports chemicals to South Africa with payment of IGST and consideration for the same was received in convertible foreign exchange.	28,00,000
(iv)	JC provided inter-State supply of testing services to various customers during the month	8,50,000
(v)	Supply of chemical to one of its customers in Mumbai who required the chemical to be tested before dispatch and subject to test report coming according to his parameters. Testing was successful and testing charges of ₹ 50,000 were charged extra.	6,50,000 (excluding testing charges)
(vi)	Supply of chemical at subsidized rate for research and development activity not related to the business of JC to an unrelated charitable association in Haridwar, Uttarakhand. Open market value of the chemical is ₹ 6,50,000.	5,00,000

Assume that the rates of GST on chemicals are IGST-12%, CGST-6% and SGST-6%, and on testing and development services are IGST-18% and SGST-9%.

You are required to determine the taxable value (most beneficial) and GST liability (IGST, CGST and SGST separately) of Jupiter Chemicals (JC) Haridwar for the month of April 2021.

Answer:

Determination of taxable value and GST liability of Jupiter Chemicals (JC) Haridwar for the month of April 2021

S. No.	Particulars	Taxable value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
(i)	Inter-State supply of chemicals to consignment agent - PD, Chennai [Value, at the option of supplier, is:	45,00,000			6,48,000 [54,00,000 × 12%]

	(i) Open market value (OMV) [55,00,000] or				
	(ii) 90% of price charged for goods of like kind and quality to unrelated customers who further supply such goods (90% of ₹ 60,00,000).]				
(ii)	Inter-State supply of chemicals to related person - AT [Value of supply of goods to a related person who further supplies such goods as such, at the option of supplier, is: (i) OMV, if OMV is available [₹38,00,000] or (ii) 90% of price charged for goods of like kind and quality to unrelated customers (90% of ₹ 42,00,0000)]	37,80,000*			4,53,600 [37,80,000 × 12%]
(iii)	Export of chemicals to South Africa	28,00,000	--	--	3,36,000 [28,00,000 × 12%]
(iv)	Inter-State supply of testing services	8,50,000			1,53,000 [8,50,000 × 18%]
(v)	Inter-State supply of chemical to customer in Mumbai [Any amount charged for anything done by supplier in respect of supply of goods at the time of/before delivery of goods is includible in the value of supply.]	7,00,000			84,000 [7,00,000 × 12%]
(vi)	Intra-State supply of chemical to an unrelated charitable association in Haridwar [In case of supply made to unrelated recipient where price is the sole consideration for supply, value of the supply is the transaction value which is price actually paid for the supply.]	5,00,000	30,000 [5,00,000 × 6%]	30,000 [5,00,000 × 6%]	
	Total	1,40,30,000	30,000	30,000	16,74,600

*Note: Since the question requires to compute the most beneficial taxable value of supply, lower of the two values has been taken as value of supply.

Question 2

(a) A2X Services Limited, registered under GST, is engaged in providing various services to various educational institutions. The company provides the following information in respect of services provided during the month of April 2021:

S. No.	Description of services provided
(i)	Transportation of students & staff of 'Love All', a deemed University
(ii)	Catering services provided to 'Rank CBSE School'
(iii)	Security services provided to 'Win CBSE School', for its annual sports day held at SAI Sports Complex owned by Government of India
(iv)	Supply of online periodical science journal to 'Merit CBSE School' for its higher secondary students
(v)	Services, in relation to placement of students, to 'SKILL', a Government recognized vocational training college

Comment on the taxability or otherwise of the above transactions under GST law. Also state the correct legal provisions for the same.

(b) Determine the place of supply in respect of the following independent instances under the provisions of IGST Act, 2017:

- (i) Miss Poorva, an interior design consultant, having office at Chennai (Tamil Nadu), provided professional services to Mr. Nihil who resides in Dubai, for his two immovable properties under single contract, one property is outside India at Singapore and another at Surat (Gujarat).
- (ii) United Traders, having a registered place of business at Bengaluru (Karnataka), imported instruments used in COVID treatment from London (UK) through Vizag (Andhra Pradesh) Port.

Note: Your answer should also include relevant provisions of law.

Answer:

(a)

S. No.	Particulars	Taxability
(i)	Transportation of students and staff of deemed University [Taxable since transportation services provided to an educational institution are exempt only if such institution provides pre-school education or education up to higher secondary school or equivalent.]	Taxable
(ii)	Catering services provided to "Rank CBSE School" [Catering services provided to an educational institution providing pre-school education or education up to higher secondary school or equivalent are exempt.]	Exempt
(iii)	Security services to "Win CBSE School" for its annual sports day held at SAI Sports complex [Security services provided to an educational institution providing pre-school education or education up to higher secondary school are exempt provided such services are performed in the premises of such institution. However, in this case, security services are being provided outside the school campus, and hence the same are taxable.]	Taxable

(iv)	Supply of online periodical science journal to school for its higher secondary students [Taxable since educational institutions providing service by way of pre-school education and education upto higher secondary school or equivalent are not eligible for exemption in respect of supply of online educational journals.]	Taxable
(v)	Services in relation to placement of students, to Government recognized vocational training college [Taxable since only services related to admission and conducting exams are exempt for vocational educational institutions.]	Taxable

- (b) (i) In a case where location of supplier or recipient of service is outside India, the place of supply of services of interior decorators provided directly in relation to an immovable property is the location of immovable property. Further, where such services are supplied at more than one location, including a location in the taxable territory, the place of supply of said services is the location of immovable property in the taxable territory.
In view of the above provisions, place of supply of Miss. Poorva's (interior design consultant located in India) services provided to Mr. Nihil (recipient located outside India in Dubai) in respect of immovable properties, located in Surat (Gujarat) and in Singapore, is the location in taxable territory, i.e. Surat (Gujarat).
- (ii) The place of supply of goods imported into India is the location of the importer. Thus, in the given case, place of supply of instruments imported by United Traders is Bengaluru (Karnataka).

Question 3

- (a) Jai and Co, a registered supplier under GST, is engaged in weaving yarn into fabrics and has provided the following information:

Nature of various intra-State supplies during April 2021	Value of supply (excluding GST) (₹)
Outward supply of fabrics (Tax rate of CGST and SGST is 2.5% each)	30,00,000
Inward supply of rayon yarn (Tax rate of CGST and SGST is 6% each)	24,00,000
Inward supply of services for processing the yarn (Tax rate of CGST and SGST is 2.5% each)	4,00,000
Inward supply of machineries for weaving the processed yarn into fabrics (Tax rate of CGST and SGST is 9% each)	45,00,000
The concern has not provided any supply other than the outward supply referred above. ITC in respect of all types of inward supplies as given above was claimed in the relevant GSTR 38 as well reflected in GSTR 2A.	
Other applicable conditions for claiming the refund are duly complied with.	

You are required to compute the 'maximum refund amount' eligible under rule 89(5) of CGST Rules, 2017 for inverted duty structure.
Also provide working notes for your calculation.

- (b) Comment on the liability to get registered under the GST law in the given independent situations for the financial year 2020-21. Your answer should also include relevant provisions of law, notifications or circulars.

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

Answer:

- (a) Maximum refund amount under rule 89(5) of the CGST Rules, 2017 on account of inverted duty structure, is computed as follows = $\{(\text{Turnover of inverted rated supply of goods and services}) \times \text{Net ITC Adjusted Total Turnover}\} - [\{\text{tax payable on such inverted rated supply of goods and services} \times (\text{Net ITC ITC availed on inputs and input services})\}]$

In the given question,

Turnover of inverted rated supply of goods and services = Rs 30,00,000

Adjusted Turnover = Rs. 30,00,000

Net ITC means ITC availed only on inputs = 24,00,000 x 6% = 1,44,000

Tax payable on such inverted rated supply of goods/services = 30,00,000 x 2.5% = 75,000

ITC on input & Input services = (24,00,000 x 6% + 4,00,000 X 2.5%) = 1,54,000

Applying the formula: Maximum refund (under CGST act) = Rs. $[\{30,00,000 \times 1,44,000 / 30,00,000\}] - [\{75,000 \times (1,44,000 / 1,54,000)\}]$
= Rs. 73,870 (each for CGST and SGST)

Thus, maximum refund amount is Rs. 73,870 each for CGST and SGST.

Note: Refund of tax paid on input services and capital goods is not a part of refund of accumulated ITC on account of inverted duty structure.

- (b) (i) Export of goods is treated as inter-State supply.
Miss Riddhima is liable to obtain registration compulsorily irrespective of the quantum of her aggregate turnover since she is engaged in making inter-State supply (exports) of goods.
- (ii) Any person engaged exclusively in making exempt supplies is not liable to registration. However, Ajanta Enterprises is liable to get registered as it has also made a taxable supply along with exempt supplies during the year and its aggregate turnover (₹ 48.25 lakh) exceeds the threshold limit for registration.
- (iii) Since registration in GST is PAN based, once a supplier is liable to register, he has to obtain registration in each of the States/UTs in which he operates under the same PAN. Therefore, Mr. P is liable to get registered in Haryana also, provided he is not engaged

exclusively in making exempt supplies from Haryana.

However, it is also possible to take a view that a person who is voluntarily registered in one State needs to obtain registration in other States from where he makes a taxable supply only if his aggregate turnover exceeds applicable threshold limit for registration. In that case, Mr P is not liable to obtain registration from Haryana since the aggregate turnover does not exceed the threshold limit for registration.

- (iv) A supplier is liable to obtain registration in a State/UT from where he makes a taxable supply of goods and/or services. Shares are excluded from the definition of goods as well as services. Hence, buying and selling of shares is not a supply of goods and/or services under GST law. Thus, Mr. John is not liable to obtain registration since he is not engaged in making a taxable supply of goods and/or services.

