

CA/CMA FINAL - QB CHANGES FROM VERSION 4 to 5:

1. Supply under GST - MAY24 PP Que Added Pg: 1-2
2. Place of supply - MAY24 PP Que Added Pg: 3
3. Exemption - Q.25 in version 4 from MAY24 MTP Removed in version 5 (∵ Repetitive in Nature)
4. Input Tax credit - 3 New Questions added - Pg: 4-15 (Q.52, 53, 54)
5. Payment of Tax & ECo - Replace all Questions Pg: 16-37
6. Returns - Remove Q.11 - M/S Sahu
7. Import Export under GST - NOV24 RTP New Ques Added Pg: 38-39
8. Refunds - Replace all Questions - Pg: 40-46
9. Jobwork - Q.9 A2S Removed (∵ Repetitive)
10. Assessment & Audit - NOV24 RTP New Ques Added Pg: 47-48
11. Offences - Q.1 Replaced Pg: 49
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12. Appeals & Revision - MAY24 PP New Ques Added Pg: 58
13. Customs - Levy - Replace Q.1 Pg: 59
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14. Customs - Classification - MAY24 PP New Ques - Pg: 61
15. Valuation - Replace Q.9 Pg: 62-63
2 New Ques Added Q.47, 48 Pg: 64-66
16. FTP - 2 New Ques Added Pg: 67-69

* Apart from Above Changes - Refer Q.1 from ICAI Module "Payment of Tax" & Q.6 from ICAI Module "Refunds, GST" (CTTK)
- CORRIGENDUM

[Not a supply as it is made without consideration and is also not covered in Schedule I because sister being independent is not a related person.]				
Fee received for termination of contract [Being 'liquidated damages', they are merely compensation for loss due to breach of the contract and not the consideration for tolerating non-performance of contract.]	Nil			
Interest received for delayed payment (excluding GST) [Includible in value of original supply. Further, since it is received in February itself, time of supply is when it is received i.e., February.]	7,500 [8,850 × 100/118]	675 [7,500 × 9%]	675 [7,500 × 9%]	
GST liability		54,675	54,675	4,50,000

Q.22 Mouny Ltd. entered into a high sea sale transaction with Fuji Ltd. for certain goods. Mouny Ltd. wishes to understand the taxability of the high sea sales under GST law and Customs Act, 1962.

[RTP - Nov 23]

Ans. 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 (high sea sale) is neither treated as supply of goods nor supply of services in terms of paragraph 8(b) of Schedule III to the CGST Act. Thus, **GST is not leviable** on high sea sales at the time of making such sales.

As per section 14 of the Customs Act, 1962, the value for the purpose of charging customs duty on imported goods is the value at the time of importation, i.e., at the time of filing of the bill of entry. Further, IGST on imported goods is also levied at the time of filing of bill of entry. In case of high sea sales, the assessable value of imported goods for levying customs duty and IGST is determined on the basis of the price paid by the last high sea sales buyer who files the bill of entry for home consumption.

Q.23 Mr. Sharma, director of VEE Ltd., provides personal guarantee on 31.10.2023 to a nationalized bank for sanctioning the cash credit facility of ₹ 100 lakh sanctioned in favour of VEE Ltd. Mr. Sharma was not paid any consideration for the same by VEE Ltd.

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

[May24 PP]

Ans. Since director and company are related persons in terms of Schedule I of the CGST Act, 2017, the activity of providing personal guarantee by a director to the banks/ financial institutions for securing

credit facilities for their companies is to be treated as a supply of service, even when made without consideration.

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

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

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



- Q.27** Determine the 'place of supply' along with justification for the following independent cases:
- I.** Crystal Clear Water Ltd. (CCWL) is a manufacturer of mineral water and registered under GST in Mumbai, Maharashtra. CCWL enters into a contract with Global Advertising Agency (GAA) registered under GST in Ahmedabad, Gujarat for displaying its advertisement on hoardings at an awards event organized at Convention Centre Gandhinagar, Gujarat on 31.10.2023. the structure on which the hoardings are to be displayed is taken on rent by GAA from Mr. Kapoor (unregistered person based in Delhi.). Determine the 'place of supply' for tax invoice to be raised by GAA to CCWL.
 - II.** Mr. Sunil (unregistered person under GST) is a resident of Delhi and currently posted in Dehradun, Uttarakhand. He went on an official visit to Arunachal Pradesh. He purchased a leather bag on 15.10.2023 from Arunachal Pradesh and shop keeper M/s ABC issued a tax invoice in the name of Mr. Sunil only. Mr. Sunil returned back to Dehradun along with leather bag. Determine the 'place of supply' for tax invoice issued by M/s. ABC to Mr. Sunil.
 - III.** Mr. Pintu (unregistered person under GST), resident of Karnal, Haryana went to visit Shimla, Himachal Pradesh along with his family during holidays in the month of October 2023. Due to some medical emergency, he purchased some medicines on 20.10.2023 from a medical store at Mall Road, Shimla and the tax invoice was issued in the name of Mr. Pintu mentioning the address as Karnal, Haryana only. The medicines purchased were consumed in Shimla during the period of stay.
Determine the 'place of supply' for tax invoice issued by medical store to Mr. Pintu.

[May24 PP]

first attempt success tutorials

- Ans.**
- (I) In the given case, services provided by GAA to CCWL are advertisement services. The place of supply of such services made to a registered person is location of such person. Thus, place of supply for tax invoice to be raised by GAA to CCWL is location of CCWL, i.e. Mumbai, Maharashtra.
 - (II) In case of supply of goods to an unregistered person over the counter (OTC), where address of such person is not recorded in the invoice, the place of supply is location of the supplier. Since in the given case, the address of Mr. Sunil is not recorded in the invoice, place of supply is location of M/s ABC i.e. Arunachal Pradesh.
 - (III) In case of supply of goods to an unregistered person over the counter (OTC), where address of such person is recorded in the invoice (i.e. name of State of said person is recorded in invoice), the place of supply is location as per said address. Thus, in the given case, since the address of Mr. Pintu is recorded in the invoice, place of supply is Karnal / Haryana.

Exempt turnover = ₹ 32,00,000 and total turnover = ₹ 59,50,000 [Refer note below]			
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Note: As per explanation to section 17(3), the expression "value of exempt supply" shall not include the value of activities or transactions specified in Schedule III, except, inter alia, sale of building subject to clause (b) of paragraph 5 of Schedule 11. Further, as per explanation to Chapter V (Input Tax Credit) of the CGST Rules, 2017, for determining the value of an exempt supply as referred to in section 17(3), the value of exempt supply in respect of land and building is the value adopted for the purpose of paying stamp duty. Further, as per explanation 1 to rule 43, the aggregate value of exempt supplies for the purpose of rules 42 and 43, inter alia, excludes the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances.

Therefore, value of exempt turnover in the given case will be the value of building (₹ 32,00,000). Total turnover will be sum of value of building (₹ 32,00,000) + supply of laptop (₹ 13,30,000) + supply of Direct Selling Agent service (₹ 4,00,000) + supply of pure labour service (₹ 6,20,000) + supply of corporate guarantee (₹ 2,00,000) + interest received on fixed deposits (₹ 2,00,000) = ₹ 59,50,000

(iii) **Computation of ITC available for set off of Sitaram Industries Limited for the month of October**

Particulars	IGST(₹)	CGST(₹)	SGST(₹)
Common credit on inputs and input services	54,000	36,000	36,000
ITC available in the Electronic Credit Ledger	54,000	36,000	36,000
Less: Common credit attributable to exempt supplies during the tax period [As calculated in Note (ii) above]	29,042	19,361	19,361
ITC available for set off	24,958	16,639	16,639

Q.52 Mr. Dinkar is the owner of Dinkar Associates which is registered in Ahmedabad, Gujarat. He is engaged in supply of various goods and services in the domestic market and exporting the same outside India. During the month of February, he has undertaken the following transactions:

Outward Supplies

- (i) Transferred the tenancy rights of a commercial complex (taken on rent) located in Vadodra for a tenancy premium of ₹ 8,00,000 to DB Morgan Ltd. of Ahmedabad, Gujarat. Stamp duty and registration fee have already been paid on the tenancy premium.

- (ii) Hired out excavators and dumpers alongwith operators to mining lease holders of Kuchchh, Gujarat for extracting and transporting minerals within the mining area for a period of 5 years. The excavators/dumpers are invariably hired out along with operators. Similarly, operators are supplied only when the excavators/dumpers are hired out. Hire charges for excavators and dumpers are ₹ 10,00,000 and service charges for supply of manpower for operation of the excavators/dumpers - ₹ 2,00,000.
- (iii) Supplied goods of value of ₹ 35,00,000 to Choksi Ltd. Jamnagar, Gujarat (including goods worth ₹ 10,00,000 supplied to SEZ unit of Choksi Ltd. in Gujarat).
- (iv) Agreed to provide consultancy services to Mr. Krishna of Surat, Gujarat who is an unregistered person in connection with his newly commenced business for a consideration of ₹ 6,80,000. An advance of ₹ 1,50,000 has been received for the same on 10th February.
- (v) Exported the goods to George Inc. of the USA. FOB value of the goods is ₹ 8,40,000.
- (vi) Sold a heavy printing machinery purchased from Japan for ₹ 5,10,000 in high sea to Dhoomketu Printers, Mumbai, Maharashtra on 10th February.
- (vii) Supplied goods to Timahi Corporation, China for ₹ 12,00,000 on 15th February. These goods were purchased for ₹ 10,00,000 from Jamsam Corporation, Japan on 5th February and were supplied in China without bringing them to India.

Inward Supplies

- (i) The goods exported to George Inc., USA, were purchased by Mr. Dinkar as a merchant exporter for ₹ 7,00,000 from Shraavan Ltd., a manufacturer registered in Bengaluru, Karnataka.
- (ii) The heavy printing machinery sold in high sea to Dhoomketu Printers was originally imported by Mr. Dinkar from Japan on 2nd February, with CIF value of ₹ 5,00,000 and FOB value of ₹ 4,50,000.
- (iii) Mr. Dinkar paid a sales commission of ₹ 5,00,000 to Mr. Kenzo of Japan, his agent in connection with all the imports from Japan.
- (iv) Imported raw materials from Italy under a CIF contract. CIF value of the goods for the purpose of customs included ₹ 2,00,000 as ocean freight paid by the exporter on transport of goods through vessel from port of shipment to port of import. The value for the purpose of levy of IGST worked out by the customs was ₹ 9,00,000.
- (v) Purchased raw cotton for manufacture of garments for ₹ 12,00,000 from Mr. Poonawala, an agriculturist of Kuchch, Gujarat.
- (vi) Monthly rent of ₹ 35,00,000 payable to Dharam Ltd., Gujarat, for the retail outlet (a commercial property) in Ahmedabad, Gujarat (one third of total space available is used by Mr. Dinkar for personal residential purposes).

Compute the net GST payable in cash [CGST and SGST or IGST, as the case may be], by Mr. Dinkar for February.

Notes:

- A. Rates of CGST, SGST and IGST for hiring out of excavators and dumpers are 6%, 6% and 12%. As regards the supply received as a merchant exporter, Mr. Dinkar paid GST at the concessional rates by fulfilling all requisite conditions thereof. Rates of CGST, SGST and IGST for all the other supplies of goods and services including supply of manpower services are 9%, 9% and 18%. Ignore GST compensation cess.
- B. Mr. Dinkar had an opening balance of ITC of CGST of ₹ 35,000 and SGST of ₹ 35,000 for the relevant period. In respect of all the inward supplies, suppliers have uploaded their invoices in respective Form GSTR-1 and the supplies are reflected in Form GSTR 2B.
- C. All the figures given above are exclusive of GST, wherever applicable. The amounts given in respect of import and export transactions in rupees have been arrived after conversion thereof, though transactions were undertaken in convertible foreign currency.
- D. Mr. Dinkar always makes zero-rated supplies under a bond or letter of undertaking (LUT).

Provide supporting explanatory notes for your conclusion wherever required.

[Nov24 RTP]

Ans. Computation of net GST payable in cash, by Mr. Dinkar

Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
GST payable on outward supplies				
Transfer of tenancy rights [Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable even though stamp duty and registration fee have been paid on the same (Circular No. 44/2018 CT dated 02.05.2018). It is an intra-State supply since place of supply is location of immovable property being Ahmedabad, Gujarat.]	8,00,000	72,000 (8,00,000 x 9%)	72,000 (8,00,000 x 9%)	
Hiring out excavators and dumpers including operators [Taxable since renting of trucks and other freight vehicles with driver for a period of time is a service of renting of transport vehicles (with operator) and not service of transportation of goods by road. Further, since the excavators and dumpers are invariably hired out along with operators and the	12,00,000 [10,00,000 + 2,00,000]	72,000 (12,00,000 x 6%)	72,000 (12,00,000 x 6%)	

operators are supplied only when the excavators/dumpers are hired out, it is a case of composite supply under section 2(30) wherein the principal supply is the hiring out of the excavators and dumpers. 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/dumpers will also be taxed at the rate applicable for hiring out of the excavator and dumpers (principal supply). Further, it is a taxable intra-State supply since place of supply is location of recipient being Kuchchh, Gujarat.]				
Goods supplied to SEZ unit of Choksi Ltd. [Supply to SEZ unit is a zero-rated supply in terms of section 16(1)(b) of the IGST Act, 2017. No IGST is payable since Mr. Dinkar makes all zero-rated supplies under LUT/bond.]	10,00,000			Nil
Supply of goods to Choksi Ltd., Gujarat [It is a taxable intra- State supply since place of supply is location of goods when movement of such goods terminates, viz., Jamnagar, Gujarat.	25,00,000 [35,00,000 - 10,00,000]	2,25,000 [25,00,000 × 9%]	2,25,000 [25,00,000 × 9%]	
Advance received for the consultancy services to be provided to Mr. Krishna [Tax on the services to be provided is payable at the time of receipt of advance. Since the place of supply is location of recipient, i.e. Gujarat,	1,50,000	13,500 [1,50,000 × 9%]	13,500 [1,50,000 × 9%]	

it is an intra- State supply.]				
Export of goods to USA under LUT/bond [Export of goods outside India is a zero - rated supply in terms of section 16(1)(b) of the IGST Act, 2017. No IGST is payable since Mr. Dinkar makes all zero- rated supplies under LUT/bond.]	8,40,000			Nil
High sea sales of heavy printing machinery imported from Japan [High sea sales is neither treated as supply of goods nor as supply of services in terms of para 8(b) of Schedule III of the CGST Act, 2017.]	Nil	--	--	--
Goods purchased from Japan sold in China without bringing them into India [Third country shipments or triangular trade is neither treated as supply for goods nor as supply of services in terms of para 7 of Schedule III of the CGST Act, 2017.]	Nil	--	--	--
Total output tax		3,82,500	3,82,500	Nil
Less: ITC [Refer working note below]		81,350 (IGST)	81,350 (IGST)	
[IGST credit has been utilized for payment of CGST and SGST liability in equal proportion. Thereafter, CGST credit and SGST credit have been utilized to pay the CGST liability and SGST liability respectively.]		3,01,150 (CGST)		
			3,01,150 (SGST)	
Net GST payable		Nil	Nil	Nil
Add: GST payable on inward supplies				
Imported raw material from Italy	9,00,000			1,62,000 [9,00,000 × 18%]
Raw material purchased from Mr. Poonawala, Gujarat [Tax on the raw cotton purchased	12,00,000	1,08,000 [12,00,000 × 9%]	1,08,000 [12,00,000 × 9%]	

by any registered person from an agriculturist is payable under reverse				
charge vide <i>Notification No. 4/2017 IT (R) dated 28.06.2017.</i>				
Total net GST payable in cash (CGST and SGST of ₹ 1,08,000 each will be paid in cash through GSTN portal and IGST of ₹ 1,62,000 will be paid in cash through ICEGATE portal while making customs clearance.)		1,08,000	1,08,000	1,62,000

Working Note - Computation of admissible ITC for February

Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
Opening balance		35,000	35,000	
Goods purchased as merchant exporter [It is an inter-State supply since the place of supply is Gujarat, i.e. location where the movement of goods terminates. Shravan Ltd. would have supplied the goods to merchant exporter - Mr. Dinkar - at concessional rate of IGST of 0.1% prescribed under <i>Notification Nos. 41/2017 IT(R) dated 23.10.2017.</i> Further, the merchant exporter is eligible to take ITC of concessional IGST so paid ¹ .]	7,00,000	--	--	700
Heavy printing machinery imported from Japan [No ITC is available since tax is not payable by Mr. Dinkar on the same since in case of high sea sales, IGST is paid by the last high sea sales buyer who clears the goods for home consumption by filing the bill of entry.]	Nil	--	--	--
Goods purchased from Jamsam Corporation, Japan [No ITC is available since tax is not payable by Mr. Dinkar on the same as goods do not become part of the landmass of the country.]	Nil	--	--	--
Sales commission paid to agent - Mr. Kenzo [Since service provider - Mr. Kenzo - is an intermediary in the given transaction, place of supply is location of supplier - Mr. Kenzo, i.e. outside India (Japan), in terms of section 13(8)(b) of the IGST Act, 2017. Since location of supplier and place of supply are outside India, tax is not payable on said transaction under reverse charge on said services.]	5,00,000	--	--	--
Imported raw material from Italy	9,00,000			1,62,000

[Input tax, <i>inter alia</i> , includes IGST charged on import of goods, in terms of section 2(62). No separate levy of IGST will be there on the component of ocean freight paid by the foreign exporter to the foreign shipping line in the CIF contract by virtue of <i>Union of India vs. Mohit Minerals Pvt. Ltd. 2022 (61) G.S.T.L. 257 (SC)</i> since the Indian importer is liable to pay IGST on the 'composite supply', comprising of supply of goods and supply of services of transportation, insurance, etc. in a CIF contract.]				[9,00,000 × 18%]
Raw cotton purchased from Mr. Poonawala, Gujarat [It is an intra-State supply since the place of supply is location where movement of goods terminates, i.e. Gujarat, in terms of section 10(1)(a) of the IGST Act, 2017. ITC on goods used in course or furtherance of business is allowed in terms of section 16.]	12,00,000	1,08,000 [12,00,000 × 9%]	1,08,000 [12,00,000 × 9%]	
GST paid on monthly rent [In case of services used partly for the business purpose and partly for other purposes, ITC is restricted to so much of ITC as is attributable to the purposes of business. Thus, ITC for GST paid on only 2/3 rd of monthly rent is available since GST paid on monthly rent attributable to personal purposes (one-third) is not allowed. Further, it is an intra-State supply since the place of supply of services provided in relation to an immovable property is location of immovable property, i.e. Gujarat in terms of section 12(3) of the IGST Act, 2017.]	35,00,000	2,10,000 [35,00,000 × 9%×2/3]	2,10,000 [35,00,000 × 9%×2/3]	--
Total ITC available		3,53,000	3,53,000	1,62,700

Note – Since as per section 49(5) read with rule 88A, ITC of IGST can be utilised towards payment of CGST and SGST in any proportion and in any order, the ITC of IGST of ₹ 1,62,700 can be set off against the CGST and SGST liability in any proportion and in any order. In above answer, ITC of IGST has been set off in equal proportion against the payment of CGST and SGST liability. However, multiple answers are possible to given question owing to multiple ways of utilizing the ITC of IGST for payment of CGST and SGST liability.

