CA INTERMEDIATE

GOODS AND SERVICE TAX

CA Jasmeet Singh Arora

EDITION: Fifth

Published By: Physicswallah Limited

Physics Wallah Publication

ISBN:	978-93-6897-024-8
MRP:	899/-
Mobile App:	Physics Wallah (Available on Play Store)
Website:	www.pw.live
Youtube Channels:	CA Intermediate by PW (@CAIntermediatebyPW)
	CA Wallah by PW (@CAWallahbyPW)
	Commerce Wallah by PW (@CommerceWallahPW)
	CA Final by PW (@CAFinalbyPW)
Email:	publication@pw.live
SKU Code:	aa287aff-2c82-4feb-9c5b-745c039f8ff2

Rights

All rights are reserved with the Publisher. No part of this book may be used or reproduced in any manner whatsoever without written permission from the author or publisher.

In the interest of the student community:

Circulation of soft copy of Book(s) in PDF or other equivalent format(s) through any social media channels, emails, etc. or any other channels through mobiles, laptops or desktop is a criminal offense. Anybody circulating, downloading, or storing, a soft copy of the book on his device(s) is in breach of the Copyright Act. Further photocopying of this book or any of its material is also illegal. Do not download or forward in case you come across any such soft copy material.

Disclaimer

A team of PW CA Wallah faculties and experts with a deep understanding of the subject has worked hard for the creation and curation of this book.

While the content creators, editors and publisher have used their best efforts in preparing these books. The content has been checked for accuracy. As the book is intended for educational purposes, the author shall not be responsible for any errors contained in the book.

The publication has designed the content to provide accurate and authoritative information with regard to the subject matter covered.

This book and the individual contribution contained in it are protected under Copyright Act by the publisher.

(*This book shall only be used for educational purposes.*)

PREFACE

A highly skilled professional team of CA Wallah works arduously to ensure that the students receive the best content for their CA-Intermediate exams.

A plethora of CA Study Material is available in the market but CA Wallah professionals at PW are continuously working to provide supreme quality study material for the CA-Intermediate students.

From the beginning, the content team comprising Subject Matter Experts, Content Creators, Reviewers, DTP operators, Proofreaders, and others is involved in shaping the material to their best knowledge and experience to produce powerful content for the students.

CA Wallah Faculties have adopted a novel style of presenting the content in easy-to-understand language and have provided the content team with expert guidance and supervision throughout the creation and curation of this book.

PW's CA Wallah strongly believes in conceptual and fun-based learning. CA Wallah provides highly exam-oriented content to bring quality and clarity to the students.

This book adopts a multi-faceted approach to mastering and understanding the concepts by having a rich diversity of questions asked in the CA-Intermediate examination and equipping the students with the knowledge for this highly competitive exam.

The main objective of this book is to provide an edge to your preparation with short & crisp yet high-quality content.

BOOK FEATURES

This book, especially designed for CA-Intermediate aspirants, contains:

- Syllabus coverage strictly as per ICAI study Material
- Detailed Theory with Exam prototype and Concept Applications Questions
- Short Notes and Solve Miscellaneous Examples
- Topic wise, Learning Plus and Advanced Level Questions covered in the Book

ABOUT THE AUTHOR

Sir, CA Jasmeet Singh Arora is a highly qualified and experienced Chartered Accountant with a passion for teaching. With a strong academic background in both CA and B.Com, Jasmeet Sir has excelled in his field, passing his CA exams on the first attempt and receiving five exemptions in his CA Final exams. In addition to his impressive qualifications, he also possesses more than 10 years of experience in teaching, having mentored over 70,000 students both online and offline.

Jasmeet Sir is a firm believer in blended learning and adopts a learner-centric approach to his teaching. He understands that every student is unique and has different learning needs, and therefore aims to cater to those needs by providing a diverse range of teaching methods. With the use of real-life examples and innovative teaching techniques, he seeks to transform traditional pedagogical processes and make learning more accessible and enjoyable for his students.

Throughout his teaching career, Jasmeet Sir has been committed to providing high-quality education in subjects such as taxation and costing. His expertise in these areas has earned him a reputation as one of the best teachers in his field, and he has been recognized by the Institute of Company Secretaries of India (ICSI) and the Institute of Chartered Accountants of India (ICAI) Kanpur as a visiting faculty member. His dedication to his students is unwavering, and he strives to create a learning environment that is engaging, interactive, and challenging.

Jasmeet Sir's success as a teacher is due to his passion for his subject matter, his commitment to his students, and his ability to adapt to new teaching techniques and technologies. He believes that education is the key to unlocking the potential of young minds and creating a better future for all. His mission is to inspire and empower his students to achieve their full potential and to make a positive impact on society.

CONTENT

1 GST in India - An Introduction 1-36

2 Supply under GST 37-106

3A Charges under GST 107-160

3B Composition Scheme 161-190

4 Place of Supply 191-256

5 Exemption from GST 257-344

6 Time of Supply 345-382

5-6 Classes

7 Value of Supply 383-420

8 Input Tax Credit 421-470

9 Registration under GST 471-532

10 Tax Invoice, Credit Note & Debit Note 533-598

11 Accounts & Records 599-614

12 E-Way Bill 615-648

13 Payment of Tax 649-760

14 TDS & TCS under GST 761-780

15 GST Return 781-815

Chapter 1: GST in India - An Introduction

Overview of Tax

It is a compulsory charge levied by the Government. There are two types of taxes:

1. Direct Tax
2. Indirect Tax

Direct & Indirect Tax

Direct taxes	Indirect taxes
A direct tax is charge, which is imposed directly on the taxpayer and paid directly to the Government by the persons on whom it is imposed. The burden of this tax cannot be shifted by the taxpayer to someone else.	Indirect taxes are imposed on goods and services. Its incidence is borne by the consumers who ultimately consume the product or service. It is also called consumption taxes.
A significant direct tax imposed in India is Income tax.	Indirect taxation in India has witnessed a drastic change on July 01, 2017 and all indirect taxes have been amalgamated into – GST & Customs.
Direct taxes are progressive in nature. Hence a rich person pays more compared to a poor person.	Indirect taxes are regressive in nature because they equally impact the rich or the poor.
Example : Income Tax , Property Tax , Corporate Tax , etc.	Example : GST , Custom Duty , etc.

FEATURES OF INDIRECT TAXES

- **An important source of revenue:** Indirect taxes are a major source of tax revenues for Governments worldwide and continue to grow as more countries move to consumption oriented tax regimes. In India, indirect taxes contribute more than 50% of the total tax revenues of Central and State Governments.
- **Tax on commodities and services:** It is levied on commodities at the time of manufacture or purchase or sale or import/export thereof. Hence, it is also known as commodity taxation. It is also levied on provision of services.
- **Shifting of burden:** There is a clear shifting of tax burden in respect of indirect taxes. For Example, GST paid by the supplier of the goods is recovered from the buyer by including the tax in the cost of the commodity.

NOTES

- **No perception of direct pinch:** Since, the value of indirect taxes is generally inbuilt in the price of the commodity, most of the time the taxpayer pays the same without actually knowing that he is paying tax to the Government. Thus, the taxpayer does not perceive a direct pinch while paying indirect taxes.



- **Inflationary:** Tax imposed on commodities and services causes an all-round price spiral. In other words, indirect taxation directly affects the prices of commodities and services and leads to inflationary trend.
- **Wider tax base:** Unlike direct taxes, the indirect taxes have a wide tax base. Majority of the products or services are subject to indirect taxes with low thresholds.
- Promotes social welfare: High taxes are imposed on the consumption of harmful products (also known as 'sin goods') such as alcoholic products, tobacco products etc. This not only checks their consumption but also enables the State to collect substantial revenue.
- **Regressive in nature:** Generally, the indirect taxes are regressive in nature. The rich and the poor have to pay the same rate of indirect taxes on certain commodities of mass consumption. This may further increase the income disparities between the rich and the poor.



CONCEPT OF GST

- GST is a value added tax levied on manufacture, sale and consumption of goods and services.
- GST offers a comprehensive and continuous chain of tax credits from the producer's point/service provider's point up to the retailer's level/consumer's level thereby taxing only the value added at each stage of the supply chain.
- The supplier at each stage is permitted to avail credit of GST paid on the purchase of goods or services and can set off this credit against the GST payable on the supply of goods and services to be made by him. Thus, only the final consumer bears the GST charged by the last supplier in the supply chain, with set-off benefits at all the previous stages.
- Since, only the value added at each stage is taxed under GST, there is no tax on tax or cascading of taxes under the GST system. GST does not differentiate between goods and services and thus, the two are taxed at a single rate.

Illustration 01

Under Goods and Services Tax (GST), only value addition is taxed and burden of tax is to be borne by the final consumer. Examine the validity of the statement.

NOTES

Solution

The statement is correct. Goods and Services Tax is a destination-based tax on consumption of goods and services. It is levied at all stages right from manufacture up to final consumption with credit of taxes paid at previous stages available as setoff. Resultantly, only value addition is taxed and burden of tax is to be borne by the final consumer.

Illustration 02

A dual GST has been implemented in India. Elaborate.

Solution

A dual GST has been implemented in India with the Centre and States simultaneously levying it on a common tax base. The GST levied by the Centre on intra-State supply of goods and / or services is called the Central GST (CGST) and that levied by the States/ Union territory is called the State GST (SGST)/ Union GST (UTGST). Similarly, Integrated GST (IGST) is levied and administered by Centre on every inter-State supply of goods and/or services. India is a federal country where both the Centre and the States have been assigned the powers to levy and collect taxes through appropriate legislation. Both the levels of Government have distinct responsibilities to perform according to the division of powers prescribed in the Constitution for which they need to raise resources. A dual GST, therefore, keeps with the Constitutional requirement of fiscal federalism.

Why India Needed GST

Following reasons demanded implementation of GST:



- **Double taxation of a transaction as both goods and services.**
- **Non-inclusion of several local levies in State VAT such as luxury tax, entertainment tax, etc.**
- **Non-integration of VAT & service tax.**
- **No CENVAT after manufacturing stage**

Analysis

Particulars	A Manufacturer Delhi	B Manufacturer Delhi	C Trader Kanpur	D Trader Bhopal	E Trader Bhopal
Input	1000	2000	4000	4500	5400
Processing	500	1000	—	—	—
Profit	500	1000	500	900	1000
SellingPrice	2000	4000	4500	5400	6400
GST@12%	240	480	540	648	768
Invoice price	2240	4480	5040	6048	7168
Output TaxLiability	240	480	540	648	768
Input Tax Credit	—	240	480	540	648
Net Tax Liability	240	240	60	108	120

NOTES

Illustration 03

Explain with the help of Examples how a particular transaction of goods and services is taxed simultaneously under Central GST (CGST) and State GST (SGST)?

Solution

The Central GST and the State GST is levied simultaneously on every intra-State supply of goods or services or both made by registered persons except the exempted goods and services as well as goods and services which are outside the purview of GST. Further, both are levied on the same price or transaction value. The same can be better understood with the help of following Examples;

Example I: Suppose that the rate of CGST is 10% and that of SGST is 10%. When a wholesale dealer of steel in Uttar Pradesh supplies steel bars and rods to a construction company which is also located within the same State for, say ₹ 100, the dealer would charge CGST of ₹ 10 and SGST of ₹ 10 in addition to the basic price of the goods. The CGST component will go into a Central Government account while the SGST portion into the account of the concerned State Government (viz. U.P.). It is important to note that he might not actually pay ₹ 20 (₹ 10 + ₹ 10) in cash as he would be entitled to set-off this liability against the CGST or SGST paid on his eligible purchases (inputs, input services and capital goods) assuming that all his purchases are intra-State. However, for paying CGST, he would be allowed to use only the credit of CGST paid on his purchases while for SGST he can utilize the credit of SGST alone. CGST credit cannot be used for payment of SGST and vice versa.

Example II: Suppose, again the rate of CGST is 10% and that of SGST is 10%. When an advertising company located in Mumbai supplies advertising services to a company manufacturing soap also located within the State of Maharashtra for, let us say ₹ 100, the ad company would charge CGST of ₹ 10 as well as SGST of ₹ 10 at the basic value of the service. The CGST component will go into a Central Government account while the SGST portion into the account of the Maharashtra Government. He might not actually pay ₹ 20 (₹ 10+₹ 10) in cash as it would be entitled to set-off this liability against the CGST or SGST paid on his eligible purchases (say, of inputs such as stationery, office equipment, services of an artist etc.) assuming that all his purchases are intra-State. However, for paying CGST, he would be allowed to use only the credit of CGST paid on its purchase while for SGST, he can utilise the credit of SGST alone. CGST credit cannot be used for payment of SGST and vice versa.

FRAMEWORK OF GST

1. **Dual GST: India has adopted a Dual GST model in view of the federal structure of the country.**

- **Centre and States simultaneously levy GST on taxable supply of goods or services or both, which takes place within a State or Union Territory. Thus, tax is imposed concurrently by the Centre and States, i.e. Centre and States simultaneously tax goods and services.**
- **GST is a destination based tax applicable on all transactions involving supply of goods and services for a consideration subject to exceptions thereof. GST in India comprises of:**

NOTES

i. On intra-State supplies of taxable goods and/or services

a) Central Goods and Services Tax (CGST) - levied and collected by Central Government,

b) State Goods and Services Tax (SGST) - levied and collected by State Governments/ Union Territories with Legislatures and

c) Union Territory Goods and Services Tax (UTGST) - levied and collected by Union Territories without Legislatures.

Union Territories	
Without State Legislature	With State Legislature
▪ Andaman & Nicobar islands	▪ Delhi
▪ Lakshadweep	▪ Jammu & Kashmir
▪ Ladakh	▪ Puducherry
▪ Dadra and Nagar Haveli & Daman and Diu	
▪ Chandigarh	

ii. Inter-State supplies of taxable goods and/or services are subject to Integrated Goods and Services Tax (IGST). IGST is the sum total of CGST and SGST/UTGST and is levied by Centre on all inter-State supplies.

2. **GST – A tax on goods and services:** GST is levied on all goods and services, except alcoholic liquor for human consumption and petroleum crude, diesel, petrol, ATF and natural gas.

a) Alcoholic liquor for human consumption: is outside the scope of GST. The manufacture/ production of alcoholic liquor continues to be subjected to State excise duty and inter-State/ intra-State sale of the same is subject to CST/VAT respectively.

b) Petroleum crude, diesel, petrol, ATF and natural gas: As regards petroleum crude, diesel, petrol, ATF and natural gas are concerned, they are not presently leviable to GST. GST will be levied on these products from a date to be notified on the recommendations of the GST Council.

c) Till such date, central excise duty continues to be levied on manufacture/production of petroleum crude, diesel, petrol, ATF and natural gas and inter-State/intra-State sale of the same is subject to CST/VAT respectively.

NOTES

d) Tobacco: Tobacco is within the purview of GST, i.e. GST is leviable on tobacco. However, Union Government has also retained the power to levy excise duties on tobacco and tobacco products manufactured in India. Resultantly, tobacco is subject to GST as well as central excise duty.

e) Opium, Indian hemp and other narcotic drugs and narcotics: Opium, Indian hemp and other narcotic drugs and narcotics are within the purview of GST, i.e. GST is leviable on them. However, State Governments have also retained the power to levy excise duties on such products manufactured in India. Resultantly, Opium, Indian hemp and other narcotic drugs and narcotics are subject to GST as well as State excise duties.

f) Further, real estate sector has been kept out of ambit of GST, i.e. GST will not be levied on sale/ purchase of immovable property.

Illustration 04

GST is a destination-based tax on consumption of goods or services or both. Discuss the validity of the statement.

Solution

The given statement is valid. GST is a destination-based tax on consumption of goods or services or both. GST is known as destination-based tax since the tax would accrue to the taxing authority which has jurisdiction over the place of consumption which is also termed as place of supply. For Example, if A in Delhi produces the goods and sells the goods to B in Haryana. In this case, the tax would accrue to the State of Haryana and not to the State of Delhi. On the other hand, under pre-GST regime, origin based taxation was prevailing in such cases. Under origin-based taxation, the tax used to accrue to the State from where the transaction originated. In the given case, under origin-based taxation, the central sales tax would have been levied by Centre and collected by the State of Delhi and not by the State of Haryana.

Illustration 05

Discuss the leviability of GST or otherwise on the following:

a) Alcoholic liquor for human consumption
b) Petroleum crude, diesel, petrol, Aviation Turbine Fuel (ATF) and natural gas
c) Tobacco
d) Opium, Indian hemp and other narcotic drugs and narcotics

Solution

a) Alcoholic liquor for human consumption : is outside the realm of GST. The manufacture/production of alcoholic liquor continues to be subjected to State excise duty and inter-State/intra-State sale of the same is subject to CST/VAT respectively.

b) Petroleum crude, diesel, petrol, ATF and natural gas: As regards petroleum crude, diesel, petrol, ATF and natural gas are concerned, they are not presently leviable to GST. GST will be levied on these products from a date to be notified on the recommendations of the GST Council.

Till such date, central excise duty continues to be levied on manufacture/production of petroleum crude, diesel, petrol, ATF and natural gas and inter-State/intra-State sale of the same is subject to CST/ VAT respectively.

NOTES

c) **Tobacco:** Tobacco is within the purview of GST, i.e. GST is leviable on tobacco. However, Union Government has also retained the power to levy excise duties on tobacco and tobacco products manufactured in India. Resultantly, tobacco is subject to GST as well as central excise duty.

d) Opium, Indian hemp and other narcotic drugs and narcotics: Opium, Indian hemp and other narcotic drugs and narcotics are within the purview of GST, i.e. GST is leviable on them. However, State Governments have also retained the power to levy excise duties on such products manufactured in India. Resultantly, Opium, Indian.

Illustration 06

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

Solution

Article 366(12A) of the Constitution as amended by 101st Constitutional Amendment Act, 2016 defines the Goods and Services tax (GST) as a tax on supply of goods or services or both, except supply of alcoholic liquor for human consumption. Therefore, alcohol for human consumption is kept out of GST by way of definition of GST in the Constitution. Five petroleum products viz. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel have temporarily been kept out of the purview of GST; GST Council shall decide the date from which they shall be included in GST. The erstwhile taxation system (CST/VAT & central excise) still continues in respect of the said commodities.

BENEFITS OF GST

GST is a win-win situation for the entire country.

It brings benefits to all the stakeholders of industry, Government and the consumer.

The significant benefits of GST are discussed hereunder:

Benefits to Economy

Creation of unified national market:
GST aims to make India a common market with common tax rates and procedures and remove the economic barriers thus paving the way for an integrated economy at the national level.
Boost to 'Make in India' initiative:
GST gives a major boost to the 'Make in India' initiative of the Government of India by making goods and services produced in India competitive in the national as well as international market. This will create India as a — Manufacturing hub. 
Enhanced investment and employment:
The subsuming of major Central and State taxes in GST, complete and comprehensive setoff of input tax on goods and services and phasing out of Central Sales Taxreduces the cost of locally manufactured goods and services and increases the competitiveness of Indian goods and services in the international market and thus, gives boost to investments and Indian exports. With a boost in exports and manufacturing activity, more employment is generated and GDP is increased.

NOTES

Simplified Tax Structure

Ease of doing business:
Simpler tax regime with fewer exemptions along with reduction in multiplicity of taxes under GST has led to simplification and uniformity. The uniformity in laws, procedures and tax rates across the country makes doing business easier.
Certainty in tax administration:
Common system of classification of goods and services ensures certainty in tax administration across India.

Easy Tax Compliance

Automated procedures with greater use of IT:
There are simplified and automated procedures for various processes such as registration, returns, refunds, tax payments. All interaction is through the common GSTN portal, therefore, less public interface between the taxpayer and the tax administration.
Reduction in compliance costs:
The compliance cost is lesser under GST as multiple record keeping for a variety of taxes is not needed, therefore, there is lesser investment of resources and manpower in maintaining records. The uniformity in laws, procedures and tax rates across the country goes a long way in reducing the compliance cost.

Advantages for Trade and Industry

Benefits to agriculture and Industry:
GST has given more relief to industry, trade and agriculture through a more comprehensive and wider coverage of input tax set- off and service tax set-off, subsuming of several Central and State taxes in the GST and phasing out of CST. The transparent and complete chain of set-offs which results in widening of tax base and better tax compliance also leads to lowering of tax burden on an average dealer in industry, trade and agriculture.
Mitigation of ill effects of cascading:
By subsuming most of the Central and State taxes into a single tax and by allowing a set-off of prior-stage taxes for the transactions across the entire value chain, it helps in mitigating the ill effects of cascading, improving competitiveness and improving liquidity of the businesses.
Benefits to small traders and entrepreneurs:
GST has increased the threshold for GST registration for small businesses. Further, single registration is needed in one State. Small businesses have also been provided the additional benefit of composition scheme. With the creation of a seamless national market across the country, small enterprises have an opportunity to expand their national footprint with minimal investment.

Illustration 07

List some of the benefits that GST may accrue to the economy.

Solution

GST may accrue following benefits to the economy:

NOTES

Creation of unified national market: GST aims to make India a common market with common tax rates and procedures and remove the economic barriers, thereby paving the way for an integrated economy at the national level.

a) **Boost to 'Make in India' initiative: GST may give a major boost to the 'Make in India' initiative of the Government of India by making goods and services produced in India competitive in the national aswell as international market. This would make India a manufacturing hub.**

b) **Boost to investments, exports and employment: Under the GST regime, the principle of exporting only the cost of goods or services and not taxes is being followed. This may boost Indian exports thereby improving the balance of payments position. Exporters are being facilitated by grant of provisional refund of 90% of their claims within 7 days of issue of acknowledgement of their application, thereby resulting in the easing of position with respect to cash flows. Further, the subsuming of major Central and State taxes in GST, complete and comprehensive set-off of input tax on goods and services and phasing out of Central Sales Tax (CST) may reduce the cost of locally manufactured goods and services. Resultantly, the competitiveness of Indian goods and services in the international market may increase to give boost to investments and Indian exports. With a boost in exports and manufacturing activity, more employment would be generated and GDP would increase.**

Illustration 08

Enumerate the deficiencies of the existing indirect taxes which led to the need for ushering into the GST regime.

Solution

Under the earlier indirect tax regime, despite the introduction of the principle of taxation of value added in India – at the Central level in the form of CENVAT and at the State level in the form of State VAT – its application always remained piecemeal and fragmented on account of the following reasons:

1. **Double taxation of a transaction as both goods and services as the distinction between goods and services was often blurred, e.g. software was liable to both VAT and service tax.**
2. **CENVAT did not include a chain of value addition in the distributive trade below the stage of production. Similarly, in the State-level VAT, CENVAT load on the goods was not removed leading to the cascading of taxes. To illustrate, when the goods were manufactured and sold, both central excise duty (CENVAT) and State-Level VAT were levied.**
3. **Though CENVAT and State-Level VAT were essentially value added taxes, set-off of one against the credit of another was not possible as CENVAT was a central levy and State-Level VAT was a State levy.**
4. **There were several taxes in the States, such as, Luxury Tax, Entertainment Tax, etc. which were not subsumed in the VAT.**
5. **VAT on goods was not integrated with tax on services, at the State level, to remove the cascading effect of the Service Tax. With the service sector being the fastest growing sector in the economy, the exclusion of services from the tax base of the States potentially eroded their tax-buoyancy.**
6. **CST was another source of distortion in terms of its cascading nature since it was non-VATABLE. Being an origin based tax; CST was also against one of the basic**

NOTES

7. principles of consumption taxes that tax should accrue to the jurisdiction where consumption takes place.

Constitutional Provisions Regarding GST

Power to levy taxes emerges from the Constitution of India.
Article 265: No tax shall be levied or collected except by authority of Law.
Article 245: Subject to the provisions of the Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State.
Article 246: It gives the respective authority to Union and state Governments for levying tax and such authority is given in Seventh Schedule of Indian Constitution and there are three lists in Seventh Schedule.

Union list – List I (Parliament)	State list – List II (State legislature)	Concurrent list - List III
It contains the matters in respect of which the Parliament (Central Government) has the exclusive right to make laws.	It contains the matters in respect of which the State Government has the exclusive right to make laws.	It contains the matters in respect of which both the Central & State Governments have power to make laws.
There are 97 entries	There are 66 entries	There are 47 entries

Some of the important entries in the Union List are as given below:
Union List No. 82: Taxes on income other than agricultural income.
Union List No. 83: Duties of customs including export duties.
Union List No. 84: Duties of excise on following goods manufactured or produced in India, namely

a) petroleum crude;
b) high speed diesel;
c) motor spirit (commonly known as petrol);
d) natural gas;
e) aviation turbine fuel; and
f) tobacco and tobacco products.

Some of the important entries in State List are as given below:

State List No. 46	Taxes on agricultural income.
State List No. 51	Duties of excise on alcoholic liquors for human consumption; opium, Indian hemp and other narcotic drugs.
State List No. 53	Taxes on the consumption or sale of electricity.

NOTES

State List No. 54	Taxes on sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural Gas, aviation turbine fuel and alcoholic liquor for human consumption, but not including sale in the course of international trade or commerce of such goods.

Article 246A: Power to make laws with respect to Goods and Services Tax:	
1.	This article grants power to Centre and State Governments to make laws with respect to Intra state supply of goods/services and GST imposed by Centre or such State for Intra state supply.
2.	Centre has the exclusive power to make laws with respect to inter-state supply of goods/services and GST imposed by Centre on inter-state supply of goods/services.

Article 269A: Levy and collection of GST on inter-state supply	
1.	It stipulates that GST on supplies in the course of inter-state trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by parliament by law on the recommendations of the GST Council.
2.	Import of goods/services into India will also be deemed to be Inter State supply.

Illustration 09

Why was the need to amend the Constitution of India before introducing the GST?

Solution

Earlier, the fiscal powers between the Centre and the States were clearly demarcated in the Constitution with almost no overlap between the respective domains. The Centre had the powers to levy tax on the manufacture of goods (except alcoholic liquor for human consumption, opium, narcotics etc.) while the States had the powers to levy tax on the sale of goods. In the case of inter-State sales, the Centre had the power to levy the Central Sales Tax but the tax was collected and retained entirely by the States. As for services, it was the Centre alone that was empowered to levy service tax. Introduction of the GST necessitated the amendments in the Constitution so as to simultaneously empower the Centre and the States to levy and collect this tax. The Constitution of India was amended by the Constitution (101st Amendment) Act, 2016 for this purpose. Article 246A of the Constitution introduced thereby empowered the Centre and the States to simultaneously levy and collect the GST.

GST Council: Article 279A

- **Article 279A of the Constitution empowers the President to constitute a joint forum of the Centre and States namely, Goods & Services Tax Council (GST Council).**
- **The provisions relating to the GST Council came into force on 12th September, 2016. The President constituted the GST Council on 15th September, 2016.**



NOTES

- The Union Finance minister is the Chairman of this Council and Ministers in charge of Finance/ Taxation or any other Minister nominated by each of the States & UTs with Legislatures are its members. Besides, the Union Minister of State in charge of revenue or Finance is also its member.
- The function of the Council is to make recommendations to the Union and the States on important issues like tax rates, exemptions, threshold limits, dispute resolution etc.
- It shall also recommend the date on which GST be levied on petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel.

Taxes to be subsumed & not subsumed in GST

Central Levies to be Subsumed	State Levies to be Subsumed	Taxes not subsumed under GST
Central Excise Duty & Additional Excise Duty	State surcharges and Cesses in so far as they relate to supply of goods and services	Custom duty & Stamp duty
Service Tax	Entertainment Tax (except those levied by local bodies)	Vehicle Tax
Excise Duty under Medicinal and Toilet Preparation Act	Tax on lottery, betting and gambling	Excise on Liquor
Countervailing Duty & Special Countervailing Duty	Entry tax (All forms) & Purchase tax	Tax on sale & Consumption of electricity
Central Sales Tax	VAT/Sales tax	Road Tax
Central surcharges and Cesses in so far as they relate to supply of goods and services	Luxury tax&Taxes on advertisements	Entertainment tax levied by Local Bodies

Illustration 10

Discuss Article 269A pertaining to levy and collection of GST on inter-State supply.

Solution

Article 269A of the Constitution stipulates that Goods and Services Tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

Here, supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.

The amount so apportioned to a State shall not form part of the Consolidated Fund of India. Where an amount collected as IGST has been used for payment of SGST or vice versa, such amount shall not form part of the Consolidated Fund of India/State respectively. This is to facilitate transfer of funds between the Centre and the States.

NOTES

Parliament is empowered to formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

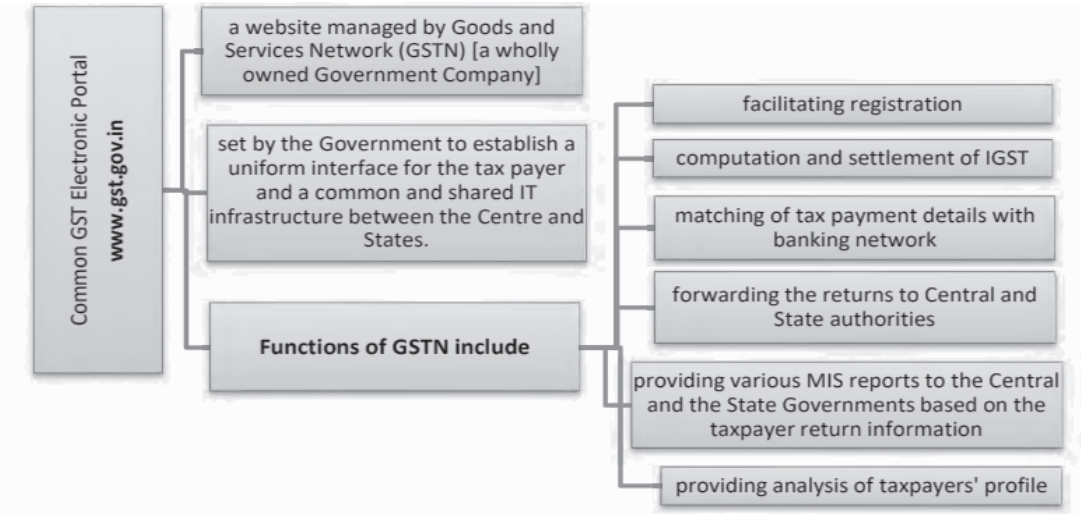
Illustration 11

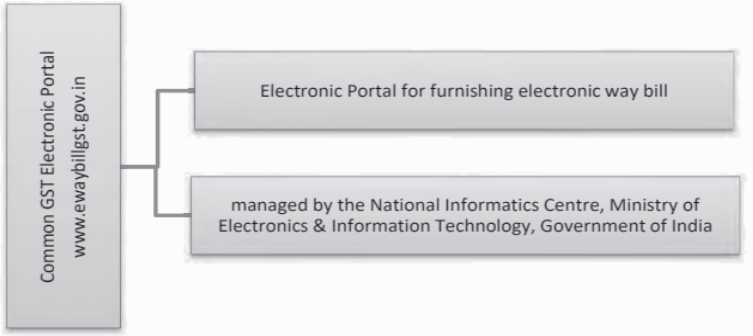
Discuss Article 246A which grants the power to make laws with respect to Goods and Services Tax.

Solution

Article 246A stipulates that Parliament, and, the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State. Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce. However, in respect to petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel, the aforesaid provisions shall apply from the date to be notified by the Government on the recommendations by the GST Council.

GST Common Portal





NOTES

QUESTION BANK

Illustration 01

Differentiate between direct and indirect taxes.

Solution

Direct taxes	Indirect taxes
A direct tax is charge, which is imposed directly on the taxpayer and paid directly to the Government by the persons on whom it is imposed. The burden of this tax cannot be shifted by the taxpayer to someone else.	Indirect taxes are imposed on goods and services. Its incidence is borne by the consumers who ultimately consume the product or service. It is also called consumption taxes.
A significant direct tax imposed in India is Income tax.	Indirect taxation in India has witnessed a drastic change on July 01, 2017 and all indirect taxes have been amalgamated into – GST & Customs.
Direct taxes are progressive in nature. Hence a rich person pays more compared to a poor person. Example: Income tax is higher for higher income groups and lower for lower income groups.	Indirect taxes are regressive in nature because they equally impact the rich or the poor. Example: GST paid on food in restaurant is same whether a person is rich or poor.

Illustration 02

Explain the salient features of indirect taxes.

Solution

a) **An important source of revenue: Indirect taxes are a major source of tax revenues for Governments worldwide and continue to grow as more countries move to consumption oriented tax regimes. In India, indirect taxes contribute more than 50% of the total tax revenues of Central and State Governments.**

b) **Tax on commodities and services: It is levied on commodities at the time of manufacture or purchase or sale or import/export thereof. Hence, it is also known as commodity taxation. It is also levied on provision of services.**

c) **Shifting of burden: There is a clear shifting of tax burden in respect of indirect taxes. For Example, GST paid by the supplier of the goods is recovered from the buyer by including the tax in the cost of the commodity.**

d) **No perception of direct pinch: Since, value of indirect taxes is generally inbuilt in the price of the commodity, most of the time the taxpayer pays the same without actually knowing that he is paying tax to the Government. Thus, the taxpayer does not perceive a direct pinch while paying indirect taxes.**

e) **Inflationary: Tax imposed on commodities and services causes an all-round price spiral. In other words, indirect taxation directly affects the prices of commodities and services and leads to inflationary trends.**

f) **Wider tax base: Unlike direct taxes, the indirect taxes have a wide tax base. Majority of the products or services are subject to indirect taxes with low thresholds.**

NOTES

g) Promotes social welfare: High taxes are imposed on the consumption of harmful products (also known as 'sin goods') such as alcoholic products, tobacco products etc. This not only checks their consumption but also enables the State to collect substantial revenue.
h) Regressive in nature: Generally, the indirect taxes are regressive in nature. The rich and the poor have to pay the same rate of indirect taxes on certain commodities of mass consumption. This may further increase the income disparities between the rich and the poor.

Illustration 03

Write a short note on various Lists provided under Seventh Schedule to the Constitution of India.

Solution

Seventh Schedule to Article 246: It contains three lists which enumerate the matters under which the Union and the State Governments have the authority to make laws.

Union list – List I (Parliament)	State list – List II (State legislature)	Concurrent list - List III
It contains the matters in respect of which the Parliament (Central Government) has the exclusive right to make laws.	It contains the matters in respect of which the State Government has the exclusive right to make laws.	It contains the matters in respect of which both the Central & State Governments have power to make laws.

Illustration 04

Why is Dual GST required?

Solution

India is a federal country where both the Centre and the States have been assigned the powers to levy and collect taxes through appropriate legislation. Both the levels of Government have distinct responsibilities to perform according to the division of powers prescribed in the Constitution for which they need to raise resources. A dual GST will, therefore, be in keeping with the Constitutional requirement of fiscal federalism.

Illustration 05

Which of the existing taxes are subsumed under GST? List any four State levies, which subsumed in GST.

Solution

The GST replaced the following taxes:

1. Taxes which was levied and collected by the Centre:
   a) Central Excise duty
   b) Duties of Excise (Medicinal and Toilet Preparations)
   c) Additional Duties of Excise (Goods of Special Importance)
   d) Additional Duties of Excise (Textiles and Textile Products)
   e) Additional Duties of Customs (commonly known as CVD)
   f) Special Additional Duty of Customs (SAD)
   g) Service Tax
   h) Central Surcharges and Cess so far as they relate to supply of goods and services

NOTES

2. State taxes which was subsumed under the GST:
   a) State VAT
   b) Central Sales Tax
   c) Luxury Tax
   d) Entry Tax (all forms)
   e) Entertainment and Amusement Tax (except when levied by the local bodies)
   f) Taxes on advertisements
   g) Purchase Tax
   h) Taxes on lotteries, betting and gambling
   i) State Surcharges and Cess so far as they relate to supply of goods and services

The GST Council made recommendations to the Union and States on the taxes, Cess and surcharges levied by the Centre, the States and the local bodies which were subsumed in the GST.

Illustration 06

List the taxes, which are not subsumed in GST

Solution

1. Basic Customs Tax
2. Property tax and stamp duty
3. Electricity duty
4. Excise duty on alcohol
5. Excise duty on petrol, diesel etc.
6. Entertainment tax charged by Local Bodies (Municipality)

Illustration 07

What is IGST?

Solution

Under the GST regime, an Integrated GST (IGST) would be levied and collected by the Centre on Inter-State supply of goods and services. Under Article 269-A of the Constitution, the GST on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the GST Council.

Illustration 08

What would be the role of the GST Council?
Alternative, Enumerate any five matters on which the GST Council may make recommendations under Article 279A of the Constitution of India.

Solution

A GST Council would be constituted comprising the Union Finance Minister (who will be the Chairman of the Council), the Minister of State (Revenue) and the State Finance/Taxation Ministers to make recommendations to the Union and the States on:

1. the taxes, cess and surcharges levied by the Centre, the States and the local bodies which may be subsumed under GST;

NOTES

2. the goods and services that may be subjected to or exempted from the GST;
3. the date on which the GST shall be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel;
4. model GST laws, principles of levy, apportionment of IGST and the principles that govern the place of supply;
5. the threshold limit of turnover below which the goods and services may be exempted from GST;
6. the rates including floor rates with bands of GST;
7. any special rate or rates for a specified period to raise additional resources during any natural calamity or disaster;
8. special provision with respect to the North-East States, J&K, Himachal Pradesh and Uttarakhand; and any other matter relating to the GST, as the Council may decide.

Illustration 09

How will decisions be taken by the GST Council?

Solution

- Article 279-A of the Constitution of India makes provisions as to the GST Council. It provides that every decision of the GST Council shall be taken at a meeting by a majority of not less than 3/4th of the weighted votes of the members present and voting.
- The vote of the Central Government shall have a weightage of 1/3rd of the votes cast and the votes of all the State Governments taken together shall have a weightage of 2/3rd of the total votes cast in that meeting.
- One half of the total number of members of the GST Council shall constitute the quorum at its meetings.

Illustration 10

What is GSTN and its role in the GST regime? Discuss any two functions of GSTN.

Solution

GSTN stands for Goods and Services Tax Network (GSTN). It is a not-for Profit Company incorporated under provisions of Section 8 of Companies Act, 2013. GSTN has been set up to cater to the needs of GST. GSTN has made a site/portal which has been notified as a common GST electronic portal (under section 146 of CGST Act).

Thus, GSTN has provided IT infrastructure under GST law. The GST portal developed by it is used by the Central Government as well as by the State Governments. GST portal is referred as 'common portal'. This portal is the taxpayer interface with the Government. GSTN is providing facilities to taxpayers as well as the Government.

Following are some important functions which are performed by GSTN

1. Facilitation of registration (as under GST, registration is online);
2. Payment of GST (Challan for GST payment is created online);
3. Returns filing (as under GST, all returns are online);
4. Maintenance of ledgers of taxpayers (e-liability, e-credit and e-cash ledger for each registered taxpayer);
5. Running the matching engine for matching, reversal and reclaim of input tax credit (presently, it has been deferred);

NOTES

6. **Providing analysis of taxpayers' profile (based on such analysis, cases will be selected for scrutiny/audit);**
7. **Sharing of information in taxpayers returns with Centre and State Governments/tax authorities;**
8. **providing various MIS reports to the Central and the State Governments based on the taxpayer return information;**
9. **Computation and settlement of IGST (transfer of funds in between Central Tax Account, State Tax Accounts and Integrated Tax Account)**

Illustration 11

No act or proceedings of the Goods and Services Tax Council shall be invalid merely by certain reasons. What are they?

[PYQ Sep 2024]

Solution

No act or proceedings of the Goods and Services Tax Council shall be invalid merely by reason of—

(a) any vacancy in, or any defect in, the constitution of the Council; or

(b) any defect in the appointment of a person as a Member of the Council; or

(c) any procedural irregularity of the Council not affecting the merits of the case.

NOTES

Chapter 2: Supply under GST

Theory

Article 265 of the Constitution of India mandates that no tax shall be levied or collected except by the authority of law. The Charging Section is a must in any taxing statute for levy and collection of tax. Before imposing any tax, it must be shown that
The transaction falls within the ambit of the taxable event and
The person on whom the tax is so imposed also gets covered within the scope and ambit of the charging Section by clear words used in the Section.
"No one can be taxed by implication."

Under the GST law, the levy of tax is as follows:

In the hands of the supplier	**on the supply of goods and/or services (forward charge mechanism)**
In the hands of the recipient	**on receipt of goods and/or services (reverse charge mechanism)[Only for the goods specified by central government under this behalf]**

Levy of tax

Every supply will be liable to tax. The nature of tax would depend upon the nature of supply, viz., inter State supplies will be liable to IGST and intra-State supplies will be liable to CGST and SGST or UTGST

1. **Supply should involve goods and/or services, either as wholly goods or wholly services. Even where a supply involves both, goods and services, the law provides that such supplies would be classified either as, wholly goods or wholly services.**
2. **Supply will be an intra-State supply if the location of the supplier and the place of supply are within the same State.**
3. **Supply will be an inter-State supply if the location of the supplier and the place of supply are in different States.**
4. **The tax shall be payable by a 'taxable person' i.e. person/separate establishments of persons registered or liable to be registered under Sections 22 and 24 of the CGST Act.**
5. **The rate of tax will be as specified in the notification that would be issued in this regard, subject to a maximum of 20%.**

NOTES

Meaning of Goods Section 2(52)



- Goods" means any kind of movable property

  Ex: Furniture, electronics, and clothing.

- Goods do not include money and securities

  Ex: Cash, shares of a company, or government bonds are not considered goods.

- Goods includes actionable claim

  Ex: A right to receive payment from a contract or a right to inherit property.

- Goods includes growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.

  Ex: Fruit trees that are agreed to be cut and sold before supply is considered as goods

Meaning of Actionable claim

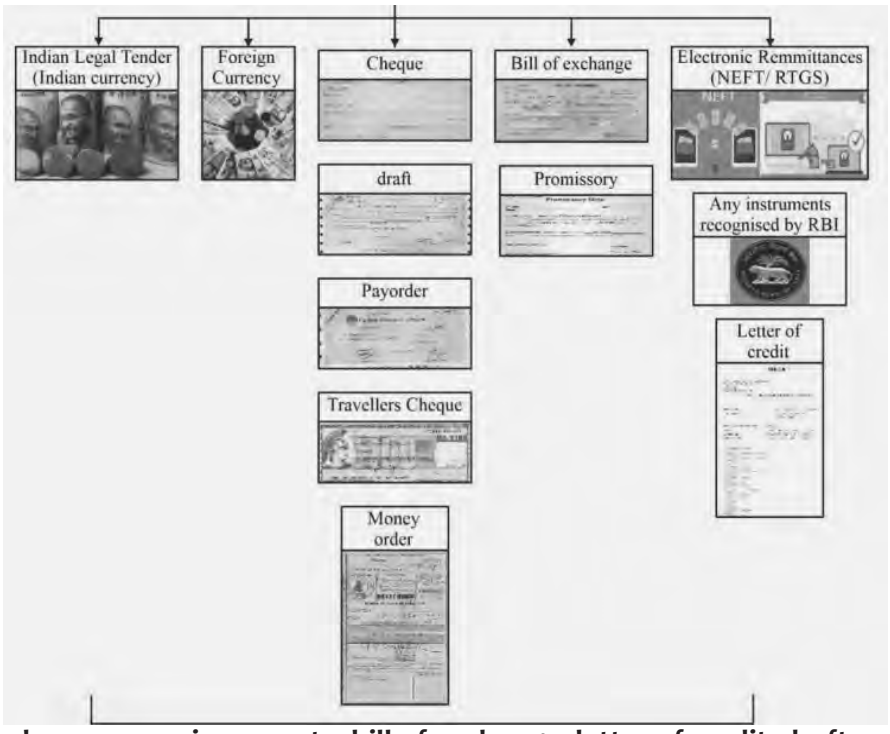
- Actionable claim includes a claim to any debt
- Actionable claim does not include a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property, or to any beneficial interest in movable property not in the possession, either actual or constructive, of the claimant, which the civil courts recognise as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent

  Ex: A person lends money to a friend without requiring any collateral. If the friend fails to repay the loan, the lender has a claim for the debt but not a claim on any specific asset as security

NOTES

Meaning of Money

- **Money means the Indian legal tender (currency officially issued by the Indian government and recognized for transactions within India)**



Ex: Indian Rupees (INR), such as 10-rupee or 500-rupee notes

- **Money includes any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognised by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination.**
- **Money shall not include any currency that is held for its numismatic value.**

Ex: An antique gold coin from the Mughal Empire minted for a significant historical event may be purchased for their historical importance or as an investment, rather than for everyday transactions

Meaning of Services

- **"Services" means anything other than goods, money and securities**
- **Services includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged**

Ex: Currency exchange services where a person converts Indian Rupees (INR) to US Dollars (USD). This involves a fee for the conversion service provided.

NOTES

- **it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities.**

  Ex: A stockbroker facilitating the purchase of shares for an investor or an investment advisor arranging transactions in bonds. The service charges a commission or fee for these transactions.

Analysis	
Transaction in money (Loan and advances)	No Supply
Issuance of Letter of Credit / Bank Guarantee	No Supply
Issuance of Certificate of Deposit	No Supply
Fees/Brokerage/Transfer fees	Supply
Future/Forward (with delivery)	Supply
Future/Forward (without delivery)	No Supply
Interest and Discount	Supply but exempt

Section 7 Meaning of Supply

Section 7(1)

(a) Supply includes all forms of supply (goods and/or services) and includes agreeing to supply when they are for a consideration and in the course or furtherance of business. It specifically includes

- **Sale**
- **Transfer**
- **Barter**
- **Licence**
- **Lease**
- **Exchange**
- **Rental**
- **Disposal**





NOTES

Examples:

1. *A shopkeeper sells a pen for ₹100 to the buyer. After the sale, the pen belongs to the buyer and shopkeeper does not have any right on the pen. This is a transaction of sale.*
2. *A company transfers goods from its factory to the depot for sale purposes. This is 'transfer' of goods where the sale has not yet taken place.*
3. *When a new car worth ₹5,00,000 is purchased in exchange of an old car along with the monetary consideration of ₹4,00,000 paid for the said purchase – Exchange transaction*
4. *A doctor got his hair cut from a barber and provides him medical consultancy in return. In this transaction, the doctor provided the medical consultancy services to the barber for which consideration was in the form of hair cutting services provided by the barber. Similarly, the barber provided hair cutting services to the doctor for which consideration was in the form of medical consultancy services provided by the doctor – Barter transaction*

Meaning of Consideration
• Consideration can be in money or in kind. • Further, a consideration need not always flow from the recipient of the supply. It can also be made by a third person. • However, any subsidy given by the Central Government or a State Government is not considered as consideration. • A deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply.
Meaning of Business
• Business Includes Any trade/commerce, manufacture, profession etc. even if there is no monetary benefit. • Supply/acquisition of goods including capital goods & services – in connection with commencement/closure of business. • Provision of facilities by club/association etc. • Admission to any premises for consideration. • Services as holder of office accepted in course/furtherance of trade, profession. • Activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club. • Any activity by Government/local authority as public authorities. • For any trade, commerce, or any other similar activity to qualify as business, frequency, volume, continuity or regularity of such transaction is not a pre-requisite.

Examples

- *Rishabh buys a car for his personal use and after a year sells it to a car dealer. Sale of car by Rishabh to car dealer is not a supply under CGST Act because said supply is not made by Rishabh in the course or furtherance of business.*



NOTES

- *Manikarnika sold her old gold bangles and earrings to 'Aabhushan Jewellers'. Sale of old gold jewellery by an individual to a jeweller will not constitute supply as the same cannot be said to be in the course or furtherance of business of the individual.*
- *Sundaram Acharya, a famous actor, paints some paintings and sells them. The consideration from such a sale is to be donated to a Charitable Trust – 'Kind Human'. The sale of paintings by the actor qualifies as supply.*



- *A Resident Welfare Association provides the service of depositing the electricity bills of the residents in lieu of some nominal charges. Provision of service by a club or association or society to its members is treated as supply as this is included in the definition of 'business'.*
- *Services by way of admission to circus, cinema halls, amusement parks including theme parks, water parks, etc. are considered as supply as these are services by way of admission of persons to any premises for a consideration.*



- *Royal Turf Race Club is engaged in facilitating the wagering (betting) transactions on horses placed through totalisator 10. For providing the service of facilitating wagering transactions, Royal Turf Race Club gets commission which is deducted and retained by the club from the total bet value. Said services amount to supply as the activities of a race club are included in business.*

Section 7(1)(aa)

the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment/other valuable consideration.

Explanation—For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another.

Section 7(1)(b)

Supply includes import of a service, made for a consideration and whether or not in the course or furtherance of business.
This implies that import of services even for personal consumption would qualify as 'supply' and therefore would be liable to tax. This would not be subject to the threshold limit as tax is expected to be payable on reverse charge basis, and the threshold limits do not apply in case of supplies attracting tax on reverse charge basis.

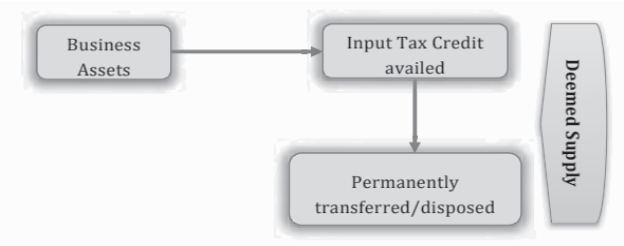
Example: *Ramaiyaa, a proprietor, has received the architect services for his personal residence from an architect located in New York at an agreed consideration of $ 5,000. The import of services by Ramaiyaa is supply under section 7(1)(b) though it is not in course or furtherance of business.*

NOTES

Section 7(1)(c)

The activities specified in Schedule I, made or agreed to be made without consideration.
Schedule I

1. **Permanent transfer of business assets where input tax credit has been availed:** **The word 'transfer' in this clause suggests that there should be another person who would receive the business assets at the other end. The use of the words 'permanent transfer' implies that the goods should be transferred without any intention or requirement of having to receive the goods back. However, even in these types of transactions, it is essential that there is delivery of the business assets.**
   E.g. Infosys limited upgraded their 1000 Laptops and donated their old laptops (ITC Claimed) to the Government Schools. In this case, such donation is treated as supply as per Schedule I.



2. **Supply of goods and/or services between related person, or between distinct persons:** **Any supply of goods and/or services in the course of business or furtherance of business by a taxable person to a related person (as defined by way of explanation below Section 15(5)), or by one taxable person to another taxable person (as Provided in Section 25 of the Act), when made without consideration, would qualify as 'supply'.**
   E.g. Free supplies to related persons, stock transfers to a unit outside the State/a different business vertical, etc. will be reckoned as supplies.

Meaning of Distinct Person

A person who has obtained/is required to obtain more than one registration, whether in one State/Union territory or more than one State/Union territory shall, in respect of each such registration, be treated as distinct persons [Section 25(4) of the CGST Act].

E.g. Mohan, a Chartered Accountant, has a registered head office in Delhi. He has also obtained registration in the State of West Bengal in respect of his newly opened branch office. Mohan shall be treated as distinct persons in respect of registrations in West Bengal and Delhi.

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

NOTES

Stock transfers or branch transfers qualify as supply provided the transfer of goods or services is between:

i. different locations (with separate GST registrations) of same legal entity as these are transactions between distinct persons, or
ii. establishments of distinct persons.

Examples

a) Raghubir Fabrics transfers 1000 shirts from his factory located in Lucknow to his retail showroom in Delhi so that the same can be sold from there. The factory and retail showroom of Raghubir Fabrics are registered in the States where they are located. Although no consideration is charged, supply of goods from factory to retail showroom constitutes supply.

b) Raghubir Fabrics transfers 1000 shirts from his factory located in Lucknow to his retail showroom in Kanpur so that the same can be sold from there. It has taken one registration in the State of Uttar Pradesh declaring Lucknow factory as its principal place of business and Kanpur showroom as its additional place of business. Since no consideration is charged, supply of goods from factory to retail showroom in the same State under single registration does not constitute supply.

Meaning of Related Persons

"Related persons" means

a) Such persons are partners in business.
Example – *Mr. A and Mr. B are partners in a business. They will be considered to be related persons.*

b) Any person holds twenty-five per cent or more of shares of both of them.
Example – *Mr. A has 25% shares in X limited and 25% shares in Y limited, in this case X ltd & Y ltd will be considered to be related persons.*

c) One of them controls the other,
Example – *A limited is holding 51% shares of X limited, they are related persons.*

d) Together they directly or indirectly control a third person,
Example – *ABC limited has 26% shares of X limited and PQR limited has 27% shares of X limited, in this case ABC & PQR shall be related person.*

e) Such persons are employer and employee;

f) They are members of the same family; As per Section 2(49)
"family" means,
- the spouse and children of the person, and
- the parents, grand–parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.

Note: Any perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are in lieu of the services provided by employee to the employer in relation to his employment. It follows therefrom that perquisites provided by the employer to the employee in terms of contractual agreement entered into between the employer and the employee will not be subjected to GST.

NOTES

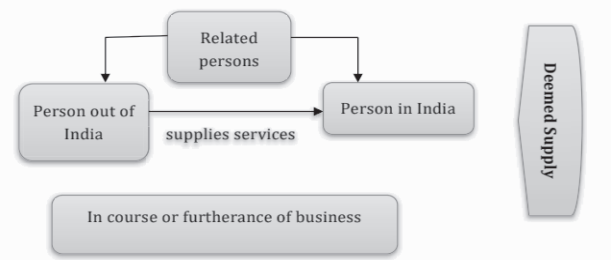
3. **Supply of goods by a principal to his agent, where the agent undertakes to supply such goods on behalf of the principal.**
   E.g. A company is located in Nagpur and employs an agent in Mumbai to undertake sales on behalf of the company. Goods transferred by the company to the premises of the agent in Mumbai would qualify as a 'supply'.



4. **Supply of goods by an agent to his principal, where the agent undertakes to receive such goods on behalf of the principal**
   E.g. A company is located in Kanpur and employs an agent in Jaipur to undertake purchases on behalf of the company. Goods procured and transferred by the agent to the company would qualify as a 'supply'.

If agent has the authority to pass or receive the title of the goods on behalf of the principal i.e. where the invoice for further supply is being issued by the agent in his name then, any provision of goods from the principal to the agent would fall within the schedule I. However, where the invoice is issued by the agent to the customer in the name of the principal, such agent shall not fall within the schedule I. Similarly, where the goods being procured by the agent on behalf of the principal are invoiced in the name of the agent then further provision of the said goods by the agent to the principal would be covered by Schedule I.

5. **Import of services by a taxable person from a related person, or from any of his other establishments outside India, in the course or furtherance of business**



Examples

- ***Jhumroo Associates received legal consultancy services from its head office located in Malaysia. The head office has rendered such services free of cost to its branch office. Since Jhumroo Associates and the head office are related persons, services received by Jhumroo Associates will qualify as supply even though the head office has not charged anything from it.***
- ***A ltd. India has Foreign Subsidiary company B ltd of USA. A ltd. Received management consultancy services from B ltd without consideration. In this case this supply will be covered under this clause of Schedule I.***
- ***Chakmak, a proprietor registered in Delhi, has sought architect services from his son located in the US, with respect to his newly constructed house in Delhi. Although services have been received by Chakmak without consideration from his son – a related person, yet it will not qualify as supply since the same has not been received in course or furtherance of business.***

NOTES

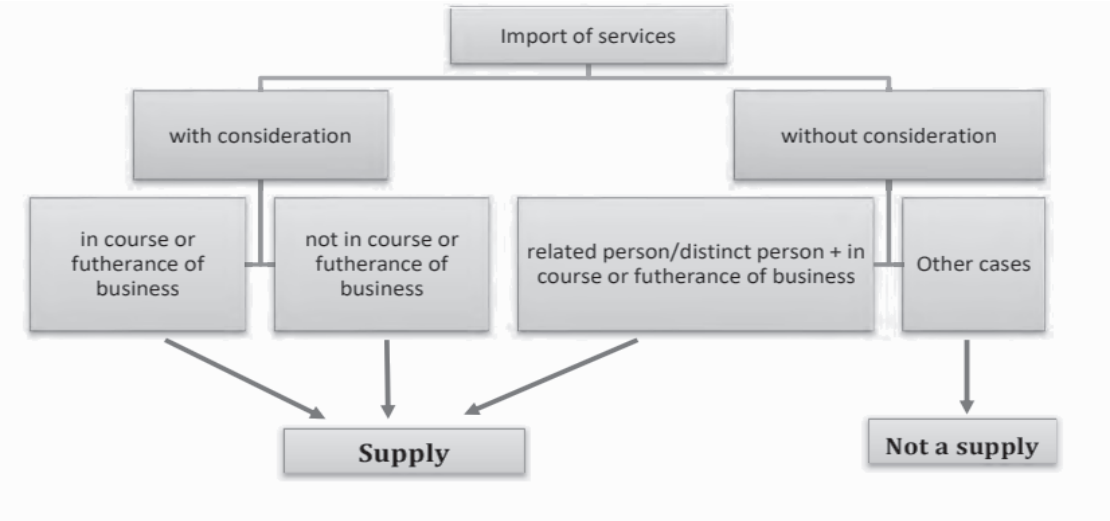


Illustration 01

Damodar Private Ltd., registered in Delhi, is planning to transfer some goods to its branch, registered in West Bengal, without any consideration, so that the goods can be sold from the branch. The company believes that the transaction that will be undertaken by it would not qualify as supply as no consideration is involved. Ascertain whether the transfer of goods by Damodar Private Ltd. to its branch office would qualify as supply?

Solution

As per Schedule I read with section 7(1)(c), supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business, is deemed as supply even if made without consideration. In the given case, since the Damodar Private Ltd. and its branch located in another State are distinct persons, supply of goods between them would qualify as supply.

Illustration 02

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

Solution

Section 7(1)(a) stipulates that the supply should be for a consideration and should be in the course or furtherance of business. However, section 7(1)(c) read with Schedule I enumerates the cases where an activity is treated as supply, even if the same is without consideration. These are as follows:

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

NOTES

However, gifts not exceeding ₹ 50,000 in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

c) Import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

d) Supply of goods —
   a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or
   b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

Section 7(1A)

Where a transaction is considered as supply under sub Section (1), they shall be treated either as supply of goods or supply of service as referred in schedule II.