? Question 4

- (a) M/s Fly-by-Night Traders, a taxable person, issued an invoice on 15th April 2021 involving input tax credit (ITC) of ₹ 25 lakh to M/s Runaway Traders who utilised the same. No supply of goods was involved in this transaction between the two traders. M/s Fly-by-Night Traders conducted this transaction at the instance of its tax consultant who was not a qualified professional. Explain the relevant provision in brief and determine the amount of penalty leviable under COST Act, 2017, if any, on the persons involved in respect of the above referred transaction.
- (b) In the month of March 2021, during the course of Departmental GST audit under section 65 of the CGST Act, 2017 of Always Right Private Limited, audit team observed that input tax credit claimed by the company was blocked under section 17(5) of the CGST Act, 2017. Audit memo was given to the company for submission of reply on the audit observations mentioned in the memo. Company submitted its reply contending that the said credit was not blocked under section 17(5) and had been rightly claimed. Department was not satisfied with the reply submitted by the company. Audit team served a show cause notice under section 74 of the CGST Act, 2017 and transferred the matter to adjudicating officer and also started recovery process under sections 78 and 79 of the CGST Act, 2017 for recovery of the input tax credit wrongly availed. You are required to comment whether action of the Department to recover the amount is justified with the reference to the legal provisions of the GST law.

Answer:

- (a) Where a taxable person:
- (a) issues any invoice without supply of goods, or
- (b) takes/utilises ITC without actual receipt of goods, either fully or partially, in contravention/violation of the provisions of the GST law or the rules made thereunder, such person shall be liable to pay a penalty of
- (i) ₹ 10,000
or
- (ii) an amount equivalent to the ITC availed of or passed on (₹ 25 lakh), whichever is higher.
- Thus, M/s Fly-by-Night Traders and M/s Runaway Traders, both are liable to pay a penalty of ₹ 25 lakh each.
- Further, any person at whose instance above transactions are conducted, shall be liable to a penalty of an amount equivalent to ITC availed of/passed on. Thus, the tax consultant will be liable to pay a penalty of ₹ 25 lakh.

(b) The action of the Department to initiate the recovery proceedings without adjudication order being passed is not valid.

Recovery proceedings can be initiated under GST law if a taxable person fails to pay any amount payable in pursuance of an order passed under this law within a period of 3 months (or reduced period by proper officer) from the date of service of such order.

However, in the given case, the recovery proceedings have been initiated only after serving the show cause notice and transferring the matter to the adjudicating officer. The adjudication order has not yet been passed in the given case.

? Question 5

Candidates are required to attempt either part (i) or part (ii)

(i) List any four records required to be maintained by an agent under the CGST Rules, 2017.

OR

(ii) List any four exceptions when theory of unjust enrichment is not applicable under the provisions of CGST Act, 2017.

Answer:

(i) Every agent shall maintain accounts depicting the-

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

(ii) Unjust enrichment is not applicable in the following cases:

- (a) refund of tax paid on exports or on inputs/input services used in making such exports;
- (b) refund of unutilized ITC in case of zero-rated supplies made without payment of tax or accumulated ITC on account of inverted duty structure;
- (c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;
- (d) refund of tax paid on a transaction treated to be an intra-State supply, but which is subsequently held to be an inter-State supply or vice-versa;
- (e) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person;
- (f) the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.

May 2022

Question 1

Supermarket is a proprietary firm and a GST registered supplier in Ahmedabad, Gujarat. The details of supplies, purchases and expenses for the month of December 2021 of Supermarket are as given below:

Particulars	Amount (₹)
Details of outward supplies:	
(i) Intra-State	45,00,000
(ii) Inter-State	15,00,000
(iii) Exempt supplies under GST	6,00,000
Details of inward supplies:	
(i) Intra-State	40,00,000
(ii) Inter-State	10,00,000
(iii) Exempt supplies under GST	5,00,000
Details of expenses:	
(i) Freight paid to GTA for intra-State transportation of goods [20% of the freight paid was towards transportation of goods not liable to GST.]	60,000
(ii) Telephone expenses [Out of the above, ₹ 18,000 was spent on landline installed in the sales outlet and ₹ 12,000 was spent on phones provided to employees in relation to the work of the firm.]	30,000
(iii) Premium paid on insurance taken on car used by proprietor of the firm in relation to the work of the firm (intra-State)	8,500
(iv) Outdoor catering service expenses incurred during Diwali celebrations in the sales outlet	40,000
(v) Monthly rent for the premises of sales outlet	60,000

It is further given that -

All the amounts given are exclusive of all taxes, wherever applicable.

All the inward and outward supplies are made by Supermarket from / to registered place of business in Gujarat. Inward supplies of ₹ 50 lakh were used only for making taxable supplies and exempt inward supplies of ₹ 5 lakh were used only for making exempt outward supplies.

Wherever applicable for the purposes of reverse charge payable by Supermarket, CGST, SGST and IGST rates are 2.5%, 2.5% and 5% respectively. In all other cases, CGST, SGST and IGST rates are 9%, 9% and 18% respectively.

There is no opening balance in the electronic cash ledger or in electronic credit ledger.

Subject to the information as given above, all the other conditions necessary for availing ITC have been fulfilled.

You are required to compute the following -

- (1) Input Tax Credit (ITC) credited to Electronic Credit ledger;
- (2) Common ITC available for apportionment;
- (3) ITC attributable to exempt supplies out of common ITC;

You are required to examine the applicability of rule 86B of the CGST Rules relating to utilisation of ITC and if applicable, calculate the amount of ITC available for utilisation towards payment of GST.

However, there is no need to explain exceptions to rule 86B.

Make suitable assumptions, wherever required and working notes as may be needed.

Brief notes are required only to support the calculation and the numerical outputs required in the

case of common ITC available for apportionment and applicability of rule 86B of the CGST Rules. Ensure that every transaction in the question is covered in the answer for the purpose of calculation of numerical outputs.

Answer

(1) Computation of ITC credited to Electronic Credit Ledger

Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
GST paid on intra-State inward supplies taxable @ 9%	40,00,000	3,60,000	3,60,000	
GST paid on inter-State inward supplies taxable @ 18%	10,00,000			1,80,000
Inward supplies exempt from GST [Since exempt, no GST is paid.]	5,00,000	--	--	--
Freight paid to GTA for intra-State of taxable goods ¹ @ 2.5% [Since rate of GST on GTA services is 80%] [Since rate of GST on GTA services is 2.5%, tax is payable under reverse charge.]	48,000 [60,000 × 80%]	1,200	1,200	--
GST on freight paid to GTA for intra-State of exempt goods @ 2.5% under reverse charge [ITC on input services used exclusively in relation to exempt supplies is not available.]	12,000 [60,000 × 20%]	--	--	
GST on telephone expenses @ 9% [ITC of services used in the course or furtherance of business is available.]	30,000	2,700	2,700	
Premium paid on insurance taken on car used for firm's work [ITC is blocked u/s 17(5) on general insurance services relating to those motor vehicles which are ineligible for ITC.]	8,500	--	--	
Outdoor catering services [ITC on outdoor catering is blocked u/s 17(5) if the same is not used for making an outward supply of outdoor catering or as an element of a taxable composite/ mixed supply.]	40,000	--	--	
GST on monthly rent for premises of sales outlet @ 9% [ITC of services used in the course or furtherance of business is available.]	60,000	5,400	5,400	
ITC credited to the electronic ledger		3,69,300	3,69,300	1,80,000

(2) Computation of common ITC available for apportionment

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
ITC credited to Electronic Credit Ledger	3,69,300	3,69,300	1,80,000
Less: ITC on taxable goods	3,60,000	3,60,000	1,80,000
Less: ITC on freight paid to GTA for transportation of taxable goods	1,200	1,200	
Common credit for apportionment	8,100	8,100	--

(3) Computation of ITC attributable towards exempt supplies

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
ITC attributable towards exempt supplies = Common credit x (Aggregate value of exempt supplies during the tax period/ Total turnover during the tax period)			
[₹8,100 x (₹6,00,000/₹ 66,00,000)]	736	736	

(4) Computation of ITC available for utilization towards payment of tax in terms of rule 86B

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Maximum amount of output tax liability that can be discharged from ECrL [99% of Output tax liability]	4,00,950	4,00,950	2,67,300
[Since the value of taxable supply other than exempt supply in December 2021 (₹ 45 lakh + ₹ 15 lakh) exceeds ₹ 50 lakh, amount from electronic credit ledger which it can use to discharge its output tax liability of said month cannot exceed 99% of such tax liability in terms of rule 86B of the CGST Rules, 2017.]	[45,00,000 × 9% × 99%]	[45,00,000 × 9% × 99%]	[15,00,000 × 18% × 99%]
Amount of ITC available for utilization towards payment of tax			
[Since the ITC available in ECrL after reversal thereof is lower than the aforesaid amount, entire ITC can be utilised towards payment of GST.]	3,68,564 [3,69,300 - 736]	3,68,564 [3,69,300 - 736]	1,80,000

? Question 2

M/s A2Z, a proprietary firm registered under GST, is engaged in providing various services under one roof. The firm provides the following information pertaining to supplies made/input services availed by it during the month of March, 2022:

S. No.	Particulars	Amount (₹)
1.	Amount collected for loading, unloading, packing and warehousing of potato chips	15,000

2.	Fees paid for yoga camp conducted by a charitable trust registered under section 12AA of the Income-tax Act, 1961 for employees of the firm	20,000
3.	Interest received on fixed deposits with APNA Bank by the firm	30,000
4.	Professional services provided to foreign diplomatic mission located in India	50,000
5.	Recovery agent services provided to ABC Finance Ltd. - an NBFC located in Delhi	1,00,000
6.	Security services provided to XYZ Ltd. - a registered person under GST	80,000
7.	Receipts from running an educational institution (including receipts for providing residential dwelling service of ₹ 18,20,000 by the institution to the students)	35,00,000
8.	Supply value including cost of fuel for provision of renting of motor vehicle service to NPS Ltd.	88,000

Determine the GST liability (inclusive of liability for the supplies received also) of M/s A2Z for the month of March 2022 with necessary explanation for treatment of each item. Rate of tax for both inward and outward supply is CGST and SGST @ 9% each except for the service of renting a vehicle for which CGST and SGST @ 2.5% each is applicable. All the supplies are intra-State only.

