

## Chapter 2 Supply Under GST

### Section-7(1)(a)

**Q1. a) Rudraksh Kapoor, owner of Rudraksh Publishing House, Ghaziabad, U.P., donated some money to Divyaprakash Charitable Trust in the memory of his late father. The Divyaprakash Charitable Trust constructed a room in the school run by it from such donation and wrote “Donated by Rudraksh Kapoor in the memory of his father” on the door of the room so constructed. Examine whether the money donated by Rudraksh Kapoor is leviable to GST.**

**(b) In the above question, if Divyaprakash Charitable Trust had written on the door of the room constructed from the money donated by Rudraksh Kapoor in the School run by it Donated by Rudraksh Publishing House, Ghaziabad, U.P.”, would the given transaction/activity qualify as supply?**

**Answer:**

Circular No. 116/35/2019 GST dated 11. 10.2019 has clarified that in case of donations received by a charitable institution, when the name of the donors displayed in recipient institution’s premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor’s act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation).

Donations received by the charitable organizations are treated as consideration only if there exists, quid pro quo, i.e., there is an obligation on part of recipient of the donation or gift to do anything (supply of service).

Thus, GST is not leviable where all the following three conditions are satisfied namely:

- Gift or donation is made to a charitable organization
- Payment has the character of gift or donation
- Purpose is philanthropic (i.e., it leads to no commercial gain) and not advertisement.

a) In the backdrop of the above discussion, since in the given case, the way the name of Rudraksh Kapoor is displayed on the door of the room constructed in the school run by Divyaprakash Charitable Trust, it is only an expression of gratitude and public recognition of Rudraksh act of philanthropy and is not aimed at advertising or promoting his business. There is no reference/mention of his publishing house which otherwise would have got advertised.

Thus, the money donated by Rudraksh Kapoor is not a leviable to GST.

b) In the given case, since the name of Rudraksh Publishing House has been displayed on the door of the room constructed in the school run by Divyaprakash Charitable Trust, it might be aimed at advertising or promoting his business. There is a direct mention of his publishing house which is being advertised. In such a case, it is a supply of service by Divyaprakash Charitable Trust for a consideration received in the form of donation.

### Section-7(1)(c)

**Q2. Answer the following questions:**

**(a) Sudama Associates, a registered supplier, disposes the computers owned by the business without consideration and it has not claimed input tax credit on such computers. Examine whether the**

**disposal of computers by Sudama Associates qualifies as deemed supply under Schedule I of the CGST Act.**

- (b) Prithvi Enterprises appoints Champak to procure certain goods from the market. Champak identifies various suppliers who can provide the goods as desired by Prithvi Enterprises, and asks a supplier – Satya Manufacturers to send the goods and issue the invoice directly to Prithvi Enterprises. You are required to determine whether Champak can be considered as an agent of Prithvi Enterprises in terms of Schedule I of the CGST Act.**

**Answer:**

- (a) As per section 7(1)(c) read with Schedule I of the CGST Act, permanent transfer or disposal of business assets is treated as supply even though the same is made without consideration. However, this provision would apply only if input tax credit has been availed on such assets. Therefore, the disposal of computers by Sudama Associates is not a supply as the input tax credit has not been availed on the same.
- (b) As per section 7(1)(c) read with Schedule I of the CGST Act, supply of goods by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal qualifies as supply even if the same is made without consideration. Further, Circular No. 57/31/2018 GST dated 04.09.2018 clarifies that principal-agent relationship falls within the ambit of the Schedule I only where the goods being procured by the agent on behalf of the principal are invoiced in the name of the agent. In that case, further provision of the said goods by the agent to the principal without consideration, would be covered in Schedule I and thus would qualify as supply. In the given case, Champak is only acting as the procurement agent, and has in no way involved himself in the supply or receipt of the goods. The invoice is being issued in the name of Prithvi Enterprises and not Champak. Hence, Champak is not an agent of Prithvi Enterprises for the supply of goods in terms of Schedule I of the CGST Act.

**Q3. Mokshabhumi Industries has its manufacturing unit in the State of Maharashtra. It stores the finished goods manufactured by it at a depot located in the State of Gujarat. The depot is owned by Punyabhumi Ltd. – a related person of Mokshabhumi Industries. Punyabhumi Ltd. has not charged any consideration from Mokshabhumi Industries for usage of depot for storage purpose. Whether the storage of goods permitted by Punyabhumi Ltd. to Mokshabhumi Industries qualifies as supply under GST?**

**Answer:**

As per section 7(1)(c) read with Schedule I of the CGST Act, supply of goods or services or both between related persons without consideration when made in the course or furtherance of business qualifies as supply. Thus, the storage services provided by Punyabhumi Ltd. to Mokshabhumi Industries in course or furtherance of business qualifies as supply under GST even though no consideration has been charged for the same.

### Section-7(1A) & 7(3)

**Q4. Mr. Happy has a huge residential property located at a prime location in Mumbai, Maharashtra. He has let out the 1<sup>st</sup> and 2<sup>nd</sup> floor to Mr. Peace for residential purposes in April. Mr. Peace surrenders his tenancy rights to Mr. Serene for a tenancy premium of ₹ 10,00,000 on 1st June. Mr. Serene has also paid the applicable stamp duty and registration charges on transfer of tenancy rights. Moreover, Mr. Serene has agreed to pay a monthly rent of ₹ 1,00,000 to Mr. Happy from June. Determine the taxability of the transaction(s) involved in the given case, for the month of June.**

**Answer:**

Circular No. 44/2018 CT dated 02.05.2018 clarifies that the activity of transfer of tenancy right against

consideration [i.e., tenancy premium] is squarely covered under supply of service liable to GST. It is a form of lease or renting of property and such activity is specifically declared to be a service in Schedule II i.e., any lease, tenancy, easement, license to occupy land is a supply of services.

Although stamp duty and registration charges have been levied on such transfer of tenancy rights, it shall be still subject to GST. Merely because a transaction/supply involves execution of documents which may require registration and payment of, registration fee and stamp duty, would not preclude them from the 'scope of supply' and from payment of GST. The transfer of tenancy rights cannot be treated as sale of land/ building in Schedule III.

Thus, it is not a non-supply under GST and consequently, a consideration for the said activity shall attract levy of GST. Services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is liable to GST.

