

ONLINE MONEY GAMING

Question 1:

Mr. Amit Shah, a participant of the online money game installed the game app on 1.3.24 and has deposited Rs. 1,00,000 in the wallet of Dream 11, an online gaming company on 1.4.24

Dream 11 wants to know the following aspects of the transaction.

- i) Has it supplied Goods/service in this transaction?
- ii) What is the time of supply?
- iii) Who will pay tax in this case?
- iv) What is the value of supply if the GST rate is 28% and GST liability?
- v) If Mr. Amit Shah, a participant of the game has deposited Rs. 1,00,000 in the wallet of Dream 11, later withdraws 70,000 from the wallet then what shall be the value of supply?

Answer:

- i) It has supplied goods as online money gaming interalia is included in the definition of actionable claims
- ii) Time of supply in case of actionable claims is date of payment ie 1.4.24
- iii) Dream 11 shall pay tax as per FCM
- iv) Value of supply as per Rule 31B of Valuation rules, CGST 2017 = Total amount paid to the supplier = 1,00,000 and therefore GST liability = 28,000
- v) The answer shall be same as above as the amount paid once is taken into account and not the net amount kept in the wallet

Question 2:

DREAM 11, which is located in Dubai wants to provide online money gaming service to persons based in India.

DREAM 11, an online money gaming based in Singapore is supplying service to Miss Payal, an unregistered person in India whose turnover is 18 lacs.

- (i) Is Dream 11 liable to register?
- (ii) Will your answer be different if Miss Payal was a registered person in India?
- (iii) Also explain the consequences if they don't register and pay tax and still continue to provide online money gaming service to persons based in India?

Answer:

- (i) DREAM 11, an online money gaming based in Singapore is supplying service to Miss Payal, an unregistered person in India is compulsory required to register u/s 24
- (ii) It shall remain the same as in this case section 24 clearly states recipient is person based in India unlike OIDAR services where he clearly mentions that such person in India should be an unregistered person. DREAM 11, an online money gaming based in Singapore is supplying service to Miss Payal, an unregistered person in India is compulsory required to register u/s 24.

- (iii) Section 14A(3) states that if DREAM 11 or its appointed representative fails to comply with the registration or tax payment requirements, any information related to their services, generated, transmitted, received, or hosted on computer resources, may be blocked for public access under the provisions of Section 69A of the Information Technology Act, 2000.

Question 3.

Fortune 365 is an online money gaming platform operating from UAE. It provides its users a platform to play and win money in different games that are available on its portal.

In the month of December, Player A, an unregistered person located in India, deposited an amount of ₹ 10,000 (inclusive of GST) in the master wallet available on the portal of Fortune 365. Subsequently, following transactions were undertaken by Player A in said month:

- i. Player A utilized the amount of ₹ 2,000 from the master wallet towards playing a virtual racing game on the portal. As a winning amount, ₹ 10,000 was credited to the master wallet of Player A.
- ii. On another portal operated by Fortune 365 in the name of Bet 180, Player A placed a bet of face value of ₹ 11,000 on an international wrestling match. The amount of such bet was paid by the master wallet of Player A. However, he lost the bet and hence the bet amount of ₹ 11,000 with applicable taxes was transferred from the master wallet to the bank account of Bet 180.
- iii. Player A transferred the balance amount from the master wallet to his bank account after the aforesaid transactions. Assume all the above transactions to be exclusive of GST unless otherwise specified.
- iv. Rate of GST applicable is 28% (Please ignore the bifurcation of GST amount into CGST, SGST and IGST.)

Based on the information provided above, answer the following questions, providing brief reasons:

- (1) Compute the total GST payable on the aforesaid given transactions.
- (2) Determine the net amount transferred by Player A to his bank account after the aforesaid transactions.
- (3) Ascertain whether Fortune 365 is required to obtain registration under GST in India. Will your answer be different if Player A is registered under GST in India?