Q53. XYZ Ltd., a registered supplier under GST in the State of Tamil Nadu, is engaged in providing various kinds of supplies of goods and services. It provides the following information for month of October, 2023:

S. No.	Particulars	Amount (₹)
	OUTWARD SUPPLY:	
(i)	Supplies a consignment of goods in the territorial water to M/s Vikram	5,00,000

	Industries, registered in Kerala. The said territorial waters is located at a distance of 12 nautical miles from the baseline of State of Kerala and 11 nautical miles from the baseline of State of Tamil Nadu.	
(ii)	Provided pure labour services of construction of a single commercial unit located in Delhi not forming part of any residential complex to a customer in Delhi.	12,00,000
(iii)	Supplied 25 televisions over the counter to Mr. Vijay, an unregistered buyer, who took it to his residence in Haryana.	14,00,000
	INWARD SUPPLY:	
(i)	Received a debit note in respect of inward intra-State taxable supplies received in the financial year 2020-21 for the quantity difference as agreed. These inward supplies were used for all goods manufactured in factory. Date of debit note is 17 th October, 2023.	3,00,000
(ii)	Purchased silk yarn (to be used as raw material) from Mr. Ravi, who manufactures silk yarn from raw silk. Mr. Ravi is registered in the State of Rajasthan.	8,00,000
(iii)	Availed services of an arbitral tribunal in Chennai, TamilNadu to settle a case relating to the Companies Act.	6,00,000
(iv)	Purchased raw material form ABK Ltd., registered in the State of Andhra Pradesh.	15,00,000
(v)	Purchased a new truck from a dealer in Cochin, Kerala for transport of materials.	14,00,000

Notes:

The company provided the following additional information related to above said transactions or otherwise:

- (i) The company claimed depreciation under the Income-tax Act, 1961 on the value of new truck purchased including all applicable taxes.
- (ii) The company provided a corporate guarantee of ₹ 2.5 crore to BYH Ltd., its related company, having registered office in the State of Maharashtra, for loan availed by the later form Mangal Bank Ltd., Maharashtra. No consideration has been charged against this corporate guarantee.
- (iii) In the month of March, 2023, company had availed services in an inter-State transaction with a taxable value of ₹ 9,00,000 and a tax rate of 18%. This transaction was liable to tax under reverse charge. Payment for the same to the supplier was not made till the current month (overdue for 181 days during October, 2023). However, tax due under the said transaction was paid to Government and input tax credit availed in the month of transaction itself.
- (iv) The accountant of the company did not claim input tax credit in respect of debit note received for the reason that the original purchase was related to earlier years for which ITC claim eligibility has become time barred.
- (v) Invoice issued to Mr. Vijay for televisions mentions only his name and State. However, his complete address of Haryana is missing in the invoice.

- (vi) ABK Ltd. is mandatorily required to issue e-invoice. However, it did not issue e-invoice with Invoice Reference Number (IRN) although the invoice was reflected in GSTR-2B.
- (vii) Turnover of XYZ Ltd. for the precious financial year was ₹ 190 lakh.
- (viii) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively for both inward and outward supply of goods and services involved.
- (ix) All the amounts given above are exclusive of the GST, wherever applicable. There is no opening balance of any input tax credit and all the conditions necessary for availing the input tax credit have been fulfilled except if mentioned otherwise and also that details of GST paid on inward supplies are available in GSTR 2B.
- (x) Assume that all the inward supplies have been used only for taxable outward supply.
- (xi) Company is not covered under any of the exception of rule 86B of the CGST Rules, 2017 regarding restriction on use of available input tax credit.

Compute minimum net GST liability of M/s XYZ Ltd, to be paid in cash if any, after utilizing input tax credit if any, for the month of October, 2023.

Note: Working notes along with legal reasoning of each item should form part of your answer.

[May24 PP]

Ans. Computation of minimum net GST liability of XYZ Ltd. to be paid in cash for the month of October 2023

S. No.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
Output tax payable under forward charge					
(i)	Supply of consignment in territorial waters [Where supply is in territorial waters, Place of supply is deemed to be in coastal State where nearest point of the appropriate baseline is located. Therefore, place of supply will be in Tamil Nadu and hence, supply will be intra-State supply]	5,00,000	45,000 [5,00,000 x 9%]	45,000 [5,00,000 x 9%]	
(ii)	Pure labour services [Since pure labour services provided for construction of only residential unit are exempt, such services provided for construction of commercial unit are taxable. Further, it is an inter-State supply since place of supply is location of immovable property, viz. Delhi.]	12,00,000			2,16,000 [12,00,000 x 18%]
(iii)	Supply of 25 Televisions ¹ [Inter-State supply since place of supply	14,00,000			2,52,000 [14,00,000

	is location as per the address of the unregistered recipient (name of the State) recorded in the invoice issued in respect of the supply, viz. Haryana.]				x 18%]
(iv)	Corporate guarantee provided. [Deemed supply under Schedule-I of the CGST Act, 2017 even though made without any consideration. Inter- State supply since place of supply is Maharashtra (location of recipient). Further, value of supply is higher of: (i) 1% of the amount of such guarantee offered, or (ii) actual consideration [Thus, value of supply is 1% of ₹ 2.5 crores, i.e. ₹ 2,50,000]	2,50,000			45,000 [2,50,000 x 18%]
	Total output tax		45,000	45,000	5,13,000
	<i>Less:</i> ITC available for set off [Refer note below.] [IGST credit is utilized for payment of IGST. CGST and SGST credit is first utilized for payment of CGST and SGST liability respectively and thereafter, for payment of IGST liability.]		(45,000) -CGST	(45,000) -SGST	(1,44,000) -IGST (36,000) -CGST (36,000) -SGST
	Net output tax payable in cash		Nil	Nil	2,97,000
	GST payable under reverse charge				
	Tax on services provided by the arbitral tribunal is payable under reverse charge by the recipient of service. [Arbitral tribunal services to XYZ Ltd., a business entity with aggregate turnover exceeding the applicable threshold limit for registration [viz. ₹ 20 lakh] in the previous financial year are liable to tax under reverse charge mechanism.]		54,000	54,000	
	Tax on silk yarn supplied by a person who manufactures it from raw silk to a registered person is payable under reverse charge.				1,44,000
	Minimum net GST payable for set off		54,000	54,000	4,41,000

Working note - Computation of eligible ITC available for set off

S. No.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
(i)	Debit note received. [ITC on debit notes issued in a financial Year (FY) can be availed, any time till 30 th November of the succeeding FY or the date of filing of the relevant annual return, whichever is earlier, based on date of issue of debit note, irrespective of the date of original invoice/ supply.]	3,00,000	27,000 [3,00,000 × 9%]	27,000 [3,00,000 × 9%]	
(ii)	Silk yarn purchased. [Inter-State supply since place of supply is location where movement of goods terminates, viz. Tamil Nadu. Further, ITC on goods to be used in course or Furtherance of business is available.]	8,00,000			1,44,000 [8,00,000 × 18%]
(iii)	Services of the Arbitral Tribunal availed. Such services are intra-State supply since place of supply is Tamil Nadu (location of recipient). Further, ITC on services used in course or Furtherance of business is available.]	6,00,000	54,000 [6,00,000 × 9%]	54,000 [6,00,000 × 9%]	
(iv)	Raw Material purchased from ABK Ltd. [ITC cannot be claimed on the e-invoices without IRN since an e-invoice without IRN is not treated as valid document for claiming ITC.]	15,00,000			
(v)	Truck purchased. [ITC is not available since depreciation has been claimed on the GST component.]	14,00,000			
(vi)	Condition of payment of value of supply plus tax within 180 days does not apply to supplies on which tax is payable under reverse charge mechanism.				
	Total ITC available		81,000	81,000	1,44,000

Q.54 A banking company M/s. YVPAY Bank Ltd. is registered under GST laws and provided the following services during the month of October, 2023.

S. No.	Particulars	Amount (₹)
(i)	Discount earned on bills discounted	6,00,000
(ii)	Interest earned on reverse repo transaction	2,00,000
(iii)	Penal interest recovered from the borrower for the delay in payment of loan EMIs/Dues	5,00,000
(iv)	Services to merchants accepting credit /debit card payments using Point of Sale	6,50,000

	(POS) machine of bank. (In 50% cases, the amount per transaction was up to ₹ 1,500 while in the other cases, the amount was between ₹ 1,500 to ₹ 2,000)	
(v)	Commission received for debt collection service	12,00,000
(vi)	Interest charges for last payment of credit card dues	4,00,000

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

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

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

[May24 PP]

Ans. Computation of net GST payable by YVPAY Bank Ltd.

	Particulars	GST @ 18% (₹)
(i)	Discount earned on bills discounted [Exempt since consideration is represented by way of discount.]	-
(ii)	Interest on reverse repo transaction [Exempt since consideration is represented by way of interest paid to bank.]	-
(iii)	Penal interest on delayed payment of EMIs [Penal interest paid to bank is exempt]	-
(iv)	Services to merchants accepting credit/debit card payments [Exempt since such services are provided to merchants in relation to settlement of an amount upto ₹ 2,000 per transaction through credit/debit card.]	-
(v)	Commission for debt collection services [Not exempt, since it is not a service of extending deposits, loans or advances.]	2,16,000
(vi)	Interest charges for late payment of credit card dues [Not exempt, since specifically excluded.]	72,000
	Output tax payable	2,88,000
	Less: 50% of eligible ITC on input services and capital goods availed in October [(₹ 8,00,000 + ₹ 6,00,000) × 50%] [Blocked credit cannot be availed.]	(7,00,000)
	Net GST payable	Nil

CHAPTER NO - 11
PAYMENT OF TAX

Q.1 A makes intra-State supply of goods valued at 50,000 to B within State of Karnataka. There is no input tax credit balance available with A. B makes inter-State supply to X Ltd. (located in Telangana) after adding 10% as its margin on the value of goods excluding taxes. Thereafter, X Ltd. sells it to Y in Telangana (Intra-State sale) after adding 10% as his margin on the value of goods excluding taxes.

Assume that the rate of GST chargeable is 18% (CGST and SGST at 9% each and IGST chargeable at 18%). Calculate tax payable at each stage of the transactions detailed above. Wherever input tax credit is available and can be utilized, calculate the net tax payable in cash. At each stage of the transaction, indicate which Government will receive the tax paid and to what extent.

[ICAI SM]

Ans. I. Intra-State supply of goods by A to B

	₹
Value charged for supply of goods	50,000
Add; CGST @ 9%	4,500
Add: SGST @ 9%	4,500
Total price charged by A from B	59,000

A does not have credit of CGST, SGST or IGST. Thus, the entire CGST (4,500) & SGST (4,500) charged will be paid in cash by A to the Central Government and Karnataka Government respectively.

II. Inter-State supply of goods by B to X Ltd. - Margin @ 10%

	₹
Value charged for supply of goods (₹50,000 × 110%)	55,000
Add; IGST @ 18%	9,900
Total price charged by B from X Ltd.	64,900

Computation of IGST payable by B to Central Government in cash

	₹
IGST payable	9,900
Less: Credit of CGST	4,500
Less: Credit of SGST	<u>4,500</u>
IGST payable to Central Government in cash	900

Credit of CGST and SGST can be used to pay IGST [Section 49(5) of the CGST Act, 2017]. Karnataka Government will transfer SGST credit of 4,500 utilized in the payment of IGST to the Central Government.

III. Intra-State supply of goods by X Ltd. to Y

	₹
Value charged for supply of goods (₹55,000 × 110%)	60,500
Add; CGST @ 9%	5,445
Add: SGST @ 9%	<u>5,445</u>
Total Price charged by X Ltd. from Y	71,390

Computation of CGST and SGST payable by X Ltd in cash

	₹
CGST Payable	<u>5,445</u>
Less: Credit of IGST	<u>5,445</u>
CGST payable to Central Government in cash	<u>Nil</u>
SGST payable	5,445
Less: Available Credit of IGST [₹9,900 – ₹5,445]	<u>4,455</u>
SGST payable to Telangana Government in cash	<u>990</u>

Credit of IGST can be used to pay IGST, CGST and SGST in any order and in any proportion. Central Government will transfer IGST of ₹4,455 utilized in the payment of SGST to Telangana Government.

Q.2 Can one use input tax credit for payment of interest, penalty, and payment under reverse charge?

[ICAI SM]

Ans. No, as per section 49(4) the amount available in the **electronic credit ledger may be used for making any payment towards 'output tax'.**

As per section 2(82), output tax means, the CGST/SGST chargeable under this Act on taxable supply of goods and/or services made by him or by his agent and excludes tax payable by him on reverse charge basis. Therefore, **input tax credit cannot be used for payment of interest, penalty, and payment under of interest, penalty, and payment under reverse charge.**

Q.3 M/s PPC & Co. have availed input tax credit of ₹42,500/- during September under IGST head, instead of availing 21,250 under CGST & SGST heads. Mr. X, accountant of the above entity would like to use Form GST PMT-09 for making a transfer from IGST head to respective CGST & SGST heads.

Examine the scenario and offer your comment.

[ICAI SM]

Ans. As per provisions of section 49(10) read with rule 87(13) of CGST Rules, 2017, "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 Act to the electronic cash ledger for integrated tax, central tax, State tax or Union territory tax or cess in FORM GST PMT-09".

It is important to note that **only amounts available under Electronic Cash Ledger can be transferred to the respective heads using Form GST PMT-09 and not otherwise.**

Accordingly, contention of the Accountant Mr. X of M/s PPC & Co., is not valid for transfer of ₹ 42,500 from head IGST to respective CGST & SGST in Electronic Credit Ledger.

Q.4 M/s ABC Ltd. have belatedly filed GST return (under section 39) for the month of January after 60 days from the due date for filing such return. Total tax paid in such return is as below:

Particulars	IGST (₹)	CGST (₹)	SGST (₹)
Output tax payable	4,50,000	2,85,000	2,85,000
Tax payable under reverse charge	18,000	32,000	32,000
Input tax available for utilization	2,50,000	55,000	55,000
Tax paid through Electronic Cash Ledger	2,18,000	2,62,000	2,62,000

Examine the interest payable as per the provisions of GST law.

What would be your answer, if entire tax for the month of January has to be paid through Electronic Credit Ledger except taxes to be paid on reverse charge basis?

[ICAI SM]

Ans. Proviso to section 50 lays down that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, **shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.**

In the given scenario, M/s ABC Ltd. have filed their return belatedly and as per the above provisions, interest is payable on the tax component paid through Electronic Cash Ledger only. A point relevant to note here is that tax payable on reverse charge basis also carries interest for the period of delay in remittance of tax and input tax credit cannot be used to pay the same (i.e., tax payable under reverse charge has to be paid in cash).

Accordingly, interest under section 50 payable for the tax paid through Electronic Cash Ledger is computed as below:

$$\text{IGST: } 218,000 \times 18\% \times 60/365 = 6,450$$

$$\text{CGST: } 262,000 \times 18\% \times 60/365 = 7,752$$

$$\text{SGST: } 262,000 \times 18\% \times 60/365 = 7,752$$

Further, if entire tax payable for January is paid through Electronic Credit ledger, except for the taxes Further, if entire tax payable for January is paid through Electronic Credit ledger, except be paid under reverse charge basis, then interest under section 50 is applicable only on the remittance of tax under reverse charge basis and not for tax payable on forward charge basis.

Interest payable is given as below:

$$\text{IGST: } 18,000 \times 18\% \times 60/365 = 532$$

$$\text{CGST: } 32,000 \times 18\% \times 60/365 = 946$$

$$\text{SGST: } 32,000 \times 18\% \times 60/365 = 946$$

Q.5 Examine the taxes to be paid for the month of July on the basis of below information furnished by M/s Zinc & Co.:

Particulars	IGST (₹)	CGST (₹)	SGST (₹)
Output tax payable	14,75,000	28,34,000	28,34,000
Tax payable under reverse charge	36,000	1,44,000	1,44,000
Balance in Electronic Credit Ledger	26,52,000	18,32,000	18,32,000

Output tax reported under IGST column pertains to the month of February, which was not paid for the said period. Also, note that input tax credit available in Electronic Credit Ledger pertains to input tax on purchases made during the month of July and no opening balance exists from previous tax period.