Schedule II			
S. No.	Activity/Transaction	Type	Nature of Supply
1.	Transfer	Any transfer of title in goods *E.g. Rotomac Sells Pen To Customer*	Goods
		Any transfer of right in goods/undivided share in goods without transfer of title in goods *E.g. Car given on rent by Zoom Car*	Services
		Any transfer of title in goods under an agreement which stipulates that property shall pass at a future date upon payment of full consideration as agreed. *E.g. Maruti Suzuki Sold car on Hire Purchase To Mr. X*	Goods
2.	Land and Building	Any lease, tenancy, easement, licence to occupy land. *E.g. Lease agreement for land*	Services
		Any lease or letting out of a building including a commercial, industrial or residential complex for business or commerce, wholly or partly. *E.g. Shop Is Let-out in shopping mall*	Services
3.	Treatment or Process	Any treatment or process which is applied to another person's goods. *E.g. XYZ Printer does printing job for Rotomac Pens*	Services
4.	Transfer of Business Assets	Goods forming part of business assets are transferred or disposed off by/under directions of person carrying on the business so as no longer to form part of those assets.	Goods

NOTES

		Goods held/used for business are put to private use or are made available to any person for use for any purpose other than business, by/under directions of a person carrying on the business.	Services
		Goods forming part of assets of any business carried on by a person who ceases to be a taxable person, shall be deemed to be supplied by him, in the course or furtherance of his business, immediately before he ceases to be a taxable person.	Goods
	E.g. Mr. X, a Electronic trader, is winding up his business. Any goods left in stock shall be deemed to be supplied by him. Exception • Business is transferred as a going concern to another person • Business is carried on by a personal representative who is deemed to be a taxable person.		
5.	Renting of immovable property	a) Renting of precincts of a religious place b) Renting of property to an educational institution.	Services
6.	Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. *E.g. DLF has constructed individual residential units for agreed consideration of Rs.2 crore per unit. Rs.1 crore per unit were received before issuance of completion certificate by the competent authority and balance after completion*		Service
7.	Temporary transfer or permitting use or enjoyment of any intellectual property right		Services
8.	Development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of IT software. *E.g. XYZ software developers developed ERP software for A ltd.*		Services
9.	Agreeing to the obligation to refrain from an act, or to tolerate an act or situation, or to do an act. *E.g. Late delivery charges recovered from supplier for non-fulfilment of contract within stipulated time*		Services
10.	Works contract services. "Works contract means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract."		Services

NOTES

11.	Supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink.	Services

Section 7(2)

Certain supplies will be neither a supply of goods, nor a supply of services: The law lists down matters which shall not be considered as 'supply' for GST. This list includes:

a) Activities/transactions in Schedule III (Negative List)

- **Services by an employee to an employer in the course or in relation to his employment.**
- **Services provided by casual worker to employer who gives wages on daily basis to the worker are services provided by the worker in the course of employment**
- **Services by any Court or Tribunal established under any law for the time being in force;**
- **Functions performed by MPs, MLAs, etc.; the duties performed by a person who holds any post in pursuance of the provisions of the Constitution in that capacity; the duties performed by specified persons in a body established by the Central State Government or local authority, not deemed as an employee;**
- **Sale of land and Sale of Building (except sale of under-construction premises where the part or full consideration is received before issuance of completion certificate or before its first occupation, whichever is earlier.**
- **Actionable claims, other specified actionable claims**
  Specified actionable claim means the actionable claim involved in or by way of-
  - ***a) Betting***
  - ***b) Casinos***
  - ***c) Gambling***
  - ***d) Horse racing***
  - ***e) Lottery***
  - ***f) Online money gaming***



- **Activity of holding of shares of subsidiary company by the holding company cannot be treated as a supply of services by a holding company to the said subsidiary company and cannot be taxed under GST.**
- **Services of funeral, burial, crematorium or mortuary including transportation of the deceased.**

NOTES

"Service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name it is called, shall be neither supply of Goods nor supply of Services"
It may be noted that services provided by the Government to business entities including by way of grant of privileges, licences, mining rights, natural resources such as spectrum etc. against payment of consideration in the form of fee, royalty etc. are taxable under GST. Tax is required to be paid by the business entities on such services under reverse charge.

b) **An employer and employee are treated as "related persons" and hence any supply of goods or services by employer to employee without consideration would be considered as supply as per schedule I.**
However, gifts not exceeding ₹50,000 in value in a financial year by an employer to employees shall not be treated as supply of goods or services or both.

Illustration 03

List any 5 (Five) activities/transactions specified under Schedule III of the CGST Act, 2017 which shall be neither treated as supply of goods nor as supply of services. Detailed explanations is not required.

[PYQ May 23 & MTP Sep 24]

Solution

Activities or transactions which shall be treated neither as a supply of goods nor a supply of services are as under:-

1. **Services by an employee to the employer in the course of or in relation to his employment.**
2. **Services by any court or Tribunal established under any law for the time being in force.**
3. **Functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities.**
4. **Services of funeral, burial, crematorium or mortuary including transportation of the deceased.**

NOTES

5. Sale of land and, subject to paragraph 5(b) of Schedule II, sale of building. (i.e. in case, where entire consideration for sale of building received after issuance of completion certificate or after its first occupation, whichever is earlier).

Section 7(3)

The Central Government or the State Government may notify such other transactions to either qualify as 'supply of goods' or as 'supply of services'. This notification must be issued only upon recommendations from the Council.

Supply (Summary)

Includes			Excludes
1.	Supply for consideration in course or furtherance of Business [Section 7(1)(a)]	Activities to be treated as supply of goods or supply of services [Section 7(1A) + Schedule II]	Negative list of services [Section 7(2) + Schedule III]
2.	Activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa [Section 7(1)(aa)]		
3.	Importation of services for consideration whether or not in course or furtherance of business [Section 7(1)(b)]		
4.	Supply without consideration [Section 7(1)(c) + Schedule I]		

Section 8 Bundled Supply

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

Examples:

- *When a consumer buys a television set and he also gets a warranty and a maintenance contract with the TV, this supply is a composite supply. In this Example, supply of TV is the principal supply, warranty and maintenance services are ancillary.*
- *Charger supplied along with the mobile phone is a composite supply.*
- *Poshaak Manufacturers entered into a contract with Cheeku Ltd. for supply of readymade shirts packed in designer boxes at Cheeku Ltd.'s outlet. Further, Poshaak Manufacturers would also get them insured during transit. In this case, supply of goods, packing materials, transport & insurance is a composite supply wherein supply of goods is principal supply.*

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

NOTES

Examples:

- *A gift pack comprising of chocolates and sweets is a mixed supply.*
- *A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juices when supplied for a single price is a mixed supply.*

The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:-

a. **a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and**

b. **a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.**

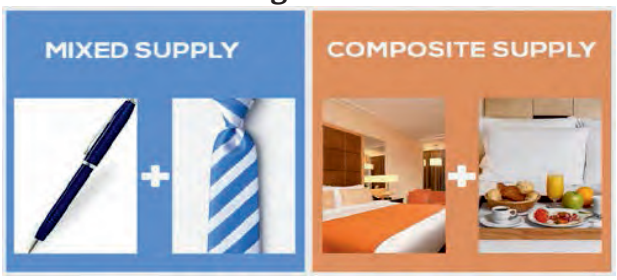


Illustration 04

Composite supply is treated as supply of that particular goods or services which attracts the highest rate of tax, for the purpose of considering tax liability. Examine the validity of the statement.

Solution

The statement is not correct. For considering tax liability, composite supply is treated as supply of the principal supply. It is the mixed supply that is treated as supply of that particular goods or services which attracts the highest rate of tax.

Illustration 05

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

a) **Refrigerator (500 litres) taxable @ 18%**
b) **Stabilizer for refrigerator taxable @ 12%**
c) **LED television (42 inches) taxable @ 12%**
d) **Split air conditioner (2 Tons) taxable @ 28%**
e) **Stabilizer for air conditioner taxable @12%**

Dumdum Electronics has issued a single invoice, indicating price of each of the above items separately in the same.

Akbar Retail Store has given a single cheque of ₹ 1,00,000/- for all the items as a composite discounted price. State the type of supply and the tax rate applicable in this case.

NOTES

Solution

In the given case, the items supplied by Dumdum Electronics are not naturally bundled in the ordinary course of business. Therefore, such supply is not a composite supply. Further, although Akbar Retail Store has paid a composite discounted price for these goods, Dumdum Electronics has not charged a single price for the said supply.
Therefore, said supply is also not a mixed supply. single price for the said supply. Therefore, said supply is also not a mixed supply.

Supplies given below are the composite supplies. CBIC has clarified as to what constitutes the principal supply in the given composite supplies:

1. ***Supply of printed books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc., printed with design, logo, name, address or other contents supplied by the recipient of such printed goods.***



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

In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wallpaper etc. by the printer using its physical inputs including paper to print the design, logo etc. supplied by the recipient of goods, predominant supply is supply of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods.

2. ***Retreading of tyres***



Pre–dominant element is the process of retreading which is a supply of service. Rubber used for retreading is an ancillary supply.
Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods.

NOTES

Buy one get one free offer

It may appear at first glance that in case of offers like "Buy One, Get One Free", one item is being "supplied free of cost" without any consideration. In fact, it is not an individual supply of free goods, but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.

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

More than one supply made together and taxed at the individual rates

There can be a case where an activity/transaction involves more than one supply of goods or services or both, but neither they are composite supplies nor can be categorised as mixed supplies, that is, all supplies carry independent significance. In such a case, if separate consideration is indicated against each supply, each such supply shall be charged at the respective rate applicable to that particular supply.

Example

In case of servicing of cars involving supply of both goods (spare parts) and services (labour) where the value of goods and services are shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately.

CLARIFICATIONS

1. **Art works sent by artists to galleries for exhibition is not a supply**

Artists give their work of art to galleries where it is exhibited for supply. However, no consideration flows from the gallery to the artist when the art works are sent to the gallery for exhibition and therefore, the same is not a supply. It is only when a buyer selects a particular art work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply.



Example:

NOTES

2. **Taxability of 'tenancy rights'/pagadi under GST**



Pagadi system, i.e. transfer of tenancy rights against tenancy premium, is prevalent in some States. The activity of transfer of tenancy right against consideration [i.e. tenancy premium] is squarely covered under supply of service liable to GST. It is a form of lease or renting of property and such activity is specifically declared to be a service in of Schedule II i.e. any lease, tenancy, easement, licence to occupy land is a supply of services.

Although stamp duty and registration charges have been levied on such transfer of tenancy rights, it shall be still subject to GST since merely because a transaction/supply involves execution of documents which may require registration and payment of registration fee and stamp duty, would not preclude them from the 'scope of supply' and from payment of GST.

Can transfer of tenancy rights be treated as sale of land/building?

The transfer of tenancy rights cannot be treated as sale of land/building. Thus, it is not a negative list activity and consequently, a consideration for the said activity shall attract levy of GST. To sum up, transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable. Further, services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of tenancy premium is liable to GST

3. **Inter-State movement of various modes of conveyance**

Inter–State movement of various modes of conveyance, between distinct persons as Specified in Section 25(4) of the CGST Act, including Buses, Trains, Trucks, Tankers, Trailers, Vessels, Containers, Aircrafts

a. carrying goods or passengers or both; or
b. for repairs and maintenance,

except in cases where such movement is for further supply of the same conveyance, such inter-State movement shall be treated 'neither as a supply of goods or supply of service' and therefore not be leviable to IGST.

Thus, above activity may not be treated as supply and consequently IGST will not be payable on such supply.

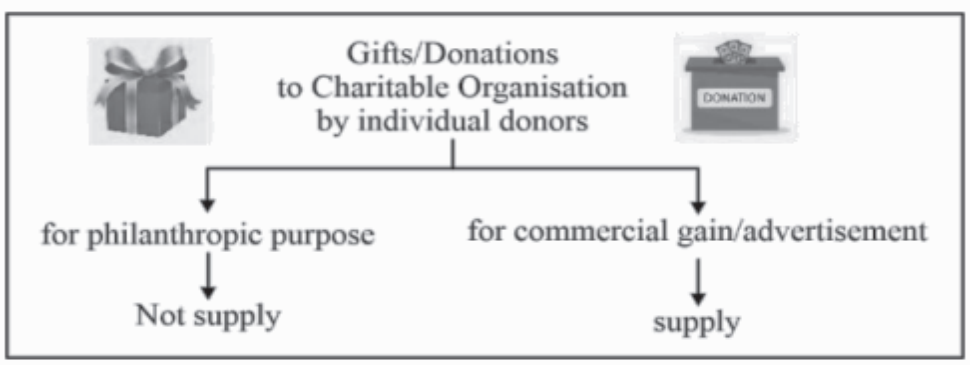
However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance.

4. **Donations/Charity/Gift**

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

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

NOTES



Examples

- ***Bhushan donated a blackboard to Yoganisht Sansthan – a charitable yoga institution. Yoganisht Sansthan printed underneath the blackboard so donated – "Good wishes from Mr. Bhushan".***
- ***Smt. Durga Devi donated some money to a temple in the memory of her late father. The Temple Trust constructed a room in the temple complex from such donations and wrote "Donated by Smt. Durga Devi in the memory of her father" on the door floor of the room. In above Examples, it may be noticed that there is no reference or mention of any business activity of the donor which otherwise would have been advertised.***

5. Supply of food and beverages at cinema halls



a. Taxable as Restaurant Service:

Food or beverages supplied in a cinema hall are treated as "restaurant service" if:

- **They are provided as part of a service.**
- **They are supplied independently of the cinema exhibition service.**

b. Taxable as Composite Supply:

If the supply of cinema tickets and food/beverages is clubbed together, forming a bundled supply then:

- **It qualifies as a composite supply.**
- **GST will apply at the rate applicable to the cinema exhibition service, which is the principal supply.**

6. Replacement of parts and repair services during warranty period

Issue 1:
When a manufacturer provides warranty-related replacements or repairs for goods without charging additional consideration, is GST applicable?

NOTES

Clarification:

a) The value of the original supply already includes the cost of warranty services, and GST would have been paid on it at the time of supply.
b) Hence, no further GST is payable on replacements or repairs provided during the warranty period if no additional consideration is charged.
c) However, if the manufacturer charges any extra amount for replacements or services, GST is payable on that additional amount.



Example: A manufacturer sells a washing machine for ₹20,000, including a one-year warranty. During the warranty period, the motor malfunctions, and the manufacturer replaces it without charging the customer.

Solution:

Since, the original supply value i.e. ₹20,000 already included the cost of potential warranty services. Therefore, No additional GST is payable on the motor replacement. However, If the manufacturer charges ₹1,000 for the replacement (i.e. for an upgraded motor), then GST will be payable on this additional ₹1,000.

Issue 2:

Does a distributor need to pay GST when providing warranty-related replacements or repairs on behalf of the manufacturer without charging the customer?

Clarification:

a) If the distributor provides replacements or repairs under warranty without charging the customer, no GST is payable by the distributor.
b) However, if the distributor charges any additional consideration from the customer, GST is payable on that amount.

Example: A distributor replaces the faulty motor in a refrigerator under the manufacturer's warranty without charging the customer.

Solution:

The distributor does not charge the customer and acts on behalf of the manufacturer. Therefore, No GST is payable by the distributor for the replacement.
If the distributor charges the customer ₹500 for transportation or expedited service, GST will be payable on the ₹500 additional amount.

Issue 3:

Does the replacement of parts under warranty involve a taxable supply between the distributor and manufacturer?

NOTES

Cases	Clarification
Distributor Charges Manufacturer	The distributor replaces parts from their stock or buys them from a third party and issues a tax invoice to the manufacturer for reimbursement. GST is payable on this supply by the distributor to the manufacturer. **Example:** *A distributor replaces a refrigerator compressor using their stock and invoices the manufacturer ₹5,000. GST is payable on ₹5,000 by the distributor.*
Manufacturer Supplies Parts to Distributor Without Charge	The distributor requests the manufacturer for parts to replace under warranty, and the manufacturer provides the parts at no charge. No GST is payable on the supply of parts by the manufacturer. **Example:** *A distributor requests a faulty motor from the manufacturer, which is provided free of cost for warranty replacement. No GST is applicable.*
Credit Note Issued by Manufacturer	The distributor replaces parts using stock received earlier from the manufacturer. The manufacturer issues a credit note for the replaced parts, adjusting tax liability under Section 34(2) of the CGST Act. **Example:** *A distributor replaces a fan blade from their stock, which was earlier purchased from the manufacturer. The manufacturer issues a credit note for ₹2,000, and tax liability is adjusted.*
Replenishment of Distributor's Stock	The distributor replaces parts using their stock and later raises a requisition to the manufacturer. The manufacturer replenishes the stock via a delivery challan without charging consideration. No GST is payable on this replenishment. **Example:** *A distributor replaces a motor from their stock and requests replenishment. The manufacturer provides the replacement motor via a delivery challan at no charge. No GST is applicable.*

Issue 4:

If a distributor provides repair services, including part replacement, to customers as part of a warranty (without charging the customer), but bills the manufacturer for these services via tax invoice or debit note, is GST applicable on this activity?

Clarification:

The distributor is supplying repair services to the manufacturer, who is the recipient as per Section 2(93)(a) of the CGST Act, 2017. Therefore, GST is payable by the distributor on the services provided to the manufacturer.

Issue 5:

Sometimes companies provide offers of Extended warranty to the customers which can be availed at the time of original supply or just before the expiry of the standard warranty period. Whether GST would be payable in both the cases?

NOTES

Clarification:

1. **At the time of original supply:**
   a) If extended warranty is offered by the same supplier as the goods, it is part of the composite supply, with the principal supply being the goods. GST is calculated on the total value, including the extended warranty.
   b) If provided by a different supplier, it is a separate supply of services, taxable under GST as a distinct service.
2. **After original supply:**
   a) Extended warranty is treated as a distinct supply of services, separate from the original supply of goods, and GST is payable as applicable on the service.

Clarification of issues pertaining to Del-credere agent (DCA)

A DCA is a selling agent who is engaged by a principal to assist in supply of goods or services by contacting potential buyers on behalf of the principal. The factor that differentiates a DCA from other agents is that the DCA guarantees the payment to the supplier.

In such scenarios where the buyer fails to make payment to the principal by the due date, DCA makes the payment to the principal on behalf of the buyer (effectively providing an insurance against default by the buyer), and for this reason the commission paid to the DCA may be relatively higher than that paid to a normal agent.

Issue 1

Whether a DCA falls under the ambit of agent under Para 3 of Schedule I of the CGST Act?

Clarification

Whether or not the DCA will fall under the ambit of agent under Para 3 of Schedule I of the CGST Act depends on thes following possible scenarios:

a) In cases where the invoice for supply of goods is issued by the supplier to the customer, either himself or through DCA, the DCA does not fall under the ambit of the agent.
b) In cases where the invoice for supply of goods is issued by the DCA in his own name, the DCA would fall under the ambit of the agent.

Issue 2

Whether the temporary short term transaction based loan extended by the DCA to the recipient (buyer), for which interest is charged by the DCA, is to be included in the value of goods being supplied by the supplier (principal) where DCA is not an agent under Para 3 of Schedule I of the CGST Act?

NOTES

Clarification

In such a scenario, following activities are taking place:

1. **Supply of goods from supplier (principal) to recipient;**
2. **Supply of agency services from DCA to the supplier or the recipient or both;**
3. **Supply of extension of loan services by the DCA to the recipient.**

It is clarified that in cases where the DCA is not an agent under Para 3 of Schedule I of the CGST Act, the temporary short-term transaction based loan being provided by DCA to the buyer is a supply of service by the DCA to the recipient on Principal to Principal basis and is an independent supply. Therefore, the interest being charged by the DCA would not form part of the value of supply of goods supplied (to the buyer) by the supplier.

Issue 3

Where DCA is an agent under Para 3 of Schedule I of the CGST Act and makes payment to the principal on behalf of the buyer and charges interest to the buyer for delayed payment along with the value of goods being supplied, whether the interest will form a part of the value of supply of goods also or not?

Clarification

In such a scenario following activities are taking place:

1. **Supply of goods by the supplier (principal) to the DCA**
2. **Further supply of goods by the DCA to the recipient**
3. **Supply of agency services by the DCA to the supplier or the recipient or both**
4. **Extension of credit by the DCA to the recipient**

It is clarified that in cases where the DCA is an agent under Para 3 of Schedule I of the CGST Act, the temporary short-term transaction based credit being provided by DCA to the buyer no longer retains its character of an independent supply and is subsumed in the supply of the goods by the DCA to the recipient. It is emphasised that the activity of extension of credit by the DCA to the recipient would not be considered as a separate supply as it is in the context of the supply of goods made by the DCA to the recipient.

No Claim Bonus

No supply of service by the insured to the insurance company in lieu of 'No Claim Bonus' offered by said insurance company to him



The issue which arose for consideration was whether the deduction on account of 'No Claim Bonus' (NCB) allowed by the insurance company from the insurance premium payable by the insured, can be considered as consideration for the supply provided by the insured to the insurance company, for agreeing to the obligation to refrain from the act of lodging insurance claim during the previous years.

As per practice prevailing in the insurance sector, the insurance companies deduct 'No Claim Bonus' from the gross insurance premium amount, when no claim is made by the insured person during the previous insurance periods. The customer/ insured procures insurance policy to indemnify himself from any loss/ injury as per the terms of the policy and is not under any contractual obligation not to claim insurance claim during any period covered under the policy, in lieu of NCB.

NOTES

It is, therefore, clarified that there is no supply provided by the insured to the insurance company in form of agreeing to the obligation to refrain from the act of lodging insurance claim during the previous years and NCB cannot be considered as a consideration for any supply provided by the insured to the insurance company.

Applicability on liquidated damages, compensation and penalty arising out of breach of contract or other provisions of law

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

Agreeing to the obligation to Refrain from an act

Examples

- ***Example** of activities that would be covered by this part of the expression would include non complete agreements, where one party agrees not to compete with the other party in a product, service or geographical area against a consideration paid by the other party.*
- *Another **Example** of such activities would be a builder refraining from constructing more than a certain number of floors, even though permitted to do so by the municipal authorities, against a compensation paid by the neighbouring housing project, which wants to protect its sunlight, or an industrial unit refraining from manufacturing activity during certain hours against an agreed compensation paid by a neighbouring school, which wants to avoid noise during those hours.*

Agreeing to the obligation to tolerate an act or a situation

This would include activities such a shopkeeper allowing a hawker to operate from the common pavement in front of his shop against a monthly payment by the hawker, or an RWA tolerating the use of loud speakers for early morning prayers by a school located in the colony subject to the school paying an agreed sum to the RWA as compensation.

Agreeing to the obligation to do an act

This would include the case where an industrial unit agrees to install equipment for zero emission/ discharge at the behest of the RWA of a neighbouring residential complex against a consideration paid by such RWA, even though the emission/discharge from the industrial unit was within permissible limits and there was no legal obligation upon the individual unit to do so.

Above three activities must comply with the following conditions:

1. **There must be an expressed or implied agreement or contract must exist**
2. **Consideration must flow in return to this contract/agreement**

NOTES

Taxability of some of the transactions has been discussed in detail as under:

Nature of transaction	Taxability	Clarification
Liquidated Damages	Not Taxable	'liquidated damages' is an amount paid only to compensate for loss or damage suffered by the aggrieved party due to breach of the contract. There is no agreement by the aggrieved party to refrain from or tolerate an act or to do anything for the party paying the liquidated damages. Hence liquidated damages are merely a flow of money for suffering loss or damage due to such breach. Such payments do not constitute consideration for a supply.
Penalty imposed for dishonour of cheque and violation of law	Not Taxable	The penalty imposed was not for tolerating the act or situation but for not tolerating and thereby deterring and discouraging such an act or situation. Hence the fine and penalty is not a consideration for any supply received and not taxable.
Forfeiture of salary or payment of bond amount in the event of the employee leaving the employment before the minimum agreed period	Not Taxable	The amount recovered from the employee is not for tolerating the act of premature quitting of employment, but as penalty for dissuading the employees from taking up employment. Further, employee does not receive anything against the payment made to the employer. Therefore, the payment does hot constitute a consideration for the service of agreeing to tolerate an act or a situation.
Late Payment surcharge or fee	Taxable	The facility of accepting late payments with interest or late payment fee is a facility granted by supplier naturally bundled with principal supply. Hence this ancillary supply naturally bundled should be assessed at the same rate as that of principal supply.
Fixed charges for power	Exempt	Price charged for electricity has two components - minimum fixed charge & variable per unit charge. Minimum fixed charge which remains at all situations does not mean that it is a charge for tolerating act of non-consumption of minimum threshold. Both are charged for sale of electricity and thus not taxable as sale of electricity is exempt from GST.
Cancellation charges	Taxable	Cancellation fee can be considered as the charges for the costs involved in making arrangements for the intended supply The facilitation service of allowing cancellation against payment made is also a natural part of this bundled service. Hence the same will be assessed as that of the principal supply.

NOTES

Liquidated Damages	Not a Supply
Cheque Dishonour Penalty	Not a Supply
Penalty for Violation of Law	Not a Supply
Forfeiture of Salary or Bond amount if employee not continue minimum agreed period	Not a Supply
Late payment fees linked with Main Supply Payment	Supply
Fixed Charges for Power	Supply but Exempt
Cancellation Charges	Supply

NOTES

Question Bank

Illustration 01

Meghraj & Co. wishes to commence the business of supplying ready-made garments within Punjab and in the neighbouring States of Delhi and Haryana. Kindly state as to what is the taxable event under GST and leviability of CGST, SGST/UTGST and IGST on the same?

Solution

Taxable event under GST is the supply of goods or services or both made for consideration in the course or furtherance of business. CGST and SGST will be levied on intra-State supplies. IGST will be levied on inter-State supplies.

Illustration 02

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

Solution

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

In case title is not transferred, the transaction would be treated as supply of service in terms of Schedule II(1)(b).

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

Illustration 03

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

a) **Sulekha Manufacturers have a factory in Delhi and a depot in Mumbai. Both these establishments are registered in respective States. Finished goods are sent from factory in Delhi to the Mumbai depot without consideration so that the same can be sold from the depot.**

b) **Raman is an architect in Chennai. His brother who is settled in London is a well-known lawyer. Raman has taken legal advice from him free of cost with regard to his family dispute.**

c) **Would your answer be different if in the above case, Raman has taken advice in respect of his business unit in Chennai?**

Solution

a) **Schedule I read with section 7(1)(c), inter alia, stipulates that supply of goods or services or both between related persons or between distinct persons as specified in section 25, is supply even without consideration provided it is made in the course or furtherance of business. Further, a person who has obtained more than one registration, whether in one State/Union territory or more than one State/Union territory shall, in respect of each such registration, be treated as distinct persons [Section 25(4)]. In view of the same, factory and depot of Sulekha Manufacturers are distinct persons. Therefore, supply of goods from Delhi factory of Sulekha**

NOTES

b) Manufacturers to Mumbai Depot without consideration, but in course/furtherance of business, is supply under section 7 read with Schedule I.
c) Schedule I read with section 7(1)(c), inter alia, stipulates that import of services by a taxable person from a related person located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business. Explanation to section 15, inter alia, provides that persons shall be deemed to be "related persons" if they are members of the same family. Further, as per section 2(49), family means,
    i) the spouse and children of the person, and
    ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.
d) In the above case, if Raman has taken advice with regard to his business unit, services provided by Raman's brother to him would still not be treated as supply under section 7 read with Schedule I as although the same are provided in course or furtherance of business, but are provided without consideration and such services have not been received from a related person.

Illustration 04

State whether the following supplies would be treated as supply of goods or supply of services as per Schedule II.

a) Renting of immovable property
b) Goods forming part of business assets are transferred or disposed of by/under directions of person carrying on the business so as no longer to form part of those assets.
c) Transfer of right in goods without the transfer of title in such goods.
d) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date upon payment of full consideration as agreed.

Solution

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

Illustration 05

Determine whether the following supplies would be treated as supply of goods or supply of services as per Schedule II:

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

Solution

a) Supply of services
b) Supply of services
c) Supply of good

NOTES

Illustration 06

The goods supplied on hire purchase basis will be treated as supply of services. Examine the validity of the statement.

[MTP May 23]

Solution

The statement is not correct. Supply of goods on hire purchase shall be treated as supply of goods as there is transfer of title, albeit at a future date.

Illustration 07

Examine whether the activity of import of service in the following independent cases would amount to supply under section 7:

a) Miss Shriniti Kaushik received interior decoration services for her residence located at Bandra, Mumbai from Mr. Racheal of Sydney (Australia). The amount paid for the said service is 5,000 Australian dollar.

b) Miss Shriniti Kaushik received interior decoration services for her residence located at Bandra, Mumbai from her brother, Mr. Varun residing in Sydney (Australia) [wholly dependent on Miss Shriniti]. Further, Miss Shriniti did not pay any consideration for the said service.

c) Will your answer change if in the above case, if Miss Shriniti has taken interior decoration services with regard to her business premises and not her residence?

Solution

a) Supply, under section 7, inter alia,

- **includes import of services for a consideration**
- **even if it is not in the course or furtherance of business.**

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

b) Schedule I, inter alia, stipulates that import of services by a taxable person from a related person located outside India, without consideration is treated as supply only if it is provided in the course or furtherance of business. Explanation to section 15, inter alia, provides that persons shall be deemed to be "related persons" if they are members of the same family. Further, as per section 2(49), family means, —

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

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

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

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

NOTES

Illustration 08

Manikaran, a registered supplier of Delhi, has supplied 20,000 packages at ₹ 30 each to Mukhija Gift Shop in Punjab. Each package consists of 2 chocolates, 2 fruit juice bottles and a packet of toy balloons. Determine the rate(s) of GST applicable in the given case assuming the rates of GST to be as under:

Goods/services supplied	GST rate
Chocolates	18%
Fruit juice bottles	12%
Toy balloons	5%

Solution

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

Supply of a package containing chocolates, fruit juice bottles and a packet of toy balloons is a mixed supply as each of these items can be supplied separately and is not dependent on any other. Further, as per section 8(b), the mixed supply is treated as a supply of that particular supply which attracts the highest rate of tax. Thus, in the given case, supply of packages is treated as supply of chocolates [since it attracts the highest rate of tax] and the rate of GST applicable on the package of ₹ 6,00,000 (20,000 × ₹ 30) is 18%.

Illustration 09

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

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

Solution

As per section 25(4)37, a person who has obtained more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as 'distinct persons'.

Schedule I to the CGST Act specifies situations where activities are to be treated as supply even if made without consideration. Supply of goods and/or services between 'distinct persons' as specified in section 25, when made in the course or furtherance of business is one such activity included in Schedule I under para 2.

However, as per CBIC circular, the inter-State movement of various modes of conveyance including, inter alia, trucks, carrying goods or passengers or both or for repairs and maintenance, between 'distinct persons' as specified in section 25(4), not involving further supply of such conveyance, may be treated 'neither as a supply of goods nor

NOTES

supply of service' and therefore, will not be leviable to IGST. Applicable CGST/SGST/IGST, however, shall be leviable on repairs and maintenance done for such conveyance [Circular No. 1/1/2017 IGST dated 07.07.2017].
Thus, in the given case, inter-State movement of trucks from the workshop of Gagan Engineering Pvt. Ltd. located in Haryana to its repair centres located in other States is 'neither a supply of goods nor supply of service'.

Illustration 10

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

Solution

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

Illustration 11

Happy Constructions Ltd., a registered builder under GST in Bengaluru, Karnataka has got permission to build five floors from the Municipal Projects for one of its projects at Suraj Nagar. Aditya Constructions, a neighboring housing project approached Happy Constructions Limited to discuss regarding blockage of sun light issue arising out of construction of five floors and asked it to build only three floors for which 20 lakh was offered as compensation. Happy Constructions Limited agreed to the offer. It may be noted that Aditya Constructions is not ready to pay any further amount to Happy Constructions Ltd. in addition to the amount already agreed.
Briefly explain with correct legal provision whether the above amount received as compensation is liable to GST or not? And if considered as taxable, then calculate the total GST payable by Happy Constructions Ltd. Assume the applicable rate of CGST and SGST is 9% each.
Also state the conditions to be complied with.

[RTP May 24]

Solution

Agreeing to obligation to refrain from an act, or to tolerate an act or situation, or to do an act has been specifically declared to be a supply of service vide para 5(e) of Schedule II of the CGST Act, 2017 if the same constitutes a supply as per the CGST Act, 2017.
In the given case, Happy Constructions Limited has agreed to build only three floors, even though it is permitted to construct five floors by the Municipal Authorities, for a compensation of 20 lakh. This results in supply of service.
The conditions to be complied with for the above supply will be

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

NOTES

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

Illustration 12

With reference to provisions of the CGST Act, 2017 discuss in brief, when " Importation of services" is to be considered as supply and when it is not to be considered as supply.

[PYQ Nov 2020]

Solution

Importation of services for a consideration whether or not in the course or furtherance of business is to be considered as supply.

Importation of services by a person without consideration is deemed as supply provided the following two conditions are satisfied:-

(a) such import is from related person or from his establishments located outside India, and

(b) such import is in the course or furtherance of business.

In case any or both of the above two conditions is/are not satisfied, the import of services without consideration shall not be deemed as supply.

Illustration 13

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

[PYQ May 2021]

Solution

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

Mixed supply means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price

where such supply does not constitute a composite supply.

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

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

Note: The question specifies that the various items are supplied at a 'single rate'. The "single rate" expression is construed as single rate of tax in the above answer. Further, the "single rate" may also be construed as single price as given in the below mentioned answer.

NOTES

Items such as double bed, refrigerator, washing machine and wooden wardrobe are not naturally bundled. Therefore, supply of such items as a package will not constitute composite supply. Further, a single price has been charged for the package. Consequently, supply of such items as a package will be treated as mixed supply.

Illustration 14

The temple of ancestral deity of Mr. Aman goel and his family is located at Beri, Haryana. The temple is run by a charitable organisation registered under section 12AA of the Income Tax Act, 1961. The family has got unshakeable faith in their ancestral deity. Mr. Aman is a big entrepreneur having flourishing business of tiles in Gurugram. Upon the birth of their first child, he donated ₹ 10 lakh to the said temple for construction of a sitting hall in the temple. On the main door of the sitting hall, a name plate was placed stating "Donated by Mr. Aman Goel upon birth of his first child".
You are required to examine the leviability of GST on the donation received from Mr. Aman Goel?

[RTP May 2020]

Solution

It has been clarified that when the name of the donor is displayed in the religious institution premises, by placing a name plate or similar such acknowledgement, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation). There is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration.
In the given case, there is no reference or mention of any business activity of the donor which otherwise would have got advertised. Thus, since the gift or donation is made to a charitable organization, the payment has the character of gift or donation and the purpose is philanthropic (i.e., it leads to no commercial gain) and not advertisement, hence GST is not leviable.

Illustration 15

Describe the provisions relating to import of services by a registered person as contained in the section 7(1)(b), 7(1)(c) and Schedule 1 of the CGST Act, 2017.

[PYQ Sep 2024]

Solution

As per the provisions of section 7(1)(b), 7(1)(c) and Schedule I of the CGST Act, 2017, import of services for a consideration shall be considered as supply, whether or not in the course or furtherance of business
Import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business shall be treated as supply even if made without consideration

Illustration 16

Examine whether the following activities would amount to "supply" under GST law?

(i) Glory Ltd. is engaged in manufacturing and selling of cosmetic products. Seva Trust, a charitable organisation, approached Glory Ltd. to provide financial

NOTES

(ii) assistance for its charitable activities. Glory Ltd. donated a sum of ₹ 2 lakh to Seva Trust with a condition that Seva Trust will place a hoarding at the entrance of the trust premises displaying picture of products sold by Glory Ltd.

(iii) Mr. Swamy of Chennai is working as a manager with ABC Bank. He consulted M/s. Jacobs and Company of London and took its advice for buying a residential house in Mumbai and paid them consultancy fee of 200 UK Pound for this import of service

[PYQ May 2022]

Solution

(i) An activity qualifies as supply under GST only if it is for a consideration and is in course/furtherance of business. Donations received by the charitable organizations are treated as consideration only when there's an obligation on part of the recipient of the donation to do anything.

Since in the given case, the display of products sold by the donor – Glory Ltd. - in charitable organization's premises aims at advertising/promotion of its business, it is supply for consideration in course/furtherance of business and thus, qualifies as supply under GST law.

(ii) Supply includes importation of services, for a consideration whether or not in the course/furtherance of business. Thus, in the given case, the import of services by Mr. Swamy amounts to supply although it is not in course/furtherance of business.

NOTES

Chapter 3A: Charge under GST

Section 9(1)

Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

Section 9(2)

The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

Section 9(3)

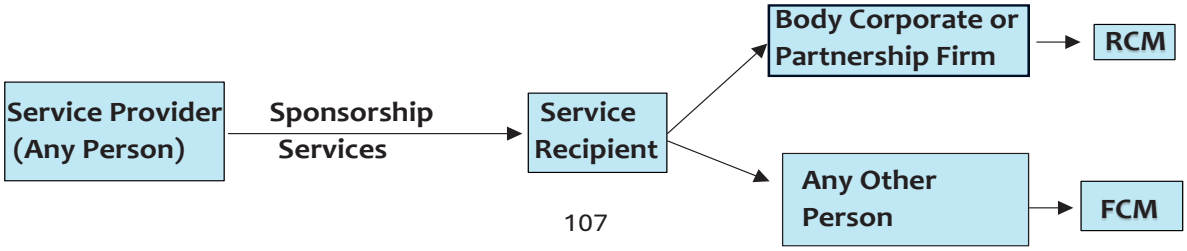
The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

Section 2(98)

- **Reverse charge means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under section 9(3) or 9(4).**
- **By Default , Forward Charge Mechanism (FCM) is applicable i.e., Supplier is liable to pay tax to Government**
- **Under FCM , Supplier recovers GST from customer and deposit it to Government. However under RCM, Recipient is liable to pay GST directly to government on notified supplies**

Sponsorship Services

Service Provider	**Any person**
Service Recipient	**Any body corporate or partnership firm**



NOTES

Example

Mr. Kapil Sharma has provided sponsorship services to Sprite Pvt. Ltd. in its show. Here, RCM will apply as Sprite Pvt. Ltd. is a body corporate.



Analysis of Sponsorship services

Service Provider	Services Recipient	Mechanism	Person Liable to Pay GST
A Ltd.	Mr. X	FCM	A Ltd.
Mr. A	Mr. Y	FCM	Mr. A
Mr. A	XYZ Firm	RCM	XYZ Firm
ABC Firm	C Ltd.	RCM	C Ltd.

Illustration 01

Raghu Associates provided sponsorship services to WE-WIN Cricket Academy LLP. Determine the person liable to pay tax in this case.

Solution

In case of services provided by any person by way of sponsorship to any body corporate or partnership firm, GST is liable to be paid under reverse charge by such body corporate or partnership firm located in the taxable territory.

Further, for the reverse charge purposes, Limited Liability Partnership formed and registered under the provisions of the Limited Liability Partnership Act, 2008 is also be considered as a partnership firm.

Therefore, in the given case, WE-WIN Cricket Academy LLP is liable to pay GST under reverse charge.

Services of Director

Service Provider	Director
Service Recipient	Any company or body corporate

Services of Director

Services to Company in Independent Capacity	Services of Employee to Company	Service as a director to company (Attending Board meetings)
FCM	NO GST	RCM

NOTES

Example

1. **Mr. X, being director of A Ltd, attended board meeting for which A Ltd. Provided Sitting fees of ₹2,00,000**
   RCM will be applicable and A Ltd. is liable to pay GST to the government
2. **Mr. X, being whole time director of A Ltd., receives salary of 3,00,000 per month from company**
   Here, GST will not be applicable as services by employee to employer is outside the ambit of GST
3. **Mr. X is a director of A Ltd. (Steel almirah manufacturing company) and also a Interior decorator . He provides interior decoration services to A Ltd. in which he did interior decoration of Head Office (HO) of A Ltd. & charged ₹5,00,000**
   Here, FCM shall be applicable on services of Mr. X as he is providing services in the individual capacity to A Ltd. , not in the capacity of a Director. Therefore, Mr. X is liable to pay GST to government



TDS on salary	**u/s 192**
TDS on Director's remuneration	**u/s 194J**

Example

A Ltd. provided ₹5,00,000 to Mr. X (Director)

- ***In case of Director remuneration , TDS u/s 194J will be deducted by A Ltd. & RCM will be applicable***
- ***In case of salary , TDS u/s 192 will be deducted by A Ltd. & GST shall not applicable***

Illustration 02

Vivek Goyal, an independent director, appointed in accordance with the provisions of the Companies Act, 2013, of A2Z Pvt. Ltd., has received sitting fee amounting to ₹ 1 lakh from A2Z Pvt. Ltd for attending the Board meetings. Who is the person liable to pay tax in this case?

Solution

GST on supply of services by director of a company to the said company located in the taxable territory is payable on reverse charge basis.
Therefore, in the given case, person liable to pay GST is the recipient of services, i.e., A2Z Pvt. Ltd.

Mr. Shubh, director of Star Company Private Limited, provided service to the company for remuneration of Rs. 1,25,000. Briefly answer whether GST is applicable in the below mentioned independent cases? If yes, who is liable to pay GST?

1. **Mr. Shubh is an independent director of Star Company Private Limited and not an employee of the company.**
2. **Mr. Shubh is an executive director, i.e. an employee of Star Company Private Limited. Out of total remuneration amounting to 1,25,000, 60,000 has been declared as salaries in the books of Star Company Private Limited and subjected to**

NOTES

TDS under section 192 of the Income-Tax Act (IT Act). However, Rs. 65,000 has been declared separately other than salaries in the Star Company Private Limited's accounts and subjected to TDS under section 194J of the IT Act as professional services

[MTP May 24 & RTP May 21]

Solution

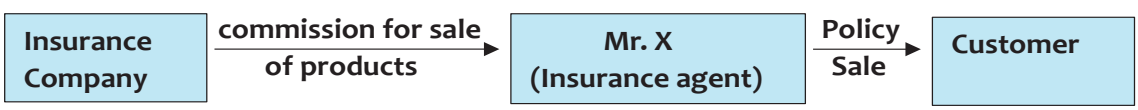
1. As per Para I of Schedule III of the CGST Act,2017 services by an employee to the employer in the course of or in relation to his employment are non-supplies, i.e. they are neither supply of goods nor supply of services. Services provided by the independent directors who are not employees of the said company to such company, in lieu of remuneration as the consideration for the said services, are clearly outside the scope of Schedule III of the CGST Act and are therefore taxable. Further, such remuneration paid to the directors is taxable in hands of the company, on reverse charge basis. Thus, GST is applicable in this case and Star Company Private Limited is liable to pay GST.
2. The part of director's remuneration which is declared as salaries in the books of a company and subjected to TDS under section 192 of the Income-tax Act (IT Act), is not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment in terms of Schedule III of the CGST Act,2017. Further, the part of employee director's remuneration which is declared separately other than salaries in the company's accounts and subjected to TDS under section 194J of the IT Act as fees for professional or technical services are treated as consideration for providing services which are outside the scope of Schedule III and is therefore, taxable. The recipient of the said services i.e. the company, is liable to discharge the applicable GST on it on reverse charge basis.

In lieu of the above provisions, 60,000 declared as salaries in the books of Star Company Private Limited and subjected to TDS under section 192 of the Income-Tax Act (IT Act), is not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment in terms of Schedule III of the CGST Act,2017. Further, 65,000 declared separately other than salaries in the Star Company Private Limited's accounts and subjected to TDS under section 194J of the IT Act as professional services is treated as consideration for providing services which is outside the scope of Schedule III of the CGST Act,2017 and is therefore, taxable. The recipient of the said services i.e. the Star Company Private Limited, is liable to discharge the applicable GST on it on reverse charge basis

Services of Insurance Agent

Service Provider	An insurance agent
Service Recipient	Any person carrying on an insurance business

Example:



NOTES

RCM will apply
i.e. GST on commission is payable by Insurance Co.



Insurance Co. (Service Provider) → Insurance services & Premium charged as consideration → Customer (Service Recipient)

FCM will apply
i.e. GST on premium is payable by Insurance Co.

Services of Recovery Agent

Service Provider	A recovery agent
Service Recipient	A banking company or a financial institution or a nonbanking financial company

Recovery Agent (Service Provider) → Recovery of Loan Services → Bank/NBFC (Service Recipient)

Commission/Fees

RCM will apply
i.e. Bank/NBFC is liable to pay GST to government

Example

Mr. X (Recovery Agent) provided recovery services to Bank of Baroda and Charged fees of ₹50,000. He also provided services to Reliance Ltd. for recovery of O/s bill amount of postpaid connection & charged ₹25,000

Determine taxability of above transactions

Solution

Recovery services provided by Mr. X to Bank of Baroda is covered under RCM i.e. Bank of Baroda will be liable to Pay GST to Government

However, FCM will apply on Recovery services provided by Mr. X to Reliance Ltd. i.e. Mr. X is liable to pay GST to Government

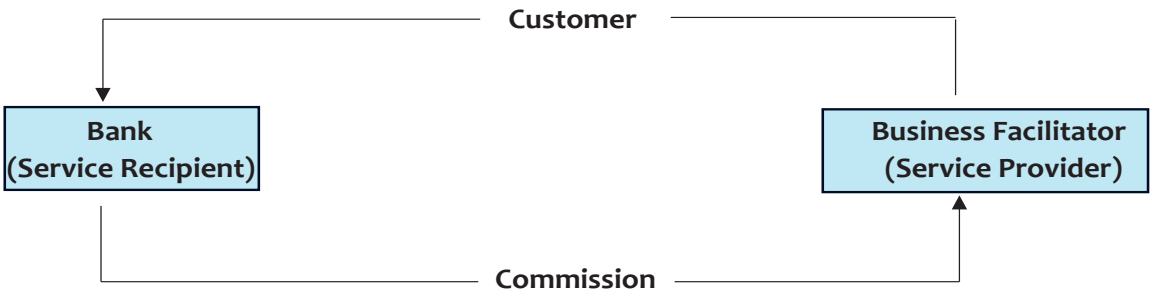
Services of Business facilitator to Bank

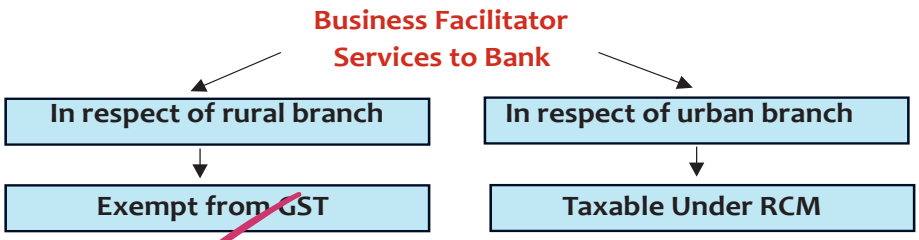
Service Provider	Business facilitator
Service Recipient	A banking company located in taxable territory

- Business Facilitator is a person who helps bank to grow his business
- They refer clients to Bank, pursue clients for proposal & facilitate bank to carry out the transaction, but they cannot transact on behalf of Bank



NOTES

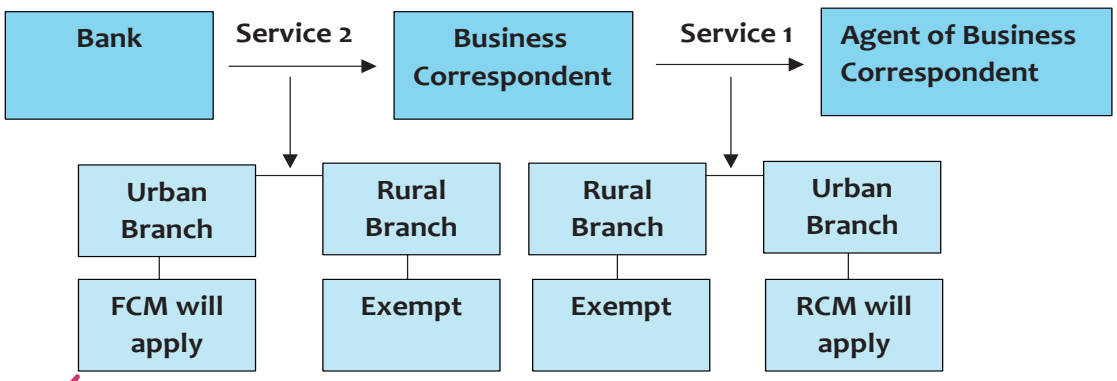




Business correspondent services

Service Provider	Services provided by an agent of business correspondent to business correspondent
Service Recipient	A business correspondent, located in the taxable territory

They are similar to business facilitator, but they are authorized to transact (i.e. accept deposit or lend money) on behalf of Bank

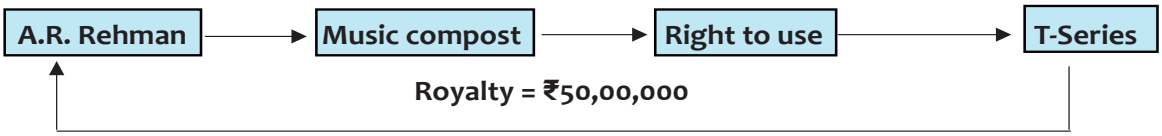


Temporary Transfer or permitting use of copyright related to Dramatic/Artistic/Music work

Service Provider	Music composer, photographer, artist or the like
Service Recipient	A music company or producer

NOTES

Example

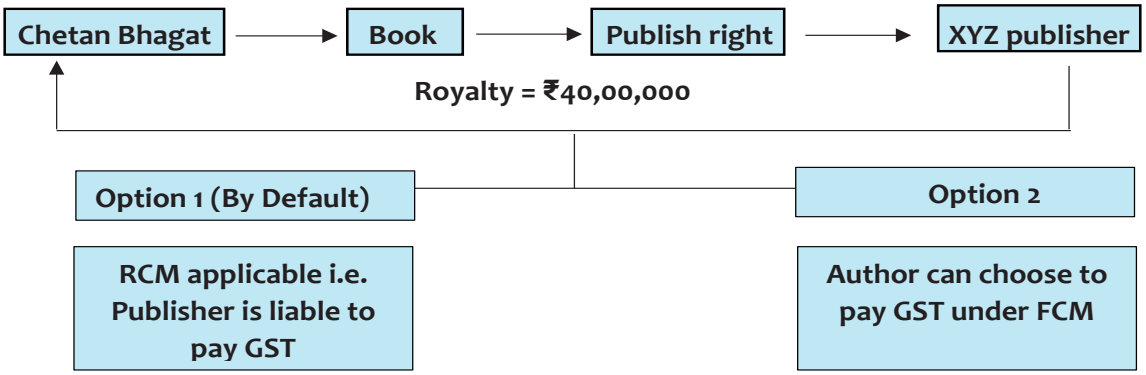


Here, RCM will apply i.e. T-Series is liable to pay GST
*Suppose, Rate of GST is 18% then, GST = 50,00,000 * 18% = 9,00,000*

Temporary Transfer or permitting use of copyright related to literary work

Service Provider	**Author**
Service Recipient	**Publisher located in Taxable Territory**

Example



Note: if author has choose to pay GST under FCM then :-

1. Author has to compulsory take registration i.e. registration threshold of Section 22 is not applicable
2. Author has to file declaration that he is agreed to pay GST under FCM
3. Author cannot revoke this option for one year i.e. author has to pay GST under FCM for one year from date of availing such option

Illustration 04

Mr. Anurag, a famous Author is engaged in supply of services by the way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a publisher. Explain in brief the conditions under which an Author can choose to pay tax under forward charge.

[PYQ Jan 21]

NOTES

Solution

Mr. Anurag, an author, can choose to pay tax under forward charge provided he fulfills the following conditions :-

a) **He has taken registration under the GST law.**

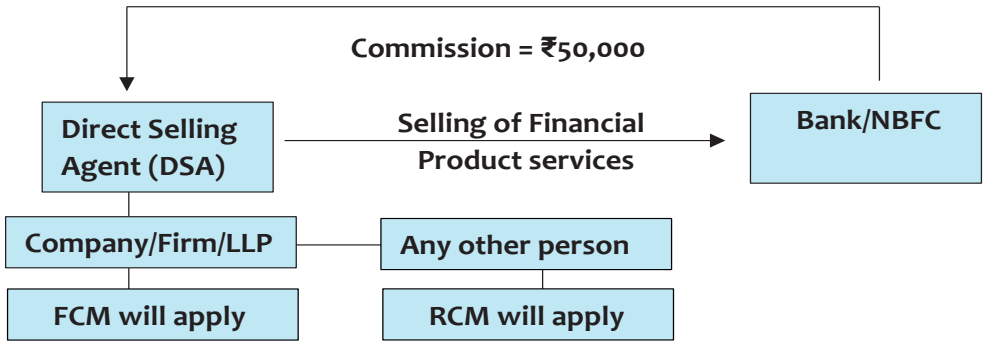
b) **He has filed a declaration, in the prescribed form, that he exercises the option to pay tax on the said service under forward charge and, to comply with all the provisions of the GST law as they apply to a person liable for paying the tax in relation to the supply of any goods and/or services and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option.**

c) **He makes a declaration on the invoice issued by him in prescribed form to the publisher.**

Selling of financial products (Mutual Funds / investment policy / Credit card etc.)

Service Provider	**Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or LLP**
Service Recipient	**Bank or NBFCs located in Taxable Territory.**

Example



Example

Mr. X Provide direct selling agent services to Bank of Baroda by selling financial products to various customers and received commission of ₹1,50,000 from Bank. Both Mr. X and Bank of Baroda is registered in Maharashtra (GST Rate = 18%)

a) **Decide who is liable to pay GST?**

b) **Calculate GST Payable**

NOTES

Solution

a) *As Service provider is other than company/Firm/LLP . Therefore, RCM is applicable on such service i.e. Bank of Baroda is liable to pay GST to government.*

b) *as both Service provider & service recipient is in the same state . therefore, transaction is intra-state and hence, CGST/SGST shall be applicable.*

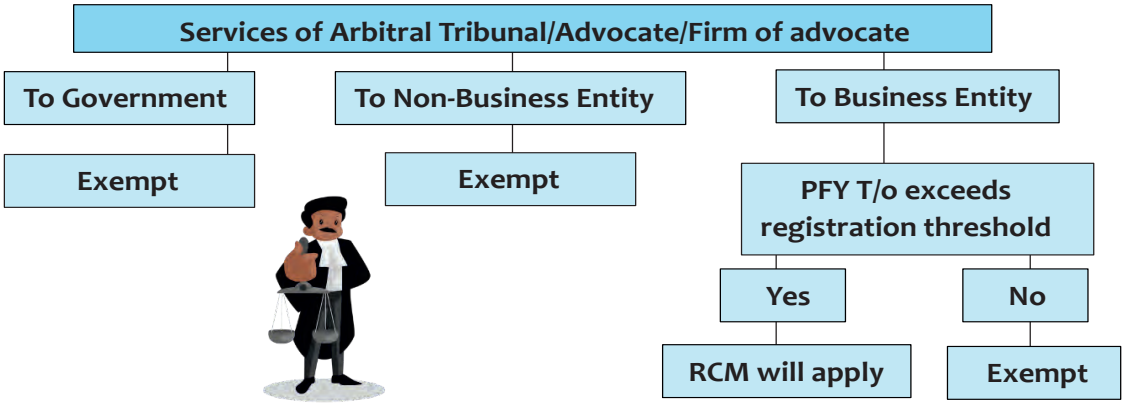
*CGST = 1,50,000 * 9% = 13,500*

*SGST = 1,50,000 * 9% = 13,500*

Legal services by Arbitral Tribunal / Advocate / Firm of Advocate

Service Provider	**Arbitral Tribunal/Advocate/Firm of advocate**
Service Recipient	**Any business entity located in the taxable territory if Turnover exceeds threshold limit.**

Note: Services of court and Tribunal set up under any law e.g. NCLT are covered under negative list (Schedule III) and hence, shall be taxable under GST



Analysis

Case 1.

Mr. R (Advocate) provide legal services to Mr. Mukesh for his business dispute. Determine liability of GST if

a) **Turnover of Mr. Mukesh of Previous financial year is ₹70,00,000**
Since, advocate services are taxable under RCM . therefore, Mr. Mukesh is liable to pay GST

b) **Turnover of Mr. Mukesh of Previous financial year is ₹8,00,000**
Advocate services shall be exempt as turnover of Mr. Mukesh does not exceed registration threshold limit

Case 2.

What will be your answer in above case if Mr. Mukesh availed legal services for his personal dispute with neighbour?

a) **Turnover of Mr. Mukesh of Previous financial year is ₹70,00,000**
Advocate services shall be exempt as these services are not related to business entity

NOTES

b) Turnover of Mr. Mukesh of Previous financial year is ₹8,00,000

Advocate services shall be exempt as these services are not related to business entity

Illustration 05

Mohan Enterprise is a registered person having principal place of business in Gandhinagar, Gujarat. They received services of Advocate Sameer, a registered person from Ahmedabad, Gujarat. Shekhar, an unregistered person provided services of labour to Mohan Enterprise. Explain the provisions relating to issue of invoice by recipient Mohan Enterprise if he is liable to pay tax under reverse charge under Section 9(3) or 9(4) of the CGST Act, 2017.

[PYQ May 24]

Solution

A registered person shall issue an invoice in respect of goods and/or services received by him provided:

a) he is liable to pay tax under reverse charge [under section 9(3) or 9(4) of the CGST Act, 2017] on such supplies, and

b) supplies are received from the supplier who is not registered on the date of receipt of goods and/or services.

In the given case, tax on services received from advocate Sameer by Mohan Enterprise is payable under reverse charge .

However, Mohan Enterprises is not required to issue an invoice with respect to said supply as supplier Sameer is registered.

Further, tax on labour services received from unregistered person - Shekhar is not payable under reverse charge.

Therefore, Mohan Enterprises is not required to issue an invoice with respect to said supply.

Illustration 06

Legal Fees is received by Sushrut, an advocate, from M/s. Tatva Trading Company, engaged in making taxable supplies and located in Maharashtra, having turnover of ₹ 50 lakh in preceding financial year. Who is the person liable to pay tax in this case.

Solution

GST on legal services supplied by an advocate [Mr. Sushrut] to any business entity [M/s. Tatva Trading Company] located in the taxable territory is payable on reverse charge basis.

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

Security Services	
Service Provider	Any person other than body corporate
Service Recipient	A person located in taxable territory

NOTES

	Such Services provided to following persons are exempt :- 1. Department or establishment of • Central Government • State Government • Union Territory • Local Authority 2. Person registered u/s 51 to deduct TDS 3. Person registered u/s 10 (Composition Scheme)

Case 1.

When Service Provider is Non-Body Corporate

Example

M/s Suraj Security Service (Sole proprietor) has provided Security Guard Services for the following purposes:

S. No.	Purpose	Treatment
1.	Any organization/Company/Business registered under GST	RCM will apply
2.	For the security of Alakh sir house (Unregistered under GST)	FCM will apply

Case 2.