Answer

The value of online money gaming related supply shall be determined as per rule 31B. As per said rule, the value of supply of online gaming, including supply of actionable claims involved in online money gaming, shall be the total amount paid or payable to or deposited with the supplier by way of money or money's worth, including virtual digital assets, by or on behalf of the player.

Further, rule 31A provides the manner of determining the value of supply of actionable claim in the form of chance to win in betting. The value for such supply shall be 100% of the face value of the bet.

In accordance with the above provisions:

- (1) Total GST payable on given transactions is as follows:
 - (i) Value of supply of online money gaming = Total amount deposited with the supplier by the player in terms of rule 31B

= Initial deposit of ₹ 10,000 (inclusive of GST) by Player A with Fortune 365 after excluding GST = ₹ 7,812.50 (₹ 10,000 × 100/128)
GST payable = ₹ 7,812.50 × 28%
= ₹ 2,188 - [A]

- (ii) Value of supply of online bet = 100% of the face value of the bet in terms of rule 31A = ₹ 11,000
GST payable = ₹ 11,000 × 28%
= ₹ 3,080 - [B]
Total amount of GST that would be collected by the Government on the given transactions = [A] + [B] = 5,268 (rounded off)

- (2) Total amount transferred by Player A to his bank account from the master wallet is as follows:

Particulars	Amount (₹)
Initial Deposit	10,000
Less - GST on deposit	2,188
Less - Payment for virtual racing game	2,000
Add - Winning from virtual racing game	10,000
Less - Payment for bet placed on Bet 180	11,000
Less - GST on the bet place on Bet 180	3,080
Net balance available for transfer	1,732

- (3) As per section 24(xia), every person supplying online money gaming from a place outside India to a person in India shall be required to obtain registration on a mandatory basis in India. Accordingly, Fortune 365 being a supplier of online money gaming operating from UAE and supplying services in India shall be liable to obtain registration compulsorily in India. The answer will not change irrespective of the fact that Player A is registered under GST in India or not.

CHARGE OF GST AND REVERSE CHARGE MECHANISM

Question 1:

Sardar transporters, GTA is supplying transportation of goods service to HUL Ltd for a freight of 1,00,000 and is charging GST @ 5% on the tax invoice .

To provide this service he has procured input and input service on which it has paid GST-2,000
Compute GST liability for GTA?

Answer:

GST liability

Output tax	- 5,000
(-) ITC	- (NIL)
Net tax payable	- 5,000

In this case GTA will not be eligible to take ITC of gst paid on input and input service as he is charging 5% GST to recipient and not 12%

Question 2:

Mr.Surya is a manufacturer of silk yarn unregistered in Chennai,manufactures and sells it to Raymond Ltd,a clothing company registered in Mumbai amounting to 100lacs.

- Who is liable to pay tax?
- Will your answer be different if Mr.Surya is a trader of silk yarn instead of manufacturer?

Answer:

- Tax shall be payable by Raymond Ltd,as it is a registered person.
- In this case Mr.Surya shall pay tax as Rcm shall not apply since the supplier is a trader and not manufacturer of silk yarn

Question 3:

CG has sold seized vehicles to Mr.Bhangarwala,an unregistered scrap dealer for Rs 100lacs.
Who will pay tax?

Answer:

In this case supplier will pay tax as per FCM as recipient is not a registered person

Question 4:

Manipur Government supplied lottery tickets to Mr.Natwarlal ,a lottery distributor.
Who will pay tax ?

Answer:

In this case it's the Lottery distributor who shall pay tax as per RCM

Question 5.

Shahrukh Khan a director of Red Chilles Entertainment for the purpose of shoot of Jawan movie he rented the garden area of his house Mannat in his personal capacity to Red Chilles Entertainment for an annual rent of Rs 50 Lacs. Determine the Charge of GST.

