

CHAPTER 2

SUPPLY UNDER GST

Concept Problem 1

Which are the commodities which have been kept outside the purview of GST? Examine the status of taxation of such commodities after introduction of GST.

Solution

Constitution defines the Goods and Services tax (GST) as a tax on supply of goods or services or both, except supply of alcoholic liquor for human consumption. Therefore, alcohol for human consumption is kept out of GST by way of definition of GST in the Constitution.

Five petroleum products viz. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel have temporarily been kept out of the purview of GST; GST Council shall decide the date from which they shall be included in GST. The erstwhile taxation system (CST/VAT & central excise) still continues in respect of the said commodities.

Concept Problem 2

Happy Constructions Ltd., a registered builder under GST in Bengaluru, Karnataka has got permission to build five floors from the Municipal Projects for one of its projects at Suraj Nagar. Aditya Constructions, a neighbouring housing project approached Happy Constructions Limited to discuss regarding blockage of sun light issue arising out of construction of five floors and asked it to build only three floors for which 20 lakh was offered as compensation. Happy Constructions Limited agreed to the offer. It may be noted that Aditya Constructions is not ready to pay any further amount to Happy Constructions Ltd. in addition to the amount already agreed.

Briefly explain with correct legal provision whether the above amount received as compensation is liable to GST or not? And if considered as taxable, then calculate the total GST payable by Happy Constructions Ltd. Assume the applicable rate of CGST and SGST is 9% each.

Also state the conditions to be complied with.

Solution

Agreeing to obligation to refrain from an act, or to tolerate an act or situation, or to do an act has been specifically declared to be a supply of service vide para 5(e) of Schedule II of the CGST Act, 2017 if the same constitutes a supply as per the CGST Act, 2017.

In the given case, Happy Constructions Limited has agreed to build only three floors, even though it is permitted to construct five floors by the Municipal Authorities, for a compensation of ` 20 lakh. This results in supply of service.

The conditions to be complied with for the above supply will be

- a) There must be an expressed or implied agreement or contract must exist.
- b) Consideration must flow in return to this contract/ agreement.

Since Aditya Constructions is not ready to pay any further amount to Happy Constructions Limited in addition to the amount already agreed, the amount received 20 lakh shall be treated as inclusive of GST and the GST payable will be $20,00,000 \times 9/118 = 1,52,542.37$ or 1,52,542 (rounded off) as CGST and SGST each.

Concept Problem 3

Discuss taxability of shares held in a subsidiary company by holding company?

Solution

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

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

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

Concept Problem 4

Prithvi Associates is engaged in supply of taxable goods. It enquires from its tax advisor as to whether any activity can be treated as supply even if made without consideration in accordance with the provisions of the CGST Act. Enumerate such activities, if any.

Solution

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

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

However, gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.
- iii) Supply of goods –
 - a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or
 - b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.
- iv) Import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

Concept Problem 5

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

Solution

Title as well as possession both have to be transferred for a transaction to be considered as a supply of goods.

In case title is not transferred, the transaction would be treated as supply of service in terms of Schedule II.

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

Concept Problem 6

Examine whether the following activities would amount to supply under section 7 read with schedule I:

- a) Sulekha manufactures have a factory in Delhi and a depot in Mumbai. Both these establishment are registered in respective states. Finished goods are sent from factory in Delhi to the Mumbai depot without consideration so that the same can be sold.

- b) Raman is an architect in Chennai. His brother who is settled in London is a well-known lawyer. Raman has taken legal advice from him free of cost with regard to his family dispute.
- c) Would your Solution be different if in above case Raman has taken advice in respect of his business in Chennai?

Solution

- a. Schedule I read with section 7(1)(c), inter alia, stipulates that supply of goods or services or both between related persons or between distinct persons as specified in section 25, is supply even without consideration provided it is made in the course or furtherance of business.

Further where a person, who has obtained or is required to obtain registration in a state in respect of an establishment has an establishment in another state, then such establishment shall be treated as establishments of distinct persons.

In view of the same, factory and depot of Sulekha Manufacturers are establishment of two distinct persons. Therefore, supply of goods from Delhi factory of Sulekha Manufacturers to Mumbai depot without consideration but in course furtherance of business shall be considered Supply under section 7 read with schedule I of the CGST Act.

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

Explanation to section 15, inter alia provides that persons shall be deemed to be **related persons** if they are members of the same family. Further as per section 2(49) of the CGST Act 2017 family means-

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

In the given case, Raman has received free of cost legal services from his brother. However, in view of section 2(49) above, Raman and his brother cannot be considered to be related as Raman's brother is a well-known lawyer and is not wholly/mainly dependant on Raman.

Further Raman has taken legal advice from him in personal matter and not in course or furtherance of business. Consequently, services provided by Raman's brother to him would not be treated as supply under section 7 of the CGST Act read with schedule I.

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

Concept Problem 7

Determine whether following supplies is treated as supply of goods or supply of services as per Schedule II:

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

Solution

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

Concept Problem 8

Examine whether the activity of import of service in the following independent cases would amount to supply under section 7 of the CGST Act, 2017?

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

Solution

- Supply, under section 7 of the CGST Act, 2017, inter alia,
 - includes import of services for a consideration
 - even if it is not in the course or furtherance of business.

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

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

Explanation to section 15, inter alia provides that persons shall be deemed to be related persons if they are members of the same family. Further as per section 2(49) of the CGST Act 2017 family means-

- The spouse and children of the person and
- The parents, grandparents, brothers and sister of the person **if they are wholly or mainly dependent** on the said person.

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

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

- In the above case, if Miss Shriniti has taken interior decoration services with regard to her business premises, services provided by Miss Shriniti's brother to her would be treated as supply under section 7 read with Schedule I, as the same are provided in course or furtherance of business.

Concept Problem 9

Dumdum Electronics has sold the following electronic items to Akbar Retail Store.

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

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

Solution

In the given case, the items supplied by Dumdum Electronics are not naturally bundled in the ordinary course of business. Therefore, such supply is not a composite supply.

Further, although Akbar Retail Store has paid a composite discounted price for these goods, Dumdum Electronics has not charged a single price for the said supply. Therefore, said supply is also not a mixed supply.

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

Concept Problem 10

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

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

Solution

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

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

However, as per CBIC circular, the inter-State movement of various modes of conveyance including, inter alia, trucks, carrying goods or passengers or both or for repairs and maintenance, between 'distinct persons' as specified in section 25(4), not involving further supply of such conveyance, may be treated 'neither as a supply of goods nor supply of service' and therefore, will not be leviable to IGST. Applicable CGST/SGST/IGST, however, shall be leviable on repairs and maintenance done for such conveyance.

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

Concept Problem 11

Sarvanna & Sons wishes to start supplying alcoholic liquor for human consumption in the State of Tamil Nadu. Therefore, it applies for license to the Tamil Nadu Government for selling liquor for which the State Government has charged specified fee from it.

Examine whether the grant of alcoholic liquor license by the Tamil Nadu Government to Sarvanna & Sons qualifies as supply.

Solution

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

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

Concept Problem 12

R has closed down his business but was left with certain capital goods and inputs forming part of the assets of the business carried on by him. The closure of the business is due to his ill health.

What will be the nature of this transaction?

Solution

As per schedule II read with section 7 of the CGST Act, goods forming part of the assets of any business carried on by a person shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person unless-

- The business is transferred as a going concern to another person: or
- The business is carried on by a personal representative who is deemed to be a taxable person.

In this case, such goods shall be deemed to be supplied by him in the course of furtherance of his business immediately before he ceases to be a taxable person.

Thus, the capital goods which have some useful life and such inputs lying with him on which credits has been availed should be treated as deemed supply and shall be subject to GST.

Concept Problem 13

M/s M Ltd. being a garment manufacturer appoints Mr. Ram as an agent, who stores garments manufactured by M Ltd. and sends to dealers whenever M Ltd. asks Mr. Ram to do so. Is it a supply? Justify.

Solution

As per schedule I read with section 7 of CGST Act, 2017, Supply of goods by a principal to his agent, without consideration, where the agent undertakes to supply such goods on behalf of the principal is considered as supply.

A person shall be treated as agent for the purpose of schedule I of CGST Act, 2017 if he has the authority to pass or receive the title of the goods on behalf of the principal.

In this case, Ram simply stores garments manufactured by M Ltd. and sends to dealers whenever M Ltd. asks him to do so. He does not have the authority to pass or receive the title of the goods on behalf of the principal.

Hence, transfer of garments from M Ltd. to Mr. Ram without consideration shall not be deemed as supply under GST in accordance with section 7 of CGST Act 2017 read with schedule I.

Concept Problem 15

Explain the composite supply and mixed supply. If a trader launches a package sale for marriage containing double bed, refrigerator, washing machine, wooden wardrobe at a single rate. He is issuing invoice showing value of each goods separately. Whether this is case of mixed supply or composite supply. Explain

Solution

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

Where such supply does not constitute a composite supply, it is treated as mixed supply.

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

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

Note: The question specifies that the various items are supplied at “single rate”. The “single rate” expression is construed as single rate of tax in the above answer.

Further, “Single rate” may also be construed as single price as given in the below mentioned answer.

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

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

Concept Problem 16

Determine whether GST is payable in each of the following independent transactions:

Dhruv Developers sold a plot of land in Greater Noida after levelling, laying down of drainage lines, water lines and electricity lines.

Solution

GST is not payable by Dhruv Developers on sale of plot of land.

Circular No. 177/09/2022 GST dated 03.08.2022 clarifies applicability of GST on sale of land after levelling, laying down of drainage lines etc.

As per Para 5 of Schedule III of the CGST Act, 2017, 'sale of land' is neither a supply of goods nor a supply of services. Therefore, the sale of land does not attract GST.

Land may be sold either as it is or after some development such as levelling, laying down of drainage lines, water lines, electricity lines, etc. It is clarified that sale of such developed land is also sale of land and is covered by Para 5 of Schedule III and accordingly, does not attract GST.

Concept Problem 17

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

Solution

As per section 7(1)(a), the goods or services which are supplied free of cost (without any consideration) are not treated as "supply" except in case of activities mentioned in Schedule I of the CGST Act. Under "Buy One Get One Free" scheme, it may appear at first glance that in case of offers like "Buy One, Get One Free", one item is being "supplied free of cost" without any consideration.

However, it is not an individual supply of free goods, but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.

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

CHAPTER 3

CHARGE OF GST

Concept Problem 1

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

- Services provided by an arbitral tribunal to any business entity.
- Sponsorship services provided by a company to an individual.
- Renting of immovable property service supplied by Central Government to a registered business entity.
- Services supplied by a recovery agent to a car dealer.
- Security services (services provided by way of supply of security personnel) provided by a partnership firm to a registered person paying tax under regular scheme.
- Legal Fees is received by Sushrut, an advocate, from M/s. Tatva Trading Company, engaged in making taxable supplies and located in Maharashtra, having turnover of INR 50 lakh in preceding financial year.
- Siddhi Builders, registered in Haryana, rented out 20 residential units owned by it in Sanskriti Society to Rudra Technologies, an IT based firm registered in the State of Haryana, for accommodation of its employees.

Solution

- Since GST on services provided or agreed to be provided by an arbitral tribunal to any business entity located in the taxable territory is payable under reverse charge, in the given case, GST is payable by the recipient - business entity. It is assumed that the business entity has turnover exceeding limit u/s 22 in preceding financial year.
- GST on sponsorship services provided by any person to anybody corporate or partnership firm located in the taxable territory is payable under RCM. Since in the given case, services have been provided to an individual, reverse charge provisions will not be attracted. GST is payable under forward charge by the supplier - Company.
- GST on services supplied by Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under CGST Act, 2017 is payable under RCM. Therefore, in the given case, GST is payable under RCM by the recipient- registered business entity.
- GST on services supplied by a recovery agent to a banking company or a financial institution or a non- banking financial company located in the taxable territory is payable under reverse charge. However, since, in the given case, services are being supplied by a recovery agent to a car dealer, GST is payable under forward charge by the service provider - recovery agent.
- GST on security services (services provided by way of supply of security personnel) provided to a registered person, located in the taxable territory is payable under reverse charge. Therefore, in the given case, GST is payable under reverse charge by the recipient - registered person receiving the services.
- GST on legal services supplied by an advocate [Mr. Sushrut] to any business entity [M/s. Tatva Trading Company] located in the taxable territory is payable on reverse charge basis.

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

- Services provided by way of renting of residential dwelling for use as residence is exempt from GST. However, where the residential dwelling is rented to a registered person, said exemption is not available. Further, tax on service provided by way of renting of residential dwelling to a registered person is payable by the recipient under reverse charge.

Therefore, in the given case, Rudra Technologies is liable to pay GST on the residential dwellings taken on rent by it from Siddhi Builders, under reverse charge mechanism.

Concept Problem 2

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

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

Solution

The view taken by the accountant of Sultan & Sons is not valid in law. A registered person with an aggregate turnover in a preceding financial year up to ₹ 1.5 crore is eligible for composition levy, under section 10(1) & 10(2), in Maharashtra.

Further, such person must not be engaged in making any supply of goods or services which are not leviable to tax under this Act and must not be engaged in making any inter-State outward supplies of goods or services, for being eligible to pay tax under said scheme.

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

Concept Problem 3

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

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

Solution

- i) A supplier engaged in the manufacture of goods as notified under section 10(2)(e), during the preceding FY is not eligible for composition scheme under section 10(1) and 10(2). Ice cream and other edible ice, whether or not containing cocoa, Pan masala, Tobacco and manufactured tobacco substitutes, aerated waters and fly ash bricks, earthen and roofing tiles and similar bricks are notified under this category.

However, in the given case, since Mohan Enterprises is engaged in trading of pan masala and not manufacture and his turnover does not exceed ₹ 1.5 crore, he is eligible for composition scheme subject to fulfilment of specified conditions.

- ii) Since supplier of inter-State outward supplies of goods or services is not eligible for composition levy, Sugam Manufacturers is not eligible for composition levy.

Concept Problem 4

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

Solution

A registered person with an aggregate turnover in a preceding financial year up to ₹ 1.5 crore is eligible for composition levy, under section 10(1) & 10(2), in Delhi. Since the aggregate turnover of Subramanian Enterprises does not exceed ₹ 1.5 crore, it is eligible for composition levy in the current year.

However, all registered persons having the same Permanent Account Number (PAN) have to opt for composition scheme. If one such registered person opts for normal scheme, others become ineligible for composition scheme. Thus,

Subramanian Enterprises either have to opt for composition levy for both places of business or under normal levy for both places of business.

Concept Problem 5

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

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

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

Solution

Section 10(1) provides that a registered person, whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5 crore (₹ 75 lakh in Special Category States except Assam, Himachal Pradesh and Jammu and Kashmir), may opt to pay, in lieu of the tax payable by him, an amount calculated at the specified rates. However, as per proviso to section 10(1), person who opts to pay tax under composition scheme may supply services other than restaurant services, of value not exceeding 10% of the turnover in a State or Union territory in the preceding financial year or ₹ 5 lakh, whichever is higher.

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

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

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

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

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

Concept Problem 6 [MTP May 2023]

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

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

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

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

Solution

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

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

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

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

- (ii) The registered person opting for composition scheme, under section 10(1) and 10(2), can also supply services (other than restaurant services) for a value up to 10% of the turnover in the preceding year or ₹ 5 lakh, whichever is higher, in the current financial year.

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

Concept Problem 7

- a) Chanchal started providing beauty and grooming services and inaugurated “Care & Care Beauty Centre” in Delhi on 01st April, 20XX. She opted to pay tax under section 10(2A) of CGST Act, 2017 in the said financial year.

The aggregate turnover of Care & Care Beauty Centre for the quarter ending 30th June, 20XX was INR 20 lakh. Further, for the half year ending 30th September, 20XX, the turnover reached INR 50 lakh. Care & Care Beauty Centre recorded a rapid growth and the turnover reached INR 70 lakh by the end of October, 20XX. Determine the total tax liability of Care & Care Beauty Centre by the end of October, 20XX.

- b) Care & Care Beauty Centre wishes to opt for composition scheme u/s 10(1) from the next financial year. You are required to advise it whether it can do so?

Note: Rate of GST applicable on such services is 18%.

Solution

- a) Section 10(2A) of CGST Act, 2017 provides an option to a registered person to pay CGST @ 3% [Effective rate 6% (CGST+ SGST/ UTGST)] on first supplies of goods and/or services upto an aggregate turnover of ₹ 50 lakh made on/after 1st April in any financial year, subject to specified conditions.

It is clarified that first supplies of goods or services or both shall, for the purposes of determining eligibility of a person to pay tax under this notification, include the supplies from 1st April of a FY to the date from which he becomes liable for registration under the said Act, but for the purpose of determination of tax payable under this notification, shall not include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the Act.

Thus, Care & Care Beauty Centre is eligible to pay tax under this notification upto the turnover of INR 50 lakh. The total tax payable by it is as under:

Period	Tax Rate	Turnover	Tax liability
I Quarter	Since turnover did not exceed INR 20 lakh, it was not required to obtain registration. Hence, no tax was required to be paid	20 Lakh	Nil
II Quarter	Effective rate is 6% (CGST+ SGST/ UTGST)] under section 10(2A) of CGST Act, 2017	30 Lakh [(50-20) lakh]	1,80,000
For the month of October, 20XX	Normal rate of GST of 18% is to be applied	20 lakhs [(70-50) lakh]	3,60,000
Total tax payable			5,40,000

- b) No, Care & Care Beauty Centre cannot opt for composition scheme u/s 10(1) from the next financial year. Fundamentally, the composition scheme can be availed in respect of goods and only one service namely, restaurant service. As regards services other than restaurant services are concerned, only marginal supply of the such services for a specified value along with the supply of goods and/or restaurant service, as the case may be, is permitted

under section 10(1) of CGST Act, 2017.

Therefore, a person engaged exclusively in supply of services other than restaurant services is not eligible to opt for composition scheme u/s 10(1).

Concept Problem 8

Mr. Zafar of Assam, provides the following information for the preceding FY 20XX-YY. You are required to find out the aggregate turnover for the purpose of eligibility of composition levy scheme and determine whether he is eligible for composition levy scheme or not, for the F.Y. 20YY-ZZ.

Particulars	Amount (L)
Value of taxable outward supplies (out of above, INR 10 lakh was in course of inter-state supply)	50.00
Value of exempt supplies (which include INR 30 lakh received as interest on loans & advances)	70.00
Value of inward supplies on which he is liable to pay tax under reverse charge	5.00
Value of exports	4.00
Custom duty	1.00
All the amounts in Lakhs and are exclusive of GST.	

Solution

Computation of aggregate turnover of Zafar for FY 20XX-YY for purpose of eligibility of composition levy scheme:

Particulars	Amount in lakhs
Value of taxable outward supplies [Value of all taxable supplies including inter-state supplies are includible in aggregate turnover]	50
Value of exempt supplies [Value of exempt supplies is includible in aggregate turnover. However, value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, though exempt, is not includible in aggregate turnover for determining eligibility for composition scheme]	40
Value of inward supplies on which Mr. Zafar is liable to pay tax under reverse charge [Excludible from aggregate turnover]	Nil
Value of exports [Includible in aggregate turnover]	4
Custom duty [Includible in aggregate turnover]	1
Aggregate turnover for determining eligibility for composition scheme	95

Thus, Mr. Zafar is eligible to opt for composition levy if his aggregate turnover does not exceed INR 1.5 crore in the preceding financial year, provided he is not engaged in inter-State outward supplies of goods.

Therefore, in the given case, assuming that he is not engaged in making any inter-state outward supply of goods in FY 20YY-ZZ, Mr. Zafar is eligible to opt for composition levy for FY 20YY-ZZ since his aggregate turnover does not exceed INR 1.5 crore in preceding FY 20XX-20YY.

Concept Problem 9

The due date for payment of tax by a person paying tax under section 10 of the CGST Act, 2017, i.e., a composition supplier is aligned with the due date of return to be filed by the said person. Discuss the correctness or otherwise of the statement.

Solution

The statement is not correct. Every registered person paying tax under section 10, i.e., a composition supplier, is required to file a return annually in Form GSTR-4. Form GSTR-4 for a financial year should be furnished by 30th April of the succeeding financial year.

However, a composition supplier is required to pay his tax on a quarterly basis. A quarterly statement for payment of self-assessed tax in GST CMP-08 is required to be furnished by 18th day of the month succeeding such quarter.

Therefore, while the return is to be furnished annually, payment of tax needs to be made on a quarterly basis, by a composition supplier.

Concept Problem 10

In the following independent cases, decide, who is liable to pay GST, if any. You may assume that recipient is located in the taxable territory. Ignore the aggregate turnover and exemption available.

- a) 'Veer Transport', a registered GTA paying IGST @ 12%, transported goods by road of Dilip & Company, a sole proprietary firm (other than specified person) which is not registered under GST or any other Law.