Answer

Computation of GST liability of M/s A2Z for the month of March 2022

S. No.	Particulars	CGST (₹)	SGST (₹)
1.	Loading, unloading, packing and warehousing of potato chips [Loading, unloading, packing and warehousing of agricultural produce is exempt. However, potato chips is not an agricultural produce.]	1,350 [15,000 × 9%]	1,350 [15,000 × 9%]
2.	Fees paid for yoga camp [Services provided by a charitable trust registered under section 12AA of the Income- tax Act by way of advancement of yoga are exempt.]	--	--
3.	Interest received on fixed deposits [Services of extending fixed deposits in so far as the consideration is represented by way of interest are exempt.]	--	--
4.	Professional services provided to foreign diplomatic mission located in India [Not exempt.]	4,500 [50,000 × 9%]	4,500 [50,000 × 9%]
5.	Recovery agent services provided to ABC Finance Ltd., an NBFC [Since such services are being provided to an NBFC, tax on the same is payable by recipient - ABC Finance Ltd. - under reverse charge [RCM].]	--	--
6.	Security services provided to XYZ Ltd., a registered person [Since such services are being provided by a non-body corporate to a registered person, tax on the same is payable by recipient - XYZ Ltd. - under reverse charge [RCM].]	--	--

7.	Receipts from running an educational institution ⁷ (including receipts for residential dwelling service) [Services provided by an educational institution and services by way of renting of residential dwelling for use as residence are exempt.]	--	--
8.	Alternative -I: It is assumed that motor vehicle is designed to carry passengers Renting of motor vehicle service [Since services of renting of motor vehicle including cost of fuel with tax payable @ 2.5% CGST/SGST is being provided by a non-body corporate to a body corporate, tax on the same is payable by recipient - NPS Ltd. - under reverse charge [RCM].]	--	--
	OR		
	Alternative -II: It is assumed that motor vehicle is designed to carry goods Renting of motor vehicle service [Not exempt.]	2,200 [88,000 × 2.5%]	2,200 [88,000 × 2.5%]
	Alternative -I: It is assumed that motor vehicle is designed to carry passengers Total GST liability	5,850	5,850
	OR		
	Alternative -II: It is assumed that motor vehicle is designed to carry goods Total GST liability	8,050	8,050

? Question 3

- (a) In the case of transactions at (i) and (ii) below, determine whether the amounts received are liable to GST. Briefly explain the applicable statutory provisions in support of your conclusions.
- (i) ABC Ltd., a registered bank, recovered cheque discounting charges of ₹ 5,250 from a customer, C & Co.
 - (ii) T Ltd., a dealer in air-conditioners, supplies each unit at a list price of ₹ 30,000 per unit. He also has an EMI scheme where the customer can take delivery of air conditioner on a monthly EMI of ₹ 10,500 payable in three installments. T Ltd. charges ₹ 600 extra for any delay in payment of monthly installments and this amount was recovered from customer Venkat for delay in payment of his 2nd installment.
 - (iii) M/s Aerospace Airlines, having registered place of business in Mumbai under GST, issued a ticket from London to Delhi to Mr. Ajit Khanna, a resident of Agra, UP, who is not registered under the GST. Determine the 'place of supply' with supporting notes related to legal provisions.
- (b) Mangesh Enterprises, Goa, a registered supplier, has made the following supplies in the month of February 2022:
- (i) Supply of guest house accommodation with facilities of cooling, heating, internet and parking to customers on daily rentals of ₹ 1,500. Mangesh Enterprises has 20 guest suites. During the month, there was 50% occupancy. Catering and food service were supplied separately to those who opted for it at a cost of ₹ 500 per day of occupancy. Total amount collected for catering and food service was ₹ 70,000.

- (ii) Supplied monthly air-conditioner maintenance services (intra-State) to a software company under a contract effective 1st February, 2022 for six months. According to the terms of service in the contract, the software company is liable to pay service charges of ₹ 12,000 for the entire period plus cost of spares and replacements at actuals. Taxes are separate and payable in accordance with statute. Mangesh Enterprises is yet to raise an invoice, though service was provided for February, 2022. During the month, the company has not provided any spares or replacements as part of maintenance service. Further, the concern has not received any amount towards above services.

Assume rates of GST as under:

S.No.	Particulars	Rate of GST (CGST + SGST)
1	Air conditioner maintenance	18%
2	Food catering service	5%
3	Renting of guest house service	18%
4	Parking service	18%

With the help of the above information, examine each of the above supplies made by Mangesh Enterprises for the month of February, 2022 and determine the rate and the amount of GST applicable on the supplies made.

Answer

- (a) (i) Cheque discounting is exempt from GST only to the extent consideration is represented by way of discount.
Any charges other than discount is not exempt from GST.
Thus, charges recovered on cheque discounting by ABC Ltd. are liable to GST.
Note: In the above answer, it has been assumed that the cheque discounting charges are the service charges collected over and above discount. However, it is also possible to assume that the said charges represent the discount amount. In that case, said charges will be exempt from GST.
- (ii) Service of extending deposits, loans or advances in so far as the consideration is represented by way of interest is exempt.
Extra charges recovered for delay in payment of 2nd monthly instalment is taxable and is includible in the value of supply of the air conditioner.
- (iii) The place of supply of passenger transportation service to Mr. Ajit Khanna -an unregistered person - is London, i.e. the place where he embarked on the conveyance for a continuous journey.

- (b) (i) Determination of rate and amount of GST

Particulars	Rate of GST	GST [CGST+SGST] (₹)
Composite supply of renting of guest house with other facilities [Renting of guest house being principal supply.]	18% (Rate of principal supply)	75,600 [37,800+37,800] [₹ 1,500 × 20 suites × 50% × 28 days × 18%]
Separate supply of catering and food services	5%	3,500 [1,750+1,750] [₹ 70,000 × 5%]

- (ii) Rate of GST applicable in the given case is 18%, i.e., the rate of GST applicable on air-conditioner maintenance service. Since the given supply is a continuous supply of service where in terms of contract, due date is not ascertainable, the time of supply of said services does not fall in February 2022 and thus, no GST is payable for said month.

? Question 4

Comment on the given independent situations relating to GST procedures. Your answer should include relevant provisions of law, as may be applicable:

- (i) Jugnoo Enterprises, a trader engaged in the buying and selling of medicines within the State of Delhi, is not registered under GST. It exceeded the turnover of ₹ 20 lakh on 15th July 2021 and also exceeded the turnover of ₹ 40 lakh on 14th February 2022. It applied for registration under GST on 28th February and registration certificate was granted on 2nd March 2022. Determine the date on which liability to register arises and the effective date of registration in this case.
- (ii) GoToDress is a chain of stores dealing in readymade garments through five showrooms in Delhi. It has a single GSTIN for all its showrooms in Delhi and has a principal place of business at Karol Bagh, Delhi. One of the consultants has suggested GoToDress to maintain books of accounts of all of its five showrooms at principal place of business at Karol Bagh, Delhi for better administration and control. Give your comment on the above advice according to the provisions of GST law.

Answer

- (i) Since Jugnoo Enterprises is engaged exclusively in intra-State taxable supply of goods in Delhi, it becomes liable to register when its aggregate turnover exceeds ₹ 40 lakh, i.e., on 14th February, 2022.
Further, since it has applied for registration within 30 days from the date of becoming liable to register, the effective date of registration is the date on which it becomes liable to register, i.e., 14th February, 2022.
- (ii) The suggestion of the consultant is not correct.
Every registered person is required to keep and maintain, his books of accounts at his principal place of business.
Where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business.

? Question 5

- (a) On scrutiny of returns filed by Chandan & Co., the Department found some discrepancy in ITC claimed by the company and consequently a Departmental audit was conducted under section 65 of the CGST Act. On conclusion of the audit in February, the Department issued a Show Cause Notice (SCN) alleging that the company had wrongly and deliberately claimed ITC in the returns without actual receipt of goods for the month of January. The Joint Commissioner of Central Tax, not being satisfied by the reply given by the company to the SCN, passed a written order on 28th April which was received by the company on 1st May. The order confirmed the tax demand of ₹ 30,00,000 (i.e., CGST ₹ 15,00,000 and SGST ₹ 15,00,000) and imposed a penalty of equal amount under section 74.
Aggrieved by the order, Chandan & Co. decides to contest the order of adjudication in its entirety. It seeks advice on the following issues -
 - (i) To whom should it make an appeal? Can it directly approach the High Court?
 - (ii) What is the time limit for filing the appeal in the given case?
 - (iii) Is there any requirement of pre-deposit of any amount and if so, what would be the amount?Provide your legal and reasoned advice to Chandan & Co.
- (b) Octa Manufacturers, Jalandhar, a registered supplier, instructs its supplier Dawson Ltd. to send a CNC machine directly to the job worker, J Enterprises, outside its factory to carry out certain

operations on the goods. The CNC machine was sent by the supplier on 7th March 2018 and was received by the job worker on 10th March. J Enterprises carried out the job work and returned the CNC machine to the principal, Octa Manufacturers on 1st March 2021.

- (i) Can Octa Manufacturers retain the ITC availed by them on the CNC machine?
- (ii) Would your answer be the same if in place of CNC machine, jigs and fixtures were supplied to the job worker which were returned to the principal on 1st March 2021.