Answer:

In the above case the chargeability of tax will be bear by supplier i.e by Mr Shahrukh Khan. As per the recent clarification(Circular No. 201/13/2023 GST)services supplied by a director of a company/body corporate to the company/body corporate in his private/personal capacity such as services supplied by way of renting of immovable property are not taxable under RCM. Therefore, Shahrukh Khan is liable to pay tax under Forward Charge Mechanism u/s 9(1)

COMPOSITION SCHEME

Question 1.

Mr. Sandeep is a registered retail trader in Mumbai paying tax under composition scheme. From April to Sept he sells electronic items in its shop by the way of over the counter sale. But since October he decides to start supplying goods to other cities of Maharashtra like Nagpur, Pune, Nasik through Amazon, an ECO who collects TCS u/s 52 Will Mr. Sandeep be able to continue his composition scheme or he shall have to opt out of it and start paying tax as per normal scheme? If yes then what are the GST compliances he/ECO needs to do?

Answer:

As per the recent amendment he can continue to pay tax as per composition scheme if he supplies goods through ECO within the state.

- i) ECO only shall have to ensure that they do the following compliances .
- i) ECO shall deduct TCS us/s 52
- i) ECO shall not allow the supplier to make inter state supply of goods
 - The ECO shall furnish the details of supplies of goods made through it by the said person in the statement in Form GSTR-8 electronically on the common portal
 - Sandeep need not carry out any compliances.

Question 2.

Will your answer be different if Mr. Sandeep wants supply goods outside the state?

Answer:

Yes in that case he shall have to discontinue the composition scheme.

Question 3.

Will your our answer be different if Mr. Sandeep wants to supply service within state t outside state.

Answer:

Yes, in this case he shall have to discontinue the composition scheme

SUPPLY

Question 1.

Akshara and Naitik booked tickets for movie Animal. While purchasing tickets online on PVR app Naitik booked for a combo offer where he paid for ticket and for mini meal for Rs 500. Comment whether this composite supply or mixed supply.

Answer:

The above situation falls u/s 8 composite supply. As per the recent clarification, where if the sale of cinema ticket and supply of food and beverages are clubbed together, such bundled shall be considered as naturally bundled service. Hence, satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

Question 2.

Rishi and Dimple booked tickets for movie 12th Fail. While purchasing tickets online Rishi booked tickets through book my show app. During an interval Dimple purchased Popcorn and Cold drinks for herself from the canteen in theatre. Comment whether food & drinks supplied by the canteen is supply of services or not.

Answer:

As per the recent clarification it is clarified that supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as the food or beverages are supplied by way of or as part of a service, and that is independent of the cinema exhibition service.

VALUE OF SUPPLY

Question 1.

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

In case where a director provides personal guarantee to Banks for securing credit facilities for the company without consideration then such transaction shall be treated as Deemed supply u/s 7(1)(c) as there is supply of service between Related persons without consideration which is in the course of business

As per the recent clarification, in such case the value of supply depends on whether the director has received any compensation or not

If he has received then

Value of supply - such remuneration received

If he has not received then

Value of supply - Nil

Since in this case the director Mr. Sharma has not received any compensation from its company VEE Ltd.

The value of supply of such services provided by Mr. Sharma - Nil

Question 2.

Reliance Ltd, holding company is securing credit facilities amounting to 100 crore for its subsidiary company Adani Ltd by giving a guarantee for the same in front of HDFC Bank.

The amount guaranteed by Reliance Ltd was entire 100 crore

Is guarantee given by Reliance Ltd for Adani Ltd considered as supply?