When Service Provider is Body Corporate



Example

Secure Ltd. has provided Security Guard Services to the following persons :

1. To Person registered under GST	FCM will apply
2. To an unregistered person	FCM will apply

Services by GTA (Goods Transportation Agency)

GTA is a person who provides Goods transportation service by road and issues consignment note / Freight Bill in return

Service Provider	Goods transportation agency
Service Recipient	Notified persons
	However, Services of GTA is exempt if provided to: • Department/establishment of the Central Government/State Government/ Union territory; or Local authority • To any unregistered person • To person registered u/s 51 to deduct TDS

NOTES

Notified Persons	• Any Factory • Any society registered under societies act , 1860 • Any co-operative society • Any person registered under GST • Any body corporate • Any firm/BOI/AOP • Any casual taxable person

Option 1 (Default)

RCM will apply on such services

a) GTA shall not be allowed to claim ITC

b) GST rate shall be 5%

Example

Mr. J is engaged in Business of Goods transportation agency . He provided Goods transportation service from Delhi to Agra for ₹15,00,000 to XYZ Factory

Mr. J has following inward supplies:-

1. GST on Office on Rent = 10,000
2. GST on Internet service = 2400
3. GST on Truck = 1100,000
4. GST on service of Repair/Maintenance = 15,000
5. GST on insurance = 5000

Since, Mr. J has provided GTA Services to XYZ Factory with is covered under RCM . Therefore, XYZ factory is liable to pay GST on such services to Govt.

ITC for inward supplies shall not be allowed to Mr. J

*GST payable = 15,00,000 * 5% = 75,000*

Example

Mr. S availed services of GTA for transportation of his household goods i.e. furniture/electronics/Kitchen Utensils/Cloths etc. from Delhi to Gurugram as Mr. S has been transferred to new location

As Mr. S is unregistered and GTA is providing service to unregistered person , such services have been exempted from GST.

Example

Mr. J who is registered under GST has obtained services of Goods Transportation Agency for the purposes given below. Determine the taxability in each case :

a) Services obtained for the purposes of transportation of office goods (Registered under GST): *RCM will be applicable*

b) Services obtained for the purposes of transportation of office goods (Unregistered under GST): ~~*Exempt*~~ Taxable - RCM .

c) Services obtained for the purposes of transportation of household goods: *Exempt*

NOTES

Option 2

GTA has option to avail FCM

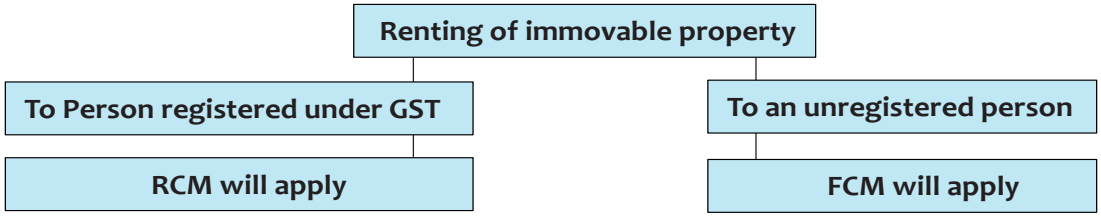
a) **Rate of GST is 12%**
b) **GTA is eligible to avail ITC on Inward supplies**
c) **This option shall be deemed to have been exercised for the next and future financial years unless GTA files an declaration to revert under RCM on or after the 1st Jan of preceding FY but not later than 31st March of the preceding FY.**
d) **Further, a GTA who commences new business or crosses threshold for registration during any FY, may exercise the option to itself pay GST on the services supplied by it during FY by making a declaration before the expiry of 45 days from the date of applying for GST registration or 1 month from the date of obtaining registration, whichever is later.**

Conclusion

Goods Transportation Agency Services	**GST @ 12%**	**FCM Applicable**
	GST @ 5%	**RCM Applicable**

Renting of Immovable property by CG/SG/UT/LA except Ministry of Railways

Service Provider	**Central Government excluding the Ministry of Railways (Indian Railways), State Government, UT or local authority**
Service Recipient	**Any person registered under the CGST Act, 2017**



Example

State govt. of UP has given land on lease to Mr. J for ₹5,00,000 p.a. Determine Taxability in following cases:

a) **Mr. J is registered under GST & his P.F.Y. Turnover is ₹90,00,000**
   RCM applicable and Mr. J is liable to pay GST
b) **Mr. J is registered under GST & his P.F.Y. Turnover is ₹15,00,000**
   RCM applicable irrespective of fact that Turnover of P.F.Y is ₹15,00,000
c) **Mr. J is an unregistered person**
   FCM applicable i.e. Govt will charge lease rent and GST from Mr. J

Example

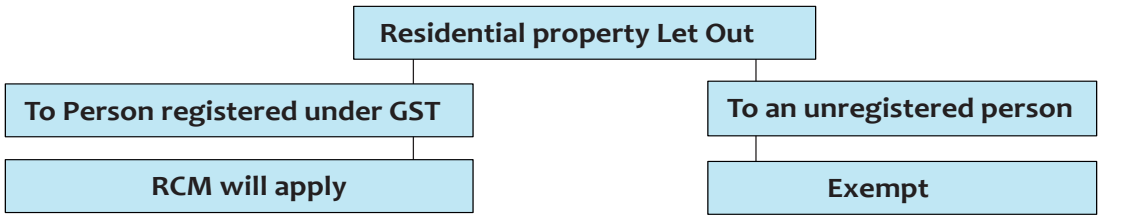
Suppose in above Example, Land is given on lease by Indian railways instead of State Government

NOTES

In above all 3 cases, FCM shall be applicable as RCM provision is not applicable on renting of immovable property by Indian Railways

Renting of immovable property by any person other than CG/SG/UT/LA

Service Provider	**Any person**
Service Recipient	**Any registered person**



Note: Always FCM will apply in case of letting out of commercial property except in case where an unregistered person let out commercial complex to registered person.

Read.

Example

Determine the taxability if Mr. X let out his shop on rent to the following persons :-

a) **To Jaggi who is Registered under GST: *RCM will apply***
b) **To Pammi who is unregistered under GST: *FCM will apply***

Example

Determine the taxability if Mr. X let out his house on rent to the following persons :-

a) **To A Ltd. who is Registered under GST: *RCM will apply***
b) **To Miss Baby who is unregistered under GST: *Exempt***

Example

Determine the taxability in following cases if Mr. X let out his house on rent to the Mrs. Pinki who is registered under GST:

a) **Pinki provided such house as RFAC to her Business manager Jaggi: *RCM will apply***
b) **Pinki use such house for her residence: *Exempt as Pinki has taken house on rent for person purpose. She will be considered as unregistered person in her individual capacity.***

Exemption chap
↓
Res. property → Res. purpose (L.O) → URP → Exempt

🏠 → Job/Student

NOTES

↳ To be cover with exemption chapter Govt Services.

Services by Government or Local Authority

Service Provider	Government or Local Authority
Service Recipient	Any business entity located in the taxable territory
	Such services shall not include: • Renting of immovable property, • Services by the Department of Posts and the Ministry of Railways • Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport • Transport of goods or passengers.

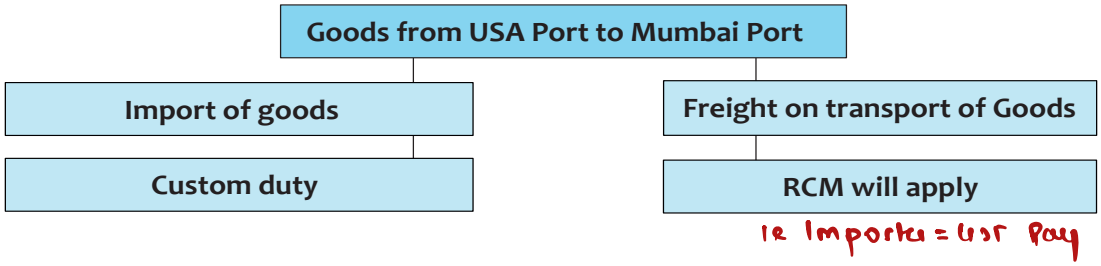
NOTES



Transfer of goods by Vessel from a place o/s India up to the custom port in India

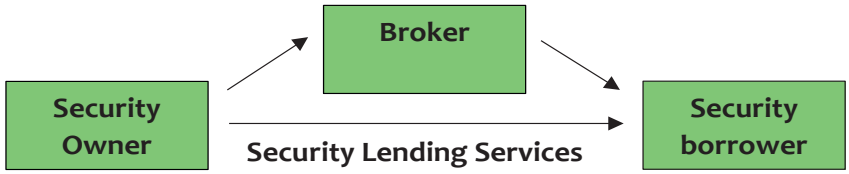
Not Relevant for exam.

Service Provider	A person located in non-taxable territory ie o/s India
Service Recipient	Importer



Security lending services

Service Provider	Lender i.e., a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI
Service Recipient	Borrower i.e., a person who borrows the securities under the Scheme through an approved intermediary of SEBI

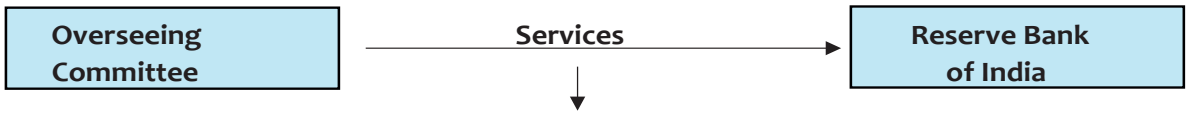


Following services are involved under this transaction:-

S. No.	Service provider	Service recipient	Taxability
1.	Broker	Security owner	FCM
2.	Broker	Security borrower	FCM
3.	Security owner	Security borrower	RCM

Services by overseeing committee to RBI

Service Provider	Overseeing committee
Service Recipient	Reserve Bank of India



RCM applicable I.e. RBI is liable to pay GST

NOTES

Not Relevant

Import of service (u/s 7(1)(b) & 7(1)(c) read with Schedule I)

Service Provider	Any person who is located in a non-taxable territory
Service Recipient	Any person located in the taxable territory **Except:** No such reverse charge shall be applicable in case of OIDAR services received by an unregistered person.

Outside India → Import of Services → India

RCM applicable I.e. Importer is liable to pay GST

Note: Import of service for personal purpose & Consideration paid (Supply u/s 7(1)(b)) Is exempted from GST

Example:

Mr. Jaggi has taken consultancy services from Mr. John, who is educational consultant in USA, regarding his admission in USA college for which Mr. John has charged consultancy fees of ₹1,00,000. Show the tax treatment.

Solution

Above transaction is supply as per section 7(1)(b). However, as it is import of service for personal purpose. Therefore, GST is exempted on such import

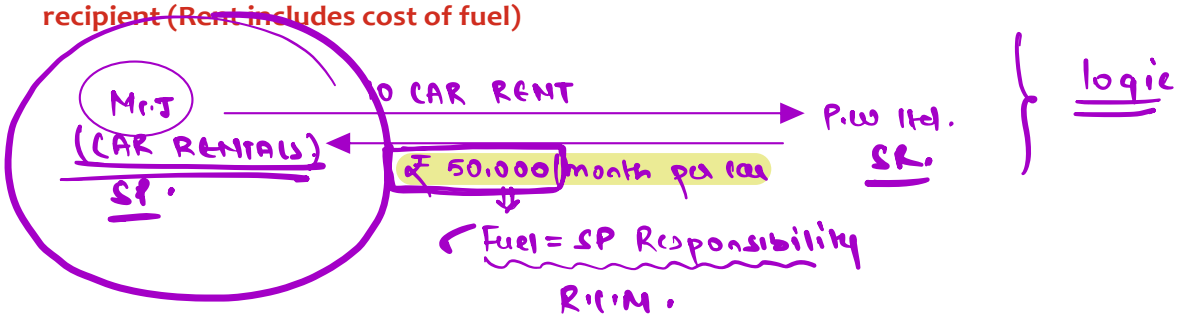
OIDAR : Online Information Database Access or Retrieval Service
Example : NETFLIX / Google drive / Microsoft cloud service

Section 9(4): If registered person purchases Goods/Services from Unregistered person then in such case RCM shall be applicable

Person liable to pay GST on renting of motor vehicle service (Imp).

RCM shall be applicable on Service by way of renting of any motor vehicle if following conditions are satisfied:-

1. Motor vehicle meant to "carry passenger" car/bus
2. Service provider shall be any person other than body corporate
3. Service recipient shall be body corporate
4. Cost of fuel is included in the amount charged as consideration from the service recipient (Rent includes cost of fuel)



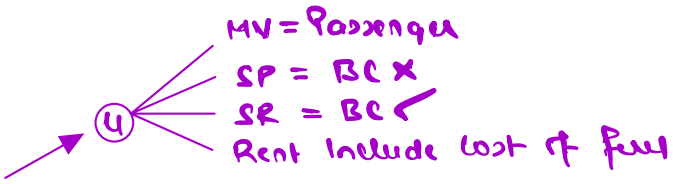
ITC?

Car = GST
Hire = Rent = GST
Intra = GST

X.

RAM = 4GB

NOTES



If above conditions are satisfied then, such services shall be taxable at the following two rates:

@ 5% (2.5% CGST+2.5% SGST/UTGST or 5% IGST) provided supplier of services has taken only the limited ITC (of input services in the same line of business) or @ 12% (6% CGST+6% SGST/UTGST or 12% IGST) where supplier of services opts to pay GST at said rate.

In this case, there is no restriction on availing ITC on goods or services used in supplying renting of motor vehicles service by the supplier of service.

Example

Mr. Raju is engaged in Business of renting of cars . He has already rented 4 cars and has taken 1 car on rent from Shyam Car Rental on Rs.15,000/- (exclusive of GST of Rs. 2700/-) Whether Raju is eligible to take ITC of following inward supplies :-

1. GST on Office on Rent = 10,000
2. GST on Internet service = 2400
3. GST on Stationary = 1100
4. GST on service of car = 15,000
5. GST on insurance of car = 5000

Solution

Since, Mr. Raju is engaged in business of renting of motor vehicles. Therefore, He can avail ITC on inward supply of renting of motor vehicle i.e. rent on car taken from Shyam Car Rental. ITC on all the other services taken by Mr. Raju mentioned above shall not available. Hence, Total ITC Available shall be Rs. 2700/-

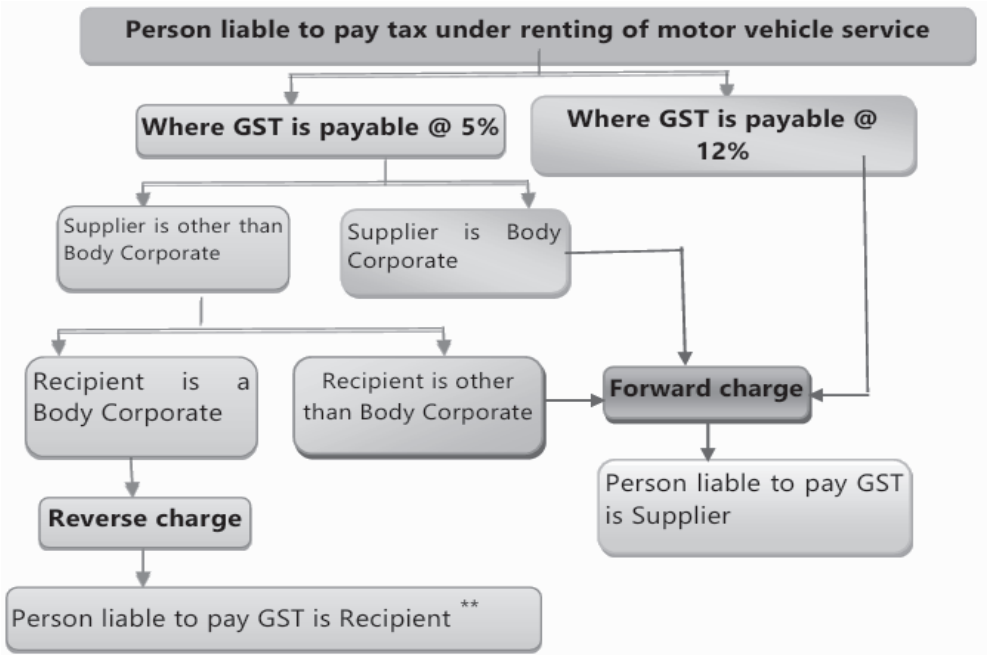
Analysis

Service provider	Service recipient	Cost of fuel included	Taxability
A Ltd.	B Ltd.	Yes	FCM (A Ltd. is liable to pay GST)
Mr. P	Mr. S	Yes	FCM (Mr. P is liable to pay GST)
Mr. P	B Ltd.	No	FCM (Mr. P is liable to pay GST)
Mr. P	B Ltd.	Yes	RCM (B Ltd. Is liable to pay GST)

Conclusion

Renting of Motor Vehicles	GST @ 12%	FCM Applicable
	GST @ 5%	RCM Applicable

NOTES



****It is important to note here that when any service is placed under RCM, the supplier shall not charge any tax from the service recipient as this is the settled procedure under RCM. Thus, the notification specifies that RCM is applicable here only when the supplier does not issue an invoice charging GST @12% (6% CGST+6% SGST/UTGST or 12% IGST) from the service recipient.**

Clarifications:

1. **It is clarified that where the body corporate hires the motor vehicle (for transport of employees, etc.) for a period of time, during which the motor vehicle shall be at the disposal of the body corporate, the service would fall under "renting of motor vehicle service", and the body corporate shall be liable to pay GST on the same under RCM.**
2. **However, where the body corporate avails the passenger transport service for specific journeys or voyages and does not take vehicle on rent for any particular period of time, the service would fall under "transport of passenger service" and the body corporate shall not be liable to pay GST on the same under GST.**

Tax payable by the ECO on notified services [Section 9(5)]

Read Alongwith TCS Chapter. ⇓ E-COM Operator

- **Electronic Commerce Operator (ECO) is any person who owns/operates/manages an electronic platform for supply of goods/services/both.**
- **Sometimes, ECO itself supplies the goods or services or both through its electronic portal. However, many a times, the products/services displayed on the electronic portal are actually supplied by some other person to the consumer.**

NOTES

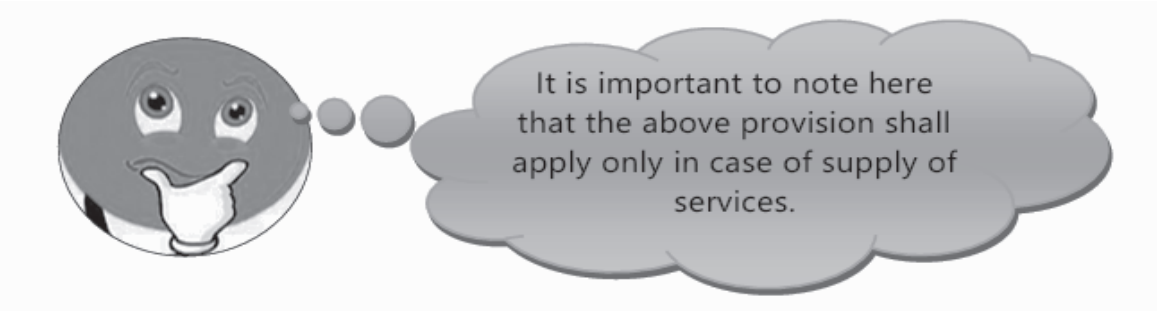
- When a consumer places an order for a particular product/ service on this electronic portal, the actual supplier supplies the selected product/ service to the consumer. The price/ consideration for the product/ service is collected by the ECO from the consumer and passed on to the actual supplier after the deduction of commission by the ECO.
- The Government may, on the recommendations of the GST Council, notify specific categories of services the tax [CGST/SGST/IGST] on supplies of which shall be paid by the ECO if such services are supplied through it. Such services shall be notified on the recommendations of the GST Council.

Following categories of services supplied through ECO has been notified for this purpose

a) Services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motor cycle, or any other motor vehicle;
b) Services by way of transportation of passengers by Omnibus except where service provider is company.
c) Services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under section 22(1) of the CGST Act.
d) Services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section 22(1) of the CGST Act.
e) Supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.

Meaning of various terms
1. **Radio taxi:** Means a taxi including a radio cab, by whatever name called, which is in two- way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS).
2. **Maxi cab:** Means any motor vehicle constructed or adapted to carry more than 6 passengers, but not more than 12 passengers, excluding the driver, for hire or reward.
3. **Motor cab:** Means any motor vehicle constructed or adapted to carry not more than 6 passengers excluding the driver for hire or reward.
4. **Motor car:** Means any motor vehicle other than a transport vehicle, omnibus, road-roller, tractor, motor cycle or invalid carriage. Omnibus means any motor vehicle constructed or adapted to carry more than 6 persons excluding the driver.
5. **'Specified premises'** would mean premises providing hotel accommodation service having declared tariff of any unit of accommodation above ₹ 7,500 per unit per day or equivalent.

NOTES

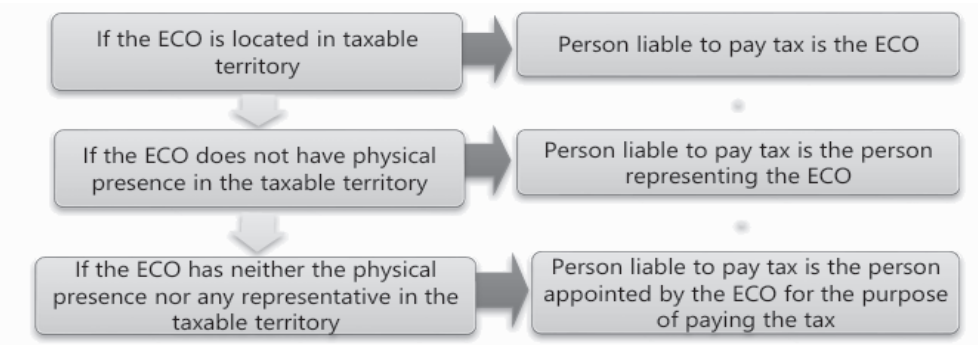


Tax on above services supplied through ECO shall be paid by the ECO. All the provisions of the CGST/ IGST Act shall apply to such ECO as if he is the supplier liable for paying the tax in relation to the supply of above services. Clarification regarding GST on Services Supplied by Restaurants Through ECO

Issue	Clarification
Does ECOs have to collect TCS in respect of restaurant services so notified?	No, ECOs will no longer be required to collect TCS and file Form GSTR-8 in respect of restaurant services on which ECO pays tax under section 9(5)
Is ECO required to take separate registration for paying tax on restaurant service supplied through them?	No, as ECOs are already registered as per section 24 (as a supplier of their own goods or services), there would be no mandatory requirement of taking separate registration by ECOs for payment of tax on restaurant service under section 9(5).
Are ECO to pay tax on any restaurant services supplied through them?	Yes, ECOs will be liable to pay GST on any restaurant service supplied through them including services supplied by an unregistered person.
Does Supply of restaurant services to be included in aggregate turnover of person supplying restaurant services through ECO	Yes, Such Supplies shall be include the aggregate value of supplies made by the restaurant through ECOs.
Restaurant services provided through ECO are to be considered as inward supply for ECOs liable to RCM?	No, ECOs are not the recipient of restaurant service supplied through them. Since these are not input services to ECO, these are not to be reported as inward supply liable to reverse charge.
Is ECO Liable to raise invoice in respect of restaurant service supplied through ECO?	Yes, The invoice in respect of restaurant service supplied through ECO under section 9(5) will be issued by ECO.
Can ECO utilize ITC to pay tax with respect to "restaurant service" supplied through ECO?	No, the liability of payment of tax by ECO with respect to restaurant service shall be discharged in Cash.

NOTES

Would restaurant service and goods or service other than restaurant service sold by a restaurant to a customer under the same order to be billed differently? Who shall be liable for raising invoices in such case?	**Yes, the invoice in respect if restaurant service supplied through ECO will be issued by ECO. And for other supplies, supplier will be liable to issue invoice for the same and ECO shall be liable to deduct TCS from the amount collected for other supplies made through it.**



GST Rates in Real Estate Sector [Section 9(4)]

Not Relevant for Exam.

The effective rate of GST on real estate sector for the new projects by promoters are as follows:

Builder.

1. 1% without ITC on construction of affordable houses (area 60 m² in metros/90 m² in non-metros and value up to ₹45 lakh).
2. 5% without ITC is applicable on construction of:
   a) All houses other than affordable houses, and
   b) Commercial apartments such as shops, offices etc. in a residential real estate project (RREP) in which the carpet area of commercial apartments is not more than 15% of total carpet area of all apartments.

Conditions

12.|5%.

Above tax rates shall be available subject to following conditions:

i) ITC shall not be available.

ii) 80% of inputs and input services used in supplying the service shall be purchased from registered persons. Except (i.e. Can be procured from Unregistered Person)

- Services by way of grant of development rights, long term lease of land or Floor Space Index (FSI) (including additional FSI)
- Electricity, high speed diesel, motor spirit, natural gas.

However, if value of inputs and input services purchased from registered supplier is less than 80% then,

NOTES

- **The promoter has to pay GST on reverse charge basis, under section 9(4) of the CGST Act, at the rate of 18% on all such inward supplies (to the extent short of 80% of the inward supplies from registered suppliers).**
- **Where cement is received from an unregistered person, the promoter shall pay tax on supply of such cement on reverse charge basis, under section 9(4), at the rate of 28% (CGST 14% + SGST 14%).**

GST on capital goods shall be paid by the promoter on reverse charge basis, under section 9(4) of the CGST Act at the applicable rates.

NOTES

Question Bank

Illustration 01

State the person liable to pay GST in the following independent services provided:

1. Sapna Builders, registered in Haryana, rented out 20 residential units owned by it in Jain Society to Anant Technologies, an IT based company registered in the State of Haryana, for accommodation of its employees.
2. M/s. Verma Consultants, a partnership firm registered in Delhi as a regular tax payer, paid sponsorship fees of Rs. 1,50,000 at a seminar organized by a private NGO (a partnership firm) in Delhi.

[MTP May 24 & RTP May 23]

Solution

1. Services provided by way of renting of residential dwelling for use as residence except where the residential dwelling is rented to a registered person is exempt from GST. Further, tax on service provided by way of renting of residential dwelling to a registered person is payable by the recipient under reverse charge. Therefore, in the given case, Anant Technologies is liable to pay GST on the residential dwellings taken on rent by it from Sapna Builders, under reverse charge mechanism.
2. In case of services provided by any person by way of sponsorship to any body corporate or partnership firm, GST is liable to be paid under reverse charge by such body corporate or partnership firm located in the taxable territory.
   Since in the given case, sponsorship services are being provided by the private NGO to a partnership firm – M/s. Verma Consultants, GST is payable by Verma Consultants on said services under reverse charge.

Illustration 02

Examine given cases and determine the persons liable to pay tax in each of the following independent cases:

1. Dharam Shastri, an independent director of Universe Pvt. Ltd., has received sitting fee amounting to 1 lakh from Universe Pvt. Ltd. for attending the Board meetings.
2. Chandan Associates provided sponsorship services to Virat Cricket Academy, an LLP.
3. Legal Fees is received by Gaba, an advocate, from M/s. Naveen Consultants having turnover of 50 lakh in preceding financial year.

[MTP Nov 22]

Solution

1. GST on supply of services by director of a company to the said company located in the taxable territory is payable on reverse charge basis.
   Therefore, in the given case, person liable to pay GST is the recipient of services, i.e., Universe Pvt. Ltd.
2. In case of services provided by any person by way of sponsorship to any body corporate or partnership firm, GST is liable to be paid under reverse charge by such body corporate or partnership firm located in the taxable territory.
   Further, for the reverse charge purposes, Limited Liability Partnership formed and registered under the provisions of the Limited Liability Partnership Act, 2008 is also be considered as a partnership firm. Therefore, in the given case, Virat Cricket Academy is liable to pay GST under reverse charge.

NOTES

3. GST on legal services supplied by an advocate [Mr. Gaba] to any business entity [M/s Naveen Consultants] located in the taxable territory is payable on reverse charge basis.
Therefore, in the given case, person liable to pay GST is the recipient of services, i.e., M/s. Naveen Consultants.

Illustration 03

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

a) Services provided by an arbitral tribunal to any business entity.
b) Sponsorship services provided by a company to an individual.
c) Renting of immovable property service provided by the Central Government to a registered business entity.

Solution

a) Since GST on services provided or agreed to be provided by an arbitral tribunal to any business entity located in the taxable territory is payable under reverse charge, in the given case, GST is payable by the recipient - business entity.
b) GST on sponsorship services provided by any person to any body corporate or partnership firm located in the taxable territory is payable under reverse charge. Since in the given case, services have been provided to an individual, reverse charge provisions will not be attracted. GST is payable under forward charge by the supplier – company.
c) GST on services supplied by Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under CGST Act, 2017 is payable under reverse charge. Therefore, in the given case, GST is payable under reverse charge by the recipient – registered business entity.

Illustration 04

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

a) Services supplied by an insurance agent to an insurance company.
b) Services supplied by a recovery agent to a car dealer.
c) Security services (services provided by way of supply of security personnel) provided by a partnership firm to a registered person paying tax under regular scheme.

Solution

a) GST on services supplied by an insurance agent to any person carrying on insurance business located in the taxable territory is payable under reverse charge. Therefore, in the given case, GST is payable under reverse charge by the recipient – Insurance Company.
b) GST on services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company located in the taxable territory is payable under reverse charge. However, since, in the given case, services are being supplied by a recovery agent to a car dealer, GST is payable under forward charge by the service provider - recovery agent.

NOTES

c) GST on security services (services provided by way of supply of security personnel) provided by any person other than a body corporate to a registered person, located in the taxable territory is payable under reverse charge. Therefore, in the given case, GST is payable under reverse charge by the recipient – registered person receiving the services.

Illustration 05

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

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

(ii) Mr. Kamal Jain, an unregistered famous author, received ₹ 20 lakh of consideration from PQR Publications Ltd. for supply of services by way of temporary transfer of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary works of his new book [PYQ Nov 2020]

Solution

(i) In case of a GTA service, where GST is payable @ 5% and recipient is one of the specified recipients, tax is payable by the recipient of service under reverse charge. However, where GST is payable @ 12%, tax is payable under forward charge by the supplier of service. Therefore, in the given case, tax is payable under forward charge by "Veer Transport", a registered GTA.

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

(ii) Supply of services by an author by way of transfer of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary works to a publisher located in the taxable territory is taxable under reverse charge mechanism. Thus, in the given case, the recipient of service, i.e. PQR Publications Ltd. is liable to pay GST. The tax can be paid by the author under forward charge if the author is a registered person. Since in the given case, the author is an unregistered person, the said option is not available to him.

Illustration 06

Mr. Vicky Frankyn, an unregistered famous author, received ₹ 3 crore of consideration from Shiv Bhawan Publications (SBP) located in Indore for supply of services by way of temporary transfer of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary works of his new book. He finished his work & made available the book to the publisher, but has yet not raised the invoice.
Mr. Vicky Frankyn is of the view that SBP is liable to pay tax under reverse charge on services provided by him. SBP does not concur with his view and is not ready to deposit the tax under any circumstances.

NOTES

Examine whether the view of Mr. Vicky Frankyn is correct. Further, if the view of Mr. Vicky Frankyn is correct, what is the recourse available with Mr. Vicky Frankyn to comply with the requirements of GST law as SBP has completely refused to deposit the tax.

[RTP May 2020]

Solution

Yes, the view of Mr. Vicky Frankyn is correct. GST is payable under reverse charge in case of supply of services by an author by way of transfer/permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary work to a publisher located in the taxable territory in terms of reverse charge. Therefore, in the given case, person liable to pay tax is the publisher – SBP.

(i) **However, since SBP has completely refused to deposit the tax on the given transaction, Mr. Vicky Frankyn has an option to pay tax under forward charge on the same. For the purpose, he needs to fulfill the following conditions:**

(ii) **since he is unregistered, he has to first take registration under the CGST Act, 2017**

(iii) **he needs to file a declaration, in the prescribed form, that he exercises the option to pay CGST on the said service under forward charge in accordance with section 9(1) of the CGST Act and to comply with all the provisions as they apply to a person liable for paying the tax in relation to the supply of any goods and/or services and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option; he has to make a declaration on the invoice, which he would issue to SBP, in prescribed form.**

NOTES

Chapter 3B: Composition Scheme

Composition Scheme [Section 10]

The composition levy is an alternative method of levy of tax designed for small taxpayers whose turnover is up to a prescribed limit. The objective of the composition scheme is to bring simplicity and to reduce the compliance cost for the small taxpayers.

Composition Scheme for Goods & Restaurant Services [Section 10(1) & (2)]



- Initially, the scheme was designed to benefit the small traders, manufacturers and restaurant service providers. So, the scheme was fundamentally for the supplier of goods and only for restaurant service providers. However, subsequently, suppliers availing the composition scheme were permitted to supply other services also, though only up to a small specified value.
- Taxpayers with an aggregate turnover in a preceding financial year up to ₹1.5 crore shall be eligible for composition levy.
- However, Threshold limit is ₹75 lakh in respect of 8 of the Special Category States namely [NUSTA-M3]:

Nagaland	Uttarakhand	Sikkim	Tripura
Arunachal Pradesh	Mizoram	Manipur	Meghalaya

Calculation of Aggregate Turnover

Inclusions	Exclusions
Value of all outward supplies 1. Taxable supplies 2. Exempt supplies 3. Exports 4. Inter-State supplies of persons having the same PAN be computed on all India basis	• Value of inward supplies on which tax is payable under reverse charge • Taxes Under GST (i.e. CGST/SGST/UTGST/IGST/ Compensation cess) • Value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

As per second proviso to section 10(1), composition suppliers are permitted to supply other services up to:

a) 10% of turnover in the state or union territory in the preceding financial year or
b) ₹5,00,000 whichever is higher.

Note: while calculating 10% of Turnover in a State or UT in the preceding FY, the interest or discount earned on loans or advances shall not be taken into consideration for determining turnover in a state or UT.

NOTES

Example

Chomu is engaged in supply of Goods. His Aggregate turnover in preceding FY is ₹90 Lakhs including ₹5 Lakhs by way of interest on loan. Determine the eligibility of Chomu for composition scheme as well as the value of other services he can provide during the current year while being in composition scheme.

As Turnover of last FY is not exceeding ₹1.5 Crore, therefore Chomu is eligible for composition scheme in current FY. Also, he is eligible to provide services along with supply of goods subject to higher of following:

a) 10% of turnover in the state in Last FY i.e. 10% of ₹85 Lakhs = ₹8.5 Lakhs or

b) ₹ 5,00,000 whichever is higher.

Therefore, chomu is allowed to provide services up to ₹8.5 lakhs in Current FY.

Explanation 1 to section 10 clarifies that for the purposes of computing aggregate turnover of a registered person for determining his eligibility to pay tax under this section, aggregate turnover includes value of supplies from 1st April of a FY up to the date of his becoming liable for registration.
As per Section 10(3), the option of a registered person to avail composition scheme for services shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the threshold limit of ₹150 Lakh /75 Lakh

The rate shall be as given under Rule 7

S.No.	Category of Registered Person	Rate of Tax
1.	Manufacturer, other than manufacturer of goods notified by the government	0.5% CGST + 0.5% SGST of Entire Turnover (whether taxable or exempt) in the State or UT
2.	Restaurant & other outdoor catering services	2.5% CGST & 2.5% SGST of Entire Turnover (whether taxable or exempt) in the State or UT
3.	Any other Supplier of goods (i.e. Traders)	0.5% CGST + 0.5% SGST of Taxable Supplies in the State or UT

Further, explanation 2 to section 10 clarifies that for the purposes of determining the tax payable by a person under this section, the expression turnover in State or turnover in Union territory shall not include the value of following supplies, namely:

1. **supplies from 1st April of a FY up to the date when such person becomes liable for registration under this Act; and**
2. **exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.**

Note: While computing turnover in a State/UT of a supplier, other than manufacturer and restaurant service provider, eligible for composition levy for goods [e.g. trader], the exempt supplies will not be taken into consideration

NOTES

Composition Scheme for Service Provider [Section 10(2A)]



This section provides an option to a registered person whose

- aggregate turnover in the preceding financial year is up to ₹50 lakh and
- who is not eligible to pay tax under sub section (1),

to pay tax @ 3% [Effective rate 6% (CGST & SGST/ UTGST)] on first supplies of goods and/or services up to an aggregate turnover of ₹50 lakh made on/after 1st April in any financial year, subject to specified conditions.

Example

A photographer 'Champak' has commenced providing photography services in Delhi from April this year. His turnover for various quarters till December is as follows:

April–June	*₹20 lakh*
July–Sept	*₹30 lakh*
Oct–Dec	*₹20 lakh*

- *In the given case, since Champak has started the supply of services in the current financial year, his aggregate turnover in the preceding FY is Nil.*
- *Consequently, in the current FY, he is eligible for composition scheme for services. He becomes eligible for the registration when his aggregate turnover exceeds ₹20 lakh.*
- *While registering under GST, he opted for a composition scheme for services.*
- *For determining his turnover of the State for payment of tax under composition scheme for services, turnover of April-June quarter [₹20 lakh] shall be excluded as the value of supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act are to be excluded for this purpose.*
- *On next ₹30 lakh [turnover of July–Sept quarter], he shall pay tax @ 6% [3% CGST and 3% SGST], i.e. CGST ₹90,000 and SGST ₹90,000.*
- *By the end of July-Sept quarter, his aggregate turnover reaches ₹50 lakh. Consequently, his option to avail composition scheme for services shall lapse by the end of July–Sept quarter and thereafter, he is required to pay tax at the normal rate of 18%. Thus, the tax payable for Oct-Dec quarter is ₹20 lakh × 18%, i.e. ₹3,60,000.*

Conditions for Opting to Pay Tax under Composition Scheme [Section 10(2)/(2A)]

- Restricted from making supply of goods or services which are not liable to GST
  Certain goods and services are not liable to GST, e.g. petroleum, alcohol for human consumption, etc.
  a person opting for composition scheme shall not be entitled to make any supply of non-GST goods and services.
- Restricted from affecting inter-State outward supplies
  The taxable person should not affect any inter-State outward supplies. This means that even stock transfers to branches outside the State would not be permitted. However, there is no restriction on inter-State inward procurements/receipts.

NOTES

- Restricted from making supply of services through an e-commerce operator A person opting for composition scheme is not allowed to affect any supply of services through an e-commerce portal, unless such portal is owned by the same person.
  However, supply of goods through e-commerce portal is not allowed
- Would be applicable for all transactions under the same PAN
  Composition scheme would become applicable for all the business verticals having separate registrations within the State and all other registrations outside the State which are held by the person with the same PAN.
- Shall not collect tax
  Taxable person opting to pay tax under the composition scheme is prohibited from collecting tax on the outward supplies.
- Not entitled to input tax credit
  Taxable person opting to pay tax under the composition scheme will not be eligible to
  claim any input tax credits.
- Such supplier shall mention the words "composition taxable person not eligible to collect tax on supplies" at the top of the bill of supply.
- Composition suppliers are not allowed to issue tax invoice
- Casual Taxable person or Non-resident Taxable person cannot opt for composition scheme (Rule 5)
- Restriction on manufacture of notified goods
  The person opting for the scheme should not be a manufacturer of certain goods as are notified in this regard. However, there is no restriction in case the person is engaged in trading of such good

Notified Goods
• Ice cream and other edible ice, whether or not containing cocoa
• Pan masala
• Tobacco and manufactured tobacco substitutes
• Manufacture of Aerated Water
• Fly ash bricks or fly ash aggregate with 90% or more fly ash content; Fly ash blocks
• Bricks of fossil meals or similar siliceous earths
• Building bricks
• Earthen or roofing tiles

Note: He can be the trader of above mentioned goods

NOTES

Fly ash bricks	
Building Bricks	
Earthen or roofing tiles	
Bricks of fossil Meals	
Aerated water bottle	
Ice cream	
Tobbaco	

Imposition of penalty in case of irregular availment of composition scheme [Section 10(5)]

If a taxable person has paid tax under the composition scheme though he was not eligible for the scheme, the person would be liable to penalty and the provisions of section 73 or 74 or section 74A of the CGST Act shall be applicable for determination of tax and penalty.

NOTES

As per Rule 3,

- A person applying for registration may give option for composition scheme in part B of REG01.
- Such intimation shall be considered only after the grant of registration to the applicant
- option to pay tax under composition levy shall be effective from the date from which registration is effective.

As per Rule 4,

- A registered person who opts to pay tax under composition levy scheme shall electronically file an intimation in prescribed form on the GST Common Portal, prior to the commencement of the FY for which said option is exercised.
- Option to pay tax under section 10 shall be effective from the beginning of the next financial year
- such person shall also furnish statement in ITC-03 for reversal of tax credit within a period of 90 days from the date of commencement of composition scheme.

As per Rule 5,

- Such person should not be casual taxable person or non-resident taxable person.

As per Rule 6,

- If turnover exceeds ₹1,50,00,000/75,00,000 he will be shifted to normal scheme with immediate effect and he will give an intimation in CMP-04 within 7 days of exceeding the limit.
- Any person who is in the composition scheme may opt out of the scheme at any time and shall file an application in CMP-04 and he will get shifted to normal scheme with immediate effect.
- He shall be required to submit ITC-01 for availing ITC within 30 days from the date of withdrawal. Such withdrawal shall be applicable to all the places in all the states/UTs.

NOTES

Question Bank

Illustration 01

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

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

Solution

The view taken by the accountant of Sultan & Sons is not valid in law. A registered person with an aggregate turnover in a preceding financial year up to ₹ 1.5 crore is eligible for composition levy, under section 10(1) & 10(2), in Delhi. Further, such person must not be engaged in making any supply of goods or services which are not leviable to tax under this Act and must not be engaged in making any inter-State outward supplies of goods or services, for being eligible to pay tax under said scheme.

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

Illustration 02

A person availing composition scheme, under sub-sections (1) & (2) of section 10, in Haryana during a financial year crosses the turnover of ₹ 1.5 crore in the month of December. Will he be allowed to pay tax under composition scheme for the remainder of the year, i.e. till 31st March? Please advise.

Solution

No. The option to pay tax under composition scheme lapses immediately from the day on which the aggregate turnover of the person availing composition scheme for goods during the financial year exceeds the specified limit (₹ 1.5 crore). Once he crosses the threshold, he is required to file an intimation for withdrawal from the scheme in prescribed form within 7 days of the occurrence of such event.

Illustration 03

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

a) Mohan Enterprises is engaged only in trading of pan masala in Rajasthan and is registered in the same State.
b) Sugam Manufacturers has registered offices in Punjab and Haryana and sells goods manufactured by it in the neighbouring States.

NOTES

Solution

a) A supplier engaged in the manufacture of goods as notified under section 10(2)(e), during the preceding FY is not eligible for composition scheme under section 10(1) and 10(2). Ice cream and other edible ice, whether or not containing cocoa, Pan masala, Tobacco and manufactured tobacco substitutes, aerated waters, fly ash bricks, fly ash aggregate, fly ash blocks, bricks of fossil meals or similar siliceous earths, building bricks, earthen or roofing tiles are notified under this category. However, in the given case, since Mohan Enterprises is engaged in trading of pan masala and not manufacture and his turnover does not exceed ₹ 1.5 crore, he is eligible for composition scheme subject to fulfilment of specified conditions.

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

Illustration 04

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

Solution

A registered person with an aggregate turnover in a preceding financial year up to ₹ 1.5 crore is eligible for composition levy, under section 10(1) & 10(2), in Delhi. Since the aggregate turnover of Subramanian Enterprises does not exceed ₹ 1.5 crore, it is eligible for composition levy in the current year. However, all registered persons having the same Permanent Account Number (PAN) have to opt for composition scheme. If one such registered person opts for normal scheme, others become ineligible for composition scheme. Thus, Subramanian Enterprises either have to opt for composition levy for both the places of business or under normal levy for both the places of business.

Illustration 05

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

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

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

Solution

Section 10(1) provides that a registered person, whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5 crore (₹ 75 lakh in Special Category States

NOTES

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

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

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

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

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

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

Illustration 06

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

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

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

a) Whether the firm can opt for the composition scheme, under section 10(1) and 10(2), for the current financial year, as the turnover may include supply of both goods and services?

b) If yes, up to what amount, the services can be supplied?

[MTP May 23]

Solution

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

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

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

NOTES

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

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

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

Illustration 07

"Little Smiles", a photography firm, has commenced providing photoshoot services in Delhi from the beginning of current financial year 2023-2024. It has provided the following details of turnover for the various quarters till December, 2023 :-

S. No.	Quarter	Amount (in lakh)
1.	April,2023-June,2023	20
2.	July,2023-September,2023	30
3.	October,2023-December,2023	40

You may assume the applicable tax rate as 18%. Little Smiles wishes to pay tax at a lower rate and opts for the composition scheme. You are required to advise whether it can do so and calculate the amount of tax payable for each quarter?

[MTP May 24 & RTP May 2021]

Solution

Section 10(2A) of the CGST Act, 2017 provides the turnover limit of 50 lakh in the preceding financial year for becoming eligible for composition levy for services. Little Smiles has started the supply of services in the current financial year (FY), thus, it's aggregate turnover in the preceding FY is Nil.

Consequently, in the current FY, Little Smiles is eligible for composition scheme for services. A registered person opting for composition levy for services shall pay tax @ 3% [Effective rate 6% (CGST+ SGST/UTGST)] of the turnover of supplies of goods and services in the State.

Further, Little Smiles becomes eligible for the registration when the aggregate turnover exceeds 20 lakh (the threshold limit of obtaining registration). While registering under GST, Little Smiles can opt for composition scheme for services.

The option of a registered person to avail composition scheme for services shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the threshold limit of 50 lakh.

However, for the purposes of determining the tax payable under composition scheme, the expression "turnover in State" shall not include the value of supplies from the first day of April of a FY up to the date when such person becomes liable for registration under the CGST Act.

Thus, for determining the turnover of the State for payment of tax under composition scheme for services, turnover of April,2023 – June,2023 quarter [20 lakh] shall be excluded. On next 30 lakh [turnover of July,2023 – September, 2023 quarter], it shall pay tax @ 6% [3% CGST and 3% SGST].

NOTES

For the purposes of computing aggregate turnover of a registered person for determining his eligibility to pay tax under this section, aggregate turnover includes value of supplies from the 1st April of a FY up to the date of his becoming liable for registration.

Thus, while computing aggregate turnover for determining Little Smiles's eligibility to pay tax under composition scheme, value of supplies from the first day of April of a financial year up to the date when it becomes liable for registration under this Act (i.e. turnover of April,2023 – June,2023 quarter), are included.

By the end of July, 2023 – September, 2023 quarter, the aggregate turnover reaches ₹ 50 lakh. Consequently, the option to avail composition scheme for services shall lapse by the end of July, 2023 – September, 2023 quarter and thereafter, it is required to pay tax at the normal rate of 18%.

Considering the above provisions, the tax payable for each quarter is as under:-

S. No.	Quarter	GST rate [CGST + SGST]	Turnover (in lakh)	GST payable (in lakh)
1.	April, 2023 – June, 2023	-	20	-
2.	July, 2023 – September, 2023	6%	30	1.8
3.	October, 2023 – December, 2023	18%	40	7.2

Illustration 08

Determine whether the suppliers in the following cases are eligible for composition levy, under section 10(1) & 10(2) of the CGST Act, 2017, provided their turnover in preceding year does not exceed Rs. 1.5 crore:

a) Mohan Enterprises is engaged only in trading of pan masala in Rajasthan and is registered in the same State.

b) Sugam Manufacturers has registered offices in Punjab and Haryana and sells goods manufactured by it in the neighbouring States

[MTP Nov 23]

Solution

a) A supplier engaged in the manufacture of goods as notified under section 10(2)(e) of the CGST Act, 2017, during the preceding FY is not eligible for composition scheme under section 10(1) and 10(2). Ice cream and other edible ice, whether or not containing cocoa, Pan masala, Tobacco and manufactured tobacco substitutes, aerated waters, fly ash bricks, fly ash aggregate, fly ash blocks, bricks of fossil meals or similar siliceous earths, building bricks, earthen or roofing tiles are notified under this category. However, in the given case, since Mohan Enterprises is engaged in trading of pan masala and not manufacture and his turnover does not exceed 1.5 crore, he is eligible for composition scheme subject to fulfilment of specified conditions.

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

NOTES

Illustration 09

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

You are required to compute the tax payable by Swaminathan under composition scheme assuming that he is a manufacturer. Will your answer be different if Swaminathan is trader [MTP Nov 22]

Solution

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

Manufacturers, other than manufacturers of notified goods	1% (½% CGST+ ½% SGST/UTGST) of the turnover in the State/ Union territory
Trader	1% (½% CGST+ ½% SGST/UTGST) of turnover of taxable supplies of goods & services in the State/ Union territory

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

Tax payable by Swaminathan under composition scheme is as follows:

CGST = 100 lakh x 0.5% = 50,000

SGST = 100 lakh x 0.5% = 50,000

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

CGST = 75 lakh (as 25% of turnover is exempt) x 0.5% = 37,500

SGST = 75 lakh (as 25% of turnover is exempt) x 0.5% = 37,500

Illustration 10

Determine whether the suppliers in the following cases are eligible for composition levy, under section 10(1) & 10(2) of the CGST Act, 2017, provided their turnover in preceding year does not exceed ₹ 1.5 crore:

(i) Shyam Enterprises is engaged only in trading of pan masala in Rajasthan and is registered in the same State.

(ii) Sahaj Manufacturers has registered offices in Punjab and Haryana and sells goods manufactured by it in the neighbouring States

[MTP JAN 2025]

Solution

(i) A supplier engaged in the manufacture of notified goods during the preceding financial year is not eligible for composition scheme under section 10(1) and 10(2) of the CGST Act, 2017. Ice cream and other edible ice, whether or not containing cocoa, Pan masala, Tobacco and manufactured tobacco substitutes, aerated waters, fly ash bricks, fly ash aggregate, fly ash blocks, bricks of fossil meals or similar siliceous earths, building bricks, earthen or roofing tiles are notified under this category. However, in the given case, since Shyam Enterprises is engaged in trading of pan masala and not

NOTES

manufacture and his turnover does not exceed ₹ 1.5 crore, he is eligible for composition scheme subject to fulfilment of specified conditions.

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

Illustration 11

Answer the following, after reading the below given paragraph:

(i) Briefly discuss the relevant provision

(ii) decide the correct conclusion and

(iii) determine the validity of the given advice (Correct/Incorrect)

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

[PYQ Nov 2022]

Solution

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

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

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

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

Illustration 12

M/s. T is a registered dealer of Andhra Pradesh trading in different types of machinery and its related different types of services. Their aggregate turnover for the preceding financial year 2022-23 for sale of machinery was ₹ 1.32 crores, it was first year so they had not started for providing service related to machinery. From FY 2023-24 they are planning to provide repair and maintenance service of ₹ 6.25 lakh for which they have to purchase some raw material of ₹ 5 lakh from the other State (till date they are purchasing within State only).

From the information given above, examine whether M/s. T can opt for composition scheme under Section 10(1), 10(2A) or 10(2) of the CGST Act, 2017 for FY 2023-24?

[PYQ Sep 2024]

Solution

A registered person is eligible to opt for composition scheme for goods in the current financial year (FY) provided his aggregate turnover does not exceed ₹ 1.50 crore [other than in specified Special Category States] in the preceding FY.

Since aggregate turnover of M/s. T in the preceding FY does not exceed ₹ 1.5 crore, he is eligible for composition scheme for goods under section 10(1) and 10(2) of the CGST Act, 2017 in the current FY.

As per section 10(2A) of the CGST Act, 2017, a registered person who is eligible to pay tax under section 10(1) and (2) is not eligible for opting for composition under section 10(2A) of the CGST Act, 2017.

NOTES

As per section 10(2A) of the CGST Act, 2017, person engaged in the supply of service is eligible for composition scheme for payment of tax @ 3% CGST and 3% SGST provided his aggregate turnover does not exceed ₹ 50 lakh in the preceding FY.

Since turnover of previous year is ₹ 1.32 crore and firm is not dealing in the service only, M/s T cannot opt for composition scheme under section 10(2A) of the CGST Act, 2017 for FY 2023-24.

A person who opts to pay tax under composition scheme under section 10(1) and 10(2) of the CGST Act, 2017 is also permitted to supply services [other than restaurant services] upto a value not exceeding:

(a) 10% of the turnover in a State/U.T. in the preceding financial year, or

(b) ₹ 5 lakh, whichever is higher.

Thus, M/s T is permitted to supply services upto a value of ₹ 13,20,000 i.e. 10% of ₹ 1.32 crores, in current FY.

Further, there is no restriction on composition supplier to receive inter- State inward supplies of goods or services.

Thus, it can be concluded that M/s T can opt for composition scheme of goods under section 10(1) of the CGST Act, 2017 for FY 2023-24.

Illustration 13

(a) Chanchal started providing beauty and grooming services and inaugurated "Care & Care Beauty Centre" in Janak Puri, Delhi on 01st April, 20XX. She opted to pay tax under Notification No. 2/2019 CT (R) dated 07.03.2019 in the said financial year. The aggregate turnover of Care & Care Beauty Centre for the quarter ending 30th June, 20XX was ₹ 20 lakh. Further, for the half year ending 30th September, 20XX, the turnover reached ₹ 50 lakh. Care & Care Beauty Centre recorded a rapid growth and the turnover reached ₹ 70 lakh by the end of October, 20XX. Determine the total tax liability of Care & Care Beauty Centre by the end of October, 20XX.

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

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

[RTP May 2020]

Solution

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

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

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

NOTES

Period	Tax Rate	Turnover (₹)	Tax liability (₹)
I Quarter	Since turnover did not exceed ₹ 20 lakh, it was not required to obtain registration. Hence, no tax was required to be paid	20 Lakh	Nil
II Quarter	Effective rate is 6% (CGST+ SGST/ UTGST)] under *Notification No. 2/2019 CT (R)*	30 Lakh [(50-20) lakh]	1,80,000
For the month of October, 20XX	Normal rate of GST of 18% is to be applied	20 lakh [(70-50) lakh]	3,60,000
Total tax payable			5,40,000

(b) No, Care & Care Beauty Centre cannot opt for composition scheme from the next financial year. Fundamentally, the composition scheme can be availed in respect of goods and only one service namely, restaurant service. As regards services other than restaurant services are concerned, only marginal supply of the such services for a specified value along with the supply of goods and/or restaurant service, as the case may be, is permitted under section 10(1) of CGST Act, 2017. Therefore, a person engaged exclusively in supply of services other than restaurant services is not eligible to opt for composition scheme.

NOTES

Chapter 4: Place of supply

Background

- GST is a destination-based tax, i.e. the tax is levied at the place where the goods or services are consumed, rather than the place where they are produced.
- The determination of **'place of supply'** and the **'location of the supplier'** is essential to ascertain the nature of supply, i.e. whether a supply is intra-State or inter- State.



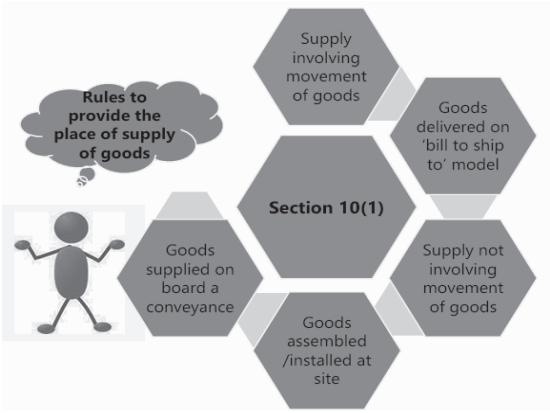
- In other words, these two factors are required to determine whether a supply is subject to SGST/UTGST and CGST in a given State/UT or else would attract IGST if it is an inter-State supply.
- 'Place of supply' is the place where the supply is consumed.
  Thus, place of supply determines the jurisdiction where the tax revenue should reach.
- The various elements used for determining the place of supply of a service are:
  1. location of service provider
  2. location of service receiver
  3. place where the activity takes place/ place of performance
  4. place where the service is consumed
  5. place/person to which/whom actual benefit flows



Place of supply of goods other than supply of goods imported to, or exported from India [section 10]

Section 10 prescribes the provisions for determining the place of supply of goods in domestic transactions, i.e. within India.

NOTES



Supply involving movement of goods [Section 10(1)(a)]

- **In case of supply involving movement of goods, the place of supply is the location of the goods at the time when the movement of goods terminates (ends) for delivery to the recipient.**
- **This movement, however, can be undertaken by the supplier or recipient or even any other person (like transporter) after having disclosed the destination of the movement of goods.**

Example

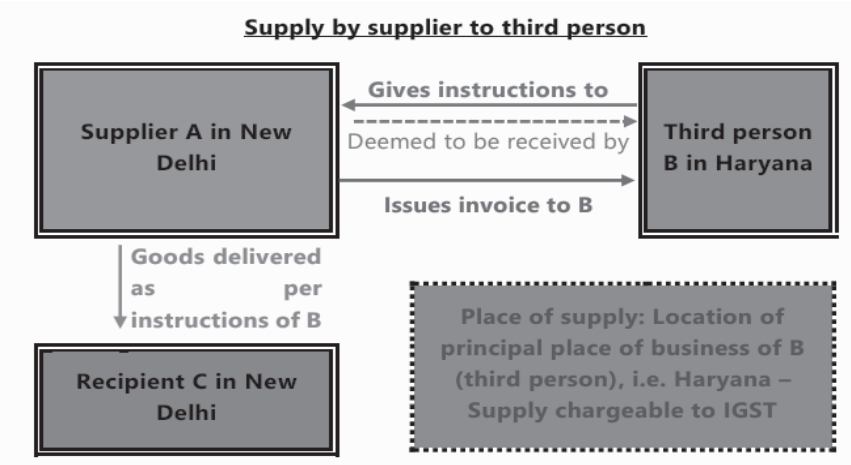
- ***Babban Pvt. Ltd. of Nasik, Maharashtra sells 10 refrigerators to Chaggan Pvt. Ltd. of Pune, Maharashtra for delivery at place of business of Chaggan Pvt. Ltd. in Pune. The place of supply is Pune in Maharashtra.***
- ***Babban Pvt. Ltd. of Nasik, Maharashtra sells 20 refrigerators to Dhakkan Pvt. Ltd. of Ahmedabad, Gujarat for delivery at place of business of Dhakkan Pvt. Ltd. in Ahmedabad. The place of supply is Ahmedabad.***

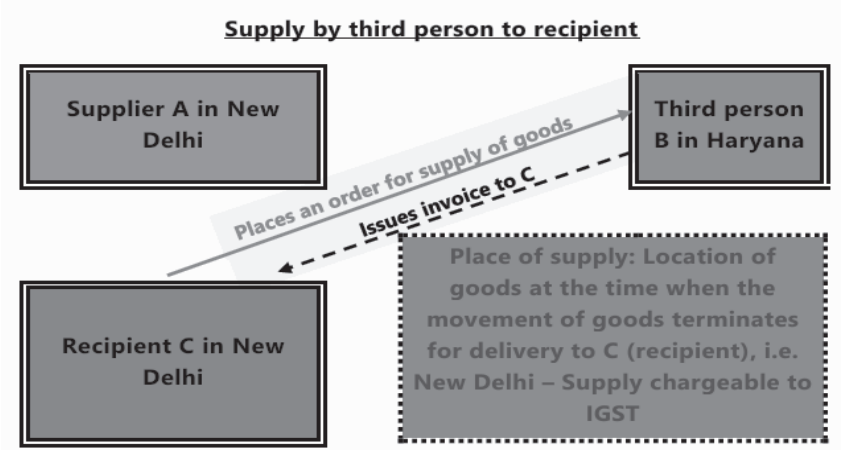
Supply involving movement of goods where goods are delivered to recipient on the instruction of third person – 'Bill to Ship to' Supply [Section 10(1)(b)]

- **where goods are delivered by the supplier to the recipient at the instruction of a third person, the place of supply is the principal place of business of such third person and not of the actual recipient.**
- **It is important to identify the two supplies involved in this transaction :**
  1. **by supplier to third person and**
  2. **by third person to recipient.**
- **This provision deals only with the first limb of supply, i.e. supply by supplier to third person.**
- **Second limb of supply, i.e. supply by third person to recipient will be governed by the provisions of section 10(1)(a), i.e. the place of supply will be the location of the goods at the time when the movement of goods terminates for delivery to the recipient.**

NOTES

Example





Supply not involving movement of goods [Section 10(1)(c)]

If the supply does not involve movement of goods, the place of supply is the location of goods at the time of delivery to the recipient.