Answer

- (a) (i) An appeal against the order passed by Joint Commissioner lies before the Appellate Authority - Commissioner (Appeals).
Chandan & Co. cannot directly approach the High Court. It needs to first file an appeal to Appellate Authority and then to Appellate Tribunal. However, a writ petition can be filed directly before the High Court for relief.
 - (ii) The time-limit for filing an appeal in the given case is 3 months from the date of communication of the order appealed against, i.e., 3 months from 1st May. Hence, the appeal must be filed on or before 1st August.
 - (iii) No appeal can be filed before the Appellate Authority unless appellant - Chandan & Co. has paid pre-deposit of ₹ 3,00,000, computed as sum of the following:
 - (a) Full amount of tax, interest and penalty arising from the order as admitted by him, viz. nil, and
 - (b) 10% of the remaining tax in dispute (₹ 30,00,000) arising from the order, viz. ₹ 3,00,000.
- (b) (i) The capital goods directly sent to a job worker are required to be returned to the principal within 3 years from the date of receipt of such capital goods by the job worker. In such a case, principal can avail the credit of tax paid on such capital goods.
Octa Manufacturers is entitled to take and retain ITC on capital goods - CNC machine directly sent to the job worker for the job work- J. Enterprises - without being brought into its premises since said machine was returned within specified time period of 3 years from the date its receipt by J. Enterprises.
 - (ii) The aforesaid time period of 3 years does not apply to moulds and dies, jigs and fixtures or tools sent out for job work.
Hence, in that case also, Octa Manufacturers is entitled to take and retain ITC in respect of moulds and dies etc.

? Question 6

List the safeguards provided in section 67 of the CGST Act, 2017 in respect of the power of search or seizure.

Answer

The safeguards provided in section 67 of the CGST Act, 2017 in respect of the power of search or seizure are as under:

- (i) Seized documents/goods/things should not be retained beyond the period necessary for their examination.
- (iii) Photocopies/extracts of the documents can be taken by the person from whose custody documents are seized.
- (iv) In case of seized goods, where a notice is not issued within 6 months [extendible for further 6 months] of their seizure, goods shall be returned to the person from whose possession they were seized.
- (v) An inventory of seized goods is required to be made by the seizing officer.
- (vi) Certain specified categories of goods such as perishable, hazardous etc. can be disposed of immediately after seizure.
- (vii) Searches and seizures shall be carried out in accordance with the provisions of Code of Criminal Procedure. Instead of sending copies of any record made in the course of search to the nearest magistrate, it has to be sent to the Principal Commissioner / Commissioner of CGST

Nov 2022

Question 1

RAM Company Ltd., a registered supplier of Prayagraj (Uttar Pradesh), is a manufacturer of goods. The company provides the following information pertaining to GST paid on inward supplies during the month of April (current financial year):

Serial No	Items	GST paid in (₹)
(i)	Life insurance premium paid by the company for the life insurance cover of factory employees as per the policy of the company. There is no legal obligation to provide insurance cover for employees.	1,50,000
(ii)	In the month of September of previous financial year, RAM Company Ltd. availed ITC of ₹ 2,40,000 on purchase of raw material which was directly sent to job worker's premises under a challan on 25th September (previous financial year). The said raw material has not been received back from the job worker upto 30th April (current financial year).	
(iii)	Raw materials purchased which are used for exempted goods supplied as zero-rated supply.	50,000
(iv)	Works contractor's service used for repair of factory building which is debited in the profit and loss account of company.	30,000
(v)	Company purchased the capital goods for ₹ 4,00,000 and claimed depreciation of ₹ 44,800 (@ 10%).	48,000
(vi)	Raw materials purchased from Neha Traders (Invoice of Neha Traders is received in the month of April but goods were received in month of June)	20,000
(vii)	Car purchased for making further supply of such car. Such car is destroyed in accident while being used for test drive by potential customers.	30,000
(viii)	Goods used for setting up tele-communication towers	50,000

Other information:

All the above inward supplies except at S.No.(iii) above have been used in the manufacture of taxable goods.

Compute the amount of net ITC available to RAM Company Ltd. for the month of April with necessary explanations for the treatment of all the items in the table as per the provisions of the CGST Act. Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.

Answer:

Computation of ITC available to RAM Company Ltd. for the month of April

S. No.	Particulars	ITC (₹)
(i)	Life insurance premium paid by the company for factory employees [ITC is blocked under section 17(5) since it is not obligatory for the employer to provide life insurance service to its employees under any law.]	Nil
(ii)	Raw material sent to job worker [ITC taken in the month of September last year is valid since. Further, since 1 year period from of the date of receipt of inputs by the job worker has yet not lapsed in April, there will be no tax liability on such inputs.]	Nil

(iii)	Raw materials used for zero rated supply [ITC can be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply]	50,000
(iv)	Work contractor's service [ITC on works contract services supplied for construction of an immovable property is blocked. Repairs of building debited to P & L Account does not amount to 'construction' and it is not blocked under section 17(5), hence ITC is available]	30,000
(v)	Capital goods purchased in respect of which depreciation is claimed ⁸ on the tax component [ITC is not available when depreciation has been claimed on the tax component of the cost of capital goods under the Income-tax Act.]	Nil
(vi)	Goods purchased from Neha Traders [ITC is available assuming that that invoice is received in the month of April in the current financial year, but goods were received in the month of June in the preceding financial year. ⁹]	20,000
(vii)	Cars purchased for making further supply [Though ITC on motor vehicles used for further supply of such vehicles is not blocked, ITC on goods destroyed is blocked under section 17(5)]	Nil
(viii)	Goods used for setting telecommunication towers [ITC on goods used by a taxable person for construction of immovable property (other than plant and machinery) on his own account is blocked. Since plant & machinery excludes telecommunication tower, ITC is blocked under section 17(5). Further, such goods are not used in course or furtherance of business.]	Nil
	Total ITC available	1,00,000

? Question 2

Determine the place of supply for the following independent cases:

- I. Festival Event, an event management company at Mumbai, organises two business promotion events for Prabhu Enterprises (registered in Ahmedabad, Gujarat) at New Delhi and in Malaysia.
- II. Global Planners (Jodhpur, Rajasthan) is hired by Mr. John (unregistered person based in Kochi, Kerala) to plan and organize his son's wedding at Mumbai, Maharashtra. Will your answer be different if the wedding is to take place in Singapore?

Answer:

- (I) When service of organization of event is provided to a registered person, the place of supply is location of recipient, whether event is held in India or outside India.
Thus, in the given case, place of supply of:
 - event held at New Delhi is Ahmedabad, Gujarat, and
 - event held at Malaysia is Ahmedabad, Gujarat.
- (II) When service of organization of event is provided to an unregistered person, the place of supply is location where the event is held when event is held in India and place of supply is location of recipient where event is held outside India.
Thus, in the given case, place of supply:
 - if wedding takes place at Maharashtra is Mumbai, Maharashtra, and
 - if wedding takes place at Singapore is Kochi, Kerala.

Question 3

XYZ Consultancy, registered in Bangalore, supplies technical consultancy services to its clients. It has been providing technical services to BA Ltd., Mumbai since past two years. Consideration is settled by BA Ltd. assignment wise. BA Ltd. paid ₹ 37 lakh to XYZ Consultancy on 10th January, 2022 for XYZ Consultancy agreeing not to provide similar technical services to any other business entity in India or abroad for a period of 8 years. XYZ Consultancy is of the view that ₹ 37 lakh is not chargeable to GST. You are required to examine whether the view taken by XYZ Consultancy is valid in law. Calculate GST liability of XYZ Consultancy, in case you feel that GST is chargeable. Round off the tax amount if due in accordance with law. The technical services provided by XYZ Consultancy is otherwise chargeable to IGST at the rate of 18% and XYZ have been discharging the GST liability on consultancy charges. It may be noted that BA Ltd. is not ready to pay any further amount to XYZ Consultancy in addition to the amount already agreed.

Answer:

In the given case, XYZ Consultancy is providing the service of agreeing to the obligation to refrain from an act to BA Ltd. against a consideration of ₹ 37 lakh. Therefore, the same is liable to tax. Thus, view taken by XYZ Consultancy is incorrect.

Since the place of supply of said services is the location of the recipient, viz. Mumbai and supplier is located in Bangalore, said services are inter-State supplies liable to tax @ 18%¹⁰.

GST liability (IGST) of XYZ Consultancy is:

$$= ₹ 37,00,000 \times 18/118$$

$$= ₹ 5,64,407 \text{ (rounded off)}$$

Question 4

BSA Corporation is a Public Sector Undertaking registered in Karnataka. For entertainment events in Bengaluru and at Mumbai, BSA has given contract to Mr. A, a renowned artist, registered person in Maharashtra, to perform on contemporary Bollywood songs. BSA Corporation agreed to pay ₹ 12,39,000 and ₹ 18,29,000, inclusive of GST, for Mumbai and Bengaluru events respectively. BSA Corporation seeks your advice regarding amount of TDS to be deducted assuming GST rate @ 18% (CGST @ 9%, SGST @ 9%, IGST @ 18%).

Answer:

A Public Sector Undertaking is required to deduct tax @ 2% (on inter-State supplies) from payment made to the supplier of taxable services where the total value of such supply, excluding tax indicated in the invoice, under a contract, exceeds ₹ 2,50,000.

Value of supplies excluding tax are

$$₹ 10,50,000 \text{ (₹ 12,39,000} \times 100/118) \text{ and}$$

$$₹ 15,50,000 \text{ (₹ 18,29,000} \times 100/118)$$

Further, in the given case, since the location of supplier is Maharashtra and place of supply of services provided by Mr. A to BSA Corporation is the location of recipient, viz. Karnataka, said services provided at both Mumbai and Bengaluru events are inter -State supplies.

Accordingly, in the given case, BSA Corporation is required to deduct tax as follows:

(i) ₹ 10,50,000 × 2% = ₹ 21,000 (IGST)

(ii) ₹ 15,50,000 × 2% = ₹ 31,000 (IGST)

Question 5

Khurania Filling Station, having its head office in Faridabad, Haryana has given details of transactions as under in a financial year:

Supply of petrol at Faridabad, Haryana	14,00,000
Value of inward supplies on which tax is payable on reverse charge basis	11,00,000
Supply of transformer oil at Faridabad, Haryana	2,50,000
Value of branch transfer from Faridabad, Haryana to Ludhiana, Punjab without payment of consideration	3,00,000
Value of taxable supplies at Mizoram branch	12,40,000

It argues that it does not have taxable turnover crossing threshold limit of ₹ 40,00,000 either at Faridabad, Haryana or Ludhiana, Punjab and including turnover at Mizoram branch. Therefore, there is no need to take registration.