[ICAI SM]

Ans. Payment of taxes is governed as per the provisions laid in section 49 read with section 49A and 49B of CGST Act, 2017 along with rule 88A of CGST Rules, 2017

Also, section 49(8) of CGST Act, stipulates that **every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order, namely:**

- Self-assessed tax, and other dues related to returns of previous tax periods;
- Self-assessed tax, and other dues related to the return of the current tax period;
- Any other amount payable under this Act or the rules made thereunder including the demand determined under section 73 or section 74;"

As per the above provisions, self-assessed tax of previous tax period i.e., February shall be paid first and later self-assessed tax of current tax period i.e., July shall be paid.

Particulars	IGST (₹)	CGST (₹)	SGST (₹)
Balance in electronic credit ledger for utilization	26,52,000	18,32,000	18,32,000
Output tax payable for July	14,75,000	28,34,000	28,34,000
Less: Utilization of input tax credit:			
a. IGST [Refer Note 1]	14,75,000	5,88,500	5,88,500
b. CGST	0	18,32,000	0
c. SGST	0	0	18,32,000
Amount payable through electronic cash ledger	Nil	4,13,500	4,13,500

Total amount payable through electronic cash ledger

Particulars	IGST	CGST	SGST
Amount payable through electronic cash ledger under forward charge	Nil	4,13,500	4,13,500
Amount payable through electronic cash ledger under reverse charge [Refer Note-2]	36,000	1,44,000	1,44,000
Total amount payable through electronic cash ledger	36,000	5,57,500	5,57,500

Notes: -

1. After utilization of IGST credit towards output IGST liability, balance has been utilized equally amongst CGST & SGST
2. Input tax credit cannot be utilized for discharging tax liability under reverse charge basis, thus payable vide electronic cash ledger.

Since, M/s Zinc & Co., have defaulted in payment of taxes for the month of February and the same has been paid during July, interest is payable as per the provisions of section 50 of the CGST Act, 2017

Q.6 M/s Neptune & Co. is registered under GST in the state of Maharashtra. They have made zero-rated supply of goods worth ₹84,50,000 on payment of IGST for 10,14,000 during the month of May. The refund application under section 54 for the above supply has been rejected by proper officer.

Mr. A, taxation manager of the firm, has sought for recrediting the Electronic Credit Ledger as per the provisions of rule 86 for the above rejection. Examine the scenario and offer your comments

[ICAI SM]

Ans. Rule 86 of CGST Rules provides that where a **registered person has claimed refund** of any unutilized the amount (i.e., ITC) from the electronic credit ledger in accordance with the provisions of section 54, **amount to the extent of the claim shall be debited in the said ledger.**

If the refund so filed is rejected, either fully or partly, the amount so debited to the extent of rejection, shall be re-credited to the electronic credit ledger by the proper officer.

In the present case, M/s Neptune & Co., have made zero-rated supply with payment of IGST for ₹10, 14,000 and the refund for the same has been rejected by the proper officer. Therefore, **contention of Mr. A is not sustainable** as debit entry in the Electronic Credit Ledger has not been made as per sub-rule (3) of Rule 86 towards "refund of any unutilized amount".

Supply made during May by M/s Neptune & Co. is on **payment of IGST** and therefore provisions laid out in **sub-rule (4) of Rule 86 shall not be applicable.**

Q.7 Manihar Enterprises, registered in Delhi, is engaged in supply of various goods and services exclusively to Government departments, agencies etc. and persons notified under section 51. It has provided the information relating to the supplies made, their contract values and the payment due against each of them in the month of October as under:

S. No.	Particulars	Total contract value (Inclusive off GST) (₹)	Payment due in October (₹)
(i)	Supply of stationery to Fisheries Department, Kolkata	2,60,000	15,000
(ii)	Supply of car rental services to Municipal Corporation of Delhi	2,95,000	20,000
(iii)	Supply of a heavy machinery to Public Sector Undertaking located in Uttarakhand	5,90,000	25,000

(iv)	Supply of taxable goods to Delhi office of National Housing Bank, a society established by Government of India under the Societies Registration Act, 1860	6,49,000	50,000
(v)	Interior decoration of Andhra Bhawan located in Delhi. Service contract is entered into with the Government of Andhra Pradesh (registered only in Andhra Pradesh)	12,39,000	12,39,000
(vi)	Supply of printed books and printed post cards to a West Delhi Post Office [Out of total contract value of 9,72,000, contract value for supply of books (exempt from GST) is 7,00,000 and for supply of printed post cards (taxable under GST) is 2,72,000.]		For books & 20,000 for printed post cards
	Maintenance of street lights in Municipal area of East Delhi* [The maintenance contract entered into with the Municipal Corporation of Delhi also involves replacement of defunct lights and other spares. However, the value of supply of goods is not more than 25% of the value of composite supply.] *an activity in relation to any function entrusted to a Municipality under article 243W of the Constitution	3,50,000	3,50,000

You are required to determine amount of tax, if any, to be deducted from each of the receivable given above assuming the rate of CGST, SGST as 9%, 9% and 18% respectively.

Will your answer be different, if Manihar Enterprises is registered under composition scheme?

[RTP – May 19]

Ans. As per section 51 read with section 20 of the IGST Act, 2017 and Notification No. 50/2018 CT 13.09.2018, with effect from 01.10.2018, **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 department or establishment of the Central Government or State Government; or
- local authority; or
- Governmental agencies; or
- an authority or a board or any other body, -
 - Set up by an Act of Parliament or a State Legislature; or
 - Established by a 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.
- (g) Registered person supplying metal scrap to another Registered

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.

Since in the given case, Manihaar Enterprises is supplying goods and services exclusively to Government departments, agencies etc. and persons notified under section 51, applicability of TDS provisions on its various receivables is examined in accordance with the above-mentioned provisions as under:

S. No.	Particulars	Total contract value (₹)	Payment due (₹)	Tax to be deducted		
				CGST	SGST	IGST
(i)	Supply of stationery to Fisheries Department, Kolkata (Note -1)	2,60,000	15,000	-	-	-
(ii)	Supply of car rental services to Municipal Corporation of Delhi (Note 2)	2,95,000	20,000	-	-	-
(iii)	Supply of a heavy machinery to Public Sector Undertaking allocated Uttarakhand (Note-3)	5,90,000	25,000	-	-	500
(iv)	Supply of taxable goods to Delhi office of National Housing Bank, a society established by Government of India under the Societies Registration Act, 1860 (Note-4)	6,49,000	50,000	500	500	-
(v)	Interior decoration of Andhra Bhawan big old located in Delhi (Note-5)	12,39,000	12,39,000	-	-	-
(vi)	Supply of printed books and printed post cards to a West Delhi Post Office (Note - 6)	9,72,000	-	-	-	-
(vii)	Maintenance of street light in Municipal area of East Delhi (Note -7)	3,50,000	3,50,000	-	-	-

Note:

- Being an inter-State supply of goods, supply of stationery to Fisheries Department, Kolkata is to IGST @ 18%. Therefore, total value of taxable supply [excluding IGST] under the contract is as follows:

$$= ₹2,60,000 \times 100/118$$

$$= ₹2,20,339 \text{ (rounded off)}$$

Since the total value of supply under the contract does not exceed ₹2,50,000, tax is not required to be deducted.

2. Being an intra-State supply of services, supply of car rental services to Municipal Corporation of Delhi is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

$$= ₹2,95,000 \times 100/118$$

$$= ₹2,50,000$$

Since the total value of supply under the contract does not exceed ₹2,50,000, tax is not required to be deducted.

3. Being an inter-State supply of goods, supply of heavy machinery to PSU in Uttarakhand is subject to IIGST @ 18%. Therefore, total value of taxable supply [excluding IGST] under the contract is as follows:

$$= ₹5,90,000 \times 100/118$$

$$= ₹5,00,000$$

Since the total value of supply under the contract exceeds ₹2,50,000, PSU in Uttarakhand is required to deduct tax @ 2% of ₹25,000 i.e., ₹500.

4. Being an intra-State supply of goods, supply of taxable goods to National Housing Bank, Delhi is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

$$= ₹6,49,000 \times 100/118$$

$$= ₹5,50,000$$

Since the total value of supply under the contract exceeds ₹2,50,000, National Housing Bank, Delhi is required to deduct tax @ 2% (1% CGST + 1% SGST) of ₹5,50,000, i.e., ₹1,10,000.

5. 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 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 (Manihar 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.

6. If the contract is made for both taxable supply and exempted supply, tax shall be deducted if the total value of taxable supply in the contract exceeds ₹2,50,000. Being an intra-State supply of goods, supply of printed post cards to a West Delhi Post Office is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply (excluding CGST and SGST) under the contract is as follows:

$$= ₹2,72,000 \times 100/118$$

$$= ₹2,30,509 \text{ (rounded off)}$$

Since the total value of taxable supply under the contract does not exceed ₹2,50,000, tax is not required to be deducted.

7. Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply provided to, inter alia, local authority by way of any activity in relation to any function entrusted to a Municipality under article 243W of the Constitution is exempt from GST. Thus, maintenance of street lights (an activity in relation to a function entrusted to a Municipality) in Municipal area of East Delhi involving replacement of defunct lights and other spares where the value of supply of goods is not more than 25% of the value of composite supply is a service exempt from GST. Since tax is liable to be deducted from the payment made or credited to the supplier of taxable goods or services or both, no tax is required to be deducted in the given case as the supply is exempt.

The answer will remain unchanged even if Manihar Enterprises is registered under composition scheme. Tax will be deducted in all cases where it is required to be deducted under section 51 of the CGST Act, 2017 including the scenarios when the supplier is registered under composition scheme.

Q. 8 Yash Shoppe, a registered supplier of Jaipur, is engaged in supply of various goods and services exclusively to Government departments, agencies, local authority and persons notified under section 51. You are required to briefly explain the provisions relating to tax deduction at source under section 51 and also determine the amount of tax, if any, to be deducted from each of the receivables given below (independent cases) assuming that the payments as per the contract values are made on 31st October. The rates of CGST, SGST and IGST may be assumed to be 6%, 6% and 12% respectively.

- (1) Supply of computer stationery to Public Sector Undertaking (PSU) located in Mumbai. Total contract value is ₹2,72,000 (inclusive of GST)
- (2) Supply of air conditioner to GST department located in Delhi. Total contract value is ₹2,55,000 (exclusive of GST)
- (3) Supply of generator renting service to Municipal Corporation of Jaipur. Total contract value is ₹3,50,000 (inclusive of GST)

[ICAI SM]

Ans. As per section 51 of the CGST Act, 2017, Government departments, agencies, local authority and notified persons are required to **deduct tax @ 2% (1% CGST + 1% SGST/UTGST) or IGST @ 2% from payment made to the supplier of taxable goods and/or services where the total value of such supply [excluding tax and compensation cess indicated in the invoice], under a contract exceeds ₹2,50,000.**

Since in the given case, Yash Shoppe is supplying goods and services exclusively to Government departments, agencies, local authority and persons notified under section 51 of the CGST Act, 2017, applicability of TDS provisions on its various receivables is examined in accordance with the above-mentioned provisions as under:

S. No.	Particulars	Total contract value due to be received [excluding GST] (₹)	Tax to be deducted		
			CGST @ 1% (₹)	SGST @ 1% (₹)	IGST @ 2% (₹)
1.	Supply of computer stationery to PSU in Mumbai [Since the total value of supply under the contract [excluding IGST (being inter-State supply)] does not exceed ₹2,50,000, tax is not required to be deducted.]	2,42,857 [2,72,000 × 100/112]	-	-	-
2.	Supply of air conditioner to GST Department in Delhi [Since the total value of supply under the contract [excluding IGST (being inter-State supply)] exceeds ₹2,50,000, tax is required to be deducted.]	2,55,000	-	-	5,100
3.	Supply of a generator renting service to Municipal Corporation of Jaipur [Since the total value of supply under the contract [excluding CGST and SGST (being intra-State supply)] exceeds ₹2,50,000, tax is required to be deducted.]	3,12,500 [3,50,000 × 100/112]	3,125	3,125	-
	Total		3,125	3,125	5,100

Q.9 Agni Limited filed GST return (under section 39) for the month of January 2024 on 11th April 2024. Original due date for the said return was 20th February 2024. Details of tax assessed as payable for the said month are given below:

Particulars	CGST (₹)	SGST (₹)
Output tax payable	1,80,000	1,80,000
Tax payable under reverse charge	40,000	40,000
Input tax credit available for utilization	70,000	70,000

- (i) Compute the net tax payable in cash while filing the said return as well as the interest payable for the delayed remittance of tax.
- (ii) Assuming that the company has an ITC balance of ₹2, 50,000 each under CGST and SGST for the said month, compute the interest payable, if entire tax due for the said month was paid through the Electronic Credit Ledger to the extent possible as per the provisions of Act.

[PP - May 22]

- Ans. (i)** Interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date shall be levied only on tax paid through electronic cash ledger.

In the given case, since return is filed belatedly, net tax payable in cash and interest thereon is computed as follows

Particulars	CGST (₹)	SGST (₹)
Output tax payable	1,80,000	1,80,000
Less: Credit of CGST and SGST be utilized for payment of CGST and SGST respectively	70,000	70,000
Net tax (A)	1,10,000	1,10,000
Tax under reverse charge is payable in cash (B)	40,000	40,000
Total tax payable in cash [(A) + (B)]	1,50,000	1,50,000
Interest payable @ 18% per annum (rounded off)	3,699 [1,50,000 × 18% x 50/365]	3,699 [1,50,000 × 18% x 50/365]

- (ii) In the above case, if ITC available is ₹ 2,50,000 of CGST and SGST each, output tax payable in cash shall be nil (CGST as well as SGST). However, remaining ITC available cannot be utilized for payment of tax payable under reverse charge as it is not an output tax. Therefore, interest on delayed payment of tax will be as follows:

Particulars	CGST (₹)	SGST (₹)
Interest payable @ 18% per annum (rounded off)	986 [40,000 × 18% × 50/365]	986 [40,000 × 18% × 50/365]

- Q.10 (i)** A Central Government Department located at Uttar Pradesh is registered with the Commercial Tax Department UP State for deducting GST. It enters into a contract with a Public Sector Undertaking (PSU), registered under GST in the State of Delhi, for supplying goods valued ₹ 3,50,000. The PSU argues that no tax is deductible on this supply by the Central Government Department as it is located outside the State of Uttar Pradesh and therefore not liable to tax under CGST and SGST as it is a local levy and IGST tax deduction is not applicable if it is located in another State, other

than the State in which the Department is registered. You are required to comment on this.

- (ii) Would there be any difference, if instead of the PSU if it was an entity in the private sector? Applicable tax rate for deduction is 1% CGST, 1% SGST and 2% IGST.
- (iii) If the private sector entity undertakes works contract, for the above Department in New Delhi. it at What would be the position of tax deduction when the contract value is 5,00,000?
- (iv) The disbursing officer has not paid the tax deducted in the month of February 20XX, amounting to ₹2,00,000 under CGST and 2,00,000 under SGST to the Government's account on the relevant due date, but has paid it on 14th May, 20XX. Further, return for that month is also filed on that date and the certificate is also issued simultaneously. What are the consequences, on such failures, to the disbursing officer under the GST law?

[PP - Nov 20]

- Ans.** (i) Certain specified persons are required to deduct tax from the payment made to the supplier of taxable goods and/or services, where the total value of such supply [excluding GST] under a var contract, exceeds ₹2, 50,000.

However, the tax is not liable to be deducted at source when supply of goods and/or services has taken place between one specified person to another specified person. **Since both Central Government Department and PSU are the specified persons, tax is not deductible in case of supply of goods between them.**

- (ii) Central Government Department is **mandatorily required to deduct IGST @ 2% since a private entity is not the specified person.**
- (iii) Since, in the given case, **the location of supplier and place of supply is in the same State, i.e., Delhi and location of recipient is in UP, Central Government Department is not required to deduct TDS although the total value of supply under the contract is more than ₹2,50,000.** [It has been assumed that the location of private entity and the place of supply are in Delhi and the Central Government Department is in U.P.]
- (iv) **Failure to deposit TDS** with the Government and failure to furnish TDS return within the stipulated time period will result in following consequences:
 - (A) **Interest @ 18% p.a.** on the amount of tax deducted shall be payable.
 - (B) **Late fee of 100 per day** for the period of delay in furnishing return, **or ₹ 5,000, whichever is lower**, shall be payable. Equal amount of late fee will be payable under the respective State law.
 - (C) **Applicable penalty will also be levied.**

- Q.11** Mr. Broker wrongly availed ₹ 1,25,000 as input tax credit (CGST + SGST) at the time of furnishing return under section 39 of the CGST Act, 2017 for the month of October 2022. This ITC was not utilized against the output tax liability for the month of October 2022. Mr. Broker utilised ITC of ₹ 75,000 from the above wrongly availed ITC of ₹ 1,25,000 against output tax liability for the month of November 2022.

Mr. Broker paid the amount of ITC wrongly utilised of ₹ 75,000 on 10th March, 2023 and reversed the unutilized amount of ₹ 50,000 on 20th March 2023. Calculate the total interest payable (CGST + SGST) rounded off to nearest rupee under GST law if Mr. Broker files:

- (i) Form GSTR-3B for the month of October on 18th November 2022, and
- (ii) Form GSTR-3B for the month of November on 25th December 2022.

Note: Assume there is no extension of due date of filing of Form GSTR-3B and no other transactions were undertaken during the year 2022-23.