Example

- ***Newton Pvt. Ltd. (New Delhi) has leased its machine (cost ₹ 8,00,000) to Gravity Pvt. Ltd. (Noida, Uttar Pradesh) for production of goods on a monthly rent of ₹ 35,000. After 12 months Gravity Pvt. Ltd. requested Newton Pvt. Ltd. to sell the machine to it for ₹ 5,00,000, which is agreed to by Newton Pvt. Ltd. In this case, there will be no movement of goods and the same will be sold on as is where is basis. Thus, the location of the machine at the time of such sale will be the place of supply, i.e. Noida.***
- ***Gangadhar Ltd. (Mumbai, Maharashtra) opens a new branch office at Gurugram, Haryana. It purchases a building for office from Gajodhar Builders (Gurugram). It also enters into a separate contract with Gajodhar Builders for purchase of pre-installed office furniture and fixtures in the building. Though there will be no GST liability on purchase of building (as sale of building is covered under Schedule III to CGST Act),***

NOTES

office furniture and fixtures will be liable to GST. Since there is no movement of office furniture and fixtures, the place of supply of such goods is their location at the time of delivery to the recipient (Gangadhar Ltd.), i.e. Gurugram

Place of supply of goods purchased Over the Counter in one State and transported to another State by the buyer [Section 10(1)(ca)]

POS in case of OTC sales to unregistered persons is as follows:

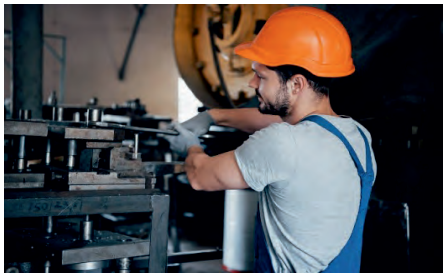


- **Where the address of the unregistered person is recorded in the invoice**
  POS is location as per address of unregistered person recorded in the invoice.
- **Where the address of the unregistered person is not recorded in the invoice**
  POS is location of the supplier

Note: For the purpose of this clause, recording of the name of the state of the said person in the invoice shall be deemed to be the recording of the address of the said person

Case	Location of Supplier	Location of Recipient	Delivery of Goods	Place of Supply	Tax Payable
1.	Noida-UP	Delhi	Noida-UP	Delhi	IGST
2.	Noida-UP	Not available	Noida-UP	Noida-UP	CGST + UP SGST

Supply involving installation or assembly of goods [Section 10(1)(d)]



- **If the supply involves goods which are to be installed or assembled at site, the place of supply is the place of such installation or assembly.**
- **This is a case of composite supply of goods wherein two supplies are involved, supply of goods and ancillary supply of installation/assembling service. The principal supply is supply of goods which are being installed.**

Example

1. *Ghoomghoom Pvt. Ltd. (New Delhi) purchases a machine from Dhoom Pvt. Ltd. (New Delhi) for being installed in its factory at Noida, Uttar Pradesh. The place of supply is the site at which the machine is installed, i.e. Noida.*
2. *Pure Refineries (Mumbai, Maharashtra) gives a contract to Mowgli Ltd. (Ranchi, Jharkhand) to supply a machine which is required to be assembled in a power plant in its refinery located in Kutch, Gujarat. The place of supply is the site of assembly of machine, i.e. Kutch even though Pure refineries is located in Maharashtra.*

NOTES

Goods supplied on board a conveyance [Section 10(1)(e)]

- Place of supply of goods supplied on a board a conveyance like aircraft, train, vessel, motor vehicle is the location where such goods have been taken on board.
- Place of supply of goods supplied on board a conveyance is determined under this provision even if the supply has been made by any of the passenger on board the conveyance and not by the carrier of the conveyance.



Example

Maurya (New Delhi) boards the New Delhi-Kota train at New Delhi. He sells the goods taken on board by him (at New Delhi), in the train, at Jaipur during the journey. The place of supply of goods is the location at which the goods are taken on board, i.e. New Delhi and not Jaipur where they have been sold.

POS of goods (particularly being supplied through e-commerce platform) to unregistered persons where billing address is different from the address of delivery of goods.

When an unregistered person places an order particularly on E-commerce platform in which the billing address is different from the address of actual delivery of goods, then in such scenario, place of supply of goods shall be determined in accordance with the provisions of section 10(1)(ca) of the IGST Act, 2017 which shall be the address of delivery of goods recorded on the invoice.

Also, in such cases involving supply of goods to an unregistered person, where the billing address and delivery address are different, the supplier may record the delivery address as the address of the recipient on the invoice for the purpose of determination of place of supply of the said supply of goods

Example

Mr. A (unregistered person) located in Delhi , places an order on an e-commerce platform for supply of a mobile phone, which is to be delivered at an address located in Haryana. Mr. A, while placing the order on the e-commerce platform, provides the billing address located in Delhi. In such a scenario, place of supply of goods shall be the address of delivery of goods recorded on the invoice i.e. Haryana.

NOTES

Place of supply of services where location of supplier of service and the location of the recipient of service is in India [section 12]

Section 12 contains the provisions for determining the place of supply of services where both the 'location of supplier of services' and the 'location of recipient of services' are in India

General Rule [Section 12(2)]

Place of supply of services made to a registered person is the location of the person receiving the services.
However, if the services is supplied to an unregistered person, the place of supply is:

a) the location of such unregistered person, if the address of the unregistered person is available in the records of the supplier
b) the location of the supplier of services in other cases.

Example

***1.** Mr. Aryabhatt (a Chartered Accountant registered in New Delhi) makes a supply of service to his client Champak Pvt. Ltd. of Noida, Uttar Pradesh (registered in Uttar Pradesh). In this case, since the supply is made to a registered person, the place of supply is the location of the registered recipient, i.e. Noida.*

***2.** Mr. Heeralal, a Chartered Accountant in Gurugram, Haryana, (registered in Haryana) provides consultancy services to his client Mr. Pannalal who is a resident of New Delhi but is not registered under GST. If the address of Mr. Pannalal is available in the records of Mr. Heeralal, location of Mr. Pannalal, i.e. New Delhi will be the place of supply, else the location of Mr. Heeralal, which is Gurugram, will be the place of supply.*

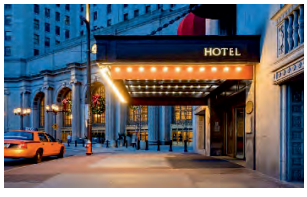
Services in relation to an immovable property or lodging accommodation in a hotel/boat/vessel etc. [Section 12(3)]

Section 12(3) covers supplies of services which are



a) directly in relation to an immovable property,
b) including those by
- **architects,**
- **interior decorators,**
- **surveyors,**
- **engineers and other related experts,**
- **estate agents**

c) by way of lodging accommodation in a
- **hotel,**
- **inn**
- **guest house**
- **club**
- **home stay**
- **house-boat or**



NOTES

- vessel,

or accommodation in any immovable property for organizing

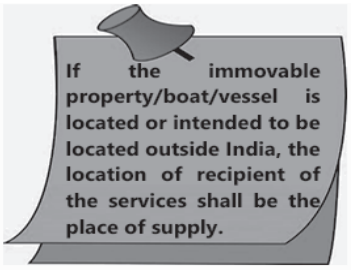
- official, social, business functions etc.
- any marriage/reception or matters related thereto
- including services provided in relation to such function



d) Services ancillary to the above-mentioned services

In all above cases, location of the immovable property or the boat or the vessel or where such immovable property or the boat or the vessel is intended to be located, is the place of supply.

This provision is applicable on property already constructed/ developed as well as on the property yet to be constructed/ developed.



Note:

1. There may be a case wherein there is supply of space or supply (sale) of rights to use the space on the hoarding/structure (immovable property) belonging to vendor to the advertising company for display of their advertisement on the said hoarding/structure.
   Place of supply of service provided by way of supply of sale of space on hoarding/ structure for advertising or for grant of rights to use the hoarding/structure for advertising in this case would be the location where such hoarding/structure is located.
2. There may be another case where the advertising company wants to display its advertisement on hoardings/billboards at a specific location availing the services of a vendor. The responsibility of arranging the hoardings/billboards lies with the vendor who may himself own such structure or may be taking it on rent or rights to use basis from another person. The vendor is responsible for display of the advertisement of the advertisement company at the said location. Such services provided by the vendor to advertising company are purely in the nature of advertisement services in respect of which place of supply shall be determined in terms of section 12(2) of IGST Act.

Example

1. *Sunami Builders (Mumbai) is constructing a factory building for Skylab Pvt. Ltd. (Kolkata), in New Delhi. The place of supply is the location of immovable property, i.e. New Delhi.*

NOTES

2. *Shah and Shah, an architectural firm at Kolkata, has been hired by Maurya Builders of Mumbai to draw up a plan for a high rise building to be constructed by them in Ahmedabad, Gujarat. The place of supply is the place where the immovable property is intended to be located, i.e. Ahmedabad.*
3. *Kautilya, a Chartered Accountant, (New Delhi) travels to Mumbai for business and stays in a hotel there. The place of supply of accommodation service is the place where the hotel is located, i.e. Mumbai.*
4. *Goluram, a consulting engineer based in Mumbai, Maharashtra renders professional services in respect of an immovable property of Bholuram of Bangalore located in Australia. Since the immovable property is located outside India, the place of supply of service is the location of recipient, i.e. Bangalore and not the place where the immovable property is located (Australia)*

Immovable property/Boat/Vessel located in more than one State/Union territory



- **Sometimes immovable property may extend to more than one location, for Example, a railway line, a national highway or a bridge on a river may originate in one State and end in the other State or a house boat stay may traverse more than one State.**
- **In such cases, i.e. where the immovable property or boat or vessel is located in more than one State/ Union territory, the service is deemed to have been supplied in each of the respective States/Union territories, in proportion to the value for the services determined in terms of the contract or agreement entered into in this regard.**

Manner of determining proportionate value of service in the absence of a contract or agreement

- **In the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of services supplied in different States/Union territories (where the immovable property or boat or vessel is located) is computed in accordance with rule 4 of the IGST Rules as under:**

SNo.	Type of service in relation to immovable property	Factor which determines the proportionate value of service supplied in different States/Union territories
1	Service provided by way of lodging accommodation by hotel, inn, guest house etc. and its ancillary services (other than the cases where such property is a single property located in 2 or more contiguous States/ Union territories or both)	Number of nights stayed in such property 

NOTES

2	All other services provided in relation to immovable property including services by way of accommodation in any immovable property for organizing any marriage or reception etc. and in cases of supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called where such property is a single property located in 2 or more contiguous States or/and UT ancillary to services mentioned above	Area of the immovable property lying in each State/ Union territories
3	Services by way of lodging accommodation by a house boat or vessel and its ancillary services	Time spent by the boat or vessel in each such State/ UT, to be determined on the basis of declaration made by the service provider 

Example

1. ***Lodging accommodation by hotel/inn/guest house etc. and ancillary services excluding the property located in 2 or more contiguous States/UT or both***
   Dondrila Hotel chain charges a consolidated sum of ₹ 30,000/- for stay in its two establishments in Delhi and Agra, where the stay in Delhi is for 2 nights and the stay in Agra is for 1 night. The place of supply in this case is both Delhi and Uttar Pradesh and the service shall be deemed to have been provided in Delhi and Uttar Pradesh in the ratio of 2:1 respectively. The value of services provided will thus be apportioned as ₹ 20,000/- in Delhi and ₹ 10,000/- in Uttar Pradesh.

2. ***Other services provided in relation to immovable property***
   There is a piece of land of area 20,000 square feet which is partly in State S1 say 12,000 square feet and partly in State S2, say 8000 square feet. Site preparation work has been entrusted to Munna Constructions. The ratio of land in the two States works out to 12:8 or 3:2 (simplified). The place of supply is in both S1 and S2. The service shall be deemed to have been provided in the ratio of 12:8 or 3:2 (simplified)in the States S1 and S2 respectively. The value of the service shall be accordingly apportioned between the States.
3. ***Lodging accommodation by a house boat or vessel and its ancillary services***
   A company C provides the service of 24 hours accommodation in a houseboat, which will transit both in Kerala and Karnataka in as much as the guests board the house

NOTES

boat in Kerala and stay there for 22 hours but it also moves into Karnataka for 2 hours (as declared by the service provider). The place of supply of this service is in the States of Kerala and Karnataka. The service shall be deemed to have been provided in the ratio of 22:2 or 11:1 (simplified)in the States of Kerala and Karnataka, respectively. The value of the service shall be accordingly apportioned between the States.

Restaurant and catering service, personal grooming, fitness, beauty and health services [Section 12(4)]

The place of supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery is the location where such services are actually performed





Example

1. *Mr. Dadlani, a businessman from Hyderabad dines in a restaurant at Mumbai while on a business trip. The place of supply of restaurant service is the location where such service is performed, i.e. Mumbai.*
2. *Timmy Ferreira, a makeup artist at Kolkata, goes to Jaipur, Rajasthan for doing the makeup of Ms. Simran Kapoor, a Bollywood actress based in Mumbai. The place of supply is the location where such service is performed, i.e. Jaipur.*

Training and performance appraisal services [Section 12(5)]



- **In B2B supply, i.e. where the recipient of service is a registered person, the place of supply is the location of such person.**
- **in case of B2C supply, i.e. where the recipient of service is unregistered, the place of supply is the place where the service is actually performed**

Example

Mr. Suresh (unregistered person based in Noida) signs up with Excellent Linguistics (New Delhi) for receiving training on English speaking at their New Delhi Centre. Since the recipient is unregistered, the place of supply is the location where services are provided, i.e. New Delhi.

NOTES

Services by way of admission to events/amusement park/other places [Section 12(6)]



The place of supply of following services-

a) services provided by way of admission to
   - cultural,
   - Sporting ,
   - educational,
   - scientific,
   - entertainment &
   - artistic event



b) services provided by way of admission to amusement park or any other place

c) services ancillary to the above-mentioned services is the place where the event is actually held or where the park or such other place is located.

Example

1. *Virubhai Virani, a resident of Ghaziabad, Uttar Pradesh, buys a ticket for a circus organized at Gurugram, Haryana by a circus company based in New Delhi. The place of supply is the location where the circus is held, i.e. Gurugram.*
2. *Manasvi of New Delhi buys a ticket for an amusement park located in Noida, Uttar Pradesh. The place of the supply is the location where the park is located, i.e. Noida.*

Organization of events [Section 12(7)]

- When such service is provided to a registered person, the place of supply is location of recipient.
- When it is provided to an unregistered person, the place of supply is the location where the event is actually held and if the event is held outside India, the place of supply is the location of recipient.
- The event can be a cultural, artistic, sporting, scientific, educational or entertainment event. It can also be a conference, fair, exhibition, celebration or other similar event.
- Place of supply of services ancillary to organization of such type of events or assigning of sponsorship to such events is also determined in the manner described above

Example

1. *Mega Events, an event management company at New Delhi, organizes an award function for Shah Diamond Merchants of Ahmedabad (registered in Gujarat), at Mumbai. Since the recipient is a registered person, the place of supply is the location of the recipient, i.e. Ahmedabad.*
2. *Mega Events, an event management company at New Delhi, organizes an award function for Shah Diamond Merchants of Ahmedabad (registered in Gujarat), in Mauritius. Since the recipient is a registered person, the place of supply is the location of the recipient, i.e. Ahmedabad.*

NOTES

Event held in more than one State/Union territory

- If the event is held in more than one State/UT and a consolidated amount is charged for services relating to such event, the place of supply of such services is deemed to be in each of the respective States/UTs in proportion to the value for services determined in terms of the contract or agreement entered into in this regard.
- The above provision is applicable only when the recipient is unregistered, as for a registered recipient, the place of supply is the location of such recipient.

Manner of determining proportionate value of service in the absence of a contract or agreement

- In the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of services made in different States/Union territories (where the event is held) is computed in accordance with rule 5 of the IGST Rules by the application of generally accepted accounting principles.

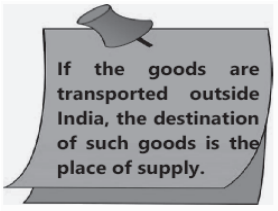
Example

An event management company - Moonlight Events Private Limited - has to organize some promotional events in States S1 and S2 for a recipient Mr. Atmaram (unregistered). 3 events are to be organized in S1 and 2 in S2. They charge a consolidated amount of ₹ 10,00,000 from Mr. Atmaram.

The place of supply of this service is in both the States S1 and S2. Say the proportion arrived at by the application of generally accepted accounting principles is 3:2. The service shall be deemed to have been provided in the ratio 3:2 in S1 and S2 respectively. The value of services provided will thus be apportioned as ₹ 6,00,000/- in S1 and ₹ 4,00,000/- in S2

Transportation of goods including mail or courier [Section 12(8)]

The place of supply of services by way of transportation of goods, including by mail or courier, etc. provided to a registered person, is the location of such person.
However, where such services are provided to an unregistered person, the place of supply is the location at which such goods are handed over for their transportation.









Example

1. *M/s Sukhiram Pvt. Ltd. is a registered company in New Delhi. It sends its courier to Pune through M/s Brue Air Courier Service. The recipient being registered person, the place of supply is the location of recipient, i.e. New Delhi.*

NOTES

2. *Mr. Bindisaar, an unregistered person, of New Delhi sends a courier to his brother in Amritsar, Punjab. The recipient being unregistered person, the place of supply is the location where goods are handed over for their transportation, i.e. New Delhi.*
3. *Pinelaps Pvt. Ltd., a Goods Transportation Agency based in Kanpur, Uttar Pradesh, is hired by Hezal Enterprises (registered supplier in Kanpur) to transport its consignment of goods to a buyer in New Delhi. The recipient being registered, the place of supply is the location of recipient, i.e. Kanpur.*
4. *Sukhwinder Transports Pvt. Ltd., a Goods Transportation Agency based in Noida, Uttar Pradesh, is hired by Chhaya Trade Links (registered supplier in New Delhi) to transport its consignment of goods to a buyer in Kanpur, Uttar Pradesh. The recipient being registered, the place of supply is the location of recipient, i.e. New Delhi.*
5. *Mr. Srikant, a manager in a Bank, is transferred from Bareilly, Uttar Pradesh to Bhopal, Madhya Pradesh. Mr. Srikant's family is stationed in Kanpur, Uttar Pradeh. He hires Goel Carriers of Lucknow, Uttar Pradesh (registered in Uttar Pradesh), to transport his household goods from Kanpur to Bhopal. The recipient being unregistered person, the place of supply is the location where goods are handed over for their transportation, i.e. Kanpur.*

Passenger transportation service [Section 12(9)]

Nature of Supply	Place of Supply	
	Recipient is registered	Recipient is unregistered
Passenger transportation	Location of the recipient	Location where the passenger embarks on the conveyance for a continuous journey [See definition]
Issue of right to passage for future use and the point of boarding not known at the time of issue of right to passage	Location of the recipient	(a) If the address of the unregistered person is available in the records of the supplier, the location of such unregistered person. (b) In other cases, the location of the supplier of services

The return journey is treated as a separate journey, even if the tickets for onward and return journey are issued at the same time.

Example



1. *Mr. Amar (registered person in New Delhi) travels from Mumbai to Bangalore in Air jet flight. Mr. Amar has bought the tickets for the journey from Air jet's office registered in New Delhi. The place of supply is the location of recipient, i.e. New Delhi.*
2. *Mr. Subramanian (unregistered person in Chennai) has come to Delhi on a vacation. He buys pre-paid Delhi Metro Card from Delhi Metro (New Delhi) for hassle free commute in the National Capital Region. Recipient being unregistered person, the place of*

NOTES

supply is the address of Mr. Subramanian, i.e. Chennai. If address of Mr. Subramanian is not available with the Delhi Metro, the place of supply will be the location of the supplier of services, i.e. ***New Delhi.***

3. *Mr. Shyam, an unregistered person, based in Gurugram, Haryana books a two-way air journey ticket from New Delhi to Mumbai on 5th December. He leaves New Delhi on 10th December in a late-night flight and lands in Mumbai the next day. He leaves Mumbai on 14th December in a morning flight and lands in New Delhi the same day. The return journey is treated as a separate journey, even if the tickets for onward and return journey are issued at the same time. Thus, being an unregistered person, the place of supply for the outward and return journeys are the locations where the unregistered person embarks on the conveyance for the continuous journey, i.e. New Delhi and Mumbai respectively*
4. *Examples of issue of right to passage for future use-point of boarding not known at the time of issue of right*
   a. *An airline may issue seasonal tickets, containing say 10 vouchers which could be used for travel between any two locations in the country*
   b. *The card issued by New Delhi metro could be used by a person located in Noida, or New Delhi or Faridabad, without the New Delhi metro being able to distinguish the location or journeys at the time of receipt of payment*



Service supplied on board a conveyance [Section 12(10)]

Nature of Supply	Place of Supply
Service supplied on board a conveyance	Location of the first scheduled point of departure of that conveyance for the journey

Note - Conveyance includes a vessel, an aircraft, a train or a motor vehicle.

Example

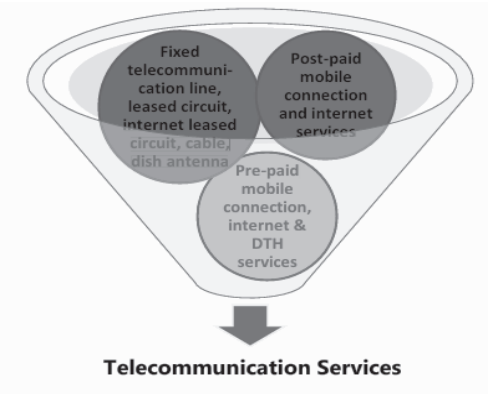
Mr. Raidhan is travelling from Delhi to Mumbai in an Air jet flight. He desires to watch an English movie during the journey by making the necessary payment. The place of supply of such service of showing 'movie on demand' is the first scheduled point of departure of the conveyance for the journey, i.e. ***Delhi.***

Telecommunication service [Section 12(11)]

Telecommunication services include the services of telephone, data transfer (internet), broadcasting, cable, DTH (Direct to home) services, etc.
Section 12(11) classifies the telecommunication services into 3 categories for the purpose of determining the place of supply as under:

NOTES

a) Services provided using a fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna
b) Post-paid mobile connection and post-paid internet services
c) Pre-paid mobile connection and prepaid internet and DTH services



The place of supply of the various types of telecommunication services is tabulated as under

Nature of Supply	Place of Supply
• Fixed telecommunication line • Leased circuits • Internet leased circuit • Cable or dish antenna	Location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of service
Post-paid mobile connection and internet services	a) Location of billing address of the recipient of services in the records of the supplier of services b) Location of the supplier of services, if the address is not available
Pre-paid mobile connection, internet services and DTH services (recharge coupon, vouchers, net pack etc.)	Address of the selling agent/ re-seller/ distributor at the time of supply
1. Services provided through 2. a selling agent 3. re-seller 4. distributor of subscriber identity module card or recharge voucher Services provided by any person to final subscriber	Location where such pre- payment is received or such vouchers are sold
Pre-paid services, the payment for which is made through internet banking/other electronic mode of payment	Location of the recipient of services in the records of the supplier of services
Other Cases	a) The address of the recipient as per the records of the supplier of services b) Location of the supplier of services, if the address is not available

NOTES

Example

1. *Mr. Samudragupta (Kolkata) gets a landline phone installed at his home in Kolkata from Skybel Ltd. The place of supply is the location where the telecommunication line is installed, i.e. Kolkata.*
2. *Mr. Rajkumar (Mumbai) gets a DTH installed at his home in his village in Uttar Pradesh from RT Ltd. The place of supply is the location where the DTH is installed, i.e. Uttar Pradesh.*
3. *Mr. Shastri (Mumbai) takes a post-paid mobile connection in Mumbai from Blubel Ltd. and gives his residence address at Mumbai as the address for billing with supplier. The place of supply is the location of billing address of the recipient, i.e. Mumbai.*
4. *Mr. George (New Delhi) gets his post-paid mobile bill (billing address New Delhi) paid online from Goa. The place of supply is the location of the billing address of the recipient, i.e. New Delhi.*
5. *Mr. Jhumroo (Pune) purchases a pre-paid card from a selling agent in Mumbai. The place of supply is the address of the selling agent or re-seller, i.e. Mumbai.*
6. *Mr. Freddy (Puducherry) gets a pre-paid mobile recharged from a grocery shop in Chennai. The place of supply is the location where such pre-payment is received, i.e. Chennai.*

Leased circuit is installed in more than one State/Union territory

If the leased circuit is installed in more than one State/Union territory and a consolidated amount is charged for supply of services, the place of supply is deemed to be in each of the respective States/ Union territories in proportion to the value for services determined in terms of the contract or agreement entered into in this regard.

Manner of determining proportionate value of service in the absence of a contract or agreement

In the absence of a contract or agreement between the supplier and recipient of services, the value of services supplied in different States/Union territories (where the leased circuit is installed) is determined in accordance with rule 6 of the IGST Rules in proportion to the number of points lying in each such State/ Union territory.

a) **The number of points in a circuit is determined in the following manner – In the case of a circuit between two points or places, the starting point or place of the circuit and the end point or place of the circuit will invariably constitute two points**

Example

Trinity Ltd. installs a leased circuit between the Delhi and Mumbai offices of Inertia Pvt. Ltd. The starting point of this circuit is in Delhi and the end point of the circuit is in Mumbai. Hence, one point of this circuit is in Delhi and another in Maharashtra. The place of supply of this service is in the Union territory of Delhi and the State of Maharashtra. The service shall be deemed to have been provided in the ratio of 1:1 in the Union territory of Delhi and the State of Maharashtra, respectively

NOTES

b) **Any intermediate point or place in the circuit will also constitute a point provided that the benefit of the leased circuit is also available at that intermediate point**

Example

1. ***Turbo Ltd. installs a leased circuit between the Chennai, Bengaluru and Mysuru offices of Rio Ltd. The starting point of this circuit is in Chennai and the end point of the circuit is in Mysuru. The circuit also connects Bengaluru. Hence, one point of this circuit is in Tamil Nadu and two points in Karnataka. The place of supply of this service is in the States of Tamil Nadu and Karnataka. The service shall be deemed to have been provided in the ratio of 1:2 in the States of Tamil Nadu and Karnataka, respectively.***
2. ***Sriram Ltd. installs a leased circuit between the Kolkata, Patna and Guwahati offices of Srishyam Ltd. There are 3 points in this circuit in Kolkata, Patna and Guwahati. One point each of this circuit is, therefore, in West Bengal, Bihar and Assam. The place of supply of this service is in the States of West Bengal, Bihar and Assam. The service shall be deemed to have been provided in the ratio of 1:1:1 in the States of West Bengal, Bihar and Assam, respectively.***

Financial and stock broking services [Section 12(12)]





The place of supply of banking and other financial services, including stock broking services to any person is the location of the recipient of services in the records of the supplier of services.
However, if the location of recipient of services is not available in the records of the supplier, the place of supply is the location of the supplier of services.

Example

1. ***Mr. Debdas (Chennai) buys shares from a broker in BSE (Mumbai). The place of supply is the location of the recipient of services in the records of the supplier, i.e. Chennai.***
2. ***Mr. Arihant (New Delhi) withdraws money from Best Bank's ATM in Amritsar. Mr. Arihant has crossed his limit of free ATM withdrawals. The place of supply is the location of the recipient of services in the records of the supplier, i.e. New Delhi.***
3. ***Mr. Rishabh from Varanasi, Uttar Pradesh, visits a bank registered in New Delhi to get a demand draft made. Mr. Rishabh does not have any account with the said bank. Therefore, since the location of recipient is not available in the records of the supplier, the place of supply is the location of the supplier of services, i.e. New Delhi.***

Insurance services [Section 12(13)]



The place of supply of insurance services is the location of recipient when provided to a registered recipient. If such services are provided to a person other than a registered person, the place of supply is the location of the recipient of services in the records of the supplier of services.

NOTES

Example

1. *Mr. Shantaram, CEO of Shaurya Ltd., Mumbai (a company registered in Maharashtra) buys insurance cover for the inventory stored in company's factory located at Mumbai, from Excellent Insurers, Chennai (registered in Tamil Nadu). The place of supply is the location of the registered recipient, i.e. Mumbai.*
2. *Ms. Barbie (unregistered resident of Kolkata) goes to her native place Patna, Bihar and buys a medical insurance policy for her parents there from Safe Insurers, Patna (registered in Bihar). The place of supply is the location of the recipient of services in the records of the supplier, i.e. Patna.*

Advertisement service to the Government [Section 12(14)]

Nature of Supply	Place of Supply
Advertisement service to the Central Government/ State Government/ Statutory body/ Local authority meant for the State/Union territory identified in contract or agreement	Each of such States/ Union advertisement broadcasted/run/ played/ disseminated

The value of such supplies specific to each State/Union territory is in proportion to the amount attributable to the services provided by way of dissemination in the respective States/Union territories determined in terms of the contract or agreement entered into in this regard.

Manner of determining proportionate value of service in the absence of a contract or agreement

S. No.	Type of advertisement	Value of service attributable to dissemination in different States/Union territories where the advertisement is broadcasted/ run /played/ disseminated
1.	Advertisements in newspapers and publications	Amount payable for publishing an advertisement in all the editions of a newspaper or publication, which are published in each State/UT
2.	Advertisements through printed material like pamphlets, leaflets, diaries, calendars, T- shirts, etc.	Amount payable for the distribution of a specific number of such material in each State/UT
3.	Advertisements in hoardings (other than those on trains)	Amount payable for the hoardings located in each State/ UT
4.	Advertisements on trains	Amount attributable to each State/UT calculated in the ratio of length of the railway track in each of such State/UT, for that train

NOTES

5.	Advertisements on the back of utility bills of oil and gas companies, etc.	Amount payable to each State/UT for the advertisements on bills pertaining to consumers having billing addresses in each of such State/UT
6.	Advertisements on railway tickets	Amount attributable to each State/UT calculated in the ratio of number of Railway Stations in each of such State/UT
7.	Advertisements on radio stations	Amount payable to such radio station, which by virtue of its name is part of each State/UT
8.	Advertisement on television channels	Amount attributable to each State/UT calculated basis the viewership of such channel in each of such State/ UT which shall be derived as under. a) Viewership can be ascertained from the channel viewership figures published by the Broadcast Audience Research Council. b) Figures for the last week of a given quarter is used for calculating viewership for the succeeding quarter. c) Where the channel viewership figures relate to a region comprising of more than one State/UT, the viewership figures for a State/UT of that region, is calculated in ratio of the populations of that State/UT, as determined in the latest Census. d) The ratio of the viewership figures for each State/UT so calculated, when applied to the amount payable for the service, shall represent the portion of the value attributable to the dissemination in that State/UT
9.	Advertisements in cinema halls	Amount payable to a cinema hall or screens in a multiplex in each State/ Union territory.

NOTES

10.	Advertisements on internet It is deemed that such service is provided all over India.	Amount attributable to each State/UT calculated basis the internet subscribers in each of such State/UT which shall be derived in the following manner: a) Internet subscribers can be ascertained from the internet subscriber figures published by the Telecom Regulatory Authority of India (TRAI). b) Figures for the last quarter of a given financial year will be used for calculating the number of internet subscribers for the succeeding financial year. c) Where the internet subscriber figures relate to a region comprising of more than one State/UT, the State/UT of that region shall be calculated in the ratio of the populations of that State/UT, determined in the latest census. d) The ratio of the subscriber figures for each State or UT so calculated, when applied to the amount payable for the service, shall represent the portion of the value attributable to the dissemination in that State or UT.
11.	Advertisements through SMS	Amount attributable to each State/UT calculated on the basis of the telecom subscribers in each of such State/ UT. a) Telecom subscribers in a telecom circle can be ascertained from the telecom subscribers figures published by the TRAI. Figures for a given quarter will be used for calculating the subscribers for the succeeding quarter. b) Where such figures relate to a telecom circle comprising of more than one State/UT, the subscriber figures for that State/UT shall be calculated in the ratio of the populations of that State/ UT , as determined in the latest census.

NOTES

Example

1. Advertisements in newspapers and publications

- **ABC is a government agency which deals with the all the advertisement and publicity of the Government. It has various wings dealing with various types of publicity. In furtherance thereof, it issues release orders to various agencies and entities.**
- **These agencies and entities thereafter provide the service and then issue invoices to ABC indicating the amount to be paid by them. ABC issues a release order to a newspaper for an advertisement on 'Beti bachao beti padhao', to be published in the newspaper DEF (whose head office is in Delhi) for the editions of Delhi, Pune, Mumbai, Lucknow and Jaipur.**



- **The place of supply of this service shall be in the Union territory of Delhi, and the States of Maharashtra, Uttar Pradesh and Rajasthan. The amounts payable to the Pune and Mumbai editions would constitute the proportion of value for the State of Maharashtra which is attributable to the dissemination in Maharashtra. Likewise, the amount payable to the Delhi, Lucknow and Jaipur editions would constitute the proportion of value attributable to the dissemination in the Union territory of Delhi and States of Uttar Pradesh and Rajasthan respectively. DEF should issue separate State-wise and Union territory-wise invoices based on the editions.**

2. Advertisements through printed material like pamphlets, leaflets, diaries, calendars, T-shirts, etc.

- **As a part of the campaign 'Swachh Bharat', ABC has engaged a company GH for printing of 1,00,000 pamphlets (at a total cost of ₹ 1,00,000) to be distributed in the States of Haryana, Uttar Pradesh and Rajasthan. In such a case, ABC should ascertain the breakup of the pamphlets to be distributed in each of the three States, i.e. Haryana, Uttar Pradesh and Rajasthan, from the Ministry or department concerned at the time of giving the print order. Let us assume that this breakup is 20,000, 50,000 and 30,000 respectively.**



- **The place of supply of this service is in Haryana, Uttar Pradesh and Rajasthan. The ratio of this breakup, i.e. 2:5:3 will form the basis of value attributable to the dissemination in each of the three States. Separate invoices will have to be issued State-wise by GH to ABC indicating the value pertaining to that State, i.e. ₹ 20,000 - Haryana, ₹ 50,000 - Uttar Pradesh and ₹ 30,000 – Rajasthan**

3. Advertisements in hoardings (other than those on trains)

- **ABC as part of the campaign 'Saakshar Bharat' has engaged a firm IJ for putting up hoardings near the Airports in the 4 metros, i.e. Delhi, Mumbai, Chennai and Kolkata. The release order issued by ABC to IJ will have the city-wise, location-wise breakup of the amount payable for such hoardings.**

NOTES

- The place of supply of this service is in the **Union territory of Delhi and the States of Maharashtra, Tamil Nadu and West Bengal.** In such a case, the amount actually paid to IJ for the hoardings in each of the 4 metros will constitute the value attributable to the dissemination in the Union territory of Delhi and the States of Maharashtra, Tamil Nadu and West Bengal respectively. Separate invoices will have to be issued State-wise and Union territory-wise by IJ to ABC indicating the value pertaining to that State/UT



4. Advertisements on trains

- ABC places an order on KL for advertisements to be placed on a train with regard to the **'Janani Suraksha Yojana'**. The length of a track in a State will vary from train to train. Thus, for advertisements to be placed on the Hazrat Nizamuddin-Vasco Da Gama Goa Express which runs through Delhi, Haryana, Uttar Pradesh, Madhya Pradesh, Maharashtra, Karnataka and Goa, KL may ascertain the total length of the track from Hazrat Nizamuddin to Vasco Da Gama as well as the length of the track in each of these States and Union territory from the website www. indianrail.gov.in.
- The place of supply of this service is in the **Union territory of Delhi and States of Haryana, Uttar Pradesh, Madhya Pradesh, Maharashtra Karnataka and Goa**. The value of the supply in each of these States and Union territory attributable to the dissemination in these States will be in the ratio of the length of the track in each of these States and Union territory. If this ratio works out to say **0.5:0.5:2:2:3:3:1**, and the amount to be paid to KL is Rs. 1,20,000, then KL will have to calculate the State-wise and Union territory wise breakup of the value of the service, which will be in the ratio of the length of the track in each State and Union territory.



- In the given **Example**, the State-wise and Union territory-wise breakup works out to Delhi (₹ 5,000), Haryana (₹ 5,000), Uttar Pradesh (₹ 20,000), Madhya Pradesh (₹ 20,000), Maharashtra (₹ 30,000), Karnataka (₹ 30,000) and Goa (₹ 10,000). Separate invoices will have to be issued State-wise and Union territory-wise by KL to ABC indicating the value pertaining to that State or Union territory.



5. Advertisements on railway tickets

- ABC has issued a release order to MN for display of advertisements relating to the **'Ujjwala' scheme** on the railway tickets that are sold from all the Stations in the States of Madhya Pradesh and Chattisgarh.

NOTES

- The place of supply of this service is in Madhya Pradesh and Chattisgarh. The value of advertisement service attributable to these two States will be in the ratio of the number of railway stations in each State as ascertained from the Railways.
- Let us assume that this ratio is 713:251 and the total bill is ₹ 9,640. The breakup of the amount between Madhya Pradesh and Chattisgarh in this ratio of 713:251 works out to ₹ 7,130 and ₹ 2,510 respectively.
- Separate invoices will have to be issued State-wise by MN to ABC indicating the value pertaining to that state

6. Advertisements on radio stations

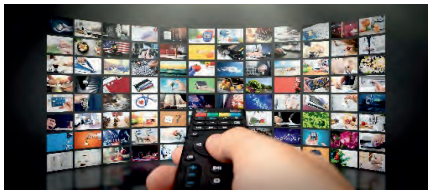
- For an advertisement on 'Pradhan Mantri Ujjwala Yojana', to be broadcast on a FM radio station OP, for the radio stations of OP Kolkata, OP Bhubaneswar, OP Patna, OP Ranchi and OP Delhi, the release order issued by ABC will show the breakup of the amount which is to be paid to each of these radio stations
- The place of supply of this service is in West Bengal, Odisha, Bihar, Jharkhand and Delhi. The place of supply of OP Delhi is in Delhi even though the studio may be physically located in another State.
- Separate invoices will have to be issued State-wise and Union territory-wise by MN to ABC based on the value pertaining to each State or Union territory.

7. Advertisement on television channels

ABC issues a release order with QR channel for telecasting an advertisement relating to the 'Pradhan Mantri Kaushal Vikas Yojana' in the month of November, 2017. In the first phase, this will be telecast in the Union territory of Delhi, States of Uttar Pradesh, Uttarakhand, Bihar and Jharkhand.

The place of supply of this service is in Delhi, Uttar Pradesh, Uttarakhand, Bihar and Jharkhand. In order to calculate the value of supply attributable to Delhi, Uttar Pradesh, Uttarakhand, Bihar and Jharkhand, QR has to proceed as under —

a) QR will ascertain the viewership figures for their channel in the last week of September 2017 from the Broadcast Audience Research Council. Let us assume it is 1,00,000 for Delhi and 2,00,000 for the region comprising of Uttar Pradesh and Uttarakhand and 1,00,000 for the region comprising of Bihar and Jharkhand



b) Since the Broadcast Audience Research Council clubs Uttar Pradesh and Uttarakhand into one region and Bihar and Jharkhand into another region, QR will ascertain the population figures for Uttar Pradesh, Uttarakhand, Bihar and Jharkhand from the latest census.

c) By applying the ratio of the populations of Uttar Pradesh and Uttarakhand, as so ascertained, to the Broadcast Audience Research Council viewership figures for their channel for this region, the viewership figures for Uttar Pradesh and

NOTES

Uttarakhand can be calculated. Let us assume that the ratio of the populations of Uttar Pradesh and Uttarakhand works out to 9:1. Hence, viewership figures for Uttar Pradesh and Uttarakhand work out to 1,80,000 and 20,000 respectively.

d) In a similar manner, the breakup of the viewership figures for Bihar and Jharkhand can be calculated. Let us assume that the ratio of populations is 4:1 and when this is applied to the viewership figure of 1,00,000 for this region, the viewership figure for Bihar and Jharkhand works out to 80,000 and 20,000 respectively.

e) The viewership figure for each State works out to Delhi(1,00,000), Uttar Pradesh (1,80,000), Uttarakhand (20,000), Bihar (80,000) and Jharkhand (20,000). The ratio is thus 10:18:2:8:2 or 5:9:1:4:1 (simplification).

f) This ratio has to be applied when indicating the breakup of the amount pertaining to each State. Thus, if the total amount payable to QR by ABC is ₹ 20,00,000, the State-wise breakup is ₹ 5,00,000 (Delhi), ₹ 9,00,000 (Uttar Pradesh) ₹ 1,00,000 (Uttarakhand), ₹ 4,00,000 (Bihar) and ₹ 1,00,000 (Jharkhand). Separate invoices will have to be issued State-wise and Union territory-wise by QR to ABC indicating the value pertaining to that State or Union territory

8. Advertisements in cinema halls

- ABC commissions ST for an advertisement on 'Pradhan Mantri Awas Yojana' to be displayed in the cinema halls in Chennai and Hyderabad.
- The place of supply of this service is in the States of Tamil Nadu and Telangana. The amount actually paid to the cinema hall or screens in a multiplex, in Tamil Nadu and Telangana as the case may be, is the value of advertisement service in Tamil Nadu and Telangana respectively. Separate invoices will have to be issued State-wise and Union territory-wise by ST to ABC indicating the value pertaining to that State



9. Advertisements on internet

- ABC issues a release order to WX for a campaign over internet regarding linking Aadhaar with one's bank account and mobile number. WX runs this campaign over certain websites.
- In order to ascertain the State-wise breakup of the value of this service which is to be reflected in the invoice issued by WX to ABC, WX has to first refer to the TRAI figures for quarter ending March, 2017. These figures show the service area wise internet subscribers.
- There are 22 service areas. Some relate to individual States some to two or more States and some to part of one State and another complete State. Some of these areas are metropolitan areas.

NOTES

- In order to calculate the State-wise breakup, first the State-wise breakup of the number of internet subscribers is arrived at. Once the actual number of subscribers for each State has been determined, the second step for WX involves calculating the State-wise ratio of internet subscribers.
- Let us assume that this works out to 8:1:2 and so on for Andhra Pradesh, Arunachal Pradesh, Assam and so on. The third step for WX will be to apply these ratios to the total amount payable to WX so as to arrive at the value attributable to each State. Separate invoices will have to be issued State-wise and Union territory-wise by WX to ABC indicating the value pertaining to that State or Union territory

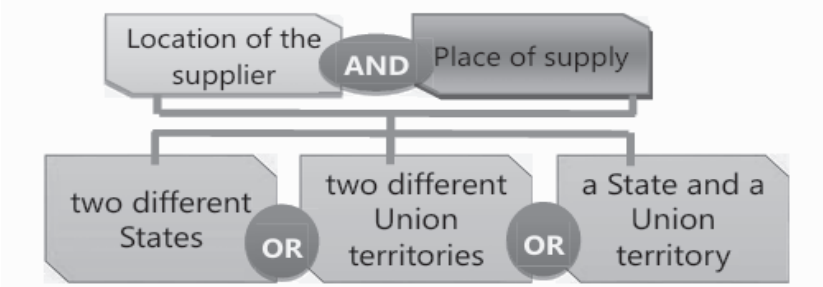


INTER-STATE SUPPLY [SECTION 7 OF THE IGST ACT]

This section provides as to when the supplies of goods and/or services shall be treated as Supply in the course of inter-State trade/commerce.

a) **'SUPPLY OF GOODS'** in the course of inter-State trade/commerce
[Section 7(1) of the IGST Act]
Supply of goods shall be considered as supply of goods in course of inter-State trade or commerce where the location of the supplier and the place of supply are in :
1. two different States;
2. two different Union territories; or
3. a State and a Union territory,

b) **'SUPPLY OF SERVICES'** in the course of inter-State trade/commerce
[Section 7(3) of the IGST Act]
Supply of services shall be considered as supply of services in course of inter-State trade or commerce where the location of the supplier and the place of supply are in–
1. two different States;
2. two different Union territories; or
3. a State and a Union territory,



c) **Supply of goods or services or both** the course of inter-State trade or commerce
[Section 7(5)(c) of the IGST Act (Residuary Clause)]

NOTES

It stipulates that supply of goods and/or services in the taxable territory, not being an intra State supply & not covered elsewhere in this section 7(5) are considered as inter-State supplies

INTRA-STATE SUPPLY [SECTION 8 OF THE IGST ACT]

Supply of goods/services where the location of the supplier and the place of supply of goods/services are in the same State or same Union territory shall be treated as intra-State supply. Such supplies are eligible to CGST and SGST/UTGST

Establishments of distinct persons

- Establishments of same entity shall be considered as establishments of distinct persons where a person has:

a) an establishment in a State or Union territory and any other establishment outside that State or Union territory; or

b) an establishment in a State or Union territory and any other establishment registered within that State or Union territory .

- Thus, any supply between any of the above establishments shall be treated as supply between establishments of distinct persons.
- Further, a person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory

Supplies in territorial waters [section 9 of IGST Act]

- This section determines the location of supplier and/or the place of supply when such location of supplier and/or the place of supply is in territorial waters. Before that, let us understand the term "territorial waters"
- As per United Nations Convention on the Law of the Sea, the term 'territorial sea' is a belt of coastal waters extending at most 12 nautical miles from the baseline of a coastal state. Section 3(2) of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976 stipulates that the limit of territorial waters is the line every point of which is at a distance of 12 nautical miles from the nearest point of the appropriate base line.
- Section 9 of the IGST Act provides that where the location of the supplier is in the territorial waters, it shall be deemed that location of such supplier is in the coastal State or Union Territory where the nearest point of the appropriate baseline is located.
- Similarly, in case where the place of supply is in territorial waters, the place of supply shall be deemed to be in the coastal State or Union Territory where the nearest point of the appropriate baseline is located.

NOTES

Question Bank

Illustration 01

In case of a domestic supply, what is the place of supply where goods are removed?

Solution

As per section 10(1)(a), the place of supply of goods is the location of the goods at the time at which the movement of goods terminates for delivery to the recipient.

Illustration 02

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

Solution

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

Illustration 03

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

Solution

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

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

Illustration 04

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

Solution

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

In the absence of a contract or agreement between the supplier and recipient of services in this regard, the proportionate value of services supplied in different States/Union territories (where the immovable property is located) is computed on the basis of the area of the immovable property lying in each State/ Union territories [Rule 4 of the IGST Rules].

Illustration 05

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

NOTES

Solution

In case of an event, if the recipient of service is registered, the place of supply of services for organizing the event is the location of such person. However, if the recipient is not registered, the place of supply is the place where event is held.
Since the event is being held in multiple states and a consolidated amount is charged for such services, the place of supply will be deemed to be in each State in proportion to the value for services determined in terms of the contract or agreement entered into in this regard [Explanation to section 12(7)].
In the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of services made in each State (where the event is held) will be computed in accordance with rule 5 of the IGST Rules by the application of generally accepted accounting principles.

Illustration 06

What is the place of supply of services by way of transportation of goods, including by mail or courier when both the supplier and the recipient of the services are located in India?

Solution

If the recipient is registered, the location of such person is the place of supply. However, if the recipient is not registered, the place of supply is the place where the goods are handed over for transportation. [Section 12(8)].

Illustration 07

What will be the place of supply of passenger transportation service, if a person travels from Mumbai to Delhi and back to Mumbai?

Solution

If the person is registered, the place of supply of passenger transportation service will be the location of recipient. If the person is not registered, the place of supply for the forward journey from Mumbai to Delhi will be Mumbai, the place where he embarks [Section 12(9)].
However, for the return journey, the place of supply will be Delhi as the return journey has to be treated as separate journey [Explanation to section 12(9)].

Illustration 08

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

Solution

The location of supplier of mobile services cannot be the place of supply as the mobile companies are providing services in multiple states and many of these services are inter-state. The consumption principle will be broken if the location of supplier is taken as place of supply and all the revenue may go to a few states where the suppliers are located.
The place of supply for mobile connection would depend on whether the connection is on postpaid or prepaid basis. In case of postpaid connections, the place of supply is the location of billing address of the recipient of services on the record of supplier of services.
In case of pre-paid connections, if the service is supplied:-

NOTES

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

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

Illustration 09

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

Solution

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

Illustration 10

An unregistered person from Gurugram travels by Air India flight from Mumbai to Delhi and gets his travel insurance done in Mumbai. What is the place of supply of insurance services?

Solution

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

Illustration 11

Examine the following independent cases and determine the place of supply:

1. Mr. Joy, an unregistered person of Kolkata, West Bengal sends a courier through Kolkata, West Bengal based Mohan Courier Agency to his sister in Mumbai, Maharashtra.
2. Mr. Nitin, an unregistered person, resides at Rewa, Madhya Pradesh books a two way air journey ticket from Prayagraj, Uttar Pradesh to Jaipur, Rajasthan on 6 September and back. He leaves Prayagraj on 11 September in a morning flight and land in Jaipur the same day. He leaves Jaipur on 15 September in a late night flight and lands in Prayagraj the next day.
3. Rimjhim Pvt. Ltd, located at Lucknow, Uttar Pradesh, purchases a manufacturing machine from Manav Steel Industries Ltd., located at Jaipur, Rajasthan, for being installed in its factory located at Haridwar, Uttarakhand [PYQ May 24]

NOTES

Solution

1. The place of supply of services by way of transportation of goods by courier provided to an unregistered person is the location at which such goods are handed over for their transportation. Therefore, the place of supply, in the given case is Kolkata, West Bengal.
2. The place of supply of passenger transportation service to an unregistered person is place where the passenger embarks on the conveyance for a continuous journey wherein the return journey is treated as a separate journey, even if the tickets for onward and return journey is issued at the same time. Therefore, the place of supply for the outward and return journey are the locations where Mr. Nitin embarked on the conveyance for the continuous journey, i.e. Prayagraj, Uttar Pradesh for outward journey and Jaipur, Rajasthan, for return journey.
3. If the supply involves goods which are to be installed at site, the place of supply is the place of such installation. Therefore, the place of supply, in the given case is Haridwar, Uttarakhand.

Illustration 12

With reference to GST law, Determine the place of supply with reason in the following circumstances

Mizu Machine Ltd., registered in the State of Andhra Pradesh, supplied a machinery to Keyan Wind Farms Ltd., registered in the State of Karnataka. However, this machinery was assembled and installed at the wind mill of Keyan Wind Farms Ltd., which was located in the State of Tamilnadu. [RTP May 24]

Solution

Section 10(1)(d) of the IGST Act, 2017 provides that if the supply involves goods which are to be installed or assembled at site, the place of supply is the place of such installation or assembly.

Thus, the place of supply is the site of assembly of machine, i.e. Tamilnadu.

Illustration 13

Discuss briefly the place of supply of goods purchased over the counter in one State and transported to another State by the buyer [MTP May 24]

Solution

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

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

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

NOTES

Illustration 14

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

[MTP May 24 & MTP Sep 24]

Solution

In case of an event, if the recipient of service is registered, the place of supply of services for organizing the event is the location of such person. However, if the recipient is not registered, the place of supply is the place where event is held.
Since the event is being held in multiple states and a consolidated amount is charged for such services, the place of supply will be deemed to be in each State in proportion to the value for services determined in terms of the contract or agreement entered into in this regard.
In the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of services made in each State (where the event is held) will be computed in accordance with IGST Rules by the application of generally accepted accounting principles.

Illustration 15

With reference to GST law, Determine the place of supply with reasons in the following independent circumstances:-
Miss Kanika of Kolkata (West Bengal) visited to Jodhpur Law University (Rajasthan) and paid her college fees by purchasing a demand draft from a bank located in the University campus. Miss Kanika did not have any account with the bank.

[RTP May 24]

Solution

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

Illustration 16

Briefly examine the place of supply in the following independent cases.

(a) Ms. Shanti (unregistered resident of Gujarat) went to meet her parents at the native place Patna, Bihar and buys a medical insurance policy for her parents from an insurance company – MNT Insurers- of Patna (registered in Bihar). The location of the recipient of services in the records of the MNT Insurers is Patna.

(b) Lakhan Singh Transports Pvt. Ltd., a Goods Transportation Agency registered in Noida, Uttar Pradesh, is hired by Ram Trade Links (registered supplier in New Delhi) to transport its consignment of goods from its warehouse in Delhi to the house of a buyer located in Roorkee, Uttar Pradesh.

(c) Mr. Karan (Mumbai) takes a post-paid mobile connection in Mumbai from the service provider - Freesia Ltd. and gives his residence address at Mumbai as the address for billing with the said company [RTP Jan 2025]

NOTES

Solution

(a) The place of supply of insurance services provided to a person other than a registered person, be the location of the recipient of services on the records of the supplier of services. Thus, in the given case, the place of supply is the location of the recipient of services in the records of the supplier, i.e. Patna.

(b) The place of supply of services by way of transportation of goods, including by mail or courier to a registered person, is the location of such person. Thus, in the given case, the recipient being registered, the place of supply is the location of recipient, i.e. New Delhi.

(c) The place of supply of telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person in case of mobile connection for telecommunication and internet services provided on post-paid basis, be the location of billing address of the recipient of services on the record of the supplier of services. Thus, in the given case, the place of supply is the location of billing address of the recipient, i.e. Mumbai

Illustration 17

(i) Garima having its permanent residence in Bhavnagar, Gujarat purchased car from Kiara Motors of Jaipur, Rajasthan to take the advantage of lower registration charges and road tax. Garima took the delivery of the car from Jaipur and returned with car to her residence in Bhavnagar, Gujarat. Address of Garima recorded in the invoice issued by Kiara Motors mentions only the name of the State i.e. Gujarat. Garima is an unregistered person whereas Kiara Motors is a registered person under GST. Determine the place of supply for supply made by Kiara Motors to Garima.

(ii) Aakar Advertisement Agency, a registered person in Nagpur, Maharashtra, wants to display the products of its client's at most prominent places in different States. It took on rights to use the space on hoardings mounted on fixed surface attached to earth, situated in Udaipur, Rajasthan and in Gwalior, Madhya Pradesh from G.N. Enterprise registered in State of Chhattisgarh. Aakar Advertisement Agency has an exclusive right to use the space and also to manage the advertisements on the hoardings.
What will be the place of supply of services provided by the G.N. Enterprise to the Aakar Advertisement Agency?

[PYQ Sep 2024]

Solution

(i) Where the supply of goods is made to an unregistered person, the place of supply is the location as per the address of the unregistered person recorded in the invoice. Further, recording of the name of the State of the unregistered person in the invoice is deemed to be the recording of the address of the unregistered person. Thus, place of supply is Bhavnagar, Gujarat.

(ii) The hoarding/structure erected on the land should be considered as immovable structure/fixture as it has been embedded in earth.
Therefore, the place of supply of service provided by way of supply of sale of space on hoarding/ structure for advertising or for grant of rights to use the hoarding/ structure for advertising is the location where such hoarding/ structure is located.

NOTES

The place of supply of any service provided by way of supply/sale of space on an immovable property or grant of rights to use an immovable property is the location at which the immovable property is located, i.e. the location where such hoarding/ structure is located.

Thus, for hoarding located in Udaipur, place of supply is Udaipur, Rajasthan and for hoarding located in Gwalior, place of supply is Gwalior, Madhya Pradesh.

Illustration 18

An unregistered person Mr. Pappan from Faridabad travels by Air India flight from Pune to Delhi and gets his travel insurance done in Pune. What is the place of supply of insurance services?

[MTP JAN 2025]

Solution

section 12 of IGST Act, 2017 deals with the provisions of place of supply of services, where location of supplier of service and the location of the recipient of service is in India.

In accordance with sub-section (13) of section 12 of IGST Act, 2017, The place of supply of insurance services shall:-

(a) to a registered person, be the location of such person;

(b) to a person other than a registered person, be the location of the recipient of services on the records of the supplier of services.

So, in the given case, when insurance service is provided to an unregistered person, Mr. Pappan, the location of the recipient of services on the records of the supplier of insurance services is the place of supply. So, Faridabad is the place of supply.

NOTES

Chapter 5: Exemption from GST

Section 2(47)

Exempt supply has been defined as supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax and includes non-taxable supply.

Section 2(78)

- Non-taxable supply means a supply of goods or services or both which is not leviable to tax under CGST Act or under the IGST Act. AL| HP-MAN
- Thus, under GST, a supply not leviable to tax is also included within the purview of 'exempt supply'. Power to grant exemption from GST has been granted vide section 11 of the CGST Act and vide section 6 of the IGST Act.

Section 11

- GST law empowers the Central Government or State Government as the case may be, on recommendation of the GST Council, grant exemption from tax.
- Exemption can be from the whole of the tax or part of the tax.
- It should be granted in public interest.
- Exemption can be granted to goods or services or both of any specified description, by way of issuance of notification:
  1. Absolutely [i.e. unconditional exemption; exemption is not subject to any conditions (mandatory in nature)] or
  2. Conditionally [i.e. exemption is subject to specified conditions].

Exemption may be granted by a special order in case of the circumstances of an exceptional nature.

Illustration 01

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

Solution

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

NOTES

Non-Recovery of GST based on general practice [Section 11A]

- Section 11A empowers the government to waive the recovery of GST that was not levied or was short-levied due to a generally prevalent practice in trade.
- This insertion aims to address situations where common trade practices led to unintentional GST non-compliance, providing a mechanism for the government to resolve such issues without penalizing businesses unduly.
- Section 11A also helps to ensure that businesses are not unduly burdened by retrospective tax demands based on practices that were widely accepted and followed within the industry.