Hence, in the given case, the tenancy premium of ₹10,00,000 received by Mr. Peace for surrendering his tenancy rights to Mr. Serene is liable to GST. The circular further clarifies that since renting of residential dwelling for use as a residence is exempt [Entry 12 of Notification No. 12/2017 CT (R) dated 28.06.201732], grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both is exempt. Consequently, monthly rent ₹1,00,000 received by Mr. Happy from Mr. Serene is exempt.

**Q5. Nandeeshwar Manufacturers sends certain category of yarn for processing to the job worker. The job worker undertakes the processing work on the yarn as per the requirement of Nandeeshwar Manufacturers. During the process, the job worker uses his own material also. The processed yarn is sold by Nandeeshwar Manufacturers directly from the job worker premises.**

**Balance quantity of yarn and waste material is sent back by the job worker to Nandeeshwar Manufacturers. The job worker is of the opinion that he is using his own material also in the processing and hence the supply to Nandeeshwar Manufacturers is in the nature of supply of goods as well as services. Do you agree with the opinion of job worker? (MTP-I Dec'21)**

**Answer:**

1. No, the opinion of the job worker is not fully correct. Section 7(1A) provides that when certain activities or transactions constitute a supply in accordance with the provisions of section 7(1), they shall be treated either as a supply of goods or supply of services as referred to in Schedule II of the CGST Act. Any processing activity carried on any other person's goods is treated as supply of service in terms of Schedule
2. The job worker, in addition to the goods received from the principal, can use his own goods for providing the services of job work. These goods are not supply per se, but being used in the processing activity carried out by it. Thus, the activity undertaken by the job worker, in the given case, squarely falls within the purview of Schedule II and shall be considered as supply of service by the job worker to Nandeeshwar Manufacturers.

**Q6. Ajatasatru Industries enters into a contract with an actor – Chandragupta - to act as a brand ambassador of products manufactured by Ajatasatru Industries. The duration of the contract is 5 years and the contract fee payable to Chandragupta for being a brand ambassador is ₹ 50 lakh per annum. As per the terms of the contract, in case the contract is terminated by Chandragupta before the end of the contract period, Chandragupta will have to repay to Ajatasatru Industries, 50% of the contract fee received by him till the time of termination of contract. At the end of 3rd year, Chandragupta terminates the contract with Ajatasatru Industries. He has received the contract fee for 3 years at the time of termination of contract. You are required to determine whether the given transaction(s) qualifies(y) as supply(ies).**

**Answer:**

As per section 7(1)(a), supply includes all forms of supply of goods or services or both made or agreed to be made for a consideration by a person in the course or furtherance of business. In the given case, Chandragupta has agreed to provide his services as a brand ambassador of the products manufactured by Ajatasatru Industries at an agreed annual consideration. Thus, his services fall within the purview of the term “supply” under GST where the consideration charged for such supply is ₹ 50 lakh per annum.

Further, section 7(1A) provides that when certain activities or transactions constitute a supply in accordance with the provisions of section 7(1), they shall be treated either as a supply of goods or supply of services as referred to in Schedule II of the CGST Act. Tolerating non-performance of a contract is an activity or transaction which is treated as a supply of service as per Schedule II and the person is deemed to have received the consideration in the form of fines or penalty and is, accordingly, required to pay tax on such amount.

In the given case, since Ajatasatru Industries is tolerating the act of Chandragupta of terminating the contract before the expiry of its contract period, 50% of contract fee for 3 years amounting to ₹ 75 lakh is being received by it as a penalty for the same. The act of tolerating the non-performance of a contract by Chandragupta by Ajatasatru Industries is a supply of service where the consideration charged for such supply is ₹ 75 lakh [50% of (₹ 50 Lakh × 3 years)].

### Section-7(2)

**Q7. Angad Private Ltd. is engaged in the business of distribution of construction material. As an incentive, Angad Private Ltd. pays an amount of ₹ 75,000 to its employees upon achieving a specified sales target. The incentive is part of the salary of the employees and applicable tax is deducted at source as per relevant income tax provisions. Angad Private Ltd. is of the view that GST is not leviable on such incentive paid to the employees. Whether the view taken by Angad Private Ltd. is correct?**

**Answer:**

Yes, Angad Private Ltd.’s view is correct. In terms of section 7(2) read with Schedule III of the CGST Act, services by an employee to employer in the course of or in relation to his employment shall not be treated as supply under GST. Further, the amount paid as incentive by Angad Private Ltd. is not in the nature of gift, and thus, is not covered under Schedule I of the CGST Act. In fact, in the given case, the incentive is part of the salary and is directly linked to the sales target.

Therefore, the services provided by the employees in return of the incentive given to them shall not be treated as a “supply”. In the light of above discussion, GST is not leviable on the incentive paid by Angad Private Ltd. to employees.

**Q8. Mohandas International entered into a transaction for import of goods from a vendor located in Italy. Due to financial issues, Mohandas International was not in a situation to clear the goods upon payment of import duty. Mohandas International sold the goods to Radhakrishnan Export House by endorsement of title to the goods, while the goods were in high seas. The agreement further provided that Mohandas International shall purchase back the goods in future from Radhakrishnan Export House. Discuss the taxability of transaction(s) involved, under the GST law. (MTP-II Dec’21)**

**Answer:**

As per Schedule III of the CGST Act, high seas sale transactions i.e., supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption shall not be considered as supply under GST. Thus, the sale of goods by Mohandas International to Radhakrishnan Export House in high seas shall not be liable to GST.

Further, the import duty including IGST shall be payable by Radhakrishnan Export House at the time of

clearance of goods at port of import. In case the goods are sold back by Radhakrishnan Export House to Mohandas International at a subsequent point of time, the same shall be treated as normal domestic sale transaction and GST shall be applicable on the same subject to other conditions prescribed under GST Law.

**Q9. Mr. Zombi, a supplier registered in Hyderabad (Telangana), procures goods from China and directly supplies the same to a customer in US. With reference to the provisions of GST law, examine whether the said activity of supply of goods by Mr. Zombi to customer in US is taxable under GST. If yes, determine the place of supply of the same. (RTP Nov'19)**

**Answer:**

Schedule III to the CGST Act specifies transactions/ activities which shall be neither treated as supply of goods nor supply of services. One of such activity/transaction is supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India. Thus, it seeks to exclude from the tax net such transactions which involve movement of goods, caused by a registered person, from one non-taxable territory to another non-taxable territory. Therefore, in view of the above-mentioned provisions, the said activity is not a supply.