Solution

- a) In case of a GTA service, where GST is payable @ 5% and recipient is one of the specified recipients, tax is payable by the recipient of service under reverse charge.

However, where GST is payable @ 12%, tax is payable under forward charge by the supplier of service. Therefore, in the given case, tax is payable under forward charge by "Veer Transport", a registered GTA.

Note In the given case, since the recipient of service is other than specified recipient, i.e., unregistered sole proprietorship firm, GTA service is exempt from GST. However, in the above answer, the said exemption has been ignored since the question specifically requires the students to ignore the exemptions, if any, available.

Concept Problem 11

Mr. Priyam, director of Sun Moon Company Private limited, provided services to the company for remuneration of 1,25,000. Briefly answer whether GST is applicable in the below mentioned independent cases? If yes, who is liable to pay GST?

- a) Mr. Priyam is an independent director of Sun Moon Company Pvt. Ltd. and not an employee of the company.
- b) Mr. Priyam is an executive director, i.e., an employee of Sun Moon Company Private limited. Out of total remuneration amounting to INR 1,25,000, INR 60,000 has been declared as salaries in the books of Sun Moon Company Private Limited and subjected to TDS under section 192 of the Income-Tax Act (IT Act). However, INR 65,000 has been declared separately other than salaries in the Sun Moon Company Private Limited's accounts and subjected to TDS under section 194J of the IT Act as professional services.

Solution

- a) As per Para I of schedule III of the CGST Act, services by an employee to the employer in the course of or in relation to his employment are non-supplies, i.e., they are neither supply of goods nor supply of services.

Services provided by the independent directors who are not employees of the said company to such company, in lieu of remuneration as the consideration for the said services, are clearly outside the scope of Schedule III of the CGST Act and are therefore taxable. Further, such remuneration paid to the directors is taxable in hands of the company, on reverse charge basis.

Thus, GST is applicable in this case and Sun Moon Company Private Limited is liable to pay GST

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

Further, the part of employee director's remuneration which is declared separately other than salaries in the company's accounts and subjected to TDS under section 194J of the IT Act as fee for professional or technical services are treated as consideration for providing services which are outside the scope of schedule III and is

therefore, taxable. The recipient of the said services i.e., the company, is liable to discharge the applicable GST on it on reverse charge basis.

Accordingly, INR 60,000 declared as salaries in the books of Sun Moon Company Private Limited and subjected to TDS u/s 192 of the Income tax Act (IT Act), is not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment in terms of Schedule III.

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

Concept Problem 12

Swaminathan started the business of supplying shoes in the State of Kerala from 1st April. He makes only intra-state supplies. His turnover for April - June quarter was 20 lakhs and for July - September quarter was 100 lakhs. Further, one-fourth of his total turnover in each of the quarters was exempt from GST. Being eligible for composition scheme, Swaminathan got himself registered under the composition scheme with effect from 1st July.

You are required to compute the tax payable by Swaminathan under composition scheme assuming that he is a manufacturer. Will your answer be different if Swaminathan is trader.

Solution

A registered person opting for composition levy for goods pays tax at the rates mentioned below during the current FY, in lieu of the tax payable by him under regular scheme:

Manufacturers, other than manufacturers of notified goods	1% (1/2% CGST + 1/2% SGST/UTGST) of the turnover in the State/ Union territory
Trader	1% (1/2% CGST + 1/2% SGST/UTGST) of turnover of taxable supplies of goods & services in the State/ Union territory

Turnover prior to obtaining registration will not be considered for determining the turnover in a State/Union Territory.

Tax payable by Swaminathan under composition scheme is as follows:

$$\text{CGST} = 100 \text{ lakh} \times 0.5\% = 50,000$$

$$\text{SGST} = 100 \text{ lakh} \times 0.5\% = 50,000$$

In case where Swaminathan is a trader, tax payable by him under composition scheme will be as follows:

$$\text{CGST} = 75 \text{ lakh (as 25\% of turnover is exempt)} \times 0.5\% = 37,500,$$

$$\text{SGST} = 75 \text{ lakh (as 25\% of turnover is exempt)} \times 0.5\% = 37,500$$

Concept Problem 13

"Under the GST law, taxes on taxable services supplied by the Central Government or the State Government to a business entity in India are payable by recipient of services". State the exceptions of the above statement.

Solution

Tax on following services supplied by the Central Government or State Government to a business entity in India is payable by the supplier of services:

- i) Services of renting of immovable property provided to an unregistered business entity.
- ii) services by the Department of Posts and the Ministry of Railways (Indian Railways)
- iii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport.

iv) services of transport of goods or passengers.

Concept Problem 14

Answer the following, after reading the below given two paragraphs:

- i) Briefly discuss the relevant provision
- ii) decide the correct conclusion and
- iii) determine the validity of the given advice (Correct/Incorrect)

Raju is engaged in the manufacture of 'Fly ash Bricks' in the State of Kerala. He started his activity in the month of April 2022 and deals only in intra-State. His tax consultant advised him to register under composition levy under GST as Raju's turnover is expected to be below INR 1 crore for the said financial year.

Solution

A registered person whose aggregate turnover in the preceding financial year did not exceed INR 1.5 crore in a State/UT may opt for composition scheme subject to fulfilment of specified conditions.

One of these conditions is that he must not be engaged in the manufacture of notified goods including fly ash bricks.

Therefore, in the given case, since Raju is engaged in manufacture of fly ash bricks, he cannot opt for composition levy even though his aggregate turnover in the preceding financial year is nil.

Thus, the advice given by his tax consultant is not correct.

Concept Problem 15 [ICAI May 2023]

GTA services provided to an unregistered person (including unregistered casual taxable person) are exempt from GST by virtue of Entry 21 A of GST Laws. Discuss the validity of above statement.

Solution

The said statement is invalid.

Services provided by a GTA to an unregistered person, including an unregistered casual taxable person are exempt except when provided to a:

- a) factory
- b) society
- c) co-operative society
- d) body corporate
- e) partnership firm
- f) registered casual taxable person

CHAPTER 4

PLACE OF SUPPLY

Concept Problem 1

Determine the place of supply in the following independent case:-

Harpreet (New Delhi) boards the New Delhi-Kota train at New Delhi. He sells the goods taken on board by him (at New Delhi), in the train, at Jaipur during the journey.

Solution

The place of supply of goods supplied on a board a conveyance like aircraft, train, vessel, motor vehicle is the location where such goods have been taken on board.

Place of supply of goods supplied on board a conveyance is determined under this provision even if the supply has been made by any of the passenger on board the conveyance and not by the carrier of the conveyance.

Thus, in the given case, the place of supply of goods is the location at which the goods are taken on board, i.e. New Delhi and not Jaipur where they have been sold.

Concept Problem 2

What will be the place of supply if the goods are delivered by the supplier to another person on the direction of a third person?

Solution

As per section 10(1)(b), it would be deemed that the third person has received the goods and the place of supply of such goods will be the principal place of business of such person.

Concept Problem 3

What is the place of supply where the goods or services are supplied on board a conveyance, such as a vessel, an aircraft, a train or a motor vehicle?

Solution

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

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

Concept Problem 4

The place of supply in relation to immovable property (situated in India) is the location of immovable property. Suppose a road is constructed from Delhi to Mumbai covering multiple states.

What will be the place of supply of construction services?

Solution

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

In the absence of a contract or agreement between the supplier and recipient of services in this regard, the proportionate value of services supplied in different States/Union territories (where the immovable property is

located) is computed on the basis of the area of the immovable property lying in each State/ Union territories [Rule 4 of the IGST Rules].

Concept Problem 5

What would be the place of supply of services provided by an event management company for organizing a sporting event for a Sports Federation which is held in multiple States?

Solution

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

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

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

Concept Problem 6

What is the place of supply for mobile connection? Can it be the location of supplier?

Solution

The location of supplier of mobile services cannot be the place of supply as the mobile companies are providing services in multiple states and many of these services are inter-state. The consumption principle will be broken if the location of supplier is taken as place of supply and all the revenue may go to a few states where the suppliers are located.

The place of supply for mobile connection would depend on whether the connection is on postpaid or prepaid basis. In case of postpaid connections, the place of supply is the location of billing address of the recipient of services on the record of supplier of services.

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

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

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

Concept Problem 7

A person from Mumbai goes to Kullu-Manali and takes some services from ICICI Bank in Manali. What is the place of supply?

Solution

The place of supply in case of banking services to any person shall be the location of the recipient of services on the records of the supplier of services. However, if the location of recipient of services is not on the records of the supplier, the place of supply shall be the location of the supplier of services i.e. Kullu-Manali, Himachal Pradesh [Section 12(12)].

Concept Problem 8

An unregistered person from Gurugram travels by Air India flight from Mumbai to Delhi and gets his travel insurance done in Mumbai.

What is the place of supply of insurance services?

Solution

When insurance service is provided to an unregistered person, the location of the recipient of services on the records of the supplier of insurance services is the place of supply. So Gurugram is the place of supply [Section 12(13)].

Concept Problem 9 [RTP May 24]

With reference to GST law, Determine the place of supply with reasons in the following independent circumstances:-

- i) Miss Kanika of Kolkata (West Bengal) visited to Jodhpur Law University (Rajasthan) and paid her college fees by purchasing a demand draft from a bank located in the University campus. Miss Kanika did not have any account with the bank.

Solution

- i) Section 12(12) of the IGST Act, 2017 provides that the place of supply of banking and other financial services, including stock broking services to any person is the location of the recipient of services in the records of the supplier of services. However, if the location of recipient of services is not available in the records of the supplier, the place of supply is the location of the supplier of services.

Therefore, since the location of recipient is not available in the records of the supplier, the place of supply is the location of the supplier of services, i.e. Rajasthan (or Jodhpur).

Concept Problem 10 [MTP May 24]

Discuss briefly the place of supply of goods purchased over the counter in one State and transported to another State by the buyer.

Solution

There are cases where an unregistered person purchases goods over the counter (OTC) in one State and thereafter, transports the goods to another State (generally, the State where he resides). For instance, migrant workers, tourists, etc. who come to a State for work, tourism, etc. and purchase goods in that State to take it to their respective State. Similarly, in automobile sector, the residents of a State may travel to another State to purchase vehicle from that State to take advantage of lower registration charges and road tax, which vary from State to State and thereafter, take the vehicle to their State.

Where the supply of goods is made to a person other than a registered person, the place of supply shall be the location as per the address of the said person recorded in the invoice issued in respect of the said supply and the location of the supplier where the address of the said person is not recorded in the invoice.

For this purpose, recording of the name of the State of the said person in the invoice shall be deemed to be the recording of the address of the said person.

CHAPTER 5

EXEMPTIONS FROM GST

Concept Problem 1

Keshav Ltd., a registered company of Chennai, Tamil Nadu has provided following education related services for the month of October:

Particulars	Amount
Services of transportation of students, faculty and staff from home to college and back to Galgotian College, (a private college) providing degree courses in BBA, MBA, B.Com., M.Com.	2,50,000
Online monthly magazine containing articles and updates in law to students of Pariksha Law College offering degree courses in LLB and LLM	1,00,000
Housekeeping services to Career Coaching Institute	50,000
Security services to Happy Higher Secondary School for security in school premises	3,25,000
Services of providing breakfast, lunch and dinner to students of Ayushmann Medical College offering degree courses recognized by law in medical field	5,80,000

All the above amounts are exclusive of GST.

Compute the value of taxable supplies of Keshav Ltd. for the month of October with necessary explanations.

Solution

Computation of value of taxable supplies of Keshav Ltd.

Particulars	Amount
Services of transportation of students, faculty and staff to Galgotian College [Not exempt, 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.]	2,50,000
Online monthly magazine to students of Pariksha Law College [Services of supply of online educational journals provided to an educational institution providing qualification recognized by law are exempt.]	Nil
Housekeeping services to Career Coaching Institute [Not exempt since such services are provided to a non- educational institute.]	50,000
Security services to Happy Higher Secondary School [Security services provided to an educational institution providing education up to higher secondary school are exempt since such services are performed in the premises of educational institution.]	Nil
Services of providing breakfast, lunch and dinner to students of Ayushmann Medical College [Not exempt, since catering 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.]	5,80,000
Value of taxable supplies	8,80,000

Concept Problem 2

Briefly examine the taxable value of supply in the following independent cases:

- i) Jivan Limited, registered under GST, provided services amounting to 10,00,000 to a Governmental Authority by way of sanitation conservancy.
- ii) Raju Transporters, a registered Goods Transport Agency (GTA) provided service of transportation of goods to Kukreja & Kukreja Co.- a unregistered partnership firm. Kukreja & Kukreja Co. paid 8,000 to Raju Transporters as consideration.
- iii) Amardeep Hospital provided services in Neo natal Intensive Care for 2 days for which 15,000 are charged per day from Mr. Chopra for his new born son, Viraat.

Solution

- i) Services provided to a Governmental Authority by way of inter alia sanitation conservancy is exempt under GST. Thus, services provided by Jivan Limited, registered under GST amounting to 10,00,000 to a Governmental Authority by way of sanitation conservancy is exempt under GST.
- ii) Services provided by a GTA to an unregistered person, including an unregistered casual taxable person other than, *inter alia*, any partnership firm whether registered or not under any law including association of persons is exempt under GST. Thus, GTA services provided to partnership firm including AOP – whether or not registered under GST law, are liable to tax. Hence, consideration of 8,000 paid by Kukreja & Kukreja Co. is taxable under GST.
- iii) The services provided by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neo natal Intensive Care Unit (NICU)] having room charges exceeding 5,000 per day to a person receiving health care services is taxable under GST. Since, in the given case Amardeep Hospital provided services in Neo natal Intensive Care, so the entire amount of 30,000 charged from Mr. Chopra is exempt under GST law.

Concept Problem 3

Good Health Medical Centre, a clinical establishment, offers the following services:

- (i) Reiki healing treatments.
- (ii) Plastic surgeries. One such surgery was conducted to repair cleft lip of a new born baby.
- (iii) Air ambulance services to transport critically ill patients from distant locations to the Medical Centre.
- (iv) Palliative care for terminally ill patients. On request, such care is also provided to patients at their homes. (Palliative care is given to improve the quality of life of patients who have a serious or life-threatening disease but the goal of such care is not to cure the disease).
- (v) Alternative medical treatments by way of yoga.
- (vi) Food supplied by the canteen run by a hospital to the in-patients as advised by the doctors.

Good Health Medical Centre also operates a cord blood bank which provides services in relation to preservation of stem cells.

Good Health Medical Centre is of the view that since it is a clinical establishment, all the service provided by it as well as all the services provided to it are exempt from GST.

You are required to examine the situation in the light of relevant statutory provisions.

Solution

Health care services provided by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST under Entry 74. In light of the same, the eligibility to exemption in respect of each service offered by Good Health Medical Centre is examined below:

- (i) **Not Exempt.** Since reiki healing is not a recognized system of medicine in terms of section 2(h) of Clinical Establishments Act, 2010, it would not be exempt and thus, GST would be payable thereon.

- (ii) **Exempt.** Health care service does not include, inter alia, cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.
- Therefore, plastic surgeries will not be entitled to the said exemption and thus, GST would be payable thereon. However, plastic surgery conducted to repair a cleft lip will be eligible for exemption as it reconstructs anatomy or functions of body affected due to congenital defects (cleft lip).
- (iii) **Exempt.** Health care service includes services by way of transportation of the patient to and from a clinical establishment. Thus, air ambulance service to transport critically ill patients to Good Health Medical Centre would be eligible for exemption under the said notification.
- (iv) **Exempt.** Health care service means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India. It is immaterial whether such service is provided at the clinical establishment or at the home of the patient or at any other place. Thus, palliative care for terminally ill patients is exempt.
- (v) **Exempt.** Since Yoga is a recognized system of medicine in terms of section 2(h) of Clinical Establishments Act, 2010, the same would be eligible for exemption under the said notification.
- (vi) **Exempt.** Services by way of health care services by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST. Food supplied to the in-patients by a canteen run by the hospital, as advised by the doctor/nutritionists, is a part of composite supply of healthcare and not separately taxable. Thus, said services are exempt from GST.

Further, services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation are not exempt from GST. Therefore, services provided in relation to preservation of stem cells by the cord blood bank operated by Good Health Medical Centre will be liable to GST.

It is important to note that Entry 74 of the exemption notification grants exemption to health care services provided BY a clinical establishment and not to services provided TO a clinical establishment. Therefore, Good Health Medical Centre's contention that since it is a clinical establishment, all the services provided to it are also exempt from GST is not correct in law.

Concept Problem 4

M/s. Apna Bank Limited, a scheduled commercial bank, has furnished the following details for the month of August:

Particulars	Amount (crores excluding GST)
Extended housing loan to its customers	100
Processing fees collected from its customers on sanction of loan	20
Commission collected from its customers on bank guarantee	30
Interest income on credit card issued by the bank	40
Interest received on housing loan extended by the bank	25
Minimum balance charges collected from current account and saving account holder	01

Compute the value of taxable supply.

Solution

Computation of value of taxable supply of M/s. Apna Bank Limited for the month of August:

Particulars	Amount (crores excluding GST)
Housing loan extended to customers	Nil

Particulars	Amount (crores excluding GST)
[Since money does not constitute goods, extending housing loan is not a supply]	
Processing fee collected on sanction of loan [Interest does not include processing fee on sanction of the loan. Hence, it is taxable]	20
Commission collected on bank guarantee [Any commission collected over & above interest on loan/ advance/ deposit are not exempt]	30
Interest income on credit card issued by the bank [Services by way of extending loans in so far as the consideration is represented by way of interest are exempt from tax. However, interest involved in credit card services is specifically excluded from this exemption entry]	40
Interest received on housing loan [Services by way of extending loans in so far as the consideration is represented by way of interest are exempt from tax]	Nil
Minimum balance charges collected from current account and saving account holder [Any charges collected over and above interest on loan, advance or deposit are not exempt]	01
Value of Taxable Outward Supply	91

Concept Problem 5

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

Solution

The statement is not fully valid in law. Exempt supply has been defined as supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax and includes non-taxable supply [Section 2(47)].

Concept Problem 6

Give your comments as to whether any GST is payable in this case.

- A State Transport Undertaking has hired motor vehicles meant to carry 8 - 10 passengers from Fast Cab Renting, a motor vehicle renting company. Give your comments as to whether any GST is payable in this case.
- Indiana Engineering College, an educational institution, has conducted an entrance test examination for various courses run by it (for obtaining qualification(s) recognised by law for the time being in force) and charged entrance fees from the applicants.
- Babloo Transporters, a GTA, transported relief materials in a goods carriage meant for victims of Kerala floods, a natural disaster, by road from Delhi to Ernakulam, for a company. Babloo Transporters is of the view that it is not liable to pay GST on the said services provided as said services are exempt.

Solution

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

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

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

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

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

Concept Problem 7

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

Solution

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

Concept Problem 8

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

Solution

Services by a person by way of renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a trust or an institution under section 10(23C)(v) of the Income-tax Act are exempt provided renting charges of premises, community halls or open area are not ₹ 10,000 or more per day.

Thus, renting of community hall by Ekta Charitable Trust is exempt from GST, as rent is less than ₹ 10,000 per day.

Concept Problem 9

- M/s X Ltd. paid penalty under section 49 of the CGST Act, 2017 ₹ 20,00,000 to the Government Department in the month of October. Is it taxable supply under the GST law? Give reason.
- Teja & Co, a tour operator, provides services to a foreign tourist for tour conducted in Jammu & Kashmir and receives a sum of INR 3,00,000.
- Services provided by way of transportation of passengers in metered cab, through an electronic commerce operator.
- Service provided by a private transport operator to Scholar Boys Higher Secondary School by way of transportation of students to and from the school. Is GST exempted?
- Services provided by way of vehicle parking to general public in a shopping mall. Is GST exempted?

Solution

- It is not a supply of service. The fine or penalty chargeable by Government or local authority imposed for violation of statute, bye-laws, rules or regulations are not leviable to GST. Such fines or penalty are not recovered for tolerating non-performance of a contract.
- Services provided by a tour operator to a foreign tourist are exempt from GST provided such services are in relation to a tour conducted wholly outside India. Thus, since in the given case, services provided by Teja & Co. are in relation to a tour conducted within India, the same are not exempt from GST.
- Service of transportation of passengers, with or without accompanied belongings, inter alia, by metered cabs are specifically exempt from GST vide Notification No. 12/2017 CT(R) dated 28.06.2017. However, where such services are supplied through an electronic commerce operator, said services are not exempt. Thus, GST is payable in the given case.

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

Concept Problem 10

Sungrow Pvt. Ltd. (a registered taxable person) having the gross receipt of INR 50 lakhs in the previous financial year provides the following information relating to their services for the month of July.