List of services exempt from tax

Services related to charitable and religious activities

1. Services by an entity registered under section 12AA / 12AB of the Income-tax Act, 1961 by way of charitable activities. 'Charitable Activities' mean activities relating to



   A. Public health
   B. Advancement of religion, spirituality or yoga;
   C. Advancement of educational programmes/skill development relating to,-
      a) abandoned, orphaned or homeless children;
      b) physically or mentally abused and traumatized persons;
      c) prisoners; or
      d) persons over the age of 65 years residing in a rural area



   D. Preservation of environment

2. Services by a person by way of-
   1. conduct of any religious ceremony;
      Religious ceremonies are life-cycle rituals including special religious poojas conducted in terms of religious texts by a person so authorized by such religious texts. Occasions like birth, marriage, and death involve elaborate religious ceremonies
   2. Renting of precincts of a religious place
      renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section 12AA of the Income-tax Act, 1961 or a trust or an institution registered under section 10(23C)(v) of the Income-tax Act or a body or an authority covered under section 10(23BBA) of the said Income-tax Act.
      However, exemption shall not be available in following cases:

1. renting of rooms where charges are ₹1,000 or more per day;
2. renting of premises, community halls, kalyana mandapam or open area, and the like where charges are ₹10,000 or more per day;
3. renting of shops or other spaces for business or commerce where charges are ₹10,000 or more per month.

NOTES

3. Services by a specified organization in respect of a religious pilgrimage facilitated by the Government of India, under bilateral arrangement.

Specified organizations
• Kumaon Mandal Vikas Nigam Limited (KMVN), a Government of Uttarakhand Undertaking; → KAILASH MANSAROVAR — CHINA
• 'Haj Committee of India' or 'State Haj Committee including Joint State Committee'.

4. Services by way of training or coaching in-

- recreational activities relating to arts or culture, by an individual, or
- sports by charitable entities registered under section 12AA of the Income-tax Act.

Agriculture related services — Ratification

a) Services by way of loading, unloading, packing, storage or warehousing of rice.
b) Services by way of warehousing of minor forest produce.
c) Services by way of storage/warehousing of Agricultural produce, rice, cereals, pulses, fruits and vegetables.
d) Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of:
5. agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;
6. supply of farm labour;
7. processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;
8. renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;
9. loading, unloading, packing, storage or warehousing of agricultural produce;
10. agricultural extension services;
11. services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.

e) Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce.

> **Note :** Milling of paddy into rice cannot be considered as an intermediate process, therefore is not eligible for exemption

f) Services by way of artificial insemination of livestock (other than horses)

NOTES



g) Services by way of fumigation in a warehouse of agricultural produce — Now Taxable

h) Services supplied by electricity distribution utilities by way of construction, erection or commissioning, or installation of infrastructure for extending electricity distribution network upto the tube well of farmer for agriculture use.

i) Services provided by the National centre for cold chain development under the Ministry of Agriculture, Co-operation and Farmer's welfare by way of cold chain knowledge dissemination

Education services

Meaning Of Educational Institute: SAMAJHNA HAI

Educational institution means an institution providing services by way of,

a) pre-school education and education up to higher secondary school or equivalent;

b) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force; = Indian. → College/Universities.

Note: Education as a part of a prescribed curriculum for obtaining a qualification recognized by a law of a foreign country is not covered here.

c) education as a part of an approved vocational education course.

An approved vocational education course means

a course run by an ITI/ITC (Industrial Training Institute/Industrial Training Centre) (including Private ITIs) affiliated to the National Council for Vocational Training (NCVT) or State Council for Vocational Training (SCVT) offering courses in designated trades notified under the Apprentices Act, 1961

- Designated trade means any trade or occupation or any subject field in engineering or non-engineering or technology or any vocational course which the Central Government, after consultation with the Central Apprenticeship Council, may, by notification in the Official Gazette, specify as a designated trade for the purposes of Apprentices Act, 1961.
- It is important to note that the Central and State Educational Boards shall be treated as 'Educational Institution' for the limited purpose of providing services by way of conduct of examination to the students.

Services provided:

a) by an educational institution to its students, faculty and staff;

b) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee;

c) to an educational institution, by way of:

1. transportation of students, faculty and staff;
2. catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;
3. security or cleaning or house-keeping services performed in such educational institution;
4. services relating to admission to, or conduct of examination by, such institution;
5. supply of online educational journals or periodicals.

NOTES

However, nothing contained in sub-items (i), (ii) and (iii) of item (b) shall apply to an educational institution other than an institution providing services by way of pre-school education (including anganwadi) and education up to higher secondary school or equivalent.

Further, nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of:

- pre-school education and education up to higher secondary school or equivalent; or
- education as a part of an approved vocational education course.

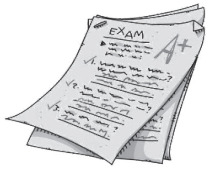
- IIMs provide various long duration programs (1 year or more) for which they award diploma/ degree certificate duly recommended by Board of Governors as per the power vested in them under the IIM Act, 2017. Therefore, it is clarified that services provided by Indian Institutes of Managements to their students- in all such long duration programs (one year or more) are exempt from levy of GST.
- IIMs also provide various short duration/short term programs (less than 1 year) for which they award participation certificate to the executives/professionals as they are considered as "participants" of the said programmes.
- These participation certificates are not any qualification recognized by law. Such participants are also not considered as students of IIM. Services provided by IIMs as an educational institution to such participants is not exempt from GST.
- Any authority, board or body set up by the Central Government or State Government (including National Testing Agency) for conduct of entrance examination for admission to educational institutions shall be treated as educational institution for the limited purpose of providing services by way of conduct of entrance examination for admission to educational institutions.

Other Points

1. Output services of lodging/boarding in hostels provided by such educational institutions which are providing pre-school education and education up to higher secondary school or equivalent or education leading to a qualification recognized by law, are fully exempt from GST.
2. Annual subscription/fees charged as lodging/boarding charges by such educational institutions from its students for hostel accommodation shall therefore, not attract GST
3. A course in a college which leads to dual qualification out of which if only one is recognized by law, would be a case of bundled supply, which is a mixed supply under GST. Hence such bundled supply shall be chargeable to tax at higher rate.
4. Any authority, board or body set up by the Central Government or State Government (including National Testing Agency) for conduct of entrance examination for admission to educational institutions shall be treated as educational institution for the limited purpose of providing services by way of conduct of entrance examination for admission to educational institutions.
5. The Central and State Educational Boards shall be treated as 'Educational Institution' for the limited purpose of providing services by way of conduct of examination to the students. In this regard, following is clarified:

NOTES

- GST is exempt on services provided by Central or State Boards (including the boards such as NBE – National Board Of Examination) by way of conduct of examination for the students, including conduct of entrance examination for admission to educational institution. Therefore, GST shall not apply to any fee or any amount charged by such Boards for conduct of such examinations including entrance examinations.
- GST is also exempt on input services relating to admission to, or conduct of examination, such as online testing service, result publication, printing of notification for examination, admit card and questions papers etc., when provided to such Boards.



- GST is applicable to other services provided by such Boards, namely of providing accreditation to an institution or to a professional [accreditation fee or registration fee such as fee for FMGE (Foreign Medical Graduate Examination) screening test so as to authorize them to provide their respective services.

6. Supply of food in a mess or canteen

- Educational institutions generally have mess facility for providing food to their students and staff. Such facility is either run by the institution/students themselves or outsourced to a third person.
- If the catering services is one of the services provided by an educational institution to its students, faculty and staff and the said educational institution is covered by the definition of 'educational institution' as given above, then the same is exempt.



- If the catering services, i.e., supply of food or drink in a mess or canteen, is provided by anyone other than the educational institution, i.e. the institution outsources the catering activity to an outside contractor, then it is a supply of service to the concerned educational institution by such outside caterer and attracts GST.
- However, said services when provided to an educational institution providing pre-school education or education up to higher secondary school or equivalent are exempt from tax.

7. Serving Of Food to Anganwadi — Pre-school SARKARI

An anganwadi, inter alia, provides pre-school non-formal education. Hence, anganwadi is covered by the definition of educational institution. Serving of food to anganwadi shall also be covered by said exemption, whether sponsored by government or through donation from corporates.

8. Entrance fee for conduct of entrance examination/fee for admission/issuance of migration certificate.

Services supplied by an educational institution by way of issuance of migration certificate to the leaving or ex-students are also covered by the exemption. Accordingly, such activities of educational institutions are also exempt.

NOTES

9. Educational institutes such as IITs, IIMs charge a fee from prospective employers like corporate houses/MNCs, who come to the institutes for recruiting candidates through campus interviews in relation to campus recruitments. Such services shall also be liable to tax.

Illustration 02

Indiana Engineering College, an educational institution, has conducted an entrance test examination for various courses run by it (for obtaining qualification(s) recognised by law for the time being in force) and charged entrance fees from the applicants. Determine whether Indiana Engineering College is liable to pay GST on the same.

Solution

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

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

Health care services (IMP) = Medical Services

a) Services by a veterinary clinic in relation to health care of animals or birds

b) Services by way of: → Hospital / Clinic / Nursing home

1. health care services by a clinical establishment, an authorized medical practitioner or paramedics; – Nurses. Doctor
2. services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above. i.e. animal / bird.



- "Health care services" means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.
- Recognized system of medicine means Allopathy/Ayurveda/Homeopathy/Naturopathy/ Yoga/Siddha/Unani.
- Naturopathy means a system for treating diseases or conditions using natural foods and herbs and various other techniques, rather than artificial drugs.
- Reiki is not recognized system of medicine. Reiki means a healing technique based on the principle that the therapist can transfer energy into the patient by means of touch, to activate the natural healing processes of the patient's body.

Note:

- Rent of rooms provided to in-patients in hospitals.
  - ➢ In respect of rent recovered for the Intensive Care Unit (ICU) or Critical Care Unit (CCU) or Intensive Cardiac Care Unit (ICCU) or Neo-Natal Intensive Care Unit (NICU), there would be full exemption irrespective of amount of rent



NOTES

- In case of other categories of rooms, Exemption is available only when rent charges do not exceed ₹ 5,000 per day. If the rent for such room exceeds ₹ 5,000 (let's say ₹ 6,000), GST would be payable on entire ₹ 6,000



CBIC Central board of Indirect Taxes & Customs

- Hospitals hire senior doctors/consultants/technicians independently. Such persons do not have any contract with the patient. Hospitals pay them consultancy charges and there is no employer-employee relationship between them. It is clarified by CBIC that services provided by such senior doctors/consultants/technicians, whether employees or not, are healthcare services which are exempt from GST.



- Health care services provided by the clinical establishments will include food supplied to the patients as advised by the doctor/nutritionists is a part of composite supply of healthcare and not separately taxable. However, other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable.
- Supply of services other than healthcare services such as renting of shops, auditoriums in the premises of the clinical establishment, display of advertisements etc. will be subject to GST.
- the abnormality/disease/ailment of infertility is treated using ART procedure such as IVF, it is clarified that services by way of IVF are also covered under the definition of health care services



Illustration 03 HW.

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

a) Reiki healing treatments.
b) Plastic surgeries. One such surgery was conducted to repair cleft lip of a new born baby.
c) Air ambulance services to transport critically ill patients from distant locations to the Medical Centre.
d) Palliative care for terminally ill patients. On request, such care is also provided to patients at their homes. (Palliative care is given to improve the quality of life of patients who have a serious or life-threatening disease but the goal of such care is not to cure the disease).
e) Alternative medical treatments by way of yoga.

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

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

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

Solution

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

NOTES

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

b) **Exempt:** Health care service does not include, inter alia, cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma. Therefore, plastic surgeries will not be entitled to the said exemption and thus, GST would be payable thereon. However, plastic surgery conducted to repair a cleft lip will be eligible for exemption as it reconstructs anatomy or functions of body affected due to congenital defects (cleft lip).

c) **Exempt:** Health care service includes services by way of transportation of the patient to and from a clinical establishment. Thus, air ambulance service to transport critically ill patients to Good Health Medical Centre would be eligible for exemption under the said notification.

d) **Exempt:** Health care service means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India. It is immaterial whether such service is provided at the clinical establishment or at the home of the patient or at any other place. Thus, palliative care for terminally ill patients is exempt.

e) **Exempt:** Since Yoga is a recognized system of medicine in terms of section 2(h) of Clinical Establishments Act, 2010, the same would be eligible for exemption under the said notification.

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

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

Illustration 04

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

1. Room rent 7,000 per day for 2 days.
2. Operation theatre charges 5,000
3. Doctors Consultation Charges 8,000
4. Other services 4,000

In each of the above scenario explain whether Suraksha Hospital should levy GST or not in line with the relevant provisions of the GST laws. [PYQ May 23]

Solution

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

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

NOTES

In view of the same, only the room rent of 14,000 (7,000 per day × 2 days) is liable to GST. Other than room rent, all other nature of services provided by Suraksha Hospital are exempt from GST.

Services provided by Government

1. Services by governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243 W of the Constitution are exempt.
2. Services by a governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution.
3. Services by the Central Government, State Government, Union territory or local authority excluding the following Specified Services—

   a) services by the Department of Posts by way of book post, Inland letter , Ordinary post (envelopes weighing less than 10 grams), post card services provided to a person other than the Central Government, State Government, Union territory;
   b) services by ministry of railways;
   c) transport of goods or passengers; or
   d) any service, other than services covered under entries (a) to (c) above, provided to business entities.

4. Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to such amount in the preceding financial year as makes it eligible for exemption from registration under the Central Goods and Services Tax Act, 2017.



   Explanation: For the purposes of this entry, it is hereby clarified that the provisions of this entry shall not be applicable to following services:
   - item (a), (b), (c) and (d) of Specified Services.
   - services by way of renting of immovable property.

5. Services provided by the Central Government, State Government, Union territory or local authority to another Central Government, State Government, Union territory or local authority. However, nothing contained in this entry shall apply to services referred in item (a), (b), (c) and (d) of Specified Services.
6. Services provided by Central Government, State Government, Union territory or a local authority where the consideration for such services does not exceed ₹5,000 (either individual or in aggregate during FY). However, nothing contained in this entry shall apply to services referred in item (a), (b), (c) and (d) of Specified Services.

NOTES

7. Services by an old age home run by
   - Central Government,
   - State Government or
   - an entity registered under section 12AA of the Income-tax Act, 1961

   to its residents (aged 60 years or more) against consideration up to ₹25,000 per month per member, provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance.



8. Services supplied by Central Government, State Government, Union territory to their undertakings or Public Sector Undertakings (PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the banking companies and financial institutions.
9. Services provided by the Central Government, State Government, Union territory or local authority by way of issuance of passport, visa, driving license, birth certificate or death certificate.
10. Services provided by the Central Government, State Government, Union territory or local authority by way of tolerating non performance of a contract for which consideration in the form of fines or liquidated damages is payable to the Central Government, State Government, Union territory or local authority under such contract
11. Services provided by the Central Government, State Government, Union territory or local authority by way of assignment of right to use natural resources to an individual farmer for cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products.
12. Services provided by the Central Government, State Government, Union territory by way of deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo on payment of Merchant Overtime charges.
13. Services provided by rehabilitation professionals recognized under the Rehabilitation Council of India Act, 1992 by way of rehabilitation, therapy or counselling and such other activity as covered by the said Act at medical establishments, educational institutions, rehabilitation centers established by Central Government, State Government or Union territory or an entity registered under section 12AA or 12AB of the Income-tax Act, 1961.
14. Services provided by Police/security agencies of Government to PSU/private business entities are not exempt from GST.

NOTES

Construction services

1. Services provided by way of pure labour contracts of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works pertaining to the beneficiary-led individual house construction or enhancement under the Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana.



2. Services supplied by Electricity Distribution Utilities by way of construction, erection, commissioning, or installation of infrastructure for extending electricity distribution network up to the tube well of the farmer or agriculturalist for agricultural use.
3. Services by way of pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex.

Passenger transportation services

1. Transport of passengers, with/without accompanied belongings, by:
   - air, in economy class embarking from or terminating in an airport located in the State of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal;
   - non-air conditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or
   - stage carriage other than air- conditioned stage carriage.

   However, nothing contained in items (b) and (c) above shall apply to services supplied through an electronic commerce operator, and notified under Section 9(5) of the CGST, 2017

2. Service of transportation of passengers, with or without accompanied belongings, by:
   - railways in a class other than first class or an air-conditioned coach;
   - metro, monorail or tramway;
   - inland waterways;
   - public transport, other than predominantly for tourism purpose, in a vessel between places located in India
   - Metered cabs or auto rickshaws (including e-rickshaws)



NOTES

Clarification

Where such public transport is owned by private operators:



- **For instance, private ferries are used as means of transport from one island to another in Andaman and Nicobar Islands. Exemption under Entry 17(d) would apply to tickets purchased for transportation from one point to another irrespective of whether the ferry is owned or operated by a private sector enterprise or by a PSU/government.**
- **The expression 'public transport' used in this Entry only means that the transport should be open to public. It can be privately or publicly owned. Only exclusion is on transportation which is predominantly for tourism, such as services which may combine with transportation, sightseeing, food and beverages, music, accommodation such as in shikara, cruise etc.**
- **However, nothing contained in item (v) above shall apply to services supplied through an electronic commerce operator and notified under sub-section (5) of Section 9 of the CGST, 2017.**

Hiring of Non AC contract carriages by firms for transportation of their employees to and from work



Exemption under this clause would apply to passenger transportation services by non-air conditioned contract carriages where transportation takes place over pre-determined route on a pre-determined schedule. The exemption shall not be applicable where contract carriage is hired for a period of time, during which the contract carriage is at the disposal of the service recipient and the recipient is thus free to decide the manner of usage (route and schedule) subject to conditions of agreement entered into with the service provider.

Note:

Services provided to the Central Government, by way of transport of passengers by air, embarking from or terminating at a RCS airport, against consideration in the form of viability gap funding are exempt.

Regional Connectivity Scheme is introduced to facilitate/stimulate regional air connectivity by making it affordable by supporting airline operators through

a) concessions by Central Government/State Governments and airport operators to reduce the cost of airline operations on regional routes/other support measures and

b) financial (viability gap funding or VGF) support to meet the gap, if any, between the cost of airline operations and expected revenues on such routes.
Under RCS, the underserved airports of India are aimed to be connected to key airports through flights that will cost ₹2,500 for per hour flight.

NOTES

Goods transportation services

a) Services by way of transportation of goods-

1. by road except the services of— (i) a goods transportation agency; (ii) a courier agency;
   Goods transport agency mean any person who: provides service in relation to transport of goods by road and issues consignment note, by whatever name called.
2. by inland waterways.

b) Services by way of transportation by rail or a vessel from one place in India to another of the following goods:

1. relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;
2. defence or military equipment;
3. newspaper or magazines registered with the Registrar of Newspapers;
4. railway equipment or materials; (Now deleted)
5. agricultural produce;
6. milk, salt and food grain including flours, pulses and rice; and
7. organic manure.

c) Services provided by a goods transport agency, by way of transport in a goods carriage of –

1. agricultural produce;
2. milk, salt and food grain including flour, pulses and rice;
3. organic manure;
4. newspaper or magazines registered with the Registrar of Newspapers;
5. relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or
6. defence or military equipment.

d) Services provided by a GTA to an unregistered person, including an unregistered casual taxable person, other than the following recipients, namely:

1. any factory registered under/governed by the Factories Act, 1948; or
2. any Society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or
3. any Co-operative Society established by or under any law for the time being in force; or
4. any body corporate established, by or under any law for the time being in force; or
5. any partnership firm whether registered or not under any law including association of persons;
6. any casual taxable person registered under the CGST Act or the Integrated GST Act or the SGST Act or the UTGST Act.



NOTES

e) Services provided by a GTA, by way of transport of goods in a goods carriage, to:

1. a Department or Establishment of the Central Government or State Government or Union territory; or
2. local authority; or
3. Governmental agencies, which have taken registration under the Central Goods and Services Tax Act, 2017 only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.



Other Points

Transport of minerals within a mining area by vehicles deployed with driver for a specific duration of time



- The issue which arose for consideration was whether transport of minerals within a mining area, say from mining pit head to railway siding, beneficiation plant etc., by vehicles deployed with driver for a specific duration of time would be covered under Entry 18 which exempts transport of goods by road except by a GTA.
- Usually in such cases the vehicles such as tippers, dumpers, loader, trucks etc., are given on hire to the mining lease operator. Expenses for fuel are generally borne by the recipient of service. The vehicles with driver are at the disposal of the mining lease operator for transport of minerals within the mine area (mining pit to railway siding, beneficiation plant etc.) as per his requirement during the period of contract.
- Such services are nothing but "rental services of transport vehicles with operator". The person who takes the vehicle on rent defines how and when the vehicles will be operated, determines schedules, routes and other operational considerations.
- The person who gives the vehicles on rent with operator cannot be said to be supplying the service by way of transport of goods.
- Accordingly, it is clarified that such 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. Consequently, it is not eligible for exemption.

Illustration 05

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

Solution

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

NOTES

Banking and financial services

1. Services by way of:
   - extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services);
   - inter se sale or purchase of foreign currency amongst banks or authorized dealers of foreign exchange or amongst banks and such dealers.
2. Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY).
3. Services by an acquiring bank, to any person in relation to settlement of an amount up to ₹2,000 in a single transaction transacted through credit card, debit card, charge card or other payment card service.

Explanation: For the purposes of this entry, "acquiring bank" means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such a card.

Note:

- Service charges/fees, documentation fees, broking charges, administrative charges, entry charges or such like fees or charges collected over and above interest on loan, advance or a deposit are not exempt and thus, represent taxable consideration.
- Invoice discounting/cheque discounting or any other similar form of discounting is covered only to the extent consideration is represented by way of discount as such discounting is a manner of extending a credit facility or a loan.
- Any interest/delayed payment charges charged to clients for delay in payment of brokerage amount/settlement obligations/margin trading facility is exempt from GST since settlement obligations/margin trading facilities are transactions which are in the nature of extending loans or advances.
- Charges for late payment of outstanding dues on credit card: Interest charged on outstanding credit card balances has been specifically excluded from [redacted]. Hence, the same is liable to GST.

Illustration 06

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

Particulars	Amount [₹ in crores] (excluding GST)
Extended housing loan to its customers	100
Processing fees collected from its customers on sanction of loan	20
Commission collected from its customers on bank guarantee	30

NOTES

Interest income on credit card issued by the bank	40
Interest received on housing loan extended by the bank	25
Minimum balance charges collected from current account and saving account holder	01

Compute the value of taxable outward supply.

Solution

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

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

Life insurance business services — Self Read.

1. Services of life insurance business provided by way of annuity under the National Pension System regulated by the Pension Fund Regulatory and Development Authority of India under the Pension Fund Regulatory and Development Authority Act, 2013.
2. Services of life insurance business provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government.
3. Services of life insurance provided/agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds to their

NOTES

4. members under the Group Insurance Schemes of the concerned Central Armed Police Force.
5. Services of life insurance provided or agreed to be provided by the Naval Group Insurance Fund to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government.
6. Services of life insurance business provided under following schemes-

- Janashree Bima Yojana;
- Aam Aadmi Bima Yojana;
- life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of ₹2,00,000;
- Varishtha Pension Bima Yojana;
- Pradhan Mantri Jeevan Jyoti Bima Yojana;
- Pradhan Mantri Jan Dhan Yogana;
- Pradhan Mantri Vaya Vandan Yojana.



Life micro-insurance product means any term insurance contract with/without return of premium, any endowment insurance contract or health insurance contract, with/without an accident benefit rider, either on individual/group basis, as per terms stated in Schedule II appended to the regulations

Services provided by specified bodies – Self Read :

1. Services by the Employees' State Insurance Corporation to persons governed under the Employees' State Insurance Act, 1948.
2. Services provided by the Employees Provident Fund Organisation to the persons governed under the Employees Provident Funds and the Miscellaneous Provisions Act, 1952.
3. Services by Coal Mines Provident Fund Organisation to persons governed by the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948.
4. Services by National Pension System (NPS) Trust to its members against consideration in the form of administrative fee.
5. Services provided by the IRDAI (Insurance Regulatory and Development Authority of India) to insurers under IRDAI Act, 1999.
6. Services provided by the SEBI (Securities and Exchange Board of India) set up under the SEBI Act, 1992 by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market.

NOTES

General insurance business services = Self Read.

1. Services of general insurance business provided under following schemes:
   - Hut Insurance Scheme;
   - Cattle Insurance under Swarnajayanti Gram Swarozgar Yojana 22;
   - Scheme for Insurance of Tribals;
   - Janata Personal Accident Policy and Gramin Accident Policy;
   - Group Personal Accident Policy for Self-Employed Women;
   - Agricultural Pumpset and Failed Well Insurance;
   - premia collected on export credit insurance;
   - Restructured Weather Based Crop Insurance Scheme (RWCIS), approved by the Government of India and implemented by the Ministry of Agriculture;
   - Jan Arogya Bima Policy;
   - Pradhan Mantri Fasal Bima Yojana (PMFBY);
   - Pilot Scheme on Seed Crop Insurance;
   - Central Sector Scheme on Cattle Insurance;
   - Universal Health Insurance Scheme;
   - Rashtriya Swasthya Bima Yojana;
   - Coconut Palm Insurance Scheme;
   - Pradhan Mantri Suraksha Bima Yojna;
   - Niramaya Health Insurance Scheme implemented by the Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation admiand Multiple Disabilities Act, 1999.
   - Bangla Shasya Bima



2. Services by way of reinsurance of the insurance schemes specified in serial number 35 or 36.

Pension schemes = Self Read.

1. Services by way of collection of contribution under the Atal Pension Yojana
2. Services by way of collection of contribution under any pension scheme of the State Government

Business facilitator/correspondent Services ✓

1. By business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch;
2. By any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a); or
3. By business facilitator or a business correspondent to an insurance company in a rural area.



NOTES

BCs/BFs help villagers to open bank accounts and provide other banking services to them. They act as an intermediary between the bank and its customers. Banks, in turn, pay commission/ fee to the BCs/BFs.
The BCs are permitted to carry out transactions on behalf of the bank as agents, the BFs can refer clients, pursue the clients' proposal and facilitate the bank to carry out its transactions, but cannot transact on behalf of the bank.

Services provided to Government

1. **Pure services provided to Government:**
   - Pure services (excluding works contract service or other composite supplies involving supply of any goods)
   - provided to the Central Government, State Government or Union territory or local authority
   - by way of any activity:
     a) in relation to any function entrusted to a Panchayat under article 243G of the Constitution or
     b) in relation to any function entrusted to a Municipality under article 243W of the Constitution



2. **Composite supply of goods and services to Government:**
   - 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 the Central Government, State Government or Union territory or local authority
   - by way of any activity:
     a) in relation to any function entrusted to a Panchayat under article 243G of the Constitution or
     b) in relation to any function entrusted to a Municipality under article 243W of the Constitution
3. Service provided by Fair Price Shops to Central Government, State Government or Union territory by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System against consideration in the form of commission or margin.



4. Services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory.
5. Services provided to the Central Government, State Government, Union territory administration under any training programme for which 75% or more of the total expenditure is borne by the Central Government, State Government, Union territory administration

NOTES

Legal services

Services provided by:

1. an arbitral tribunal to:
   a) any person other than a business entity; or
   b) a business entity with an aggregate turnover up to Registration threshold limit in the preceding financial year;
   c) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.
2. a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to:
   a) an advocate or partnership firm of advocates providing legal services;
   b) any person other than a business entity; or
   c) a business entity with an aggregate turnover up to Registration threshold limit in the preceding financial year;
   d) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.
3. a senior advocate by way of legal services to:
   a) any person other than a business entity; or
   b) a business entity with an aggregate turnover up to Registration threshold limit in the preceding financial year.
   c) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.

Example

Pyarelal & Co. has obtained registration under GST in the preceding financial year. In the current FY, it sought legal consultancy services for its business from Nyay Advocates – a partnership firm of advocates. The legal services received by Pyarelal & Co. are not exempt because its aggregate turnover exceeds the threshold exemption limit of registration in the preceding financial year. Further, the tax on the said legal services is payable by Pyarelal & Co. under reverse charge.

Sponsorship of sports events

Services by way of sponsorship of sporting events organised –

- by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or Country;
- by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;
- by the Central Civil Services Cultural and Sports Board
- as part of national games, by the Indian Olympic Association; or
- under the Panchayat Yuva Kreeda Aur Khel Abhiyaan Scheme

NOTES

Performance by an artist

Services by an artist by way of a performance in folk or classical art forms of-

a) music, or

b) dance, or

c) theatre

if the consideration charged for such performance is not more than ₹1,50,000 are exempt from GST.

Note:

- The activities by a performing artist in folk or classical art forms of music, dance, or theatre are exempt if consideration does not exceed ₹1,50,000. However, if consideration from such activities exceeds ₹1,50,000, the entire consideration is subject to GST.
- all other activities by an artist in other art forms e.g. western music or dance, modern theatres, performance of actors in films or television serials would be taxable. Similarly, activities of artists in still art forms e.g. painting, sculpture making etc. are taxable.
- However, the exemption shall not apply to service provided by such an artist as a brand ambassador. 'Brand ambassador' means a person engaged for promotion or marketing of a brand of goods, service, property or actionable claim, event or endorsement of name, including a trade name, logo or house mark of any person.

Illustration 07

RXL Pvt. Ltd. manufactures a beauty soap with the brand name 'Forever Young'. RXL Pvt. Ltd. has organized a concert to promote its brand. Ms. Ahana Kapoor, its brand ambassador, who is a leading film actress, has given a classical dance performance in the said concert as a part of her services as a brand ambassador of the company. The proceeds of the concert worth ₹ 1,20,000 will be donated to a charitable organization by Ms. Ahana.

Examine whether Ms. Ahana Kapoor will be required to pay any GST for classical dance performance given in the said concert.

Solution

Services by an artist by way of a performance in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, are exempt from GST, if the consideration charged for such performance is not more than ₹ 1,50,000. However, such exemption is not available in respect of service provided by such artist as a brand ambassador.

Since Ms. Ahana Kapoor is the brand ambassador of 'Forever Young' soap manufactured by RXL Pvt. Ltd., the services rendered by her by way of a classical dance performance in the concert organized by RXL Pvt. Ltd. to promote its brand will not be eligible for the above-mentioned exemption and thus, be liable to GST. The fact that the proceeds of the concert will be donated to a charitable organization by Ms. Ahana will not have any bearing on the eligibility or otherwise to the above-mentioned exemption.

NOTES

Right to admission to various events

a) Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo

b) Services by way of admission to a protected monument so declared under the Ancient Monuments and Archaeological Sites & Remains Act 1958 or any of the State Acts, for the time being in force

c) Services by way of right to admission to:

- circus, dance, or theatrical performance including drama or ballet;
- award function, concert, pageant, musical performance or any sporting event other than a recognized sporting event
- recognized sporting event;
- planetarium,

where the consideration for right to admission to the events or places as referred to in items (a), (b), (c) or (d) above is not more than ₹500 per person.

	Exempted from GST

NOTES

	Exempted if consideration is up to ₹500

Services by an unincorporated body or a non-profit entity (Part-A)

Service by an unincorporated body or a non-profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution:

a) as a trade union

b) for the provision of carrying out any activity which is exempt from the levy of Goods and Services Tax; or

c) up to an amount of ₹7,500 per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex

Imp

Read

Example

a) RWA of Chulbul Housing Society, registered under GST, collected the maintenance charges of ₹6,000 per month per member. In this case, no GST is to be charged by the RWA.

b) The RWA of Chulbul Housing Society collected the maintenance charges of ₹9,000 per month per member, GST @18% shall be payable on the entire amount of ₹9,000 and not on [₹9,000 – ₹7,500] = ₹1,500.

NOTES

c) *The turnover of RWA of Bulbul Housing Society located in New Delhi in a financial year is ₹15 lakh. It has collected the maintenance charges of ₹8,000 per month per member. RWA is not providing any other taxable service to its members. In this case, RWA is not required to take registration under GST since its aggregate turnover is less than the applicable threshold limit of ₹20 lakh.*

d) *Gareeb Chand owns two residential apartments in a residential complex and pays ₹15,000/- per month as maintenance charges towards maintenance of these two apartments to the RWA (₹7,500/- per month in respect of each residential apartment). In this case, the exemption from GST shall be available with respect to maintenance charges paid for each apartment*

e) *RWA of Tintin Housing Society, registered under GST, has collected the maintenance charges of ₹9,000 per month per member from 1,000 members of the society in the month of May. For paying the GST of ₹16,20,000 [payable @ 18% on the amount of ₹90,00,000], RWA can utilise the ITC of GST of ₹1,00,000 paid by it on purchase of swings for garden, ITC of ₹20,000 on electric cables and ITC of ₹15,000 on plumbing services.*

Issues related to monthly subscription / contribution charged by RWA from its members [Circular]

<table>
<tr><th>S. No.</th><th>Issue</th><th colspan="3">Clarification</th></tr>
<tr><td rowspan="4">1.</td><td rowspan="4">a RWA has aggregate turnover of Rs. 20 lakhs or less in a FY. Is it required to take registration and pay GST on maintenance charges if amount of such charges is more than Rs. 7500/- per month per member ?</td><td>Annual T/o of RWA</td><td>Monthly maintenance charge</td><td>Whether exempt?</td></tr>
<tr><td rowspan="2">More than Rs. 20 lakhs</td><td>More than Rs. 7500/-</td><td>No</td></tr>
<tr><td>Rs. 7500/- or less</td><td>Yes</td></tr>
<tr><td>Rs. 20 lakhs or less</td><td>More than Rs. 7500/-</td><td>Yes</td></tr>
<tr><td>2.</td><td>Is the RWA entitled to take ITC of GST paid on goods and services used by it for making taxable supplies to its members?</td><td colspan="3">RWAs are entitled to take ITC of GST paid by them on capital goods, inputs and input services.</td></tr>
<tr><td>3.</td><td>Where a person owns 2 or more flats in the society, whether the ceiling of Rs. 7500/- per month per member shall be applied per residential apartment or per person?</td><td colspan="3">It shall be applied separately for each residential apartment owned by him.</td></tr>
</table>

NOTES

4.	How should the RWA calculate GST payable where the maintenance charges exceed Rs. 7500/- per month per member?	In case where maintenance charges exceed Rs. 7500/- per month per member, entire amount is taxable.

Services provided by unincorporated body or non-profit entity (Part B)

Services provided by an unincorporated body or a non-profit entity registered under any law for the time being in force, engaged in,-

1. activities relating to the welfare of industrial or agricultural labour or farmers; or
2. promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment, to its own members against consideration in the form of membership fee up to an amount of Rs. 1000/- per member per year.

Import of Services

Read!

- Import of services in the following cases is exempt from GST
  a) If services have been taken by the Central Government/State Government/Union territory/a local authority/a governmental authority.
  b) An individual for personal purpose
  c) A charitable Trust.

1. If any of the above person have taken OIDAR services, exemption shall not be applicable rather the service provider shall collect tax from the recipient and shall pay it to the Government. If the recipient is registered under GST, Tax shall be payable by the recipient under reverse charge.



Tour Operator Services

Services provided by a tour operator shall be exempt from tax, if they are provided:-

a) to a foreign tourist
b) in relation to a tour conducted wholly outside India or Partly in India & Partly Outside India

However, in case of tour partly in India and Partly Outside India, exemption shall be restricted to the extent of the value of the tour operator service which is performed outside India



NOTES

Note 1: 'Foreign tourist' means a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.

Note 2: The value of the tour operator service performed outside India shall be lower of the following two figures:

a) Total consideration charged for the entire tour x Number of days for which the tour is performed outside India/Total number of days comprising the tour;

b) 50% of the total consideration charged for the entire tour

Note 3: While making the above calculations, an y duration of time equal to or exceeding 12 hours shall be considered as one full day and any duration of time less than 12 hours shall be taken as half a day

Other exempt services

1. Services by way of transfer of a going concern, as a whole or an independent part thereof.

Example

Royal Hotel Group is in the business of running a chain of restaurants. It intends to sell its business as a going concern. It would not be required to pay GST on such sale of its business

2. Services by way of giving on hire (including renting of vehicle):
   a) to a state transport undertaking (STU), a motor vehicle meant to carry more than 12 passengers
   b) to a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers;
   c) to a goods transport agency, a means of transportation of goods
   d) motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education up to higher secondary school or equivalent

Illustration 08

A State Transport Undertaking has hired motor vehicles meant to carry 8 - 10 passengers from Fast Cab Renting, a motor vehicle renting company. Give your comments as to whether any GST is payable in this case.

Solution

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

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

3. Services by way of renting of residential dwelling for use as residence to unregistered Person.

NOTES

Explanation — For the purpose of exemption under this entry, this entry shall cover services by way of renting of residential dwelling to a registered person where, –

a) the registered person is proprietor of a proprietorship concern and rents the residential dwelling in his personal capacity for use as his own residence; and

b) such renting is on his own account and not that of the proprietorship concern.

Thus, renting of residential dwelling either by a registered person or an unregistered person for use as residence to unregistered person is exempt from GST.



Renting of residential dwelling for use as residence to a registered person (other than proprietor covered in explanation above) as well as renting of residential dwelling for commercial use to registered or unregistered person is liable to GST.

Further, tax on renting of residential dwelling to a registered person is payable by the registered person under reverse charge whether such residential dwelling is being used for commercial purposes or residential purposes.

4. Service by way of access to a road or a bridge on payment of toll charges. – Ex.

With regard to said entry, following issues have been clarified :

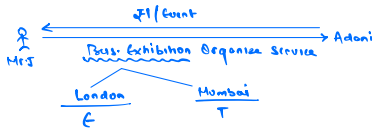
a) Ministry of Road Transport and Highways (MORTH) permitted the overloaded vehicles to ply on the national highways after payment of higher toll charges. It has been clarified that overloading charges at toll plazas would get the same treatment as given to toll charges. ie Exempt



b) MORTH has directed to collect additional amount from the users of the road to the extent of two times of the fees applicable to that category of vehicle which is not having a valid functional Fastag. Essentially, the additional amount collected from the users of the road not having a functional Fastag, is in the nature of toll charges and should be treated as additional toll charges. Therefore, it is clarified that additional fee collected in the form of higher toll charges from vehicles not having Fastag is essentially payment of toll for allowing access to roads or bridges to such vehicles and may be given the same treatment as given to toll charges. ie Exempt

5. Services provided by an incubatee up to a total turnover of ₹50 lakh in a financial year subject to the following conditions, namely:
   a) the total turnover had not exceeded ₹50 lakh during the preceding financial year; and
   b) a period of 3 years has not elapsed from the date of entering into an agreement as an incubatee.
6. Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India.
7. Services of public libraries by way of lending of books, publications or any other knowledge enhancing content or material
8. Services by an organiser to any person in respect of a business exhibition held outside India.





NOTES

Illustration 09

Keyan Enterprises, an event organizer, provided services to Breathing Wall Ltd. by way of organizing business exhibition in New Delhi as part of Make in India initiative. Keyan Enterprises claims that it is not required to pay GST as the services provided by way of organizing business exhibition are exempt from GST. Examine the technical veracity of the claim of Keyan Enterprises, in the given case.

Solution

No, the claim made by Keyan Enterprises that it is not required to pay GST is not correct. Services provided by an organiser to any person in respect of a business exhibition are exempt from GST only when such business exhibition is held outside India. However, since in the given case, the exhibition is being organized in India, the services of organization of event by Keyan Enterprises will not be exempt from GST.

9. Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.
10. Services by a foreign diplomatic mission located in India.
11. Services by way of providing information under the RTI Act (Right to Information Act, 2005).
12. Services provided to a recognized sports body by-
    a) an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body;
    b) another recognized sports body

Note:

a) services by individuals such as selectors, commentators, curators, technical experts are taxable.
b) The service of a player to a franchisee which is not a recognized sports body is also taxable.

Illustration 10

An individual acts as a referee in a football match organized by Sports Authority of India. He has also acted as a referee in another charity football match organized by a local sports club, in lieu of a lump sum payment. Discuss whether any GST is payable on the activities undertaken by him.

Solution

Services provided to a recognized sports body by an individual, inter alia, as a referee in a sporting event organized by a recognized sports body is exempt from GST.

Since in the first case, the football match is organized by Sports Authority of India, which is a recognized sports body, services provided by the individual as a referee in such football match will be exempt.

However, when he acts as a referee in a charity football match organized by a local sports club, he would not be entitled to afore-mentioned exemption as a local sports club is not a recognized sports body and thus, GST will be payable in this case.

NOTES

13. The service of a player to a franchisee which is not a recognized sports body is also taxable.

14. Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinals or toilets.

15. Services provided to the Central Government, State Government, Union territory administration under any training programme for which 75% or more of the total expenditure is borne by the Central Government, State Government, Union territory administration.

> It is clarified that free coaching services provided by coaching institutions and NGOs under the central scheme of "Scholarships for students with Disabilities" where 75% or more of the expenditure is borne by the Government to coaching institutions.

16. Services by way of granting National Permit to a goods carriage to operate throughout India/ contiguous States

17. Services provided to a Governmental Authority by way of —

- Water supply;
- Public health;
- Sanitation conservancy;
- Solid waste management; and
- Slum improvement and upgradation

18. GST on payment of honorarium to the Guest Anchors — Taxable

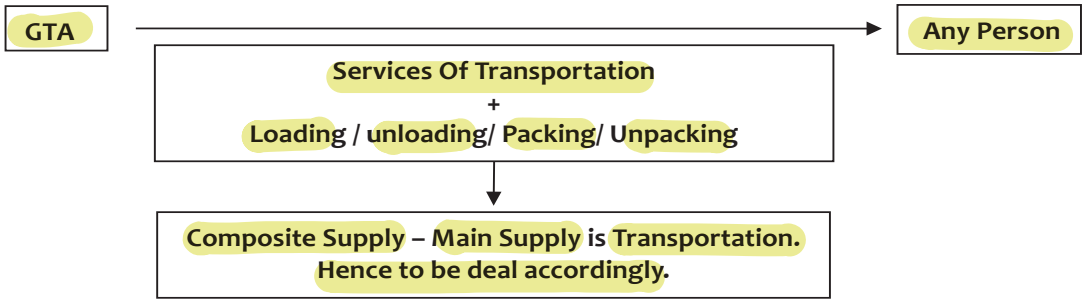
> Circular No. 177/09/2022 GST dated 03.08.2022 clarifies the applicability of GST on honorarium paid to Guest Anchors. Sansad TV and other TV channels invite guest anchors to participate in their shows and pay remuneration to them in the form of honorarium.
> It is clarified that supply of all goods & services are taxable unless exempt or declared as 'neither a supply of goods nor a supply of service'. Services provided by the guest anchors in lieu of honorarium attract GST liability.
> However, guest anchors whose aggregate turnover in a financial year does not exceed ₹20 lakh (₹10 lakh in case of specified Special Category States) shall not be liable to take registration and pay GST.

19. Import of services by a Branch office of foreign airline companies from related persons or establishments outside India is exempted, provided the import is without consideration

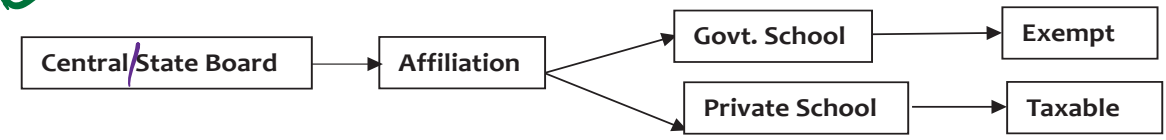
20. Supply research and development services by government entities, universities, colleges, or institutions notified u/s 35 of Income Tax Act, 1961 is exempt.

NOTES

21. Composite Supply Of GTA



22.



23. Services provided by Hostels, Camps, Paying Guest accommodations and the like to Students

Supply of accommodation services having value of supply upto ₹ 20,000 per person per month provided that the accommodation service is supplied for a minimum continuous period of 90 days.

24. Services provided by Ministry of Railways (Indian Railways) to individuals by way of:

a) Sale of platform tickets;
b) Facility of retiring rooms/waiting rooms;
c) Cloak room services; and
d) Battery operated car services.

25. Services provided by one zone/division under Ministry of Railways (Indian Railways) to another zone(s)/division(s) under Ministry of Railways (Indian Railways).

26. Any services provided by:

a) the National Skill Development Corporation set up by the Government of India;
b) the National Council for Vocational Education and Training;
c) an Awarding Body recognized by the National Council for Vocational Education and Training;
d) an Assessment Agency recognized by the National Council for Vocational Education and Training;
e) a Training Body accredited with an Awarding Body that is recognized by the National Council for Vocational Education and Training

NOTES

in relation to:

i. the National Skill Development Programme or any other scheme implemented by the National Skill Development Corporation; or

ii. a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or

iii. any National Skill Qualification Framework aligned qualification or skill in respect of which the National Council for Vocational Education and Training has approved a qualification package.

27 Supply of services by way of providing metering equipment on rent, testing for meters/ transformers/capacitors, etc, releasing electricity connection, shifting of meters/service lines, issuing duplicate bills, etc which are incidental or ancillary to the supply of transmission and distribution of electricity provided by electricity transmission and distribution utilities to their consumers.

NOTES

Question Bank

Illustration 01

Examine which of the following independent services are exempt from GST:

a) Food supplied by the canteen run by a hospital to the in-patients as advised by the doctors.

b) An RWA in a housing society, registered under GST, collects the maintenance charges of ₹ 6,500 per month per member.

Solution

a) Services by way of health care services by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST. Food supplied to the in-patients by a canteen run by the hospital, as advised by the doctor/nutritionists, is a part of composite supply of healthcare and not separately taxable. Thus, said services are exempt from GST.

b) Supply of service by a RWA (unincorporated body or a non-profit entity registered under any law) to its own members by way of reimbursement of charges or share of contribution up to an amount of ₹ 7500 per month per member for providing services and goods for the common use of its members in a housing society/a residential complex are exempt from GST. Hence, in the given case, services provided by the RWA are exempt from GST since the maintenance charges collected per month per member do not exceed ₹ 7500.

Illustration 02

Examine whether GST is exempted on the following independent supplies of services:

a) Service provided by a private transport operator to Scholar Boys Higher Secondary School by way of transportation of students to and from the school.

b) Services provided by way of vehicle parking to general public in a shopping mall.

Solution

a) Yes. Services provided TO an educational institution by way of transportation of students are exempted from GST.

b) No. Services provided by way of vehicle parking to general public are not exempted from GST. Therefore, GST is payable on the same.

Illustration 03

Babloo Transporters, a Goods Transport Agency, transported relief materials in a goods carriage meant for victims of Kerala floods, a natural disaster, by road from Delhi to Ernakulam, for a company. Babloo Transporters is of the view that it is not liable to pay GST on the said services provided as said services are exempt. You are required to advice it on the said issue.

Solution

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

NOTES

Illustration 04

State with reasons, whether GST is payable in the following independent cases:-

a) Food supplied by the canteen run by a hospital to the in-patients as advised by the doctors.

b) An RWA in a housing society, registered under GST, collects the maintenance charges of Rs. 6,500 per month per member.

[MTP May 23]

Solution

a) Services by way of health care services by a clinical establishment, an authorized medical practitioner or para-medics are exempt from GST. Food supplied to the in-patients by a canteen run by the hospital, as advised by the doctor/nutritionists, is a part of composite supply of healthcare and not separately taxable. Thus, said services are exempt from GST.

b) Supply of service by a RWA (unincorporated body or a non-profit entity registered under any law) to its own members by way of reimbursement of charges or share of contribution up to an amount of 7500 per month per member for providing services and goods for the common use of its members in a housing society/a residential complex are exempt from GST. Hence, in the given case, services provided by the RWA are exempt from GST since the maintenance charges collected per month per member do not exceed 7500

Illustration 05

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

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

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

[RTP May 23]

Solution

a) GST is not payable by Dhruv Developers on sale of plot of land. 'sale of land' is neither a supply of goods nor a supply of services. Therefore, the sale of land does not attract GST. Land may be sold either as it is or after some development such as levelling, laying down of drainage lines, water lines, electricity lines, etc. It is clarified that sale of such developed land is also sale of land and is covered by Para 5 of Schedule III and accordingly, does not attract GST.

b) Transportation of passenger services provided by the private operator - Deccan Shipping Pvt. Ltd. - are exempt from GST. Transportation of passengers by public transport, other than predominantly for tourism purpose, in a vessel between places located in India is exempt from GST. It is clarified that this exemption would apply to tickets purchased for transportation from one point to another irrespective of whether the ferry is owned or operated by a private sector enterprise or by a PSU/Government.

Illustration 06

Determine the GST payable @ 18% with respect to each of the following independent services provided by the registered persons:

NOTES

Particulars	Gross amount charged
Fees charged for 'Swasthya Yoga Camp' conducted by Chandra Prakash Charitable Trust, registered under section 12AB of the Income-tax Act, 1961	98,000
Amount charged by business correspondent from Wealthy Banking Company for the services provided to the rural branch of a bank with respect to Savings Bank Accounts	1,00,000
Amount charged by cord blood bank for preservation of stem cells	5,00,000
Amount charged for service provided by selectors to a recognized sports body	5,20,000

[MTP Nov 22]

Solution

Computation of GST payable

Particulars	Amount	GST payable @ 18%
Fees charged for 'Swasthya Yoga Camp' conducted by Chandra Prakash Charitable Trust, registered under section 12AB of the Income-tax Act, 1961 [Note-1]	Nil	Nil
Amount charged by business correspondent from Wealthy Banking Company for the services provided to the rural branch of a bank with respect to Savings Bank Accounts [Note-2]	Nil	Nil
Amount charged by cord blood bank for preservation of stem cells [Note-3]	5,00,000	5,00,000
Service provided by selectors to a recognized sports body [Note-4]	5,20,000	5,20,000

Notes:

1. Services by an entity registered under section 12AB of the Income-tax Act, 1961 by way of charitable activities are exempt from GST. The activities relating to advancement of yoga are included in the definition of charitable activities. So, such activities are exempt from GST.
2. Services by business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch have been exempted from GST.
3. Services provided by cord blood banks by way of preservation of stem cells/any other service in relation to such preservation are now taxable under GST.
4. Services provided to a recognized sports body only by an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body are exempt from GST. Thus, services provided by selectors are liable to GST.

NOTES

Illustration 07

1. State with reasons, whether GST is payable in the following independent cases:- Services provided to recognized sports body as selector of national team.
2. Services provided by way of transportation of passengers in metered cab, through an electronic commerce operator. [MTP Nov 22]

Solution

1. Services provided to a recognized sports body by an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body are exempt from GST. Thus, GST is payable in case of services provided to a recognized sports body as selector of national team.
2. Service of transportation of passengers, with or without accompanied belongings, inter alia, by metered cabs are specifically exempt from GST. However, where such services are supplied though an electronic commerce operator, said services are not exempt. Thus, GST is payable in the given case

Illustration 08

Miss. P, a registered supplier of Rajasthan, has received the following amounts in respect of the activities undertaken by her during the month of April:

S. No.	Particulars	Amount
1.	Amount received for warehousing of sugarcane	50,000
2.	Commission received as business facilitator for the services provided to the urban branch of a nationalized bank with respect to savings bank accounts	20,000
3.	Amount received for services by way of labour contracts for repairing a single residential unit otherwise than as a part of residential complex	10,000

All the transactions stated above are inter-State transactions and all amounts are exclusive of GST.

You are required to compute total GST payable by Miss. P for the month of April assuming the rate of GST to be 18%.

[MTP May 23]

Solution

Computation of value of taxable supply on which GST is to be paid by Miss. P

Particulars	IGST
Amount received for warehousing of sugarcane [Warehousing of agricultural produce is exempt from GST.]	Nil
Commission received as business facilitator [Services provided by a business facilitator to a banking company with respect to accounts only in its rural area branch are exempt from GST. In the given case since services are being provided to urban branch of the bank, they are taxable. However, the tax payable thereon is to be paid by the recipient of services i.e. banking company, under reverse charge. Hence, Miss P will not be liable to pay GST on commission received for said services.]	Nil

NOTES

Amount received for services by way of labour contracts [Services by way of pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex are exempt from GST. Since such services are being provided for repairing the residential unit, they are not eligible for exemption.]	1,800 [10,000 X 18%]
Total IGST payable	1,800

Illustration 09

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

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

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

[MTP May 24 & RTP May 22]

Solution

S. No.	Particulars	Taxability
1.	Supply of manpower for cleanliness of roads not involving any supply of goods. [Pure services provided to Government are exempt.]	Exempt
2.	Service provided by Fair Price Shops by way of sale of sugar under Public Distribution System [Service provided by Fair Price Shops to Government by way of sale of sugar under Public Distribution System against consideration in the form of commission is exempt.]	Exempt

NOTES

3.	Service of maintenance of street lights in a Municipal area involving replacement of defunct lights and other spares constituting 35% of the supply of service. [Composite supply of goods and services to Government in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply is exempt. Since, in this case value of supply of goods constitutes 35% of the supply of composite service, same is taxable.]	Taxable
4.	Service of brochure distribution provided under a training programme. [Services provided to the Government under any training programme for which 75% or more of the total expenditure is borne by the Government is exempt. Since in the given case, 70% of the total expenditure is borne by the Government, it is taxable.]	Taxable

Illustration 10

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

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

[RTP Sep 2024]

Solution

1. Services provided to a Governmental Authority by way of inter alia sanitation conservancy is exempt under GST. Thus, services provided by Jivan Limited, registered under GST amounting to ₹ 10,00,000 to a Governmental Authority by way of sanitation conservancy is exempt under GST.
2. Services provided by a GTA to an unregistered person, including an unregistered casual taxable person other than, inter alia, any partnership firm whether registered or not under any law including association of persons is exempt under GST. Thus, GTA services provided to partnership firm including AOP – whether or not registered under GST law, are liable to tax. Hence, consideration of ₹ 8,000 paid by Kukreja & Kukreja Co. is taxable under GST.
3. The services provided by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neo natal Intensive Care Unit (NICU)] having room charges exceeding ₹ 5000 per day to a person receiving health care services is taxable under GST. Since, in the given case Amardeep Hospital provided services in Neo natal Intensive Care, so the entire amount of ₹ 30,000 charged from Mr. Chopra is exempt under GST law.

NOTES

Illustration 11

AB Ltd., a registered company of Chennai, Tamil Nadu has provided following services for the month of October, 2021

Particulars	Amount (₹)
Services of transportation of students, faculty and staff from home to college and back to Commerce College, (a private college) providing degree courses in BBA, MBA, B.Com., M.Com.	2,50,000
Online monthly magazine containing question bank and latest updates in law to students of PQR Law College offering degree courses in LLB and LLM	1,00,000
Housekeeping services to T Coaching Institute	50,000
Security services to N Higher Secondary School	3,25,000
Services of providing breakfast, lunch and dinner to students of ABC Medical College offering degree courses recognized by law in medical field	5,80,000

All the above amounts are exclusive of GST.

Compute the taxable supplies of AB Ltd. for the month of October 2021 with necessary explanations.

[PYQ Nov 2021 & MTP Sep 24]

Solution

Computation of value of taxable supplies of AB Ltd.

Particulars	Amount (₹)
Services of transportation of students, faculty and staff to Commerce College [Not exempt, since transportation services provided to an educational institution are exempt only if such institution provides pre-school education or education up to higher secondary school or equivalent.]	2,50,000
Online monthly magazine to students of PQR Law College [Services of supply of online educational journals provided to an educational institution providing qualification recognized by law are exempt.]	Nil
Housekeeping services to T Coaching Institute [Not exempt]	50,000
Security services to N Higher Secondary School [Security services provided to an educational institution providing education up to higher secondary school are exempt.]	Nil
Services of providing breakfast, lunch and dinner to students of ABC Medical College [Not exempt, since catering services provided to an educational institution are exempt only if such institution provides pre-school education or education up to higher secondary school or equivalent.]	5,80,000
Value of taxable supplies	8,80,000

NOTES

Illustration 12

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

S. No.	Description of Services provided
(i)	Service provided by a private transport operator to Vintage Girls Higher Secondary School by way of transportation of students to and from the school.
(ii)	Services provided by way of vehicle parking to general public in a shopping complex.
(iii)	Food supplied by the canteen run by a hospital to the in- patients as advised by the doctors.
(iv)	An RWA in a housing society, registered under GST, collects the maintenance charges of ₹ 6,500 per month per member.

[MTP JAN 2025]

Solution

S. No.	Particulars	Taxability
(i)	Service provided by a private transport operator to Vintage Girls Higher Secondary School by way of transportation of students to and from the school. [Services provided TO an educational institution by way of transportation of students are exempted from GST]	Exempt
(ii)	Services provided by way of vehicle parking to general public in a shopping complex. [Services provided by way of vehicle parking to general public are not exempted from GST. Therefore, it would be taxable.]	Taxable
(iii)	Food supplied by the canteen run by a hospital to the in-patients as advised by the doctors. [Services by way of health care services by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST. Food supplied to the in-patients by a canteen run by the hospital, as advised by the doctor/nutritionists, is a part of composite supply of healthcare and not separately taxable. Thus, said services are exempt from GST.]	Exempt
(iv)	An RWA in a housing society, registered under GST, collects the maintenance charges of ₹ 6,500 per month per member. [Supply of service by a RWA (unincorporated body or a non-profit entity registered under any law) to its own members by way of reimbursement of charges or share of contribution up to an	Exempt

NOTES

	amount of ₹ 7500 per month per member for providing services and goods for the common use of its members in a housing society/a residential complex are exempt from GST. Hence, in the given case, services provided by the RWA are exempt from GST since the maintenance charges collected per month per member do not exceed ₹ 7500.]	