Hence, it is not leviable to GST since “supply” is the taxable event for chargeability of GST. Therefore, since the transaction is not leviable to GST, the question of place of supply does not arise in the given case.

### Section-8: Composite & Mixed Supply

**Q10. Satyamev Printers is a printing house registered under GST. It receives an order for printing 5000 copies of a book on yoga and meditation authored by a well-known yoga guru. The content of the book is to be provided by the yoga guru to Satyamev Printers. It is agreed that Satyamev Printers will use its own paper to print the said books. You are required to determine the rate of GST applicable on supply of printed books by Satyamev Printers assuming that rate of GST applicable on printing services is 18% whereas the rate of GST applicable on supply of paper used in printing the books is 12%.**

**Answer:**

Section 2(30) provides that a composite supply means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

Circular No. 11/11/2017 GST dated 20.10.2017 has clarified that supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc. printed with logo, design, name, address or other contents supplied by the recipient of such printed goods, are composite supplies. Further, section 8(a) stipulates that a composite supply comprising two or more supplies, one of which is a principal supply, is treated as a supply of such principal supply. Hence, one needs to ascertain what constitutes the principal supply in this supply.

As per section 2(90), principal supply is the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

The above circular further clarifies that in the composite supply of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service.

Accordingly, in the given case, the supply of printed books by Satyamev Printers is a composite supply wherein the principal supply is supply of printing services. Thus, the rate of GST applicable thereon is the rate applicable on supply of printing services, i.e., 18%.

**Q11. Shivaji Pvt. Ltd., a registered supplier, supplies the following goods and services for construction of buildings and complexes -**

- excavators for required period at a per hour rate
- manpower for operation of the excavators at a per day rate
- soil-testing and seismic evaluation at a per sample rate.

The excavators are invariably hired out along with operators.

Similarly, excavator operators are supplied only when the excavator is hired out. For a given month, the receipts (exclusive of GST) of Shivaji Pvt. Ltd. are as follows:

- Hire charges for excavators - ₹ 18,00,000
- Service charges for supply of manpower for operation of the excavator - ₹ 20,000
- Service charges for soil testing and seismic evaluation at three sites - ₹ 2,50,000

Compute the GST payable by Shivaji Pvt. Ltd. for the given month. Assume the rates of GST to be as under: Hiring out of excavators – 12% Supply of manpower services and soil-testing and seismic evaluation services – 18%

Answer:

**Computation of GST payable by Shivaji Pvt. Ltd.**

Particulars	Value received (₹)	Rate of GST	GST payable (₹)
Hiring charges for excavators	18,00,000	12%	2,16,000
Service charges for supply of manpower for operation of excavators [Refer Note 1]	20,000	12%	2,400
Service charges for soil testing and seismic evaluation [Refer Note 2]	2,50,000	18%	45,000
<b>GST liability</b>			<b>2,63,400</b>

Notes:

1. Since the excavators are invariably hired out along with operators and excavator operators are supplied only when the excavator is hired out, it is a case of composite supply under section 2(30) wherein the principal supply is the hiring out of the excavator.  
As per section 8(a), the composite supply is treated as the supply of the principal supply. Therefore, the supply of manpower for operation of the excavators will also be taxed at the rate applicable for hiring out of the excavator (principal supply), which is 12%.
2. Soil testing and seismic evaluation services being independent of the hiring out of excavator will be taxed at the rate applicable to them, which is 18%.

**Q12. Agrawal Carriers is a Goods Transport Agency (GTA) which is engaged in transportation of goods by road. As per the general business practice, Agrawal Carriers also provides intermediary and ancillary services like loading/ unloading, packing/ unpacking, transshipment and temporary warehousing, in relation to transportation of goods by road.**

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

**Answer:**

Composite supply means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply [Section 2(30) of the CGST Act, 2017].

Mixed supply means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply [Section 2(74) of the CGST Act, 2017]. The various intermediary and ancillary services provided by GTA are not provided as independent services, but as ancillary to the principal service, namely, transportation of goods by road. The invoice issued by the GTA for providing the said service includes the value of intermediary and ancillary services.

In view of this, if any intermediary and ancillary service is provided in relation to transportation of goods by road, and charges, if any, for such services are included in the invoice issued by Aggarwal Carriers, such service would form part of the GTA service, and thus will be composite supply, and not a mixed supply even though a single price is charged for the supply.

Further, if such incidental services are provided as separate services and are billed separately, whether in the same invoice or separate invoices, they will be treated as separate supply and not composite supply and there being no single price, the supply will also not be treated as mixed supply.

**Q13. Diligent Force, a professional training institute, gets its training material of ‘Aptitude Quotient’ printed from ‘Durga Printing House’ - a printing press. The content of the material is provided by the Diligent Force who owns the usage rights of the same while the physical inputs including paper used for printing belong to the Durga Printing House. Ascertain whether supply of training material by the Durga Printing House constitutes supply of goods or supply of services? (RTP Nov’19)**

**Answer:**

Circular No. 11/11/2017 GST dated 20.10.2017 has clarified that supply of books printed with contents supplied by the recipient of such printed goods, is composite supply and the question, whether such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply. Principal supply has been defined in section 2(90) of the CGST Act, 2017 as supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

In the case of printing of books where content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore, such supplies would constitute supply of service. Thus, in view of the above-mentioned provisions, the supply of training material by the Durga Printing House would constitute supply of services.

**Q14. Determine whether the following supplies amount to composite supplies?**

- a. A hotel provides 4 days 3 nights package wherein the facility of breakfast and dinner is provided along with the room accommodation.
- b. A toothpaste company has offered the scheme of free toothbrush along with the toothpaste.

**Answer:**

Under composite supply, two or more taxable supplies of goods or services or both of any combination thereof are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply [Sec 2(30)]. In view of the same,

- a) since supply of breakfast and dinner with the accommodation in the hotel are naturally bundled, said supplies qualify as ‘composite supply’.
- b) since supply of toothbrush along with the toothpaste are not naturally bundled, said supplies do not qualify as ‘composite supply’.