Compute the value of supply if

- i) Adani Ltd paid 20 crores as consideration to Reliance Ltd for being a guarantor
- ii) Adani Ltd paid no consideration to Reliance Ltd for being a guarantor

Answer

The corporate guarantee is provided to the bank/financial institutions by:

(i) a company for providing credit facilities to the other company, where both the companies are related, (ii) a holding company, for securing credit facilities for its subsidiary company [related in terms of explanation to section 15], the activity is to be treated as a supply of service between related parties even when made without any consideration [in terms of section 7(1)(c) read with para 2 of Schedule I].

i) Value of supply = 1% of amount guaranteed or actual consideration paid, whichever is higher

$$\begin{aligned} &= 1\% \times 100\text{cr or } 2\text{cr} \\ &= 1\text{cr or } 2\text{cr} \\ &= 2\text{cr} \end{aligned}$$

ii) Value of supply = 1% of amount guaranteed or actual consideration paid, whichever is higher

$$\begin{aligned} &= 1\% \times 100\text{cr or nil} \\ &= 1\text{cr} \end{aligned}$$

TAX INVOICE, CREDIT AND DEBIT NOTES

Question 1.

- (a) Fashion Queen Ltd., registered under GST and dealing in baby products has an aggregate turnover of Rs. 40 crores in the preceding financial year. The tax consultant of Fashion Queen Ltd. advised it to issue e-invoices mandatorily. However, Fashion Queen Ltd. is of the view that since its aggregate turnover is less than the threshold limit applicable for e-invoicing, it is not required to issue e-invoices. You are required to comment upon the validity of the advice given by Tax consultant.
- (b) Ministry of Communications and Information Technology, a Government Department registered under GST has an aggregate turnover of Rs. 52 crores in the preceding financial year. You are required to comment whether Ministry of Communications and Information Technology is required to issue e-invoices in the current financial year?
(RTP Nov 22) (Similar question in RTP Nov 21 - amended)

Answer:

- (a) With effect from 01.04.2022, e-invoicing has been made mandatory for all registered businesses (except specified class of persons) with an aggregate turnover in any preceding financial year from 2017-18 onwards greater than Rs. 5 crores, in respect of B2B supplies (supply of goods or services or both to a registered person) or for exports. Thus, the advice given by tax consultant of Fashion Queen Ltd. For issuance of e-invoices mandatorily in the current financial year is valid in law as the aggregate turnover of Fashion Queen Ltd. has exceeded the threshold limit i.e. Rs. 5 crores in the preceding financial year.
- (b) Following entities are exempt from the mandatory requirement of e-invoicing:
- Special Economic Zone units
 - Insurer or banking company or financial institution including NBFC
 - GTA supplying services in relation to transportation of goods by road in a goods carriage

- Supplier of passenger transportation service
- Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens-
- Government Department and a local authority.

Question 2.

Inorbit Mall has rented its shops to Reliance Ltd and it charges rent -10lacs/month and alongwith it also levies electricity charges 1lac on adhoc basis,the actual electricity bill amount ranges from 50,000 to 90,000.

Rate of GST on renting service-18%

What shall be the value of supply?

Answer:

In this the Mall is supplying renting of immovable property service alongwith providing electricity ,where it charges an adhoc amount of electricity to the tenant.

In this case it is supplying Composite supply where the Principal supply is renting of immovable property and hence applicable rate of 18% shall be that of renting service on the entire amount of 11lacs/month

Question 3.

Lodha builders,RWA charges rent a flat to Jethalal for -1lacs/month and alongwith it also levies electricity charges 5,000 on actual basis to him

Rate of GST on renting service -18%

What shall be the value of supply?

Answer:

Since the electricity charges are levied on actual basis by the supplier from the recipient it will be considered that such amount is collected as a pure agent and hence will not be included in the value of supply

Therefore the value of supply -1lac

PLACE OF SUPPLY

Question 1.

- Mr. Sunil (unregistered person under GST), is a resident of Delhi and currently posted in Dehradun, Uttarakhand. He went on an official visit to Arunachal Pradesh. He purchased a leather bag on 15.10.2023 from Arunachal Pradesh and shop keeper M/s ABC issued a tax invoice in the name of Mr. Sunil only. Mr. Sunil returned back to Dehradun along with leather bag. Determine the 'place of supply' for tax invoice issued by M/s. ABC to Mr. Sunil
- Mr. Pintu (unregistered person under GST), resident of Karnal, Haryana went to visit Shimla, Himachal Pradesh along with his family during holidays in the month of October 2023. Due to some medical emergency he purchased some medicines on 20.10.2023 from a medical store at Mall Road Shimla and the tax invoice was issued in the name of Mr. Pintu mentioning the address as Karnal, Haryana only. The medicines purchased were consumed in Shimla during the period of stay. Determine the 'place of supply' for tax invoice issued by medical store to Mr. Pintu.