Illustration 13

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

[PYQ May 2022]

Solution

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

1. **services of renting of immovable property provided to an unregistered business entity.**
2. **services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority.**
3. **services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport.**
4. **services of transport of goods or passengers.**

Illustration 14

Answer the following, after reading the below given paragraph:

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

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

[PYQ Nov 2022]

Solution

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

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

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

Illustration 15

ABC Infra, is a partnership firm registered under GST. It furnishes the following details about services provided during the month of February 2024:

NOTES

	Particulars	Amount
(i)	Consideration received from neighbouring Housing Cooperative Society as ABC Infra agrees to install effluent plant for treatment of wastewater even though is no legal requirement to do so.	5,50,000
(ii)	Consideration received from distribution of passes for cricket match organized as firm's annual event. Total 500 passes have been distributed.	2,42,500
(iii)	Services given of booking air tickets in economy class for flight between Mumbai to Manipur.	1,20,000
(iv)	Services given for construction of buildings to State Government in relation to function entrusted to Municipality under article 243W of the Constitution. Construction material used of ₹ 2,79,375 is included in the given figure.	8,20,000

All supplies mentioned above are intra-State supplies. GST rates for CGST, SGST, IGST are 9%, 9%, 18% respectively. Compute the GST payable by the ABC Infra for the month of February, 2024. **[PYQ Sep 2024]**

Solution **Computation of GST payable by the ABC Infra for February, 2024**

	Particulars	CGST @ 9% (₹)	SGST @ 9%(₹)
(i)	Consideration for agreeing to install effluent plant [Taxable since it is a supply of service of agreeing to the obligation to do an act.]	49,500	49,500
(ii)	Distribution of 500 passes of cricket match [Exempt since consideration for services by way of right to admission to unrecognised sporting event is not more than ₹ 500 per person]	-	-
(iii)	Booking air tickets in economy class	10,800	10,800
(iv)	[Taxable since service of booking of air tickets is being provided here. Only the service of transportation of passengers in economy class terminating in Manipur is exempt.]		
(v)	Service of construction of buildings provided to State Government [Taxable since value of supply of goods constitutes more than 25% of the value of the composite supply of goods and services.]	73,800	73,800
	Total GST payable by ABC Infra	1,34,100	1,34,100

NOTES

Illustration 16

(a) Holiday Guest House, situated at Shimla, provides boarding & lodging services to tourists at economical cost. The charges of a single deluxe room per day are ₹ 999. Mr. X has booked one deluxe room for two days during Christmas holidays. You are required to determine whether GST is payable by Holiday Guest House on the above booking. If yes, determine the amount of GST so payable.

Will your answer change, if the charges of a single deluxe room per day charged by Holiday Guest House are ₹ 1,000?

(b) M/s Damodar Ltd. provides services by way of storage of seasonal fruits and vegetables in Bhatinda, Punjab. The monthly rental for a godown is ₹ 15,000. Examine whether GST is payable by M/s Damodar Ltd.

[RTP May 2020]

Solution

(a) Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below or equal to ₹ 1,000 per day or equivalent have been exempted from GST vide an exemption notification. Thus, in view of the above-mentioned provisions, GST is not payable by Holiday Guest House on the booking done by Mr. X as the charges for a unit of accommodation per day is less than ₹ 1,000.

The answer will remain the same even if the charges of a single deluxe room per day is ₹ 1,000 as the exemption is also available in the case where value of supply of a unit of accomodation per day is ₹ 1,000/ i.e., such services are taxable only where value of supply of a unit of accommodation per day exceeds ₹ 1,000/-. Thus, no GST is payable by Holiday Guest House on the booking done by Mr. X even if the charges of a single deluxe room per day is ₹ 1,000.

(b) Services by way of storage/ warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea have been exempted from GST under an exemption notification under GST.

Thus, no GST is payable on the services provided by M/s Damodar Ltd. by way of storage of seasonal fruits and vegetables in Bhatinda, Punjab.

Illustration 17

XYZ Pvt. Ltd. manufactures beauty soap with the brand name 'Forever beauty'. XYZ Pvt. Ltd. has organized a concert to promote its brand. Ms. Mahima, its brand ambassador, who is a leading film actress, has given a classical dance performance in the said concert.

The proceeds of the concert is ₹ 1,25,000.

(i) Explain with relevant provisions of GST, whether Ms. Mahima will be required to pay any GST.

(ii) What will be the answer if the proceeds of the concert is donated to a charitable organization?

[PYQ May 2021]

NOTES

Solution

(i) Services by an artist by way of a performance in classical art forms of, inter alia, dance, are exempt from GST,
if the consideration charged for such performance is not more than ₹ 1,50,000.
However, such exemption is not available in respect of service provided by such artist as a brand ambassador.
Since Ms. Mahima is the brand ambassador of 'Forever Beauty' soap manufactured by XYZ Pvt. Ltd., the services rendered by her by way of a classical dance performance in the concert organized by XYZ Pvt. Ltd. to promote its brand will not be eligible for the above-mentioned exemption and thus, be liable to GST.
(ii) Even if the proceeds of the concert will be donated to a charitable organization, she will be liable to GST.

NOTES

Chapter 6: Time of Supply

Introduction

GST is payable on supply of goods or services. A supply consists of various elements that can be separated in time, like purchase, dispatch (of goods), delivery (of goods) or provision or performance of service, entry in the records, payment, deposit in the bank.

So, at which time does GST become payable?

Provisions relating to 'time of supply' provide timing of the liability to pay CGST and SGST/UTGST (intra-State supply) and IGST (inter-State supply) as time of supply fixes the point in time when the liability to pay tax arises.

Illustration 01

Explain the significance of time of supply under GST law.

Solution

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

Time of Supply of Goods

Section 12 (1) provides for the determination of time of supply in the following situations:

- Supply of goods where supplier is liable to pay tax;
- Supply of goods that are taxable under reverse charge;
- Supply of vouchers that can be used to pay for goods;
- Residual cases
- Addition to value of supply of goods by way of interest or late fee or penalty for delayed payment.

Supply of goods where supplier is liable to pay tax (forward charge) [Section 12(2)]

As per section 12(2), the time of supply of goods that are taxable under forward charge, is the earlier of the following two dates:

a) Date of issue of invoice by the supplier or the last date on which the invoice ought to have been issued in terms of section 31, to the extent the invoice covers the supply of goods; or

b) Date of receipt of payment by the supplier, to the extent the payment covers the supply of goods.

NOTES

Exemption To Pay Tax on advance payment received for supply of goods [NN 66/2017]

- All taxpayers (except composition suppliers) are exempted from paying GST at the time of receipt of advance in relation to supply of goods.
- The entire GST shall be payable only when the invoice for the supply of such goods is issued or ought to have been issued

Time limit for issuance of invoice for supply of goods
As per section 31(1), the invoice needs to be issued either before or at the time of removal of goods (where supply involves movement of goods) or delivery of goods/making goods available to recipient (in any other case).
In case of continuous supply of goods, the invoice should be issued before or at the time of issuance of periodical statement/receipt of periodical payment [Section 31(4)].
In case of goods sent or taken on approval for sale or return, invoice should be issued before or at the time of supply or 6 months from the date of removal, whichever is earlier [Section 31(7)].

Amendment

With effect from 01.10.2023, Notification No. 50/2023 dated 29.09.2023 amends the exemption provided under Notification No. 66/2017. Registered persons supplying specified actionable claims (betting; casinos; gambling; horse racing; lottery; or online money gaming) are now excluded from such exemption. For such supplies, GST must be paid at the time of receipt of payment instead of at the time of supply

Illustration 02

Mansh & Vansh Trading Company, a registered supplier, is liable to pay GST under forward charge. It has furnished the following information:

a) Goods were supplied on 3rd October
b) Invoice was issued on 5th October
c) Payment received on 9th October

Determine the time of supply of goods for the purpose of payment of tax.

Solution

As per Notification No. 66/2017 CT dated 15.11.2017, a registered person (excluding composition supplier and registered persons making supply of specified actionable claims) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a), i.e. date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

Further, a registered person is required to issue a tax invoice before or at the time of removal of goods for supply to the recipient. Thus, in the given case, the invoice for supply of goods should have been issued on or before the removal of goods i.e., on 3rd October.

However, since the invoice has not been issued within the prescribed time, the time of supply for the purpose of payment of tax will be the last date on which the invoice is required to be issued i.e., 3rd October.

NOTES

Illustration 03

Investigation shows that 150 cartons of ceramic capacitors were dispatched on 2nd August but no invoice was raised and the transaction (dispatch of cartons) were not entered in the accounts. There was no evidence of receipt of payment.
What is the time of supply of 150 cartons for the purpose of payment of tax?

Solution

As per Notification No. 66/2017 CT dated 15.11.2017, a registered person (excluding composition supplier and registered persons making supply of specified actionable claims) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a), i.e. date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.
In this case since the invoice has not been issued, the time of supply for the purpose of payment of tax will be the last date on which the invoice is required to be issued.
The invoice for supply of goods in the present case must be issued on or before the dispatch of goods, i.e. on 2nd August. Therefore, the time of supply for the purpose of payment of tax for the goods will be 2nd August, the date when the invoice should have been issued.

Supply of goods that are taxable under reverse charge [Section 12(3)]

The time of supply for such goods will be the earliest of the following dates:

a) **Date on which the goods are received, or**
b) **Date on which payment is recorded in the books of account of the recipient, or the date on which the same is debited in his bank account, whichever is earlier, or**
c) **Date immediately following 30 days from the date of issue of invoice (or document by some other name in lieu of invoice) by the supplier.**

Note : If it is not possible to determine the time of supply by using these parameters, then the time of supply will be the date of entry of goods in the books of account of the recipient of supply.

Illustration 04

Determine the time of supply from the given information.

May 4	Supplier invoices goods taxable on reverse charge basis to Pillar & Co. (30 days from the date of issuance of invoice elapse on June 3)
June 12	Pillar & Co receives the goods, which were held up in transit
July 3	Payment made for the goods

Solution

Here, June 4, 31st day from the date of supplier's invoice, will be the time of supply, being the earliest of the three stipulated dates namely, receipt of goods, date of payment and date immediately following 30 days of issuance of invoice [Section 12(3)].

NOTES

Vouchers [Section 12(4)]

Vouchers are instruments that can be exchanged as payment for goods or services of the designated value. As per the definition, they are instruments that certain persons (potential suppliers) are obliged to accept as consideration, part or full, for goods and/or services.

The time of supply of vouchers exchangeable for goods is-:

a) Date of issue of the voucher, if the supply that it covers is identifiable at that point, or
b) Date of redemption of the voucher in other cases.



Illustration 05

Meal coupons are sold to a company on 9th August for being distributed to the employees of the said company. The coupons are valid for six months and can be used against purchase of food items. The employees use them in various stores for purchases of various edible items on different dates throughout the six months.

What is the date of supply of the coupons?

Solution

As the coupons can be used for a variety of food items, which are taxed at different rates, the supply cannot be identified at the time of purchase of the coupons. Therefore, the time of supply of the coupons is the date of their redemption in terms of section 12(4).

Residual case [Section 12(5)]

If the situation is not covered by any of the provisions discussed above, the time of supply is fixed under sub-section (5) of section 12, in the following manner:

a) Due date for filing of the periodical return, or
b) In any other case, date on which GST is paid.

Enhancement in value on account of interest/late fee etc. for delayed payment of consideration [Section 12(6)]

Section 12(6) prescribes that time of supply in case of addition in value by way of interest/late fee/ penalty for delayed payment of consideration for goods is the date on which the supplier receives such addition in value.

Illustration 06

From the following information provided by M/s Sasta Bazaar. Determine the time of supply for the purpose of payment of GST:

a) It issued coupon on 20.06.2023, worth 2,000 redeemable against purchase of specific plastic items. This coupon was redeemed on 31.07.2023.
b) It issued coupon on 01.08.2023 worth 3,000 which is redeemable against purchase of any item. This coupon was redeemed on 18.08.2023.
c) It received interest of 10,000 for late payment from a customer on 11.11.2023 for supply of goods which was originally made on 24.06.2023.

[RTP May 24]

NOTES

Solution

As per section 12(4) of the CGST Act, 2017, the time of supply of vouchers exchangeable for goods is-

1. Date of issue of the voucher, if the supply that it covers is identifiable at that point, or
2. Date of redemption of the voucher in other cases.

a) In the given case, supply can be identified at the time of purchase of the coupons. Therefore, the time of supply of the coupons is the date of their issue i.e. 20.06.2023.

b) In the given case, supply cannot be identified at the time of purchase of the coupons. Therefore, the time of supply of the coupons is the date of their redemption i.e. 18.08.2023.

c) Section 12(6) of the CGST Act, 2017 prescribes that time of supply in case of addition in value on account of interest/ late fee/penalty for delayed payment of consideration for goods is the date on which the supplier receives such addition in value. Therefore, time of supply in the given case is 11.11.2023

Illustration 07

Mr. X supplied goods for ₹ 50,000 to its customer Miss Diyana on 1st January on the condition that payment for the same will be made within a week. However, Miss Diyana made payment for the said goods on 2nd February and thus, paid interest amounting to ₹ 2,000.

What is the time of supply with regard to addition in the value by way of interest in lieu of delayed payment of consideration?

Solution

As per section 12(6), the time of supply with regard to an addition in value on account of interest, late fee or penalty or delayed payment of consideration is the date on which the supplier received such additional consideration.

Thus, time of supply in respect of interest would be the date on which the supplier has received such additional consideration, i.e. 2nd February.

Time of Supply of Services

Section 13 provides for the determination of the time of supply in the following situations:

a) Supply of service on which the supplier is liable to pay tax,

b) Supply of service that is taxable under reverse charge basis,

c) Supply of vouchers that can be used to pay for services,

d) Residual cases,

e) Addition to value of supply of services by way of interest or late fee or penalty for delayed payment

Time of Supply of service covered under FCM [Section 13(2)]

a) if the invoice is issued within the time prescribed under section 31 Date of invoice or date of receipt of payment (to the extent the invoice or payment covers the supply of services), whichever is earlier

NOTES

b) if the invoice is not issued within the time prescribed under section 31, Date of provision of service or date of receipt of payment (to the extent the payment covers the supply of services)

Note: If the above two methods are not applicable, the time of supply will be the date on which the recipient of service shows receipt of the service in his books of account.

"Date of receipt of payment" refers to the

a) date on which the payment is recorded in the books of account of the entity (supplier of service) that receives the payment, or
b) the date on which the payment is credited to the entity's bank account, whichever is earlier

"to the extent the invoice or payment covers the supply of services"
Suppose, a part of the consideration is paid in advance or invoice is issued for part payment, the time of supply will not cover the full supply. The supply shall be deemed to have been made to the extent it is covered by the invoice or the part payment.
Excess Payment Up to ₹1,000
In terms of proviso to section 10(2), for payment up to ₹1,000 in excess of invoice value, suppliers can choose to take the date of invoice issued with respect to such excess amount as the time of supply of services in relation to the excess value.

Time limit for issuance of invoice for supply of services

a) As per Section 31(2) read with rule 47 of CGST Rules, the tax invoice needs to be issued either before the provision of service or within 30 days (45 days in case of insurance companies/ banking companies/financial institutions including NBFCs) from the date of supply of service.
b) As per Section 31(5), In case of continuous supply of services, the invoice should be issued either
    1. on/before the due date of payment or
    2. before/at the time when the supplier of service receives the payment, if the due date of payment is not known
    3. on/before the date of completion of the milestone event when the payment is linked to completion of an event.
c) In case of cessation of supply of services before completion of supply, the invoice (to the extent of the supply made before such cessation) should be issued at the time when the supply ceases [Section 31(6)].
d) In case of insurance companies/banking companies/financial institutions including NBFCs/ telecom companies/ notified supplier of services making taxable supplies between distinct persons as specified in Section 25(4) , invoice may be issued before or at the time of recording such supply in the books of account or before the expiry of the quarter during which the supply was made [Second proviso to rule 47].

The time of supply of service on which GST is payable on reverse charge basis (except on services received from associated enterprises located outside India) is determined as follows:

NOTES

Receipt of services that are taxable under reverse charge [Section 13(3)]

Time of supply shall be as follows:

a) If supply is received from registered supplier, time of supply shall be earlier of:
   1. Date of payment as per books of recipient or debit in bank whichever is earlier
   2. Date immediately following 60 days of the date of issue of invoice by the supplier in all cases where supplier is required to issue invoices.

b) If supply is received from unregistered supplier, time of supply shall be earlier of:
   1. Date of payment as per books of recipient or debit in bank whichever is earlier
   2. Date of issue of invoice where invoice is to be issued by recipient

"Date of payment" in the above situation refers to the date on which the payment is recorded in the books of account of the entity that receives the service (recipient of service), or the date on which the payment is debited from the entity's bank account, whichever is earlier.

Import of services between associated enterprises In the case of service received from an associated enterprise located outside India, the time of supply will be

a) the date of payment for the service, or
b) the date of entry of the service in the books of account of the recipient, whichever is earlier.

Illustration 08

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

Solution

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

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

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

Illustration 09

Champak Ltd. availed legal services from a firm of advocates . The firm issues invoice for the services to Champak Ltd. on 17th Feb. However, Champak Ltd. was not happy with the services provided by the firm as its legal case was not handled by firm in a professional manner and it resulted in the company losing the case. The company delayed the payment to the firm and finally made the payment on 03rd Nov.
Determine the time of supply of legal services provided by the firm of advocates to Champak Ltd. [MTP Sep 2024]

NOTES

Solution

Tax on services supplied by a firm of advocates by way of legal services to any business entity is payable under reverse charge by such firm of advocates. Time of supply of services that are taxable under reverse charge to earliest of the following two dates in terms of section 13(3) of CGST Act, 2017 :

a) Date of Payment i.e. 03rd November

b) 61st day from the date of issue of invoice i.e. 19th April

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

This fixes 19th April as the time of supply

Illustration 10

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

Identify the time of supply of the legal services.

Solution

Tax on services supply by a firm of advocates by way of legal services to any business entity is payable under reverse charge by such firm of advocates. Time of supply of services that are taxable under reverse charge is earliest of the following two dates in terms of section 13(3):

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

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

Vouchers [Section 13(4)]

The time of supply of vouchers that are exchangeable for services is stipulated as

a) the date of issue of the voucher if the supply is identifiable at that point, or

b) the date of redemption of the voucher in other cases.

Residual case [Section 13(5)]

If the situation is not covered by any of the provisions discussed above, the time of supply is fixed under sub-section (5) of section 13, in the following manner:

a) Date on which periodical return for the period is required to be filed, or

b) In any other case, date on which GST is paid.

NOTES

Enhancement of value on account of interest/late fee etc. for delayed payment of consideration [Section 13(6)]

It prescribes that time of supply in case of addition in value by way of interest/late fee/penalty for delayed payment of consideration for a service is the date on which the supplier receives such addition in value

Clarifications

Clarification on time of supply in respect of supply of services of construction of road and maintenance thereof of National Highway Projects of National Highways Authority of India (NHAI) in Hybrid Annuity Mode (HAM) model

Issue: **Under the Hybrid Annuity Mode (HAM) model of National Highways Authority of India (NHAI), the concessionaire has to construct the new road and provide Operation & Maintenance of the same which is generally over a period of 15- 17 years and the payment**
of the same is spread over the years. What is the time of supply for the purpose of payment of tax on the said service under the HAM model?

Clarification:
In a Hybrid Annuity Model (HAM) contract under the National Highways Authority of India
(NHAI), involving Design, Build, Operate, and Transfer (DBOT) of highways, the concessionaire undertakes both construction and Operation & Maintenance (O&M).

1. **Nature of Service:**
   - **The contract is treated as a single continuous supply of services under Section 2(33) of the CGST Act, 2017.**
   - **It includes construction and maintenance spread over the contract period, with staggered payments based on milestones or time intervals.**
2. **Time of Supply:**
   - **GST liability arises on issuance of the invoice or receipt of payment, whichever is earlier.**
   - **If the invoice is not issued within the specified time, GST liability arises on the due date of payment (as per the contract) or the date of receipt of payment, whichever is earlier.**
3. **Interest Component:**
   - **Any interest included in the annuity payments is part of the taxable value under Section 15(2)(d) of the CGST Act, 2017.**

Example:
A concessionaire enters a 15-year HAM contract with NHAI for constructing and maintaining a highway. The contract specifies:

- ***Payment in 30 installments (semi-annually).***
- ***₹100 crore for construction (payable over 5 years) and ₹50 crore for O&M (payable over 10 years).***

NOTES

1. **The concessionaire completes a construction milestone and issues an invoice for ₹10 crore on 1st January 2025. Payment is due by 31st January 2025 but is received on 20th January 2025.**
    - ***Time of Supply: 1st January 2025 (invoice date).***
2. **If no invoice is issued by 31st January 2025, the time of supply would be the earlier of:**
    - ***Due date (31st January 2025), or***
    - ***Date of payment received (20th January 2025).***
3. **The payment installment includes ₹1 crore as interest.**
    - ***The interest is taxable, and GST must be calculated on the total payment, including interest.***

NOTES

Question Bank

Illustration 01

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

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

Determine the time of supply in the above scenario for the purpose of payment of tax.

Solution

As per Notification No. 66/2017 CT dated 15.11.2017, a registered person (excluding composition supplier and registered persons making supply of specified actionable claims) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a) i.e., date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

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

Illustration 02

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

July 5, August 5, September 5	Payments of ₹ 2 lakh made in each month

Determine the time of supply for the purpose of payment of tax.

Solution

As per Notification No. 66/2017 CT dated 15.11.2017, a registered person (excluding composition supplier and registered persons making supply of specified actionable claims) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a), i.e. date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31. As per section 31(4), in case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice is issued before or at the time of each such statement is issued or, as the case may be, each such payment is received.

Therefore, invoices should be issued for ₹ 2 lakh each on or before July 5, August 5 and September 5, when monthly payments of ₹ 2 lakh are received. Thus, assuming that the invoice is issued on July 5, August 5 and September 5, the time of supply for the purpose of payment of tax will be July 5, August 5 and September 5 respectively for goods valued at ₹ 2 lakh each.

NOTES

Illustration 03

Determine the time of supply from the given information.

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

Solution

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

Illustration 04

Determine the time of supply from the following particulars:

6th May	Booking of convention hall, sum agreed ₹ 15000, advance of ₹ 3000 received
15th September	Function held in convention hall
27th October	Tax invoice issued for ₹ 15000, indicating balance of ₹ 12000 payable
3rd November	Balance payment of ₹ 12000 received

Solution

As per section 31(2) read with rule 47 of CGST Rules, the tax invoice is to be issued within 30 days of supply of service. In the given case, the invoice is not issued within the prescribed time limit. As per section 13(2)(b), in a case where the invoice is not issued within the prescribed time, the time of supply of service is the date of provision of service or receipt of payment, whichever is earlier.

Therefore, the time of supply of service to the extent of ₹ 3,000 is 6th May as the date of payment of ₹ 3000 is earlier than the date of provision of service. The time of supply of service to the extent of the balance ₹ 12,000 is 15th September which is the date of provision of service.

Illustration 05

Investigation shows that ABC & Co carried out service of cleaning and repairs of tanks in an apartment complex, for which the Apartment Owners' Association showed a payment in cash on 4th April to them against work of this description.

The dates of the work are not clear from the records of ABC & Co. ABC & Co have not issued invoice or entered the payment in its books of account.

Solution

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

NOTES

Therefore, the time of supply will be determined vide clause (c) of section 13(2) i.e., the date on which the recipient of service shows receipt of the service in his books of account.
Thus, time of supply will be 4th April, the date on which the Apartment Owners' Association records the receipt of service in its books of account.

Illustration 06

Determine the time of supply from the given information. (Assume that service being supplied is taxable under reverse charge).

May 4	The supplier of service issues invoice for service provided. There is a dispute about amount payable, and payment is delayed.
August 21	Payment made to the supplier of service

Solution

Here, July 4 will be the time of supply, being the earlier of the two stipulated dates namely, date of payment and the date immediately following 60 days from the date of issue of invoice.

Illustration 07

Determine the time of supply from the given information.

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

Solution

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

Illustration 08

GST is payable on advance received for supply of goods and services taxable under forward charge.

Solution

The statement is not correct. While GST is payable on advance received for supply of services taxable under forward charge, the same is not payable in case of advance received for supply of goods taxable under forward charge.
As per section 13, the time of supply of services taxable under forward charge is –

a) Date of issue of invoice or date of receipt of payment, whichever is earlier, if the same is issued within 30 days from the date of supply of service; or
b) Date of provision of service or date of receipt of payment, whichever is earlier, if the invoice is not issued within 30 days from the date of supply of service.

NOTES

Illustration 09

Determine the time of supply in the following cases assuming that GST is payable under reverse charge:

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

Solution

S. No.	Date of receipt of goods (1)	Date of payment by the recipient of goods (2)	Date of issue of invoice by the supplier of goods (3)	Date immediate by following 30 days from the date of invoice (4)	Time of supply of goods [Earlier of (1), (2) & (4)]
1.	July 1	August 10	June 29	July 30	July 1
2.	July 1	June 25	June 29	July 30	June 25
3.	July 1	Part payment made on June 30 and balance amount paid on July 20	June 29	July 30	June 30 for part payment made and July 1 for balance
4.	July 5	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1	July 2	June 28 (i.e., when payment is entered in the books of account of the recipient)

NOTES

5.	July 1	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29	July 30	June 26 (i.e., when payment is debited in the recipient's bank account)
6.	August 1	August 10	July 29	July 30	July 30 (i.e., 31st day from issuance of invoice)

Illustration 10

Determine the time of supply in the following cases assuming that GST is payable under reverse charge:

S. No.	Date of payment by the recipient for supply of services	Date of issue of invoice by the supplier of services
1.	August 10	June 29
2.	August 10	June 1
3.	Part payment made on June 30 and balance amount paid on September 1	June 29
4.	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1
5.	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29

Solution

S. No.	Date of payment by the recipient for supply of services (1)	Date of issue of invoice by the supplier of services (2)	Date immediately following 60 days from invoice (3)	Time of supply of goods [Earlier of (1) & (3)]
1.	August 10	June 29	August 29	August 10
2.	August 10	June 1	August 1	August 1
3.	Part payment made on June 30 and balance amount paid on September 1	June 29	August 29	June 30 for part payment and August 29 for balance amount
4.	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1	August 1	June 28 (i.e. when payment is entered in the books of account of the recipient)

NOTES

5.	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29	August 29	June 26 (i.e. when payment is debited in the recipient's bank account)

Illustration 11

Raju Pvt Ltd. receives the order and advance payment on 5th January for carrying out an architectural design job. It delivers the designs on 23rd April. By oversight, no invoice is issued at that time, and it is issued much later, after the expiry of prescribed period for issue of invoice.
When is the time of supply of service?

Solution

Since the invoice has not been issued within the prescribed time period, time of supply of service will be the earlier of the following two dates in terms of section 13(2)(b):

- Date of provision of service
- Date of receipt of payment

The payment was received on 5th January and the service was provided on 23rd April. Therefore, the date of payment, i.e. 5th January is the time of supply of the service in this case.

Illustration 12

An order is placed on Ram & Co. on 18th August for supply of a consignment of customized shoes. Ram & Co. gets the consignment ready and informs the customer and issues the invoice on 2nd December. The customer collects the consignment from the premises of Ram & Co. on 7th December and electronically transfers the payment on the same date, which is entered in the accounts on the next day, 8th December.
What is the time of supply of the shoes for the purpose of payment of tax?

Solution

As per Notification No. 66/2017 CT dated 15.11.2017, a registered person (excluding composition supplier and registered persons making supply of specified actionable claims) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a), i.e. date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.
In this case, the invoice is issued before the removal of the goods and is thus, within the time limit prescribed under section 31(1). Therefore, the time of supply for the purpose of payment of tax is the date of issue of invoice, which is 2nd December.

Illustration 13

Modern Security Co. provides service of testing of electronic devices. In one case, it tested a batch of devices on 4th and 5th September but could not raise invoice till 19th November because of some dispute about the condition of the devices on return. The payment was made in December. What is the method to fix the time of supply of the service?

NOTES

Solution

The time of supply of services, if the invoice is not issued in time, is the date of payment or the date of provision of service, whichever is earlier [Section 13(2)(b)]. In this case, the service is provided on 5th September but not invoiced within the prescribed time limit. Therefore, 5th September, the date of provision of service, being earlier than the date of payment, will be the time of supply.

Illustration 14

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

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

Solution

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

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

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

1) **1st August since the invoice is not issued within 30 days of supply of service.**
2) **7th September since the invoice is issued within 30 days of supply of service and the payment is received after the issuance of invoice.**
3) **3rd August viz., earlier of date of issuance of invoice (7th September) or date of receipt of payment (3rd August).**
4) **7th September viz., earlier of date of issuance of invoice (7th September) or date of receipt of payment (15th September).**

Illustration 15

M/s Pranav Associates, a partnership firm, provided recovery agent services to Newtron Credits Ltd., a non-banking financial company and a registered supplier, on 15th January. Invoice for the same was issued on 7th February and the payment was made on 18th April by Newtron Credits Ltd. Bank account of the company was debited on 20th April.

Determine the following:

a) **Person liable to pay GST**
b) **Time of supply of service**

Solution

a) **Tax on services supplied by a recovery agent to, inter alia, a non- banking financial company (NBFC) is payable under reverse charge such non-banking financial company.**

   Therefore, in the given case, person liable to pay GST is the NBFC - Newton Credits Ltd.

NOTES

b) As per section 13(3), the time of supply of service on which GST is payable under reverse charge is earlier of the following:-

- Date of payment as entered in the books of account of the recipient (18th April) or the date on which the payment is debited in his bank account (20th April), whichever is earlier;
- Date immediately following 60 days since issue of invoice by the supplier, i.e. 9th April.

Thus, time of supply of service is 9th April.

Illustration 16

1) An order is placed to T & Co;, Sholapur on 18th August, 2021 for supply of fabrics to make garments. Company delivered the fabrics on 4th September, 2021 and after completion of the order issued the invoice on 15th September, 2021. The payment against the same was received on 30th September, 2021. Determine the time of supply for the purpose of payment under CGST Act, 2017 with your explanations.
2) HM Industries Ltd. engaged the services of a transporter for road transport of a consignment on 20th May, 2021. However, the consignment could not be sent immediately on account of a strike in the factory, and instead was sent on 20th July 2021. Invoice was received from the transporter on 20th June 2021 and payment was made on 25th August 2021. What is the time of supply of the transporter's service?

[PYQ Nov 2021]

Solution

1) The time of supply of goods (where movement of goods involve) (fabric) for the purpose of payment of tax is the date of issue of invoice or the last date when the invoice ought to have been issued. Further, a registered person is required to issue a tax invoice before or at the time of delivery of goods or making available thereof to the recipient. Thus, in the given case, time of supply is 4th September, 2021.
2) **Alternative 1:** Assuming that services of transportation of goods by road have been provided by a GTA which has not paid GST @ 12%; i.e. GST is payable @ 5%.
   Tax on supply of transportation of goods by road services provided by a Goods Transport Agency (GTA) to a body corporate is payable under reverse charge by such body corporate. Time of supply of services taxable under reverse charge is earliest of:-
   i) date of making payment, or
   ii) 61st day from the date of issue of invoice by supplier

Thus, in the given case, time of supply is earlier of (a) 25th August or (b) 20th August 2021 (61st day from 20th June)

Thus, in the given case, time of supply 20th August 2021

Alternative 2: Assuming that services of transportation of goods by road have been provided by a GTA which has paid GST @ 12%. Thus, GST is payable under forward charge. The time of supply of services in case where the invoice is issued within 30 days of provision of service is the earlier of date of invoice or date of receipt of payment.

Thus, in the given case, time of supply is 20th June, 2021.

NOTES

Illustration 17

M/s Shubhank Associates, a partnership firm, provided recovery agent services to Neelkanth Credits Ltd., a non-banking financial company and a registered supplier, on 15 th January. Invoice for the same was issued on 7th February and the payment was made on 18th April by Neelkanth Credits Ltd. Bank account of the company was debited on 20th April. **[MTP May 2021]**

Determine the following:

(i) Person liable to pay GST

(ii) Time of supply of service

Solution

(i) Tax on services supplied by a recovery agent to, inter alia, a non- banking financial company (NBFC) is payable under reverse charge by such non-banking financial company.

(ii) Therefore, in the given case, person liable to pay GST is the NBFC - Neelkanth Credits Ltd.

(iii) As per section 13(3) of the CGST Act, the time of supply of service on which GST is payable under reverse charge is earlier of the following:

- **Date of payment as entered in the books of account of the recipient (18th April) or the date on which the payment is debited in his bank account (20th April), whichever is earlier;**
- **Date immediately following 60 days since issue of invoice by the supplier, i.e. 9th April. Thus, time of supply of service is 9th April.**

Illustration 18

M/s. Xing Trans of Kolkata is engaged in the trading of transmitters. On 20/05/2021, M/s. Xing Trans has sent 500 units of transmitters for exhibition at Chennai on sale or return basis. Out of the said 500 units, 300 units have been sold on 28/07/2021 at the exhibition. Out of remaining 200 units, 150 units have been brought back to Kolkata on 25/11/2021 and balance 50 units have neither been sold nor brought back.

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

[PYQ May 2022]

Solution

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

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

i.e. upto 28/07/2021.

Remaining 200 (150+ 50) units have neither been sold nor brought back till the expiry of 6 months from the date of removal goods, i.e. 20/11/2021. Thus, tax invoice for said 200 units needs to be issued upto 20/11/2021.

NOTES

Chapter 7: Value of Supply

GST is an *ad valorem* levy, i.e. it is levied as a percentage of the value of supply of goods and/or services, it becomes important to know how to arrive at the value on which tax is to be paid.
Provisions relating to 'value of supply' set out the mechanism to compute such a value basis which CGST and SGST/UTGST (intra-State supply) and IGST (inter-State supply) should be paid.

Section 15(1) Transaction value

Transaction value is the price actually paid or payable for the said supply of goods or services or both. Transaction value shall be accepted as Value of Supply if following two conditions are satisfied:

1. **Supply is between two unrelated persons, and**
2. **Price is the sole consideration.**

Illustration 01

'Consideration under GST law includes both monetary and non-monetary considerations.'
Discuss the correctness of this statement as per the provisions of CGST Act.

Solution

The statement is correct. As per the definition of the term 'consideration' provided under the CGST Act, consideration under the GST law includes both payment in money or otherwise made by the recipient or any other person and also takes within its sweep the monetary value of any act or forbearance, by the recipient or any other person for the supply. Further, it includes within its ambit any deposit which is applied as a consideration for the supply but excludes the subsidies provided by the State or Central Government.
The term 'money' has also been defined under the CGST Act and it not only includes cash (Indian as well as foreign currency) but also cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveler's cheque, money order, postal/electronic remittance or any such similar instrument recognized by RBI when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value. Non-monetary consideration essentially means consideration in kind.

Section 15(2) Inclusions in Value Of Supply

The value of supply includes Following Elements:

1. **Taxes, duties, cesses, fees and charges other than CGST, SGST, UTGST, GST Compensation Cess, if charged separately.**

NOTES

Note: TCS under Income-Tax Act, 1961 not includible in the taxable value for the purpose of GST

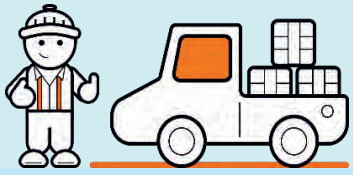
2. Any amount that the supplier is liable to pay in relation to supply but which has been incurred by the recipient of the supply and not already included in the price.
   Ex :
   1. *Transportation cost paid by recipient on which supplier is liable to deliver, then such amount shall be included in Value of supply*
   2. *Transportation cost paid by recipient on which supplier has arranged transport , then such amount shall not be included in Value of supply*
   3. *If the transportation service is provided by the supplier, then it shall be termed as Composite supply*



3. Incidental expenses, such as, commission and packing, charged by the supplier to the recipient of a supply

Outward freight, transit insurance

Where the supplier agrees to deliver the goods at the buyer's premises and arranges for transport and insurance, the contract of supply becomes a composite supply; the principal supply being the supply of goods.
Therefore, outward freight and transit insurance become part of the value of the composite supply and GST is payable thereon at the same rate as applicable for the relevant goods.



However, if the contract for supply is on ex-factory basis where buyer pays the outward freight and insurance, the same will not be included in the value of supply of goods.

4. Any amount charged for anything done by the supplier in respect of the supply of goods and/or services at the time of, or before delivery of goods/supply of services.

Illustration 02

AKJ Foods Pvt. Ltd. gets an order for supply of processed food from a customer. The customer wants the consignment tested for gluten and specified chemical residues. AKJ Foods Pvt. Ltd. does the testing before the supply and charges a testing fee for the same from the customer. AKJ Foods Pvt. Ltd. argues that such testing fees should not form part of the consideration for the supply as it is a separate activity.
Is the company's argument correct in the light of section 15?

NOTES

Solution

Section 15(2) mandates addition of certain elements in the value of supply. Clause (c) of section 15(2) specifies that the amount charged for anything done by the supplier in respect of the supply at the time of or before delivery of goods or supply of services shall be included in the value of supply. Since AKJ Foods Pvt. Ltd. does the testing before the delivery of goods, the charges therefor will be included in the value of the supply.

Therefore, AKJ Foods Pvt. Ltd.'s argument is not correct. The testing fee should be included in the price to arrive at value of supply.

5. **Interest or late fee or penalty for delayed payment of consideration. However, if interest or late fee or penalty is waived off by the supplier then it shall not be included.**

Illustration 03

Mezda Banners, an advertising firm, gives its customers an interest-free credit period of 30 days for payment. Its customer ABC paid for the supply 32 days after the supply of service. Mezda Banners waived the interest payable for a delay of two days.

The Department wants to add interest for two days to the value of supply. Should notional interest be included in the value?

Solution

This is a supply that is valued as per transaction value under section 15(1) as price is the sole consideration for the supply and the supply is made to unrelated person. The value of a supply includes interest for delayed payment of any consideration for any supply. However, the time of supply to the extent it relates to an addition in the value of supply by way of interest for delayed payment of any consideration is the date on which the supplier receives such addition in value. In the given case, the supplier has waived the interest for delayed payment. Consequently, the supplier has not received the interest. Therefore, notional interest for 2 days shall not be included in the value of the supply.

6. **Subsidies, directly linked to the price, other than subsidies given by the State or Central Governments. It must be noted that only subsidies directly linked to the price of goods/services are added to the value.**

Blanket subsidy/donation received are not includible in the value.

Note :

If specifically given in question that value is after considering subsidy or if mentioned only that subsidy received, then it will be assumed that price is charged after considering subsidy and if subsidy is

1. **Given by CG/SG : No further treatment required**
2. **Given by other than CG/SG : Add back**

NOTES

Section 15(3) Exclusion of discounts from Value of Supply

The value of the supply shall not include any discount which is given—

1. Before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply;
2. After the supply has been effected, if—
   a. Such discount is established in terms of an agreement entered into at or before the time of such supply and
   b. specifically linked to relevant invoices and
   c. ITC attributable to the discount on the basis of a document issued by the supplier has been reversed by the recipient of the supply

Illustration 04

Crunch Bakery Products Ltd sells biscuits and cakes through its dealers, to whom it charges the list price minus standard discount and pays GST accordingly. When goods remain unsold with the dealers, it offered additional discounts on the stock as an incentive to push the sales, without any prior agreement between them for offering such additional discount.

Can this additional discount be reduced from the price at which the goods were sold, and concomitant tax adjustments made?

Solution

The discounts were not known or agreed for at the time of supply of goods to the dealers. Therefore, in terms of section 15(3), such discounts cannot be reduced from the price on which tax had been paid.

Illustration 05

Are post-supply discounts eligible for deduction from the value of supplies in all situations? Explain.

Solution

No, the post-supply discounts are not eligible for deduction from the value of supplies in all situations. Such discounts are allowed as a deduction from the value of supply only in the situations where the following two conditions are satisfied cumulatively:

a) The discount is in terms of an agreement that existed at or before the time of supply and can be worked out invoice-wise; and
b) Proportionate input tax credit (ITC) is reversed by the recipient - The buyer would have availed ITC of GST payable on the gross value specified in the invoice. Thus, when a credit note is issued to him by the supplier for the discount, the buyer will reverse the proportionate credit; consequent to which, the supplier's output tax liability will be reduced by the same amount.

If any of the above conditions are not satisfied, post-supply discount is not allowed as a deduction from the value of supply and consequently, GST liability of the supplier does not get reduced.

NOTES

Allowability of certain specific types of discounts offered by the suppliers

1. **Staggered discounts ('Buy more, Save more' offers)**



In case of staggered discounts, rate of discount increases with increase in purchase volume.

Ex : One may get a 10% discount for purchases above ₹5,000/-, 20% discount for purchases above ₹10,000/- and 30% discount for purchases above ₹20,000/-. Such discounts are shown on the invoice itself. Such discounts are excluded to determine the value of supply.

2. **Periodic/year ending discounts/volume discounts**

These discounts are offered by the suppliers to their stockists, etc.

Ex: Get an additional discount of 1% if you purchase 10,000 pieces in a year, get an additional discount of 2% if you purchase 15,000 pieces in a year.



Such discounts are established in terms of an agreement entered into at or before the time of supply though not shown on the invoice as the actual quantum of such discounts gets determined after the supply has been effected and generally at the year end. Such discounts are passed on by the supplier through credit notes. Such discounts are excluded to determine the value of supply provided they satisfy the parameters laid down in section 15(3), including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of documents issued by the supplier.

3. **No claim bonus discounts**

No claim bonus shall not be includible in the taxable value for computation of GST as NCB cannot be considered as consideration for any supply provided by the insured to insurance company

Amount of NCB get reduced from the gross premium while raising invoice and any discount provided on or before making supply and recorded in invoice shall not be included in value of supply.

4. **Secondary discounts**

These are the discounts which are not known at the time of supply or are offered after the supply is already over.

Ex : M/s A supplies 10,000 packets of biscuits to M/s B at ₹10/- per packet. Afterwards, M/s A re-values it at ₹9/- per packet. Subsequently, M/s A issues a credit note to M/s B for ₹1/-per packet.

Such secondary discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply and the conditions laid down in section 15(3)(b) are not satisfied.

NOTES

Some more Examples

1. Pink and Blue Pvt. Ltd. (PBPL) sold goods to Orange Pvt. Ltd. (OPL) on 15th January at ₹50,000 (exclusive of taxes and discounts) and charged ₹9,000 as IGST @18%. The terms of supply stipulated that discount @2% will be given to OPL if it makes the payment within one month of the supply.
   OPL avails the input tax credit of ₹9,000 in the month of January and makes the payment for the goods on 10th February.
   PBPL issues credit note for ₹1180 [₹1,000 for value of discount and₹180 for proportionate IGST leviable thereon] to OPL on 11th February.
   After receiving credit note, OPL reverses the input tax credit of ₹180 attributable to the discount given by the PBPL. PBPL can reduce its GST liability of the month of February by ₹180.
   OPL would have paid ₹57,820 (₹50,000 + ₹9,000 - ₹1,000 - ₹180) to PBPL on 10th February.

2. In the above Example, if the terms of supply did not provide for discount @2% for payment within one month but PBPL offers such discount to OPL at the time of payment after negotiation, the discount will not be allowed as a deduction from the value. PBPL will issue a commercial credit note for only the value of discount, i.e. for ₹1,000. OPL will not reverse any input tax credit and PBPL will also not be able to reduce its GST liability for the month of February. In this case, OPL would pay ₹58,000 (₹50,000 + ₹9,000 - ₹1,000) to PBPL on 10th February.

3. The agreement of Raju Electrical Appliances with its dealers is that purchase of rice cookers over 1000 pieces in the Diwali month will entitle them to a discount of 5% per cooker.
   Therefore, the quantum of discount can be determined only at the end of Diwali month.
   However, since the agreement relating to discount was in existence at the time of supply, and the discount ca n be worked out for each invoice, such post supply discount will be allowed as a deduction from the value of supply of rice cookers. Raju Electrical Appliances can issue credit note for 5% of the value of goods along with GST and claim adjustment of excess tax paid. The dealer must reverse the proportionate input tax credit on the relevant stock to bring it in line with the reduced tax.

4. A company announces turnover discounts after reviewing dealer performance during the year. The discounts are based on performance slabs and are given as cash-back. As these discounts were not known at the time of supply of the goods, they will not be deducted from the value of those goods. Hence, the company will not be able to adjust excess tax paid from its tax liability.

NOTES

Question Bank

Illustration 01

Black and White Pvt. Ltd. has provided the following particulars relating to goods sold by it to Colourful Pvt. Ltd.

Particular	Amount
List price of the goods (exclusive of taxes and discounts)	50000
Tax levied by Municipal Authority on the sale of such goods	5000
Packing charges (not included in price above)	1000

Black and White Pvt. Ltd. received ₹ 2,000 as a price linked subsidy from an NGO on sale of such goods. The price of ₹ 50,000 of the goods is after considering such subsidy. Black and White Ltd. offers 2% discount on the list price of the goods which is recorded in the invoice for the goods.

Determine the value of taxable supply made by Black and White Pvt. Ltd.

Solution

Computation of value of taxable supply

Particulars	Amount
List price of the goods (exclusive of taxes and discounts)	50000
Tax levied by Municipal Authority on the sale of such goods [Includible in the value as per section 15(2)(a)]	5000
Packing charges [Includible in the value as per section 15(2)(c)]	2000
Subsidy received from a non-Government body [Since subsidy is received from a non-Government body and directly linked to price, the same is included in the value in terms of section 15(2)(e)]	1000
Total	58000
Less: Discount @ 2% on ₹ 50,000 [Since discount is known at the time of supply and recorded in invoice, it is deductible from the value in terms of section 15(3)(a)]	1000
Value of taxable supply	57000

Illustration 02

Samriddhi Advertisers conceptualised and designed the advertising campaign for a new product launched by New Moon Pvt Ltd. for a consideration of ₹ 5,00,000. Samriddhi Advertisers owed ₹ 20,000 to one of its vendors in relation to the advertising service provided by it to New Moon Pvt Ltd. Such liability of Samriddhi Advertisers was discharged by New Moon Pvt Ltd. New Moon Pvt Ltd. delayed the payment of consideration and thus, paid ₹ 15,000 as interest.

Assume the rate of GST to be 18%. Determine the value of taxable supply made by Samriddhi Advertisers.

NOTES

Solution

Computation of value of taxable supply

Particulars	Amount
Service charges	500000
Payment made by New Moon Pvt. Ltd to vendor of Samriddhi Advertisers [Liability of the supplier being discharged by the recipient, is includible in the value in terms of section 15(2)(b)]	20000
Interest for delay in payment of consideration [Includible in the value in terms of section 15(2)(d) [Refer note below] [₹15,000 × (100/118)] (rounded off	12,712
Value of taxable supply	5,32,712

Note: The interest for delay in payment of consideration will be includible in the value of supply but the time of supply of such interest will be the date when such interest is received in terms of section 13(6). Such interest has been assumed to be inclusive of GST. It is also possible to assume the interest to be exclusive of GST.
In that case, the value of supply will work out to be ₹ 5,35,000.

Illustration 03

Red Pepper Ltd., Delhi, a registered supplier, manufactures taxable goods. It provides the following details of taxable inter-State supply made by it during the month of March.

S. No.	Particulars	Amount
1.	List price of taxable goods supplied inter-State (exclusive of taxes)	1500000
2.	Price linked subsidy received from the Central Government for supply of taxable goods to Government School (exclusively related to supply of goods included at S. No. 1)	210000
3.	Price linked subsidy received from an NGO for supply of taxable goods to an old age home (exclusively related to supply of goods included at S. No. 1)	50000
4.	Tax levied by Municipal Authority	20000
5.	Packing charges	15000
6.	Late fee paid by the recipient of supply for delayed payment of consideration (Recipient has agreed to pay ₹ 6,000 in lump sum and no additional amount is payable by him over and above such amount)	6000

The list price of the goods is net of the two subsidies received. However, the other charges/taxes/fee are charged to the customers over and above the list price.
Calculate the total value of taxable supplies made by Red Pepper Ltd. during the month of March. Rate of IGST is 18%.

NOTES

Solution

Computation of total value of taxable supplies made by Red Pepper Ltd. during the month of March

Particulars	Amount
List price of the goods	1500000
Subsidy amounting to ₹ 2,10,000 received from the Central Government [Since the subsidy is received from the Government, the same is not includible in the value in terms of section 15(2)(e)]	Nil
Subsidy received from NGO [Since the subsidy is received from a non-Government body and directly linked to the price, the same is includible in the value in terms of section 15(2)(e)]	50000
Tax levied by the Municipal Authority [Includible in the value as per section 15(2)(a)]	20000
Packing charges [Being incidental expenses, the same are includible in the value as per section 15(2)(c)]	15000
Late fees paid by recipient of supply for delayed payment [Includible in the value as per section 15(2)(d) - As the amount of interest received is a lump sum amount, the same has to be taken as inclusive of GST] [₹ 6,000 x 100/118] rounded off	5058
Value of taxable supply	1590085

Illustration 04

M/s. Flow Pro, a registered supplier, sold a machine to BP Ltd. It provides the following information in this regard: -

S. No.	Particulars	Amount
1.	Price of the machine [excluding taxes and other charges mentioned at S. Nos. (ii) and (iii)]	25000
2.	Third party inspection charges [Such charges were payable by M/s Flow Pro but the same have been directly paid by BP Ltd. to the inspection agency. These charges were not recorded in the invoice issued by M/s Flo Pro.]	5000
3.	Freight charges for delivery of the machine [M/s Flow Pro has agreed to deliver the goods at BP Ltd.'s premises]	2000
4.	Subsidy received from the State Government on sale of machine under Skill Development Programme [Subsidy is directly linked to the price.]	5000
5.	Discount of 2% is offered to BP Ltd. on the price mentioned at S. No. (i) above and recorded in the invoice	

Note: Price of the machine is net of the subsidy received.

Determine the value of taxable supply made by M/s Flow Pro to BP Ltd.

NOTES

Solution

Computation of value of taxable supply made by M/s. Flo Pro to BP Ltd.

Particulars	Amount
Price of the machine [Since the subsidy is received from the State Government, the same is not includible in the value of supply in terms of section 15(2)(e)]	25000
Third party inspection charges [Any amount that the supplier is liable to pay in relation to the supply but has been incurred by the recipient and not included in the price actually paid or payable for the goods, is includible in the value of supply in terms of section 15(2)(b)]	5000
Freight charges for delivery of the machine [Since arranging freight is the liability of supplier, it is a case of composite supply and thus, freight charges are added in the value of principal supply.]	
Total	32000
Less: Discount @ 2% on ₹ 25,000 being price charged to BP Ltd. [Discount given before or at the time of supply if duly recorded in the invoice is deductible from the value of supply in terms of section 15(3)(a)	500
Total value of supply	31500

Illustration 05

Shri Krishna Pvt. Ltd., a registered supplier, furnishes the following information relating to goods sold by it to Shri Balram Pvt. Ltd.-

S. No.	Particulars	Amount
1.	Price of the goods [excluding taxes and other charges mentioned at S. Nos. (iii), (v) and (vi)]	100000
2.	Municipal tax	2000
3.	Inspection charges	15000
4.	Subsidy received from Shri Ram Trust [Subsidy is directly linked to the price of the goods supplied.]	50000
5.	Late fees for delayed payment inclusive of GST [Shri Balram Pvt. Ltd. paid the late fees. However, these charges were ultimately waived by Shri Krishna Pvt. Ltd. and the amount was refunded to Shri Balram Pvt. Ltd. during the same month]	1000
6.	Weighment charges [Such charges were paid by Shri Balram Pvt. Ltd. to Radhe Pvt. Ltd. on behalf of Shri Krishna Pvt. Ltd.]	2000

Note: Price of the goods is net of the subsidy received.

Determine the value of taxable supply made by Shri Krishna Pvt. Ltd. to Shri Balram Pvt. Ltd.

NOTES

Solution

Determination of the value of taxable supply made by Shri Krishna Pvt. Ltd. to Shri Balram Pvt. Ltd.

Particulars	Amount
Price of the goods	100000
Municipal tax [Includible in the value as per section 15(2)(a)]	2000
Inspection charges [Any amount charged for anything done by the supplier in respect of the supply of goods at the time of/before delivery of goods is includible in the value as per section 15(2)(c)]	15000
Subsidy received from Shri Ram Trust [Since the subsidy is received from a non-Government body and directly linked to the supply, the same is includible in the value in terms of section 15(2)(e)]	50000
Late fees for delayed payment [Not includible since the same is waived off]	Nil
Weighment charges paid to Radhe Pvt. Ltd. on behalf of Shri Krishna Pvt. Ltd. [Any amount that the supplier is liable to pay in relation to the supply but has been incurred by the recipient and not included in the price actually paid or payable for the goods, is includible in the value of supply in terms of section 15(2)(b)]	2000
Value of taxable supply	169000

Illustration 06

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

S. No.	Particulars	Amount
1.	Price of machinery (exclusive of taxes and discounts)	550000
2.	Part fitted in the machinery at the premises of Ghisa Ltd. [Amount has been paid by Ghisa Ltd. directly to the supplier. However, it was Koli Ltd.'s liability to pay the said amount. The said amount has not been recorded in the invoice issued by Koli Ltd.]	20000
3.	Installation and testing charges for machinery, not included in price	25000
4.	Discount @ 2% on price of the machinery mentioned at S. No. (i) above (recorded in the invoice)	
5.	Koli Ltd. provides additional discount @ 1% at year end, based on additional purchase of other machinery for which adjustment is made at the end of the financial year without any change in individual transactions.	

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

NOTES

Solution

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

Particulars	Amount
Price of machinery (exclusive of taxes and discounts)	550000
Amount paid by Ghisa Ltd. directly to the supplier for the part fitted in the machinery [Any amount that the supplier is liable to pay in relation to a supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods is includible in the value of supply in terms of section 15(2)(b).]	20000
Installation and testing charges [Any amount charged for anything done by the supplier in respect of the supply of goods at the time of/before delivery of goods is includible in the value of supply in terms of section 15(2)(c).]	25000
Less: Discount @ 2% on the price of machinery [₹ 5,50,000 x 2%] [Since discount is given at the time of supply of machinery and recorded in the invoice, the same is deductible from the value of the supply in terms of section 15(3)(a).]	11000
Less: Additional 1% discount at year end [Though the additional discount is established before/at the time of supply, it is not deductible from the value of supply in terms of section 15(3)(b) as the same is not linked to any specific transaction and is adjusted by the parties at the end of the financial year.]	Nil
Value of taxable supply	5,84,000

Illustration 07

LSP Ltd., a registered supplier, sold a machine to Balwant Ltd. It provides the following information in this regard: - [MTP May 24]

S. No.	Particulars	Amount
1.	Price of the machine [excluding taxes and other charges mentioned at S. Nos. (ii) and (iii)]	20,000
2.	Third party inspection charges [Such charges were payable by LSP Ltd. but the same have been directly paid by Balwant Ltd. to the inspection agency. These charges were not recorded in the invoice issued by LSP Ltd.]	6,000
3.	Freight charges for delivery of the machine [LSP Ltd. has agreed to deliver the goods at Balwant Ltd.'s premises]	1,000
4.	Subsidy received from the State Government on sale of machine under Skill Development Programme [Subsidy is directly linked to the price]	5,000
5.	Discount of 2% is offered to Balwant Ltd. on the price mentioned at S. No. (i) above and recorded in the invoice	

Note: Price of the machine is net of the subsidy received.

Determine the value of taxable supply made by LSP Ltd. to Balwant Ltd.

NOTES

Solution

Computation of value of taxable supply made by M/s. LSP to Balwant Ltd.

Particulars	Amount
Price of the machine [Since the price linked subsidy is received from the State Government, the same is not includible in the value of supply]	20,000
Third party inspection charges [Any amount that the supplier is liable to pay in relation to the supply but has been incurred by the recipient and not included in the price actually paid or payable for the goods, is includible in the value of supply]	6,000
Freight charges for delivery of the machine [Since arranging freight is the liability of supplier, it is a case of composite supply and thus, freight charges are added in the value of principal supply.]	1,000
Total	27,000
Less: Discount @ 2% on 20,000 being price charged to Balwant Ltd. [Discount given before or at the time of supply if duly recorded in the invoice is deductible from the value of supply]	400
Value of taxable supply	26,600

Illustration 08

Shri Krishna Pvt. Ltd., a registered supplier, furnishes the following information relating to goods sold by it to Shri Balram Pvt. Ltd.- [MTP Nov 23]

S. No.	Particulars	Amount
1.	Price of the goods [excluding taxes and other charges mentioned at S. Nos. (iii), (v) and (vi)]	1,00,000
2.	Municipal tax	2,000
3.	Inspection charges	15,000
4.	Subsidy received from Shri Ram Trust [Subsidy is directly linked to the goods supplied]	50,000
5.	Late fees for delayed payment inclusive of GST [Shri Balram Pvt. Ltd. paid the late fees. However, these charges were ultimately waived by Shri Krishna Pvt. Ltd. and the amount was refunded to Shri Balram Pvt. Ltd. during the same month]	1,000
6.	Weighment charges [Such charges were paid by Shri Balram Pvt. Ltd. to Radhe Pvt. Ltd. on behalf of Shri Krishna Pvt. Ltd.]	2,000

Note: Price of the goods is net of the subsidy received.

Determine the value of taxable supply made by Shri Krishna Pvt. Ltd. to Shri Balram Pvt. Ltd.

NOTES

Solution

Computation of value of taxable supply made by Shri Krishna Pvt. Ltd. to Shri Balram Pvt. Ltd.

Particulars	Amount
Price of the goods	1,00,000
Municipal tax [Includible in the value as per section 15(2)(a) of the CGST Act, 2017]	2,000
Inspection charges [Any amount charged for anything done by the supplier in respect of the supply of goods at the time of/before delivery of goods is includible in the value as per section 15(2)(c) of the CGST Act, 2017]	15,000
Subsidy received from Shri Ram Trust [Since the subsidy is received from a non-Government body and directly linked to the supply, the same is includible in the value in terms of section 15(2)(e) of the CGST Act, 2017]	50,000
Late fees for delayed payment [Not includible since the same is waived off]	Nil
Weighment charges paid to Radhe Pvt. Ltd. on behalf of Shri Krishna Pvt. Ltd. [Any amount that the supplier is liable to pay in relation to the supply but has been incurred by the recipient and not included in the price actually paid or payable for the goods, is includible in the value of supply in terms of section 15(2)(b) of the CGST Act, 2017]	2,000
Value of taxable supply	1,69,000

Illustration 09

Red Pepper Ltd., Delhi, a registered supplier, manufactures taxable goods. It provides the following details of taxable inter-State supply made by it during the month of March.

S. No.	Particulars	Amount
1.	List price of taxable goods supplied inter-State (exclusive of taxes)	15,00,000
2.	Subsidy received from the Central Government for supply of taxable goods to Government School (exclusively related to supply of goods included at S. No. 1)	2,10,000
3.	Subsidy received from an NGO for supply of taxable goods to an old age home (exclusively related to supply of goods included at S. No. 1)	50,000
4.	Tax levied by Municipal Authority	20,000

NOTES

5.	Packing charges	15,000
6.	Late fee paid by the recipient of supply for delayed payment of consideration (Recipient has agreed to pay 6,000 in lump sum and no additional amount is payable by him over and above such amount)	6,000

The list price of the goods is net of the two subsidies received. However, the other charges/taxes/fee are charged to the customers over and above the list price.
Calculate the total value of taxable supplies made by Red Pepper Ltd. during the month of March. Rate of IGST is 18%.