### Combined Questions

**Q15. Vikramaditya is a salaried employee and is planning to invest in stocks. He has opened a trading account with Vaydaa Brokers. During the month, Vikramaditya undertook future contracts (without a physical delivery option, but are cash settled on the expiry of the contract date), amounting to ₹ 35,00,000.**

**Vikramaditya needs your advice whether such future contracts undertaken by him amount to supply and are liable to GST.**

**Answer:**

For a transaction to fall within the purview of supply, it must be a supply of either goods or services or both. The definitions of the terms “goods” and “services” specifically exclude “securities” from their purview.

Further, ‘derivatives’ are included in the definition of ‘securities. As ‘derivatives’ fall in the definition of securities, they are neither goods nor services and hence, are not liable to GST. Future contracts are in the nature of financial derivatives, the price of which is dependent on the value of underlying stocks or index of stocks or certain approved currencies and the settlement happens normally by way of net settlement with no actual delivery.

Since future contracts are in the nature of derivatives, these qualify as ‘securities’ and thus, are not subject to GST. In view of the above discussion, it can be inferred that since the future contracts undertaken by Vikramaditya are in the nature of derivatives, these qualify as ‘securities’ and do not qualify as supply and thus, are not subject to GST.

**Q16. Rob Shareholding Ltd., an approved intermediary, has entered into a transaction wherein certain securities were to be lent to Dhandhan Bank, under Securities Lending Scheme, 1997. Dhandhan Bank shall pay specified lending fee against such lending of securities to it. Explain the taxability of transactions involved in the Securities Lending Scheme, 1997.**

**Answer:**

Securities Lending Scheme, 1997 (hereafter referred to as SLS) facilitates the lending and borrowing of securities. Securities are neither covered in the definition of goods nor covered in the definition of services. Therefore, a transaction in securities which involves disposal of securities is not a supply in GST and hence not taxable. However, SLS doesn’t treat lending of securities as disposal of securities and therefore is not excluded from the definition of services.

The lending fee charged from the borrowers of securities has the character of consideration and is taxable under GST. Apart from above, the activities of the intermediaries facilitating lending and borrowing of securities for commission or fee are also taxable separately.

**Q17. Krishnadev is a trader based in India. Ramakrishna, brother of Krishnadev, is located in China and is also engaged in business of trading of goods. Krishnadev places an order with Ramakrishna for procurement of certain goods from local market in China. Before the shipment of goods from**



**China to India, Krishnadev sold such goods to Christiano, a trader located in Brazil. The goods were subsequently shipped from China to Brazil. Comment on the taxability of transaction between Krishnadev and Christiano under GST in India.**

**Answer:**

The transaction between Krishnadev and Christiano is in the nature of merchant trading. As per Schedule III of the CGST Act, transactions involving sale of goods from a place in non-taxable territory to another place in non-taxable territory, without such goods entering into India, shall not be treated as supply under GST. Therefore, the transaction between Krishnadev and Christiano shall not be treated as supply and is thus not leviable to GST.

**Q18. Mrs. Kajal, a registered supplier of Jaipur (Rajasthan), has made the following supplies in the month of January, 20XX:**

- (1) Supply of a laptop bag along with the laptop to a customer of Mumbai for ₹ 55,000 (exclusive of GST)
- (2) Supply of 10,000 kits (at ₹ 50 each) amounting to ₹ 5,00,000 (exclusive of GST) to Ram Fancy Store in Kota (Rajasthan). Each kit consists of 1 hair oil, 1 beauty soap and 1 hair comb.
- (3) 100 kits are given as free gift to Jaipur customers on the occasion of Mrs. Kajal's birthday. Each kit consists of 1 hair oil and 1 beauty soap. Cost of each kit is ₹ 35, but the open market value of such kit of goods and of goods of like kind and quality is not available. Input tax credit has not been taken on the goods contained in the kit.
- (4) Event management services provided free of cost to her brother for his son's marriage function in Indore (Madhya Pradesh). Cost of providing said services is ₹ 80,000, but the open market value of such services and of services of like kind and quality is not available.
- (5) 1,400 chairs and 100 coolers hired out to Function Garden, Ajmer (Rajasthan) for ₹ 3,30,000 (exclusive of GST) including cost of transporting the chairs and coolers from Mrs. Kajal's godown at Jaipur to the Function Garden, Ajmer. Mrs. Kajal has paid the cost of transportation of chairs and coolers to an unregistered Goods Transport Agency (GTA) [located in the State of Rajasthan] @ ₹ 20 (exclusive of GST) for each chair and each cooler and in turn, has charged ₹ 20 only for each chair and each cooler from Function Garden for transportation of the same.

Interest of ₹ 6,400 (inclusive of GST) was collected by Ms. Kajal in January from Ram Fancy Store, Kota for the payment received with a delay of 30 days. **(MTP-I Nov'22 Similar)**

**Assume rates of GST to be as under:**

S. No	Particulars	Rate of GST
1.	Laptop	18%
2.	Laptop bag	28%
3.	Hair oil	18%
4.	Beauty soap	28%
5.	Hair comb	12%
6.	Event management service	5%
7.	Service of renting of chairs and coolers	12%
8.	Transportation service	5%

**Answer:**

S. No	Particulars	Rate of GST
(i)	Supply of laptop bag along with laptop to Mumbai customer [Being naturally bundled, supply of laptop bag along with the laptop is a composite supply which is treated as the supply of the principal supply [viz. laptop] in terms of section 8(a). Accordingly, rate of principal supply, i.e., laptop will be charged.]	18%
(ii)	Supply of kits to Ram Fancy Store [It is a mixed supply and is treated as supply of that particular supply which attracts highest tax rate [viz. beauty soap] in terms of section 8(b).]	28%
(iii)	Free gifts to customers [Cannot be considered as supply under section 7 read with Schedule I as the gifts are given to unrelated customers without consideration.]	Nil
(iv)	Event management services provided free of cost to her brother for his son's marriage shall be considered as supply as the services are being provided to a related person. Since it is an individual supply, it will be taxed at the rate applicable on said service.	5%
(v)	Chairs and coolers hired out to Function Garden [Transportation services provided by Mrs. Kajal are exempt. However, since chairs and coolers are hired out along with their transportation, it is a case of composite supply wherein the principal supply is hiring out of chairs and coolers. Accordingly, transportation service will also be taxed at the rate applicable for renting of chairs and coolers]	12%