Answer:

- (i) In this case supplier has made over the counter sales of goods to an unregistered recipient and hence it will be covered u/s 10(1)(ca)
In this case since the supplier doesnot know the address of the recipient- POS shall be location of supplier ie Arunanchal pradesh
- (ii) In this case supplier has made over the counter sales of goods to an unregistered recipient and hence it will be covered u/s 10(1)(ca)
In this case since the supplier while issuing tax invoice mentions the address of the recipient ie.Mr Pintu on the tax invoice as Haryana.
Simply mentioning the State of unregistered person instead of complete address would be sufficient
It doesnt matter where the goods are consumed
POS shall be location of recipient recorded in the tax invoice ie Haryana

Question 2.

Crystal Clear Water Ltd (CCWL) is a manufacturer of mineral water and registered under GST in Mumbai, Maharashtra. CCWL enters into a contract with Global Advertising Agency (GAA) registered under GST in Ahmedabad, Gujarat for displaying its advertisement on hoardings at an awards event organized at Convention Centre Gandhinagar, Gujarat on 31.10.2023. The structure on which the hoardings are to be displayed is taken on rent by GAA from Mr. Kapoor (unregistered person based in Delhi.). Determine the 'place of supply' for tax invoice to be raised by GAA to CCWL.

Answer:

In this case Mr.Kapoor merely rents out a hoarding that he owns at the Convention centre to Global advertising agency registered in ahemdabad and hence in that case
Further, place of supply of any service provided by way of grant of rights to use an immovable property shall be governed by the provisions of section 12(3)(a) of the IGST Act.
As per section 12(3)(a) of the IGST Act, the place of supply of services directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or coordination of construction work shall be the location at which the immovable property is located.
Therefore, the place of supply of service provided by way of supply of sale of space on hoarding/structure for advertising or for grant of rights to use the hoarding/ structure for advertising in this case would be the location where such hoarding/ structure is located.ie Gandhinagar, Gujarat.
Place of Supply for GAA shall be Mum u/s 12(2) as they are providing advertisement service to CCWL.

Question 3.

Vikrant Shipping Ltd registered in Chennai provides transportation of goods service in a vessel from Mumbai port to Srilanka port for Habibi Ltd based in Dubai for a freight of Rs 10,000.
What shall be its place of supply?

Answer:

In this case since the location of both supplier and recipient is not in India,place of supply shall be determined as per section 13.
As per the recent amendment the place of service provided by the way of transportation of goods shall be now covered u/s 13(2) and not u/s 13(9) and hence its place of supply is location of recipient ie Dubai.

REGISTRATION

Question 1.

Mr.Y,an unregistered supplier of selfie sticks based in Mumbai supplies such goods through Flipkart,ECO collects TCS u/s 52 to other states of India amounting to an aggregate t/o of Rs 5lacs.

Is he liable to compulsory register u/s 24?

And if not then,what are the procedures need to be followed by him,so that he can keep supplying the goods through ECO without any registration?

Answer:

Mr.Y shall have to compulsory register u/s 24 as he is an unregistered supplier who wants to supply goods through ECO outside the state

Such persons are not covered under the recent amendment and hence they continue to be under the ambit of section 24 -Compulsory registration

Question 2.

Mr.X,an unregistered supplier of ready made garments based in Mumbai supplies such goods through Flipkart,ECO collects TCS u/s 52 to other cities of Maharashtra amounting to an aggregate t/o of Rs 5lacs.

Is he liable to compulsory register u/s 24?

And if not then,what are the procedures need to be followed by him,so that he can keep supplying the goods through ECO without any registration?