(PP-Nov 23)

- Ans.** Where ITC has been wrongly availed and utilised, the registered person shall pay interest on the same
- for the period starting from the date of utilisation of such wrongly availed ITC
 - till the date of reversal of ITC or payment of tax in respect of such amount
 - @ 18% per annum. Since wrongly availed ITC of ₹ 50,000 has been reversed without utilizing the same, interest is not payable on the same. Interest is payable on wrongly availed and utilised ITC of ₹ 75,000. Date of utilisation of said ITC will be: (a) Due date of furnishing return for November, 2022 [20th December, 2022] or (b) Actual date of filing of the return for November [25th December, 2022] whichever is earlier. Thus, date of utilisation of said ITC will be 20th December, 2022. Interest (CGST + SGST) will be payable for 80 days [21st December 2022 to 10th March, 2023 (both days inclusive)] as follows: $\text{₹ } 75,000 \times 80/365 \times 18\% = \text{₹ } 2,959$ [CGST+SGST] (rounded off)

Q.12 List the instances when TDS is not liable to be deducted under the GST law.

(PP-Nov23)

- Ans.** Tax is not liable to be deducted at source under GST law when:
- (i) Location of the supplier and the place of supply are in a State/ Union territory which is different from the State/ Union territory of registration of the recipient.
 - (ii) Goods and/or services are supplied from a public sector undertaking (PSU) to another PSU, whether or not a distinct person
 - (iii) Supply of goods and/or services takes place between one person to another person specified in clauses (a), (b), (c) and (d) of section 51(1) of the CGST Act, 2017, i.e.
 - (a) Department/establishment of Central/State Government
 - (b) Local authority
 - (c) Governmental agencies
 - (d) Notified persons or category of persons
except registered persons notified for metal scrap
 - (iv) Total value of taxable supply \leq ₹ 2.5 lakh under a contract

CHAPTER NO - 12
ELECTRONIC COMMERCE TRANSACTIONS UNDER GST

Q.1 Nishpaksh Associates is a supplier selling its own products through a web site hosted by it. Does it fall under the definition of an “electronic commerce operator”? Whether Nishpaksh Associates is required to collect TCS on such supplies?

[ICAI SM]

Ans. As per the definitions in sections 2(44) and 2(45), Nishpaksh Associates will come under the definition of an “electronic commerce operator”.

However, according to section 52, TCS is required to be collected on the net value of taxable supplies made through it by other suppliers where the consideration is to be collected by the ECO. In cases where someone is selling their own products through a website, there is no requirement to collect TCS as per the provisions of this section. These transactions will be liable to GST at the prevailing rates.

Thus, Nishpaksh Associates is **not required to collect TCS on the supplies made by it through its own website.**

Q.2 If Sitcom Technologies Ltd. purchases goods from different vendors and thereafter sells them on its own website under its own billing. Is TCS required to be collected on such supplies?

[ICAI SM]

Ans. No. According to section 52, TCS is required to be collected on the net value of taxable supplies made through ECO by other suppliers where the consideration is to be collected by the ECO. In this case, there are two transactions - Sitcom Technologies Ltd. purchases the goods from the vendors, and thereafter those goods are sold through its own website.

For the first transaction, GST is leviable, and will need to be paid to vendor, on which credit is available to Sitcom Technologies Ltd. The second transaction is a supply on own account of Sitcom Technologies Ltd., and not by other suppliers and there is no requirement to collect TCS. The transaction will attract GST at the prevailing rates.

Q.3 Starkart Limited owns and operates a web portal in the name of “Starkart” and is registered with the jurisdictional GST authorities in Delhi as an electronic commerce operator and is liable to collect tax at source under section 52.

Starkart provides listing service to various sellers for selling the goods to ultimate customers. Besides this, Starkart also sells its own products through the same web portal.

For the listing services provided to sellers, Starkart charges a listing fee at the rate of 10% of turnover of goods sold by the seller in a particular month. Such listing fee is recovered from the seller irrespective of any return of goods sold through Starkart. The customers can choose from wide range of goods listed on the web portal and place an online order for goods.

The payment is made by the customers through the payment gateway in online mode only. At the time of monthly settlement, Starkart makes the payment to the sellers after adjusting the tax collection at source at the applicable rates.

The invoice for goods sold on Starkart is issued by the seller in the name of customers and tax is charged on the basis of location of seller and customer.

The goods are shipped directly by the seller to the customer and there is no responsibility of shipping the goods on Starkart for such third-party sellers.

In case of return of goods by the customer, the shipping is arranged by Starkart.

It charges a fee equivalent to 20% of the value of goods returned as cancellation charges and refunds the balance amount to the customer.

Further, 10% of the value of goods returned is collected from the seller by Starkart as handling charges for return of goods.

In the month of January, Pulkit, a resident of Rajasthan, purchased following goods from Starkart:

- a. Laptop having a value of ₹50,000 and a printer having a value of ₹10,000. Both the products are sold by Infocom Limited, a seller listed on Starkart and registered under GST in the State of Uttar Pradesh.
- b. Mobile phone having a value of ₹30,000 sold by Starkart in its own capacity.
- c. CCTV camera system having a value of ₹1,00,000 sold by Secure World, listed on Starkart and registered under GST in the State of Gujarat.

All the amounts given above are exclusive of GST, wherever applicable.

The opening balance of input tax credit for the relevant tax period for Starkart, Infocom Limited and Secure World is nil. Further, there is no other inward or outward supply transaction for Starkart, Infocom Limited and Secure World in January apart from the aforementioned transactions. Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.

GST is applicable on all inward and outward supplies at the following rates unless otherwise specified:

CGST - 9%, SGST - 9%, IGST - 18%

Compute the net tax liability (including amount collected as TCS) of Starkart Limited and net GST payable in cash (after set-off of credits, if any) of Infocom Limited and Secure World, for the month of January.

[ICAI SM]

Ans. Computation of net tax liability (including amount collected as TCS) of Starkart Limited for January:

Particulars	₹
TCS to be collected from Infocom Limited on supply of Laptop and a printer to Pulkit [Starkart is an ECO since it owns and operates a web portal through which Infocom Limited supplies goods. Further, IGST is applicable on said inter-State transaction since supplier - Infocom Limited is located in the State of Uttar Pradesh and place of supply	300

is Rajasthan [i.e., where movement of goods terminates in terms of section 10(1)(a) of the IGST Act, 2017]. Thus, Starkart will collect TCS @ 0.5% of [₹50,000 + ₹10,000]	
GST to be paid by Starkart on supply of mobile phone made on its own account @ 18% (IGST) of ₹30,000. IGST is applicable on said inter-State transaction since supplier - Starkart is located in Delhi and place of supply is Rajasthan [i.e., where movement of goods terminates in terms of section 10(1)(a) of the IGST Act, 2017]. Since supply has been made by Starkart on its own account, no TCS needs to be collected.	5,400
TCS to be collected from Secure World on supply of CCTV camera system to Pulkit [ECO - Starkart is liable to collect TCS on this transaction. Further, IGST is applicable on said inter-State transaction since supplier - Secure World is located in the State of Gujarat and place of supply is Rajasthan [i.e., where movement of goods terminates in terms of section 10(1)(a) of the IGST Act, 2017]. Thus, Starkart will collect TCS @ 0.5% of ₹1,00,000]	500
Listing services provided by Starkart to Infocom Limited and Secure Limited @ 10% of turnover for the month of January. Turnover of Infocom Limited and Secure Limited is ₹60,000 and ₹1,00,000 respectively. IGST @ 18% on (₹1,60,000 × 10%) is applicable on said inter- State transaction since supplier - Starkart is located in Delhi and place of supply is Uttar Pradesh and Gujarat respectively [i.e., location of recipient in terms of section 12(2) of the IGST Act, 2017]	2,880
Total GST liability (including TCS collected) of Starkart for January	9,080

Computation of net GST payable in cash by Infocom Limited for the month of January

Particulars	₹
Gross GST liability [18% of turnover for January (₹50,000 + ₹10,000)]	10,800
Less: ITC of GST payable on listing services received from [(10% of ₹60,000) × 18%]	(1,080)
Net GST payable from Electronic Cash Ledger	9,720
Less: TCS credited to Electronic Cash Credit Ledger	(300)
Net GST payable in cash	9,420

Computation of net GST payable in cash of Secure World for the month of January

Gross GST Liability [18% of turnover for January (₹1,00,000)]	18,000
Less: ITC of GST payable on listing services received from [(10% of ₹1,00,000) × 18%]	(1,800)
Net GST payable from Electronic Cash Ledger	16,200
Less: TCS credited to Electronic Cash Credit Ledger	(500)
Net GST payable in cash	15,700

Q.4 Whether the rate of tax of 0.5% notified under section 52 is CGST or SGST or a combination of both CGST and SGST?

[ICAI SM]

Ans. 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 0.5%.

Q.5 Is every e-commerce operator required to collect tax on behalf of actual supplier?

[ICAI SM]

Ans. Yes, every e-commerce operator is required to collect tax where consideration with respect to the supply made through it is being collected by the ecommerce operator.

However, **no TCS is required to be collected in the following cases:**

- (i) On supply of services notified under section 9(5) of the CGST Act, 2017.
- (ii) On exempt supplies
- (iii) On supplies on which the recipient is required to pay tax on reverse charge basis.

Q.6 State whether the provisions pertaining to tax collected at source under section 52, will be applicable in below mentioned scenarios -

- (a) Fitan sells watch on its own through its own website
- (b) ABC limited who is dealer of Fitan brand sells watches through Slipkart, an electronic commerce operator

[ICAI SM]

Ans. Answers for both the scenarios is as follows:

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

- (a) 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.
Hence, **if the person sells on his own, provisions pertaining to tax collected at source (TCS) won't be applicable.**
- (b) If ABC limited who is dealer of Fitan brand sells watches through Slipkart, then the **provision of TCS will be applicable** to Slipkart.

Q.7 A is an e-commerce operator supplying goods through its electronic portal in capacity of an agent. The goods belong to B and the consideration for such supplies is received by A and remitted to B as per the contractual arrangement.

A requires your help in arriving at the rate at which tax shall be collected from the amount which is received by it against the supplies?

[ICAI SM]

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Ans. As per section 52(1), the **TCS provisions are not applicable in cases where the ECO is an agent of the supplier.** In the present case, A being an ECO is supplying goods through the electronic portal in capacity of an agent and hence the liability to collect tax as per Section 52 shall not arise in this case.

Q.8 X booked a Hotel in Udaipur, Rajasthan through an e-commerce portal for an amount of ₹25,000. As per the terms and conditions, the amount was payable at the hotel at the time of check in. Whether TCS provisions shall apply in the present case?

[ICAI SM]

Ans. No, as per the provisions under section 52, the **TCS provisions shall trigger only when the ECO is receiving the consideration for supply from the recipient of supply.** In the present case, the supplier i.e., the hotel is directly receiving the consideration from the recipient of the services i.e., X. Hence, the **present transactions shall not trigger the TCS provisions under section 52.**

Q.9 Sumitra Nandan books a hotel – Hillpoint Residency - via Zitcom Technologies Ltd. – an ECO - who in turn is integrated with another ECO-Techsuper Ltd. who has agreement with Hillpoint Residency. You are required to determine who is required to collect TCS in the given case.

[ICAI SM]

Ans. The given case is a **case of multiple e-commerce model** wherein a customer orders supplies via ECO-1 who in turn is integrated with ECO-2 who has agreement with the supplier. In this case, ECO-1 will not have any GST information of the supplier. **TCS is to be collected by that e-Commerce operator who is making payment to the supplier for the particular supply happening through it, which is in this case will be ECO-2.**

Thus, in the given case, TCS is to be collected by ECO-Tec super Ltd. who is making payment to Hill point Residency for the supply happening through it,

Q.10 AB Pvt. Ltd., Pune provides housekeeping services. The company supplies its services exclusively through an e-commerce website owned and managed by Hi-Tech Indya Pvt. Ltd., Pune. The turnover of AB Pvt. Ltd. in the current financial year is ₹ 18 lakh.

Advise AB Pvt. Ltd. as to whether they are required to obtain GST registration. Will your advice be any different if AB Pvt. Ltd. sells readymade garments exclusively through the e-commerce website owned and managed by Hi-Tech Indya Pvt. Ltd.?

Ans. As per section 22 of the CGST Act every supplier of goods or services or both is required to obtain registration in the State/Union territory from where he makes the taxable supply if his aggregate turnover exceeds threshold limit in a financial year.

However, section 24 of the said Act enlists certain categories of persons who are mandatorily required to obtain registration, irrespective of their turnover. Persons who supply goods or services or both through such electronic commerce operator (ECO), who is required to collect tax at source under section 52, is one such person specified under clause (ix) of section 24. However, where the ECO is

liable to pay tax on behalf of the suppliers of services under a notification issued under section 9(5), the suppliers of such services are entitled for threshold exemption and also as per section 23, person making supplies of goods through an electronic commerce operator who is required to collect TCS u/s 52 of CGST is entitled for threshold exemption subjected to certain conditions.

Section 2(45) of the CGST Act defines ECO as any person who owns, operates or manages digital or electronic facility or platform for electronic commerce. Electronic commerce is defined under section 2(44) to mean the supply of goods or services or both, including digital products over digital or electronic networks. Since Hi-Tech Indya Pvt. Ltd. owns and manages a website for e-commerce where both goods and services are supplied, it will be classified as an ECO under section 2(45). Notification No. 17/2017 CT (R) dated 28.06.2017 issued under section 9(5) specifies services by way of housekeeping, except where the person supplying such service through ECO is liable for registration under section 22(1), as one such service where the ECO is liable to pay tax on behalf of the suppliers. In the given case, AB Pvt. Ltd. provides housekeeping services through an ECO. It is presumed that Hi-Tech Indya is an ECO which is required to collect tax at source under section 52. However, housekeeping services provided by AB Pvt. Ltd., which is not liable for registration under section 22(1) as its turnover is less than 20 lakh, is a service notified under section 9(5). Thus, AB Pvt. Ltd. will be entitled for threshold exemption for registration and will not be required to obtain registration even though it supplies services through ECO.

In the second case, AB Pvt. Ltd. sells readymade garments through ECO. Person making supplies of goods through an ECO who is required to collect TCS is entitled for threshold exemption subjected to certain conditions. Therefore, in second case, assuming that all the conditions are fulfilled, AB Pvt. Ltd. will be entitled for threshold exemption and will not be required to obtain registration.

Q.11 Mr. Jignesh of Delhi books accommodation, though an e-commerce operator - Plan My Trip Ltd. (PMTL), registered under GST in Uttarakhand, in a newly established budget hotel - Paras Resorts Ltd. (PRL) located in Nainital, Uttarakhand. The turnover of PRL in the current financial year is ₹ 18 lakh.

PRL raises an invoice for ₹ 1,00,000 to Mr. Jignesh. PMTL collects the payment from Mr. Jignesh and after deducting its fees and other charges from the same, remits the balance amount to PRL. Advise PRL as to whether it is required to obtain GST registration. Also, whether tax is required to be collected at source by PMTL under section 52 on the services provided by PRL to Mr. Jignesh through electronic commerce operator - PMTL. If yes, determine the amount of tax to be collected at source.

Suppose in the above case, other facts remaining same, if PRL, supplying accommodation services, is also an e-commerce operator (registered in Uttarakhand as TCS collector as well as

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a regular tax payer since its aggregate turnover exceeds the threshold limit) and PMTL has an agreement with PRL for booking the accommodation at the time when Mr. Jignesh booked the accommodation, ascertain whether tax is required to be collected at source under section 52 on the services provided by PRL to Mr. Jignesh through electronic commerce operator - PMTL. If yes, determine the amount of tax to be collected at source and since two e-commerce operators are involved in the said transaction, who is required to collect the tax at source under section 52?

Note - Amounts given above are exclusive of GST. Assume applicable rate of CGST and SGST to be 9% each and IGST to be 18%.

[Nov24 RTP]

Ans. As per section 22, every supplier of goods or services or both is required to obtain registration in the State/ Union territory from where he makes the taxable supply if his aggregate turnover exceeds threshold limit in a financial year. However, section 24, inter alia, provides that persons who supply goods or services or both through an electronic commerce operator (hereinafter referred as ECO), who is required to collect tax at source under section 52, are required to obtain registration mandatorily. However, said mandatory registration is not applicable, inter alia, to the suppliers of the services which are notified under section 9(5) or section 5(5) of the IGST Act, 2017; such suppliers are entitled for threshold exemption.

In case where services are notified under section 5(5) of the IGST Act, 2017, the ECO is liable to pay the entire tax on behalf of the suppliers of services. Notification No. 14/2017 IT (R) dated 28.06.2017 issued under said section notifies services by way of providing accommodation in hotels, provided the person supplying such service through ECO is not liable for registration under section 22(1), as one such service where the ECO is liable to pay tax on behalf of the suppliers.

In the given case, PRL provides services by way of providing accommodation in hotel through an ECO. Services by way of providing accommodation in hotels provided by a supplier - PRL - which is not liable for registration under section 22(1) as its turnover is less than the threshold limit for registration, [viz. ₹ 20 lakh], is a service notified under section 5(5). Thus, PRL will be entitled for threshold exemption for registration and will not be required to obtain registration even though it supplies services through ECO.

As per section 52, ECO is not required to collect tax at source (TCS) in cases where the service is notified under section 9(5) of the CGST Act, 2017/section 5(5) of the IGST Act, 2017. The applicable tax on such services is to be paid by the ECO as if he is the supplier liable to pay tax on the supply of such services. Thus, in the given case, no tax is required to be collected at source under section 52. Further, the supply of accommodation services by PRL to Mr. Jignesh is an intra-State supply liable to CGST and SGST since the place of supply of services by way of lodging accommodation by a hotel is the location at which the

immovable property is located in terms of section 12(3) of the IGST Act, 2017. Accordingly, in the given case, place of supply is Uttarakhand and location of supplier – PRL - is also Uttarakhand.

As discussed above, entire tax of ₹ 9,000 (each under CGST and SGST) on ₹ 1,00,000 will be paid by the ECO – PMTL.