[MTP Nov 23]

Solution

Computation of total value of taxable supplies made by Red Pepper Ltd. during the month of March

Particulars	Amount
List price of the goods	15,00,000
Subsidy amounting to 2,10,000 received from the Central Government [Since the subsidy is received from the Government, the same is not includible in the value in terms of section 15(2)(e) of the CGST Act, 2017]	NIL
Subsidy received from NGO [Since the subsidy is received from a non-Government body and directly linked to the supply, the same is includible in the value in terms of section 15(2)(e) of the CGST Act, 2017]	50,000
Tax levied by the Municipal Authority [Includible in the value as per section 15(2)(a) of the CGST Act, 2017]	20,000
Packing charges [Being incidental expenses, the same are includible in the value as per section 15(2)(c) of the CGST Act, 2017]	15,000
Late fees paid by recipient of supply for delayed payment [Includible in the value as per section 15(2)(d) of the CGST Act, 2017 - As the amount of interest received is a lump sum amount, the same has to be taken as inclusive of GST] [6,000 x 100/118] rounded off	5,085
Total value of taxable supplies	15,90,085

Illustration 10

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

Particulars	Amount
Price of the goods (excluding any tax or discounts)	10,00,000
Tax levied by the Municipal Authority	10,000

NOTES

Subsidy received from Jiva Enterprises Pvt Ltd. (The price above is after consideration of such subsidy amount)	1,00,000
Amount incurred by Y Ltd. for post delivery inspection. (Charges incurred post receipt of goods by Y Ltd.)	5,000

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

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

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

[MTP May 23 & MTP Sep 24]

Solution

Computation of taxable value and tax liability

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

Illustration 11

Gulati Ltd., a registered supplier in Mumbai (Maharashtra), has supplied goods to Mridul Traders and Kalu Motors Ltd. located in Ahmedabad (Gujarat) and Pune (Maharashtra) respectively. Gulati Ltd. has furnished the following details for the current month:

NOTES

S. No.	Particulars	Mridul Traders	Kalu Motors Ltd.
1.	Price of the goods (excluding GST)	10,000	30,000
2.	Packing Charges	500	
3.	Commission	500	
4.	Weighment Charges		2,000
5.	Discount for prompt payment (recorded in the invoice)		1,000

Items given in points (ii) to (v) have not been considered while arriving at price of the goods given in point (i) above.

Compute the GST liability [CGST & SGST or IGST, as the case may be] of Gulati Ltd. for the given month. Assume the rates of taxes to be as under:

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

Make suitable assumptions, wherever necessary.

[MTP May 24 & RTP Nov 21]

Solution

Computation of Value of supply & GST liability

S. No.	Particulars	Mridul Traders	Kalu Motors Ltd.
1.	Price of goods	1,0000	30,000
2.	Add: Packing charges (Note-1)	500	
3.	Add: Commission (Note-1)	500	
4.	Add: Weighment charges (Note-1)		2,000
5.	Less: Discount for prompt payment (Note-2)		1,000
	Value of taxable supply	11,000	31,000
	IGST payable @ 18% (Note-3)	1,980	
	CGST payable @ 9% (Note-3)		2,790
	SGST payable @ 9% (Note-3)		2,790

Notes:

1. Incidental expenses, including commission and packing, charged by supplier to recipient of supply is includible in the value of supply. Weighment charges are also incidental expenses, hence includible in the value of supply [Section 15 of the CGST Act, 2017].
2. Since discount is known at the time of supply, it is deductible from the value in terms of section 15 of the CGST Act, 2017.

NOTES

3. Section 10 of the IGST Act, 2017 provides that where the supply involves movement of goods, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient. Thus, place of supply is Gujarat. Further, where the location of the supplier and the place of supply are in two different States, supply of goods shall be treated as a supply of goods in the course of inter-State trade or commerce. Since supply made to Mridul Traders is an inter-State supply, IGST is payable.

Illustration 12

Following are the particulars, relating to one of the machine sold by SQM Ltd. to ACD Ltd. in the month of February 2020 at list price of ₹ 9,50,000. (exclusive of taxes and discount) Further, following additional amounts have been charged from ACD Ltd :

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

Additional information :

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

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

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

[PYQ Nov 2020]

Solution

Computation of value of taxable supply

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

NOTES

Notes:

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

NOTES

Chapter 8: Input Tax Credit

Scheme of ITC

- This scheme is designed to avoid the cascading effect of taxes and make GST a destination-based tax.
- Broadly, ITC is available on all inputs, input services and capital goods used for purposes of business of a taxable person.
  The exception is 'blocked credit', where ITC is not available even when these goods or services are used for purposes of business. 17(5)
- ITC is used for payment of tax on taxable output supply to avoid cascading effect of taxes.
- GST law does not require 'one to one' correlation between inputs/input services and final products/ services. Any eligible ITC can be used for payment of tax on any taxable output supply.

Important Definition

1. **Capital Goods [Section 2(19)]**
   Capital goods means goods,
   - the value of which is capitalized in the books of account of the person claiming the ITC and
   - which are used or intended to be used in the course or furtherance of business

   Example : Plant and Machinery, Land, Building, etc.
2. **Exempt supply [Section 2(47)]**
   Exempt supply means supply of any goods or services or both which
   - attracts a nil rate of tax or
   - which may be wholly exempt from tax under section 11, or under section 6 of the IGST Act, and
   - includes non-taxable supply.

   Example : Supply of electricity, petroleum, natural gas, etc.
3. **Input goods [Section 2(59)]**
   Input goods means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business.
4. **Input Service [Section 2(60)]**
   Input service means any service used or intended to be used by a supplier in the course or furtherance of business.
   Example : Insurance services
5. **Zero-rated supply [Section 16(1) of the IGST Act]**
   Zero-rated supply means any of the following supplies of goods or services or both, namely:
   - Export of goods or services or both; or
   - Supply of goods or services or both to a Special Economic Zone (SEZ) developer or a Special Economic Zone unit

NOTES

6. **Non-resident taxable person** [Section 2(77)] = 17(5)

NRTP means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India

Eligibility for taking ITC [Section 16]

1. **Registered person to take credit**

Every registered person subject to Section 49, shall be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business.

The input tax credit is credited to the electronic credit ledger.

2. **Conditions for availment of credit by registered person**

Subject to section 41, input tax credit is available only if –

a) The said goods or services or both are used or intended to be used in the course or in the furtherance of his business;

b) He is in possession of tax invoice/debit note/tax-paying document issued by a supplier registered under this Act (listed above);

c) He has received the said goods or services except in case of bill to ship to model.

> **"Bill to Ship to" Model**
>
> Goods delivered to another person on the direction of the registered person by way of transfer of documents of title or otherwise, either before or during the movement, are deemed to have been received by such registered person. So, ITC will be available to the registered person, on whose order the goods are delivered to a third person.

---

d) The supplier has paid the said amount of tax (as charged in the invoice) to appropriate Government in cash or by way of utilization of input tax credit, as admissible;

e) He (claimant of input tax credit) has furnished return under section 39 in FORM-GSTR 3B;

> **Rule 36(4)**
>
> No input tax credit shall be availed by a registered person in respect of invoices or debit notes, the details of which are;
>
> - not furnished by the supplier in the statement of outward supplies in FORM GSTR-1 or
> - using the invoice furnishing facility; or
> - the details of such invoices or debit notes have been not communicated to the registered person in FORM GSTR-2B.

General Rule: ITC shall be allowed only when goods are received

Clarification: Goods shall be deemed to be received by the dealers in automobile sector when they are handed over to the transporter at the supplier's Factory gate.
In short, ITC is available for those goods.

Automobile Industry
Car/ Bike etc.



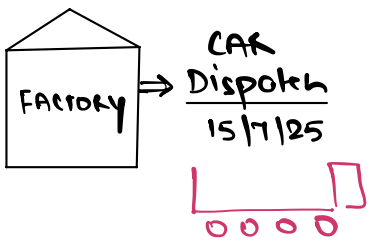
Example:

Hero Motors Pvt. Ltd. sells 50 bikes to Rider Automobiles, a dealer.

- Date bikes are handed to the transporter at Hero's factory: 10th August 2025
- Actual delivery to Rider Automobiles: 15th August 2025

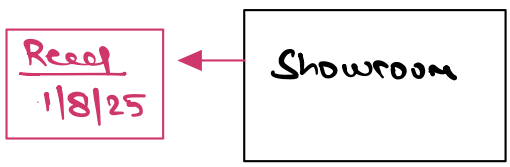
As per this clarification, Rider Automobiles can claim ITC on 10th August, even though the bikes will arrive on 15th August

Maruti Suzuki
Manuf. of Car



Deemed to be Read to Dealer.
∴ ITC Available ⇒ 15/7/25

J Automobiles
Authorise dealer Maruti



12 Sep.
⇓
2B ITC

Reversal of ITC by Recipient [Rule 37A]
If Supplier has filed the GSTR-1 but has not filed GSTR-3B till 30th September of next FY then Recipient has to reverse the ITC for the same till 30th November of succeeding FY to which such ITC relates. However, Recipient is eligible to take ITC as and when Supplier files GSTR-3B

Illustration 01

Briefly explain the provisions relating to reversal of input tax credit in case of non-payment of tax by the supplier and re-availment thereof?

[PYQ Nov 23]

Solution

Where a registered person (recipient) avails ITC in GSTR-3B for a tax period in respect of an invoice/debit note details of which have been furnished by supplier in GSTR-1/using IFF, but supplier does not furnish his return till 30th September following the end of FY in which the ITC in respect of invoice/ debit note has been availed, then the amount of ITC shall be reversed by recipient, while furnishing a return in Form GSTR-3B on or before 30th November following the end of such FY during which such ITC has been availed.

However, where the said amount of ITC is not so reversed by recipient, such amount shall be payable by the said person along with interest.

Further, where the said supplier subsequently furnishes the return in Form GSTR-3B for the said tax period, the said registered person may re-avail the amount of such credit in the return in Form GSTR-3B for a tax period thereafter.

3. **Goods received in instalments**

If goods are received in instalments against a single invoice, credit can be taken upon receipt of last instalment of goods.

4. **If recipient of goods or service or both has not paid the supplier within 180 days from date of invoice (except in case of reverse charge), the amount equal to ITC availed along with the interest will be added to output liability of the recipient. The said input tax credit can be re-availed on payment of value of supply and tax payable thereon [Section Proviso to Section 16(2)]**

Exceptions

This condition of payment of value of supply plus tax within 180 days does not apply in the following situations:

a) **Supplies on which tax is payable under reverse charge**
b) **Deemed supplies without consideration**
c) **Additions made to the value of supplies on account of supplier's liability, in relation to such supplies, being incurred by the recipient of the supply.**

Under situations given in points (*b*) & (*c*), the value of supply is deemed to have been paid.

NOTES

Illustration 02

A registered person must pay to the supplier, the value of the goods and/or services along with the tax within 180 days from the date of issue of invoice. State the exceptions to said rule [MTP May 23]

Solution

The condition of payment of value of supply plus tax within 180 days does not apply in the following situations:

a) **Supplies on which tax is payable under reverse charge**
b) **Deemed supplies without consideration**
c) **Additions made to the value of supplies on account of supplier's liability, in relation to such supplies, being incurred by the recipient of the supply.**

5. **Claim of depreciation on tax component disqualifies a recipient of Capital goods from availment of input tax credit [Section 16 (3)]**

6. **Time limit for availment of ITC extended [Section 16(4)]**

ITC on invoices relating to a FY or debit notes issued in any FY) can be availed on or before:

a) **30th November of the succeeding FY (after end of FY to which such invoice or debit note pertains**
b) **Actual Date of filing of annual return (GSTR-9) for the relevant year.**

Example

X ltd. has received invoice dated 10th December, 2023, In this case last date for taking ITC shall be 30/11/2024 but if annual return has been filed on 31st July 2023, last date shall be 31st July 2023.

If any debit note has been issued in connection with any invoice, date of debit note shall be taken into consideration for the purpose of determining the time limit and not the date of invoice to which it relates.
e.g. Invoice is issued on 12/02/2024 and debit note is issued on 28/05/2025 in this case ITC can be taken maximum up to 20/11/2026 or the date of filing annual return whichever is earlier.

7. **ITC in respect of revocation of cancellation of registration [Section 16(6)]**

Where registration of a registered person is cancelled under section 29 and subsequently the cancellation of registration is revoked by any order, either

- **under section 30 or pursuant to any order made by the Appellate Authority or**
- **the Appellate Tribunal or court and**
- **where availment of ITC in respect of an invoice or debit note was not restricted under sub-section (4) on the date of order of cancellation of registration,**

the said person shall be entitled to take the ITC in respect of such invoice or debit note for supply of goods or services or both, in a return under section 39 if-

a) **filed up to 30th November following the FY to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier; or**

NOTES

b) for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, where such return is filed within 30 days from the date of order of revocation of cancellation of registration, whichever is later.".

Illustration 03

What are the conditions necessary for availing ITC?

[MTP Nov 22]

Solution

Following conditions are to be satisfied by the registered taxable person for obtaining ITC:

1. **he is in possession of tax invoice or debit note or such other tax paying documents as may be prescribed;**
2. **the details of the invoice or debit note referred above has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;**
3. **he has received the goods or services or both;**
4. **the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted**
5. **subject to section 41, the supplier has actually paid the tax charged in respect of the supply to the Government; and**
6. **he has furnished the return under section 39.**

Illustration 04

Can a person take ITC without payment of consideration for the supply along with tax?

Solution

Yes, the recipient can take ITC. However, he is required to pay the amount towards value of supply along with tax within 180 days from the date of issue of invoice. This condition is not applicable where tax is payable on reverse charge basis.

Restrictions on use of amount available in electronic credit ledger [Rule 86B]

A registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of 99% of such tax liability, in cases where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds ₹50 lakh.

Example

The total value of inter-State supply of Raman & Sons for the month of February 2021 is of ₹100 lakh. Said supply is taxable @ 18% IGST. Thus, total output tax liability of Raman & Sons is ₹18 lakh. Amount available in the electronic credit ledger is ₹20 lakh (IGST).

In terms of restriction imposed by rule 86B, Raman & Sons can discharge 99% of its output tax liability, i.e. ₹17,82,000 (99% of ₹18,00,000) from the amount available in electronic credit ledger. However, it has to mandatorily discharge the balance 1% of the output tax liability i.e. ₹18,000 (1% of ₹18,00,000) through electronic cash ledger only.

Minimum 1% of the output tax liability be discharged using electronic cash ledger

NOTES

Exceptions

This restriction shall not apply in following cases:

a) Where the said person/proprietor/karta/managing director/any of its two partners, whole-time directors, members of Managing Committee of Associations or Board of Trustees, as the case may be, have paid more than ₹1 lakh as income tax1 in each of the last 2 financial years.

b) Where the registered person has received a refund of more than ₹1 lakh in the preceding FY on account of unutilized ITC in case of
- Zero rated supplies made without payment of tax or
- inverted duty structure.

c) Where the registered person has discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, up to the said month in the current financial year.

d) Where the registered person is:
- Government Department
- Public sector undertaking
- Local authority
- Statutory body

However, the commissioner or an officer authorized by him in this behalf may remove the said restriction after such verification and such safeguards as he may deem fit.

Illustration 05

Restrictions have been imposed on the use of amount available in the electronic credit ledger vide rule 86B of the CGST Rules, 2017. Is there any exceptions to rule 86B? If yes, state the exceptions.

[RTP May 22 & PYQ Nov 2022]

Apportionment of credit and blocked credit [Section 17]

1. Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.
2. Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the IGST Act, and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.
3. The value of exempt supply shall be computed as per rule 42 and 43.

Exempt supplies shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and building.
If Goods/Services have been supplied by a person and GST is to be paid by the recipient under reverse charge, it will be considered to be exempt supply for the supplier and tax credit is not allowed.
Explanation - For the purposes of this sub section, the expression "value of exempt supply" shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule.

NOTES



Blocked Credit [Section 17(5)]

Not with standing anything contained in sub-section (1) of section 16 and subsection (1) of section 18, input tax credit shall not be available in respect of the following namely:

1.

a) **Motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely:—**

- **Further supply of such motor vehicles; or**
- **Transportation of passengers; or**
- **Imparting training on driving such motor vehicles;**

Motor vehicles exclude –

- **Vehicle running upon fixed rails (TRAIN)**
- **Special purpose vehicles for being used in a factory or any enclosed premises**
- **Vehicle with less than 4 wheels fitted with engine capacity of up to 25cc**

Thus, railways, two/three wheelers with engine capacity of up to 25cc, bicycle etc. do not fall in the definition of motor vehicle.

aa) **Vessels and aircraft except when they are used-**

i. **For making the following taxable supplies, namely :**
   - **Further supply of such vessels or aircraft; or**
   - **Transportation of passengers; or**
   - **Imparting training on navigating such vessels; or**
   - **Imparting training on flying such aircraft;**

ii. **For transportation of goods;**

(b) Services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (*a*) or clause (*aa*) :
Provided that the input tax credit in respect of such services shall be available—

1. **Where the motor vehicles, vessels or aircraft referred to in clause (*a*) or clause (*aa*) are used for the purposes specified therein;**
2. **where received by a taxable person engaged-**
   - **In the manufacture of such motor vehicles, vessels or aircraft; or**
   - **In the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;**

b) **The following supply of goods or services or both —**

i. **Food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (*a*) or clause (*aa*) except when used for the purposes specified therein, life insurance and health insurance.**
Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply; or Such goods and/or services when provided by an employer to its employees under a statutory obligation

ii. **Membership of a club, health and fitness centre; and**

iii. **Travel benefits extended to employees on vacation such as leave or home travel concession**

NOTES

Provided that the ITC in respect of such goods or services or both shall be available. Where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.

2. Works contract services when supplied for construction of immovable property, other than plant and machinery, except where it is for further supply of works contract service;

Section 2(119): "Works Contract" means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.

Meaning of plant and machinery

"Plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural supports that are used for making outward supply of goods and/ or services and includes such foundation or structural support but excludes land, building or other civil structures, telecommunication towers, and pipelines laid outside the factory premises.

3. Goods or services received by a taxable person for construction of an immovable property on his own account, other than plant and machinery, even though it is used in course or furtherance of business;

Similar to WIC Service

HW

Examples :

1. A company buys cement, tiles, etc. and avails the services of an architect for construction of its office building. ITC on such goods and services is blocked.
2. MN & Constructions procures cement, paint, iron rods and services of an architect for construction of commercial complex, for one of its clients. ITC on such goods and services is allowed.
3. A company buys cement, tiles, etc. and avails the services of an architect for renovation of its office building. The company has booked such expenditure in its Profit and loss A/c. ITC on such goods and services is allowed.
4. ITC on work contract services availed by a manufacturing company for construction of pipelines to be laid outside its factory, is blocked.
5. ITC on goods and/or services used by an automobile company for construction of foundation on which a machinery (to be used in production process) is to be mounted permanently is allowed.
6. A telecommunication company has availed services of works contractor for repair of its office building. The company has capitalized such expenditure. ITC on such services is blocked.

4. Goods or services or both on which the tax is paid under composition scheme.
5. Goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under CSR referred u/s 135 of companies act, 2013.
6. Goods or services or both received by a non-resident taxable person except on goods imported by him.

NOTES

Note : ITC of GST paid on goods imported by NRTP is allowed. Hence, ITC on GST paid on import of services by him is also blocked.

7. Goods or services or both used for personal consumption.
8. Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples.
9. Tax paid in terms of sections 74 or 74A, 129 and 130.

Goods or Service or both received by a taxable person which are used or intended to be used for Corporate Social Responsibility.

Illustration 06

A taxable person is in the business of information technology. He buys a car (maximum seating capacity – 5 persons) for use of his Executive Directors.
Can he avail the ITC in respect of GST paid on purchase of such car?

Solution

No. ITC on motor vehicles for transportation of persons with approved seating capacity of up to 13 persons (including driver), can be availed only if the taxable person is in the business of transport of passengers or is providing the services of imparting training on driving such motor vehicles or is in the business of further supply of such motor vehicles. Also, ITC can be availed on motor vehicles used for transportation of goods.

Conditions of use of amount available in electronic credit ledger [Rule 86A]

- Rule 86A of the GST Rules provides Provisions to restrict the use of input tax credit (ITC) in the electronic credit ledger of a taxpayer.
- This rule allows commissioner or an authorized officer not below the rank of assistant commissioner to block ITC if there are reasons to believe that the ITC has been fraudulently availed or is ineligible.

The conditions under which the ITC can be restricted include:

1. Non-Existent Supplier

ITC has been availed based on invoices issued by a registered person who is found non-existent or not conducting any business from their registered place of business.

2. Non-Receipt of Goods/Services

ITC has been availed without the actual receipt of goods or services.

3. Fake Invoices

ITC has been availed based on invoices from a person without payment of tax to the government.

4. Contravention of GST Laws

The registered person availing ITC is found to be in contravention of the provisions of the GST Act or rules.

5. Tax Not Paid to the Government

ITC has been availed based on the tax invoices or debit notes where the tax charged in respect of such invoices or debit notes has not been paid to the government.
These restrictions can be imposed for a maximum period of one year from the date of imposing such restrictions.

NOTES

Availability of credit in special circumstances [Section 18]

1.

a) **Compulsory Registration**

As per section 18(1)(*a*)/Rule 40, A person who has applied for registration under this Act within 30 days from the date on which he becomes liable to registration and has been granted such registration shall be entitled to take credit of input tax in respect of inputs/semi-finished/ finished goods on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act. No tax credit shall be allowed for capital goods.

Note: If any person has applied for registration after expiry of 30 days, tax credit shall not be allowed of inputs or capital goods

b) **Voluntary Registration**

As per section 18(1)(*b*)/Rule 40, A person who takes voluntary registration shall be entitled to take credit of input tax in respect of inputs held in stock and inputs/semi-finished/finished goods on the day immediately preceding the date of grant of registration. No tax credit shall be allowed for capital goods.

c) **Shifting from composition scheme to normal scheme**

As per Section 18 (1) (*c*)/Rule 40. If any registered person has shifted from composition scheme to normal scheme, such person shall be entitled to take credit of input tax in respect of inputs held in stock/semi-finished/finished goods and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax. The credit on capital goods shall be reduced by 5% per quarter of a year or part thereof from the date of invoice.

d) **Exempt supply becomes taxable supply**

As per Section 18 (1) (*d*)/Rule 40. If any exempt supply becomes taxable supply, in that case, the registered person shall be entitled to take credit of input tax in respect of inputs held in stock/ semi-finished/finished goods and on capital goods on the day immediately preceding the date from which it becomes taxable. The credit on capital goods shall be reduced by 5% per quarter of a year or part thereof from the date of invoice.

For this purpose the applicant has to submit form no. ITC-01 within 30 days from the date on which he becomes eligible to avail ITC. Further ITC-01 should be verified by Chartered Accountant/Cost Accountant if the total amount of ITC is exceeding ₹2,00,000.

2. A registered person shall not be entitled to take input tax credit under sub-section (1), in respect of any supply of goods or services or both to him after the expiry of one year from the date of issue of tax invoice relating to such supply.

Example: Mr. Shyam purchased goods vide invoice dated 01/07/2019 ₹10,00,000 plus GST ₹2,00,000 and he is unregistered. Limit of ₹20,00,000 has crossed on 01/08/2020 and he applied for registration on 01/08/2020 and was granted registration on 10/08/2020, in this case as per section 18(2) tax credit for the goods lying in the stock is not allowed because one year has elapsed from the date of invoice.

NOTES

Not imp for Exam.

3. **ITC in case of Amalgamation/Demerger etc. [Section 18 (3)/Rule 41]**

- Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, in such cases, the said registered person shall be allowed to transfer the input tax credit which remains unutilized in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.
- For this purpose information shall be submitted in Form No. ITC-02 by the transferor and the transferee shall accept it on the common portal and ITC shall be credited to the electronic credit ledger of the transferee.

Read.

4. **Tax credit in case of shifting from normal scheme to composition scheme section 18 (4)/18(5)/ Rule 44**

- Where any registered person who has availed of input tax credit opts to pay tax under composition scheme or, where taxable supply becomes exempt supply, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of stock.
- In case of capital goods, the remaining tax credit has to be reversed taking the life to be 60 months and part of the month shall be ignored. After payment of such an amount, the balance of ITC, if any, lying in his electronic credit ledger shall lapse.
- For this purpose the applicant has to submit form no. ITC-03.

5. **Reversal of Tax credit in case of supply of capital goods on which tax credit has been taken [Section 18 (6)/Rule 44]**

In case of supply of capital goods, on which input tax credit has been taken, the registered person shall pay an amount

a) ITC taken on such goods reduced by 5% per quarter of a year or part thereof from the date of issue of invoice for such goods (i.e., ITC pertaining to remaining useful life of the capital goods), or

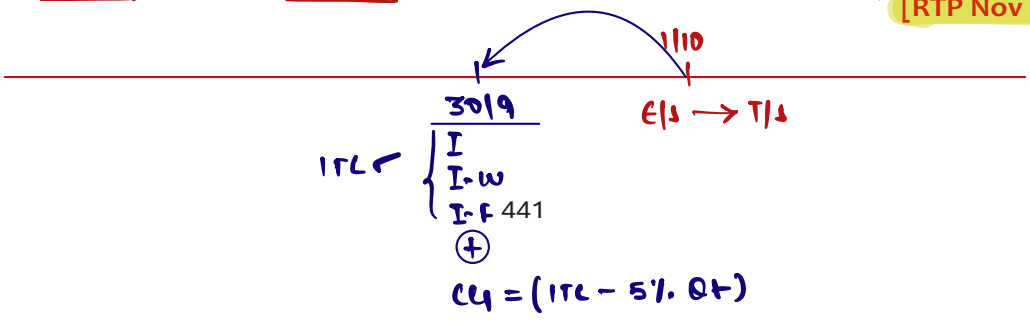
b) The tax on the transaction value of such capital goods, whichever is higher. However, if refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may directly pay tax on the transaction value.

Illustration 07

Mamta Trade Links trades in exempt goods and provides taxable services. It is registered under GST. On 1st October, the exemption available on its goods gets withdrawn.

Analyze the scenario and determine the eligibility of Mamta Trade Links for availing ITC, if any, on inputs and/or capital goods used in the supply of exempt goods

[RTP Nov 2020]



NOTES

Solution

If the exempt supply made by a registered person becomes a taxable supply, provisions of section 18(1)(d) become applicable. In the given case, since Mamta Trade Links is a registered person, section 18(1)(d) will be applicable.
As per section 18(1)(d), Mamta Trade Links will be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semifinished or finished goods held in stock relatable to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable, i.e. 30th September. ITC on capital goods will be reduced by 5% per quarter or part thereof from the date of invoice.

Illustration 08

Babla Enterprises is exclusively engaged in making exempt supply of goods and is thus, not registered under GST. On 1st October, the exemption available on its goods gets withdrawn. On that day, the turnover of Babla Enterprises was ₹ 45 lakh. Examine the eligibility of Babla Enterprises for availing ITC, if any.

[RTP Nov 2020]

Solution

Since the exemption available on goods being supplied by Babla Enterprises, an unregistered person, gets withdrawn, it becomes liable to registration as its turnover had crossed the threshold limit on the day when the exemption is withdrawn.
Assuming that Babla Enterprises applies for registration within 30 days of 1st October and it obtains such registration, it will be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semifinished or finished goods held in stock on the day immediately preceding the date from which it becomes liable to pay tax, i.e. 30th September [Section 18(1)(a)]. Input tax paid on capital goods will not be available as ITC in this case.

Illustration 09

'AB', a registered person, was paying tax under composition scheme up to 30thJuly. However, w.e.f. 31st July, 'AB' becomes liable to pay tax under regular scheme.
Is 'AB' eligible for any ITC?

Solution

AB' is eligible for ITC on inputs held in stock and inputs contained in semifinished or finished goods held in stock and capital goods as on 30th July. ITC on capital goods will be reduced by 5% per quarter or part thereof from the date of invoice.

Illustration 10

A registered person transfers its business to another person.
Is such registered person allowed to transfer the unutilized ITC lying in its electronic credit ledger to such transferred business? Discuss.

NOTES

Solution

As per section 18(3), in case of sale, merger, demerger, amalgamation, transfer or change in ownership of business etc., the ITC that remains unutilized in the electronic credit ledger of the registered person can be transferred to the new entity, provided there is a specific provision for transfer of liabilities to the new entity.

The registered person should furnish the details of change in constitution on the common portal and submit a certificate from practicing Chartered Account/Cost Accountant certifying that the change in constitution has been done with a specific provision for transfer of liabilities. Upon acceptance of such details by the transferee on the common portal, the unutilized ITC gets credited to his electronic credit ledger. The transferee should duly account for the inputs and capital goods so transferred in his books of account.

Clarifications

Clarification on availability of ITC in respect of warranty replacement of parts and repair services during warranty period

Issue 1: There are cases where the original equipment manufacturer offers warranty for the goods supplied by him to the customer and provides replacement of goods or its parts and/ or repair services to the customer during the warranty period, without separately charging any consideration at the time of such replacement/ repair services. Whether in such cases, the manufacturer is required to reverse the input tax credit in respect of such replacement of goods or its parts, as the case may be or supply of repair services as part of warranty, in respect of which no additional consideration is charged from the customer?

Clarification: When a manufacturer provides warranty services (e.g., replacement of goods or parts and/or repair services) without additional charges during the warranty period, the cost of these services is already included in the value of the original supply. Such warranty services are not treated as exempt supplies, and the manufacturer is not required to reverse Input Tax Credit (ITC) on the goods or services used for providing these warranty services.

Example:

A manufacturer, ABC Ltd., sells a refrigerator to a customer for ₹25,000 with a 1-year warranty. The warranty covers free replacement of defective parts or repair services.

1. *During the warranty period, the compressor is replaced without additional charges to the customer.*
2. *The cost of this replacement (e.g., ₹5,000) is considered part of the original supply value (₹25,000).*
3. *ABC Ltd. does not need to reverse ITC on the cost of the compressor or repair services because they are included in the taxable value of the original sale.*

NOTES

Issue 2: Where the distributor provides replacement of parts to the customer as part of warranty on behalf of the manufacturer, whether the distributor would be required to reverse the ITC in respect of such replacement of parts?
There are four scenarios for replacement of goods or parts under warranty:

Case (a)
Distributor Replaces Parts Using Own Stock or Purchases from a Third Party:

- Distributor charges the manufacturer for the parts via a tax invoice.
- GST is payable by the distributor on this supply, and the manufacturer can claim ITC.
- No ITC reversal is required for the distributor.

***Example**: Distributor XYZ replaces a part worth ₹10,000 (from its stock or third party) and charges the manufacturer ABC Ltd. via a tax invoice. GST of ₹1,800 is paid by XYZ, and ABC Ltd. claims ITC.*

Case (b)
Manufacturer Provides Parts to Distributor for Warranty Replacement:

- Manufacturer supplies parts to the distributor for warranty replacement without charging any consideration.
- No GST is payable, and no ITC reversal is required by the manufacturer.

***Example:** Distributor XYZ requests parts from the manufacturer ABC Ltd., who sends them without charging any consideration. No GST applies, and ABC Ltd. doesn't reverse ITC.*

Case (c)
Distributor Uses Manufacturer's Supplied Stock and Manufacturer Issues a Credit Note:

- Distributor replaces parts from prior supplies by the manufacturer.
- Manufacturer issues a credit note and adjusts tax liability as per Section 34(2) of the CGST Act, 2017, provided the distributor reverses ITC on the replaced parts.

***Example:** Distributor XYZ replaces a part worth ₹5,000 from previous supplies received from ABC Ltd., and ABC issues a credit note for the same. Tax liability is adjusted if XYZ reverses ITC on the part.*

Case (d)
Manufacturer Replenishes Distributor's Stock Without Consideration:

- Distributor replaces parts using his own stock and requests replenishment from the manufacturer.
- Manufacturer replenishes parts via a delivery challan without charging consideration.
- No GST is payable, and no ITC reversal is required by the manufacturer.

***Example:** Distributor XYZ replaces a part from its own stock and requests replenishment from ABC Ltd., who provides the part worth ₹7,000 via delivery challan without charging consideration. No GST applies, and ABC Ltd. doesn't reverse ITC.*

Issue 3: Where the distributor provides repair service, in addition to replacement of parts or otherwise, to the customer without any consideration, as part of warranty, on behalf of the manufacturer but charges the manufacturer for such repair services either by way of issue of tax invoice or a debit note, whether ITC is available on such activity?

NOTES

Clarification: When a distributor provides repair services to the customer as part of the warranty, without charging the customer, but charges the manufacturer for these services through a tax invoice or debit note, it constitutes a supply of service. The manufacturer, as the recipient of the service, is liable to pay GST on this supply. Furthermore, the manufacturer is eligible to claim Input Tax Credit (ITC) on the GST paid for these repair services, subject to the conditions specified in the CGST Act, 2017.

Clarification on time limit under Section 16(4) of the CGST Act, 2017 in respect of RCM supplies received from unregistered persons

For supplies received from unregistered persons under the RCM, where the recipient is required to issue an invoice, the time limit for availment of Input Tax Credit (ITC) under Section 16(4) of the CGST Act will be based on the financial year in which the recipient issues the invoice under Section 31(3)(f) of the CGST Act, provided the tax on the supply is paid by the recipient and all conditions of Section 16 and 17 are met.
If the recipient issues the invoice after the time of supply, they will be liable to pay interest on the delayed tax payment and may also face penal action under Section 122 of the CGST Act.

Clarification on availability of input tax credit on ducts and manholes used in network of optical fiber cables (OFCs) in terms of section 17(5) of the CGST Act, 2017

Input Tax Credit (ITC) on ducts and manholes used in the network of optical fiber cables (OFCs) for providing telecommunication services is not restricted under clauses (c) and (d) of Section 17(5) of the CGST Act. Ducts and manholes are considered as "plant and machinery" since they are essential for laying, upkeep, and maintenance of the optical fiber cable network, and are used for the outward supply of telecommunication services. These components are not excluded from the definition of "plant and machinery" in the Explanation to Section 17, as they are not land, buildings, civil structures, or telecommunication towers/pipelines.
Therefore, ITC on such ducts and manholes is allowed.

NOTES

Question Bank

Illustration 01

What is the ITC entitlement of a newly registered person?

[MTP Nov 22]

Solution

a) **A person who has applied for registration within 30days from the date on which he became liable to registration, can take ITC of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date on which he became liable to pay tax can be taken.**

b) **In case of voluntary registration, ITC of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of registration can be taken.**

Illustration 02

What is the tax implication of supply of capital goods by a registered person who had taken ITC on such capital goods?

Solution

In case of supply of capital goods or plant and machinery on which ITC has been taken, the registered person shall pay an amount equal to the ITC taken on the said capital goods or plant and machinery reduced by 5% per quarter or part thereof from the date of invoice or the tax on the transaction value of such capital goods or plant and machinery, whichever is higher.

However, in case of refractory bricks, moulds and dies, jigs and fixtures when these are supplied as scrap, the person can pay tax on the transaction value.

Illustration 03

Swastik Pvt. Ltd. is a manufacturer of taxable goods. It purchased a machinery for ₹ 8,00,000 on which IGST of ₹ 14,400 is paid. The company has claimed depreciation under the Income-tax Act, 1961 on the full value of the machine, i.e. including the IGST component as also availed ITC of ₹ 14,400 paid by it as IGST.

Examine if the stand taken by the company is correct in law.

Solution

As per section 16(3), if the person taking the ITC on capital goods and plant and machinery has claimed depreciation on the tax component of the cost of the said items under the Income-tax Act 1961, the ITC on the said tax component shall not be allowed. Since in the given case, Swastik Pvt. Ltd. has claimed depreciation on the tax component of the cost of the machine, it cannot claim ITC of IGST of ₹ 14,400 paid by it on the machine. It can either claim depreciation on the tax component or avail ITC of such tax but cannot avail both the benefits simultaneously.

Illustration 04

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

NOTES

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

Solution

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

DO After studying Payment of Tax Sup.

Illustration 05

Rajul is a registered software consultant. On account of her ill health, she could not provide any services during the month of October. However, she had to incur all the expenses relating to her office. She paid 75,000 to various vendors. The total input tax involved on the goods and services procured by her is 13,500. Out of the total bills paid by her, one bill for 15,000 relates to security services availed for security of her office, tax on which is payable under reverse charge. Input tax involved in such bill is 2,700. Rajul is of the opinion that for the month of October, no GST is payable from electronic cash ledger as she has sufficient balance of ITC for payment of GST under reverse charge on security services.

Do you think Rajul is right? Explain with reasons.

[MTP Nov 22]

Solution

The amount available in the electronic credit ledger, i.e. ITC may be used for making any payment towards output tax. Output tax in relation to a taxable person, means the tax chargeable on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis.

Therefore, ITC cannot be used to pay the tax liability under reverse charge. The same is always required to be paid through electronic cash ledger and not electronic credit ledger. Thus, Rajul is wrong and she will need to pay the GST of 2,700 on security service through electronic cash ledger.

HW

Illustration 06

Harshgeet Pvt. Ltd., a registered supplier, is engaged in the manufacture of taxable goods. The company provides the following information pertaining to purchases made/services availed by it during the month of July:

S. No.	Particulars	GST (₹)
1.	Raw materials (to be received in the month of September)	2,50,000 ✗
2.	Membership of a club availed for employees working in the factory (not obligatory to be provided under any law)	1,45,000 ✗
3.	Inputs to be received in 5 lots, out of which 3rd lot was received during the month	80,000 ✗
4.	Trucks used for transport of raw material	40,000 ✓
5.	Capital goods (out of 3 items, invoice for 2 items is missing and GST paid on those items is ₹ 80,000)	~~1,50,000~~ 70,000 ✓
		110000

NOTES

Determine the amount of ITC that can be availed by Harshgeet Pvt. Ltd. for the month of July by giving the necessary explanation for the treatment of various items. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

Solution

Computation of ITC that can be availed by Harshgeet Pvt. Ltd. for the month of July:

S. No.	Particulars	GST (₹)
1.	Raw Material [ITC not available as raw material is not received in July]	Nil
2.	Membership of a club availed for employees working in the factory(not obligatory to be provided under any law) [Blocked credit in terms of section 17(5)]	Nil
3.	Inputs to be received in 5 lots, out of which 3rdlot was received during the month [In case of goods received in lots, ITC can be taken only upon receipt of the last lot]	Nil
4.	Trucks used for transport of raw material [ITC of GST paid on motor vehicles used for transportation of goods is allowed unconditionally]	40,000
5.	Capital goods [ITC can be availed only on the basis of a valid document (invoice). Thus, GST paid on items for which invoice is missing, i.e. ₹ 80,000, is not available.]	70,000
	Total ITC	1,10,000

Illustration 07

Jamku Ltd., a registered person, is engaged in the business of spices. It provides following details in relation to GST paid on inward supplies procured by it during the month of October.

S. No.	Particulars	GST (₹)
1.	Raw spices purchase - Raw spices sold to customers - Raw spices used for personal use of directors	 50,000 20,000
2.	Electric machinery purchased for being used in the manufacturing process	25,000
3.	A 6 seater motor vehicle used for transportation of employees	55,000
4.	Payment made to a contractor for construction of staff quarters	1,25,000

Determine the amount of ITC that can be availed by Jamku Ltd. for the month of October by giving the necessary explanation for treatment of various items. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

NOTES

Solution

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

Particulars	₹
Purchase of raw spices which are sold to customers [Every registered person is entitled to take credit of input tax charged on any supply of goods to him which are used or intended to be used in the course or furtherance of his business.]	50,000
Purchase of raw spices for personal use of directors [ITC is not available on goods used for personal consumption.]	Nil
Electric machinery purchased for being used in the manufacturing process [Every registered person is entitled to take credit of input tax charged on any supply of goods to him which are used or intended to be used in the course or furtherance of his business.]	25,000
Motor vehicle used for transportation of employee [ITC on motor vehicles for transportation of persons with seating capacity ≤ 13 persons (including the driver) is blocked except when the same are used for (i) making further taxable supply of such motor vehicles (ii) making taxable supply of transportation of passengers (iii) making taxable supply of imparting training on driving such motor vehicles. In the given case, since the supplier is in the business of spices, ITC on a 6 seater motor vehicle used for transportation of employees is blocked credit.]	Nil
Payment made to a contractor for construction of staff quarters [ITC is not available for works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service]	Nil
Total ITC	75,000

Illustration 08

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

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

NOTES

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

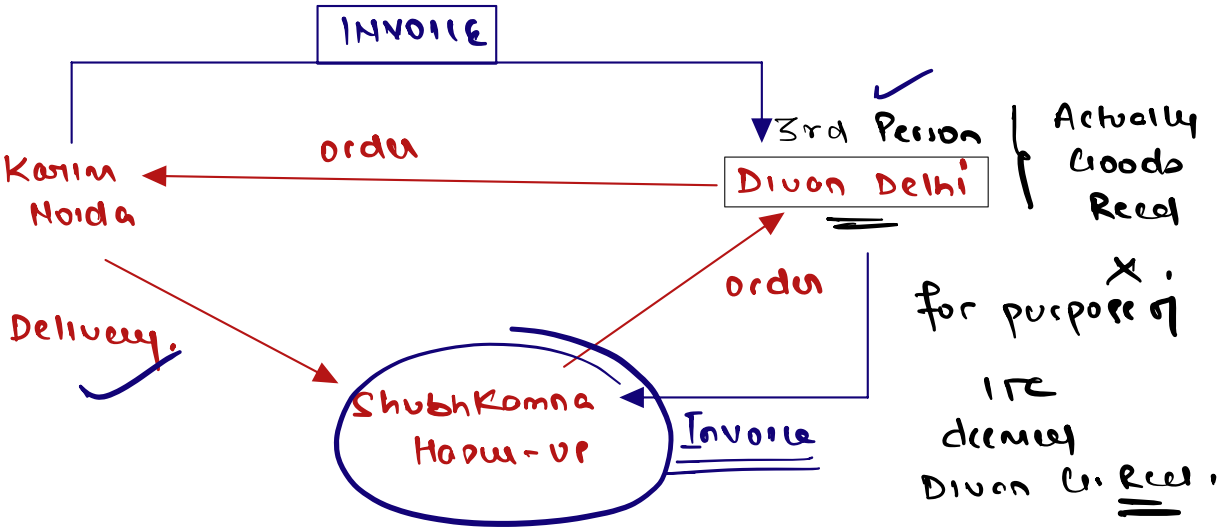
Solution

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

Particulars	₹
Purchase of iron used as a raw material [When inputs are received in lots, ITC can be availed only on the receipt of last lot. Hence, since last lot is received in April, ITC cannot be availed in March.]	Nil
Purchase of accessories delivered directly to the dealers of the company [Goods delivered to another person on the direction of the registered person by way of transfer of documents of title or otherwise, either before or during the movement, are deemed to have been received by such registered person. Thus, ITC is available to the registered person, on whose order/direction the goods are delivered to a third person.]	90,000
Bus for the transportation of employees [ITC on motor vehicles for transportation of persons with seating capacity > 13 persons (including the driver) used for any purpose is allowed.]	1,97,000
General insurance taken on car (seating capacity 5) used by executives of the company for official purpose [ITC on motor vehicles for transportation of persons with seating capacity ≤ 13 persons (including the driver) is blocked except when the same are used for (i) making further taxable supply of such motor vehicles (ii) making taxable supply of transportation of passengers (iii) making taxable supply of imparting training on driving such motor vehicles. Further, ITC is not allowed on services of general insurance relating to such ineligible motor vehicles. Since, the car is not used for any of the eligible purposes, ITC thereon is blocked and thus, ITC on general insurance taken on such car is also blocked.]	Nil
Total ITC	2,87,000

Illustration 09

Comfortable (P) Ltd. is registered under GST in the State of Odisha. It is engaged in the business of manufacturing of iron and steel products. It has received IT engineering services from High-Fi Infotech (P) Ltd. for ₹ 11,00,000/- (excluding GST @ 18%) on 28thOctober. Invoice for service rendered was issued on 5thNovember.
Comfortable (P) Ltd. made part payment of ₹ 4,20,000/- on 30thNovember. Being unhappy with service provided by High-fi Infotech (P) Ltd., it did not make the balance payment. Deficiency in service rendered was made good by High-Fi Infotech (P) Ltd. by 15thApril of next financial year. Comfortable (P) Ltd. made the balance payment on 6thJuly of next financial year.
Examine the availability of ITC with Comfortable (P) Ltd. in respect of IT engineering services received by it from High-Fi Infotech (P) Ltd.


INVOICE
3rd Person
Actually Goods Recd
Karim Noida
order
Divan Delhi
for purpose of ITC deemed Divan Gr. Recd.
Delivery
order
ShubhKamna Hapur-UP
Invoice

Solution

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

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

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

However, proportionate ITC amounting to ₹1,33,932 [(₹ 12,98,000 - ₹ 4,20,000)/118] x 18] will be reversed in GSTR-3B of Comfortable (P) Ltd. for May month, to be paid along with interest thereon, as full payment has not been made within 180 days of issuance of the invoice, i.e. by 4thMay of next F.Y. ITC of ₹ 1,33,932 can, however, be availed again by Comfortable (P) Ltd. for the month of July next F.Y. when it makes the balance payment to High-Fi Infotech (P) Ltd.

Illustration 10 = B2S2

M/s. Diwan & Sons of New Delhi, has placed an order for 250 kg of plastic granules @ ₹ 50 per kg (exclusive of GST) on M/s. Karim & Bros. of Noida, U.P. M/s. Karim & Bros. has agreed to deliver the goods at the warehouse of M/s. Diwan & Sons at New Delhi. While the order was getting packed at the factory of M/s. Karim & Bros., M/s. Diwan & Sons got an order from Shubhkamna Sales of Hapur, U.P.,for 250 kg of plastic granules @ ₹ 60 per kg (exclusive of GST). In order to save on transportation cost, M/s. Diwan & Sons asks M/s. Karim & Bros. to directly deliver the plastic granules to Shubhkamna Sales at its godown located in Hapur. Accordingly, M/s. Karim & Bros. has delivered the plastic granules at the godown of Shubhkamna Sales at Hapur.

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

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

Solution

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

NOTES

In the given case, goods have been delivered by M/s. Karim & Bros. (supplier) to Shubhkamna Sales (third person) on the direction of M/s. Diwan & Sons (registered person). Therefore, in view of the above provisions, ITC of ₹ 2,250(₹50 x 250 x 18%) will be available to M/s. Diwan & Sons (registered person) on the purchase of 250 kg of plastic granules @ 50 per kg.
Further, in this case there is another supply between Diwan & Sons (supplier) and Shubhkamna Sales (recipient). Therefore, Shubhkamna Sales can avail ITC of ₹ 2,700 (₹ 60 x 250 x 18%) on the purchase of 250 kg of plastic granules @ 60 per kg.

Illustration 11

Vijay Sales, a registered supplier, receives 100 invoices (for inward supply of goods/ services) involving GST of ₹ 10 lakh, from various suppliers during the month of October. Out of 100 invoices, details of 80 invoices involving GST of ₹ 6 lakh have been furnished by the suppliers in their respective GSTR-1 filed on the prescribed due date therefor and are reflected in GSTR-2B of Vijay Sales. There was no amendment made in GSTR-1s by such suppliers using GSTR-1A for the month of October.
Compute the ITC that can be claimed by Vijay Sales in its GSTR-3B for the month of October to be filed by 20th November assuming that GST of ₹ 10 lakh is otherwise eligible for ITC.

[RTP Nov 22]

Solution

ITC to be claimed by Vijay Sales in its GSTR-3B for the month of October to be filed by 20th November will be computed as under-

Invoices	Amount of ITC involved in the Invoices (₹)	Amount of ITC that can be availed (₹)
80 invoices furnished in GSTR-1	6,00,000	6,00,000 [Refer Note-01]
20 invoices not furnished in GSTR-1	4,00,000	Nil [Refer Note-2]
Total	10,00,000	6,00,000

Notes:

1. 100% ITC can be availed on invoices furnished by the suppliers in their GSTR-1s and reflected in GSTR-2B of Vijay Sales.
2. As per rule 36(4), the ITC in respect of invoices not furnished by the suppliers in their GSTR-1s and thus, not being reflected in GSTR-2B of recipient, cannot be claimed. Thus, in respect of 20 invoices which are not furnished in GSTR-1s of suppliers and are not reflected in GSTR-2B of Vijay Sales, no ITC can be availed.

Illustration 12

ABC Ltd., registered under GST, is engaged in the manufacture of heavy machinery. It procured the following items during the month of July.

S. No.	Items	GST (₹)
1.	Electrical transformers to be used in the manufacturing process	5,20,000
2.	Trucks used for the transport of raw material	1,00,000
3.	Raw material	2,00,000

NOTES

4.	Confectionery items. These items were supplied free of cost to the customers in a customer meet organized by the company	25,000

Determine the amount of ITC that can be availed by ABC Co. Ltd., for the month of July by giving necessary explanations for treatment of various items. Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.

Solution

Computation of ITC that can be availed by with ABC Co. Ltd. for the month of July

S. No.	Items	GST (₹)
1.	Electrical transformers [Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1)]	5,20,000
2.	Trucks used for the transport of raw material [ITC on motor vehicles used for transportation of goods is not blocked under section 17(5)(a)]	1,00,000
3.	Raw material [Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1)]	2,00,000
4.	Confectionery items. These items were supplied free of cost to the customers in a customer meet [ITC on food or beverages is specifically disallowed unless the same is used for making outward taxable supply of the same category or as an element of the taxable composite or mixed supply-Section 17(5)(b)(i)]	Nil
	Total ITC	8,20,000

Illustration 13

XYZ Ltd., registered under GST, is engaged in manufacture of taxable goods. Compute the ITC that can be availed by XYZ Ltd. for the month of October from the following particulars:-

S. No.	Inward Supplies	GST (₹)	Remarks
1.	Inputs 'A'	1,00,000 90,000	One invoice on which GST payable was ₹ 10,000, is missing
2.	Inputs 'B'	50,000	Inputs are to be received in two lots. First lot has been received in October
3.	Capital goods	1,20,000	XYZ Ltd. has capitalised the capital goods at full invoice value inclusive of GST as it will avail depreciation on the full invoice value.
4.	Input Services	2,25,000 175000	One invoice dated 20th January on which GST payable was ₹ 50,000 was missing and has been found in October

265000

Note:

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

NOTES

2. The annual return for the previous financial year was filed on 15th September.

Solution

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

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

Illustration 14

Renuka Sales, a registered supplier, receives 100 invoices (for inward supply of goods/ services) involving GST of ₹ 10 lakh, from various suppliers during the month of January, 2024. Out of 100 invoices, details of 80 invoices involving GST of ₹ 6 lakh have been furnished by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor and such details have also been duly communicated to the recipients of such invoices in Form GSTR-2B.

Compute the ITC that can be claimed by Renuka Sales in its GSTR-3B for the month of January, 2024 to be filed by 20th February assuming that GST of ₹ 10 lakh is otherwise eligible for ITC. [MTP JAN 2025]

Make suitable assumptions, wherever necessary

Solution

ITC to be claimed by Renuka Sales in its GSTR-3B for the month of January to be filed by 20th February will be computed as under-

Invoices	Amount of ITC involved in the invoices (₹)	Amount of ITC that can be availed (₹)
80 invoices furnished in GSTR-1	6 lakh	6 lakh [Refer Note 1]
20 invoices not furnished in GSTR-1	4 lakh	Nil [Refer Note 2]
Total	10 lakh	6 lakh

NOTES

Notes:

(1) 100% ITC can be availed on invoices furnished by the suppliers in their GSTR-1.

(2) Input tax credit in respect of any supply of goods or services or both is available to a registered person only, inter alia, if the details of the invoice/debit note in respect of said supply has been furnished by the supplier in the statement of outward supplies (GSTR-1) and such details have been communicated to the recipient of such invoice/debit note in the manner specified under section 37. Thus, in respect of 20 invoices not furnished in GSTR-1s, no ITC is available.

NOTES

CHAPTER 9: REGISTRATION UNDER GST

Sec. 9.

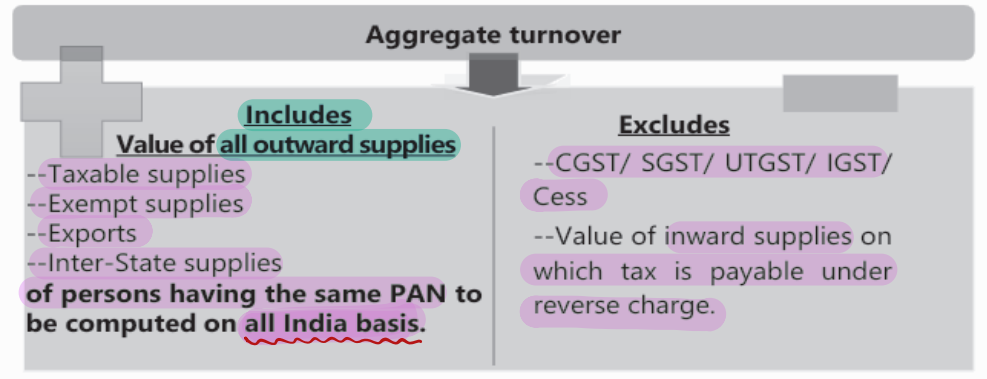
As per Charging Section of GST "Taxes Shall be collected & paid by taxable Person"

- **Taxable Person**
  - Any Person who is Registered or liable to Register ← S. 22, S. 24
  - Hence even
    - ✓ Unregistered person is also a taxable Person if → liable to Register
    - ✓ Voluntary Registered person shall also be a taxable person even not liable
- **Who is liable to Register**
  - Sec-22 - Person liable for Registration ⇒ Reg. Threshold. TO > Threshold
  - Sec-24- Person liable for Registration Compulsorily = NO Threshold.

Section 22 Person liable for Registration

1. **Every Supplier of Goods / Services obtain Registration**
   - State from where taxable Supplies are made.
   - If Aggregate T/o Exceed Specified limit in a financial year.

2. **Aggregate Turnover** = All India basis

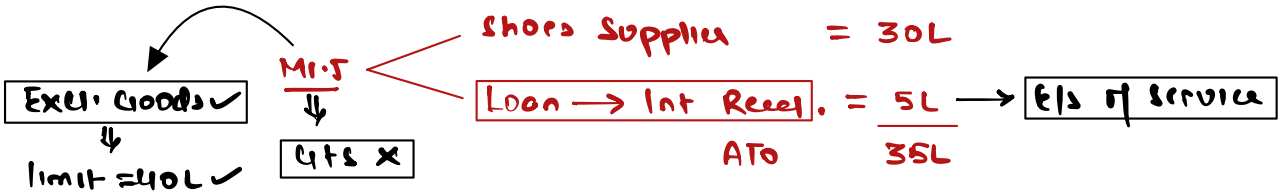


3. **Specified limits of Aggregate T/o for Registration**

States	Limit	Limit
	Exclusive supply Of Goods other than Notified Goods	Otherwise
(i) Manipur / Mizoram / Nagaland / Tripura (MMT-N)	10 Lac	10 Lac
(ii) Arunachal Pradesh / Meghalaya / Sikkim / Uttarakhand / Puducherry / Telangana (Arun-STUMP)	20 Lac	20 Lac
(iii) Other States	40 Lac	20 Lac

Excl. Service
G + S
Notified Goods.

NOTES



Notes

- Person Considered making only Supply of Goods even supply of Services Provided by way of Interest/Discount
- 40 Lac threshold not available if Person is engaged in making Supplies of following items
  - ✓ Edible Ice/Ice Cream
  - ✓ PAN masala/Tobacco Products/Substitutes
  - ✓ Fly Ash bricks / Building bricks/ fossil meal bricks/ Earthing roofing tiles

BRICK SE PIT

- If Operating from more than one state including Specified State then lower threshold limit shall be applicable. However if person is engaged in making exempt supplies from specified state, then lower threshold shall not be applicable.
- Registration required to be taken only from state from where taxable Supplies are made.
- Aggregate turnover shall include all supplies made by the taxable person whether on his own account or on behalf of all his principals.
- If a business is carried by a taxable person who is registered under this Act has transferred his business to any other person, the transferee shall obtain fresh registration from the date of transfer of business provided transferee is not a registered entity.

Not Imp for Exam.

Illustration 01

→ HP-MAN ie Non T/s → Els

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

S. No.	Particulars	₹
1.	Supply of machine oil in Delhi T/s	15,00,000
2.	Supply of high speed diesel in Delhi Els	10,00,000
3.	Supply of machine oil made in Punjab by Pure Oils from its branch located in Punjab T/s	10,00,000

*excluding GST

Determine whether Pure Oils is liable for registration.

b) Pure Oils supplies the high speed diesel in Delhi in the capacity of an agent of Mixed Oils Ltd., (non-registered), where invoices to customers are issued in name of Pure Oils?

[MTP May 2022]

Solution

a) the aggregate turnover of Pure Oils for the month of April is computed as under:

S. No.	Particulars	₹
1.	Supply of machine oil in Delhi	15,00,000
2.	Add: Supply of high speed diesel in Delhi	10,00,000
3.	Add: Supply of machine oil made in Punjab by Pure Oils from its branch located in Punjab	10,00,000
	Aggregate Turnover	35,00,000

NOTES

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

b) In case Pure Oils makes the supply in capacity of an agent of Mixed Oils Ltd.: Section 24 provides that an agent who is engaged in making taxable supplying of goods on behalf of other taxable persons, shall be liable to obtain registration irrespective of the threshold turnover limit. However, in the present case, if Pure Oils supply high speed diesel on behalf of Mixed Oil Ltd. in Delhi as its agent where invoices to customers are issued in name of Pure Oils, it shall still not be liable to obtain registration in Delhi since section 24 comes into play only when agent or in other capacity is making taxable supply of goods on behalf of taxable persons (principal) whereas in the given case, Pure Oils is supplying non-taxable goods on behalf of Mixed Oils Ltd., who is not registered.

Section 23 Person not liable for Registration

(i) Person engaged Exclusively in non-taxable & Exempt Supply.

(ii) Agriculturist, to extent Supply of Produce from Cultivation of land.

The term agriculturist has been defined under section 2(7) as an individual/Hindu Undivided Family (HUF) who undertakes cultivation of land

i. by own labour, or
ii. by the labour of family, or
iii. by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family.

Example

Desh Bandhu is an agriculturist engaged in cultivation of wheat in his field in the State of Punjab. He was exclusively engaged in the supply of wheat cultivated in his field in the previous year. Thus, he was not liable to registration as he was exclusively engaged in supply of produce out of cultivation of land.

In the current year, he decides to start trading in rice apart from supplying his wheat produce. His turnover in the current year is ₹32 lakh from supply of wheat produced and ₹9 lakh from trading of rice. Since he is engaged in trading of rice also, he is not covered under section 23 above. The threshold limit for registration applicable to a person exclusively engaged in supply of goods in the State of Punjab is ₹40 lakh. The aggregate turnover of Deshbandhu in the current year is ₹41 lakh [₹32 lakh + ₹9 lakh] which exceeds the threshold limit. Thus, he will be liable to registration.