S.No.	Particulars	Amount
(1)	Running a boarding school	2,40,000
(2)	Fees from prospective employer for campus interview	1,70,000
(3)	Education services for obtaining the qualification recognised by law of foreign country	3,10,000
(4)	Renting of furnished flats for temporary stay to different persons (Rent per day is INR 1,000 per flat)	1,20,000
(5)	Conducting Modular Employable Skill Course, approved by National Council of Vocational Training	1,40,000
(6)	Conducting private tuitions amount	3,00,000
(7)	Running martial arts academy for young children	55,000
(8)	Conducting career counselling session	1,65,000

Compute the value of taxable supply and the amount of GST payable. The above receipts don't include the GST amount. Rate of GST is 18%.

Solution

S No	Particulars	Amount
(1)	Running a boarding school [Services provided by an educational institution to its students, faculty and staff are exempt.]	Nil
(2)	Fees from prospective employer for campus interview [Not exempt.]	1,70,000
(3)	Education services for obtaining the qualification recognised by law of foreign country [Institution providing education services for obtaining qualification recognized by a foreign country does not qualify as educational institution. Thus, it is not exempt.]	3,10,000
(4)	Renting of furnished flats for temporary stay of different persons [taxable]	1,20,000
(5)	Conducting Modular Employable Skill Course [An institution providing Modular Employable Skill Course qualifies as educational institution. Services provided by an educational institution to its students, faculty and staff are exempt]	Nil
(6)	Conducting private tuitions [Not exempt]	3,00,000
(7)	Running martial arts academy for young children [Not exempt under GST laws]	55,000
(8)	Conducting career counselling session [Not exempt under GST laws]	1,65,000
	Value of taxable supply	11,20,000
	GST payable @ 18%	2,16,000

Concept Problem 11

Gyaani Public School – a higher secondary school – has hired Suvidha Services Ltd. for security and housekeeping services in the school. The school subsequently hired Suvidha Services Ltd. for providing the security and housekeeping services at School’s Annual Day function organised in an auditorium outside the school campus. Discuss taxability of such services provided by Suvidha Services Ltd. to Gyaani Public School

Solution

Security and housekeeping services provided within the premises of, inter alia, a higher secondary school are exempt. Therefore, said services provided by Suvidha Services Ltd. are exempt.

Security and housekeeping services provided to Gyaani Public School for School’s Annual Day function organised outside the school campus will be taxable as only the security and housekeeping services performed within the premises of the higher secondary school are exempt.

Concept Problem 12 [ICAI Jan 2021]

Green Agro Services, a registered person, provides the following information relating to its activities during the month of February:

Gross Receipt from	Amount
Services relating to rearing of sheep	6,00,000
Services by way of artificial insemination of horses	4,00,000
Processing of sugarcane into jaggery	8,00,000
Milling of paddy into rice	7,50,000
Services by way of fumigation in a warehouse of agricultural produce	1,80,000

All the above receipts are exclusive of GST.

Compute the value of taxable supplies under GST laws for the month of February.

Solution
Computation of value of taxable supplies

Particulars	Amount
Services relating to rearing of sheep [Exempt since services relating to rearing of all life forms of animals, except horses are exempt]	Nil
Services by way of artificial insemination of horses [Not exempt since services of artificial insemination are exempt only of livestock other than horses]	4,00,000
Processing of sugarcane into jaggery [Not exempt, since processes which alter the essential characteristics of agricultural produce are not exempt and processing of sugarcane into jaggery changes the essential characteristics of sugarcane].	8,00,000
Milling of paddy into rice [Not exempt, since this process, being carried out after cultivation is over, is not an intermediate production process in relation to cultivation and it also changes essential characteristics of paddy].	7,50,000
Services by way of fumigation in a warehouse of agricultural produce [Not exempt]	1,80,000
Value of taxable supplies	21,30,000

Concept Problem 13

Satya Sai Residents Welfare Association, a registered person under GST has 30 members each paying 8,000 as maintenance charges per month for sourcing of goods & services from third persons for common use of its members.

The Association purchased a water pump for 59,000 (inclusive of GST of 9,000) and availed input services for 23,600 (inclusive of GST of 3,600) for common use of its members during February 20XX.

Compute the total GST payable, if any, by Satya Sai Residents Welfare Association, for February 20XX.

GST rate is 18% . All transactions are intra-state. There is no opening ITC and all conditions for ITC are fulfilled.

Solution

Computation of total GST payable by Satya Sai Residents Welfare Association

Particulars	Value	GST @18%
Maintenance Charges received [8,000 x 30 members] [Services by RWA to its members for sourcing of goods or services from a third person for the common use of its members in a housing society are exempt provided the share of contribution per month per member is upto 7,500. Otherwise, entire amount is taxable].	2,40,000	
Total GST payable [It has been logically presumed that maintenance charges are exclusive of GST].		43,200

Note: Residents Welfare Association is entitled to take ITC of GST paid by them on capital goods, goods and inputs services, used by it for making supplies to its members and use such ITC for discharge of GST liability on such supplies where the amount charged for such supplies is more than 7,500 per month per member.

Thus, Satya Sai Residents Welfare Association can avail ITC of GST paid on water pump purchased (9,000) and input services availed (3,600). Net GST payable in that case will come out 30,600.

Concept Problem 14

Gita Services Limited, registered under GST, is engaged in providing various services to Government. The company provides the following information in respect of services provided during the month of April:

S. No.	Description of services provided
i.	Supply of manpower of cleanliness of roads not involving any supply of goods.
ii.	Services provided by Fair Price Shops owned by Gita Services Limited by way of sale of sugar under Public Distribution System against consideration in the form of commission
iii.	Service of maintenance of street lights in a Municipal area involving replacement of defunct lights and other spares along with maintenance. Generally, replacement of defunct lights and other spares constitutes 35% supply of services
iv.	Services of brochure distribution provided under a training programme for which 70% of the total expenditure is borne by the Government

Comment on the taxability or otherwise of the above transactions under GST law.

Solution

S. No.	Particulars	Taxability
i.	Supply of manpower of cleanliness of roads not involving any supply of goods. [Pure services provided to Government are exempt]	Exempt
ii.	Services provided by Fair Price Shops by way of sale of sugar under Public Distribution System.	Exempt

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

Concept Problem 15

Determine whether GST is payable in each of the following independent transaction:

Deccan Shipping Pvt. Ltd., registered under GST in Andaman and Nicobar islands, provided the passenger transportation services to the local residents in the ferries owned by it from Neil Island to Havelock Island.

Solution

Transportation of passenger services provided by the private operator - Deccan Shipping Pvt. Ltd. are exempt from GST.

Transportation of passengers by public transport, other than predominantly for tourism purpose, in a vessel between places located in India is exempt from GST vide *Notification No. 12/2017 CT (R) dated 28.06.2017*.

It is clarified that this exemption would apply to tickets purchased for transportation from one point to another irrespective of whether the ferry is owned or operated by a private sector enterprise or by a PSU/Government.

It is further clarified that, the expression 'public transport' used in the said exemption notification only means that the transport should be open to public. It can be privately or publicly owned. Only exclusion is on transportation which is predominantly for tourism, such as services which may combine with transportation, sightseeing, food and beverages, music, accommodation such as in shikara, cruise etc.

Concept Problem 16 [RTP Nov 23]

Examine the implications of GST on payment of honorarium to the Guest Anchors.

Solution

Circular No. 177/09/2022 GST dated 03.08.2022 clarifies the applicability of GST on honorarium paid to Guest Anchors. Sansad TV and other TV channels invite guest anchors to participate in their shows and pay remuneration to them in the form of honorarium.

It is clarified that supply of all goods & services are taxable unless exempt or declared as 'neither a supply of goods nor a supply of service'. Services provided by the guest anchors in lieu of honorarium attract GST liability.

However, guest anchors whose aggregate turnover in a financial year does not exceed 20 lakh (10 lakh in case of specified Special Category States) shall not be liable to take registration and pay GST.

Concept Problem 17 [ICAI May 23]

Mr. Shyam Das was admitted to Suraksha Hospital in Mumbai for 2 days in relation to diagnosis of removal of stones from his kidney. For the said services, Surkasha hospital charged following from Mr. Das:

a) Room rent 7,000 per day for 2 days.

- b) Operation theatre charges 5,000
- c) Doctors Consultation Charges 8,000
- d) Other services 4,000

In each of the above scenario explain whether Suraksha Hospital should levy GST or not in line with the relevant provisions of the GST laws.

Solution

Health care services by a clinical establishment are exempt from GST.

However, services provided by a clinical establishment by way of providing room having room charges exceeding 5,000 per day to a person receiving health care services are not exempt.

In view of the same, only the room rent of 14,000 (7,000 per day × 2 days) is liable to GST.

Other than room rent, all other nature of services provided by Suraksha Hospital are exempt from GST.

Concept Problem 18 [MTP May 2020]

Explain the services provided by way of tolerating non-performance of a contract and its chargeability under the provisions of the CGST Act, 2017.

Solution

Non-performance of a contract is the failure to fulfill the obligations under a contract. It is generally one of the conditions stipulated in any contract for supply of goods/services.

The agreement entered into between the parties stipulates that both the service provider and service recipient abide by the terms and conditions of the contract. In case any of the parties breach the contract for any reason including non-performance of the contract, then such person is liable to pay damages in the form of fines or penalty to the other party.

Tolerating non-performance of a contract in lieu of damages or fines is a supply in terms of section 7 of the CGST Act, 2017 as it is made for a consideration by a person in the course or furtherance of business.

Further, tolerating non-performance of a contract is treated as a supply of service in terms of section 7 read with Schedule II of CGST Act, 2017.

However, in case of supplies to Government, non-performance of contract by the supplier of service for which consideration in the form of fines or liquidated damages is payable is exempt from GST.

CHAPTER 5

TIME OF SUPPLY

Concept Problem 1

Explain the significance of time of supply under GST law.

Solution

GST is payable on supply of goods or services. Time of supply indicates the point in time when the liability to pay tax arises.

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

Concept Problem 2

A machine has to be supplied at site. It is done by sourcing various components from vendors and assembling the machine at site. The details of the various events are:

17 th September	Purchase order with advance of INR 50,000 is received for goods worth INR 12 lakh and entry duly made in the seller's books of account
20 th October	The machine is assembled, tested at site, and accepted by buyer
23 rd October	Invoice raised
4 th November	Balance payment of INR 11,50,000 received

Solution

As per Notification No. 66/2017 CT, a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a) i.e., date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

Therefore, the time of supply of goods for the entire amount of INR 12,00,000 is 20th October which is the date on which the goods were made available to the recipient as per section 31(1)(b), and the invoice should have been issued on this date [Section 12(2)(a)].

Concept Problem 3

Gas is supplied by a pipeline to the recipient. The supply is to be made for a period of one year. Monthly payments are to be made by the recipient as per the contract. The details of the payment made are:

July 5, August 5, September 5	Payments of ₹ 2 lakh made in each month
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Determine the time of supply for the purpose of payment of tax.

Solution

As per Notification No. 66/2017 CT, a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a), i.e. date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

As per section 31(4), in case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice is issued before or at the time of each such statement is issued or, as the case may be, each such payment is received. Therefore, invoices should be issued for INR 2 lakh each on or before July 5, August 5 and September 5, when monthly payments of INR 2 lakh are received.

Thus, assuming that the invoice is issued on July 5, August 5 and September 5, the time of supply for the purpose of payment of tax will be July 5, August 5 and September 5 respectively for goods valued at INR 2 lakh each.

Concept Problem 4

Determine the time of supply from the given information.

May 4	Supplier invoices goods taxable on reverse charge basis to Tax Limited (30 days from the date of issuance of invoice elapse on June 3)
May 12	Tax Limited receives the goods
May 30	Tax Limited makes the payment

Solution

Here, May 12 will be the time of supply, being the earliest of the three stipulated dates namely, receipt of goods, date of payment and date immediately following 30 days of issuance of invoice [Section 12(3)]. (Here, date of invoice is relevant only for calculating thirty days from that date.)

Concept Problem 5

Determine the time of supply in the following cases assuming that GST is payable under Reverse Charge.

S No.	Date of Receipt	Date of payment by the recipient of goods	Date of issue of invoice by the supplier of goods		Time of Supply of Goods
1	July 1	August 10	June 29		
2	July 1	June 25	June 29		
3	July 1	Part payment made on June 30 and balance amount paid on July 20	June 29		
4	July 5	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1		
5	July 1	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29		
6	Aug 1	Aug 10	June 29		

Concept Problem 6

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

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

Solution

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

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

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

Concept Problem 7

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

- The provision of service was completed on 1st August and payment was received on 28th September.
- The provision of service was completed on 14th August and payment was received on 28th September.
- Mr. A made the payment on 3rd August. However, service was remaining to be completed at that time.
- Mr. A made the payment on 15th September. However, service was remaining to be completed at that time.

Solution

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

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

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

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

Concept Problem 8

Investigation shows that ABC & Co carried out service of cleaning and repairs of tanks in an apartment complex, for which the Apartment Owners' Association showed a payment in cash on 4th April to them against work of this description. The dates of the work are not clear from the records of ABC & Co. ABC & Co have not issued invoice or entered the payment in their books of account. Determine Time of Supply of service.

Solution

The time of supply cannot be determined vide the provisions of clauses (a) and (b) of section 13(2) as neither the invoice has been issued nor the date of provision of service is available as also the date of receipt of payment in the books of the supplier is also not available.

Therefore, the time of supply will be determined vide clause (c) of section 13(2) i.e., the date on which the recipient of service shows receipt of the service in his books of account.

Thus, time of supply will be 4th April, the date on which the Apartment Owners' Association records the receipt of service in its books of account.

Concept Problem 9

Determine the time of supply from the given information.

May 4	A German company issues email informing its associated enterprise, ABC Ltd. of the cost of technical services provided to it, which was recorded in ABC Ltd.'s books on May 1
July 2	ABC Ltd transfers the amount to the account of the German company

Solution

GST Tricky Questions # Time of Supply – Sep 24

Here, May 1 will be the time of supply, being the earlier of the two stipulated dates namely, date of entry in the books of account of the recipient of supply or the date of payment, in terms of second proviso to section 13(3).

Concept Problem 10

Investigation shows that 150 cartons of ceramic capacitors were dispatched on 2nd August but no invoice was made and the cartons were not entered in the accounts. There was no evidence of receipt of payment.

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

Solution

As per Notification No. 66/2017 CT, a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a).

As per section 12(2)(a) of CGST Act, Time of supply of goods is the earlier of following two dates:

- Date of issue of invoice
- last date on which the invoice is required to be issued u/s 31.

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

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

Concept Problem 11

Gupta & Sons, a registered supplier, paying tax under normal scheme is wholesale supplier of ready-made garments located in Bandra, Mumbai. On 5th September, 20XX, Mohini, owner of Charming Boutique located in Dadar, Mumbai, approached Gupta & Sons for supply of a consignment of customised dresses for ladies and kids.

Gupta & Sons gets the consignment ready by 2nd December, 20XX and informs Mohini about the same. The invoice for the consignment was issued the next day, 3rd December, 20XX.

Due to some reasons, Mohini could not collect the consignment immediately. So, she collects the consignment from the premises of Gupta & Sons on 18th December, 20XX and hands over the cheque for payment on the same date. The said payment is entered in the accounts on 20th December, 20XX and amount is credited in the bank account on 21st December, 20XX.

You are required to determine the time of supply of the readymade garments supplied by Gupta & Sons to Mohini elaborating the relevant provisions under the GST law.

Solution

As per Notification No. 66/2017 CT, a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a) of CGST Act, 2017 i.e., date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

Date of Invoice - 3rd December

Last date on which invoice ought to have been issued – 18th December

Therefore, the time of supply of goods is 3rd December which is the date on which the invoice for the consignment was issued.

Concept Problem 12

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

Identify the time of supply of the legal services.

Solution

Tax on services supply by a firm of advocates by way of legal services to any business entity is payable under reverse charge by such firm of advocates.

Time of supply of services under reverse charge is earliest of the following two dates in terms of section 13(3):

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

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

Concept Problem 13

HM Industries Ltd. engaged the services of a transporter for road transport of a consignment on 20th May 2022. However, the consignment could not be sent immediately on account on strike in the factory, and instead was sent on 20th July 2022. Invoice was received from the transporter on 20th June 2022 and payment was made on 25th August 2022.

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

Solution

Alternative 1: Assuming that services of transportation of goods by road have been provided by a GTA which has not paid GST @ 12%; i.e. GST is payable @ 5%.

Tax on supply of transportation of goods by road services provided by a Goods Transport Agency (GTA) to a body corporate is payable under reverse charge by such body corporate.

Time of supply of services taxable under reverse charge is earliest of:-

- date of making payment, or
- 61st day from the date of issue of invoice by supplier

Thus, in the given case, time of supply is earlier of

- 25th August; or
- 20th August 2022 (61st day from 20th June)

Thus, in the given case, time of supply is 20th August 2022.

Alternative 2: Assuming that services of transportation of goods by road have been provided by a GTA which has paid GST @ 12%. Thus, GST is payable under forward charge.

The time of supply of services in case where the invoice is issued within 30 days of provision of service is the earlier of date of invoice or date of receipt of payment.

Thus, in the given case, time of supply is 20th June, 2022.

Concept Problem 14

M/s. Xing Trans of Kolkata is engaged in the trading of transmitters. On 20/05/2022, M/s. Xing Trans has sent 500 units of transmitters for exhibition at Chennai on sale or return basis. Out of the said 500 units, 300 units have been sold on 28/07/2022 at the exhibition. Out of remaining 200 units, 150 units have been brought back to Kolkata on 25/11/2022 and balance 50 units have neither been sold nor brought back.

Explain the provisions under GST law relating to issue of invoices with exact dates on which tax invoices need to be issued by M/s. Xing Trans.

Solution

GST Tricky Questions # Time of Supply – Sep 24

Where the goods being sent for sale or return are removed before the supply takes place, the tax invoice shall be issued before or at the time of supply or 6 months from the date of removal, whichever is earlier.

In the given case, 500 units of transmitters have been sent for exhibition on sale or return basis out of which 300 units are sold before 6 months from the date of removal. Thus, tax invoice for said 300 units needs to be issued before or at the time of supply of such goods, i.e. upto 28/07/2022.

Remaining 200 (150+ 50) units have neither been sold nor brought back till the expiry of 6 months from the date of removal goods, i.e. 20/11/2022. Thus, tax invoice for said 200 units needs to be issued upto 20/11/2022.

CHAPTER 6

VALUE OF SUPPLY

Concept Problem 1

Guru Enterprises (Delhi), a registered taxpayer, made a taxable supply to Y Ltd. (Delhi) for a price of 10,00,000 (excluding any tax or discounts). It received a price linked subsidy of 1,10,000 from Jiva Enterprises Pvt Ltd. The price of 10,00,000 is after consideration of such subsidy amount. Further, after delivery of the goods to Y Ltd., Guru Enterprises arranged post-delivery inspection of goods and charged 10,000 for the same.

In respect of above supply, Guru Enterprises had procured some raw material from X Ltd., for which it owed 25,000. The said amount was directly paid by Y Ltd. to X Ltd. and was not included in the price of goods of 10,00,000 mentioned above.

The payment of consideration for above supply was delayed by Y Ltd. Hence, an interest amount of 20,000 (in lumpsum) was also charged by Guru Enterprises.

The applicable tax rates are - CGST - 6%, SGST - 6% and IGST - 12%. You are required to determine value of taxable supply as well as the applicable tax liability for the above supply transaction.

Solution

Computation of value of taxable supply and tax liability

Particulars	Amount
Price of goods (exclusive of tax and discounts)	10,00,000
<i>Add:</i> Subsidy received from Jiva Enterprises Pvt. Ltd. [Subsidy provided by non-Government bodies and which is directly linked to the price, is includible.]	1,10,000
<i>Add:</i> Post-delivery inspection charges [Anything done by the supplier in respect of the supply of goods after the delivery of goods is not includible in value.]	-
<i>Add:</i> Amount directly paid by Y Ltd. to X Ltd. [Liability of the supplier, in relation to the supply being valued, if discharged by the recipient of supply and not included in the price, is includible in the value.]	25,000
<i>Add:</i> Interest [Interest for delayed payment of consideration is includible in the value. Since interest is received in lumpsum, amount is inclusive of GST [20,000 x 100/112] (rounded off).]	<u>17,857</u>
Value of taxable supply	11,52,857
CGST @ 6% (rounded off)	69,171
SGST @ 6% (rounded off)	69,171

Concept Problem 2

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

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

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

Solution

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

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

Concept Problem 3

Red Pepper Ltd., Delhi, a registered supplier, is manufacturing taxable goods. It provides the following details of taxable inter-State supply made by it for the month of March, 20XX.