In case where PRL is registered under GST, service by way of providing accommodation in hotels provided by it through ECO will no longer be a service notified under section 5(5). The reason for the same is that services by way of providing accommodation in hotels are notified under section 5(5) only where the person supplying such service through ECO is not liable for registration under section 22(1). Consequently, said services shall be subject to the TCS provisions under section 52.

Further, in a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and the supplier-side ECO is himself the supplier of the said supply, Circular No. 194/06/2023 GST dated 17.07.2023 clarifies that the buyer- side ECO will be required to collect TCS, as applicable, pay the same to the Government in accordance with section 52 and also make other compliances under said section.

As discussed above, the supply of accommodation services by PRL to Mr. Jignesh is an intra-State supply liable to CGST and SGST.

Accordingly, in the given case, buyer side ECO – PMTL - is required to collect TCS on ₹ 1,00,000 @ 0.25% each under CGST and SGST as follows:

= ₹ 1,00,000 × 0.25%

= ₹ 250 each under CGST and SGST

Q.12 Rajwada Operators Limited (ROL) is registered under GST in the State of Karnataka as an Electronic Commerce Operator (ECO). It owns and operates a web portal which supplies various goods and services on behalf of various sellers/service providers to its ultimate customers. Details of supplies undertaken through ROL in the month of October 2023 are as under:

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

Niwas Palace is registered under GST in Rajasthan and raises an invoice for ₹ 1,50,000/- to Miss Zara and receives ₹ 1,45,000/- from ROL for the same.

All the figures given above are exclusive of GST except wherever specified separately. Assume rate of CGST and SGST to be 9% each and IGST to be 18% on all inward and outward supplies of goods and services. Compute the amount of TCS to be collected by ROL for the month of October 2023.

Working notes should form part of your answer.

[May24 PP]

- Ans.** (i) ROL is liable to collect tax at source under section 52 of the CGST Act, 2017 @ 0.5% under IGST of the net value of inter-State taxable supplies of goods (Value of taxable supplies made less value of supplies returned) made through it by the electronic commerce operator (ECO) - A Ltd.
- Net value of taxable supplies = ₹ 1,25,000 (₹ 1,47,500 × 100/118) – ₹ 1,40,000 = Nil / (Negative Value) Thus, TCS to be collected is Nil.
- (ii) ROL is liable to collect TCS, since the tax on services, by way of transportation of passengers by an omnibus provided by a company through ECO, is not payable by ECO, under section 9(5) of the CGST Act, 2017.
- = ₹ 1,50,000 × 0.25%
- = ₹ 375 each under CGST and SGST
- ROL is not required to collect TCS on transportation of passenger services by other motor vehicles supplied through it worth ₹ 4,00,000 as tax on the same is payable by ROL itself under section 9(5) of the CGST Act, 2017.
- (iii) ROL, being supplier side ECO is liable to collect TCS @ 0.25% under CGST and 0.25% under SGST of the net value of intra-State taxable supplies of accommodation services made through it by Raj Niwas Palace.
- = ₹ 1,50,000 × 0.25%
- = ₹ 375 each under CGST and SGST

Q.8 'Separate LUT is to be furnished for every export supply.'

With reference to the provisions of the GST law, examine the veracity or otherwise of the statement. [ICAI SM]

Ans. No, the statement is **not correct**.

The LUT remains **valid for the whole financial year** and there is **no need to furnish separate LUT for each export supply**.

However, in case goods are **not exported within the time limit** specified in rule 96A (1) of the CGST Rules and the registered **person fails to pay the amount** mentioned in the said sub rule, the facility of export under **LUT will be deemed to have been withdrawn**. However, if the amount mentioned in the said sub- rule is paid subsequently, the facility of export under LUT shall be restored. As a result, exports, during the period from when the facility to export under LUT is withdrawn till the time the same is restored, shall be either on payment of the applicable IGST or under bond with bank guarantee. Rule 96A (1) provides inter alia that an exporter of goods **has to execute the bond or LUT prior to export**, binding himself to pay the tax due **along with interest @ 18% within 15 days** after the expiry of **3 months**, or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, if the goods are not exported out of India.

Q.9 AXT Ltd. entered into a high sea sale transaction with BYU Ltd. for certain goods. AXT Ltd. is of the view that GST on such sale transaction is payable at the time of such sale and basic customs duty is payable at the time of filing the bill of entry for import of goods. Examine whether the view taken by AXT Ltd. is correct. [ICAI SM]

Ans. AXT Ltd.'s view is **partially correct**.

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 (high sea sale) is **neither treated as supply of goods nor supply of services** in terms of paragraph 8(b) of Schedule III to the CGST Act.

Thus, GST is **not leviable on high sea sales**. Therefore, AXT Ltd.'s view that GST is payable on a high sea sale transaction at the time of sale, is **not correct**.

As per section 14 of the Customs Act, 1962, the **value for the purpose of charging customs duty** on imported goods is the **value at the time of importation**, i.e., at the time of filing of the bill of entry. Further, IGST on imported goods is also levied at the time of filing of bill of entry.

Therefore, in case of high sea sales, the assessable value of imported goods for levying customs duty and IGST is determined on the basis of the **price paid by the last high sea sales buyer who files the bill of entry for home consumption**.

Therefore, AXT Ltd.'s view that basic customs duty is payable at the time of filing the bill of entry for import of goods **is correct**.

Q.10 Agora Ltd. exported certain goods to its customer located in Germany against which a refund of IGST amounting to ₹ 50 lakh was claimed and received by Agora Ltd. The sale proceeds covering 50% of the value of exports were immediately received by Agora Ltd. However, due to financial

constraints, the customer failed to pay the balance amount of sale proceeds within the permissible time limits under regulatory provisions prevailing in India.

In view of the aforesaid scenario:

- (a) Determine the amount of refund, if any, which Agora Ltd. is required to deposit back. Also, discuss the time limit which is permissible under law within which the sale proceeds in respect of exported goods should have been realized by Agora Ltd.
- (b) Will your answer to sub-part (a) differ if the Reserve Bank of India writes off the requirement of realisation of sale proceeds on merits?
- (c) Whether Agora Ltd. can claim the refund back in case sale proceeds are realised at a later date?

[Nov24 RTP]

- Ans.**
- (a) As per proviso to section 16(3) of the IGST Act, 2017 read with rule 96B(1) of the CGST Rules, 2017, in the given case, Agora Ltd. shall deposit the amount of refund proportionate to the sale proceeds not realized i.e. 50% of the value of exports. The amount of such refund is ₹ 25 lakh alongwith applicable interest under section 50. Further, such amount is required to be deposited by Agora Ltd. within 30 days of the expiry of the time period allowed under Foreign Exchange Management Act, 1999, including any extension of such time period permitted.
 - (b) As per proviso to rule 96B, where sale proceeds, or any part thereof, in respect of such export goods are not realised by the applicant within the time period allowed under the Foreign Exchange Management Act, 1999, but the Reserve Bank of India writes off the requirement of realisation of sale proceeds on merits, the refund paid to the applicant shall not be recovered. Thus, if the RBI writes off the requirement of realisation of sale proceeds by Agora Ltd., the refund amount received by Agora Ltd. is not liable to be recovered.
 - (c) As per rule 96B(2), where the sale proceeds are realised by the applicant, in full or part, after the amount of refund has been recovered from him under rule 96B(1) and the applicant produces evidence about such realisation within a period of 3 months from the date of realisation of sale proceeds, the amount so recovered shall be refunded by the proper officer, to the applicant to the extent of realisation of sale proceeds, provided the sale proceeds have been realised within such extended period as permitted by the Reserve Bank of India.

In case the refund amount is deposited by Agora Ltd. alongwith interest as per rule 96B(1) on account of non-realization of sale proceeds from the customer, which is realized on a later date, Agora Ltd. can claim the refund within 3 months from the date of realization of sale proceeds in proportion of the sale proceeds recovered. However, in order to claim such refund, the sale proceeds should have been realized within such extended period as may be permitted by the RBI.

CHAPTER NO - 15
REFUNDS

- Q.1 Is there any time limit for sanctioning of refund under section 54?** *[ICAI SM]*
- Ans.** Yes, refund has to be sanctioned **within 60 days from the date of receipt of application** complete in all respects. If refund is not sanctioned within the said period of 60 days, **interest @ 6% p.a.** will have to be paid in accordance with section 56.
- However, in case where provisional refund to the extent of 90% of the amount claimed is refundable **in respect of zero - rated supplies** made by certain categories of registered persons in terms of sub - section (6) of section 54, the **provisional refund has to be given within 7 days** from the date of acknowledgement of the claim of refund.
- Q.2 Discuss the provisions relating to refund of the amount of advance tax deposited by a casual taxable person under section 27(2).** *[ICAI SM]*
- Ans.** The amount of advance tax deposited by a casual taxable person under section 27(2), shall be refunded only when such person has, in respect of the entire period for which the certificate of registration granted to him had remained in force, **furnished all the returns** required under section 39 [Section 54(13)]. Further, **refund of any amount**, after adjusting the tax payable by the applicant out of the advance tax deposited by him under section 27 at the time of registration, **shall be claimed in the last return required to be furnished by him** [Fourth proviso to rule 89(1)].
- Q.3 In case of refund under exports of goods, whether BRC/FIRC is necessary for granting refund?** *[ICAI SM]*
- Ans.** In case of refund on account of **export of goods**, the refund rules **do not prescribe BRC/FIRC as a necessary document** for filing of refund claim. However, for **export of services** details of **BRC/FIRC is required** to be submitted along with the application for refund.
- However, in case of non-realization of consideration in terms of FEMA, the exporter **shall deposit the amount so refunded** to the extent of non-realization of sale proceeds along with interest **within 30 days** [Rule 96B].
- Q.4 When is a deficiency memo issued in respect of a refund claim made under section 54?** *[ICAI SM]*
- Ans.** Rule 90(3) provides for **communication** in prescribed form (deficiency memo) where deficiencies are noticed. The said sub-rule also provides that once the deficiency memo has been issued, the claimant is required **to file a fresh refund application** after the rectification of the deficiencies.
- Further the time period, from the date of filing of the refund claim in FORM GST RFD-01 till the date of communication of the deficiencies by the proper officer, shall be excluded from the period of two years as specified under Section 54(1), in respect of any such fresh refund claim filed by the applicant after rectification of the deficiencies.
- Q.5 State the exceptions to the principle of unjust enrichment as applicable to refund claims.** *[PP - Dec 21]*

- Ans.** The principle of unjust enrichment is applicable in all cases of refund except in the following cases:
- Refund of tax paid on **export of goods or services** or both or on inputs or input services used in making such exports.
 - Unutilized input tax credit** in respect of (i) zero rated supplies made without payment of tax or, (ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies.
 - Refund of tax paid on a supply which is not provided, either wholly or partially, and for **which invoice has not been issued.**
 - Refund of tax in pursuance of **section 77** of CGST/SGST Act i.e., tax wrongfully collected and paid to Central Government or State Government.
 - If the **incidence of tax or interest paid has not been passed** on to any other person.
 - Such other class of persons who has borne the incidence of tax as the Government may notify.

Q.6 Super Engineering Works, a registered supplier in Haryana, is engaged in supply of taxable goods within the State. Given below are the details of the turnover and applicable GST rates of the final products manufactured by Super Engineering Works as also the input tax credit (ITC) availed on inputs used in manufacture of each of the final products and GST rates applicable on the same, during a tax period:

Products	Turnover * (₹)	Output GST Rates	ITC availed (₹)	Input GST Rates
A	5,00,000	5%	54,000 (Goods)	18%
B	3,50,000	5%	54,000 (Goods)	18%
C	1,00,000	18%	10,000 (Service)	18%

*excluding GST

Determine the maximum amount of refund of the unutilized input tax credit that Super Engineering Works is eligible to claim under section 54(3)(ii) provided that Product B is notified as a product, in respect of which no refund of unutilized input tax credit shall be allowed under said section.

[RTP – Nov 18]

- Ans.** Section 54(3)(ii) allows refund of unutilized input tax credit (ITC) at the end of any tax period to a registered person where the credit has accumulated on account of inverted duty structure i.e., rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council.

In the given case, the rates of tax on inputs used in Products A and B (18% each) are higher than rates of tax on output supplies of Products A and B (5% each). However, Product B is notified as a product, in respect of which no refund of unutilized ITC shall be allowed under section 54(3)(ii). Further rate of tax on input used in the product C is carrying same rate of tax on output supplies hence it is not the case of inverted duty structure. Therefore, no refund on the Product C.

Therefore, only Product A is eligible for refund under section 54(3)(ii).

Further, rule 89(5) stipulates that in the case of refund on account of inverted duty structure, refund of ITC shall be granted as per the following formula –

$$\text{Maximum Refund Amount} = \frac{\text{Turnover of inverted rated supply of goods and services} \times \text{Net ITC}}{\text{Adjusted Total Turnover}} - \text{tax payable on such inverted rated supply of goods and services} \times \frac{\text{Net ITC}}{\text{ITC availed on inputs and input services}}$$

where,

- A. "Net ITC" means input tax credit availed on inputs during the relevant period;
- B. Adjusted Total Turnover means the sum total of the value of-
- The turnover in a State or a Union territory, as defined under section 2(112), excluding the turnover of services; and
 - The turnover of zero-rated supply of services determined in specified manner and non-zero-rated supply of services, excluding-
The value of exempt supplies other than zero-rated supplies;
- C. Relevant period means the period for which the claim has been filed.

In accordance with the aforesaid provisions, the maximum refund amount which Super Engineering Works is eligible to claim shall be computed as follows:

Tax payable on inverted rated supply of Product A = ₹5,00,000 × 5% = ₹25,000

Net ITC = ₹108,000 (₹54,000 + ₹54,000) [Net ITC availed during the relevant period needs to be considered irrespective of whether the ITC pertains to inputs eligible for refund of inverted rated supply of goods or not as clarified vide Circular No. 79/53/2018-GST dated 31.12.2018]

Adjusted Total Turnover = ₹9,50,000 (₹5,00,000 + ₹3,50,000 + ₹1,00,000)

Turnover of inverted rated supply of Product A = ₹5,00,000

Maximum refund amount for Super Engineering Works is as follows:

= [(₹5,00,000 × ₹108,000) / ₹9,50,000] - (₹25,000 × 108,000 / 118,000)

= ₹33,961 (rounded off)

Q.7 With reference to section 54(3), mention the cases where refund of unutilized input tax credit is allowed. [RTP - May 18]

Ans. As per section 54(3), a registered person may claim refund of unutilized input tax credit at the end of any tax period in the following cases:

- Zero rated supplies made without payment of tax:** Supply of goods or services or both for authorized operations to an SEZ developer/unit or export of goods or services or both qualifies as zero-rated supplies.
- Accumulated ITC on account of inverted duty structure:** Where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council.

However, refund of unutilized input tax credit shall not be allowed if:

- ◆ The goods exported out of India are subjected to export duty;
- ◆ The supplier of goods or services or both avails of drawback in respect of CGST or claims refund of the IGST paid on such supplies.

Q.8 State few cases where refundable amount shall be paid to the applicant, instead of being credited to Consumer Welfare Fund under CGST Act, 2017.

[PP – May 2018]

Ans. Section 54(8) provides that the refundable amount shall be paid to the applicant, instead of being credited to the Consumer Welfare Fund, if such amount is relatable to —

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

Q.9 Y Ltd. exported service valued at US \$1,00,000. Supply of service was completed on 15th January. Payment for this service was received on 28th February. Refund claim was filed by Y Ltd. in respect of tax paid on inputs and inputs services for ₹6, 00,000 on 31st March. The refund claim was sanctioned on 30th June. What is the amount of refund Y Ltd. will get in accordance with law? What is the relevant date and rate of interest as per GST law?

Ans. As per clause (i) of first proviso to section 54(3), refund claim admissible to Y Ltd. on account of export of services being a zero-rated supply, is the unutilized ITC of ₹6,00,000.

Where the supply of services had been completed prior to the receipt of payment, relevant date is the date of receipt of payment in convertible foreign exchange, i.e., 28th February [Explanation to section 54].

As per section 56, where any tax ordered to be refunded to any applicant is not refunded within 60 days from the date of receipt of application, interest shall be payable @ 6% p.a. from the date immediately after the expiry of 60 days from the date of receipt of application till the date of refund of such tax.

Since in the given case, tax ordered to be refunded is **not refunded within 60 days from the date of receipt of application, viz., 31st March, interest @ 6% p.a. is payable.**

Q.10 Wye Ltd. provides the following details of September 20XX for computation of refund claim under rule 89(4) of the CGST Rules, 2017. Compute the eligible claim under the said rule assuming that other conditions are fulfilled.

Particulars	Amount (₹)
Opening balance of ITC	5,00,000
ITC availed during the period	25,00,000
Zero rated supply of goods made during the period without payment of tax under bond/ LUT,	6,00,00,000
Supply of goods other than zero rated supply	3,00,00,000

[PP - May 19]

Ans.

$$\text{Refund Amount} = \frac{(\text{Turnover of zero - rated supply of goods} + \text{Turnover of zero - rated supply of services})}{\text{Adjusted Total Turnover}} \times \text{Net ITC}$$

Turnover of zero-rated supply of Goods = 6,00,00,000

Net ITC = 25,00,000

Total Adjustment Turnover = 6,00,00,000 + 3,00,00,000 = 9,00,00,000

Therefore, Maximum amount of refund under rule 89(4);

= 25,00,000 x 6,00,00,000/9,00,00,000 = ₹ 16,66,667

Q.11 Ever Young Manufacturers LLP, a registered supplier under GST is engaged in manufacturing of ayurvedic cosmetic products within the State of Gujarat. It provides the following information for the month of January, 2024.