Answer:

After the recent amendment, Mr.X is not required to compulsory register since he is an unregistered person who wants supply goods within the state through ECO ,who collects TCS u/s 52.

- 1) Mr X an unregistered supplier of ready made garments shall follow the following procedure:-
 - i) not to make any inter- State supply of goods;
 - ii) not make supply of goods through ECO in more than one State/Union Territory
 - iii) PAN
 - iv) Such persons shall, before making any supply of goods through ECO, declare on the common portal:
 - a. thier PAN b) address of POB
 - c) State/UT in which such persons seeks to make such supply, which shall be subjected to validation on the common portal;
 - v) Enrolment number on the common portal
 - vi) not be granted more than one enrolment number
 - vii) no supply of goods shall be made by such persons through ECO unless such persons have been granted on enrolment number on the common portal.
- 2) ECO shall follow the following procedures:-
 - (i) ECO shall allow the supply of goods through it by the said person only if enrolment number has been allotted on the common portal to the said person;
 - (ii) ECO shall not allow any inter-State supply of goods through it by the said person;
 - (iii) ECO shall not collect tax at source under section 52(1) in respect of supply of goods

- made through it by the said person; and
- (iv) ECO shall furnish the details of supplies of goods made through it by the said person in the statement in Form GSTR-8 electronically on the common portal.

Section 30: Revocation

Question 3.

Mr. X of Haryana intends to start business of supply of building material to various construction sites in Haryana. He has taken voluntary registration under GST in the month of April. However, he has not commenced the business till December due to lack of working capital. The proper officer suo-motu cancelled the registration of Mr. X. You are required to examine whether the action taken by proper officer is valid in law?

Mr. X has applied for revocation of cancellation of registration after 40 days from the date of service of the order of cancellation of registration. Department contends that application for revocation of cancellation of registration can only be made within 30 days from the date of service of the order of cancellation of registration. However, Mr. X contends that the period of submission of application may be extended on sufficient grounds being shown. You are required to comment upon the validity of contentions raised by Department and Mr. X.

(CA Inter RTP May 22)

Answer:

As per section 29 of the CGST Act, 2017, the proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where, If interalia

- any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration; or

Thus, in view of the above-mentioned provisions, suo-motu cancellation of registration of Mr. X by proper officer is valid in law since Mr. X, a voluntarily registered person, has not commenced his business within 6 months from the date of registration.

Further, where the registration of a person is cancelled suo-motu by the proper officer, such registered person may apply for revocation of the cancellation to such proper officer, within 90 days from the date of service of the order of cancellation of registration.

However, the said period of 90 days may, on sufficient cause being shown and for reasons to be recorded in writing, be extended for a period not exceeding 180 days by Commissioner or any officer that he may deem fit not below the rank of Additional / Joint Commissioner.

Thus, considering the above provisions, the contention of Department is not valid in law as extension can be sought in the prescribed time limit for revocation of cancellation of registration. The contention raised by Mr. X is valid in law as extension in time limit is allowed on sufficient cause being shown and for reasons to be recorded in writing.

Question 4.

Mr. Mahavir a mobile seller has become liable to register w.e.f 1/4/24

He applied for registration on 10/4/24.

He was granted registration on 17/4/24.

While applying for registration he did not furnish his bank details.

What is the due date before which he is required to furnish these details, assuming he filed his GSTR- 1 on 11/06/24

Answer:

Due date of furnishing bank details has been amended

- i) 30 days from date of grant of registration(i.e 17/05/24)
 - ii) Furnishing the details of outward supplies of goods/services in GSTR-1/IFF(11/06/24) whichever is earlier
- So the due date before which he is required to furnish bank details is 17/05/2024

Question 4.

Mr. Vicky, a supplier of goods, has exceeded the threshold limit of ₹20 lakhs and is liable to register under GST as of 1st May 2024. He applied for registration on 10th May 2024 and was granted registration on 15th May 2024. The proper officer decided that a physical verification of Mr. Vicky's place of business was required and conducted this verification on 20th May 2024.