S No.	Particulars	Amount
1	List price of goods supplied inter-state (exclusive of taxes)	15,00,000
2	Subsidy received from Central Government for supply of taxable goods to Govt. School	2,10,000
3	Subsidy received from a NGO for supply of taxable goods to an old age home	50,000
4	Tax levied by Municipal Authority	20,000
5	Packing charges	15,000
6	Late fee paid by the recipient of supply for delayed payment of invoice	6,000

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

Calculate value of taxable supply made by M/s Red Pepper Ltd. for the month of March, 20XX. Rate of IGST is 18%.

Solution

Computation of value of taxable supply made by Red Pepper Ltd. for the month of March, 20XX

Particulars	Amount
List price of the goods	15,00,000
Add: Subsidy amounting to INR 2,10,000 received from Central Government [Since subsidy is received from Government, same is not includible in value as per section 15]	Nil
Subsidy received from NGO [Since subsidy is received from a non-Government body, same is includible as per section 15]	50,000
Tax levied by the Municipal Authority [Includible in the value as per section 15]	20,000
Packing charges [Being incidental expenses, the same are includible in the value as per section 15]	15,000
Late fees paid by recipient of supply for delayed payment [Includible in the value as per section 15] (assumed to be inclusive of taxes) [INR 6,000 x 100/118] rounded off	5,085
Value of taxable supply	15,90,085

Concept Problem 4

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

S No.	Particulars	Amount
1.	Price of machinery (exclusive of taxes and discounts)	5,50,000
2.	Part fitted in the machinery at the premises of Ghisa Ltd. [Amount has been paid by Ghisa Ltd. directly to the supplier. However, it was Koli Ltd.'s liability to pay the said amount. The said amount has not been recorded in the invoice issued by Koli Ltd.]	20,000
3.	Installation and testing charges for machinery, not included in price	25,000
4.	Subsidy received from a NGO, directly linked to price (included in the list price above)	3,000
5.	Discount @ 2% on price of machinery mentioned at S. No. (i) above (recorded in invoice)	
6.	Koli Ltd. provides additional discount @ 1% at year end, based on additional purchase of other machinery for which adjustment is made at the end of the financial year without any change in individual transactions.	

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

Solution

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

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

Concept Problem 5

Singhal Brothers, registered in Uttarakhand has supplied 30 tons of a chemical @ INR 50,000 per ton (excluding taxes) to P of Uttarakhand on 8th September, 20XX. The invoice for the supply has also been issued on the same date. Further, following additional amounts were also charged from P:

Particulars	Amount
Freight	1,80,000
Packing charges	1,10,000
Weighing charges	20,000
Cost of instrument specially purchased by Singhal Brothers to manufacture the chemical	3,10,000

As per the terms of the contract of supply, Singhal Brothers is required to get the chemical inspected by an independent testing agency before the delivery of the same to P. P has paid such inspection charges amounting to INR 12,000 directly to the testing agency. Singhal Brothers has also received INR 50,00,000 as a subsidy from State Government for setting up chemical manufacturing plant in Uttarakhand.

P is required to make payment within 15 days of supply in terms of the contract. However, P delayed the payment of consideration and made payment in November, 20XX and thus paid INR 15,000 as interest. You are required to calculate the GST liability in this case and due date of deposit. Assume the rate of GST to be 18%.

Note: Singhal Brothers and P are not related and price is the sole consideration for the supply.

Solution

Computation of GST liability of Singhal Brother

Particulars	Amount
Price of chemicals (INR 50,000 x 30 tons) [Note-1]	15,00,000
Freight [Note-2]	1,80,000
Packing charges [Note-3]	1,10,000
Weighing charges [Note-3]	20,000
Cost of special instrument [Note-4]	3,10,000
Inspection charges [Note-5]	12,000
Government subsidy [Note-6]	-
Interest for late payment [Note 7] (INR 15,000 x 100/118)	<u>12,712</u>
Value of taxable supply	21,44,712
Tax liability for the month of September 20XX	
Value of taxable supply for the month of September 20XX (21,44,712 - 12,712) [Note-8]	21,32,000
CGST @ 9%	1,91,880
SGST @ 9%	1,91,880
Tax liability for the month of November 20XX	
Interest for late consideration [Note-9]	12,712
CGST payable @ 9%	1,144
SGST payable @ 9%	1,144

Due date of deposit of GST

Particulars	Time of Supply	Due date of deposit [Note-11]
GST liability of INR 3,83,760 for the taxable supply made by	September 8, 20XX	October 20, 20XX

Singhal Brothers [Note-10]		
Interest amounting to INR 2,288 [Note-9]	November, 20XX	December 20, 20XX

Notes:

- i. As per section 15(1) of the CGST Act, 2017, the value of a supply is the transaction value i.e., the price actually paid or payable for the said supply when the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply
- ii. The given supply is a composite supply involving supply of goods (chemical) **and** services (freight) where the principal supply is the supply of goods.
As per section 8(a), a composite supply is treated as a supply of the principal supply involved therein and charged to tax accordingly. Thus, tax rate applicable to the goods (chemical) has been considered.
- iii. All incidental expenses including packing charged by the supplier to the recipient of a supply are includible in the value of supply in terms of section 15(2)(c) of CGST Act, 2017.
- iv. Any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is includible in the value of supply in terms of section 15(2)(c) of CGST Act, 2017.
- v. Any amount that the supplier is liable to pay in relation to supply but incurred by the recipient of supply and not included in the price actually paid for the goods is includible in value of supply as per section 15(2)(b).
- vi. Subsidies not directly linked to the price and provided by the Central Government and State Governments are not includible in the value of supply in terms of section 15(2)(e) of the CGST Act, 2017.
- vii. Interest for the delayed payment of any consideration for any supply is includible in the value of supply in terms of section 15(2)(d) of the CGST Act, 2017.
The interest has to be considered as cum tax value and tax payable thereon has to be computed by making back calculations in terms of rule 35 of CGST Rules, 2017.
- viii. The tax liability for the month of September, 20XX will not include the tax payable on the amount of interest as the tax liability for delayed payment of interest arises on the date of receipt of interest as per section 12(6).
- ix. As per section 12(6), the time of supply in case of addition in value by way of interest for delayed payment of consideration for goods is the date on which the supplier receives such addition in value. Thus, the time of supply of interest received on account of delayed payment of consideration is the date of receipt of interest.
- x. As per Notification No. 66/2017 CT, Time of supply of goods under forward charge shall be as specified in section 12(2)(a) i.e., date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31. Thus, in the present case, the time of supply would be date of issue of invoice i.e. September 8, 20XX
- xi. As per section 39(1) of CGST Act, 2017 every person registered under regular scheme of payment of tax has to furnish the prescribed return on or before 20th of the succeeding month. Further, section 39(7) provides that every regular registered person is liable to pay tax due to the Government by the last date on which he is required to furnish such return. Thus, GST is liable to be paid on or before 20th of the succeeding month.

Concept Problem 6

Bharat Gas sells cooking gas cylinders. Subsidy directly transferred to the account of the customer. Selling price per cylinder is ₹ 800. Customers received subsidy of ₹ 200 directly from Government to his bank account. Net outflow of the buyer is ₹ 600. Find the value of supply of goods (per cylinder) in the hands of Bharat Gas.

Solution

Since, the amount of subsidy is directly credited to the account holder and not received by the Bharat Gas making the supply, therefore, such subsidy will not be considered as part of transaction value as it is not received by the Bharat Gas in making the supply. Hence, transaction value is ₹ 800 per cylinder.

Concept Problem 7

Following are the particulars, relating to one of the machines sold by SQM Ltd. to ACD Ltd. in the month of February 20XX at list price of 9,50,000(exclusive of taxes and discount) Further, following additional amounts have been charged from ACD Ltd:

S.No.	Particulars	Amount
i.	Municipal taxes chargeable on the machine	45,000
ii.	Outward freight charges (Contract was to deliver machine at ACD Ltd.'s factory i.e. F.O.R. contract)	65,000

Additional information :

- SQM Ltd. normally gives an interest-free credit period of 30 days for payment, after that it charges interest @ 1% p.m. or part thereof on list price. ACD Ltd. paid for the supply after 45 days, but SQM Ltd. waived the interest payable.
- SQM Ltd. received 50,000 as subsidy, from one non-government organization (NGO) on sale of such machine. This subsidy was not linked to the price of machine and also not considered in list price of 9,50,000.
- ACD Ltd. deducted discount of 15,000 at the time of final payment, which was not as per agreement
- SQM Ltd. collected 9,500 as TCS (tax collected at source) under the provisions of the Income Tax Act, 1961.

Compute the value of taxable supply as per the provision of GST laws, considering that the price is the sole consideration for the supply and both parties are unrelated to each other.

Note: Correct legal provision should form part of your answer.

Solution
Computation of value of taxable supply

S. No.	Particulars	Amount
	List price (exclusive of taxes and discount)	9,50,000
i.	Municipal taxes [Note-1]	45,000
ii.	Outward freight charges [Note-2]	65,000
	Value of taxable supply	10,60,000

Notes:

- Tax other than GST, if charged separately, are includible in the value in terms of section 15.
- Since contract is to deliver machine at buyer's factory, it is a composite supply wherein the freight charges will be added to the value of principal supply of machine.
- Value of supply includes interest charged for delayed payment. However, since the interest on delayed payment has been waived off, the same has not been added to the value.
- Subsidy provided by non-Government bodies is includible in the value in terms of section 15 provided the same is directly linked to the price. Since subsidy received from NGO is not directly linked to the price of the machine, the same has not been added to the value.
- Since the discount was not known or agreed to at the time of supply of goods to the buyers, such discount cannot be reduced from the price, in terms of section 15.
- TCS is not includible in the value of supply as it is an interim levy not having the character of tax.

Concept Problem 8 [MTP May 2023]

Guru Enterprises (Delhi), a registered taxpayer, made a taxable supply to Y Ltd. (Delhi). The details of the said

supply are as follows:

Particulars	Amount
Price of the goods (excluding any tax or discounts)	10,00,000
Tax levied by the Municipal Authority	10,000
Subsidy received from Jiva Enterprises Pvt Ltd. (The price above is after consideration of such subsidy amount)	1,00,000
Amount incurred by Y Ltd. for post-delivery inspection. (Charges incurred post receipt of goods by Y Ltd.)	5,000

In respect of above supply, Guru Enterprises had procured some raw material from X Ltd., for which it owed INR 25,000. The said amount was directly paid by Y Ltd. to X Ltd. and was not included in the price of goods of INR 10,00,000 mentioned above.

The payment of consideration for above supply was delayed by Y Ltd. Hence, an interest amount of INR 20,000 (in lumpsum) was also charged by Guru Enterprises.

The applicable tax rates are - CGST - 6%, SGST - 6% and IGST - 12%. You are required to determine the taxable value as well as the applicable tax liability for the said supply transaction.

Solution

Computation of taxable value and tax liability

Particulars	Amount
Price of goods (exclusive of tax and discounts)	10,00,000
Add: Tax levied by Municipal Authority [Tax other than GST, if charged separately, are includible in the value.]	10,000
Add: Subsidy received from Jiva Enterprises Pvt. Ltd. [Subsidy provided by non-Government bodies and which is directly linked to the price is includible.]	1,00,000
Add: Post-delivery inspection charges [Anything done by the supplier in respect of the supply of goods after the delivery of goods is not includible in value.]	-
Add: Amount directly paid by Y Ltd. to X Ltd. [Liability of the supplier, in relation to the supply being valued, if discharged by the recipient of supply and not included in the price, is includible in the value.]	25,000
Add: Interest [Interest for delayed payment of consideration is includible in the value. Since interest is received in lumpsum, amount is inclusive of GST [20,000 x 100/112] (rounded off).]	17,857
Value of taxable supply	11,52,857
CGST @ 6%	69,171
SGST @ 6%	69,171

Concept Problem 9 [ICAI May 2023]

Mr. Jayesh, a registered supplier of Mumbai, received the following amounts in respect of the various activities undertaken by him during the month of October, 2022.

S. No	Particulars	Amount
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S. No	Particulars	Amount
(i)	Commission received as a recovery agent from a Non-Banking Finance Company (NBFC)	80,000
(ii)	Actionable claim received from normal business debtors	10,50,000
(iii)	Amount received from ABC Ltd. for performance of classical dance in one program.	1,74,500
(iv)	Business assets (old computers) given to a friend free of cost, the market value of all the computers was 51,000. No input tax credit has been availed on such computers when used for business.	No amount Charged
(v)	Consideration received for one month rent from a registered individual person for renting of residential dwelling for use as residence.	15,200

Details of Input services:

S. No.	Particulars	Amount
	Paid to an unregistered Goods Transport agency for various consignments of transportation of goods by road. (Each individual consignment in a single carriage was of less than 1,450.)	15,100

Notes:

- All the amount stated above in both the tables are exclusive of GST, wherever applicable.
- Aggregate turnover of Mr. Jayesh in previous year was ` 42,00,000.

You are required to compute Gross value of supplies, on which GST to be paid by Mr. Jayesh for the month of October, 2022.

Solution

Computation of gross value of taxable supply on which GST is to be paid by Mr. Jayesh

Particulars	Amount
Commission received as a recovery agent from Non-Banking Financial Company [Tax is payable by NBFC under reverse charge.]	-
Actionable claim received from normal business debtors [No tax is payable as actionable claims other than specified actionable claim are covered under Schedule III, i.e. they are neither supply of goods nor supply of services.]	-
Amount received from ABC Ltd. for performance of classical dance [Taxable since consideration for classical dance performance exceeds 1,50,000.]	1,74,500
Business assets given free of cost [Not a supply as it is made without consideration and not covered in Schedule I because ITC is not availed on the same.]	-
Rent from registered individual person [Tax is payable by the registered individual person under reverse charge3]	-
Services from unregistered GTA [Tax on services provided by unregistered GTA is payable under reverse charge by Mr. Jayesh being a registered person.]	<u>15,100</u>
Gross value of taxable supply on which GST is to be paid by Mr. Jayesh	1,89,600

CHAPTER 7

INPUT TAX CREDIT

Concept Problem 1

Veda Ltd. procured the following goods in the month of January, 2025.

Inward Supplies	GST
1. Goods used in constructing an additional floor of office building. The cost of construction of additional floor has been capitalized.	96,200
2. Trucks used for transportation of inputs in the factory	11,000
3. Inputs used in trial runs	8,350
4. Confectionery items for consumption of employees working in the factory	4,325
5. Cement used for making foundation and structural support to plant and machinery	9,550

Note: Depreciation has not been claimed on tax component in case of trucks.

Compute the amount of ITC available with Veda Ltd. for the month of January, 2025 by giving necessary explanations. Assume that all the other conditions necessary for availing ITC have been fulfilled.

Solution

Computation of amount of ITC available for the month of January, 2025:

S. No.	Particulars	GST
(1)	Goods used in construction of additional floor of office building [ITC on goods received by a taxable person for construction of an immovable property on his own account is blocked even if the same is used in the course or furtherance of business.]	Nil
(2)	Trucks used for transportation of inputs in the factory [ITC on motor vehicles used for transportation of goods is not blocked.]	11,000
(3)	Inputs used in trial runs [Being used in trial runs, inputs are used in the course or furtherance of business and hence ITC thereon is allowed.]	8,350
(4)	Confectionary items for consumption of employees working in the factory [ITC on food or beverages is blocked unless the same is used in same line of business or as an element of the taxable composite or mixed supply. Further, ITC on goods and/or service used for personal consumption is blocked.]	Nil
(5)	Cement used for making foundation and structural support to plant and machinery [ITC on goods used for construction of plant and machinery is not blocked. Plant and machinery includes foundation and structural supports through which the same is fixed to earth.]	9,550
	Total eligible ITC	28,900

Concept Problem 2

XYZ Ltd., is engaged in manufacture of taxable goods. Compute the ITC available with XYZ Ltd. for the month of October from the following particulars:

S No.	Items	GST Paid	Remarks
1.	Inputs 'A'	1,00,000	One invoice on which GST payable was INR 10,000, is missing
2.	Inputs 'B'	50,000	Inputs are to be received in two instalments. First instalment has been received in October.
3.	Capital goods	1,20,000	XYZ Ltd. has capitalized the capital goods at full invoice value inclusive of GST as it will avail depreciation on full invoice value.
4.	Input services	2,25,000	One invoice dated 20 January on which GST payable was INR 50,000 has been received in October.

Note:

- i) Subject to information given above, assume all other conditions necessary for availing ITC have been fulfilled
- ii) The annual return for the preceding financial year was filed on 15th September.

Solution

Computation of ITC that can be availed by XYZ Ltd. for the month of October

S No.	Items	ITC
1.	Inputs 'A' [ITC cannot be taken on missing invoice. The registered person should have the invoice in its possession to claim ITC-Section 16(2)(a)]	90,000
2.	Inputs 'B' [When inputs are received in instalments, ITC can be availed only on receipt of last instalment-First proviso to section 16(2)]	Nil
3.	Capital goods [Input tax paid on capital goods cannot be availed as ITC, if depreciation has been claimed on such tax component – Section 16(3)]	Nil
4.	Input services [As per section 16(4), ITC on an invoice cannot be availed after 30 th November of the financial year subsequent to the FY to which such invoice pertains or the date of filing annual return, whichever is earlier. Since the annual return for the preceding FY has been filed on 15 th September (prior to 30 th November), ITC on the invoice pertaining to preceding FY cannot be availed after 15 th Sept of current FY.]	1,75,000
	Total ITC	2,65,000

Concept Problem 3

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

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

Solution

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

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

Concept Problem 4

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

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

Solution

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

Concept Problem 5

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

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

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

Solution

Computation of ITC that can be availed by Dina Ltd. for the month of March:

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

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

Concept Problem 6

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

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

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

Solution

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

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

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

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

Concept Problem 7

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

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

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

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

Solution

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

In the given case, goods have been delivered by M/s. Karim & Bros. (supplier) to Shubhkamna Sales (third person) on the direction of M/s. Diwan & Sons (registered person).

Therefore, in view of the above provisions, ITC of INR 2,250 (INR 50 x 250 x 18%) will be available to M/s. Diwan & Sons (registered person) on the purchase of 250 kg of plastic granules @ 50 per kg.

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

Concept Problem 8

Bank of India provides the following information for the month of December 20XX for their registration in Punjab;

Particulars	Amount
ITC from supplies of goods or services or both	2,50,000
ITC from other offices	50,000

How much credit will be allowed to Bank of India for the month of December?

Solution

A banking company or a financial institution including a NBFC has the option to limit its availment of ITC on inward supply from third parties (other than own branch) to 50% of the eligible ITC on inputs, capital goods and input services each month and the remaining ITC shall lapse.

Eligible credit for the month of December = 50% of INR 2,50,000 i.e., INR 1,25,000 + INR 50,000 = INR 1,75,000.

Concept Problem 9

From the following, calculate the Net GST payable:

Payments	Amount	Receipts	Amount
Inter-State purchases of office stationery	1,40,000	Inter-State supply of office stationery	2,00,000
Repairing of lorry used to transport goods from warehouse to clients' location [Intra-State supply]	1,00,000	Intra-State supply of 500 combi packs containing one calculator and one diary	4,00,000
		Intra-State supply of services of business correspondent to Shubhvidhi Bank with respect to accounts in its urban area branch	1,00,000

The following additional information is provided by 'XY' in relation to the above receipts and payments

- 10% of the inter-State supply of office stationery are made to unregistered persons.
- Each combi pack (containing a calculator and a diary) is priced at INR 800. The calculator and the diary are individually priced at INR 700 and INR 200 respectively.

- iii) An invoice of INR 40,000 towards purchase of office stationery is missing and no other tax paying document is available in respect of such goods.
- iv) All the figures mentioned above are exclusive of taxes, wherever applicable.
- Rates of CGST, SGST and IGST for all services, office stationery and calculator are 9%, 9% and 18% respectively. Rates of CGST, SGST and IGST for diary are 14%, 14% and 28% respectively.
 - Subject to information given above, all the necessary conditions for availing ITC have been fulfilled.

Details of opening balances of input tax credit as on 1st July is given hereunder

Tax	Amount
CGST	5,000
SGST	5,000
IGST	80,000

Compute minimum net GST [CGST, SGST or IGST, as the case may be] payable in cash by 'XY' for month of July.