**Q19. Jaskaran, a registered supplier of Delhi, has made the following supplies in the month of January, 20XX: (RTP Nov'18)**

S. No.	Particulars	Amount * (₹)
(i)	Supply of 20,000 packages at ₹ 30 each to Sukhija Gift Shop in Punjab [Each package consists of 2 chocolates, 2 fruit juice bottles and a packet of toy balloons]	6,00,000
(ii)	10 generators hired out to Morarji Banquet Halls, Chandigarh [including cost of transporting the generators (₹ 1,000 for each generator) from Jaskaran's warehouse to the Morarji Banquet Halls]	2,50,000
(iii)	500 packages each consisting of 1 chocolate and 1 fruit juice bottle given as free gift to Delhi customers on the occasion of Diwali [Cost of each package is ₹ 12, but the open market value of such package of goods and of goods of like kind and quality is not available. Input tax credit has not been taken on the items contained in the package]	
(iv)	Catering services provided free of cost for elder son's business inaugural function in Delhi [Cost of providing said services is ₹ 55,000, but the open market value of such services and of services of like kind and quality is not available.]	

**\* Excluding GST**

You are required to determine the GST liability [CGST & SGST and/or IGST, as the case may be] of Jaskaran for the month of January, 20XX with the help of the following additional information furnished by him for the said period:

1. Penalty of ₹ 10,000 was collected from Sukhija Gift Shop for the payment received with a delay of 10 days.
2. The transportation of the generators from Jaskaran's warehouse to the customer's premises is arranged by Jaskaran through a Goods Transport Agency (GTA) who pays tax @ 12%.
3. Assume the rates of GST to be as under:

Goods/services supplied	CGST	SGST	IGST
Chocolates	9%	9%	18%
Fruit juice bottles	6%	6%	12%
Toy balloons	2.5%	2.5%	5%
Service of renting of generators	9%	9%	18%
Catering service	9%	9%	18%

**Answer:**

**Computation of GST liability of Jaskaran for the month of January, 20XX**

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Supply of 20,000 packages to Sukhija Gift Shop, Punjab [Note-1]			1,09,526 [6,08,475 x 18%]
Renting of 10 generators to Morarji Banquet Halls, Chandigarh [Note-2]			45,000 [2,50,000 x 18%]
500 packages given as free gift to the customers [Note-3]	Nil	Nil	Nil
Catering services provided free of cost for elder son's business inaugural function in Delhi [Note-3]	5,445 [60,500 x 9%]	5,445 [60,500 x 9%]	
<b>Total GST liability (rounded off)</b>	<b>5,445</b>	<b>5,445</b>	<b>1,54,526</b>

**Notes:**

1. As per section 2(74) of the CGST Act, 2017, mixed supply means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

Supply of a package containing chocolates, fruit juice bottles and a packet of toy balloons is a mixed supply as each of these items can be supplied separately and is not dependent on any other. Further, as per section 8(b) of the CGST Act, 2017, the mixed supply is treated as a supply of that particular supply which attracts the highest rate of tax. Thus, in the given case, supply of packages is treated as supply of chocolates [since it attracts the highest rate of tax]. Consequently, being an inter-State supply of goods, supply of packages to Sukhija Gift Shop

of Punjab is subject to IGST @ 18% each.

Further, value of supply includes interest or late fee or penalty charged for delayed payment of any consideration for any supply in terms of section 15(2)(d) of the CGST Act, 2017. Thus, penalty of ₹ 10,000 [considered as inclusive of GST] collected from Sukhija Gift Shop for the delayed payment will be included in the value of supply. The total value of supply is ₹ 6,08,475 [₹ 6,00,000 + (₹ 10,000 × 100/118)]

2. Services by way of transportation of goods by road except the services of a Goods Transportation Agency (GTA) are exempt vide Notification No. 9/2017 IT (R) dated 28.06.2017. Since Jaskaran is not a GTA, transportation services provided by him are exempt from GST. However, since the generators are invariably hired out along with their transportation till customer's premises, it is a case of composite supply under section 2(30) of the CGST Act, 2017 wherein the principal supply is the renting of generator.

As per section 8(a) of the CGST Act, 2017, the composite supply is treated as the supply of the principal supply. Therefore, the service of transportation of generators will also be taxed at the rate applicable for renting of the generator (principal supply).

Consequently, being an inter-State supply of service, service of hiring out the generators to Morarji Banquet Halls of Chandigarh is subject to IGST @ 18% each.

3. As per section 7(1)(c) of the CGST Act, 2017, an activity made without consideration can be treated as supply only when it is specified in Schedule I of the CGST Act, 2017. Para 2. of Schedule I provides that 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, are to be treated as supply even if made without consideration.

However, since the question does not provide that customers are related to Jaskaran, free gifts given to the customers cannot be considered as a supply under section 7. Consequently, no tax is leviable on the same.

Further, the catering services provided by Jaskaran to his elder son without consideration will be treated as supply as Jaskaran and his elder son, being members of same family, are related persons in terms of explanation (a)(viii) to section 15 of the CGST Act, 2017 and said services have been provided in course/furtherance of business. Value of supply of services between related persons, other than through an agent is determined as per rule 28 of the CGST Rules, 2017. Accordingly, the value of supply is the open market value of such supply; if open market value is not available, the value of supply of goods or services of like kind and quality. However, if value cannot be determined under said methods, it must be worked out based on the cost of the supply plus 10% mark-up. Thus, in the given case, value of catering services provided to the elder son of Jaskaran is ₹ 60,500 [₹ 55,000 × 110%]. Further, being an intra-State supply of services, catering services are subject to CGST and SGST @ 2.5% each.

4. 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 such GTA has not paid GST @ 12%. Since in the given case, Jaskaran has received services from a GTA who has paid GST @ 12%, reverse charge provisions will not be applicable.

**Q20. Skylark Pvt. Ltd., Noida (Uttar Pradesh) is engaged in various kinds of commercial activities. It manufactures taxable goods as also provides certain services. The company has branch office in**

New Delhi. The Head office at Noida and the branch office in New Delhi are registered under GST. The branch office at New Delhi is eligible for full input tax credit.