Compute the aggregate turnover of Khurania Filling Station and indicate whether the firm is required to take registration. Give reasons for your conclusion.

Answer:

Particulars	Amount (₹)
Supply of petrol at Faridabad, Haryana [Supply of petrol being a non-taxable supply is an exempt supply. Value of exempt supply is includible in aggregate turnover.]	14,00,000
Value of inward supplies on which tax is payable under reverse charge [Inward supplies taxable under reverse charge are excludible.]	Nil
Supply of transformer oil at Faridabad, Haryana	2,50,000
Inter-State branch transfer without consideration [Supplies made between distinct persons is deemed supply and thus, includible.]	3,00,000
Taxable supplies from Mizoram branch [Supplies made under same PAN are includible.]	12,40,000
Aggregate turnover	31,90,000

Enhanced threshold limit of aggregate turnover to obtain registration of ₹ 40 lakh gets reduced to ₹ 10 lakh if the supplier is also engaged in making supplies from special category State of Mizoram. In the given case, the aggregate turnover of Khurania Filling Station exceeds applicable threshold limit of ₹ 10 lakh. Further, since Khurania Filling Station is required to pay tax under reverse charge, it is liable to obtain registration compulsorily irrespective of its quantum of turnover. Moreover, since Khurania Filling Station is making inter-State branch transfer¹³, it is liable to obtain registration compulsorily irrespective of its quantum of turnover.

Thus, Khurania Filling Station is liable to obtain registration in all the States from where it makes a taxable supply.

Question 6

Arjun has committed offence under CGST Act which can be compounded as per provisions of section 138(1) of the CGST Act, 2017. He has paid the tax amount of ₹ 10 lakh involved in the offence. He wishes to apply to Commissioner for compounding the said offence. You are required to compute minimum and maximum compounding amount as per provisions of section 138(2) of the CGST Act, 2017 payable by Arjun. What are the consequences, in relation to Arrest, Cognizable/Non-cognizable offence Prosecution & compounding of offence?

Answer:

offence	Arrest	NC+ B C + NB	Prosecution	Compounding
132(1)(a) Supplies goods without invoice	Yes	NC+B	upto 3 years (+) Fine	Min - 1.6 cr Max - 2.4 cr

In case where artist performs in Bengaluru

Since the contract value is exceeding 2.5 lacs (ie $18.29/118 \times 100 = 15.5L$) and recipient is also a specified person u/s 52 & PSU TDS provisions u/s 52 shall apply and hence PSU shall deduct TDS@ 2% and since the nature of supply is inter-state. TDS @2% → IGST = 31,000.

In case where artist performs in Mumbai

Since the LOS-Mumbai, POS- Mumbai, LOR-Karnataka. This case will be covered under the exception where TDS shall not be deducted as LOS & POS are in same state & LOR is in different state. Hence TDS shall not be deducted in this case.

? Question 7

Comet Chem of Ahmedabad handed over goods to transporter Ram Roadways to carry the same from Ahmedabad to Bharuch in Gujarat.

The value of the goods is ₹ 80,000 which is chargeable to tax @ 18% GST (9% SGST + 9% CGST) and in transit, proper officer intercepted the vehicle under section 68 of CGST Act and seized the goods.

Calculate the penalty payable under section 129 of CGST Act, 2017 for release of the goods:

- If Comet Chem, owner of goods, comes forward for payment of penalty.
- If Comet Chem, owner of goods, does not come forward for payment of penalty.

Answer:

When Comet Chem. - owner of goods - comes forward for the payment of penalty, penalty payable under section 129 of CGST Act is 200% of the tax payable on such goods, i.e., ₹ 14,400 [200% of (₹ 80,000 × 9%)].

i.e. ₹ 14,400

When Comet Chem. - owner of goods - does not come forward for the payment of penalty, penalty payable under section 129 of CGST Act is higher of:

- (i) 50% of value of goods, i.e., ₹ 40,000 (50% of ₹ 80,000) or
- (ii) 200% of the tax payable on such goods, i.e., ₹ 14,400 [200% of (₹ 80,000 × 9%)].
i.e. ₹ 40,000

May 2023

Question 1

Explain in brief whether the below mentioned independent cases of supply of services provided are exempt or taxable under GST as per the provisions of GST law including notifications issued thereunder:

- (i) Fables Infotech LLP, a limited liability partnership firm having registered place of business in Hyderabad under GST, entered into a contract with Neeta Services for providing air-conditioned mini vans for 1 year for transportation of its female employees working in night shifts to be picked up from designated spots every day at 9.00 p.m. except weekends and dropped to the office. The same female employees were again picked up from office at 6.30 a.m. every morning except weekends and dropped back at the same spots from where they were picked up.
- (ii) Mr. Ashok rented his residential flat to his friend Dr. Kishore, who is not registered under CGST Act, 2017 for use as his medical clinic at a monthly rent of ₹ 15,000.

Answer:

- (i) Taxable: Service of transport of passengers provided by Neeta Services are liable to GST since such services are being provided in a contract carriage which is air- conditioned.
- (ii) Taxable: Since residential dwelling is rented for use other than residence, GST is payable on the same

Question 2

Mr. X, a trader dealing exclusively in supply of goods and paying tax under normal scheme (also eligible for composition scheme), submit the following details for coming financial year 2023-24. You are required to determine which scheme will be more beneficial to him and whether Mr. X should opt for composition scheme. Estimated data for coming financial year 2023-24 are as follows:

Particular	Amount (₹)
Inward supplies of goods from registered suppliers (amount exclusive of GST and goods chargeable to normal rate of GST @12%)	70,00,000
Outward supplies of goods to unregistered customers (sale price of goods inclusive of GST) - Normal Rate of GST is @12%	90,00,000

Other information is as given below:

- (i) Inherent nature expenses ₹ 4,50,000 per year under both the schemes.
- (ii) Books of account maintenance cost under normal scheme ₹ 2,00,000 yearly whereas under composition scheme it will be ₹ 75,000 yearly.
- (iii) Return filing expenses under normal scheme ₹ 48,000 yearly whereas under composition scheme it will be ₹ 12,000 yearly

Answer:

Particular	Composition scheme (₹)	Regular scheme (₹)
Tax payable under GST law	90,000 [₹ 90,00,000 × 1%]	9,64,286 [₹ 80,35,714* × 12%]

Less: ITC on inward supplies	A person opting for composition scheme is not entitled to any ITC.	8,40,000 [₹ 70,00,000 × 12%]
Net amount payable under GST law	90,000 [Forms part of cost]	1,24,286
Inherent expenses	4,50,000	4,50,000
Add: Books of accounts maintenance cost	75,000	2,00,000
Add: Return filing expenses	12,000	48,000
Add: Cost of inward supplies	78,40,000	70,00,000
Total cost involved	84,67,000	76,98,000
Sale Proceeds	90,00,000	80,35,714
Profit Margin (Sale proceeds Less Total Cost)	5,33,000	3,37,714

Thus, it can be concluded that Mr. X should opt for composition scheme for FY 2023 -24 as it is more beneficial for him.⁶⁷

*Note-Outward supplies excluding GST = ₹ 80,35,714.29 (₹ 90,00,000 × 100/112)

(Faculty does not agree with Suggested Answer & following is the solution provided by him)

Sale proceeds	= 90,00,000
(-) cost	
→ Output tax liability that cannot be collected from recipient, to be paid in cash <u>(9,00,000 × 1%)</u>	= (90,000)
→ Inward supplies from registered suppliers (70L × 1.12)	= (78,40,000)
→ Inherent expense (4,50,000 × 118)	= (5,31,000)
→ BOA/cs maintenance (75000 × 1.18)	= (88,500)
→ Return filing expense (12000 × 118)	= (14160)
Net profit margin	= <u>4,36,340</u>

Note : Input tax that shall become part of cost as ITC is not allowed u/s 10(4).

Normal scheme

Sale proceeds $\left(\frac{90L}{112} \times 100\right)$	= 80,35,714
(-) Cost	
→ inward supplies of goods from unregistered supplier	= (70,00,000)
→ inherent expenses	= (4,50,000)
→ Return filing expense	= (48,000)
→ Maintenance of BOA/cs	= (2,00,000)
Net profit margin	= <u>3,37,7114</u>

Conclusion

Compo scheme is mere beneficial he should opt for the Same.

Question 3

EverYoung Manufacturers LLP, a registered supplier under GST is engaged in manufacturing of ayurvedic cosmetic products within the State of Gujarat. It provides the following information for the month of January, 2023

Particulars for the month of January,2023	Rate of CGST	Rate of SGST	Value of supply (excluding GST)
Outward supply of skin care products	2.5%	2.5%	50,00,000
Outward supply of skin care products	6%	6%	50,000
Inward supply of Inputs for skin care products	6%	6%	35,00,000
Inward supply of Input services	2.5%	2.5%	5,00,000
Inward supply of capital goods	9%	9%	25,00,000

Other information:

- (a) ITC in respect of all types of inward supply as given above was claimed in the relevant GSTR 3B and the same was also reflected in GSTR 2B.
- (b) All other conditions for claiming the refund are duly complied with.
- (c) No refund was claimed for the month of January 2023.