Particulars for the month of January, 2024	Rate of CGST	Rate of SGST	Value of supply (excluding GST)
Outward supply of skin care products	2.5%	2.5%	50,00,000
Outward supply of skin care products	6%	6%	50,000
Inward supply of Inputs for skin care products	6%	6%	35,00,000
Inward supply of Input services	2.5%	2.5%	5,00,000
Inward supply of capital goods	9%	9%	25,00,000

Other information:

- (a) ITC in respect of all types of inward supply as given above was claimed in the relevant GSTR 3B and the same was also reflected in GSTR 2B.
- (b) All other conditions for claiming the refund are duly complied with.
- (c) No refund was claimed for the month of January 2024.

You are requested to compute the 'Maximum refund amount' eligible for inverted duty structure. Working notes should form part of your answer.

[Similar Question PP - Dec 21]

Ans.

Particulars
In the case of refund on account of inverted duty structure, refund of ITC is granted as per the following formula:

Maximum Refund Amount	(Turnover of inverted rated supply of goods and services)	Net ITC	-	Tax payable on such inverted rated supply of goods and services	Net ITC
	= $\frac{\text{Adjusted Total Turnover}}{\text{Adjusted Total Turnover}}$ ×			× $\frac{\text{ITC available on inputs and input services}}{\text{ITC available on inputs and input services}}$	
(i)	Turnover of inverted rated supply of goods and services = 50,00,000 (product having rate less than 6% to be considered)				
(ii)	Adjusted Total Turnover 50,00,000 + 50,000 = 50,50,000				
(iii)	Net ITC: means ITC available only on Inputs 3500000 @ 12% = 4,20,000 ITC of Input service and Capital Goods not to be considered.				
(iv)	Tax payable on such inverted rated supply of goods and services 2, 50,000 [(50, 00,000 × 5%)				
(v)	ITC availed on inputs [(35,00,000×12%) = 4,20,000				
(vi)	ITC availed on input services [(5,00,000×5%)] = 25,000				
	'Maximum refund amount' eligible in the given case	=	$\frac{50,00,000}{50,50,000} \times 4,20,000$	-	$2,50,000 \times \frac{4,20,000}{4,45,000}$
	= ₹1,79,887 (rounded off) (Total under CGST and SGST)				
	Or				
	₹89,943.50+89,943.50 each (under CGST and SGST)				

Q.12 Bhagwan Manufacturers & Exporters Company (BMEC) is registered under GST in the State of Rajasthan and supplies various goods in domestic as well as in international markets. It is engaged in both manufacturing and trading of goods. It exports goods without payment of tax under bond or letter of undertaking in accordance with the provisions of section 16(3) of the IGST Act, 2017.

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

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

The input tax credit (ITC) availed for the above tax period is as follows:

S.No.	Particulars	(₹)
1	Input tax credit availed on capital goods	1,00,000/-
2	Input tax credit availed on inputs	3,00,000/-
3	Input tax credit availed on inputs services	1,50,000/-
BMEC also provided following additional information:		
(i)	All the above inputs, input services and capital goods are used in manufacturing process and all the conditions for availing input tax credit have been complied with.	
(ii)	The balance in the electronic credit ledger of BMEC at the time of filing the refund application is ₹ 1,50,000/-.	
(iii)	The balance in the electronic credit ledger of BMEC at the end of the October 2023 tax period for which the refund claim is being filed after GSTR-3B for the said period has been filed is ₹ 3,25,000/-	

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

[May24 PP]

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

$$\text{Refund Amount} = \frac{\text{Turnover of zero-rated supply of goods}}{\text{Adjusted Total Turnover}} \times \text{Net ITC on inputs and input services}$$

$$= \frac{[9,00,000^* + 2,00,000^{**}]}{[9,00,000 + 2,00,000 + 14,00,000]} \times [1,50,000 + 3,00,000]$$

= ₹ 1,98,000

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

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

Refundable amount is the least of the following:

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

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

ITC on capital goods is not eligible for refund.

60 days from the date of receiving the refund application expire on 10.09.20XX.
 = ₹1,50,000 × 6% × 8 [11.09.20XX - 18.09.20XX]/365
 = ₹197 (rounded off).

- Q.9 Prithviraj Ltd., registered under GST in Uttar Pradesh, is served a notice for audit by the tax authority under GST law on 10th July. The records and other documents as sought by the tax authority have been made available by Prithviraj Ltd. on 25th July. The tax authority visits the office of Prithviraj Ltd. located in Noida, Uttar Pradesh on 8th August for conducting audit. Determine the time-limit within which the audit under section 65 of the CGST Act, 2017 is required to be completed assuming that no extension is permitted in the given case.**

[RTP - Nov 21]

- Ans.** As per section 65(4) of the CGST Act, 2017, audit shall be completed within a period of 3 months from the date of commencement of the audit. Further, commencement of audit means later of the following:
- The date on which **the records and other documents, called for** by the tax authorities, are made available by the registered person, or
 - The **actual institution of audit** at the place of business of the taxpayer.
- Accordingly, in the given case, date of commencement of audit is *later of*:
- The date on which the **records and other documents, are made available** by Prithviraj Ltd., i.e., 25th July, or
 - The **actual institution of audit** at the place of business of Prithviraj Ltd., i.e., 8th August.
- Thus, date of **commencement of audit is 8th August**.
- Hence, audit shall be completed within 3 months from the date of commencement of audit (8th August).

- Q.10 A notice for audit under section 65 is served by the proper officer on the basis of risk assessment to Ghoomghoom Pvt. Ltd. on 02.12.2023 for audit of financial years 2021-22 and 2022-23. The tax authorities visited its place of business on 20.12.2023 and requested for certain records, documents and books of accounts, from the company. The required records, documents and books of accounts are provided by Ghoomghoom Pvt. Ltd. on 30.12.2023. After in-depth checking of records, documents and books made available by Ghoomghoom Pvt. Ltd. during audit, the audit was completed on 25.03.2024 and audit findings were communicated to the taxpayer in prescribed form by said date. However, the accountant of Ghoomghoom Pvt. Ltd. is of the view that-**
- the tax authorities have completed the audit of Ghoomghoom Pvt. Ltd. after the lapse of the maximum time-period permitted by the GST law and
 - the tax authorities cannot conduct the audit of two financial years at a time.
- Ghoomghoom Pvt. Ltd. has approached you to advise you on the said issues. You are required to determine the technical veracity of the above views of the accountant of Ghoomghoom Private Ltd. on the same with reference to the relevant provisions of the GST law.

Ans. As per section 65, audit of any registered person may be undertaken by:

- the Commissioner; or
- any officer authorized by him, by way of a general or a specific order.

The audit shall be completed within a period of 3 months from the date of commencement of the audit. However, where the Commissioner is satisfied that audit in respect of such registered person cannot be completed within 3 months, he may, for the reasons to be recorded in writing, extend the period by a further period not exceeding six months.

For the purposes of this sub-section, the expression "commencement of audit" shall mean:

- (a) the date on which the records and other documents, called for by the tax authorities, are made available by the registered person

or

- (b) the actual institution of audit at the place of business, whichever is later.

In the given case, the date of commencement of audit shall be determined as follows:

- (a) The date on which requisite information is made available by Ghoomghoom Private Ltd., i.e., on 30.12.2023.

- (b) The date of the actual institution of audit at the place of business, i.e., on 20.12.2023 whichever is later.

Therefore, the date of commencement of the audit shall be 30.12.2023

Accordingly, the audit has to be completed within 3 months from the date of commencement of the audit, i.e., by 30.03.2024.

Thus, in the given case, the audit was completed by the tax authorities within 3 months from the date of commencement of the audit, i.e., before 30.03.2024. Resultantly, the view of the accountant of Ghoomghoom Pvt. Ltd. that the audit by the tax authorities was completed after the maximum time period prescribed by law for the same, is not correct.

Further, as per section 65 read with rule 101(1), the period of audit to be conducted under said section shall be a financial year or part thereof or multiples thereof. Thus, the view of the accountant that audit cannot be conducted for two financial years is also not correct.

CHAPTER NO - 21
OFFENCES AND PENALTIES AND ETHICAL ASPECTS UNDER GST.

Q.1 What is the quantum of penalty for an offence mentioned under section 122(1), 122(1A) and section 122(2)?

[ICAI SM]

Ans. Section 122(1) provides that any taxable person who has committed any of the specified offences mentioned thereunder, shall be liable to a penalty which shall be higher of the following amounts:

- (a) ₹10,000/-; or
- (b) An amount **equivalent** to, any of the following (Applicable as the case may be) –
 - (i) **Tax evaded**; or
 - (ii) **Tax not deducted** under section 51 or **short deducted** or deducted but **not paid** to the Government; or
 - (iii) **Tax not collected** under section 52 or **short collected** or collected but **not paid** to the Government; or
 - (iv) Input tax credit (**ITC**) **availed** of or **passed** on or **distributed irregularly**; or
 - (v) **Refund** claimed **fraudulently**

Further, section 122(1A) provides that any person who retains the benefit of a transaction covered under clauses (i), (ii), (vii) or clause (ix) of section 122(1) and at whose instance such transaction is conducted, **shall be liable to a penalty of an amount equivalent to the tax evaded or input tax credit availed of or passed on.**

Moreover, section 122(2) provides that if any registered person who supplies any goods and/or services on which any tax has not been paid or short paid or erroneously refunded or where the ITC has been wrongly availed or utilized:

- (i) for any reason **other than** the reason of fraud or any willful misstatement or suppression of facts to evade tax, he shall be **liable to a penalty of ₹10,000 or 10% of the tax due from such person, whichever is higher.**
- (ii) for reason of fraud, or any willful misstatement or suppression of facts to evade tax, penalty shall be **equal to ₹10,000 or the tax due** from such person, **whichever is higher.**

Q.2 Mr. X, an unregistered person under GST, purchases the goods supplied by Mr. Y who is a registered person without receiving a tax invoice from Mr. Y and thus helps in tax evasion by Mr. Y. A disciplinary action is taken against Mr. X and an ad hoc penalty of ₹20,000/- is imposed by passing an order without describing contravention for which penalty is going to be imposed and without mentioning the provisions under which penalty is going to be imposed. Should r. X proceed to pay for penalty or challenge the order passed by Department?

[ICAI SM]

Ans. The levy of penalty is subject to a certain disciplinary regime which is based on jurisprudence, **principles of natural justice** and principles governing international trade and agreements. Such general discipline is enshrined in section 126. Accordingly—

and any criminal **proceedings**, if already initiated in respect of the said offence, shall stand abated. If the taxable person **pays the compounding amount** decided by the Commissioner, **no further proceedings** shall be initiated under GST law against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.

Q.21 GST Department initiated prosecution proceedings against Mr. Sahil, a taxable person under GST. Mr. Sahil collected ₹ 8 crore as GST but failed to pay the same to the Government beyond the period of three months from the date on which such payment became due.

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

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

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

F.A.S.T.
first attempt success tutorials

[May24 PP]

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

CASE STUDIES

Case Study 1

M/s L and Co., a partnership firm with two partners – Mr. X and Mr. Y, is registered under GST in Kolkata, West Bengal. It is engaged in supplying the materials used for construction related activity. Mr. X and Mr. Y are friends and each of them also have their own separate sole proprietorship firms engaged in supplying

construction material; these firms are registered under GST. Mr. A5 is the tax consultant of the firm - M/s L and Co.

Mr. X gets an offer from a customer - M/s W Pvt. Ltd., (hereinafter referred to as WPL) - to issue some supply related bills to meet the budget allocated to WPL by their management in relation to civil works. Mr. X shall earn a commission of 20% of the value of supply charged in the supply bills accepted by WPL. Mr. X agrees to share 50% of his earnings with Mr. Y for undertaking the above project.

M/s L and Co. needs a bank loan for expanding its business operations and the supply bills issued to WPL will inflate the turnover of M/s L and Co. Mr. X and Mr. Y sought advice from their tax consultant Mr. A as to how to execute the above project for the supply bills to be issued to WPL. Based on the guidance provided by Mr. A, it is executed as follows:

- M/s L and Co. shall issue supply related bills for steel, jelly stone and cement for ₹ 280 lakh to Mr. X wherein the delivery site shall be of WPL (Bill to Ship to Model).
- Mr. X shall avail and utilise the input tax credit (ITC) on the bill of ₹ 280 lakh and shall separately enter into a contract with WPL for supply of steel, jelly stone and cement (to be used for construction of foundation of Plant and Machinery) for ₹ 280 lakh. Further, Mr. X, in his individual capacity, shall issue labour work related bills for ₹ 40 lakh for the assembly and erection work relating to construction of foundation of Plant and Machinery undertaken at the site of WPL, without actually providing any service. WPL will avail and utilise the ITC on the bills of ₹ 280 lakh and ₹ 40 lakh used for underlying supply of goods.
- All inventory registers are updated duly by M/s L and Co. without any actual movement/supply of the material and some e-way bills are also generated on behalf of Mr. X for the supplies made to the work site of WPL.

Mr. A assures Mr. X and Mr. Y that:

- Inventory registers are up to date for material movement.
- Compliances pertaining to e-way bill have been taken care of.
- Money shall be duly realised as per the bills issued.

Mr. X approached his friend - Mr. P, a practicing Chartered Accountant, for seeking his help in above arrangement. However, Mr. P makes Mr. X conversant with the following GST implications that may arise in above arrangement:

GST implications

1. **Issue of invoice by M/s L and Co. to Mr. X:** Since there has only been an issuance of tax invoice by the registered person - M/s L and Co. - to registered person 'Mr. X' without the underlying supply of steel, jelly stone and cement, therefore, such an activity does not satisfy the criteria of "supply", as defined under section 7. As there is no supply by M/s L and Co. to Mr. X in respect of such tax invoice in terms of the provisions of section 7, no tax liability arises against M/s L and Co. for the said transaction, and accordingly, no demand and recovery is required to be made against M/s L and Co. under the provisions of section 74 in respect of the same. The registered person - M/s L and Co. - shall, however, be liable for penal action under section 122(1)(ii) for issuing tax invoices without actual

supply of goods. This offence is also punishable with imprisonment for a term which may extend to 3 years and with fine in terms of section 132(1)(ii).

2. **Issue of invoice by Mr. X to WPL:** The registered person - Mr. X has availed and utilized fraudulent ITC on the basis of the tax invoice issued in contravention of the provisions of section 16(2)(b), without receiving the supply of steel, jelly stone and cement. Further, there was no supply of steel, jelly stone and cement and labour work related services by Mr. X to WPL. Thus, in respect of the said transactions, no tax was required to be paid. In these specific cases, no demand and recovery of either ITC wrongly/ fraudulently availed by Mr. X in such case or tax liability in respect of the said outward transaction by Mr. X to WPL is required to be made from Mr. X under the provisions of section 74. However, in such cases, Mr. X shall be liable for penal action both under section 122(1)(ii) and section 122(1)(vii), for issuing invoices without any actual supply of goods and/or services as also for taking/ utilizing input tax credit without actual receipt of goods and/or services. This offence is also punishable with imprisonment for a term which may extend to 3 years and with fine in terms of section 132(1)(ii) subject to specified conditions.

WPL will be liable for the demand and recovery of the ITC availed and utilized by it, along with penal action under section 74 along with applicable interest under provisions of section 50, for taking/ utilizing ITC without actual receipt of steel, jelly stone and cement and without receiving the assembly and erection services, used for underlying supply of goods. This offence is also punishable with imprisonment for a term which may extend to 3 years and with fine in terms of section 132(1)(ii) subject to specified conditions.

3. **GST implications on Mr. A:** Mr. A who advised for designing the above business practice shall also be liable to a penalty in terms of the provisions of 122(3) since in the given case, he has aided or abetted the offences specified above. This offence is also punishable with imprisonment subject to specified conditions.

Mr. P apprised Mr. X that if any Chartered Accountant advises Mr. X on above arrangement, then he will also be punishable with penalty in terms of the provisions of 122(3) for aiding/abetting the offences specified above and may also be punishable with imprisonment subject to specified conditions. Further, he may also be held guilty of professional misconduct.

Case Study 2

Doodle LLC is an entity registered in Germany and is engaged in providing online services across multiple countries including India. The service offerings include certain services which are covered within the purview of online information and database access or retrieval services i.e. OIDAR services liable to GST in India. Since Doodle LLC does not have any place of business in India, it appointed one of its employee - Mr. X as its authorized representative for all the purposes in India which includes undertaking GST compliances and also as an authorized signatory for any other regulatory compliances in India. Mr. X is a partner in XYZ & Associates LLP. Post appointment of Mr. X, following chain of events unfolded:

1. Mr. X, being an authorized representative of Doodle LLC, made an application for registration as an OIDAR service provider in India and undertook other GST compliances. Subsequently, Mr. X started filing the monthly GST returns and made payment of applicable GST in India on behalf of Doodle LLC.

In lieu of such services, Mr. X was being remunerated a fixed sum on monthly basis as professional fee. The appointment of Mr. X was in his personal capacity and not a professional service contract with his partnership firm - XYZ & Associates LLP. However, for recovery of amount of fixed monthly remuneration from Doodle LLC, the invoices as 'export of services' were issued by Mr. X in the name of his partnership firm. The corresponding refund benefit was claimed by the partnership firm of Mr. X for input tax credit against such export of service invoices.

2. Doodle LLC appointed influencers in India to promote its services in India. The tax invoices of such influencers were received by Mr. X in name of XYZ & Associates LLP and input tax credit was availed by the partnership firm for such services. Said ITC was utilised for further supply of services. However, the actual service recipient in such case was Doodle LLC.
3. Subsequently, Doodle LLC was required to submit certain affidavits and accounting records before the office of the Enforcement Directorate. Being an authorized representative/ signatory of Doodle LLC, Mr. X approached Mr. P, a practicing Chartered Accountant, to prepare the affidavits and accounting records which included critical financial information and data of Doodle LLC. He elaborated the entire arrangement among Doodle LLC, Mr. X and XYZ & Associates LLP to Mr. P. He further requested Mr. P to certify and attest such records, which would be prepared and compiled by Mr. P in capacity of a practicing Chartered Accountant for submission before Enforcement Directorate.