The company has reported a total turnover of ₹ 256 crore (exclusive of GST) for the month of August 20XX. The following information is provided by the company in relation to such turnover:

- (i) The turnover includes ₹ 45 crore from sale of securities which were purchased for ₹ 30 crore in the month of January last year.
- (ii) The company supplied goods worth ₹ 50 crore to ABC Ltd. in UK under a letter of undertaking (LUT). The total export proceeds are received in the month of August 20XX itself; ₹ 30 crore in foreign currency and balance ₹ 20 crore in Indian rupees.
- (iii) The company provided consulting services to Sherpa & Sons in Nepal for ₹ 30 crore under a LUT. The entire consideration is received in Indian rupees in the month of August 20XX itself, with the permission of RBI.
- (iv) The turnover includes supply of goods worth ₹ 10 crore to Shanghai Jianguo Trading Company Ltd., a company based in China. As per the sale contract, the goods were to be assembled at Shanghai Jianguo Trading Company Ltd.'s office in Gurugram, Haryana. The payment of the goods is received in convertible foreign exchange in the month of August 20XX itself.
- (v) Goods worth ₹ 20 crore are supplied under a LUT to DEF Pvt. Ltd. located in a SEZ in the State of Uttar Pradesh.
- (vi) Goods worth ₹ 40 lakh were being procured from a vendor in Japan. While the goods were in transit, the company secured an order for the said goods for ₹ 50 lakh from a buyer in Thailand. Thus, the goods were directly sent to Thailand without entering India.
- (vii) The company owns three immovable properties in Noida. The first building is let out for running a printing press at ₹ 10 lakh per month. The second building is let out for residential purpose at ₹ 5 lakh per month. The third building is let out to a Cold Storage operator at ₹ 5 lakh per month.
- (viii) The cold storage operator sub-lets the building as a warehouse to store potatoes. The remaining turnover comprised of taxable goods sold within the State and outside the State in the ratio of 3:2.

Total turnover of ₹ 256 crore includes the turnover referred to in points (i) to (vii) above. In addition to above –

- (i) the company transferred its stock (taxable goods) from Noida to Delhi branch without any consideration; the value declared in the invoice is ₹ 4.5 crore (exclusive of GST). The cost of production of such goods is ₹ 10 crore. Such stock is sold to independent buyers at ₹ 15 crore (exclusive of GST).
- (ii) the company had sent goods worth ₹ 12 crore (exclusive of GST) to M/s Sharma Traders in Haryana on approval basis on 15th January, 20XX, 15th February 20XX & 15th March 20XX (₹ 4 crore each month). Goods sent during all the three months are approved in the month of September 20XX.

Compute the GST liability [CGST & SGST or IGST, as the case may be] of Skylark Pvt. Ltd., Noida for the month of August 20XX. Make suitable assumptions wherever required.

Assume the rates of taxes to be as under: (RTP May'20)

	CGST	SGST	IGST
Goods	6%	6%	12%

Services	9%	9%	18%
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Answer:

**Computation of GST liability of Skylark Pvt. Ltd. for the month of August 20XX**

S. No.	Particulars	Value (₹ in crores)	CGST @ 6% (₹ in crores)	SGST @ 6% (₹ in crores)	IGST @ 12% (₹ in crores)
<b>Goods</b>					
(i)	Export of goods to ABC Ltd. in UK under a letter of undertaking (LUT) [Note 1]	50			Nil
(ii)	Supply of goods to Shanghai Jianguo Trading Company Ltd. [Note 2]	10			1.20
(iii)	Goods supplied to DEF Pvt. Ltd. located in a SEZ [Note 3]	20			Nil
(iv)	Sale within the State [Note 4]	60.18	3.6108	3.6108	-
(v)	Sale outside the State [Note 4]	40.12			4.8144
(vi)	Stock transfer from Noida to Delhi [Note 5]	4.5			0.54
(vii)	Goods sent for sale on approval basis on 15th February, 20XX [Note 6]	<u>4.00</u>			<u>0.48</u>
Total tax liability on goods [A]			3.6108	3.6108	7.0344
<b>Services</b>					
			<b>CGST @ 9% (₹ in crores)</b>	<b>SGST @ 9% (₹ in crores)</b>	<b>IGST @ 18% (₹ in crores)</b>
(i)	Export of services to Nepal under a LUT [Note 7]	30			Nil
(ii)	Receipts from renting of buildings [Note 8]	<u>0.15</u>	<u>0.0135</u>	<u>0.0135</u>	
Total tax liability on services [B]			0.0135	0.0135	
<b>Neither goods nor services</b>					
(i)	Sale of securities [Note 9]	45	Nil	Nil	Nil
(ii)	Goods procured from vendor in Japan and supplied to buyer in Thailand [Note 10]	0.50			Nil
<b>Total tax liability on goods and services [(A) + (B)]</b>			<b>3.6243</b>	<b>3.6243</b>	<b>7.0344</b>

**Notes:**

- (1) As per section 2(5) of the IGST Act, 2017, export of goods means taking goods out of India to a place outside India. Receipt of consideration in foreign exchange is not a pre-requisite for export of goods. Export of goods is a zero rated supply in terms of section 16(1)(a) of the IGST Act, 2017. A zero rated supply is supplied without payment of tax under a LUT in terms of section 16(3)(a) of that Act.
- (2) As per section 2(5) of the IGST Act, 2017, export of goods means taking goods out of India to a place outside India. Since, in the given case, the goods are being assembled in India (Gurugram, Haryana), the same are not exported.

Hence, the place of supply thereof will be governed by section 10 of the IGST Act, 2017 which prescribes the provisions for determining the place of supply of goods other than supply

of goods imported into or exported from India. As per section 10(1)(d) of the IGST Act, 2017, where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly. Therefore, in the given case, the place of supply will be Gurugram, Haryana.

Since the location of the supplier (Uttar Pradesh) and the place of supply (Haryana) are in two different States, the same is an inter-State supply liable to IGST [Section 7(1)(a) of the IGST Act, 2017 read with section 5(1) of that Act].

- (3) As per section 7(5)(b) of the IGST Act, 2017, supply of goods and/or services to a special economic zone (SEZ) unit is treated to be a supply of goods and/or services in the course of inter-State trade or commerce. Therefore, supply of goods to a SEZ unit located within the same State shall be liable to IGST [Section 5(1) of the IGST Act, 2017].