Solution

Computation of minimum net GST payable in cash by 'XY' for the month of July

Particulars	Value	CGST	SGST	IGST
Total tax liability				
Inter-State supply of stationery [Note 1]	2,00,000			36,000
Intra-State supply of 500 combi packs of calculators and diaries [Note-2]	4,00,000 (500 x 800)	56,000 (4,00,000 x 14%)	56,000 (4,00,000 x 14%)	
Intra-State supply of services of business correspondent to a Shubhvidhi Bank with respect to accounts in its urban area branch [Note-3]	1,00,000	9,000 (1,00,000 x 9%)	9,000 (1,00,000 x 9%)	
Total tax liability		65,000	65,000	36,000
Input tax credit (ITC)				
Brought forward ITC		5,000	5,000	80,000
Inter-State purchase of office stationery [Note-4]	1,00,000			18,000
Intra-State repairing of lorry used for transportation of goods [Note-5]	1,00,000	9,000	9,000	
Total ITC		14,000	14,000	98,000
Minimum net GST payable in cash				
Total tax liability		65,000	65,000	36,000
Less: IGST credit being set off against IGST liability				(36,000)
Less: IGST credit being used to pay CGST and SGST liability in any order and in any proportion		(11,000)	(51,000)	
Less: CGST and SGST credit being used to pay CGST and SGST liability respectively		(14,000) CGST	(14,000) SGST	
Minimum net GST payable in cash		40,000	Nil	Nil

Notes

- 1) Taxable supplies made by a registered person are liable to tax irrespective of whether they are made to a registered person or to an unregistered person.
- 2) Supply of calculator and diary as a combination pack with a single price of 800 is a mixed supply. Being a mixed supply, it shall be treated as supply of that particular supply which attracts highest rate of tax.
- 3) Services provided by a business facilitator/ business correspondent to a banking company only with respect to accounts in its rural area branch are exempt and not with respect to accounts in its urban area branch.
- 4) ITC can be taken only on the basis of a valid tax paying document. Thus, ITC will not be available on goods for which the invoice is missing.
- 5) ITC on motor vehicles used for transportation of goods is allowed. Further, ITC is allowed on repair and maintenance services relating to motor vehicles, ITC on which is allowed.

Note: IGST credit, after being set off against IGST liability, can be utilized against CGST and SGST liability in any order and in any proportion. Thus, there cannot be one Solution for the minimum net CGST and SGST payable in cash as the amount of CGST and SGST liabilities are the same as also the amount of ITC for CGST and SGST is also the same.

Concept Problem 10

Star Ltd., a registered supplier in Karnataka has provided the following details for supply of one machine:-

	Particulars	Amount
i.	List price of machine supplied [exclusive of items given below from (2) to (4)]	80,000
ii.	Tax levied by Local Authority on sale of such machine	6,000
iii.	Discount of 2% on list price of machine was provided (recorded in invoice of machine)	
iv.	Packing expenses for safe transportation charged separately in the invoice	4,000

Star Ltd. received 5,000 as subsidy from a NGO on sale of each such machine. The price of 80,000 of the machine is after considering such subsidy.

During the month of February, 20XX, Star Ltd. supplied three machines to Intra-state customers and one machine to Inter-state customer. Star Ltd. purchased inputs (intra-state) for 1,20,000 exclusive of GST for supplying the above four machines during the month.

The Balance of ITC at the beginning of February, 20XX was:

CGST	SGST	IGST
18,000	4,000	26,000

Note:

- a) Rate of CGST, SGST and IGST to be 9% , 9% and 18% respectively for both inward and outward supplies.
- b) All the amounts given above are exclusive of GST.
- c) All the conditions necessary for availing the ITC have been fulfilled.

Compute the minimum net GST payable in cash by Star Ltd. for the month of February,20XX.

Solution

Computation of value of taxable supply

Particulars	Amount
List Price of the machine	80,000
Add: Tax levied by Local Authority on the sale of machine	6,000

Particulars	Amount
[Tax other than GST, is charged separately , are included in the value in terms of section 15]	
Add: Packing expenses for safe transportation [Includible in the value as per section 15 of the CGST Act, 2017]	4,000
Add: Subsidy received from a NGO on sale of each machine [Subsidy received from a non-Government body and which is directly linked to the price, the same is included in the value in terms of section 1 of the CGST Act, 2017].	5,000
Total	95,000
Less: Discount @2% on 80,000 [Since discount is known at the time of supply and recorded in invoice, it is deductible u/s 15]	1600
Value of taxable supply	93,400

Computation of minimum net GST payable in cash by Star Ltd.

Particulars	CGST	SGST	IGST
Sale of machine [Intra- State Sales = 93,400 x 3 machine = 2,80,200 Inter – state sales = 93,400 x 1 machine = 93,400]	25,218 2,80,200 x 9%]	25,218 2,80,200 x 9%]	16,812 93,400 x 18%]
Total output tax	25,218	25,218	16,812
Less: Set off IGST against IGST and SGST [IGST credit first be utilized towards payment of IGST, remaining amount can be utilized towards CGST and SGST in any order and in any proportion]		(9,188)	(16,812)
Less: Set off CGST against CGST and SGST against SGST [CGST credit cannot be utilized towards payment of SGST and vice versa]	(25,218)	(14,800)	
Minimum net GST payable in cash	Nil	1230	

Working Note:-

Computation of total ITC available-

Particulars	CGST	SGST	IGST
Opening balance of ITC	18,000	4,000	26,000
Add: Inputs purchased during the month	10,800 [1,20,000 x 9%]	10,800 [1,20,00 x 9%]	
Total ITC available	28,800	14,800	26,000

Concept Problem 11

X Electronics is a registered manufacturer of electrical appliances. It made contract with dealers, that purchase air conditioners of capacity 1.5 ton in the month of October, 20XX of quantity of more than 50 units will entitle them for 10% discount.

Inter- state supply made during the month of October is 50,00,000.

Details of intra state supplies:

Particulars	Amount
Supply of Microwave Oven	15,00,00
Supply of Refrigerators with stabilizers being a mixed supply, rate of GST on refrigerators is 28% (14% CGST 14% SGST), rate of GST on stabilizer is 18% (9% CGST 9% SGST)	40,00,000
Supply of Air Conditioners of capacity 1.5 Ton @ 50,000 per Air Conditioner	50,00,000

Intra – State inward supplies are:

Particulars	Amount
Raw material	20,00,000
Paid Gym membership for employees	50,000
Truck purchased for transportation of goods	30,00,000

X electronics made supply of Air Conditioners (capacity 1.5 ton) to only one dealer named Mr. L

Gym membership for employees is not obligatory for X electronics under any law.

Opening Balance of ITC is as under:

CGST 58,000

SGST 70,000

IGST 10,00,000

Note:

- Rate of CGST, SGST and IGST are 9%, 9% and 18% respectively for both inward and outward supplies except where specifically provided.
- Both inward and outward supplies are exclusive of taxes.
- All the conditions for availing the ITC have been fulfilled.

Compute the Net GST payable in cash by X Electronics for the month of October, 20XX.

Solution

Computation of net GST payable in cash by X Electronics for October 20XX

S No	Particulars	Amount	CGST	SGST	IGST
I.	Intra-State Supply				
	Supply of microwave oven	15,00,000	1,35,000	1,35,000	
	Supply of refrigerators with stabilizers [Being mixed supply, the supply shall be treated as a supply of that particular supply which attracts the highest rate of tax and taxed accordingly. Thus, it will be taxed @ 14% CGST and 14% SGST]	40,00,000	5,60,000	5,60,000	
	Supply of 100 (50 lakh/ 50,000) air conditioners [Since 100 air conditioners have been supplied, discount @ 10% will be available]	4,50,000 [50,00,000 x 90%]	4,05,000	4,05,000	
II.	Inter–state supply @ 18%	50,00,000			9,00,000
	Total outward tax liability		11,00,000	11,00,000	9,00,000

	Less: Input tax Credit (Refer Working Note Below)			
	IGST credit first utilized towards payment of IGST. Remaining amount can be utilized towards CGST and SGST in any order and in any proportion		1,00,000 (IGST)	9,00,000 (IGST)
	CGST credit set off against CGST Liability and SGST credit set off against SGST Liability as CGST credit cannot be utilized towards payment of GST & vice versa.		5,08,000 (CGST)	5,20,000 (SGST)
	Net GST liability payable in cash		4,92,000	5,80,000 Nil

Working Note:
Computation of ITC available with X Electronics

Particulars	Amount	CGST	SGST	IGST
Opening balance of ITC		58,000	70,000	10,00,000
Intra- state inward supplies				
Raw material	20,00,000	1,80,000	1,80,000	
Gym membership for employees [ITC on membership of a health and fitness center is blocked if there is no statutory obligation for employer to provide it]	50,000	Nil	Nil	
Truck purchased for transportation of goods [ITC on motor vehicles used for transportation of goods is not blocked]	30,00,000	2,70,000	2,70,000	
Total ITC		5,08,000	5,20,000	10,00,000

Note: In the above Solution, tax payable in cash has been computed by setting off the IGST credit against CGST Liability. However, since IGST credit can be set off against CGST and SGST liability in any order and in any proportion, the same can be set off against CGST and /or SGST liabilities in different other ways as well. In all such cases, net CGST and net SGST payable in cash will differ though the total amount of net GST payable (10,72,000) In cash will remain the same.

Concept Problem 12

Neelkanth Pvt. Ltd., a registered supplier of goods and services at Kolkata has furnished the following information for the month of February:

S. No.	Particulars	Amount
i.	Intra- state supply of taxable goods including 1,00,000 received as advance in January, the invoice for the entire sale value is issued on 15 th February	4,00,000
ii.	Purchase of goods from a composition dealer, registered in Kolkata	5,50,000
iii.	Services provided by way of labour contracts for repairing a single residential unit otherwise a part of residential complex (It is an intra-state transaction)	1,00,000
iv.	Membership of a club availed for employees working in the factory (it is an intra-state transaction)	1,75,000
v.	Goods Transport services received from a GTA .GST is payable @ 12% (It is an inter-state transactions)	2,00,000

S. No.	Particulars	Amount
vi.	Inter-state services provided by way of training in recreational activities relating to sports	10,000
vii.	Inter- state security services provided to ABC higher secondary school for their annual day function organized in Fintex Auditorium outside the school campus	15,000
viii.	Inputs to be received in 4 lots, out of which 2 nd lot was received during the month	40,000

The company has following ITCs with it at the beginning of the tax period:

Particulars	Amount
CGST	57,000
SGST	Nil
IGST	50,000

Note:

- i) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively.
- ii) Both inward and outward supplies are exclusive of taxes, wherever applicable.
- iii) All the conditions necessary for availing the ITC have been fulfilled.
- iv) The turnover of Neelkanth Pvt. Ltd. was 2.5 crore in the previous financial year.

Compute the minimum GST payable in cash, by Neelkanth Pvt. Ltd. for the month of February. Make suitable assumptions as required.

Solution

Computation of GST Payable on outward supplies

S.No.	Particulars	CGST @ 9%	SGST @ 9%	IGST @ 18%	Total
i.	Intra- state supply of goods for 4,00,000 [Note-1]	36,000	36,000	Nil	72,000
ii.	Services rendered by way of labour contracts for repairing a single residential unit otherwise than as a part of residential complex [Note -2]	9,000	9,000	Nil	18,000
iii.	Services provided by way of training in recreational activities relating to sports [Note -3]	Nil	Nil	1,800	1,800
iv.	Inter- state security services provided to ABC higher secondary school for their annual day function to be held in Fintex Auditorium [Note- 4]	Nil	Nil	2,700	2,700
	Total GST Payable	45,000	45,000	4,500	94,500

Notes

1. As per Notification No. 66/2017 CT dated 15.11.2017, a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a) of the CGST Act, 2017, i.e. date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31. Thus, liability to pay tax on the advance received in January will also arise in the month of February, when the invoice for the supply is issued.
2. Services by way of pure labour contracts of construction, erection, commissioning, or installation of original

works pertaining to a single residential unit otherwise than as a part of a residential complex are exempt vide Notification No. 12/2017 CT(R) dated 28.06.2017. Labour contracts **for repairing** are thus, taxable.

3. Services by way of training or coaching in recreational activities relating to sports is exempt under GST vide Notification No. 12/2017 CT(R) dated 28.06.201, only if provided by charitable entities registered under section 12AA of the Income-tax Act. Thus, in the given case, said service is taxable.
4. Security services provided to ABC higher secondary School for Annual Day function organised outside the school campus will be taxable as only the security services performed within the premises of the higher secondary school are exempt vide Notification No. 12/2017 CT(R) dated 28.06.2017.

Computation of Total ITC

Particulars	CGST @ 9%	SGST @ 9%	IGST @ 9%
Opening ITC	57,000	Nil	57,000
Add: Purchase of goods from a composition dealer [No tax is payable on the goods purchased under composition scheme]	Nil	Nil	Nil
Add: Membership of a club [Blocked credit]	Nil	Nil	Nil
Add: Goods transport services received from GTA [As per Notification No. 13/2017 CT(R) dated 28.06.2017, GST is payable by the recipient on reverse charge basis on the receipt of services of transportation of goods by road from a goods transport agency (GTA), provided GST is not payable @ 12%. Since in the given case, services have been received from a GTA where GST is payable @12% and recipient is one of the specified recipients, reverse charges provisions will not be applicable. In this case, ITC is available for the services received from GTA].	Nil	Nil	24,000
Add: Inputs to be received in 4 lots, out of which 2 nd lot was received during the month [In case of goods received in lots, ITC can be taken only upon receipt of the last lot]	Nil	Nil	Nil
Total ITC	57,000	Nil	74,000

Computation of minimum GST payable from electronic cash ledger

Particulars	CGST @ 9%	SGST @ 9%	IGST @ 18%	Total
GST payable	45,000	45,000	4,500	94,500
Less: ITC [First ITC of IGST should be utilized in full – first against IGST liability and then against CGST and SGST liabilities in a manner to minimize cash outflow]	(24,500) IGST (3)	(45,000) IGST (2)	(4,500) IGST (1)	74,000
	(20,500) CGST			20,500
Minimum GST Payable in cash	Nil	Nil	Nil	Nil

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

Concept Problem 13

Prithviraj Pvt. Ltd., a registered supplier, is engaged in manufacturing heavy steel fabrication machine. The details pertaining to pricing of each such machine is as follows:

S. No.	Particulars	Amount
i.	Price of the machine (exclusive of taxes and discounts)	5,50,000
ii.	Part fitted in the machine at the premises of the recipient [Amount has been paid by recipient directly to the supplier. However, it was Prithviraj Pvt. Ltd.'s liability to pay the said amount.]	20,000
iii.	Installation and testing charges at the premises of the recipient	25,000
iv.	Subsidy received from Shri Ram Trust [Subsidy is directly linked to the price of the machine]	50,000

Items given in points (ii) to (iv) have not been considered while arriving at price of the machine given in point (i) above. The contract includes installation and testing of machine at the recipient's premises.

Prithviraj Pvt. Ltd. has made supply of 10 such machines in the month of July. It also provided the following details pertaining to the purchases made/services availed during said month:

S. No.	Particulars	Amount
1.	Raw material (to be received in September)	10,00,000
2.	Membership of a club availed for employees working in the factory	6,00,000
3.	Trucks used for transport of raw material	3,50,000
4.	Capital goods (out of 3 items, invoice for 2 items is missing and GST paid on those two items is 18,000)	7,00,000

Compute the net GST payable in cash by Prithviraj Pvt. Ltd. for the given month assuming that all the inward and outward supplies are intra-State supplies. Assume the rates of taxes to be as under:

Particulars	Rate of Tax
Central tax (CGST)	9%
State Tax (SGST)	9%
Integrated tax (IGST)	18%

Make suitable assumptions, wherever necessary. All the conditions necessary for availing the ITC have been fulfilled. Opening balance of the input tax credit for the relevant period is Nil.

Solution

Computation of net GST payable by Prithviraj Pvt. Ltd. for the month of July

Particulars	Amount	Amount
GST payable on outward supplies (Refer Working note – 1)	5,80,500	5,80,500
Less: ITC (Refer Working note – 2) [ITC of CGST is utilised for payment of CGST and ITC of SGST is utilized for payment of SGST.]	76,500	76,500
Net GST payable in cash	5,04,000	5,04,000

Working note – 1

Computation of GST payable on outward supply made by Prithviraj Pvt. Ltd. for the month of July

Particulars	Amount
Price of machine (exclusive of taxes and discounts)	5,50,000
Amount paid by the recipient directly to the supplier (Prithviraj Pvt. Ltd.) for the part fitted in the machine [Any amount that the supplier is liable to pay in relation to a supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods is includible in the value of supply.]	20,000
Installation and testing charges [Any amount charged for anything done by the supplier in respect of the supply of goods at the time of/before delivery of goods is includible in the value of supply.]	25,000
Subsidy received from Shri Ram Trust [Since the subsidy is received from a non-Government body and directly linked to the price, the same is includible in the value of supply.]	50,000
Value of taxable supply of 1 machine	6,45,000
Value of taxable supply of 10 machines [6,45,000 x 10]	64,50,000
GST payable on outward supplies	
CGST @ 9%	5,80,500
SGST @ 9%	5,80,500
[Since all the outward supplies are intra – State supplies, CGST and SGST are payable to the same]	

Working note – 2
Computation of ITC available with Prithviraj Pvt. Ltd. for the month of July

Particulars	CGST	SGST
Raw Material [ITC not available as raw material is not received in July]	Nil	Nil
Membership of a club availed for employees working in the factory [Blocked credit]	Nil	Nil
Trucks used for transport of raw material [ITC of GST paid on motor vehicles used for transportation of goods is allowed]	31,500	31,500
Capital goods [ITC of GST paid on items for which invoice is missing is not available but, ITC of 18,000 is not available] [63,000 - 18,000]	45,000	45,000
Total ITC available	76,500	76,500

Note - Since all the inward supplies are intra-State supplies, CGST @ 9% and SGST @ 9% are payable on the same.

Concept Problem 14

Alfa Institute of Management (AIM), a private college, is registered under GST in the State of Punjab. AIM provides the following particulars for the month of April, 2022:

S. No.	Particulars	Amount
i.	Tuition fee received from students pursuing management courses recognized by Punjab University, established by an Act of State Legislature	18,00,000

S. No.	Particulars	Amount
ii.	Tuition fee received from students pursuing under – graduate courses recognized by Stan University, London under Dual Degree Programmes	8,50,000
iii.	Fee received from students of competitive exam training academy run by a Department of AIM	5,40,000
iv.	Mess fess received from students pursuing qualification recognized by Indian law (Mess is run by AIM on its own)	3,20,000
v.	Amount paid to Local Municipal Corporation for premises for taken on rent for conducting coaching classes for competitive exams	50,000
vi.	Legal services availed from Top Care & Company a partnership firm of advocates , for the competitive exam training academy (Intra – state competitors)	20,000

Note:

The aggregate turnover of AIM in the preceding financial year exceeds 20 lakhs. Rate of CGST, SGST and IGST are 9%, 9% and 18% respectively for both outward and inward supplies. All the amounts given above are exclusive of taxes, wherever applicable. All the conditions necessary for availing the ITC have been fulfilled, wherever applicable. There is no opening balance of ITC under any head of tax.

From the information given above, you are required to calculate the Value of taxable supply and minimum GST liability (CGST, SGST or IGST as the case may be) to be paid in cash, if any, by AIM for the month of April, 2022.

Solution
Computation of value of taxable supply and net GST liability to be paid in cash by AIM for April, 2022

Particulars	Amount
Tuition fee received from Students pursuing recognized management courses [Note-1]	Nil
Tuition fee received from students pursuing under-graduate courses recognized by Foreign University [Note -2]	8,50,000
Fee received from students of Competitive Exam Training Academy [Note -3]	5,40,000
Mess fees received from students [Note – 4]	Nil
Total value of taxable supply	13,90,000

Particulars	CGST	SGST
GST Liability under forward charge @ 9% [Note-5]	1,25,100	1,25,100
Services on which tax payable under reverse Charge:		
Rent paid to Local Municipal Corporation [Note – 6]	4,500	4,500
Legal services received from Top Care & Company, a partnership firm of advocates [Note-7]	<u>1800</u>	<u>1800</u>
GST liability under reverse charge payable in cash [A] [Note - 8]	<u>6300</u>	<u>6300</u>

Computation of Net GST Payable	CGST	SGST
Output tax payable against which ITC can be set off	1,25,100	1,25,100
Less: ITC of renting immovable property and legal services	<u>6300</u>	<u>6,300</u>
Output tax payable after set off ITC [B]	1,18,800	1,18,800

Net GST liability payable in cash [A] +[B]	1,25,100	1,25,100
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Notes:

- i) Services provided by an educational institution to its students are exempt. Further, educational institution means inter alia an institution providing services by way of education as a part of a curriculum for obtaining a qualification recognised by an Indian law. Therefore, tuition fee received by Punjab University, being an educational institution, is exempt, since it provides qualification recognised by Indian law.
- ii) Tuition fee received by Stan University is taxable since Stan University is not an educational institution as qualification provided by it is not recognised by Indian law.
- iii) Fee received from students of competitive exam training academy is taxable as Department of AIM is not an educational institution since competitive exam training does not lead to grant of a recognized qualification.
- iv) Catering services provided by educational institutions to its students are exempt.
- v) Since all the services provided are intra-State, CGST and SGST @ 9% is charged
- vi) GST is payable under reverse charge in case of renting of immovable property services supplied by a local authority to a registered person.
- vii) GST is payable under reverse charge in case of legal services supplied by a firm of advocates to a business entity.
- viii) The amount available in the electronic credit ledger may be used for making payment towards output tax. However, tax payable under reverse charge is not an output tax. Therefore, tax payable under reverse charge cannot be set off against the input tax credit and thus, will have to be paid in cash.