Mr. P apprised Mr. X of the following GST implications:

GST implications

1. **Incorrect issuance of invoice for export of services and claim of refund of input tax credit on the basis of such export of service related invoices**

Mr. X was appointed as authorized representative and signatory of Doodle LLC in his personal capacity to undertake the compliances enumerated under the GST law in India. However, the consideration for such services was received at the behest of invoices issued in the name of his partnership firm.

Further, such invoices were issued as 'export of service' invoices and corresponding refund of input tax credit was claimed by the firm of Mr. X. This act of Mr. X along with his firm is punishable as follows:

- Since Mr. X supplied services to Doodle LLC without any invoice, he shall also be liable for the demand and recovery of tax on said supply, along with penal action under section 74. Even if the contention is made that invoice was issued for such services by the firm of Mr. X, the same shall be treated as an incorrect invoice or false invoice as both, Mr. X and XYZ & Associates LLP are separate persons as per GST Law.
- Since both, Mr. X and XYZ & Associates LLP are different persons, the invoice issued by the firm shall be construed as issuance of invoice without supply of services viz. an offence punishable under section 122(1)(ii).
- Incorrect refund was claimed by XYZ & Associates LLP for input tax credit on the basis of incorrect invoice for export of services to Doodle LLC. This is an offence under section 122(1)(viii).
- All the above offences may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

2. **Availment of input tax credit without actual receipt of services**

XYZ & Associates LLP received invoices from the influencers who were actually providing services to Doodle LLC. Further, the input tax credit related to such invoices was availed by XYZ & Associates LLP in contravention of the provisions of section 16. Accordingly, the input tax credit availed and utilized by XYZ & Associates LLP for further supply of services is incorrect. Thus, XYZ & Associates LLP will be liable for the demand and recovery of the said ITC, along with penal action under section 74 alongwith interest under section 50 as the actual service recipient was Doodle LLC and not XYZ & Associates LLP. This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

3. **GST implications on Mr. X**

Mr. X was fully involved in wrongdoings in terms of the business transactions of Doodle LLC in India. Further, he was the authorized representative and signatory of Doodle LLC in India. Mr. X is liable to penalty under section 122(1A) and section 122(3) since he is involved in aiding and abetting the offences committed hereunder at his instance and has also derived monetary benefits from such practices. This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

If a Chartered Accountant takes up the assignment offered by Mr. X and also attests/certifies the Doodle LLC's accounting records that would be prepared by him, for submission before the Enforcement Directorate in India, he may be held guilty of professional misconduct.

Case Study 3

ABC & Associates LLP (ABC), a firm of Chartered Accountants, was empanelled with the Commissioner of GST for appointment as Special Auditor under section 66. X Ltd., a registered person under GST, was selected by the Office of the Commissioner for special audit under section 66 for a financial year on account of irregularities noticed during scrutiny of returns. ABC was nominated by the Office of the Commissioner for special audit of X Ltd. Assume that the following events unfolded in relation to the appointment and audit procedure:

1. The appointment of special auditor was based on the undertaking furnished by the firm that the partners of the firm or any of their relatives are not directly or indirectly related to the auditee. However, while submitting the declaration in relation to such appointment, if ABC fails to disclose the fact that spouse of one of the partners of ABC is working under full time employment as a Head of Tax Department of the auditee i.e. X Ltd., what will be its implications?
2. Material discrepancies in the valuation of stock transfer to related parties by the auditee were noticed by ABC. If ABC fails to disclose these material discrepancies in the audit report submitted to the Office of Commissioner, what will be its implications?
3. The input tax credit claim by X Ltd. i.e. the auditee, under Form GST ITC- 01, was certified by one of the associate firms of ABC in favour of X Ltd. Such certificate was based on incorrect facts and against the eligibility criteria for input tax credit as per section 18. However, if ABC fails to exercise the due diligence and the certificate is taken on record by ABC as an audit procedure and is relied upon at the time of finalization of audit report and submission of findings, what will be its implications?

4. ABC receives a consideration of ₹ 5 lakh from X Ltd. in the name of special audit conducted.

GST implications

Following implications may arise in the above cases:

1. False undertaking submitted before the Office of Commissioner GST and the audit engagement undertaken on the basis of such undertaking

The essential terms of the appointment as special auditor included that the partners or any of the relatives of the partners are not directly or indirectly linked to X Ltd. i.e. the auditee. If the spouse of one of the partners of ABC is working as Head of Tax Department of the auditee. Non-disclosure of said fact in the undertaking and other engagement documents and accepting such engagement tantamount to submission of false undertaking by a Chartered Accountant firm to the Government Authorities. Further, a question may be raised about the independence of the audit team considering the fact that spouse of one of the partners of the firm is holding a key position in X Ltd. i.e. the auditee.

2. Non-reporting of material discrepancies noticed during the audit procedure and reliance upon incorrect certificates and information

ABC audit team did not exercise due diligence to ascertain that the input tax credit availed by X Ltd. is not in compliance with the GST provisions. Instead, ABC relied on the certificate issued by its own associate firm which justified the incorrect input tax credit claim by X Ltd. In such a scenario both ABC and the associate firm, which issued the certificate to justify the input tax credit claim, were aiding and abetting X Ltd. in wrongful availment of credit, which is an offence punishable with penalty under 122(3). This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions. Further, ABC as well as its associate firm may be held guilty of professional misconduct.

3. Receiving consideration for special audit from the auditee

The consideration for special audit under section 66 is payable by the Office of Commissioner and cannot be directly recovered from the auditee. In the present case the receipt of ₹ 5 lakh from the X Ltd., i.e. the auditee by ABC is an offence under GST provisions. The same is liable to penalty under general penalty under section 125 apart from other penal provisions under the GST Law. Further, this will also have an impact on the independence of the auditor – ABC.

Case Study 4

A Ltd. is engaged in the business of manufacturing cotton yarn, wherein cotton is the principal raw material in the manufacturing process. The price of cotton varies depending upon the market conditions and is dependent on various external factors. Mr. X is tax consultant of A Ltd. Mr. X advises A Ltd. on GST compliances. In order to meet expansion related expenditure, A Ltd. sought a term loan and working capital loan from banks. As per the bank, the turnover and profitability criteria of A Ltd. were not meeting the benchmarks of bank for sanction of any loan facility. Accordingly, following actions were undertaken by Mr. X being the tax consultant of A Ltd.:

1. A separate entity i.e. B Ltd. was incorporated and the Directors of A Ltd. were appointed as Directors in B Ltd. This ensured that the control of B Ltd. remains with the Directors of A Ltd. Further, B Ltd. obtained GST registration as a manufacturer of yarn wherein Mr. X assisted B Ltd. in obtaining such GST registration. Mr. X obtained registration providing fake documents for registration.
2. Subsequently, A Ltd. started issuing tax invoices for supply of yarn to B Ltd. However, there was no actual movement of goods by A Ltd. to B Ltd. The tax invoices were issued and the same were reported in the GST returns by A Ltd. Further, B Ltd. availed the input tax credit of all such tax invoices reported by A Ltd. The finished goods related to such tax invoices were sold in the local market by A Ltd. in cash without charging any GST and without issuance of tax invoice.
3. B Ltd. issued tax invoices for provision of certain services to A Ltd. in form of testing of cotton, repairs and maintenance of machinery installed at A Ltd. apart from other services. However, no such services were actually provided by B Ltd. to A Ltd. The input tax credit appearing in the books of B Ltd. (which was availed on the basis of fake yarn invoices) was utilized by B Ltd. at the time of discharging GST liability in relation to the alleged tax invoices issued against provision of services to A Ltd.
4. Further, B Ltd. issued tax invoices for sale of yarn (allegedly purchased from A Ltd.) to other group entities to ensure that the stock of yarn becomes zero in the books of accounts at the year end. The tax invoices were issued at a rate lowered by 90% of the actual tax invoice received from A Ltd. contending that the quality of yarn had deteriorated during the storage.
5. Mr. X was aware of the aforesaid actions of A Ltd. and B Ltd. Further, the GST returns were filed by Mr. X for both the companies.
6. A Ltd. approached Mr. P, a practicing Chartered Accountant to issue relevant certificates to the bank certifying the turnover of A Ltd. and B Ltd. as genuine turnover to ensure that the required loan amount is sanctioned to A Ltd. A Ltd. elaborated the entire arrangement made by it with regard to B Ltd.

Mr. P apprised A Ltd. of the following GST implications that may arise in the given case:

GST implications

1. GST registration of B Ltd. sought on the basis of fake documents

As per section 122(1)(xii), furnishing of false information with regard to registration particulars is an offence liable to penalty under GST Law. Thus, B Ltd is liable to penalty under section 122(1)(xii).

2. Issuance of tax invoice without actual supply of goods or services

Following instances happened wherein there was no actual supply of goods or services, however, tax invoice was issued:

- Fake issuance of tax invoice for supply of yarn by A Ltd. to B Ltd. (Para 2)
- Fake issuance of tax invoice for supply of services by B Ltd. to A Ltd. (Para 3)
- Fake issuance of tax invoice for supply of goods by B Ltd to group entities (Para 4)

The aforesaid actions are liable for penal action under section 122(1)(ii) for issuing tax invoices without actual supply of goods and services. This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

3. **Fraudulent input tax credit availment**

B Ltd. availed fraudulent input tax credit of the goods (yarn) which were not at all received by B Ltd. and the same was used in discharge of the tax liability related to invoices issued without any underlying supply of goods or services.

B Ltd. has availed and utilized fraudulent ITC on the basis of the said tax invoice, in contravention of the provisions of section 16(2)(b), without receiving the supply of goods and accordingly. In this case, there was no supply of by B Ltd. to A Ltd. in respect of the said transaction and also no tax was required to be paid in respect of the said transaction. Therefore, in these specific cases, no demand and recovery of either input tax credit wrongly/ fraudulently availed by B Ltd. in such case or tax liability in respect of the said outward transaction by B Ltd. to A Ltd. is required to be made from B Ltd. under the provisions of section 74. However, in such cases, B Ltd. shall be liable for penal action both under section 122(1)(ii) and section 122(1)(vii), for issuing invoices without any actual supply of goods and/or services as also for taking/ utilizing input tax credit without actual receipt of goods and/or services.

This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

4. **Incorrect information in GST returns and falsification of books of accounts**

The GST returns filed by A Ltd. and B Ltd. were not backed by correct information in terms of supply of goods and services. Knowing that there was no supply of goods or services and input tax credit is not available, the returns were filed by both the companies. The books of accounts and financial records were also falsified in terms of information related to sales and inventory. This act of furnishing incorrect information in GST return and falsifying financial records is an offence under section 122(1)(x). This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

5. **GST implications on Mr. X**

Mr. X, being a consultant of A Ltd., had adequate knowledge of the fraud and wilful misrepresentation of the facts in terms of maintaining the financial records and submission of information in GST returns. In fact, Mr. X himself was filing the GST returns and was aware of the fake invoices and ineligible input tax credit availment by the companies. Mr. X shall be liable to a penalty in terms of the provisions of 122(3) since in the given case, he has aided or abetted the offences specified above. This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

If a Chartered Accountant undertakes the assignment of issuing relevant certificates to the bank thereby certifying the turnover of A Ltd. and B Ltd., he may be held guilty of professional misconduct. Further, he shall also be liable to a penalty in terms of the provisions of 122(3). This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

Q.15 In an order passed dated 1st April 2023 issued to Sita Ram Pvt. Ltd., the Commissioner of Central Tax, being Revisionary Authority has confirmed IGST demand of ₹ 1400 crore, penalty of ₹ 200 crore and interest of ₹ 20 crore.

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

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

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

[May24 PP]

Ans. The amount of pre-deposit to be made by Sita Ram Pvt. Ltd. for filing the appeal to the GSTAT is as under-

- (i) full amount of tax, interest and penalty as admitted by it, i.e. ₹ 230 (200+20+10) crores and
- (ii) 20% of the remaining tax in dispute, i.e. ₹ 240 crore (20% of ₹ 1,200 crore) subject to a maximum of ₹ 100 crores (in case of IGST).
= ₹ 330 crores

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

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

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

CHAPTER NO -1
LEVY OF AND EXEMPTIONS FROM CUSTOMS DUTY

- Q.1** A machine was originally imported from Japan at ₹ 250 lakh in July on payment of all duties of customs. The said machine was exported (sent-back) to supplier for repairs in December and re-imported without any re-manufacturing or re-processing in October next year after repairs. Since the machine was under warranty period, the repairs were carried out free of cost. However, the fair cost of repairs carried out (including cost of material ₹ 6 lakh) would have been ₹ 9 lakh. Actual insurance and freight charges (to and from) were ₹ 3 lakh. The rate of basic customs duty is 10% and integrated tax is 12%. Ignore GST compensation cess & Agriculture infrastructure and development cess. Compute the amount of customs duty payable (if any) on re-import of the machine after repairs. The ownership of the machine has not been changed during the period.
- Note:** The importer intends to avail exemption, if any, with regard to re-importation of goods which had been exported for repairs abroad.

- Ans.** As per Notification No. 45/2017 Cus. dated 30.06.2017, duty payable on re-importation of goods which had been exported for repairs abroad is the duty of customs which would be leviable if the value of re-imported goods after repairs were made up of the fair cost of repairs carried out including cost of materials used in repairs (whether such costs are actually incurred or not), insurance and freight charges, both ways. However, following conditions need to be satisfied for availing this concession:
- goods must be re-imported within 5 years, extendable by further 2 years, after their exportation;
 - exported goods and the re-imported goods must be the same;
 - ownership of the goods should not change.

Since all the conditions specified above are fulfilled in the given case, the customs duty payable on re-imported goods will be computed as under:

Particulars	₹
Value of goods re-imported after exports [₹9 lakh (including cost of materials) + ₹ 3 lakh]	12,00,000
Add: Basic customs duty @ 10% (A)	1,20,000
Add: Social Welfare Surcharge @ 10% on ₹ 1,20,000 (B)	<u>12,000</u>
Value for computing integrated tax	13,32,000
Integrated tax @ 12% (₹ 13,32,000 x 12%) - (C)	1,59,840
Customs duty and integrated tax payable [(A) +(B)+ (C)]	2,91,840

Q.2 Distinguish between Jetsam and Flotsam

- Ans.** Jetsam and Flotsam are goods which are jettisoned (i.e., thrown with speed) from the vessel into the sea to reduce weight of vessel to prevent it from sinking. They are not abandoned goods. Jetsam gets

8.	Duty need not be calculated	Duty should be calculated for determining the remission amount
9.	No need to prove pilferage. It is quite obvious	Should be proved and remission sought for

Q.11 Goods manufactured or produced in India, which were earlier exported and thereafter imported into India will be treated at par with other goods imported into India. Is the proposition correct or any concession is provided on such import? Discuss briefly.

Ans. The given proposition is correct i.e., goods produced in India, which were earlier exported and thereafter imported into India will be treated at par with other goods imported into India [Section 20 of the Customs Act, 1962]. However, the following concessions are being provided in this regard:

- (i) Maximum import duty will be restricted to duty drawback or refund availed or integrated tax not paid at the time of export.
- (ii) Where the goods were originally exported for repairs, the duty on re-importation is restricted to the fair cost of repairs including cost of materials used in repairs whether such costs are actually incurred or not, insurance and freight charges, both ways done abroad.

The above two concessions are given subject to the condition that:

- (a) the re-importation is done within 5 years or 3 years if time is extended.
- (b) the exported goods and re-imported goods must be the same.

In case of point (ii) above, the ownership of the goods should also not have changed.

However, these concessions would not be applicable if-

- re-imported goods had been exported by EOU or a unit in FTP
- re-imported goods had been exported from a public/private warehouse
- re-imported goods which fall under Fourth schedule to the Central Excise Act, 1944.

[Notification No. 45/2017 Cus dated 30.06.2017]

- (iii) When exported goods come back for repairs and re-export, the re-imported goods other than the specified goods can avail exemption from paying of import duty subject to the following conditions:

- (i) the re-importation is for repairs only
- (ii) the time limit is 3 years. In case of Nepal, such time-limit is 10 years.
- (iii) the goods must be re-exported after repairs
- (iv) the time limit for export is 6 months (extendable to one year).

[Notification No. 158/95 Cus. dated 14.11.1995 as amended vide Notification No. 60/2018 Cus dated 11.09.2018]

Q.12 Write a brief note on stages of imposition of taxes and duties.

Ans. Three stages of imposition of taxes and duties:

All taxes and duties are imposed in three stages, which are levy, assessment and collection:

artwork which shall be knitted by the flat knitting machine. Graphic design system is not an integral part of electronic flat knitting machine.

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, an exemption had been granted in respect of electronic flat knitting machine and falling within Chapter 85 of the First Schedule to the Customs Tariff Act, 1975. The exemption does not include any specific mention of accessories to the machine. Precise Finishing Ltd. has claimed exemption of the said notification in respect of Graphic Design System also as accessory of Flat Knitting Machine.

The Customs Department rejected the importer's claim for exemption on Graphic Design System. Examine whether the Department's action is sustainable in law.

Ans. The graphic design system is not an integral part of the electronic flat knitting machine. It is an accessory to the machine.

Hence, electronic flat knitting machine and graphic design system cannot be treated as one single unit and should be classified and assessed separately.

In the given case, the exemption had been granted under the customs law specifically in respect of the electronic flat knitting machine falling under Chapter 85 of the First Schedule to the Customs Tariff Act, 1975 and not to its accessory – the graphic design system.

Therefore, the benefit of the exemption notification available in respect of the electronic flat knitting machine will not be available to graphic design system. The Department's action is sustainable in law.