Answer:

Particulars	
In the case of refund on account of inverted duty structure, refund of ITC is granted as per the following formula:	
Maximum Refund Amount	$= \frac{\text{Turnover of inverted rated supply of goods and services)} \times \text{Adjusted Total Turnover}}{\text{Net ITC} - \text{Tax payable on such inverted rated supply of goods and services}} \times \text{Net ITC}$
<p>(i) Turnover of inverted rated supply of goods and services = 50,00,000 (product having rate less than 6% to be considered)</p> <p>(ii) Adjusted Total Turnover 50,00,000 + 50,000 = 50,50,000</p> <p>(iii) Net ITC: means ITC available only on Inputs 3500000 @ 12% = 4,20,000 ITC of Input service and Capital Goods not to be considered.</p> <p>(iv) Tax payable on such inverted rated supply of goods and services 2,50,000 [(50,00,000 × 5%)</p> <p>(v) ITC availed on inputs [(35,00,000×12%) = 4,20,000</p> <p>(vi) ITC availed on input services [(5,00,000×5%)] = 25,000</p>	
‘Maximum refund amount’ eligible in the given case	$= \frac{50,00,000}{50,00,000} \times (4,20,000 - 2,50,000) \times \frac{4,20,000}{4,45,000}$

= ₹ 1,79,887 (rounded off) (Total under CGST and SGST)

Or

₹ 89,943.50+89,943.50 each (under CGST and SGST)

? Question 4

Decide with reason whether e-way bill is required to be issued under CGST Act, 2017 in the following independent cases:

- A. SV Electricals Ltd., a registered supplier of electronic goods, is required to send from Delhi, a consignment of parts of LED TV to be replaced under warranty at various client locations in Gurugram (Haryana). The value of consignment declared in delivery challan accompanying the goods is ₹ 65,000. SV Electricals Ltd. claims that since movement of goods to Gurugram (Haryana) is caused due to reasons other than supply, e-way bill is not mandatorily required to be generated in this case. You are required to examine the technical veracity of the claim made by SV Electricals Ltd.
- B. Tree Ltd. registered in Kerala, sends goods to its job worker Woods & Co. in Tamil Nadu, which is also registered under GST. Value of the consignment was ₹ 37,500 (including GST).

Answer:

- A. The claim made by SV Electricals Ltd. is not correct. SV Electricals Ltd. needs to issue e-way bill. E-way bill is mandatorily required to be issued whenever there is a movement of goods for reasons other than supply, provided the consignment value exceeds ₹ 50,000.
- B. In case of inter-State transfer of goods by principal to job-worker, e-way bill is mandatorily required to be issued irrespective of the value of the consignment. Thus, e-way bill is required to be issued in case of transfer of goods by Tree Ltd. registered in Kerala to Woods & Co. in Tamil Nadu.

? Question 5

KK Pvt. Ltd. self-assessed its tax liability as ₹ 1,15,000 for the month of May 2022, but failed to make the payment.

Subsequently the Department initiated penal proceedings against KK Pvt. Ltd. for recovery of penalty under Section 73 for failure to pay GST and issued show cause notice on 12th September 2022, which was received by KK Pvt. Ltd. on 17th September 2022.

KK Pvt. Ltd. deposited the tax along with interest on 27th September 2022 and informed the department on the same day.

Department is contending that he is liable to pay a penalty of ₹ 57,500 (i.e. 50% of ₹ 1,15,000).

Examine the correctness of the stand taken by the Department with reference to the provisions of the CGST Act. Explain the relevant provisions in brief.

Answer:

The stand taken by the Department that he is liable to pay a penalty of ₹ 57,500 is not correct.

In the given case, since KK Pvt. Ltd. has not paid self-assessed tax for the month of May, 2022 within a period of 30 days from the due date of payment of such tax penalty payable will be higher of the following:

- (a) 10% of tax,

Or

(b) ₹ 10,000

Hence in given case

₹ 11,500 (₹ 1,15,000 × 10%)

Or

₹ 10,000

i.e. ₹ 11,500 each under CGST and SGST

? Question 6

Mr. Raj intends to start a new manufacturing business in Jaipur. However, he is not able to determine the classification of the goods proposed to be manufactured and supplied by him since the classification of said goods has been contentious. Mr. Raj read an article about advance ruling in the newspaper and decided to apply for advance ruling so as to avoid litigation later.

Mr. Rahul, who is friend of Mr. Raj is also engaged in the supply of goods similar to which Mr. Raj proposes to manufacture in Jaipur and Mr. Rahul advised him to apply the same classification as of his, since he has already taken advance ruling order regarding classification of the said goods.

Mr. Raj's tax consultant also agreed with the advice given by Mr. Rahul. Mr. Raj also thought it to be a good decision since he was unregistered and thought that he needed to be registered to apply for advance ruling in his name.

You are required to advise Mr. Raj with respect to following:

- Whether Mr. Raj and his tax consultant are right and can classify the goods proposed to be supplied by Mr. Raj on the basis of his friend Mr. Rahul's advance ruling order?
- Whether Raj needs to get registered to apply for advance ruling?

Answer:

(a) No, Mr. Raj and his tax consultant are not correct.

An advance ruling is binding only on the applicant who had sought it and on the concerned officer. An advance ruling is not applicable to similarly placed other taxable persons in the State. Thus, Mr. Raj cannot classify the goods to be supplied by him on the basis of his friend Mr. Rahul's advance ruling order.

(b) No, Mr. Raj need not register to apply for advance ruling since advance ruling can be sought by a registered person or person desirous of obtaining registration. It is not mandatory for a person seeking advance ruling to be registered.

? Question 7

M/s Blue Berry Traders, a registered person under GST, issued a tax invoice on 1st August, 2022 to M/s Blue Lagoon Traders without any underlying supply of goods or services amounting to Input Tax Credit (ITC) involved of ₹ 30 lakh.

M/s Blue Lagoon Traders avails ITC on the basis of the said tax invoice. The department issued a show cause notice to M/s Blue Lagoon Traders on 1st April, 2023 specifying the amount of tax along with interest payable thereon u/s 50 and applicable penalty. M/s Blue Lagoon Traders paid the amount of tax along with interest payable thereon u/s 50 specified in the show cause notice on 15th April, 2023 and also along with applicable penalty.

Explain the relevant provision in brief and determine the amount of penalty to be paid by M/s Blue Berry Traders and M/s Blue Lagoon Traders under CGST Act, 2017 in respect of above referred transaction.

Answer:

Since M/s Blue Berry Traders issued an invoice without any supply of goods or services in violation of the provisions of GST law, it shall be liable to pay a penalty of higher of the following-

(a) ₹ 10,000 or (b) Amount of ITC passed on,

So in given case, penalty is higher of:

(a) ₹ 10,000, or (b) ₹ 30 lakh

i.e. ₹ 30 lakh

each under CGST and SGST13

Where any person chargeable with tax due to wrongful availment and utilization of ITC by reason of fraud etc. pays the said tax along with interest payable under section 50 and a penalty equivalent to 25% of such tax within 30 days of issue of the notice, all proceedings in respect of the said notice shall be deemed to be concluded14 15.

Thus, M/s Blue Lagoon Traders has to pay penalty of ₹ 7,50,000 (₹ 30 lakh x 25%) each under CGST and SGST16.

Question 8

Mr. Jumbo had filed an appeal before the Appellate Tribunal against an order of the Appellate Authority where the issue involved relates to place of supply. The order of Appellate Tribunal came also in favour of the Department. Mr. Jumbo now wants to file an appeal against the decision of the Appellate Tribunal as he feels the stand taken by him is correct.

Answer:

Since the issue involved in Mr. Jumbo's appeal relates to the place of supply, the appeal in his case would have been decided by the

(i) National Bench of the Tribunal.

(ii) Regional Bench of the Tribunal.

An appeal against the decision of the National/Regional Bench lies directly to the Supreme Court.

Thus, in the given case Mr. Jumbo will have to file an appeal with the Supreme Court against the decision of the Appellate Tribunal.

Question 9

What are the powers available to proper officers for scrutiny of returns under GST. The proper officer while conducting scrutiny of returns under Section 61 of the CGST Act, 2017, detected discrepancy in the return filed by M/s R Kumar Pvt. Ltd. (registered under GST). Explain the recourse that may be taken by the proper officer in case proper explanation is not furnished by M/s R Kumar Pvt. Ltd.

Answer:

The proper officer may scrutinize the return and related particulars furnished by the registered person to verify the correctness of the return and inform him of the discrepancies noticed.

In case no satisfactory explanation is furnished by registered person, the proper officer may take recourse to any of the following provisions, namely:

(a) proceed to conduct audit under section 65 of the CGST Act

(b) proceed to conduct special audit to be conducted by a Chartered Accountant or a Cost Accountant under section 66 of the CGST Act

(c) undertake procedures of inspection, search and seizure under section 67 of the CGST Act.

(d) initiate proceeding for determination of tax and other dues under section 73/74 of the CGST Act

Nov 2023

? Question 1

Anuja checked-in at the 'Welcome Tourist Lodge' in Madurai on 15th July, 2022. The room rent for the same was ₹ 900 per day for a single room. She checked-out on 17th of July, 2022 and payment in respect to the same was received by the lodge via cheque at the time of checking-out and entered in the books on the same date. The lodge decided to issue her the invoice on the same date when the amount would get credited in its bank account.

The lodging of hotel rooms which was exempted upto ₹ 1,000 earlier became chargeable to tax from 18th July, 2022.

Under the GST law, determine the time of supply and taxability of the service of lodging in the hands of 'Welcome Tourist Lodge' if the cheque gets credited into the bank account of 'Welcome Tourist Lodge' on 20th of July, 2022.

Answer:

In the given case,

Date of receipt of payment is:-

- (a) Date of entry of payment in books of account [17th July 2022] or
- (b) Date of credit of payment in bank account [20th July 2022] whichever is earlier, viz., 17th July 2022.

Date of issue of invoice is 20th July 2022 (since lodge decided to issue invoice on date of credit of payment in its bank account.)

Since in the given case of change in rate of tax (on 18 th July, 2022):

- services have been supplied and payment has been received, before such change in rate
- but invoice is issued after the change in rate,

time of supply is date of receipt of payment, viz. 17th July, 2022.

Since the service of lodging upto a value of ₹ 1,000 was exempted at the time of supply, no GST is payable in the given case.

? Question 2

- (i) Rhea is a person registered under GST in Mysore, Karnataka. She transports certain goods by air to Mrs. Iyer who resides in Florida, USA. The air cargo operator by which goods are transported is registered in Bengaluru, Karnataka.

Determine the place of supply of such transport/courier service under GST law with supporting notes related to legal provisions. (2 Marks)

- (ii) 'Mischievous Muppets' - a Kindergarten school in Pune, Maharashtra, has given the contract of catering service to a Pune based agency viz. 'Toddlers Catering Agency', registered under GST. Whether the said catering service provided by 'Toddlers Catering Agency' in the school is taxable under GST law?