Supply of goods and/or services to a SEZ unit is a zero rated supply in terms of section 16(1)(b) of the IGST Act, 2017. A zero rated supply is supplied without payment of tax under a LUT in terms of section 16(3)(a) of that Act.

- (4) Remaining turnover will be calculated as under

$\text{₹ } 256 \text{ crore} - (\text{₹ } 45 \text{ crore} + \text{₹ } 50 \text{ crore} + \text{₹ } 30 \text{ crore} + \text{₹ } 10 \text{ crore} + \text{₹ } 20 \text{ crore} + \text{₹ } 0.50 \text{ crore} + \text{₹ } 0.10 \text{ crore} + \text{₹ } 0.05 \text{ crore} + \text{₹ } 0.05 \text{ crore}) = \text{₹ } 100.30 \text{ crore}$

Supply within the State -  $\text{₹ } 100.30 \text{ crore} \times \frac{3}{5} = \text{₹ } 60.18$

Supply outside the State -  $\text{₹ } 100.30 \text{ crore} \times \frac{2}{5} = \text{₹ } 40.12$

Supply within the State is intra-State supply in terms of section 8(1) of IGST Act, 2017 and thus, chargeable to CGST and SGST. Supply outside the State is inter - State supply chargeable to IGST [Section 7(1) of IGST Act, 2017 read with section 5(1) of the said Act].

- (5) As per section 25(4) of the CGST Act, 2017, 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, 2017 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 of the CGST Act, 2017, when made in the course or furtherance of business is one such activity included in Schedule I under para 2.

In the given case-

- the location of the supplier is in Noida (Uttar Pradesh); and
- the place of supply is the location of such goods at the time at which the movement thereof terminates for delivery to the recipient i.e., Delhi, in terms of section 10(1)(a) of the IGST Act, 2017.

Therefore, the stock transfer by Noida office to Delhi branch is an inter-State supply as the location of the supplier and the place of supply are in two different States [Section 7(1)(a) of IGST Act, 2017]. Thus, the supply is liable to IGST in terms of section 5(1) of the IGST Act, 2017.

Rule 28 of the CGST Rules, 2017 prescribes the provisions to determine the value of supply of goods or services or both between distinct or related persons, other than through an agent. Second proviso to the said rule lays down that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services. Therefore, the value of supply in this case will be ₹ 4.5 crore and open market value and cost of production of the goods will be irrelevant.

- (6) As per section 31(7) of the CGST Act, 2017, where the goods being sent or taken on approval

for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.

In the given case, the time period of six months for goods sent on 15th February, 20XX expires on 15.08.20XX. Therefore, the invoice for the said goods shall be issued on 15.08.20XX and in terms of section 12(2)(a) of the CGST Act, 2017 read with Notification No. 66/2017 CT dated 15.11.2017, this date would also be the time of supply of such goods. Thus, such goods will be liable to tax in the month of August 20XX. Goods sent in the month of January would have been taxed in the month of July and goods sent in the month of March would be taxed in the month of September.

Here,

- the location of the supplier is in Noida (Uttar Pradesh); and
- the place of supply is the location of the goods at the time at which the movement thereof terminates for delivery to the recipient i.e., Haryana in terms of section 10(1)(a) of the IGST Act, 2017.

Since the location of the supplier (Uttar Pradesh) and the place of supply (Haryana) are in two different States, the same is an inter-State supply liable to IGST [Section 7(1)(a) of the IGST Act, 2017 read with section 5(1) of that Act].

- (7) The given case is an export of service as per section 2(6) of the IGST Act, 2017, as-
- (i) the supplier of service is located in India (Noida);
  - (ii) the recipient of service is located outside India (Nepal);
  - (iii) the place of supply of service is outside India (Place of supply of consulting service will be the location of recipient, i.e. Nepal);
  - (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India (Receipt of export consideration in Indian rupees is permitted by RBI in the given case); and
  - (v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8.

Export of services is a zero rated supply in terms of section 16(1)(a) of the IGST Act, 2017. A zero rated supply is supplied without payment of tax under a LUT in terms of section 16(3)(a) of that Act.

- (8) Letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of service in terms of para 2(b) of the Schedule II to the CGST Act, 2017. Services by way of renting of residential dwelling for use as residence is exempt from tax [Notification No. 12/2017 CT (R) dated 28.06.2017]. Therefore, rent of ₹ 10 lakh received from letting out of building for printing press will be liable to tax and rent of ₹ 5 lakh received from letting out of building for residential purposes will be exempt from tax.

Further, services by way of loading, unloading, packing, storage or warehousing of agricultural produce is exempt from tax [Notification No. 12/2017 CT (R) dated 28.06.2017]. However, in the given case, the Cold Storage Operator and not Skylark Pvt. Ltd. is engaged in warehousing of agricultural produce. Therefore, the Cold Storage Operator providing warehousing services for potatoes, being an agricultural produce, will be eligible for such exemption and services provided by Skylark Pvt. Ltd., being services of renting of immovable property (₹ 5 lakh), will be liable to tax.



In case of letting out of first and third buildings,

- the location of the supplier is in Noida (Uttar Pradesh); and
- the place of supply is the location of the immovable property, i.e. Noida in terms of section 12(3)(a) of the IGST Act, 2017.

Since the location of the supplier (Uttar Pradesh) and the place of supply (Noida) are in the same State, the same is an intra-State supply in terms of section 8(1) of the IGST Act, 2017 and is thus, liable to CGST and SGST.

- (9) GST is leviable on supply of goods and/or services [Section 9(1) of the CGST Act, 2017]. Securities are specifically excluded from the definition of goods and services as provided under clause (52) and clause (102) respectively of section 2 of the CGST Act, 2017. Therefore, sale of securities will not be liable to GST.
- (10) Paragraph 7 of the Schedule III to CGST Act, 2017 provides that supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India (third country shipments) is treated neither as a supply of goods nor a supply of services. Thus, there is no GST liability on such sales. Further, since such goods do not enter India at any point of time, customs duty and IGST leviable on imported goods will also not be leviable on such goods.