Q.11 GHN Ltd. imported certain items on 14th October 2023. According to GHN Ltd, these items should be classified under chapter heading no. XXXX.AB of the Customs Tariff schedule whereas the Department's view was that these items should be classified under different chapter heading number XXXX.AC. So, there was a dispute going on between GHN Ltd. and the Department regarding the classification of product.

Meanwhile, an exemption notification was issued on 26th October 2023 which exempted the disputed goods by classifying it under chapter heading number XXXX.AB for the future imports from 30th October 2023 onwards.

Now, GHN Ltd. claimed that since the Department exempted product under chapter heading XXXX.AB. Hence, its items are also to be classified under the same heading even though it imported goods earlier.

Discuss with the help of decided case law if any, whether the contention of GHN Ltd. is correct as per law?

Note: Chapter headings given above are just an example and not the real one.

[May24 PP]

Ans. The contention of GHN Limited is correct as per law. As per judicial ruling, if an exemption notification classifies a product under a specified Chapter heading from a specific date, the said classification can be accepted for the period prior to it being beneficial to the applicant.

3. Further, clause (b) of rule 4(1) of the said rules requires that the comparable import should be at the same commercial level and in substantially same quantity as the goods being valued. Since, nothing is known about the level of the transactions of the comparable consignments, it is assumed to be at the same commercial level.
4. As far as the quantities are concerned, the consignments of 20 and 100 metric tonnes cannot be considered to be of substantially the same quantity. Hence, remaining 4 consignments are left for our consideration.
5. However, the unit prices in these 4 consignments are different. Rule 4(3) of Customs Valuation (DVG) Rules, 2007 stipulates that in applying rule 4 of the said rules, if more than one transaction value of identical goods is found, the lowest of such value shall be used to determine the value of imported goods. Accordingly, the unit price of the consignment under valuation would be US \$ 160 per metric tonne.

Computation of amount of duty payable

CIF value of 800 metric tonnes:

$$= 800 \times 160 = \text{US } \$ 1,28,000$$

At the exchange rate of \$ 1 = ₹ 70

CIF Value (in Rupees)	=	₹ 89,60,000
Assessable Value	=	<u>₹ 89,60,000</u>
10% of Ad Valorem duty on ₹ 89,60,000	=	₹ 8,96,000
Add: Social Welfare Surcharge @ 10% (rounded off)	=	₹ 89,600
Total custom duty payable	=	₹ 9,85,600

Q.9 Foreign Trade International Ltd. has imported one machine from England. It has given the following particulars:

(i)	Price of machine	8,000 UK Pounds
(ii)	Freight paid (air)	2,500 UK Pounds
(iii)	Design and development charges paid in UK	500 UK Pounds
(iv)	Commission payable to local agents of exporter @ 2% of price of machine, in Indian Rupees	
(v)	Date of bill of entry	24 th October (Rate BCD 10%; Exchange rate as notified by CBIC ₹ 100 per UK Pound)
(vi)	Date of arrival of aircraft	20 th October (Rate of BCD 20%; Exchange rate as notified by CBIC ₹ 98 per UK Pound)
(vii)	Integrated tax is 12%	
(viii)	Insurance charges have been actually paid but details are not available.	

Compute the total customs duty and integrated tax payable by Foreign Trade International Ltd.

Note: Ignore GST Compensation Cess.

Ans.

Computation of total duty and integrated tax payable

Particular	Amount
Price of machine	8,000 UK pounds
Add: Design and development charges [Note 1]	500 UK pounds
Total	8,500 UK pounds
	(₹)
Total in rupees @ ₹ 100 per pound [Note 2]	₹ 8,50,000.00
Add: Local agency commission [Note 1] (2% of 8000 UK pounds) = 160 UK pounds × ₹ 100	<u>₹ 16,000.00</u>
FOB value as per Customs	8,66,000.00
Add: Air freight (8,66,000 × 20%) [Note 3]	1,73,200.00
Add: Insurance @ 1.125% of customs FOB [Note 4]	<u>9,742.50</u>
CIF Value	10,48,942.50
Assessable value (rounded off)	10,48,942.00
Add: Basic custom duty @ 10% [Note 5]	1,04,894.20
Add: Social Welfare Surcharge @ 10% on ₹ 1,04,894.20	10,489.42
Total	11,64,325.62
Add: Integrated tax @ 12% [Note 7]	1,39,719.07
Total duty and integrated tax payable (Rounded off) (₹ 1,04,894.20 + ₹ 10,489.42 + ₹ 1,39,719.07)	2,55,102

Notes:

- Design and development charges paid in UK and commission paid to local agent (since it is not buying commission) are includible in the assessable value [Rule 10 of the Customs (Determination of Value of Imported Goods) Rules, 2007]
- The rate of exchange notified by the CBIC on the date of presentation of bill of entry has been considered [Section 14 of the Customs Act, 1962].
- If the goods are imported by air, the freight cannot exceed 20% of FOB price [Fifth proviso to rule 10(2) of the Customs (Determination of Value of Imported Goods) Rules, 2007].
- Where the insurance charges are not ascertainable, such cost is taken as 1.125% of FOB value of the goods [Third proviso to Rule 10(2) of the Customs (Determination of value of Imported Goods) Rules, 2007].
- Section 15 of the Customs Act, 1962 provides that rate of duty shall be the rate in force on the date of presentation of bill of entry or the rate in force on the date of arrival of aircraft, whichever is later.
- Integrated tax is levied on the sum total of the assessable value of the imported goods, customs duties and applicable social welfare surcharge.

Q.10 Compute the total duty and integrated tax payable under the Customs Law on an imported equipment based on the following information:

- (i) Assessable value of the imported equipment US \$ 10,100

Q.46 M/s. Lotus Auto Weaves imported 10 automated looms from Germany for a price of US \$ 70,000. The price was settled and machines were shipped on 20th March, 2023. Meanwhile, the importer made further negotiations with the exporter for reduction of price of looms based on the leads given by them so far and also in future. Due to this negotiation, the exporter further reduced the price of 10 automated looms to US \$ 60,000 and confirmed the same by email dated 30th March, 2023. However, consignment arrived in India on 29th March, 2023. Proper officer of customs ignored the revised price confirmed by email and assessed the value based on original price of US \$ 70,000. This was contested by the importer as unfair action by the Department. Importer seeks your advice on the correctness of action of the proper officer. Give reason in support of your answer.

(PP-Nov23)

Ans. As per section 14 of the Customs Act, 1962, the value of the imported goods is the transaction value, which means the price actually paid or payable for the goods at the time and place of importation. Further, the Supreme Court in case of Garden Silk Mills v. UOI 1999 (113) E.L.T. 358 has held that importation gets complete only when the goods become part of mass of goods within the country. Since in the instant case, the price of the goods was reduced after the goods arrived in India, the price would be considered to be revised after the importation took place. Hence, the goods should be valued as per the original price of US \$ 70,000, which was the price payable at the time of importation. The action taken by the proper officer is valid.

Q.47 Paramjit Ltd. imported a machine from Oliver Equipments, UK. The FOB price of the machine was settled at 6,000 UK Pound. The machine was shipped on 01.10.2023. Meanwhile, Paramjit Ltd. re-negotiated the price of the machine with Oliver Equipments which agrees on the reduced price of 5000 UK pound on 10.10.2023. The machine arrived in India on 18.10.2023. Other details pertaining to machine are as under:

- (i) License fee that the buyer was required to pay in UK as a condition of sale was 500 UK Pound
 - (ii) Buying commission paid in India was ₹ 20,000
 - (iii) Cost of transport from UK port to Indian port is ₹ 40,000. Apart from this, due to deep draught at the port, machine was not taken to the jetty in the port but was unloaded at the outer anchorage. The additional charges incurred for such unloading and transport of machine from outer anchorage to the jetty in barges (small boats) were ₹ 10,000.
 - (iv) Date of presentation of bill of entry was 15.10.2023 and the rate of exchange notified by CBIC on this date was ₹ 100 per pound. Rate of basic customs duty was 10%.
 - (v) Date of entry inwards was 18.10.2023 and the rate of exchange notified by CBIC on this date was ₹ 105 per pound. Rate of basic customs duty was 15%.
 - (vi) Insurance premium details were not ascertainable.
- Compute the assessable value and basic customs duty payable (rounded off to nearest one rupee) by Paramjit Ltd.

[Nov24 RTP]

Ans. As per section 14 of the Customs Act, 1962, the value of the imported goods is the transaction value, which means the price actually paid or payable for the goods at the time and place of importation. Further, the Supreme Court in case of Garden Silk Mills v. UOI 1999 (113) E.L.T. 358 held that importation gets complete only when the goods become part of mass of goods within the country. Since in the instant case, the price of the goods was reduced when the goods were in transit, i.e. before the goods arrived in India, the goods should be valued as per the revised reduced price of 5,000 UK pound, which was the price payable at the time of importation.

Computation of assessable value and basic customs duty payable by Paramjit Ltd

Particulars	Amount
FOB value of machine	5,000 UK Pound
Add: License fee required to pay in UK (Licence fee relating to imported goods payable by the buyer as a condition of sale is includible in the assessable value)	500 UK Pound
Customs FOB	5,500 UK Pound
	Amount (₹)
Value in rupees (5500 x ₹ 100) Rate of exchange as notified by CBIC on the date on which bill of entry is presented under section 46 of the Customs Act, 1962 is to be considered [Explanation to section 14 of the Customs Act, 1962].	5,50,000
Add: Buying commission (Buying commission is not included in the assessable value)	Nil
Add: Cost of transport including barge charges (In case where the big mother vessels cannot enter the harbour for any reason and goods are brought to the docks by smaller vessels like barges, small boats, etc., the cost incurred by the importer for bringing the goods to the landmass, such as lighterage charges, barge charges will be included in the cost of transportation. In other words, the cost of transport of the imported goods includes ship demurrage charges on chartered vessels, lighterage charges or barge charges.)	50,000
Add: Insurance [If insurance cost is not ascertainable, the same shall be added @ 1.125% of FOB value of the goods.]	6187.50
CIF value / Assessable value	6,06,187.50
Basic customs duty @ 15% (₹ 6,06,187.50 X 15%) (Rounded off) [Section 15 of the Customs Act, 1962 provides that rate of duty shall be the rate in force on the date of presentation of bill of entry or on the date of entry inwards, whichever is later.]	90,928

- Q.48 Calculate the assessable value (rounded off to nearest one rupee) under the Customs Act, 1962 with appropriate working notes from the following particulars related to import of a machine (by sea) by Daksh Industries from USA in the month of October 2023:**

S. No.	Particulars	Amount
(i)	Cost of machine at the port of exportation	US \$ 8,200
(ii)	Freight from port of export to port of import	US \$1,800
(iii)	Daksh Industries had paid to seller the cost for packing (not as condition of sale but included in cost of machine at point (i) above)	US \$ 400
(iv)	Actual selling commission paid by Daksh Industries to local agent of exporter.	₹ 20,000
(v)	Actual insurance charges paid are also not ascertainable.	-
(vi)	Ship demurrage charge paid by Daksh Industries at port of importation.	₹ 15,000
(vii)	Engineering charges paid by Daksh Industries to consultancy firm in Mumbai as a condition of sale.	₹ 1,25,000

Note:

- (i) Rate of exchange to be considered ₹ 80 for one US \$
(ii) Relevant legal reasoning should form part of your answer.

[May24 PP]

Ans.

Computation of assessable value

Particulars	Amount in \$	Amount in ₹
Cost of machine at port of importation	8,200	6,56,000
Add: Local agent's commission [Includible as not a buying commission.]	250 (₹ 20,000/₹ 80)	20,000
FOB as per customs	8,450	6,76,000
Add: Freight [Freight charges till port of importation are includible in assessable value.]	1,800	1,44,000
Add: Insurance charges @ 1.125% of FOB	95.0625	7,605
Add: Ship demurrage (₹ 15,000/₹ 80) [Includible in cost of transport.]	187.50	15,000
Assessable Value (in \$)	10,532.5625	
	Amount (₹)	
Assessable value (in ₹) [\$10,532.5625 × ₹ 80]	8,42,605	8,42,605

Notes:

- Packing charges incurred by the buyer are includible in assessable value even though they are not paid as a condition of sale.
- Engineering charges are not included in the assessable value as engineering work is undertaken in India.

Q.9 XYZ Ltd. has imported inputs without payment of duty under Advance Authorization. The CIF value of such inputs is ₹ 10,00,000. The inputs are processed and the final product is exported. The exports made by XYZ Ltd. are subject to general rate of value addition prescribed under Advance Authorization Scheme. No other input is being used by XYZ Ltd. in the processing. What should be the minimum FOB value of the exports made by the XYZ Ltd. as per the provisions of Advance Authorization under FTP?

Ans. Advance Authorization necessitates exports with a minimum of 15% value addition (VA).
 $VA = [(A - B)/B \times 100]$
 A = FOB value of export realized, B = CIF value of inputs covered by authorization.
 Therefore, the minimum FOB value of the exports made by XYZ Ltd. should be ₹ 11, 50,000 to attain 15% VA.

Q.10 'A' has used some duty paid inputs in its export products. However, for the rest of the inputs, he wants to apply for the Advance Authorization. Can he do so? Explain with reference to the provisions of Foreign Trade Policy.

Ans. Yes, 'A' can do so. In case of part duty free and part duty paid imports, both Advance Authorization and drawback will be available. Drawback can be obtained for any duty paid material, whether imported or indigenous, used in goods exported, as per drawback rate fixed by DoR, Ministry of Finance (Directorate of Drawback). Advance Authorization can be used for importing duty free material. Details about duty paid material must be mentioned in the application for Advance Authorization.

Q.11 Briefly explain duties which are exempted in case of imports under Advance Authorisation.

Ans. Imports under Advance Authorisation are exempted from payment of:

- Basic Customs Duty,
- Additional Customs Duty,
- Education Cess,
- Anti- dumping Duty,
- Countervailing Duty,
- Safeguard Duty,
- Transition Product Specific Safeguard Duty, wherever applicable.

However, specified deemed exports as given under are not exempted from payment of applicable anti-dumping duty, countervailing duty, safeguard duty and transition product specific safeguard duty, if any:-

- Supply of capital goods against EPCG authorisation
- Supply to goods to UN or international organisations for their official use or supplied to projects financed by them.

It may be noted that imports under Advance Authorisation for physical as well as deemed exports are also exempt from whole of the Integrated Tax and Compensation Cess.

Q.12 With reference to the Foreign Trade Policy 2023, explain in brief the objectives and salient features of Remission of Duties and Taxes on Exported Products (RoDTEP) scheme.

[Nov24 RTP]

Ans. Remission of Duties and Taxes on Exported Products (RoDTEP) scheme is based on the globally accepted principle that taxes and duties should not be exported, and taxes and levies borne on the exported products should be either exempted or remitted to exporters. RoDTEP scheme aims to refund such duties and taxes on exported products, as are otherwise not being refunded under other provisions of law. The rebate under the Scheme shall not be available in respect of duties and taxes already exempted or remitted or credited.

The objective of the scheme is to refund, currently unrefunded:-

- (i) Duties/taxes/levies, at the Central, State & local level, borne on the exported product, including prior stage cumulative indirect taxes on goods & services used in production of the exported product, and
- (ii) Such indirect duties/taxes/levies in respect of distribution of exported products.

Salient features of the scheme: -

- (i) Rebate amount is issued in the form of a transferable duty credit/electronic scrip (e-scrip), which will be maintained in an electronic ledger by the CBIC.
- (ii) Such duty credit shall be used only to pay basic customs duty on imported goods.
- (iii) The duty credit scrips are freely transferable, i.e. credits can be transferred to other importers.
- (iv) The rebate under the scheme shall not be available in respect of duties and taxes already exempted or remitted or credited.

Q.13 Under Foreign Trade Policy (FTP), what does the National Trade Facilitation Action Plan aim to achieve? Enumerate the trade facilitation measures which are provided under Foreign Trade Policy (FTP).

[May24 PP]

Ans. The National Trade Facilitation Action Plan aims to achieve:

- Improvement in ease of doing business through reduction in transaction cost and time
- Reduction in cargo release time
- A paperless regulatory environment
- A transparent and predictable legal regime
- Improved investment climate through better infrastructure

Note – Any two points may be mentioned.

The following trade facilitation measures are provided under FTP:

- Free passage will be provided to export consignment
- There will not be any seizure of export related stock except in exceptional cases.
- Single window system to facilitate export of perishable agricultural produce.
- DGFT is implementing the Niryat Bandhu Scheme for mentoring new and potential exporter on the intricacies of foreign trade through counseling, training and outreach programmes including the 'Districts as Export Hubs'.
- DGFT online customer portal provides information relating to export and import including Acts, rules, policy and procedures.
- Online facilities for e-RCMC/RC related processes, e-Certificate of Origin (e-CoO) and Quality Control and Trade Disputes (QCTD) are also available on said common digital platform.
- DGFT has undertaken a number of IT Initiatives to enable a paperless, contactless and transparent environment for availing benefits under the export promotion schemes.
- A dedicated 24 X 7 Helpdesk facility has been put in place to assist the exporters in filing online

- applications on the DGFT portal and other matters pertaining to FTP.
- A large number of Trade Facilitation measures have been taken by Customs Department.
 - Authorised Economic Operator (AEO) Programme
 - Towns of Export Excellence (TEE)
 - Duty Free Entitlements to Select Sectors
 - Special privileges granted to Status Holders
 - DGFT is committed to function as a facilitator of exports and imports.
 - Continuous efforts are being made for better collection, compilation and wider dissemination of Trade Data and Statistics to help the policy makers, researchers, exporters and importers to formulate their trade strategy.
 - DGFT has in place a Citizen's Charter, giving time schedules for providing various services to clients.

Note – Any four points may be mentioned.