Answer:

According to the GST provisions, where the proper officer is satisfied that physical verification of the place of business of a person is required after the grant of registration, he may get such verification done. The verification report, along with other documents, including photographs, must be uploaded in the prescribed form on the common portal within 15 working days following the date of such verification.

As per the GST provisions, the verification report, along with other documents and photographs, must be uploaded on the common portal within 15 working days following the date of physical verification.

The physical verification was conducted on 20th May 2024, so the verification report and other documents must be uploaded by 4th June 2024 (considering only working days for the 15-day period).

This ensures compliance with the GST registration verification process and proper documentation of the physical verification.

TCS

Question 1.

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:

- (i) 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.
- (ii) 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).
- (iii) 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.

Working notes should form part of your answer.

Answer:

Computation of TCS to be paid by ROL, an ECO for the month of Oct 23

Case 1

Taxable supplies by Altd to BLtd -	1,25,000
(-) Sales Return -	(1,40,000)

In this since the returns are more the taxable supplies made during the tax period, the same would be ignored and

TCS to be deducted shall be -NiL

CASE 2

Xltd supplied transportation passenger service (incl omnibus) to Zltd via ROL, an ECO

In this case Xltd shall pay tax on 1,50,000 @GST-18% -27,000 as the supplier is body corporate supplying transportation of passenger service in an omnibus through ECO

And hence here TCS shall be deducted

$$1,50,000 \times 1\% = 1500$$

Xltd supplied transportation passenger service (anyother vehicle other than omnibus) to Zltd via ROL, an ECO

In this case ROL, an ECO shall pay tax on 4,00,000 @GST-18% -72,000 as such services are passenger transportation services but in any other vehicle other than omnibus through ECO

Case 3

In this case registered hotel is supplying hotel accommodation service to their recipients through ECO

Since the hotel itself is registered it will pay tax on such service -1,50,000 *18%-27,000

And hence no TCS shall be deducted in this case

Question 2.

Miss Babita, Mumbai brought TV through ONDC app from Amazon and Amazon directed the order to Jethalal, Pune for the same, the supply was amounting to 1,00,000Rs.

Who will deduct TCS u/s 52, what will be the amount of the same?

Answer:

In this case Supplier side ECO ie Amazon will remit the consideration to the supplier ie Jethalal and hence Amazon will collect TCS u/s 52

The TCS will be collected and deposited as

CGST @ 0.5%-500

SGST @ 0.5%-500

Question 3.

Miss Shraddha, Indore brought Mobile stand from Amazon Basics through ONDC app from Amazon, Mumbai where the supply amount was amounting to Rs 10,000

Who will deduct TCS u/s 52, what will be the amount of the same?

Answer:

In this case Supplier side ECO ie Amazon is also the supplier of goods ie mobile stand and hence ONDC (buyer side ECO) will deduct the TCS

TCS will be collected and deposited as

IGST @1%-100

EXEMPTIONS

Question 1.

Slumdog Management Ltd is supplying solid waste management service to MSEB, a state government authority

SBI, a Public Sector Unit.

District Mineral Foundation Trust

Answer:

As per the recent amendment under Entry No. No. 3B

Services provided to Government authority by the way of water supply public health; sanitation conservancy; solid waste management; and slum improvement and upgradation. Hence Slumdog

waste management Ltd providing Service to

i) MSEB - Exempt

ii) SBI, PSU - Taxable

iii) District Mineral Foundation Trust - Exempt as DMFT shall be considered as Government authorities for the purpose of exemption

Question 2.

Mr. Dolly is supplying service by the way of maintaining community assets, urban forestry to CPWD, these activities are mentioned in 11th / 12th Schedule of Constitution of India under Article 243G and Article 243W

It makes Composite supply by the way of horticulture where goods supplied in it is 20% of value of composite supply.