Answer:

- (i) The place of supply of services by way of transportation of goods, including by courier, to a place outside India is the place of destination of such goods.

Hence, in the given case, place of supply of such services would be Florida, USA.

- (ii) Catering services provided to an educational institution providing services by way of pre-school education and education up to higher secondary school are exempt from GST.

Thus, in the given case, catering service provided by "Toddlers Catering Agency" to "Mischievous Muppets" - a Kindergarten school is exempt from GST.

Question 3

M/s Cute and Co., a registered person under GST, filed an appeal with respect to denial of Input Tax Credit (ITC) related to the financial year 2017-18. This appeal was disposed of in favour of M/s Cute and Co. on 30-09-2022. Annual return for the financial year 2017-18 was filed by it on 31-03-2020. Due date for the said return was 07-02-2020.

Cute and Co. seeks your advice with reason regarding the time-line upto which they are supposed to retain the books of accounts and other records as per the provisions of the CGST Act, 2017.

Answer:

M/s Cute & Co. who is a party to an appeal is required to retain the books of accounts and other records:

(i) for a period of 1 year after final disposal of such appeal (i.e. 30.09.2023),

or

(ii) for 72 months from the due date of furnishing of annual return for the financial year 2017-18 (07.02.2026),

whichever is later.

Thus, M/s Cute & Co. needs to maintain books of accounts till 07.02.2026.

Question 4

M/s. Root & Co. filed a refund application under section 54 of the CGST Act, 2017 in respect of export made by them. While declaring the export turnover, their accountant included the exempt turnover also as part of export turnover and claimed excess refund. Amount of refund excess claimed was ₹ 18,000 each under CGST and SGST.

Determine the total amount of penalty (CGST + SGST) leviable under GST law in respect of such erroneous refund if:

(i) such excess refund claim was proved to be inadvertent and not wilful/fraud.

(ii) such excess refund was on account of wilful misstatement/ fraud.

Answer:

Amount of penalty (each under CGST and SGST) in respect of the erroneous refund claimed by M/s Root & Co.:

(i) Where the excess refund claim was proved to be inadvertent and not wilful/fraud

Penalty payable will be higher of the following:

(a) 10% of tax due, i.e. ₹ 1,800 (18,000 x 10%)

(b) ₹ 10,000

Penalty will be ₹ 10,000 each under CGST and SGST

(ii) Where the excess refund claim was on account of wilful misstatement/fraud

Penalty payable will be higher of the following:

(a) Tax due, i.e. ₹ 18,000

(b) ₹ 10,000

Penalty will be ₹ 18,000 each under CGST and SGST

Question 5

M/s. Square & Co. received a notice under section 74(1) of the CGST Act, 2017 demanding tax, interest and penalty on the allegation of suppression of facts for the financial year 2018-19. Notice was issued on 24-11-2022. Square & Co. filed an appeal denying any suppression and on which Appellate Authority concluded that the notice is not sustainable under section 74(1), for the reason that the charges have

not been established by the Department. Proper officer deemed the said notice to have been issued under section 73(1) and re-determined the demand.

Square & Co. is of the opinion that the action of proper officer is not in line with GST law. Square & Co. filed its annual return for the financial year 2018-19 on 30-11-2019. Assume the due date of such return as 31-12-2019.

Square & Co. seeks your advice with reason on the following issues:

- (i) Whether the proper officer can proceed to re-determine the demand under section 73(1), in respect of notice issued under section 74(1)?
- (ii) If yes, whether the fresh demand is valid?
- (iii) If the above notice issued under section 74(1) is assumed to have been issued on 24-09-2022, what would be your answer for the validity of demand?

Answer:

- (i) Since the appellate authority concluded that the notice under section 74(1) is not sustainable for reason that the charges of fraud etc. have not been established by Department against M/s Square & Co., the proper officer can re-determine the demand, deeming as if the notice was issued under section 73(1) of the CGST Act, 2017.
- (ii) Fresh demand will not be valid since show cause notice under section 74(1) of the CGST Act, 2017 was issued on 24.11.2022, i.e. beyond 2 years and 9 months from the due date of furnishing of annual return for financial year 2018-19, i.e. 30.09.2022.
- (iii) If show cause notice under section 74(1) of the CGST Act, 2017 was issued on 24.09.2022, i.e. within 2 years and 9 months from the due date of furnishing of annual return for financial year 2018-19, demand would be valid.

MAY 2024

Question 1

A banking company M/s. YVPAY Bank Ltd. is registered under GST laws and provided the following services during the month of October, 2023.

S.No.	Particulars	Amount (₹)
(i)	Discount earned on bills discounted	6,00,000
(ii)	Interest earned on reverse repo transaction	2,00,000
(iii)	Penal interest recovered from the borrower for the delay in payment of loan EMIs/Dues	28,00,000
(iv)	Services to merchants accepting credit/debit card payments using Point Of Sale (POS) machine of Bank. (In 50% cases, the amount per transaction was up to 1,500 while in the other cases, the amount was between 1500 to 2,000)	6,50,000
(v)	Commission received for debt collection service	12,00,000
(vi)	Interest charges for late payment of Credit card dues	4,00,000

M/s. YVPAY Bank Ltd. had opted for optional method, under Section 17(4) of CGST Act, 2017, for claiming input tax credit in respect of its operations. For the month of October, 2023, the relevant details for input tax credit are as follows:

- (i) Amount of GST paid on eligible input services - 8,00,000
- (ii) Amount of GST paid on eligible capital goods - 6,00,000
- (iii) Amount of GST paid on items whose credit is blocked under Section 17(5) of CGST Act 2017 ₹3,00,000
- (iv) Applicable rate of GST is 18% on services provided.

Based on the information given above, calculate the net GST payable by the Bank for the month of October, 2023. Ignore bifurcation of CGST and SGST or IGST.

Answer:

Computation of net GST payable by YVPAY Bank Ltd.

	Particulars	GST @ 18% ² (₹)
(i)	Discount earned on bills discounted [Exempt since consideration is represented by way of discount.]	-
(ii)	Interest on reverse repo transaction [Exempt since consideration is represented by way of interest paid to bank.]	-
(iii)	Penal interest on delayed payment of EMIs [Penal interest paid to bank is exempt]	-
(iv)	Services to merchants accepting credit/debit card payments [Exempt since such services are provided to merchants in relation to settlement of an amount upto ₹ 2,000 per transaction through credit/debit card.]	-
(v)	Commission for debt collection services [Not exempt, since it is not a service of extending deposits, loans or advances.]	2,16,000
(vi)	Interest charges for late payment of credit card dues [Not exempt, since specifically excluded.]	72,000
	Output tax payable	2,88,000

Less: 50% of eligible ITC on input services and capital goods availed in October [(₹ 8,00,000 + ₹ 6,00,000) × 50%] [Blocked credit cannot be availed.]	(7,00,000)
Net GST payable	Nil

? Question 2

Mr. Sharma, Director of VEE Ltd. provides personal guarantee on 31.10.2023 to a nationalized bank for sanctioning the cash credit facility of ₹ 100 lakhs sanctioned in favour of VEE Ltd. Mr. Sharma was not paid any consideration for the same by VEE Ltd.

Whether the said activity provided by Mr. Sharma will be considered as supply? If yes, what will be the value of such services? Explain in brief the relevant provisions of GST Act.

Answer:

Since director and company are related persons in terms of Schedule I of the CGST Act, 2017, the activity of providing personal guarantee by a director to the banks/ financial institutions for securing credit facilities for their companies is to be treated as a supply of service, even when made without consideration.

Thus, the activity of providing personal guarantee by Mr. Sharma to the nationalized bank will qualify as supply.

Value of such supply will be the open market value (OMV) in terms of rule 28 of the CGST Rules, 2017. However, as per RBI Guidelines, no consideration by way of commission, brokerage fees or any other form, can be paid to the director by the company, directly or indirectly, in lieu of providing personal guarantee to the bank for borrowing credit limits, except in exceptional cases.

Thus, it is clarified that OMV of said supply may be treated as zero / Nil and therefore, no tax is payable on such supply of service by Mr. Sharma to VEE Ltd.

? Question 3

Rajwada Operators Limited (ROL) is registered under GST in the State of Karnataka as an Electronic Commerce Operator (ECO). It owns and operates a web portal which supplies various goods and services on behalf of various sellers/service providers to its ultimate customers.

Details of supplies undertaken through ROL in the month of October, 2023 are as under:

- Sale of goods worth ₹ 1,47,500/- (including GST) by A Ltd., registered supplier of Rajasthan to B Ltd., Gujarat. Also goods worth taxable value of 1,40,000/- sold by A Ltd., Rajasthan to B Ltd., Gujarat in the month of September, 2023 were returned back in the month of October, 2023.
- Value of services provided from 21.10.23 to 30.10.23 by way of transportation of passengers by motor vehicles by X Ltd., registered under GST in Karnataka to Z Ltd., registered under GST in Karnataka amounting to 5,50,000/- (it includes 1,50,000/- against transportation services provided by omnibus).
- Miss Zara of Mumbai books a room for 3 days and 2 nights in Raj Niwas Palace, Jodhpur, Rajasthan through Maharaja Resorts Ltd. (MRL) also an ECO registered under GST in Karnataka. MRL is integrated with ROL who has an agreement with Raj Niwas Palace. Raj Niwas Palace is registered under GST in Rajasthan and raises an invoice for 1,50,000/- to Miss Zara and receives 1,45,000/- from ROL for the same.

All the figures given above are exclusive of GST except wherever specified separately. Assume rate of CGST and SGST to be 9% each and IGST to be 18% on all inward and outward supplies of goods and services.

Compute the amount of TCS to be collected by ROL for the month of October 2023.