CHAPTER 8

REGISTRATION UNDER GST

Concept Problem 1

Examine, with reason, whether registration is required, under CGST Act, in the following independent cases:

- i) Aadhav Computers of Gujarat is providing computer maintenance service. Aggregate turnover of Aadhav Computers is ₹ 15 lakh which comprises both inter-State and intra-State supply.
- ii) Soft Wings of West Bengal, exclusively trading in garments, supplies its taxable goods in various States of India from its outlet in West Bengal. Aggregate turnover of Soft Wings is ₹ 35 lakh.
- iii) Meenu, a supplier in Maharashtra, is exclusively engaged in supply of potatoes produced out of cultivation of her own land, within Maharashtra and also outside Maharashtra.
- iv) Tilu is working as an agent, he is supplying taxable goods as an agent of Tiku (who is registered taxable person) and its aggregate turnover does not exceed the applicable threshold limit during the financial year. Invoices to customers are issued in name of Tilu.

Solution

- i) As per section 24, registration is compulsory for suppliers engaged in inter-State supply. However, as per Notification No. 10/2017 IT, if aggregate turnover is upto 20 lakhs [₹ 10 lakhs in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland], section 24 will not be applicable in case of inter-state supply of service.

Therefore, Aadhav Computers (aggregate turnover 15 lakh) is not required to obtain registration even though it is engaged in inter-State supply of taxable services.

- ii) The threshold limit for registration in the State of West Bengal for the persons engaged exclusively in supply of goods, is 40 lakhs. However, registration is compulsory if the supplier is engaged inter-State supply of goods irrespective of the quantum of aggregate turnover. The threshold exemption is not available in case of inter-State supply of taxable goods. Thus, Soft Wings is required to obtain registration.
- iii) Section 24 provides that persons making any inter-State taxable supply of goods are required to obtain registration compulsorily under GST laws irrespective of the quantum of aggregate turnover.

However, as per section 23, an agriculturist, to the extent of supply of produce out of cultivation of land, is not liable to registration.

Meenu is exclusively engaged in cultivation and supply of potatoes. Thus, she is not liable to registration irrespective of the fact that she is engaged in making inter-State supply of goods. Further, Meenu will not be liable to registration, in the given case, even if her turnover exceeds the threshold limit.

- iv) Section 24 provides that persons who make taxable supply of goods and/or services on behalf of other taxable persons whether as an agent or otherwise are required to obtain registration compulsorily under GST laws irrespective of the quantum of aggregate turnover.

Therefore, Tilu will be mandatorily required to obtain registration.

Concept Problem 2

Determine the effective date of registration in following cases:

- a) The aggregate turnover of Dhampur Footwear Industries of Delhi has exceeded the applicable threshold limit of 40 lakh on 1st September. It submits the application for registration on 20th September. Registration certificate is granted to it on 25th September.

- b) Mehta Teleservices is an architect in Lucknow. Its aggregate turnover exceeds 20 lakhs on 25th October. It submits the application for registration on 27th November. Registration certificate is granted to it on 5th Dec.

Solution

- a) Every supplier becomes liable to registration if his turnover exceeds the applicable threshold limit [40 lakh in this case] in a financial year [Section 22 read with Notification No. 10/2019 CT dated 07.03.2019]. Since in the given case, the turnover of Dhampur Industries exceeded 40 lakhs on 1st September, it becomes liable to registration on said date.

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

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

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

Concept Problem 3

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

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

*excluding GST

Determine whether Pure Oils is liable for registration.

Solution

As per section 22 read with Notification No. 10/2019 CT, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a FY exceeds the threshold limit. Threshold limit for a person making exclusive intra-State taxable supplies of goods is as under:

- INR 10 lakh for the Special Category States of Mizoram, Tripura, Manipur and Nagaland.
- INR 20 lakh for the States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.
- 40 lakh for rest of India except persons engaged in making supplies of ice cream and other edible ice, whether or not containing cocoa, pan masala and tobacco and manufactured tobacco substitutes, **fly ash bricks; fly ash aggregates; fly ash blocks, bricks of fossil meals or similar siliceous earths, building bricks, earthen or roofing tiles.**

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

- INR 10 lakh for the Special Category States of Mizoram, Tripura, Manipur and Nagaland.
- INR 20 lakh for the rest of India.

As per section 2(6), aggregate turnover includes the aggregate value of:

- all taxable supplies,
- all exempt supplies,

- (iii) exports of goods and/or services and
- (iv) all inter-State supplies of persons having the same PAN.

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

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

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

S No.	Particulars	Amount
(i)	Supply of machine oil in Delhi	15,00,000
(ii)	Supply of high-speed diesel in Delhi	10,00,000
(iii)	Supply of machine oil made in Punjab by Pure Oils from its branch located in Punjab	10,00,000
	Aggregate Turnover	35,00,000

Pure Oils is making exclusive supply of goods and hence the threshold limit for registration would be 40,00,000. Since the aggregate turnover does not exceed 40,00,000, Pure Oils is not liable to be registered till April. However, if in remaining months of the financial year, its turnover exceeds the said limit, then it would be liable to be registered.

Concept Problem 4

What will be your answer if in question 3 above, in S.No. (ii), Pure Oils supplies the high speed diesel in Delhi in the capacity of an agent of Mixed Oils Ltd., where invoices to customers are issued in name of Pure Oils?

Solution

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

Section 24 provides that an agent who is engaged in making taxable supplying of goods on behalf of other taxable persons, shall be liable to obtain registration irrespective of the threshold turnover limit.

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

Concept Problem 5

Examine whether the supplier is liable to get registered in the following independent cases:

- i) Ankit of Assam is exclusively engaged in intra-State supply of taxable services. His aggregate turnover in the current financial year is INR 25 lakh.
- ii) Sanchit of Assam is engaged in intra-State supply of both taxable goods and services. His aggregate turnover in the current financial year is INR 30 lakh.
- iii) Mr. Ahmad of Jammu engaged in the business of supplying tobacco-based Pan Masala with an aggregate turnover of INR 24 lacs.
- iv) Mr. Lepcha of Mizoram is engaged in the supply of papers with an aggregate turnover of INR 13 lacs. Will your Solution be different if Mr. Lepcha is located in Meghalaya?

Solution

- i) Though Ankit is dealing in Assam, he is not entitled for higher threshold limit for registration as the same is applicable only in case of exclusive supply of goods while he is exclusively engaged in providing services. Thus, the applicable threshold limit for registration in this case is INR 20 lakh and hence, Ankit is liable to get registered under GST.
- ii) Since Sanchit is engaged in supply of both taxable goods and services, the applicable threshold limit for registration in his case is INR 20 lakh. Thus, Sanchit is liable to get registered under GST as his turnover is more than the threshold limit.
- iii) A person is eligible for enhanced threshold limit of INR 40 lakh in the State of Jammu and Kashmir if he is engaged exclusively in intra-State supply of goods.

However, the enhanced threshold limit is not applicable if the person is engaged, inter alia, in the supply of pan masala and all goods of chapter 24 i.e. Tobacco and manufactured tobacco substitutes. In that case, the normal threshold limit of INR 20 lakh will be applicable.

In view of said provisions, in the given case, Mr. Ahmad is liable to register since his aggregate turnover (INR 24 lakh) exceeds the applicable threshold limit for registration of INR 20 lakh.

- iv) The enhanced threshold limit of INR 40 lakh as applicable to a person engaged exclusively in intra-State supply of goods, is not applicable to Mizoram [a specified Special Category State]. Instead, a lower threshold limit of INR 10 lakh for registration is applicable for Mizoram.

Thus, in the given case, Mr. Lepcha of Mizoram is liable to register since his aggregate turnover (INR 13 lakh) exceeds the applicable threshold limit for registration of INR 10 lakh.

The enhanced threshold limit of INR 40 lakh is also specifically not applicable in the State of Meghalaya. Instead, the normal threshold limit of INR 20 lakh for registration is applicable to it.

Therefore, if Mr. Lepcha is located in Meghalaya, he is not liable to register since his aggregate turnover (INR 13 lakh) does not exceed the applicable threshold limit for registration of INR 20 lakh

Concept Problem 6

Is it necessary for the UN bodies to get registration under GST?

Solution

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

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

Concept Problem 7

M/s Siya Ram is a trader of decorative items in Hauz Khas, Delhi. His aggregate turnover exceeded INR 20 lakh in the month of October, 20XX. He applied for registration on GST portal, but missed to submit the details of his bank account. His tax consultant advised him that prior submission of bank details is mandatory to obtain registration. Examine whether the advice of Mr. Siya Ram's tax consultant is correct.

Solution

The advice of Mr. Siya Ram's consultant that prior submission of bank details is mandatory to obtain registration is no more valid in law.

A new rule 10A has been inserted in the CGST Rules, 2017 vide Notification No. 31/2019 CT which allows the registered person to furnish information with respect to details of bank account, or any other information, as may be required on the common portal in order to comply with any other provision, soon after obtaining certificate of registration and a GSTIN, but not later than

- a) 30 days from the date of grant of registration or

- b) the date on which the statement of outward supplies u/s 37 in GSTR 1 is furnished, whichever is earlier.

Concept Problem 8

Mr. Allan, a non-resident person, wishes to provide taxable supply of goods. He has no fixed place of business or residence in India. He seeks your advice on the following aspects, relating to CGST Act, 2017:

- When shall he apply for registration?
- Is PAN mandatory for his registration?
- What is the period of validity of RC granted to him?
- Will he be able to extend the validity of his registration? If yes, what will be the period of extension?

Solution

- Mr. Allan, being a non-resident person, should apply for registration, irrespective of the threshold limit, at least 5 days prior to the commencement of business.
- No, PAN is not mandatory for his registration.

He has to submit a self-attested copy of his valid passport along with the application signed by his authorized signatory who is an Indian Resident having valid PAN.

However, in case of a business entity incorporated or established outside India, the application for registration shall be submitted along with its tax identification number or unique number on the basis of which the entity is identified by the Government of that country or its PAN, if available.

- Registration Certificate granted to Mr. Allan will be valid for:
 - Period specified in the registration application, or
 - 90 days from the effective date of registration whichever is earlier.
- Yes, Mr. Allan can get the validity of his registration extended. Registration can be extended further by a period not exceeding 90 days.

Concept Problem 9

Under the provision of section 29(1) of CGST Act, 2017 read with rule 21A of CGST Rules, 2017 related to suspension of registration if the registered person has applied for cancellation of registration, what is the period and manner of suspension of registration?

Solution

Where a registered person has applied for cancellation of registration, the registration shall be deemed to be suspended from:

- the date of submission of the application or
- the date from which the cancellation is sought, whichever is later, pending the completion of proceedings for cancellation of registration.

Such person shall not make any taxable supply during the period of suspension and shall not be required to furnish any return.

The expression “shall not make any taxable supply” mean that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the suspension period.

Concept Problem 10

BBD Pvt. Ltd. of Gujarat exclusively manufactures and sells product 'Z' which is exempt from GST vide notifications issued under relevant GST legislations. The company sells 'Z' only within Gujarat and is not registered under GST

laws. The turnover of the company in the preceding previous year 2021-22 was 50 lakhs. The company expects the sales to grow by 10% in the current year 2022-23.

However, effective 01.01.2023, exemption available on 'Z' was withdrawn by the Central Government and GST @ 5% was imposed thereon. The turnover of the company for the nine months ended on 31.12.2022 was 42 lakhs.

BBD Pvt. Ltd. is of the opinion that it is not required to get registered under GST for current FY 2022-23.

Examine the above scenario and advise BBD Pvt. Ltd. whether it needs to get registered under GST or not.

Solution

For a supplier exclusively engaged in intra-State supply of goods, the threshold limit of turnover to obtain registration in the State of Gujarat is 40 lakhs. However, a person exclusively engaged in the business of supplying goods and/or services that are not liable to tax or are wholly exempt from tax is not liable to registration.

Therefore, since BBD Pvt. Ltd. was engaged exclusively in supplying exempted goods till 31.12.2022, it was not required to be registered till that day; though voluntary registration was allowed.

The position, however, will change from 01.01.2023 as the supply of goods become taxable from that day and the turnover of BBD Pvt. Ltd. is more than 40 lakhs. Since the aggregate turnover limit of 40 lakh includes exempt turnover also, turnover of 'Z' till 31.12.2022 will be considered for determining the threshold limit even though the same was exempt from GST. Therefore, BBD Pvt. Ltd. needs to register within 30 days from 01.01.2023.

Concept Problem 11

“Aadhaar authentication is not required for persons who are already registered under GST.” Examine and discuss the correctness of the statement. You are required to elaborate the relevant legal provisions.

Solution

The given statement is incorrect. Aadhaar authentication has been made mandatory for the new registrants as well as for the existing registrants. With regard to existing registrants, section 25(6A) of the CGST Act, 2017 stipulates that every registered person shall undergo authentication, or furnish proof of possession of Aadhaar number, in the prescribed form, manner and time.

New rule 10B of the CGST Rules, 2017 prescribes the manner in which Aadhaar authentication needs to be done by a registered person.

A registered person, who has been issued a certificate of registration under GST, shall undergo authentication of the Aadhaar number of:-

- i) Proprietor, in the case of proprietorship firm,
- ii) Any partner, in the case of a partnership firm,
- iii) Karta, in the case of a Hindu undivided family,
- iv) Managing director or any whole-time director, in the case of a company,
- v) Any of the Members of the Managing Committee of an Association of person or body of individuals or a Society, or
- vi) Trustee in the Board of Trustees, in the case of a Trust;
- vii) and of the Authorized Signatory,

in order to be eligible for the following purposes:

- a) for filing of application for revocation of cancellation of registration [Rule 23]
- b) for filing of refund application in Form RFD-01 [Rule 89]
- c) for refund of the IGST paid on goods exported out of India [Rule 96]

First proviso to section 25(6A) of the CGST Act, 2017 provides that if an Aadhaar number is not assigned to an existing

registered person, such person shall be offered alternate and viable means of identification in the prescribed manner. Such manner has been prescribed by rule 10B of the CGST Rules, 2017 as follows:

If Aadhaar number has not been assigned to the person required to undergo authentication of the Aadhaar number, such person shall furnish the following identification documents, namely:

- a. his/ her Aadhaar Enrolment ID slip; and
- b.
 - i) Bank passbook with photograph; or
 - ii) Voter identity card issued by the Election Commission of India; or
 - iii) Passport; or
 - iv) Driving license issued by the Licensing Authority

However, once Aadhaar number is allotted to such person, he shall undergo the authentication of Aadhaar number within a period of 30 days of the allotment of the Aadhaar number.

The afore-said rule 10B shall not be applicable to persons notified under section 25(6D) of the CGST Act, 2017, i.e. to persons exempt from Aadhaar authentication.

Concept Problem 12

Q Ltd. is engaged exclusively in supply of taxable goods from the following states. The particulars of intra-state supplies for the month of May 2022 are as follows:

State	Turnover
Madhya Pradesh	5,00,000
Gujarat	14,00,000
Tripura	12,00,000

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

Solution

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

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

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

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

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

Concept Problem 13

Answer the following, after reading the below given two paragraphs:

- (i) Briefly discuss the relevant provision

- (ii) decide the correct conclusion and
 (iii) determine the validity of the given advice (Correct/Incorrect)

Dharun provides service as a business facilitator to Zio Bank Limited by facilitating in opening of bank accounts to villagers in its rural branches in Punjab and earned a commission of INR 22 lakh in the month of April, 2022. So far, he is not registered under GST. Dharun's tax consultant advised him that he is liable for registration under GST as his gross receipts exceeded INR 20 lakh. Dharun has no other receipt / business activity other than the above.

Solution

Services by a business facilitator to a banking company with respect to accounts in its rural area branch is exempt from GST.

Since in the given case, Dharun is engaged exclusively in providing the exempt services, it is not liable to obtain registration even though his aggregate turnover exceeds INR 20 lakh.

Thus, the advice given by his tax consultant is not correct.

Concept Problem 14 [MTP May 2023]

B Enterprises started its business activities in the month of January, in the State of Karnataka. It provides the following information:

Sr. No.	Particulars	Amount
1.	Value of intra-State outward taxable supply of goods	7,00,000
2.	Value of inter-State outward taxable supply of services	6,00,000
3.	Value of intra-State outward supply on which tax is payable under reverse charge mechanism.	1,00,000
4.	Value of intra-State outward supply of exempted good from its other place of business in the State of Manipur (under same PAN)	5,00,000

From the information given above, you are required to calculate the aggregate turnover of B Enterprises with necessary explanations and also, specify with reason whether it is liable to get registered under CGST Act or not.

Solution

Computation of aggregate turnover of B Enterprises, Karnataka, for January

Particulars	Amount
Intra-State outward taxable supply of goods [Aggregate turnover includes value of all taxable supplies.]	7,00,000
Inter-State outward taxable supply of services [Aggregate turnover includes value of inter-State supplies.]	6,00,000
Intra-State outward supply on which tax is payable under reverse charge mechanism [Aggregate turnover includes value of all taxable supplies whether taxable under reverse charge or forward charge.]	1,00,000
Intra-State outward supply of exempted goods from Manipur [Aggregate turnover includes value of exempt supplies made in all the States under the same PAN]	<u>5,00,000</u>
Aggregate turnover	19,00,000

Persons making any inter-State taxable supply of goods are required to obtain compulsory registration, but in case of inter-State supply of taxable services, threshold limit of INR 20 lakh is available.

Such threshold limit gets reduced to INR 10 lakh in case of specified Special Category State provided taxable supply is being made therefrom.

Since B Enterprises is making exempt supplies from Manipur - a specified Special Category State, the applicable threshold limit of registration for B Enterprises is INR 20 lakh. Thus, it is not liable to be registered as its aggregate turnover does not exceed the threshold limit.

Concept Problem 15 [MTP May 2024]

Mr. Raj of Rajasthan intends to start business of supply of building material to various construction sites in Rajasthan. 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. Raj. You are required to examine whether the action taken by proper officer is valid in law?

Mr. Raj 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. You are required to comment upon the validity of contentions raised by Department.

Solution

The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,-

- a registered person has contravened the prescribed provisions; or
- a person paying tax under composition scheme has not furnished returns for a financial year beyond 3 months from due date of furnishing return; or
- any registered person, other than a person specified in clause (b), has not furnished returns for a prescribed period; or
- any person who has taken voluntary registration has not commenced business within six months from the date of registration; or
- registration has been obtained by means of fraud, wilful misstatement, or suppression of facts:

Thus, in view of the above-mentioned provisions, *suo-motu* cancellation of registration of Mr. Raj by proper officer is valid in law since Mr. Raj, 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, subject to the provisions of rule 10B, apply for revocation of the cancellation of registration 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 by the Commissioner or an officer authorised by him in this behalf, not below the rank of Additional Commissioner or Joint Commissioner, as the case may be, for a further period not exceeding 180 days.

Thus, considering the above provisions, the contention of Department is not valid in law as he has applied for revocation within the time limit of 90 days.

CHAPTER 10 & 12

TAX INVOICE, CREDIT & DEBIT NOTES, EWB

Concept Problem 1

Sheen Ltd. a registered supplier wishes to transport cargo by road between two cities situated at a distance of 372 kilometers. Calculate the validity period of e-way bill under rule 138(10) of the CGST Rules, 2017 for transport of the said cargo, if it is over dimensional cargo or otherwise.

Solution

The validity period of e-way bill under rule 138(10) of the CGST Rules, 2017 for transport of cargo by road between two cities situated at a distance of 372 km is as under:

- i) **If it is over dimensional cargo:** the validity period of the e-way bill is one day from relevant date upto 20 km and one additional day for every 20 km or part thereof thereafter.

Thus, validity period in given case:

$$= 1 \text{ day} + 18 \text{ days}$$

$$= 19 \text{ days}$$

- ii) **If it is a cargo other than over dimensional cargo:** the validity period of the e-way bill is one day from relevant date upto 200 km and one additional day for every 200 km or part thereof thereafter.

Thus, validity period in given case:

$$= 1 \text{ day} + 1 \text{ day}$$

$$= 2 \text{ days}$$

Concept Problem 2

Mr. X, a registered person under GST has aggregate turnover in the preceding financial year amounting to 8 crore. He is desirous to know whether e-invoicing is applicable for supplies made by registered person to Government Departments or establishments/Government agencies/local authorities/PSUs which are registered solely for the purpose of deduction of tax at source as per provisions of section 51 of the CGST Act, 2017. You are required to advise Mr. X.