Answer:

Public parks in government residential colonies, government offices and other public areas are developed and maintained by CPWD.

Maintenance of community assets, urban forestry, protection of the environment and promotion of ecological aspects are functions entrusted to Panchayats and Municipalities under Articles 243G and 243W read with 11th Schedule and 12th Schedule of the constitution.

Sr. Nos. 3 and 3A of exemption notification exempt pure services and composite supply of goods and services in which value of goods does not constitute more than 25%, that are provided to the Central Government, State Government or Union territory or local authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution. Accordingly, it is clarified that supply of pure services and composite supplies by way of horticulture/horticulture works (where the value of goods constitutes not more than 25% of the total value of supply) made to CPWD are eligible for exemption from GST under Sr. Nos. 3 and 3A of exemption notification.

Question 3.

ISRO providing satellite Launching service to Germany Govt.

Answer:

Exempt

Question 4.

Adani Ltd providing satellite launching Service to Russian Govt.

Answer:

Exempt

Question 5.

Mckinsey, USA providing external asset management service to RBI, in India.

Answer:

Taxable

APPEALS & REVISION

Question 1.

Mr. Binod has received an order from an adjudicating authority that he wishes to appeal against.

Under what specific circumstances is Mr. Binod permitted to file his appeal manually? Explain the relevant rules and forms he must use and the process he should follow, including any immediate acknowledgments he might receive.

Answer:

Mr. Binod, as an aggrieved taxpayer, has the option to appeal against the decision of an adjudicating authority generally requires to be filed electronically; however, there are specific circumstances under which Mr. Binod can file his appeal manually.

These circumstances are detailed under the provisos inserted in Rule 108(1) of the CGST Rules, 2017, read with Section 107(1) of the CGST Act, 2017.

Circumstances Allowing Manual Filing:

1. Commissioner's Notification:

- If the Commissioner has issued a notification allowing manual filing, Mr. Binod can submit his appeal in a physical form.
- In this case, he must use the form GST APL-01 and include all relevant documents.

2. Non-Availability on Common Portal:

- If the decision or order against which Mr. Binod wishes to appeal is not available on the common portal, he can file his appeal manually.
- This situation may arise due to technical issues or delays in updating the portal.

Process for Manual Filing:

- Mr. Binod must fill out form GST APL-01, which is specifically for appeals filed by aggrieved persons.
- He needs to attach all relevant documents that support his appeal.
- Once the appeal is submitted manually, a provisional acknowledgment will be issued to Mr. Binod immediately. This acknowledgment serves as a receipt confirming that the appeal has been received and is under process.

DEMAND AND RECOVERY

Question 1.

Mallya Ltd. is under investigation for alleged GST evasion, and the Commissioner has issued an order for the provisional attachment of Mallya Ltd.'s machinery on 1st August 2023. The Commissioner provided written instructions to remove the encumbrance on 1st July 2024. Discuss when the encumbrance on the machinery can be removed according to the amended Rule 159(2).

Answer:

Rule 159(2) of the CGST Rules stipulates that in the case of provisional attachment of property, the encumbrance on the said movable/immovable property shall be removed under the following conditions:

1. On the written instructions from the Commissioner to that effect.
2. On the expiry of a period of 1 year from the date of issuance of the order of provisional attachment of property, whichever is earlier.

In the given example, the Commissioner issued an order for the provisional attachment of Mallya Ltd.'s machinery on 1st August 2023. The Commissioner then provided written instructions to remove the encumbrance on 1st July 2024.

According to the amended Rule 159(2):

- The encumbrance on the machinery can be removed on the written instructions from the Commissioner, which were provided on 1st July 2024 or
- on the expiry of 1 year from the date of the order, i.e., on 1st August 2024, whichever is earlier

In this case, since the written instructions were provided by the Commissioner on 1st July 2024, the encumbrance on Mallya Ltd.'s machinery will be removed on 1st July 2024, which is earlier than the expiry of 1 year from the date of the provisional attachment order.