**Q21. Mr. Rajesh Surana has a proprietorship firm in the name of Surana & Sons in Jaipur. The firm, registered under GST in the State of Rajasthan, manufactures taxable products. The firm also provides taxable consultancy services.**

**Mr. Rajesh Surana has provided the consultancy service to his brother – Mr. Akhilesh Surana (located in USA) without any consideration. The products manufactured by Mr. Akhilesh are similar to the ones manufactured by Mr. Rajesh Surana. Mr. Surana charges ₹ 3,00,000 for providing similar consultancy services to other independent customers located in USA.**

**Compute the GST liability, if any, in the given case assuming the rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively.**

**Answer:**

Consultancy service to Mr. Akhilesh Surana (located in USA) has been provided without any consideration. Activity without consideration is not a supply in terms of section 7(1)(a) of the CGST Act, 2017. However, Schedule I to the CGST Act, 2017 enlists the activities to be treated as supply even if made without consideration. Accordingly, Para 2. Of Schedule I treats 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, a brother who is not dependent on the person supplying the service, does not come within the purview of term family as defined under section 2(49) of the CGST Act, 2017 and hence, is not a related person. Therefore, the export of service to an independent brother without any consideration will not fall under para 2. of the Schedule I to CGST Act, 2017. Hence, the activity is not a supply and is thus, not liable to any tax.

**Q22. State whether the following supplies would be treated as supply of goods or services as per schedule II of GST Act.**

- a. **Renting of immovable property.**
- b. **Goods forming part of business assets are transferred or disposed of by or under directions of person carrying on the business whether or not for consideration.**
- c. **Transfer of right in goods without transfer of title in goods.**
- d. **Transfer of title in goods under an agreement which stipulates that property shall pass at a future date.**

**Answer:**

- a. Supply of services
- b. Supply of goods
- c. Supply of services
- d. Supply of goods

**Q23. 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 establishments are registered in respective states. Finished goods are sent from factory in Delhi to the Mumbai depot without consideration so that the same can be sold.**
- b. **Raman is an architect in Chennai. His brother who is settled in London is a well-known lawyer. Raman has taken legal advice from him free of cost with regard to his family dispute.**
- c. **Would your Solution be different if in above case Raman has taken advice in respect of his business in Chennai?**

**Answer:**

- (a) As per Schedule I of CGST Act, supply of goods or services or both between related persons or between distinct persons, as per section 25, shall be considered as Supply even without considerations 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.

**Q24. XYZ Consultancy, registered in Bangalore, supplies technical consultancy services to its clients. It has been providing technical services to BA Ltd, Mumbai since past two years. Consideration is settled by BA Ltd assignment wise. BA Ltd paid ₹ 37 lakhs to XYZ Consultancy on 10<sup>th</sup> January, 2022 on XYZ Consultancy for agreeing not to provide similar technical services to any other business entity in India or abroad for a period of 8 years. XYZ Consultancy is of the view that ₹ 37 lakhs is not chargeable to GST.**

**You are required to examine whether the view taken by XYZ Consultancy is valid in law. Calculate GST liability of XYZ Consultancy, in case you feel that GST is chargeable. Round off the tax amount if due in accordance with law. The technical services provided by XYZ Consultancy is otherwise chargeable to IGST at the rate of 18% and XYZ have been discharging the GST liability on consultancy charges. It may be noted that BA Ltd is not ready to pay any further amount to XYZ Consultancy in addition to the amount already agreed. (Nov'22)**

**Answer:**

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

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

GST liability (IGST) of XYZ Consultancy is:

$$= ₹ 37,00,000^{**} \times 18 / 118$$

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

\* Rate of tax applicable on service of agreeing to the obligation to refrain from an act.

\*\* Since GST has not been separately collected for the supply, consideration has been assumed to be inclusive of tax.

**Q25. M/s Diva Fashions (Proprietor Ms. Diva), a registered supplier in Ludhiana (Punjab) under GST law, has made the following supplies in the month of February 2023.**

- (i) Supply of designer silk dresses packed in designer boxes to a boutique in Mumbai, (Maharashtra) as per contract entered with the boutique amounting to ₹ 25,00,000.
- (ii) Supply of 600 kits (at ₹ 1000 each kit) amounting to ₹ 6,00,000 to Mrs. Arora in Amritsar (Punjab). Each kit consisted of 1 silk dupatta, 1 sari brooch and 1 lipstick.
- (iii) M/s Diva Fashions organizes a fashion show in Chandigarh. Zion Exports Ltd., a registered entity in Jaipur (Rajasthan) has sponsored the show for which M/s Diva Fashions received ₹ 7,50,000 from it.
- (iv) 200 kits are given as free gifts to customers on the occasion of 5<sup>th</sup> anniversary of M/s Diva Fashions. Each kit consists of 1 silk dupatta and 1 sari brooch. Cost of each kit is ₹ 350. The

open market value of such kit of goods and of goods of like kind and quality is not available. ITC has not been taken on the goods contained in the kit.

- (v) Professional services provided free of cost by Ms. Diva to her independent married sister to set up her own boutique in Delhi. Cost of providing such services is ₹ 1,00,000, but the open market value of such services and of services of like kind and quality is not available.
- (vi) M/s Diva Fashions enters into a contract on 1<sup>st</sup> February, 2021 for 3 years with Miss Shikha, a local model to act as a brand ambassador for their products for ₹ 1 lakh (exclusive of GST – 18% IGST, 9% CGST and SGST each) per annum. Miss Shikha terminated the contract on 2<sup>nd</sup> February 2023. As per the contract, M/s Diva Fashions received 25% of the total contract fees paid to Miss Shikha as the contract is terminated before 3 years, on 15<sup>th</sup> February, 2023. Miss Shikha had received the contract fee for 2 years at the time of termination of the contract.

Other information is given below –

- (a) All above amounts are exclusive of GST.
- (b) Mrs. Arora paid interest of ₹ 8,850 (inclusive of GST) for delay in making payment to M/s Diva Fashions.
- (c) Assume rates of GST as under: -

S. No.	Particulars	Rate of IGST	Rate of CGST	Rate of SGST
1	Silk Dresses	18%	9%	9%
2	Designer Boxes	28%	14%	14%
3	Silk Dupatta	12%	6%	6%
4	Sari Brooch	18%	9%	9%
5	Lipstick	5%	2.5%	2.5%
6	Sponsorship received from Zion Exports Ltd	28%	14%	14%
7	Professional services	18%	9%	9%

From the above information, compute the total GST liability of M/s Diva Fashions for the month of February, 2023. Working notes should form part of your answer. (May'23)