Solution

Government Departments or establishments/ Government agencies/ local authorities/ PSUs, which are required to deduct TDS under section 51 of the CGST Act, 2017, are liable for compulsory registration in accordance with section 24(vi) of the CGST Act, 2017.

Therefore, Government Departments or establishments/ Government agencies/ local authorities/ PSUs, registered solely for the purpose of deduction of TDS, are to be treated as registered persons under the GST law as per provisions of section 2(94) of the CGST Act, 2017.

Accordingly, the registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, is required to issue e-invoices for the supplies made to such Government Departments or establishments/ Government agencies/ local authorities/ PSUs, etc. under rule 48(4) of the CGST Rules, 2017 [Circular No. 198/10/2023 GST dated 17.07.2023].

Concept Problem 3

Luv & Kush Pvt. Ltd. of Meghalaya engaged in the supply of gifts items and repair services, provides you the following details:

S. No.	Particulars	Date
1.	Commencement of the business of supplying services	1 st August
2.	Turnover exceeds INR 10,00,000 on	15 th August
3.	Turnover exceeds INR 20,00,000 on	5 th September
4.	Application for registration made on	28 th September
5.	Registration certificate granted on	6 th October

The company seeks your advice as to how it should raise revised tax invoices for supplies made. Is there any specific provision for issuance of revised tax invoices to unregistered customers? Explain.

Solution

A supplier of both goods and services whose aggregate turnover in a financial year exceeds INR 20 lakh in a State/UT [10 lakh in specified Special Category States] is liable to apply for registration within 30 days from the date of becoming liable to registration (i.e., the date of crossing the threshold limit of INR 20 lakh/ 10 lakh) in terms of section 22.

Since Meghalaya is not a specified Special Category State, applicable threshold limit is 20 lakh.

Further, where the application is submitted within said period, the effective date of registration is the date on which the person becomes liable to registration; otherwise it is the date of grant of registration.

Every registered person who has been granted registration with effect from a date earlier than the date of issuance of registration certificate to him, may issue revised tax invoices within 1 month from the date of issuance of registration certificate in respect of taxable supplies effected during this period i.e. from the effective date of registration till the date of issuance of registration.

Since Luv & Kush Pvt. Ltd. has made the application for registration within 30 days of becoming liable for registration, the effective date of registration becomes the date on which the company becomes liable to registration i.e. 5th September.

Thus, Luv & Kush Pvt. Ltd. may issue revised tax invoices against the invoices already issued during the period between effective date of registration (5th September) and the date of issuance of registration certificate (6th October), within 1 month from 6th October.

Further, Luv & Kush Pvt. Ltd may issue a consolidated revised tax invoice in respect of all taxable supplies made to unregistered dealers during such period. However, in case of inter-State supplies where the value of supply does not exceed 2.5 Lakh, a consolidated revised invoice may be issued separately in respect of all unregistered recipients located in a State.

Concept Problem 4

Jain & Sons is a trader dealing in stationery items. It is registered under GST and has undertaken following sales during the day:

S No.	Recipient of Supply	Amount
1	Raghav Traders - a registered retail dealer	190
2	Dhruv Enterprises – an unregistered trader	358
3	Gaurav – a Painter [unregistered]	500
4	Oberoi Orphanage – an unregistered entity	188
5	Aaradhya – a student [unregistered]	158

None of the recipients require a tax invoice [Raghav Traders being a composition dealer].

Determine in respect of which of the above supplies, Jain & Sons may issue a Consolidated Tax Invoice instead of Tax Invoice at the end of the day?

Solution

In the given illustration, Jain & Sons can issue a Consolidated Tax Invoice only with respect to supplies made to Oberoi Orphanage [worth ₹ 188] and Aaradhya [worth ₹ 158] as the value of goods supplied to these recipients is less than ₹ 200 as also these recipients are unregistered and don't require a tax invoice.

As regards the supply made to Raghav Traders, although the value of goods supplied to it is less than ₹ 200, Raghav Traders is registered under GST. So, Consolidated Tax Invoice cannot be issued.

Consolidated Tax Invoice can also not be issued for supplies of goods made to Dhruv Enterprises & Gaurav although both of them are unregistered. The reason for the same is that value of goods supplied is not less than ₹ 200.

Concept Problem 5

Kartik & Co., a registered supplier under GST, provides the following information regarding various tax invoices issued by it during the month of March:

- i) Value of supply charged in invoice no. 1 was ₹ 2,50,000 against the actual taxable value of ₹ 2,30,000.
- ii) Tax charged in invoice no. 4 was ₹ 32,000 against the actual tax liability of ₹ 68,000 due to wrong HSN code being chosen while issuing invoice.
- iii) Value charged in invoice no. 8 was ₹ 3,20,000 as against the actual value of ₹ 4,20,000 due to wrong quantity considered while billing.

Kartik & Co. asks you to solve the following:

- (1) Who shall issue a debit/credit note under CGST Act?
- (2) Whether debit note or credit note has to be issued in each of the above circumstances?
- (3) What is the maximum time-limit available for declaring the credit note in the GST Return?

Solution

- (1) The debit/credit note shall be issued by the registered person who has supplied the goods and/or services, i.e., Kartik & Co.
- (2) Yes, debit/credit note need to be issued in each of the circumstances as under:
 - i) A credit note is required to be issued as the taxable value in invoice no. 1 exceeds the actual taxable value.
 - ii) A debit note is required to be issued as the tax charged in the invoice no. 4 is less than the actual tax payable.
 - iii) A debit note is required to be issued as the value of supply charged in the invoice no. 8 is less than the actual value.
- (3) The details of the credit note cannot be declared later than **30th November** of the year following the end of the financial year in which such supply was made or the date of furnishing of the relevant annual return, whichever is earlier.

Concept Problem 6

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

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

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

Solution

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

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

- b) Section 31 read with the CGST Rules, inter alia, provides that tax invoice in addition to other mandatory details shall also contain the amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess).

Further, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made.

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

Concept Problem 7

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

Date	Bill No.	Particulars	Invoice Value (including GST)
5 th April	102	Notebooks [10 in numbers]	1,200
10 th May	197	Chart Paper [4 in number]	600
20 th May	230	Crayon colors [2 packets]	500
2 nd June	254	Poster colors [5 packets]	900
22 nd June	304	Pencil Box [4 sets]	700

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

Solution

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

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

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

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

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

Concept Problem 8

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

Solution

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

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

Therefore, in case subsequently no services are supplied by Udai Singh, and no tax invoice is issued in pursuance thereof, Udai Singh may issue a refund voucher against such payment to Sujamal.

Concept Problem 9

Mr. Mayank provides Continuous Supply of Services (CSS) to M/s. Omega Limited. He furnishes the following further information:

- | | |
|---|------------|
| a) Date of commencement of Providing CSS | 01-10-20XX |
| b) Date of completion of Providing CSS | 31-01-20XX |
| c) Date of receipt of payment by Mr. Mayank | 30-03-20XX |

Determine the time of issue of invoice as per provisions of CGST Act, 2017, in the following circumstances:

- i) If no due date for payment is agreed upon by both under the contract of CSS.
- ii) If payment is linked to the completion of service.
- iii) If M/s. Omega Limited has to make payment on 25-03-20XY as per the contract between them.

Solution

- i) Where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment

Thus, in the given case, the invoice should be issued on or before 30.03.20XY (date of receipt of payment by Mr. Mayank).

- ii) If payment is linked to the completion of an event, the invoice should be issued on or before the date of completion of that event.

Since in the given case payment is linked to the completion of service, invoice should be issued on or before 31.01.20XY (date of completion of service).

- iii) Where the due date of payment is ascertainable from the contract, the invoice should be issued on or before the due date of payment.

If M/s. Omega Limited has to make payment on 25.03.20XX as per the contract between them, the invoice should be issued on or before 25.03.20XX.

Concept Problem 10

Determine in which of the following independent cases, e-invoicing is applicable

- i. Harnam & Co., dealing in interior decoration products made supplies to various registered and unregistered persons in the preceding financial year. The aggregate turnover of Harnam & Co. in preceding FY is 60 crores.
- ii. Rich & Poor Bank, registered under GST has an aggregate turnover of 75 crore in the preceding financial year.

Solution

All registered businesses with an aggregate turnover (based on PAN) in any preceding year from 2017-18 onwards greater than 5 crores are required to issue e- invoices in respect of B2B supplies(supply of goods and/or services to a registered person).

Further, following entities are exempt from the mandatory requirement of e-invoicing :-

- a. Special Economic Zone Units
- b. Insurer or banking company or financial institution including NBFC.
- c. GTA supplying services in relation to transportation of goods by road in a goods carriage
- d. Supplier of passenger transportation service
- e. Person supplying services by way of admission of exhibition of cinematograph films in multiplex screens
- f. Government Department and a local authority.

Thus, above mentioned entities are not required to issue e- invoices even if their turnover exceeds 5 crores in the preceding financial year from 2017-18 onwards.

In view of the above-mentioned provisions, the Solution to the independent cases are as under:-

- i. The aggregate turnover of Harnam & Company exceeds the threshold limit of aggregate turnover applicable for e-invoicing. Thus, Harnam & Company is mandatorily required to issue e-invoices in respect of supplies made to registered persons.
- ii. Banking company is specifically exempt from mandatory requirement of e-invoicing even if the turnover exceeds 5 crores in the preceding financial year. Thus, e- invoicing is not applicable to Rich & Poor Bank.

Concept Problem 11

Bali Limited, a registered taxpayer, provides security services to registered persons from Mumbai office and Delhi Office. The aggregate turnover of Mumbai office and Delhi office in the preceding financial year is 15 crore and 10 crores respectively. For the month of November in the current year, Bali limited prepares duplicate invoices and does not issue e-invoices as it is of the view that its aggregate turnover does not cross the threshold limit to make it liable for issuing e-invoices.

Briefly explain whether the view taken by Bali Limited is correct in law? Also explain the advantages of e- invoicing.

Solution

The view taken by Bali Limited is not correct in law.

All notified registered businesses (except specified class of persons) with an aggregate turnover (based on PAN), in respect of B2B supplies (supply of goods or services or both to a registered person) or for exports, in any preceding financial year from 2017-18 onwards greater than 5 crores are required to issue e-invoices

The eligibility is based on aggregate turnover on the common PAN. Since, the aggregate turnover of Bali Limited in preceding FY is more than 5 crores (considering both the GSTINs), it is required to issue e-invoices.

Further, where e-invoicing is applicable, there is no need of issuing invoice copies in triplicate/ duplicate.

E-invoice has many advantages for business, which have been given as under-

- a) **Auto-reporting** of invoices into GSTR 1 of the supplier and GSTR 2B of the Recipient along with auto-generation of EWB.
- b) Substantial **reduction in transcription errors** as same data will get reported to tax department as well as to

the buyer to prepare his inward supplies register.

- c) It facilitates **standardization & interoperability** leading to reduction of disputes among transacting parties, improve payment cycles, reduction of processing costs and thereby greatly improving overall business efficiency.
- d) Complete trail of B2B invoices is available with the Department. It will enable the system-level matching of ITC and output tax thereby **reducing the tax evasion**.
- e) E- invoicing will **eliminate the fake invoices**.

Concept Problem 12

Ministry of Communications and Information Technology, a Government Department registered under GST has an aggregate turnover of 52 crore 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?

Or

A Government Department is registered under GST. It's aggregate turnover in the preceding financial year is INR 22 crore. You are required to comment with the help of relevant provisions whether the said Department is required to issue e-invoices in the current financial year. [RTP Nov 23]

Solution

Following entities are exempt from the mandatory requirement of e-invoicing:

- i) Special Economic Zone units
- ii) Insurer or banking company or financial institution including NBFC
- iii) GTA supplying services in relation to transportation of goods by road in a goods carriage
- iv) Supplier of passenger transportation service
- v) Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens
- vi) Government Department and a local authority

Thus, above mentioned entities are not required to issue e-invoices even if their turnover exceeds 5 crores in the preceding financial year from 2017-18 onwards.

Thus, Ministry of Communications and Information Technology, being a Government Department is not required to issue e-invoices in the current financial year even if its aggregate turnover has exceeded 5 crores.

Concept Problem 13

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

Solution

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

- i) date and number of the delivery challan;
- ii) name, address and Goods and Services Tax Identification Number of the consigner, if registered;
- iii) name, address and Goods and Services Tax Identification Number or Unique Identity Number of the consignee, if registered;
- iv) Harmonized System of Nomenclature code and description of goods;
- v) quantity (provisional, where the exact quantity being supplied is not known);

- vi) taxable value;
- vii) tax rate and tax amount - central tax, State tax, integrated tax, Union territory tax or cess, where the transportation is for supply to the consignee;
- viii) place of supply, in case of inter-State movement; and
- ix) signature.

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

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

Concept Problem 14

What are the documents and devices to be carried by person-in-charge of conveyance under rule 138A of CGST Rules, 2017?

Solution

The person-in-charge of a conveyance has to carry -

- a) the invoice or bill of supply or delivery challan, as the case may be; and
- b) a copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance [except in case of movement of goods by rail or by air or vessel] in such manner as may be notified by the Commissioner

Concept Problem 15

Dhananjay Associates registered in Gujarat deals in industrial grade iron and steel products. The proprietor of Dhananjay Associates sold TMT Iron bars (GST applicable @ 18%) to a retailer in Maharashtra at a value of INR 40,000 (excluding GST). As per the agreement of sale, goods are to be delivered at the premises of retailer. The transportation cost of INR 7,000 has been charged separately to deliver the same to the retailer in Maharashtra. In the above scenario, determine whether an e-way bill is required to be issued under GST?

Solution

Consignment value of goods is the value determined in accordance with the provisions of section 15, and also includes the central tax, state or union territory tax, integrated tax and cess charged, if any, in the document.

Further, since arranging freight is the liability of supplier, it is a case of composite supply and thus, freight charges are to be added in the value of principal supply.

Accordingly, the value of supply as per section 15 in the given case would include the transportation cost in the invoice value i.e. INR 47,000 (40,000 + 7,000).

Consignment value = 47,000 x 118% = 55,460.

Since the movement of goods is in relation to supply of goods and the consignment value exceeds 50,000, e-way bill is mandatorily required to be issued under GST in the given case.

Concept Problem 16

Discuss the correctness of the following statements:

- (i) Once generated, an e-way bill cannot be cancelled.
- (ii) E-way bill generated in one State is valid in another State.

Solution

- i) The said statement is partially correct. Where an e-way bill has been generated, but goods are either not transported at all or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal within 24 hours of generation of the e-way bill.

However, an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B of the CGST Rules, 2017.

- ii) The said statement is correct. The e-way bill generated under Goods and Services Tax Rules of any State or Union territory shall be valid in every State and Union territory.

Concept Problem 17

Mr. Shah, a consignor is required to move goods from Ahmedabad (Gujarat) to Nadiad (Gujarat). He appoints Mehta Transporter for movement of goods. Mehta Transporter moves the goods from Ahmedabad (Gujarat) to Kheda (Gujarat). For completing the movement of goods from Kheda (Gujarat) to Nadiad (Gujarat), Mehta Transporter now hands over the goods to Parikh Transporter.

Explain the procedure regarding e-way bill to be followed by consignor and transporter as per provisions of GST law and rules made thereunder.

Solution

In the given scenario, only one e-way bill is required to be issued.

Part A can be filled by either Mr. Shah or recipient of goods or Mehta Transporter on the appropriate authorisation.

Where the goods are transferred from one conveyance to another, the consignor or the recipient, who has provided information in Part A, or the transporter shall, before such transfer and further movement of goods, update the details of conveyance in the e-way bill on the common portal in Part B.

Thus, on reaching Kheda, Mr. Shah or the recipient of the goods, who has filled Part A of the e-way bill, or Mehta Transporter can, before the transfer and further movement of goods, update the details of conveyance in Part B of the e-way bill.

Further, the consignor or the recipient, who has furnished the information in Part A, or the transporter, may assign the e-way bill number to another registered or enrolled transporter for updating the information in Part B for further movement of the consignment.

Thus, on reaching Kheda, Mr. Shah or the recipient of the goods, or Mehta Transporter can assign the said e-way bill to Parikh Transporter who will thereafter update the details of conveyance in Part B.

However, upon updation of the details of the conveyance by Parikh transporter in Part B, Mr. Shah or recipient, as the case may be, who has furnished the information in Part A shall not be allowed to assign the e-way bill number to another transporter.

Concept Problem 18

ABC Cinemas, a registered person engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens was issuing consolidated tax invoice for supplies at the close of each day in terms of section 31(3)(b) of CGST Act, 2017 read with fourth proviso to rule 46 of CGST Rules, 2017.

During the month of October, 20XX, the Department raised objection for this practice and asked to issue separate tax invoices for each ticket.

Advise ABC Cinemas for the procedure to be followed in the light of recent notification.

Solution

The procedure to be followed by ABC Cinemas, a registered person engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens, is as under-

- The option to issue consolidated tax invoice is not available to a supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens. Thus, ABC Cinemas cannot issue consolidated tax invoice for supplies made by it at the close of each day.

- ABC Cinemas is required to issue an electronic ticket.
- The said electronic ticket shall be deemed to be a tax invoice, even if such ticket does not contain the details of the recipient of service but contains the other information as prescribed to be mentioned.

Concept Problem 19

Mr. Sohan, a trader registered under GST in Delhi is engaged in wholesale business of toys for kids. Mr. Roshan registered under GST in Patiala, a regular return filer supplies toys in bulk to Mr. Sohan for selling to end consumers.

Mr. Sohan paying tax in regular scheme in Delhi, has not filed GSTR-3B for last 2 months. Mr. Roshan wants to generate e-way bill for toys amounting to 5,00,000 to be supplied to Mr. Sohan. Also Mr. Mohan from Jammu approached Mr. Sohan for purchasing toys amounting to 75,000 for the purpose of return gift on his son's first birthday party. Sohan wants to generate an e-way bill in respect of an outward supply of goods to Mr. Mohan.

Examine with reference to the provisions under GST law, whether Mr. Roshan and Mr. Sohan can generate e-way bill?

Solution

A user will not be able to generate e-way bill for a GSTIN if the said GSTIN is not eligible for e-way bill generation.

The blocking of GSTIN for e-way bill generation is only for the defaulting supplier GSTIN and not for the defaulting Recipient or Transporter GSTIN.

A person paying tax under regular scheme who has not furnished the returns for a consecutive period of 2 tax periods is considered as a defaulting person.

Suspended GSTIN cannot generate e-way bill as supplier. However, the suspended GSTIN can get the e-way bill generated as recipient or as transporter.

In other words, e-way bill generation facility is blocked only in respect of any outward movement of goods of the registered person who is not eligible for e-way bill generation. E-way bills can be generated in respect of inward supplies of said registered person.

Thus, applying the above provisions, there will be no restriction in generating e-way Bill by Mr. Roshan as Mr. Roshan who is making outward movement of goods is a regular return filer.

E-way bill generation is blocked in case of movement of goods made by Mr. Sohan to Mr. Mohan as it's an outward movement of goods of Mr. Sohan who has not filed GSTR-3B for past 2 months.

Concept Problem 20

M/s Sakura Enterprises made an inter-State supply of taxable goods valued at INR 47,500 and exempt goods valued at INR 2,000. Rate of IGST for taxable supply was 6%. Determine, with brief reasons, whether e-way bill generation is mandatory for the above supply made by M/s Sakura Enterprises.

Solution

In the given case, consignment value of goods (including GST and excluding value of exempt supply) is INR 50,350 ($47,500 \times 106\%$).

Since there is a movement of goods of consignment value exceeding INR 50,000, M/s Sakura Enterprises is mandatorily required to issue e-way bill.

Concept Problem 21 [ICAI May 2023]

When goods are transferred by principal to job worker, there is no need to issue e-way bill. Comment on the validity of the above statement with reference to GST Laws.

Solution

The said statement is not valid.

When goods are transferred by principal to job worker, e-way bill is required to be mandatorily issued:

- a) in case of intra-State transfer, if consignment value exceeds 50,000, and
- b) in case of inter-State transfer, irrespective of the value of the consignment.

Concept Problem 22 [RTP Nov 23] [MTP Nov 23]

Mr. X, a registered person has caused movement of goods of consignment value exceeding INR 50,000 in relation to a supply and thus, generated e-way bill. However, after generation of e-way bill, he found a mistake in the e-way bill and wants to edit it. You are required to advise Mr. X whether he can do so with the help of relevant provisions?

Solution

If there is a mistake, incorrect or wrong entry in the e-way bill, then it cannot be edited or corrected. Only option is cancellation of e-way bill within 24 hours of generation and generate a new one with correct details.

Thus, in view of the above-mentioned provisions, Mr. X cannot edit the e-way bill. However, he can cancel the e-way bill within 24 hours of generation and generate a new one with correct details.