Answer:

- (i) ROL is liable to collect tax at source under section 52 of the CGST Act, 2017 @ 1% under IGST of the net value of inter-State taxable supplies of goods (Value of taxable supplies made less value of supplies returned) made through it by the electronic commerce operator (ECO) - A Ltd.
Net value of taxable supplies = ₹ 1,25,000 (₹ 1,47,500 × 100/118) - ₹ 1,40,000 = Nil / (Negative Value) Thus, TCS to be collected is Nil.
- (ii) ROL is liable to collect TCS, since the tax on services, by way of transportation of passengers by an omnibus provided by a company through ECO, is not payable by ECO, under section 9(5) of the CGST Act, 2017.
= ₹ 1,50,000 × 0.5%
= ₹ 750 each under CGST and SGST
ROL is not required to collect TCS on transportation of passenger services by other motor vehicles supplied through it worth ₹ 4,00,000 as tax on the same is payable by ROL itself under section 9(5) of the CGST Act, 2017.
- (iii) ROL, being supplier side ECO is liable to collect TCS @ 0.5% under CGST and 0.5% under SGST of the net value of intra-State taxable supplies of accommodation services made through it by Raj Niwas Palace.
= ₹ 1,50,000 × 0.5%
= ₹ 750 each under CGST and SGST

? Question 4

Bhagwan Manufacturers & Exporters Company (BMEC) is registered under GST in the State of Rajasthan and supplies various goods in domestic as well as in international markets. It is engaged in both manufacturing and trading of goods. It exports goods without payment of tax under bond or letter of undertaking in accordance with the provisions of Section 16(3) of the IGST Act, 2017.

BMEC provides the following information in relation to various supplies made by it during October, 2023 tax period:

S.No.	Particulars	Amount (₹)
1	Taxable value of goods 'Star' supplied within India	14,00,000 /-
2	Taxable value of goods 'Sun' exported without payment of tax under letter of undertaking. (However, taxable value of such goods when supplied domestically by BMEC in similar quantities is 6,00,000).	10,00,000/-
3	Taxable value of goods 'Moon' exported without payment of tax under bond. (However, taxable value of such goods when supplied domestically by BMEC in similar quantities is 1,50,000)	2,00,000/-

The Input Tax Credit (ITC) availed for the above tax period is as follows:

S.No.	Particulars	₹
1	Input tax credit availed on capital goods	1,00,000/-
2	Input tax credit availed on inputs	3,00,000/-
3	Input tax credit availed on inputs services BMEC also provides following additional information :	1,50,000/-

(i)	All the above inputs, input services and capital goods are used in manufacturing process. And all the conditions for availing input tax credit have been complied with.
(ii)	The balance in the electronic credit ledger of BMEC at the time of filing the refund application is 1,50,000/-.
(iii)	The balance in the electronic credit ledger of BMEC at the end of the October, 2023 tax period for which the refund claim is being filed after GSTR-3B for the said period has been filed is ₹ 3,25,000/-

You are required to compute the amount refundable to Bhagwan Manufacturers & Exporters Company against accumulated unutilized input tax credit for the October, 2023 tax period according the provisions of GST law by giving necessary explanations for treatment of various items.

Answer:

As per rule 89(4) of the CGST Rules, 2017, in the given case, refund of ITC in the case of zero-rated supply of goods without payment of tax under bond/LUT is as follows:

$$\begin{aligned} \text{Refund Amount} &= \frac{\text{Turnover of zero-rated supply of goods}}{\text{Adjusted Total Turnover}} \times \text{Net ITC on inputs and input services} \\ &= \frac{[9,00,000^* + 2,00,000^{**}]}{[9,00,000 + 2,00,000 + 14,00,000]} \times [1,50,000 + 3,00,000] \\ &= ₹ 1,98,000 \end{aligned}$$

*Turnover of goods 'Sun' = Lower of (i) ₹ 6,00,000 × 1.5 or (ii) ₹ 10,00,000, i.e. ₹ 9,00,000

**Turnover of goods 'Moon' = Lower of (i) ₹ 1,50,000 × 1.5 or (ii) ₹ 2,00,000, i.e. ₹ 2,00,000

Refundable amount is the least of the following:

- Refund as per rule 89(4) of the CGST Rules, 2017 [₹ 1,98,000]
- Balance in ECL at the time of filing refund application, [₹ 1,50,000] and
- Balance in ECL at the end of October 2023 for which refund is being filed after the return in Form GSTR-3B for the said period has been filed [₹ 3,25,000]

Thus, the refundable amount is ₹ 1,50,000.

ITC is on capital goods is not eligible for refund.

? Question 5

In an order passed dated 1st April, 2023 issued to Sita Ram Pvt. Ltd., the Commissioner of Central Tax, being Revisionary Authority has confirmed IGST demand of 1400 crore, penalty of ₹ 200 crore and interest of 20 crore.

Sita Ram Pvt. Ltd. admits the tax liability, penalty and interest to the extent of ₹ 200 crore, 20 crore and ₹ 10 crore respectively but wishes to litigate the balance amount of demand and thus, Sita Ram Pvt. Ltd. deposits the required amount of pre-deposit on 12th April, 2023 and files an appeal with the GSTAT.

GSTAT decides the appeal in favour of Sita Ram Pvt. Ltd, on 12th June, 2023. Sita Ram Pvt. Ltd. submits an application seeking refund of the pre-deposit along with applicable interest on 2nd July, 2023 and the department acknowledges the application on the same day. The amount of pre-deposit is refunded to Sita Ram Pvt. Ltd. on 15th October, 2023.

With reference to provisions of GST law, compute the amount of pre-deposit required to be deposited before filing appeal to GSTAT and interest payable by the department on refund of such pre-deposit, if any along with necessary explanations.

Answer:

- (a) The amount of pre-deposit to be made by Sita Ram Pvt. Ltd. for filing the appeal to the GSTAT is as under-
- (i) full amount of tax, interest and penalty as admitted by it, i.e. ₹ 230 (200+20+10) crores and
- (ii) 20% of the remaining tax in dispute, i.e. ₹ 240 crore (20% of ₹ 1,200 crore) subject to a maximum of ₹ 100 crores (in case of IGST).
= ₹ 330 crores

If the pre-deposit made by the appellant before the Tribunal is required to be refunded consequent to any order of the Tribunal, interest @ 9% p.a. shall be payable from the date of payment of the amount till the date of refund of such amount.

Period of delay counted from 12th April 2023 is 186 days

Interest (rounded off)= ₹ 100 crore × 9% × 186/366 = ₹ 4,57,37,705

? Question 6

GST Department initiated prosecution proceedings against Mr. Sahil, a taxable person under GST. Mr. Sahil collected 8 crore as GST but failed to pay the same to the Government beyond the period of three months from the date on which such payment became due.

He approached the Commissioner on 15.10.2023 with a request for compounding of offence. Mr. Sahil made full and true disclosure of facts relating to the case. After considering the request, the Commissioner directed him to pay an amount of 5.2 crore as compounding amount on 20.10.2023.

As per the provisions of Section 138 of the CGST Act, 2017 read with relevant rule of the CGST Rules, 2017, examine the issue and provide the answers with supporting explanatory note to the following :-

- (1) Determine the minimum and maximum compounding amount which can be determined by the commissioner.
- (2) Is the amount determined by the Commissioner in this case within the limits prescribed under the GST law ?
- (3) In what time period will Mr. Sahil have to pay the compounding amount ordered by the Commissioner ?

Answer:

- (1) Since Mr. Sahil has collected amount exceeding ₹ 5 crores as tax but failed to pay the same to the Government beyond a period of 3 months from the date on which such payment became due:
- (i) minimum amount for compounding is 50% of the tax evaded, i.e., ₹ 4 crore (50% of ₹ 8 crore).
- (ii) maximum amount for compounding is 75% of the tax evaded i.e., ₹ 6 crore (75% of ₹ 8 crore).
- (2) Yes, the amount for compounding determined by the Commissioner i.e. ₹ 5.2 crore is within the above limits prescribed under the GST law.
- (3) Mr. Sahil has to pay the compounding amount ordered by the Commissioner within 30 days from the date of the receipt of the order.

? Question 7

Under what circumstances, the Revisional Authority (RA) cannot exercise the powers of revision under Section 108 of the CGST Act, 2017

Is there any exception to the above provision?

Answer:

The RA shall not exercise the power of revision if:

- (a) the order sought to be revised has been subject to an appeal before Appellate Authority (AA) or Tribunal or High Court or Supreme Court; or
- (b) the period of 6 months (from the date of communication of order) has not yet expired or more than 3 years have expired after the passing of the decision/order sought to be revised; or
- (c) the order has already been taken for revision at an earlier stage; or
- (d) the order sought to be revised is itself a revisional order.
- (e) Non appealable orders and decisions i.e. order covered under section 121.

The RA may still pass an order on any point which has not been raised and decided in an appeal before AA/Tribunal/High Court/Supreme Court, before the expiry of a period of 1 year from the date of the order in such appeal or before the expiry of a period of 3 years from the date of initial order, whichever is later.

? Question 8

What is Search Warrant ? Who is the competent authority to issue Search Warrant under the CGST Act ? What details should be contained in a Search Warrant ?

OR

Which officers under Section 72 of the CCIST Act are empowered and are required to assist proper officers in the implementation of the CGST Act?

Answer:

A search warrant is a written authority to conduct a search.

The competent authority to issue a search warrant is an officer of the rank of Joint Commissioner or above.

A search warrant must indicate the existence of a reasonable belief leading to the search. Search warrant should contain the following details:

- the violation under the GST law,
- the premise to be searched,
- the name and designation of the person authorized for search,
- the name of the issuing officer with full designation along with his round seal,
- date and place of issue,
- serial number of the search warrant,
- period of validity i.e. a day or 2 days etc.

Note - Any two points may be mentioned.

OR

Alternative Answer

Under section 72 of the CGST Act, 2017, the following officers have been empowered and are required to assist CGST officers in the execution of CGST Act:

- (i) Police;
- (ii) Railways
- (iii) Customs;
- (iv) Officers of State/UT/ Central Government engaged in collection of GST;
- (v) Officers of State/UT/ Central Government engaged in collection of land revenue;
- (vi) All village officers;
- (vii) Any other class of officers as may be notified by the Central/State Government.

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