Concept Problem 23

Talli Lal, a registered person, has transported alcoholic liquor for human consumption of consignment value of INR 1,50,000 from Delhi to Haryana. He has not generated e-way bill for the same. You are required to examine the correctness of action taken by Talli Lal.

Solution

E-way bill is not required to be generated where the goods being transported are alcoholic liquor for human consumption.

Thus, the action of Talli Limited of not generating the e-way bill is correct in law.

Concept Problem 24 [ICAI May 2022]

"One consolidated e-way bill can be generated for multiple invoices". Comment on the validity of the above statement with reference to GST law.

Solution

The statement is invalid.

Multiple invoices cannot be clubbed to generate one e-way bill. If multiple invoices are issued by the supplier to recipient, for movement of such goods, multiple e-way bills have to be generated.

Thus, for each invoice, one e-way bill has to be generated, irrespective of the fact whether same or different consignors or consignees are involved.

However, after generating all these e-way bills, one consolidated e-way bill can be prepared for transportation purpose, if goods are going in one vehicle.

CHAPTER 11

ACCOUNTS & RECORDS

Concept Problem 1

Who is required to maintain books of accounts and at which place in terms of Section 35 read with relevant rules?

Solution

Every registered person shall keep and maintain, his books of accounts at his principal place of business and books of account relating to additional place of business as mentioned in the certificate of registration.

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.

Concept Problem 2 [MTP May 24]

Mr. Sky is engaged in the business of trading of mobiles. He is eligible for composition scheme and has opted for the same. He seeks your advice for records which are not required to be maintained by him as composition taxable person.

Solution

A supplier who has opted for composition scheme is not required to maintain records relating to;

- Stock of goods:** Accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of the opening balance, receipt, supply, goods lost stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.
- Details of tax:** Account, containing the details of tax payable (including tax payable under reverse charge), tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.

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

Concept Problem 3

Mr. Harsh Manjula is engaged in the business of works contract services and request your guidance as to specific records required to be maintained by him under GST law, if any.

Solution

Mr. Harsh Manjula, executing works contract shall keep separate accounts for works contract showing -

- the names and addresses of the persons on whose behalf the works contract is executed;
- description, value and quantity (wherever applicable) of goods/services received for the execution of works contract;
- description, value and quantity (wherever applicable) of goods/services utilized in the execution of works contract;
- the details of payment received in respect of each works contract; and
- the names and addresses of suppliers from whom he received goods or services.

Concept Problem 4

Chill Chain Cold is operating cold storage warehouse and seeks your guidance on the GST accounts and records to be maintained by them in terms of Section 35.

Solution

Chill Chain Cold shall maintain records of the consigner, consignee and other relevant details of the goods in the prescribed manner.

Chill Chain Cold shall also maintain books of accounts with respect to the period for which particular goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt, and disposal of such goods.

Chill Chain Cold shall store the goods in such manner that they can be identified item-wise and owner-wise and shall facilitate any physical verification or inspection by the proper officer on demand.

Concept Problem 5

Mr. X is of the view that records are to be mandatorily maintained manually only. You are required to examine the view taken by Mr. X?

Solution

The view taken by Mr. X is not valid in law. Records may be maintained in electronic form as follows:

- i) Books of account include any electronic form of data stored on any electronic device.
- ii) The registered person may keep and maintain such accounts in electronic form stored on any electronic device and record so maintained shall be authenticated by means of a digital signature.
- iii) Proper electronic back-up of records shall be maintained and preserved in such manner that, in the event of destruction of such records due to accidents or natural causes, the information can be restored within a reasonable period of time.
- iv) The registered person maintaining electronic records shall produce, on demand, the relevant records or documents, duly authenticated by him, in hard copy or in any electronically readable format.
- v) Where the accounts and records are stored electronically by any registered person, he shall, on demand, provide the details of such files, passwords of such files and any other information which is required for such access along with a sample copy in print form of the information stored in such files.

CHAPTER 13

PAYMENT OF TAX

Concept Problem 1

M/s. Daksha Enterprises has made a cash deposit of INR 10,000 under minor head 'tax' of major head 'SGST'. It has a liability of INR 2,000 for minor head "Interest" under the major head "SGST".

State whether M/s. Daksha Enterprises can utilise the amount available for payment of interest.

Solution

The Registered person is allowed to transfer the amount available under any minor head of a major head to any of the minor head of the same or other major head as per Section 49(10) of the CGST Act vide Form PMT-09.

Therefore, in the given case, amount of INR 10,000 available under minor head 'tax' of major head 'SGST' can be utilised for payment of liability of INR 2,000 under minor head 'interest' of the same major head, **after making a due transfer entry using Form GST PMT-09 from the minor head of 'tax' to 'interest'**.

Concept Problem 2

Are principles of unjust enrichment applicable for payment of tax made under GST?

Solution

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

Concept Problem 3

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

Solution

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

Concept Problem 4

Sahil is a supplier of taxable goods in Karnataka. He got registered under GST in the month of September, 20XX and wishes to pay his IGST liability for the month. Since he is making the GST payment for the first time, he is of the view that he needs to mandatorily have the online banking facility to make payment of GST; offline payment is not permitted under GST. You are required to apprise Sahil regarding the various modes of deposit in the electronic cash ledger. Further, advise him with regard to following issues:

- i) Are manual challans allowed under GST?
- ii) What is the validity period of the challan?

iii) Is cross utilization among Major and Minor heads of the electronic cash ledger permitted?

Solution

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

- Internet Banking through authorised banks;
- Credit card or Debit card through the authorised bank;
- National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or
- Over the Counter payment through authorised banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft.
- Unified Payment Interface
- Immediate Payment System

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

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

Concept Problem 5

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

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

Do you think Suhasini is right? Explain with reasons assuming provisions of rule 86B are not applicable.

Solution

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

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

Concept Problem 6

Mr. Ram Narayan, a registered supplier under GST, wants to first discharge his self- assessed tax liability for the current period before settling the dues for the previous tax period. Examine briefly whether he can do so?

Solution

As per section 49(8) of the CGST Act, 2017, the liability of a taxable person has to be discharged in a chronological order as under:

- self-assessed tax and other dues for the previous tax periods have to be discharged first;

- ii) the self-assessed tax and other dues for the current period have to be discharged next;
- iii) Once these two steps are exhausted, thereafter any other amount payable including demand determined under section 73 or section 74 of the CGST Act, 2017 to be discharged. In other words, the liability if any, arising out of demand notice and adjudication proceedings comes last.

This sequence has to be mandatorily followed.

Thus, in view of the above-mentioned provisions, Mr. Ram Narayan cannot discharge his self-assessed tax liability for the current period before settling the dues for the previous tax period.

Concept Problem 7 [ICAI May 2023]

Mr. Manik provides the following information regarding his tax & other liabilities under GST law as per Electronic Liability Register:

Sr. No.	Particulars	Amount
1.	Tax due for the month of May	25,000
2.	Interest due for the month of May	2,000
3.	Penalty due for the month of May	3,000
4.	Tax due for the month of June	35,000
5.	Liability arising out of demand notice u/s 73	48,000

Mr. Manik wants to clear his liability of demand notice u/s 73 first.

Discuss the provision of order of discharge of GST liability u/s 49 (8) of the CGST Act & advice to Mr. Manik.

Solution

The order of discharge of GST liability under section 49(8) of the CGST Act is as under:

- i) self-assessed tax, interest, penalty, fee or any other amount related to returns of the previous tax periods.
- ii) self-assessed tax, interest, penalty, fee or any other amount related to returns of the current tax period.
- iii) any other amount payable including demand determined under section 73 or section 74,

In view of the above provisions, Mr. Manik cannot clear his liability of demand notice u/s 73 first.

The order of discharge of liability of Mr. Manik will be as under:

1. Tax, interest and penalty for the month of May, 30,000
2. Tax due for the month of June, 35,000
3. Liability arising out of demand notice u/s 73, 48,000.

CHAPTER 14

TDS & TCS

Concept Problem 1

If Mr. A purchase goods from different vendors and in turn Mr. A, is selling them on his own website under his own billing, Does he fall under the definition of an “electronic commerce operator”? Is TCS required to be collected on such supplies?

Solution

As per the definitions in Section 2(44) and 2(45) of the CGST Act, 2017, Mr. X will come under the definition of an “electronic commerce operator”.

However, according to Section 52 of the CGST Act, 2017, TCS is required to be collected on the net value of taxable supplies made through E-commerce operator by other suppliers where the consideration is to be collected by the ECO.

In this case, there are two transactions - Mr. A purchase the goods from the vendors, and those goods are sold through his own website.

For the first transaction, GST is leviable, and will need to be paid to vendor, on which credit is available to Mr. A.

The second transaction is a supply on own account of Mr. A, and not by other suppliers and there is **no requirement to collect tax at source**. The transaction will attract GST at the prevailing rates.

Concept Problem 2

Whether the rate of tax of 1% notified under section 52 is CGST or SGST or a combination of both CGST and SGST?

Solution

The rate of TCS as notified under CGST Act is payable under CGST and the equal rate of TCS is expected under the SGST Act also, in effect aggregating to 1%.

Concept Problem 3

State whether the provisions pertaining to tax collected at source under section 52 of CGST Act, will be applicable, if ABC limited who is dealer of Royul brand sells watches through Slipkart, an electronic commerce operator?

Solution

As per Section 52, every electronic commerce operator not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.

If ABC limited who is dealer of Royul brand sells watches through Slipkart, then the provision of TCS will be applicable to Slipkart.

Concept Problem 4

Ramlala Enterprises, registered in Delhi, is engaged in supply of interior decoration services to Andhra Bhawan located in Delhi. Service contract is entered into with the Government of Andhra Pradesh (registered only in Andhra Pradesh). The total contract value inclusive of GST is Rs 15,50,000 and payment for the same is due in October, 2023.

You are required to determine amount of tax, if any, to be deducted in the above case assuming the rate of CGST, SGST and IGST as 9%, 9% and 18% respectively.

Will your answer be different, if Ramlala Enterprises is registered under composition scheme?

Solution

As per section 51 of the CGST Act, 2017 read with section 20 of the IGST Act, 2017 and *Notification No. 50/2018 CT 13.09.2018*, following persons are required to deduct CGST @ 1% [Effective tax 2% (1% CGST + 1% SGST/UTGST)] or IGST @ 2% from the payment made/credited to the supplier (deductee) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds 2,50,000:

- (a) a department or establishment of the Central Government or State Government; or
- (b) local authority; or
- (c) Governmental agencies; or
- (d) an authority or a board or any other body, set up by an Act of Parliament or a State Legislature; or established by any Government, with 51% or more participation by way of equity or control, to carry out any function; or
- (e) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860, or
- (f) Public sector undertakings.

Further, for the purpose of deduction of tax, the value of supply shall be taken as the amount excluding CGST, SGST/UTGST, IGST and GST Compensation Cess indicated in the invoice.

Proviso to section 51(1) of the CGST Act, 2017 stipulates that no tax shall be deducted if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.

Section 12(3) of the IGST Act, 2017, *inter alia*, stipulates that the place of supply of services, directly in relation to an immovable property, including services provided by interior decorators, shall be the location at which the immovable property is located or intended to be located. Accordingly, the place of supply of the interior decoration of Andhra Bhawan shall be Delhi.

Since the location of the supplier (Ramlala Enterprises) and the place of supply is Delhi and the State of registration of the recipient i.e. Government of Andhra Pradesh is Andhra Pradesh, no tax is liable to be deducted in the given case.

The answer will remain unchanged even if Ramlala Enterprises is registered under composition scheme.

CHAPTER 15

RETURNS UNDER GST

Concept Problem 1

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

Ms. Pragma, a taxpayer registered under regular scheme (Section 9), files GSTR-3B for the month of October on 20th November. After filing the return, she discovers that the value of a taxable supply has been under-reported therein.

Ms. Pragma now wants to file a revised GSTR-3B. Examine the scenario and give your comments.

Solution

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

As per section 39(9), omission or incorrect particulars discovered in the returns filed u/s 39 can be rectified in the return to be filed for the month during which such omission or incorrect particulars are noticed. Any tax payable as a result of such error or omission will be required to be paid along with interest. The rectification of errors/omissions is carried out by entering appropriate particulars in “Amendment Tables” contained in GSTR-1.

However, no such rectification of any omission or incorrect particulars is allowed after the 30th November of the year following the end of the financial year to which such details pertain, or the actual date of furnishing of relevant annual return, whichever is earlier.

Concept Problem 2

"All taxpayers are required to file GSTR-1 only after the end of the tax period." Examine the validity of the statement.

Solution

The statement is partially valid.

A taxpayer cannot file Form GSTR-1 before the end of the current tax period. However, following are the exceptions to this rule:

- Casual taxpayers, after the closure of their business
- Cancellation of GSTIN of a normal taxpayer.

A taxpayer who has applied for cancellation of registration will be allowed to file Form GSTR-1 after confirming receipt of the application.

Concept Problem 3

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

Is he liable to file GSTR-4 for the said F.Y. during which he opted out of composition scheme? Discuss.

Solution

Where a taxpayer opts to withdraw from the composition scheme, he has to file GSTR-4 for the period for which he has paid tax under the composition scheme. Such return is required to be furnished till 30th day of April following the end of the financial year during which such withdrawal falls.

Therefore, in the given case, Mr. Kalpesh is liable to file GSTR-4 for the said F.Y. during which he opted out of composition scheme by 30th April of next F.Y.

Concept Problem 4

List the details of outward supplies which can be furnished using Invoice Furnishing Facility (IFF).

Solution

Details of outward supplies which can be furnished using IFF are as follows:

- invoice wise details of inter-State and intra-State supplies made to the registered persons;
- debit and credit notes, if any, issued during the month for such invoices issued previously.

Concept Problem 5

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

Whether the process followed by Quicktax is correct?

Solution

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

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

Concept Problem 6

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

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

Solution

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

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

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

Concept Problem 7

Mr. X, a registered taxpayer under regular scheme, did not make any taxable supply during the month of July. Is he required to file a GSTR-3B?

Solution

A registered taxpayer is required to furnish a return u/s 39 for every month even if no supplies have been effected during such period. In other words, filing of Nil GSTR-3B is also mandatory. Therefore, Mr. X is required to file GSTR-3B even if he did not make any taxable supply during the month of July.

Concept Problem 8

Assuming in (7) above, Mr. X does not have internet facility in his mobile and there is no facilitation center notified by the commissioner, whether no return is required to be filed in the absence of means to file return? Explain.

Solution

GSTR-3B can be submitted electronically on the common portal, either directly or through a Facilitation Center notified by the Commissioner. Further, a Nil GSTR-3B can be filed through an SMS using the registered mobile number of the taxpayer.

Thus, Mr. X is required to file Nil GSTR-3B for the month of August through an SMS using his registered mobile number even though there is no internet facility in her mobile and no facilitation Center notified by the Commissioner.

Concept Problem 9

M/s Cavenon Enterprises, a registered supplier of designer wedding dresses under regular scheme, has aggregate annual turnover of INR 30 lakh in the preceding financial year. It is of the view that in the current financial year, it is permitted to file its statement of outward supplies (GSTR-1) on a quarterly basis while its accountant advises it to file the same on a monthly basis.

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

Solution

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

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

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

Concept Problem 10

Mr. Gauri Shiva, a registered person in Punjab, supplies goods taxable @ 12% [CGST @ 6%, SGST @ 6% & IGST @ 12%] in the States of Punjab and Haryana. He has furnished the following details in relation to independent supplies made by him in the quarter ending June, 20XX:

Supply	Recipient	Nature of supply	Value
1	Mr. A, a registered person	Inter-State	2,20,000
2	Mr. B, a registered person	Inter-State	2,55,000
3	Mr. C, an unregistered person	Intra -State	1,80,000
4	Mr. D, an unregistered person	Intra-State	2,60,000
5	Mr. M, an unregistered person	Inter-State	3,00,000
6	Mr. N, an unregistered person	Inter-State	50,000
7	Mr. O, an unregistered person	Inter-State	2,50,000
8	Mr. P, an unregistered person	Inter-State	2,80,000
9	Mr. Q, a registered person	Intra-State	1,50,000
10	Mr. R, a registered person	Intra-State	4,10,000

The aggregate annual turnover of Mr. Gauri Shiva in the preceding financial year was INR 1.20 crore. With reference to rule 59 of the CGST Rules, 2017, discuss the manner in which the details of above supplies are required to be furnished in GSTR-1.

Solution

Rule 59 of the CGST Rules, 2017, inter alia, stipulates that the details of outward supplies of goods and/or services furnished in form GSTR-1 shall include the–

- a) invoice wise details of all –
 - i) inter-State and intra-State supplies made to the registered persons; and
 - ii) inter-State supplies with invoice value more than INR 2,50,000 made to the unregistered persons;
- b) consolidated details of all –
 - i) intra-State supplies made to unregistered persons for each rate of tax; and
 - ii) State wise inter-State supplies with invoice value upto two and a half lakh rupees made to unregistered persons for each rate of tax;

Thus, in view of the above-mentioned provisions, Mr. Gauri Shiva should furnish the details of outward supplies of goods made by him during the quarter ending June 20XX in the following manner:

Supply	Recipient	Nature of supply	Value	Manner of furnishing details
1	Mr. A, a registered person	Inter-State	2,20,000	Invoice-wise details
2	Mr. B, a registered person	Inter-State	2,55,000	Invoice-wise details
3	Mr. C, an unregistered person	Intra-State	1,80,000	Consolidated details of supplies 3 and 4
4	Mr. D, an unregistered person	Intra-State	2,60,000	
5	Mr. M, an unregistered person	Inter-State	3,00,000	Invoice-wise details
6	Mr. N, an unregistered person	Inter-State	50,000	Consolidated details of supplies 6 and 7
7	Mr. O, an unregistered person	Inter-State	2,50,000	
8	Mr. P, an unregistered person	Inter-State	2,80,000	Invoice-wise details
9	Mr. Q, a registered person	Intra-State	1,50,000	Invoice-wise details
10	Mr. R, a registered person	Intra-State	4,10,000	Invoice-wise details

Concept Problem 11 [MTP May 2023]

Briefly elaborate the provisions relating to nil GSTR-3B.

Solution

Filing of GSTR-3B is mandatory for all normal and casual taxpayers, even if there is no business activity in any particular tax period. For such tax period(s), a Nil GSTR-3B is required to be filed.

A Nil GSTR-3B does not have any entry in any of its tables. For example, a Nil GSTR-3B for a tax period cannot be filed, if the taxpayer has made any outward supply (including nil-rated, exempt or non-GST supplies) or has received any supplies which are taxable under reverse charge or it intends to take ITC etc.

A Nil GSTR-3B can be filed through an SMS using the registered mobile number of the taxpayer. GSTR-3B submitted through SMS is verified by registered mobile number-based OTP facility.

A taxpayer may file Nil GSTR-3B, anytime on or after the 1st day of the subsequent month/quarter for which the return is being filed for.

Concept Problem 12

What are cases where a registered person is debarred from furnishing details of outward supplies in GSTR-1/IFF?

Solution

A registered person shall not be allowed to furnish the details of outward supplies in Form GSTR-1 for the current tax period in following cases:

- i) if he has not furnished statement of outward supply in Form GSTR 1 for any of the preceding tax period or
- ii) if he has not furnished return in Form GSTR 3B for any of the preceding tax period; or
- iii) where an intimation has been issued under rule 88C in respect of a tax period and such registered person has neither deposited the amount specified in the said intimation nor has furnished a reply explaining the reasons for any amount remaining unpaid.
- iv) Where an intimation has been issued on the common portal under the provisions of rule 88D(1) in respect of a tax period/periods and he has not paid the amount equal to the excess ITC as specified in the said intimation or has furnished a reply explaining the reasons in respect of the amount of excess ITC that still remains to be paid, as required under rule 88D(2);
- v) if he has not furnished the details of the bank account as per the provisions of rule 10A.

Concept Problem 13 [ICAI May 2023]

Mr. Sumit is a registered dealer in the state of Punjab. In the month of May, he decided to apply for QRMP scheme. As he wants to switch to QRMP scheme, he had not filed his returns for the months of May and June.

Please guide to Mr. Sumit regarding the following:

- a) Conditions and restrictions of QRMP scheme.
- b) Manner of exercising option of QRMP scheme.

Solution**(a) Conditions and restrictions of QRMP scheme**

Mr. Sumit has to fulfil the following conditions and restrictions for opting for QRMP scheme:

- a) His aggregate annual turnover (PAN based) is up to 5 crore in the preceding financial year.
- b) He has furnished the return for the preceding month, as due on the date of exercising such option.
- c) He is not required to exercise the option every quarter.

(b) Manner of exercising option of QRMP scheme

Registered person – Mr. Sumit - intending to opt for QRMP scheme for any quarter should indicate his preference for furnishing of return on a quarterly basis from 1st day of the 2nd month of the preceding quarter till the last day of the 1st month of the quarter for which the option is being exercised.