(iii) Person making only RCM Supplies (outward Supplies).
(iv) Person making Inter State Supply of Services upto 20 lac/ 10 lac.
(v) Person / CTP making Inter State Supply of notified Handicraft/Handmade goods upto 20 Lac / 10 lac. Provided Person must have PAN & generated E-way bill.
(vi) Person making Supplies of Services through ECO with Aggregate T/o Upto 20 Lac

Exam = 22|23| 24 (Imp) ✓

NOTES

Illustration 02

State which of the following suppliers are liable to be registered:

a) Agents supplying taxable goods on behalf of some other taxable person and such agent's aggregate turnover does not exceed the applicable threshold limit during the financial year.
   Note: Invoices are issued to customers in the name of agent.
b) An agriculturist who is engaged exclusively in supply of produce out of cultivation of land and its aggregate turnover exceeds the applicable threshold limit during the financial year.

Solution

a) Section 22 stipulates that every supplier becomes liable to registration if his turnover exceeds the applicable threshold limit in a financial year. However, as per section 24, a person making taxable supply of goods/services or both on behalf of other taxable persons whether as an agent or not is liable to be compulsorily registered even if its aggregate turnover does not exceed the applicable threshold limit during the financial year.
b) As per section 23, an agriculturist who is engaged exclusively in supply of produce out of cultivation of land is not required to obtain registration even if his turnover exceeded the applicable threshold limit for registration.

Section 24 Compulsory Registration

Compulsory registration is required in following cases even if Turnover doesn't exceed the threshold:

(i) Person making Inter State taxable Supply of Goods
   Except: limit of 10 lac/20Lac available for Notified Handicraft goods & Handmade goods Inter-state Supply. Provided Person must have PAN & generated E-way bill.
(ii) Casual taxable Person making taxable Supply
   Except: Limit of 10 Lac/20Lac available for Notified Handicraft goods & Handmade goods Inter-state Supply. Provided Person must have PAN & generated E-way bill.
(iii) Person liable to Pay tax Under RCM (Inward Supplies).
(iv) Non-Resident taxable Person. = S.17(5)
(v) Eco → Required to Collect TCS U/s 52 or liable to pay tax u/s 9(5)
(vi) Person Supplying goods inter state through ECO. (Sec.22 shall be applicable where person make Intra state supply of goods through ECO).
(vii) Person Required to deduct TDS u/s 51
(viii) Person acting as an agent for taxable Person.

Illustration 03

What are the advantages of taking registration in GST?

Solution

Registration will confer following advantages to the business:

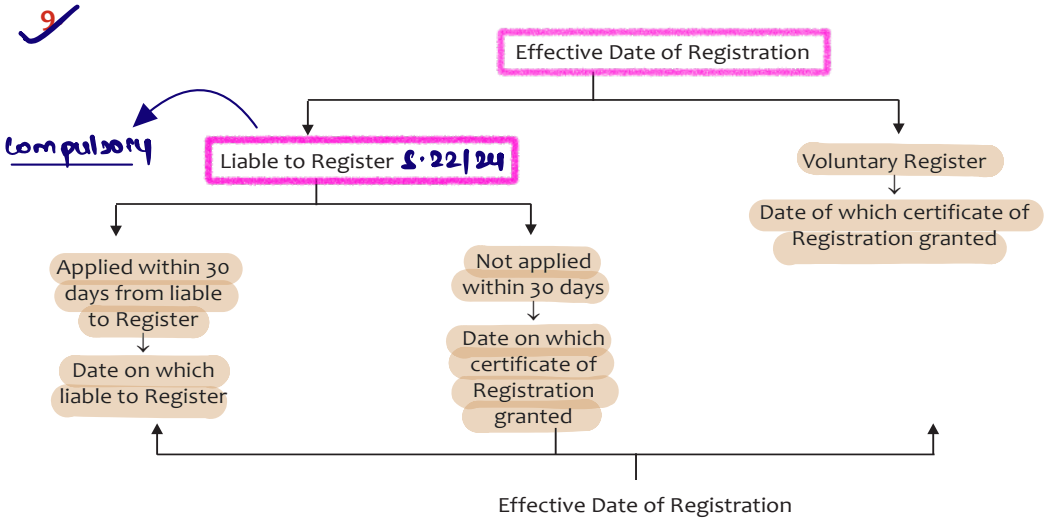
a) Legally recognized as supplier of goods or services.
b) Proper accounting of taxes paid on the input goods or services which can be utilized for payment of GST due on supply of goods or services or both by the business.

NOTES

c) Legally authorized to collect tax from his purchasers and pass on the credit of the taxes paid on the goods or services supplied to purchasers or recipients.
d) Become eligible to avail various other benefits and privileges rendered under the GST laws.

Section 25 Registration Procedure

1. Person who is liable for registration u/s 22 or u/s 24 shall apply for registration within 30 days from the date he becomes liable for registration.
CTP/NRTP shall apply for registration atleast 5 days prior to commencement of business.
2. Registration is to be taken state wise i.e. there is no centralized registration under GST.
3. Within a state an entity having different branches can have single registration wherein it can declare once place as principal place of business and other branches as Additional place of business.
4. A person having multiple places of business within a state or UT can apply for separate registration for each such place of business.
5. Person having separate registration from same PAN shall be treated as Distinct Person for each such registration.
6. If one unit in SEZ & another in non SEZ area in Same state then Separate Registration is Required.
7. Person may opt to get voluntarily register even not liable as per section 22 or 24.
8. PAN is mandatory for having the registration under GST except NRTP can get passport based Registration.
9.



10. Unique Identification Number (Imp) – learn.
a) Who shall apply:
- Specialized Agency of UN or any financial institution of UN
- Consulate
- Embassies

b) Purpose- To obtain refund of tax paid on Supplies of GS supplied to them

NOTES

Note:

- It is Centralized number not state wise
- UIN Holder not a registered person, hence not a taxable person.

Illustration 04

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

Solution

In terms of section 25(9), all notified UN bodies, Consulate or Embassy of foreign countries and any other class of persons as may be notified would be required to obtain a unique identification number (UIN) from the GST portal.
The structure of the said ID would be uniform across the States in conformity with GSTIN structure and the same will be common for the Centre and the States. This UIN will be needed for claiming refund of taxes paid on notified supplies of goods and services received by them, and for any other purpose as may be notified.

Illustration 05

What is the responsibility of the taxable person making supplies to UN bodies?

Solution

The taxable supplier making supplies to UN bodies is expected to mention the UIN on the invoices and treat such supplies as if supplies are made to another registered person (B2B).

11. Temporary Registration

In a serach, survey, enquiry, inspection or any other proceedings of the act, Proper officer finds that a person is liable for registration but failed to apply for registration, then such officer may register the person on temporary basis.

Such person shall either:

(i) Submit an application for registration within 90 days from the date of grant of temporary registration, or

(ii) File an appeal against such temporary registration.

In case (ii), if the Appellate Authority upholds the liability to registration, application for registration shall be submitted within 30 days from the date of issuance of such order of the Appellate Authority.

GSTIN thereafter granted shall be effective from the date of order of the proper officer granting temporary registration.

Illustration 06

Can the Department, through the proper officer, suo-moto proceed to register a person under GST?

NOTES

Solution

Yes. In terms of sub-section (8) of section 25, where a person who is liable to be registered under GST law fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under CGST Act, or under any other law for the time being in force, proceed to register such person in the manner as prescribed in the CGST Rules

Illustration 07

Is there a provision for a person to get himself voluntarily registered though he may not be liable to pay GST?

Solution

Yes. In terms of sub-section (3) of section 25, a person, though not liable to be registered under sections 22 or 24 may get himself registered voluntarily, and all provisions of the GST law, as are applicable to a registered person, shall apply to such person.

GSTIN- Unique No. in GST to identify tax payer as pan in Income Tax

State Code		PAN										Entity Code	Check
0	9	B	D	I	P	A	0	8	8	4	Q	1	Z	1

Section 26 Deemed registration

Read

- **Registration under GST is not tax specific, which means that there is single registration for all the taxes i.e. CGST, SGST/UTGST, IGST and cess.**
- **Grant of registration/UIN under any SGST Act/ UTGST Act is deemed to be registration/UIN granted under CGST Act provided application for registration has not been rejected under CGST Act.**
- **Further, rejection of application for registration/UIN under SGST Act/UTGST Act is deemed to be rejection of application for registration under CGST Act.**

NOTES

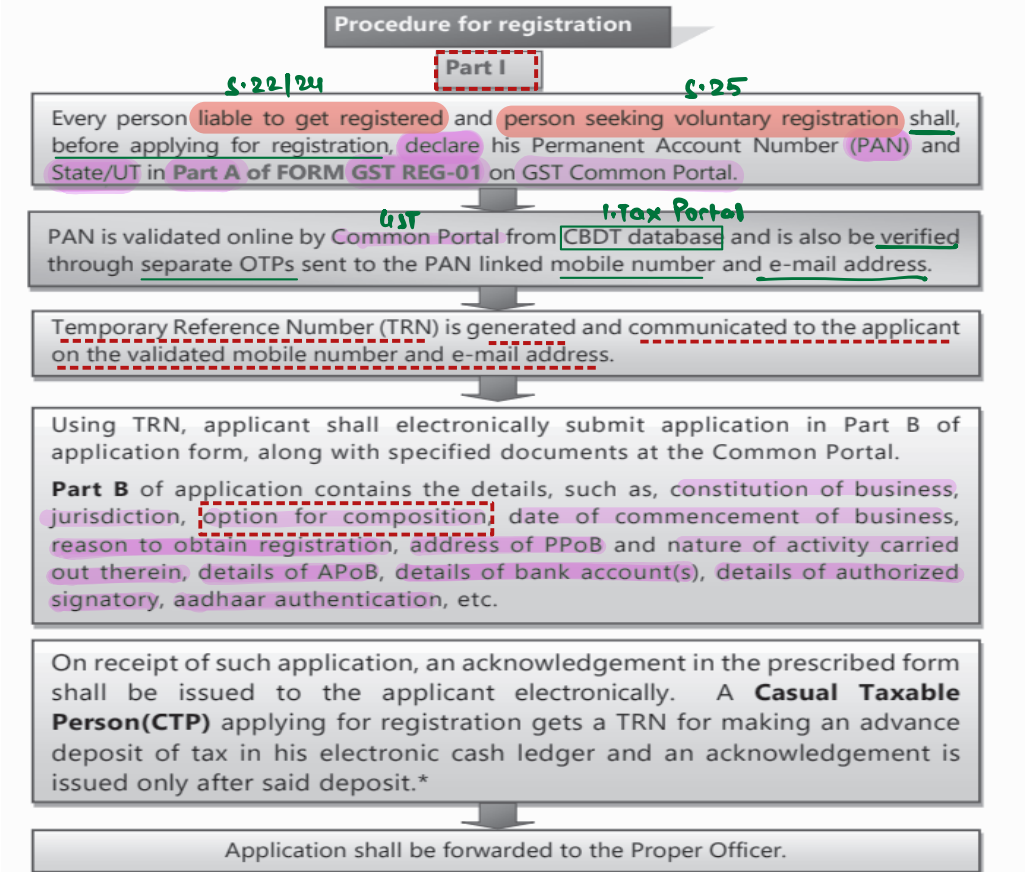
S.25

only for Knowledge

↳ Never Asked In Exam.

Procedure of Registration

Procedure for registration has been depicted by way of a diagram below:



Note: Alongwith Returns.

Rule 10A

Details to be Provided in Part B Includes Bank A/c details. However bank A/c details can be provided within

a) **30 days from Date of Grant of Registration**
b) **before filing of GSTR- 1/ IFF – whichever is earlier**

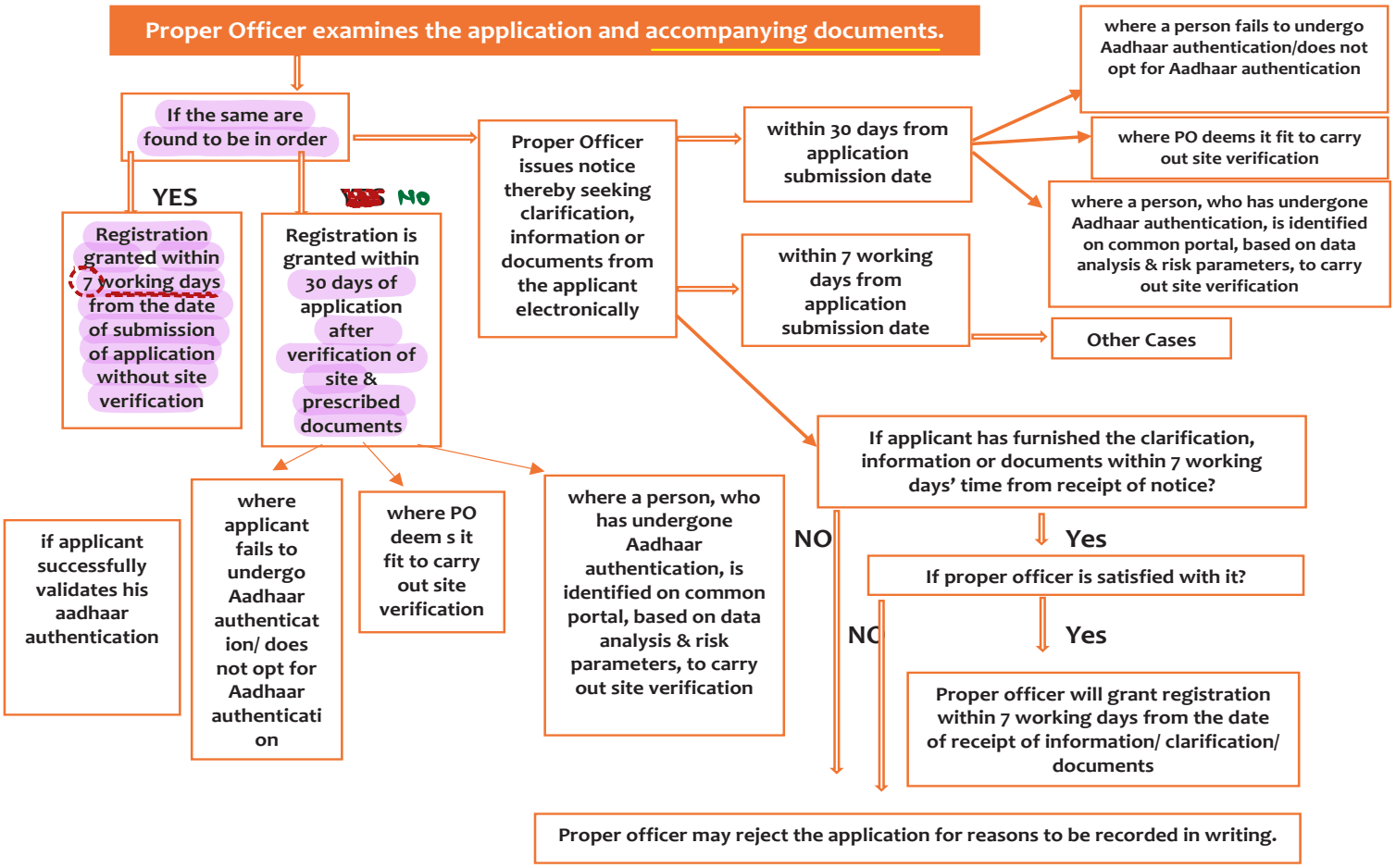
If such RP fails to furnish bank details within the time prescribed above then his registration shall be stand suspended and suspension shall be automatically revoked when valid bank details are furnished.

However Following Person is required to provide Bank Details at the time of registration

a) **TDS deduction**
b) **TCS Collector**
c) **Dept Driven Registration.**

NOTES

Part II = Hold. Read.



Deemed Registration = learn.

If the proper officer fails to take any action,

(a) Within a period of 7 working days from the date of submission of the application in cases where a person successfully undergoes authentication of Aadhaar number

(b) Within a period of 30 days from the date of submission of the application in cases where

- a person fails to undergo authentication of Aadhaar number or
- does not opt for authentication of Aadhaar number; or
- where PO deems it fit to carry out site verification
- Person is identified on common portal, based on data analysis & risk parameters, to carry out site verification

NOTES

(c) Within a period of 7 working days from the date of the receipt of the clarification, information or documents furnished by the applicant, the application for grant of registration shall be deemed to have been approved.

Aadhar Authentication

Section 25(6B) and (6C) Read with Rule 8(4A), require every individual and Karta, Managing Director, Whole Time Director, partners of firm etc. respectively, to undergo authentication/furnish proof of possession of aadhaar number in prescribed manner. Such authentication is mandatory to be eligible for grant of registration.
However Following persons have been exempted from aadhaar authentication :

learn

(i) A person who is not a citizen of India
(ii) Department or establishment of State Government or Central Government
(iii) Local authority
(iv) Statutory body
(v) Public Sector Undertaking
(vi) A person applying for Unique Identity Number

Special Provisions Related to CTP/NRTP:

CTP	NRTP
A Person who occasionally undertake transaction • In state / UT where he has no PoB • In course or furtherance of Business	A Person who occasionally undertake transaction But no fixed POB or Residence in India
Registration: • Compulsory Registration U/s 24 • Form REG -01 — No Need to learn • PAN required • Registration 5 Days before comment of Business	Registration: • Compulsory Registration u/s 24 • Form REG – 09 • Passport Required • Registration 5 Days before comment of Business
Composition Scheme → Not available ITC on Input/Services/Capital Goods available	Composition Scheme → Not available ITC only on Imported Goods
Required to submit Advance tax at time of submitting application = Imp.	

Registration Valid for:

a) Period for which reg is seek
OR
b) 90 Days
(Further extendable by 90 days)

lower.

CTP = Req Seek = 120d ✕
Max = 90d.
⇓
Ext Seek

90d + 90d

NOTES

Heva Asked In Exam.

Section 28 - Amendment of Registration

- Non-core fields: Email Id, Mobile no, Authorised Signatory etc
- Core fields:
- Legal Name of Business

- Address of Principal/Additional Place of Business
- Addition /Detection in main patterner/ Karta/MD/BOD etc

a) Submit application within 15 days from change

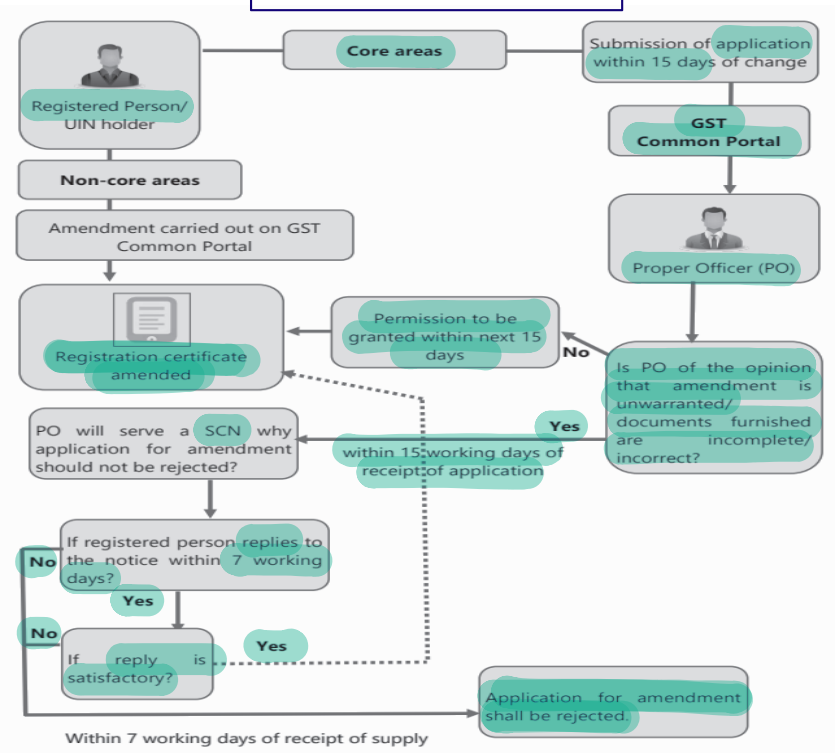
i. For Core Areas on GST common Portal. PO may permit Amendment within 15 days from application

ii. For Non-Core areas, Amendment to be made on GST Portal without permission of PO by doing OTP verification

b) Amended Registration Certificate granted

c) If there is change in the constitution (i.e. change in PAN) or change in state then existing registration shall be cancelled and new registration has to be taken.

Procedure Of Amendment



If the proper officer fails to take any action,-

(a) within a period of 15 working days from the date of submission of the application, or

NOTES

(b) within a period of 7 working days from the date of the receipt of the reply to the show cause notice, the certificate of registration shall stand amended to the extent applied for and the amended certificate.

Section 29 Cancellation of Registration

Imp.

1. **Voluntary Cancellation (By registered Person)**
   Circumstance to cancel Registration (Apply within 30 days)
   a) Business Discontinued / Transferred / ~~Armed-Granted~~ / Merger / Demerger / Disposal / Death of ~~properties~~ proprietor Amalgamated
   b) Change in Constitution of Business
   c) No Longer liable to register u/s 22 or 24
   d) Opt out of voluntary Registeration.

2. **Circumstance when PO cancel Registration:** (↳ Proper officer)
   a) If contravened following Provisions:
      i) Mismatch of GSTR-1/1A & GSTR-3B
      ii) Mismatch of GSTR-2B & GSTR-3B
      iii) Doesn't conduct Business from Registered place.
      iv) Violate Provision of anti-Profiteering i.e. benefit of reduction of GST doesn't Pass on to Consumer.
      v) Doesn't Provide Bank A/c details within time
      vi) Issue Invoice / Bill without supply of Goods & ~~Source~~s Services. (Fake bill)
      vii) Avail ITC in Violence of Act = S.16(1)(2)(3) ✓
      viii) Violates rule 86 B (Maximum ITC allowed 99% of O/P Tax liability.
   b) Registration obtained by Means of Fraud/willful misstatement/supersession of facts
   c) Voluntary Registration person not commenced business within 6 months from Registration
   d) Not File return by composition supplier beyond 3 months from due date.
   e) Not file return by normal supplier
      i) Monthly Return - For continuous 6 months
      ii) Quarterly return - For 2 tax periods.

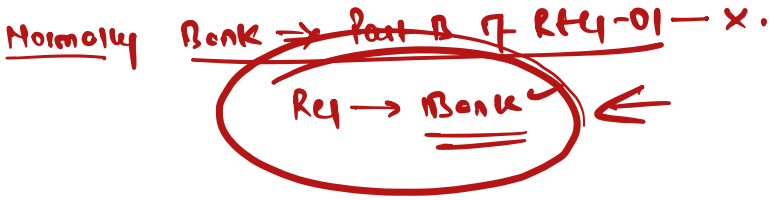
3. **Suspension of registration** [First proviso to section 29(1) and second proviso to section 29(2) read with rule 21A]

   A. **Suspension During Cancellation Proceedings:**

Imp.

- If a registered person applies for cancellation, their registration will be suspended from:
  a. The date of submission of the cancellation request, OR
  b. The date from which cancellation is sought, whichever is later.
- If cancellation is initiated by the department (suo-moto), the proper officer decides the suspension date.

NOTES



B. Suspension Due to Discrepancies or Non-Compliance:

- Registration can be suspended if there are major mismatches between:
  a. GSTR-1/1A vs. GSTR-3B OR GSTR-2B vs. GSTR-3B, indicating violations.
  b. Non-compliance with Rule 10A (failure to furnish bank details after registration).
- The taxpayer will be notified electronically or via email and given 30 days to explain why registration should not be canceled.
- No refund under Section 54 will be granted during the suspension period.

C. Restrictions During Suspension:

- The taxpayer cannot make taxable supplies during suspension i.e. No tax invoice can be issued, and no tax can be charged during this period.
- The taxpayer is not required to file GST returns

D. Revocation of Suspension:

- Suspension automatically ends when the cancellation proceedings conclude.
- Revocation is effective from the date the suspension started.
- The proper officer can revoke suspension anytime during cancellation proceedings if deemed necessary.

E. If registration was suspended due to non-filing of GST returns, suspension will end once all pending returns are filed.

F. If registration was suspended due to non-compliance with Rule 10A, suspension will be revoked upon compliance.

G. Effect of Suspension Revocation:

Once suspension is revoked,

a. Revised tax invoices (Section 31(3)(a)) must be issued for supplies made during suspension.
b. First return (Section 40) provisions will apply for supplies made during this period.

5. Amount payable on cancellation of registration [Section 29(5) & (6)]

a) Effective Date & Payment of Dues:

- The cancellation of registration will be effective from the date decided by the proper officer and mentioned in the cancellation order.
- The officer may direct the taxpayer to pay any outstanding tax, interest, or penalty, including the amount payable under Section 29(5).

b) Reversal of ITC on Inputs:

The taxpayer must debit their electronic credit/cash ledger by the higher of:

i. ITC on inputs (proportionate to the invoices where ITC was claimed).
ii. Output tax payable on such goods.

NOTES

Sale of CG After Use

a) **Reversal of ITC on Capital Goods & Machinery:** (Same As Sec. 18(6))
The taxpayer must reverse ITC on capital goods or plant & machinery, whichever is higher of:
   i. ITC calculated on the remaining useful life (assuming a 5-year life) as per Rule 44. (ITC – 5% per QT or part thereof)
   ii. Tax on the transaction value of such capital goods as per Section 15.

Read.

5. **Other Points**
   a) Even after cancellation, the taxpayer is still liable to pay any pending tax or dues for the period before cancellation. (Section 29(3))
   b) If registration is canceled under the SGST/UTGST Act, it is automatically canceled under the CGST Act as well. (Section 29(4))
   c) The taxpayer will be notified via SMS and email once registration is canceled. The cancellation order will be sent to the primary authorized signatory through email and SMS.
   d) The taxpayer cannot file returns for periods after cancellation. However, they can still submit returns for the period before cancellation, when registration was active.

Illustration 08 = HW.
Does cancellation of registration impose any tax obligations on the person whose registration is so cancelled?

Solution
Yes, as per section 29(3), the cancellation of registration under this section shall not affect the liability of the person to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.
Further, as per section 29(5), every registered taxable person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, calculated in prescribed manner.

Revocation of cancellation of registration Section 30/Rule 23

1. **Application for Revocation:**
   - If a proper officer cancels a GST registration suo-motu, the taxpayer can apply for revocation within 90 days from the date of the cancellation order.
   - This period can be extended by the Commissioner or an authorized officer (not below the rank of Additional/Joint Commissioner) for up to 180 more days (i.e., 90 days + 180 days).
   - If cancellation was due to non-filing of returns, the taxpayer must first file all pending returns and clear dues before applying for revocation.

NOTES

1. **Approval of Revocation:**
   If the proper officer is satisfied, he will approve the revocation request within 30 days of receiving the application and communicate the decision to the applicant.

2. **Rejection of Revocation:**
   - If the officer intends to reject the revocation request, he must first issue a Show Cause Notice (SCN) to the applicant.
   - The applicant must submit a reply within 7 working days of receiving the SCN.
   - The proper officer must then dispose of the application (approve/reject) within 30 days of receiving the applicant's response.

3. **Filing of Pending Returns After Revocation:**
   Once cancellation is revoked, the taxpayer must file all pending returns (from the effective cancellation date to the date of revocation order) within 30 days of the revocation order.

4. **Deemed Revocation Under CGST Act:**
   If cancellation is revoked under the SGST Act / UTGST Act, it is automatically deemed revoked under the CGST Act.

NOTES

Question Bank

Illustration 01

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

a) Aadhav Computers of Gujarat is providing computer maintenance service. Aggregate turnover of Aadhav Computers is ₹ 15 lakh which comprises both inter-State and intra-State supply.

b) Soft Wings of West Bengal, exclusively trading in garments, supplies its taxable goods in various States of India from its outlet in West Bengal. Aggregate turnover of Soft Wings is ₹ 35 lakh.

Solution

a) Registration is compulsory for suppliers engaged in inter-State supply. However, as per Notification No. 10/2017 IT dated 13.10.2017, threshold exemption of ₹ 20 lakh [₹ 10 lakh in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland] is available in case of inter-State supply of taxable services. Therefore, Aadhav Computers (aggregate turnover ₹ 15 lakh) is not required to obtain registration even though it is engaged in inter-State supply of taxable services.

b) The threshold limit for registration in the State of West Bengal for the persons engaged exclusively in supply of goods, is ₹ 40 lakh. However, registration is compulsory if the supplier is engaged inter-State supply of goods irrespective of the quantum of aggregate turnover. The threshold exemption is not available in case of inter-State supply of taxable goods. Thus, Soft Wings is required to obtain registration.

Illustration 02

Examine whether the liability to register compulsorily under section 24 arises in each of the independent cases mentioned below:

a) Meenu, a supplier in Maharashtra, is exclusively engaged in supply of potatoes produced out of cultivation of her own land, within Maharashtra and also outside Maharashtra.

b) Jinu Oils, Gujarat, is engaged in supplying machine oil as well as petrol. Further, it provides intra-state services of refining of oil to customers. Total turnover of supply of machine oil is ₹ 10 lakh, supply of petrol is ₹ 5 lakh and supply of services is ₹ 6 lakh.

c) Tilu is working as an agent, he is supplying taxable goods as an agent of Tiku (who is registered taxable person) and its aggregate turnover does not exceed the applicable threshold limit during the financial year. Invoices to customers are issued in name of Tilu.

Solution

a) Section 24 provides that persons making any inter-State taxable supply of goods are required to obtain registration compulsorily under GST laws irrespective of the quantum of aggregate turnover.

NOTES

However, as per section 23, an agriculturist, to the extent of supply of produce out of cultivation of land, is not liable to registration.
Meenu is exclusively engaged in cultivation and supply of potatoes. Thus, she is not liable to registration irrespective of the fact that she is engaged in making inter-State supply of goods. Further, Meenu will not be liable to registration, in the given case, even if her turnover exceeds the threshold limit

b) Section 24 specifies the categories of persons who are required to be mandatorily registered under GST irrespective of the quantum of their aggregate turnover.
In the given case, Jinu Oils does not fall in any of the specified categories. Therefore, it is not required to obtain registration compulsorily under GST.
However, as per section 22 read with Notification No. 10/2019 CT dated 07.03.2019, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold limit for a person making supply of both goods and services is ₹ 10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland and ₹ 20 lakh for the rest of India. Thus, the applicable threshold limit for the State of Gujarat is ₹ 20 lakh for supply of both goods and services. Further, aggregate turnover includes exempted turnover of goods or services.
Accordingly, Jinu Oils is liable obtain registration since its aggregate turnover [₹ 21 lakh (including turnover of exempt supply of petrol)] exceeds the threshold limit of ₹ 20 lakh.

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

Illustration 03

Determine the effective date of registration under CGST Act in respect of the following cases with proper explanation:

a) The aggregate turnover of Varun Industries of Mumbai has exceeded ₹ 40 lakh on 1st August. Varun Industries manufactures LED TVs in Mumbai and sells them in Pune. It submits the application for registration on 20thAugust. Registration certificate granted on 25thAugust.

b) Sweta InfoTech Services is the provider of internet services in Pune. Its aggregate turnover exceeds ₹ 20 lakh on 25th September. It submits the application for registration on 27thOctober. Registration certificate is granted on 5thNovember.

Solution

As per section 22 read with Notification No. 10/2019 CT dated 07.03.2019, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold limit for a person making exclusive intra-State taxable supplies of goods is as under:-

a) ₹ 10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.

b) ₹ 20 lakh for the States of States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.

NOTES

d) ₹ 40 lakh for rest of India. However, the higher threshold limit of ₹ 40 lakh is not available to persons engaged in making supplies of ice cream and other edible ice, whether or not containing cocoa, pan masala and tobacco and manufactured tobacco substitutes,

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

a) ₹ 10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.
b) ₹ 20 lakh for the rest of India.

As per rule 10, where a person submits the application for registration within 30 days of becoming liable for registration, the effective date of registration is the date on which the person becomes liable to registration; otherwise it is the date of grant of registration.

In the light of the above provisions, in the given cases, the applicable turnover limit for registration will be ₹ 40 lakh and ₹ 20 lakh in case (i) and (ii) respectively.

i) Since Varun Industries applied for registration within 30 days of becoming liable to registration, the effective date of registration is 1st August.
ii) Since Sweta InfoTech Services applied for registration after the expiry of 30 days from the date of becoming liable to registration, the effective date of registration is 5th November.

Illustration 04

Determine the effective date of registration in following cases:

a) The aggregate turnover of Dhampur Footwear Industries of Delhi has exceeded the applicable threshold limit of ₹ 40 lakh on 1st September. It submits the application for registration on 20th September. Registration certificate is granted to it on 25th September.
b) Mehta Teleservices is an architect in Lucknow. Its aggregate turnover exceeds ₹ 20 lakh on 25th October. It submits the application for registration on 27th November. Registration certificate is granted to it on 5th December.

[MTP May 23]

Solution

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

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

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

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

NOTES

Illustration 05

In order to be eligible for grant of registration, a person must have a Permanent Account Number issued under the Income- tax Act, 1961. State one exception to it.

Solution

A Permanent Account Number is mandatory to be eligible for grant of registration. One of the exceptions to this is a non-resident taxable person. A non-resident taxable person may be granted registration on the basis of other prescribed documents instead of PAN. He has to submit a self-attested copy of his valid passport along with the application duly signed or verified through electronic verification code by his authorized signatory who is an Indian Resident having valid PAN and application will be submitted in a different prescribed form [Section 25(6) & (7)].

Illustration 06

Can a person without GST registration collect GST and claim ITC?

Solution

No, a person without GST registration can neither collect GST from his customers nor can claim any input tax credit of GST paid by him.

Illustration 07

If a person is making taxable supplies from different States, with the same PAN number, can he operate with a single registration?

Solution

No. Every person who is liable to take a registration will have to get registered separately for each of the States from where he makes taxable supply(ies) provided his aggregate turnover exceeds applicable threshold limit in a financial year.

Illustration 08

Can a person having multiple places of business in a State obtain separate registrations for each place of business?

Solution

Yes. In terms of the proviso to sub-section (2) of section 25, a person having multiple places of business in a State may obtain a separate registration for each place of business, subject to such conditions as may be prescribed.

Illustration 09

Whether the registration granted to any person is permanent?

Solution

Yes, the registration certificate once granted is permanent unless surrendered, cancelled or suspended.

GST Reg – No Validity } – Except
Unlimited.
Reg ← CTP, NRTP }

NOTES

Illustration 10

What is the validity period of the registration certificate issued to a casual taxable person and non-resident taxable person?

Solution

In terms of section 27(1) read with proviso thereto, the certificate of registration issued to a "casual taxable person" or a "non-resident taxable person" shall be valid for a period specified in the application for registration or 90 days from the effective date of registration, whichever is earlier. However, the proper officer, at the request of the said taxable person, may extend the validity of the aforesaid period of 90 days by a further period not exceeding 90 days.

Illustration 11

What happens when the registration is obtained by means of willful misstatement, fraud or suppression of facts?

Solution

In such cases, the registration may be cancelled from such date, including any retrospective date, as may deem fit by the proper officer [Section 29(2)(e)].

Illustration 12

Is there an option to take centralized registration for services under GST Law?

Solution

No, the tax paper has to take separate registration in every State from where he makes taxable supply of services.

Illustration 13

What could be the liabilities (in so far as registration is concerned) on transfer of a business?

Solution

The transferee or the successor shall be liable to be registered with effect from the date of such transfer or succession and he will have to obtain a fresh registration with effect from the date of such transfer or succession [Section 22(3)].

Illustration 14

At the time of registration, will the assessee have to declare all his places of business?

Solution

Yes. The principal place of business and place of business have been separately defined under sections 2(89) & 2(85) respectively. The taxpayer will have to declare the principal place of business as well as the details of additional places of business in the registration form.

NOTES

Illustration 15

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

1. **Om Sai Builders of Rohini, Delhi is exclusively engaged in intra-State taxable supply of building bricks. It's aggregate turnover in the current financial year is Rs. 23 lakh.**
2. **Hukum Chand of Himachal Pradesh is exclusively engaged in intra State taxable supply of footwear. His turnover in the current financial year (FY) from Himachal Pradesh showroom is Rs. 32 lakh. He has another showroom in Nagaland with a turnover of Rs. 11 lakh in the current FY.**

[MTP May 24 & RTP Nov 22]

Solution

a) **The benefit of enhanced threshold limit of registration of 40 lakh is not applicable for Om Sai brothers even though it is exclusively engaged in intra-State taxable supply of goods in Delhi as it is engaged in making supplies of building bricks. Thus, the applicable threshold limit for registration for Om Sai Builders in the given case is 20 lakh. Thus, it is liable to get registered under GST as it's turnover is more than the threshold limit.**

b) **Hukum Chand could have been eligible for enhanced threshold limit of turnover for registration, i.e. 40 lakh as he is exclusively engaged in intra-State supply of goods. However, since Hukum Chand is engaged in supplying footwear from a Special Category State i.e. Nagaland, the threshold limit gets reduced to 10 lakh. Thus, Hukum Chand is liable to get registered under GST as his turnover exceeds 10 lakh. Further, he is required to obtain registration in both Himachal Pradesh and Nagaland as he is making taxable supplies from both the States**

Illustration 16

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

a) **Raghav of Assam is exclusively engaged in intra-State taxable supply of readymade garments. His turnover in the current financial year (FY) from Assam showroom is Rs. 33 lakh. He has another showroom in Tripura with a turnover of Rs. 11 lakh in the current FY.**

b) **Prince of Panjim, Goa is exclusively engaged in intra-State taxable supply of shoes. His aggregate turnover in the current financial year is Rs. 22 lakh.**

c) **Heera of Himachal Pradesh is exclusively engaged in intra-State supply of pan masala. His aggregate turnover in the current financial year is Rs. 24 lakh.**

[MTP Nov 23 & MTP Nov 22]

Solution

a) **Raghav is eligible for higher threshold limit of turnover for registration, i.e. 40 lakh as he is exclusively engaged in intra-State supply of goods. However, since Raghav is engaged in supplying readymade garments from a Special Category State i.e. Tripura, the threshold limit gets reduced to 10 lakh. Thus, Raghav is liable to get registered under GST as his turnover has exceeded limit of 10 lakh. Further, he is required to obtain registration in both Assam and Tripura as he is making taxable supplies from both the States.**

NOTES

b) The applicable threshold limit for registration for Prince in the given case is 40 lakh as he is exclusively engaged in intra-State taxable supply of goods in Goa. Thus, he is not liable to get registered under GST as his turnover is less than the threshold limit.

c) Heera being exclusively engaged in supply of pan masala is not eligible for higher threshold limit of 40 lakh. The applicable threshold limit for registration in this case is 20 lakh. Thus, Heera is liable to get registered under GST.

Illustration 17

Briefly enumerate the contraventions which make a registered person liable to cancellation of registration, as prescribed under rule 21 of the CGST Rules, 2017.

[RTP May 23]

Solution

Rule 21 of the CGST Rules, 2017 prescribes the contraventions which make a registered person liable to cancellation of registration. As per said rule, the registration granted to a person is liable to be cancelled, if the said person -

a) does not conduct any business from the declared place of business.

b) issues invoice/bill without supply of goods/services in violation of the provisions of this Act, or the rules made thereunder.

c) violates the provisions of section 171 of the CGST Act. Section 171 contains provisions relating to anti-profiteering measure.

d) violates the provision of rule 10A of the CGST Rules relating to furnishing of bank account details.

e) avails input tax credit in violation of the provisions of section 16 of the CGST Act or the rules made thereunder.

f) furnishes the details of outward supplies in Form GSTR-1 under section 37 of the CGST Act for one or more tax periods which is in excess of the outward supplies declared by him in his valid return under section 39 for the said tax periods.

g) being a registered person required to file return under section 39(1) of the CGST Act for each month or part thereof (i.e. monthly return filer), has not furnished returns for a continuous period of 6 months.

h) being a registered person required to file return under proviso to section 39(1) of the CGST Act for each quarter or part thereof (i.e. quarterly return filer), has not furnished returns for a continuous period of 2 tax periods.

Illustration 18

Mr. Raj of Rajasthan intends to start business of supply of building material to various construction sites in Rajasthan. He has taken voluntary registration under GST in the month of April. However, he has not commenced the business till December due to lack of working capital. The proper officer *suo-motu* cancelled the registration of Mr. Raj. You are required to examine whether the action taken by proper officer is valid in law? Mr. Raj has applied for revocation of cancellation of registration after 40 days from the date of service of the order of cancellation of registration. Department contends that application for revocation of cancellation of registration can only be made within 30 days from the date of service of the order of cancellation of registration. You are required to comment upon the validity of contentions raised by Department.

[MTP May 24 & RTP May 22]

NOTES

Solution

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

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

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

Further, where the registration of a person is cancelled suo-motu by the proper officer, such registered person may, subject to the provisions of rule 10B, apply for revocation of the cancellation of registration to such proper officer, within 90 days from the date of service of the order of cancellation of registration.

However, the said period of 90 days may, on sufficient cause being shown and for reasons to be recorded in writing, be extended by the Commissioner or an officer authorised by him in this behalf, not below the rank of Additional Commissioner or Joint Commissioner, as the case may be, for a further period not exceeding 180 days.

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

Illustration 19

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

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

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

[MTP May 23]

NOTES

Solution

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

Particulars	Amount
Intra-State outward taxable supply of goods [Aggregate turnover includes value of all taxable supplies.]	7,00,000
Inter-State outward taxable supply of services [Aggregate turnover includes value of inter-State supplies.]	6,00,000
Intra-State outward supply on which tax is payable under reverse charge mechanism [Aggregate turnover includes value of all taxable supplies whether taxable under reverse charge or forward charge.]	1,00,000
Intra-State outward supply of exempted goods from Manipur [Aggregate turnover includes value of exempt supplies made in all the States under the same PAN]	5,00,000
Aggregate turnover	19,00,000
Persons making any inter-State taxable supply of goods are required to obtain compulsory registration, but in case of inter-State supply of taxable services, threshold limit of 20 lakh is available. Such threshold limit gets reduced to 10 lakh in case of specified Special Category State provided taxable supply is being made therefrom. Since B Enterprises is making exempt supplies from Manipur - a specified Special Category State, the applicable threshold limit of registration for B Enterprises is 20 lakh. Thus, it is not liable to be registered as its aggregate turnover does not exceed the threshold limit.	

Illustration 20

Ranmo Limited, a registered entity under GST has demerged its operations with effect from 31st October, 2023. The registration of Ranmo Limited has been cancelled suo-motu by the Proper Officer. The order of cancellation of registration was passed on 4th November, 2023 and was served on 7th November, 2023

Ranmo Limited wishes to apply for revocation of cancellation of registration on 4th February, 2024. The tax consultant of Ranmo Limited advised that application for revocation of cancellation or registration is time barred and hence not valid in law.

You are required to examine the technical veracity of the advice given by Tax Consultant of Ranmo Limited.

[RTP Sep 2024]

NOTES

Solution

A registered person, whose registration is cancelled by the proper officer on his own motion, may, subject to the provisions of rule 10B of the CGST Rules, 2017, submit an application for revocation of cancellation of registration, in prescribed form, to such proper officer, within a period of 90 days from the date of the service of the order of cancellation of registration.

However, such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended by the Commissioner or an officer authorised by him in this behalf, not below the rank of Additional Commissioner or Joint Commissioner, as the case may be, for a further period not exceeding 180 days.

Thus, in the given case, Ranmo Limited can apply for revocation of cancellation of registration within a period of 90 days from the date of the service of the order of cancellation of registration, i.e. within 90 days from 7th November, 2023.

The application submitted for revocation of cancellation of registration is valid in law as the same has been submitted within the prescribed time limits.

Thus, the advice given by Tax Consultant of Ranmo Limited is not valid in law

Illustration 21

Examine whether the liability to register compulsorily under section 24 of the CGST Act, 2017 arises in each of the independent cases mentioned below:

(1) Heera, a supplier in Haryana, is exclusively engaged in supply of potatoes produced out of cultivation of his own land, within Haryana and also outside Haryana.

(2) Aanya of Telangana is exclusively engaged in intra-State supply of toys. Its aggregate turnover in the current financial year is ₹ 22 lakh.

[RTP Nov 2021]

Solution

a) Section 24 of the CGST Act, 2017 provides that persons making any inter-State taxable supply of goods are required to obtain registration compulsorily under GST laws irrespective of the quantum of aggregate turnover. However, as per section 23 of the CGST Act, 2017, an agriculturist, to the extent of supply of produce out of cultivation of land, is not liable to registration. Heera is exclusively engaged in cultivation and supply of potatoes. Thus, he is not liable to registration irrespective of the fact that he is engaged in making inter-State supply of goods. Further, Heera will not be liable to registration, in the given case, even if his turnover exceeds the threshold limit.

b) Since Aanya is making taxable supplies from Telangana, she will not be eligible for higher threshold limit available in case of exclusive supply of goods. The applicable threshold limit for registration for Aanya in the given case is ₹ 20 lakh. Thus, she is liable to get registered under GST.

NOTES

Illustration 22

Mr. Q, a casual taxable person of Gujarat state is a trader of taxable notified handicraft goods. It makes supplies to the states of Maharashtra, Rajasthan and Andhra Pradesh. Turnover for October, 2021 is ₹ 18 Lakh.

1) **Explain the provisions of registration for casual taxable person under GST. Examine whether Mr. Q is liable for registration or not?**
2) **What will be the answer if Mr. Q makes trading in taxable notified products instead of taxable notified handicraft goods which involves 75% making on machine and 25% by hand?**

[PYQ Nov 2021]

Solution

1) **A casual taxable person is required to obtain compulsory registration under GST irrespective of the quantum of its aggregate turnover.**
   However, a threshold limit of ₹ 20 lakh (₹ 10 lakh in case of specified Special Category States) is available for registration to a casual taxable person who:
   a) **is making inter-State taxable supplies of notified handicraft goods and notified hand-made goods,**
   b) **is availing the benefit of exemption from registration available to inter-State supply of above-mentioned goods upto the aggregate turnover of ₹ 20 lakh (₹ 10 lakh in case of specified Special Category States), and**
   c) **has obtained a PAN and**
   d) **has generated an e-way bill.**

In the given case, since Mr. Q is engaged in supplying notified handicraft goods and its aggregate turnover6 does not exceed ₹ 20 lakh, he will not be liable to registration provided he fulfills other conditions specified herein.

2) **In case Mr. Q is engaged in trading of notified products which are predominantly made by machine, he will not be eligible for the exemption from registration under aforesaid provisions and needs to take compulsory (mandatory) registration**

Illustration 23

BBD Pvt. Ltd. of Gujarat exclusively manufactures and sells product 'Z' which is exempt from GST vide notifications issued under relevant GST legislations. The company sells 'Z' only within Gujarat and is not registered under GST laws. The turnover of the company in the previous year 2018-19 was ₹ 50 lakh. The company expects the sales to grow by 10% in the current year 2019-20.
However, effective 01.01.2020, exemption available on 'Z' was withdrawn by the Central Government and GST@ 5% was imposed thereon. The turnover of the company for the nine months ended on 31.12.2019 was ₹42 lakh.
BBD Pvt. Ltd. is of the opinion that it is not required to get registered under GST for current financial year 2019-20.

[PYQ Nov 2020]

NOTES

Solution

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

Therefore, since BBD Pvt. Ltd. was engaged exclusively in supplying exempted goods till 31.12.2019, it was not required to be registered till that day; though voluntary registration was allowed.

The position, however, will change from 01.01.2020 as the supply of goods become taxable from that day and the turnover of BBD Pvt. Ltd. is more than ₹ 40 lakh. Since the aggregate turnover limit of ₹ 40 lakh includes exempt turnover also, turnover of 'Z' till 31.12.2019 will be considered for determining the threshold limit even though the same was exempt from GST. Therefore, BBD Pvt. Ltd. needs to register within 30 days from 01.01.2020.

NOTES

15(2) Inclusion

(a) Yes Include Taxes other than GST

ATO Excl. – (2) < I/w GST

Illustration 24

HW

P Ltd, a registered person provided following information for the month of October, 2020:

Particulars	Amount (₹)
Intra-State outward supply	8,00,000
Inter-State exempt outward supply	4,00,000
Turnover of exported goods	20,00,000
Payment of IGST	1,20,000
Payment of CGST and SGST	45,000 each
Payment of custom duty on export	40,000
Payment made for availing GTA services = I/w	3,00,000

GST X

X

GST is payable on Reverse Charge for GTA services.

Explain the meaning of aggregate turnover u/s 2(6) of the CGST Act and compute the aggregate turnover of P Ltd. for the month of October, 2020. All amounts are exclusive of GST.

[PYQ May 2021]

Solution

Computation of aggregate turnover of P Ltd. for the month of October, 2020

Particulars	Amount (₹)
In terms of the definition of the aggregate turnover given above, the aggregate turnover of P Ltd. has been computed as follows:	
Intra-State outward supply	8,00,000
Inter-State exempt outward supply	4,00,000
Turnover of exported goods	20,00,000
Payment of IGST	Nil
Payment of CGST and SGST	Nil
Payment of customs duty on export	40,000
Payment made under reverse charge for availing GTA services	Nil
Aggregate turnover	32,40,000

Illustration 25

HW

Nesamani started his business activities in the month of February 2022 in the State of Orissa. He provided the following details:

S.22 = X

Particulars		Amount in ₹
(i)	Outward supply of petrol (Intra State)	4,00,000
(ii)	Transfer of exempt goods to his branch in Rajasthan (Inter-State)	2,00,000
(iii)	Outward supply of taxable goods by his branch in Uttar Pradesh (Intra State)	5,00,000
(iv)	Outward supply of services on which tax is payable under RCM by the recipient of services (Intra-State)	6,00,000
(v)	Inward supply of services on which tax is payable under RCM (Intra- State)	2,00,000

ATO 17L

Reg ?

X

S.24

① I/w = RCM

② Inter State Goods.

NOTES

From the information given above, compute the aggregate turnover of Nesamani and also decide whether he is required to get registration under GST. Assume that the amounts given above are exclusive of taxes.

[PYQ Nov 2022]

Solution

Particulars	Amount (₹)
Computation of aggregate turnover of Nesamani	
Outward supply of petrol [Supply of petrol being a non-taxable supply is an exempt supply. Value of exempt supply is includible in aggregate turnover.]	4,00,000
Inter-State stock transfer of exempt goods [Supply of taxable/exempt goods between distinct persons is includible.]	2,00,000
Outward supply of taxable goods from Uttar Pradesh branch [Value of outward supplies under same PAN are includible.]	5,00,000
Outward supply of services taxable under reverse charge [Includible in aggregate turnover.]	6,00,000
Inward supply of services taxable under reverse charge [Excludible from the aggregate turnover.]	--
Aggregate turnover	17,00,000

For a supplier engaged in supply of goods and services from the States of Orissa and Uttar Pradesh, the threshold limit of aggregate turnover to obtain registration is ₹ 20 lakh. However, a person required to pay tax under reverse charge has to obtain registration compulsorily irrespective of the quantum of turnover.

Since in the given case, Nesamani is required to pay tax under reverse charge, it is liable to obtain registration compulsorily irrespective of his quantum of turnover.

Illustration 26

Right Oils, an unregistered entity located in U.P. is engaged in supply of machine oil and high-speed diesel. During the month of April, it supplied machine oil in U.P. amounting to ₹ 15,00,000. Also, it supplied high speed diesel in U.P. amounting to ₹ 10,00,000. Further, it supplied machine oil in Punjab from its branch located in Punjab amounting to ₹ 10,00,000.

Note: All the amounts mentioned above are excluding GST.

(i) Determine whether Right Oils is liable for registration.

(ii) What will be your answer if, Right Oils supplies the high speed diesel in U.P. in the capacity of an agent of Center Oils Ltd., (non- registered), where invoices to customers are issued in name of Right oils? Would your answer be different in case if Center Oils Ltd. is registered entity?

[MTP JAN 2025]

Solution

(i) A supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold limit for a person making exclusive intra-State taxable supplies of goods is as under:-

NOTES

(a) ₹ 10 lakh for the Special Category States of Mizoram, Tripura, Manipur and Nagaland.
(b) ₹ 20 lakh for the States, namely, States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.
(c) ₹ 40 lakh for rest of India except persons engaged in making supplies of ice cream and other edible ice, whether or not containing cocoa, pan masala and tobacco and manufactured tobacco substitutes, fly ash bricks; fly ash aggregates; fly ash blocks, bricks of fossil meals or similar siliceous earths, building bricks, earthen or roofing tiles.
The threshold limit for a person making exclusive taxable supply of services or supply of both goods and services is as under:-
(a) ₹ 10 lakh for the Special Category States of Mizoram, Tripura, Manipur and Nagaland.
(b) ₹ 20 lakh for the rest of India.
Aggregate turnover includes the aggregate value of:
1. all taxable supplies,
2. all exempt supplies,
3. exports of goods and/or services and
4. all inter-State supplies of persons having the same PAN.

The above aggregate turnover is computed on all India basis. Further, the aggregate turnover excludes central tax, State tax, Union territory tax, integrated tax and cess. Moreover, the value of inward supplies on which tax is payable under reverse charge is not taken into account for calculation of 'aggregate turnover'.
CGST is not leviable on five petroleum products i.e. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel. Exempt supply includes non-taxable supply. Thus, supply of high speed diesel in U.P., being a non-taxable supply, is an exempt supply and is, therefore, includible while computing the aggregate turnover.
In the backdrop of the above-mentioned discussion, the aggregate turnover of Right Oils for the month of April is computed as under:

S. No.	Particulars	Amount (in ₹)
(i)	Supply of machine oils in U.P.	15,00,000
(ii)	Add: Supply of high speed diesel in U.P.	10,00,000
(iii)	Add: Supply of machine oil made by Right Oils from its branch located in Punjab	10,00,000
	Aggregate Turnover	35,00,000

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

NOTES

(ii) In case Right Oils makes the supply in capacity of an agent of Center Oils Ltd.:
Section 24 of the CGST Act, 2017 provides that an agent who is engaged in making taxable supplying of goods on behalf of other taxable persons, shall be liable to obtain registration irrespective of the threshold turnover limit. However, in the present case, if Right Oils supply high speed diesel on behalf of Center Oil Ltd. in U.P. as its agent where invoices to customers are issued in name of Right Oils, it shall still not be liable to obtain registration in U.P. since section 24 comes into play only when agent or in other capacity is making taxable supply of goods on behalf of taxable persons (principal) whereas in the given case, Right Oils is supplying non-taxable goods on behalf of Center Oils Ltd., who is non-registered.
In case if Center Oils Ltd. is registered entity, then also the answer would remain unchanged as attraction of section 24 of the CGST Act, 2017, inter-alia, requires that there should be taxable supply by agent and here, Right Oils is supplying non-taxable goods on behalf of Center Oils Ltd.

NOTES

Chapter 10: Tax Invoice, Debit & Credit Note

Tax Invoice

<table>
<tr><th colspan="3">Time limit for issuance of invoice [Sections 31(1), (2), (4) & (5) read with rule 47]</th></tr>
<tr><th colspan="3">In Case of Goods</th></tr>
<tr><td>Supply Involves Movement of Goods</td><td colspan="2">Invoice shall be issued before or at the time of removal of goods for supply to the recipient</td></tr>
<tr><td>Supply Doesn't Involves Movement of Goods</td><td colspan="2">Invoice shall be issued before or at the time of delivery of goods or making available thereof to the recipient</td></tr>
<tr><td>In case of Continuous Supply of Goods</td><td colspan="2">Where successive statements of accounts/successive payments are involved, the invoice shall be issued before/at the time each such statement is issued or each such payment is received.</td></tr>
<tr><td>Goods sent on Sale or Return Basis</td><td colspan="2">Where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued:
• before/at the time of supply or
• 6 months from the date of removal whichever is earlier</td></tr>
<tr><th colspan="3">In Case of Services</th></tr>
<tr><td>Generally</td><td colspan="2">Invoice shall be issued before or after the provision of service, but within a period of 30 days* from the date of supply of service.
*45 days in case of an insurer or banking company or financial institution, including a Non-Banking Financial Company (NBFC)</td></tr>
<tr><td rowspan="4">In case of Continuous Supply of Services</td><td>Case</td><td>The invoice shall be issued</td></tr>
<tr><td>due date of payment is ascertainable from the contract</td><td>on or before the due date of payment</td></tr>
<tr><td>due date of payment is not ascertainable from the contract</td><td>before or at the time when the supplier of service receives the payment</td></tr>
<tr><td>payment is linked to the completion of an event</td><td>on or before the date of completion of that event.</td></tr>
<tr><td>Where Supply of Services ceases Before its Completion</td><td colspan="2">In a case where the supply of services ceases under a contract before the completion of the supply, the invoice shall be issued at the time when the supply ceases and such invoice shall be issued to the extent of the supply made before such cessation.</td></tr>
</table>

NOTES

<table>
<tr><td>Manner of Issuing the Invoice</td><td><table><tr><th>Supply of Goods</th><th>Supply of Services</th></tr><tr><td>• Original copy for recipient
• Duplicate copy for transporter; and
• Triplicate copy for supplier</td><td>• Original copy for recipient; and
• Duplicate copy for supplier</td></tr></table></td></tr>
<tr><td>Miscellaneous</td><td>The serial number of invoices issued during a month/quarter shall be furnished electronically in FORM GSTR-1.</td></tr>
<tr><td>Revised Tax Invoice</td><td>• Every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue Revised Tax Invoices.
• Such invoices shall be issued against the invoices already issued during said period.
• It shall be issued within 1 month from the date of issuance of certificate of registration. The words “Revised Invoice” shall be indicated prominently on such invoices</td></tr>
<tr><td>Consolidated Revised Tax Invoices in Certain Cases</td><td>A registered person may issue a Consolidated Revised Tax Invoice in respect of all taxable supplies made to an unregistered recipient during such period.</td></tr>
<tr><td>No Tax Invoice Required to be Issued if Value < ₹200 [Section 31(3)(b) Read with Fourth Proviso to Rule 46]</td><td>However, in case of inter-State supplies, a consolidated Revised Tax Invoice cannot be issued in respect of all unregistered recipients if the value of a supply exceeds ₹1,00,000.</td></tr>
<tr><td>Other Cases</td><td>• Value of the goods/services/both supplied < ₹200,
• The recipient is unregistered; and
• The recipient does not require such invoice
Instead such registered person shall issue a Consolidated Tax Invoice for such supplies at the close of each day in respect of all such supplies. However, they need to issue an invoice when the customer demands.
Exception
As per proviso to rule 46, Section 31(3)(b) is not available to a supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens.</td></tr>
</table>

NOTES

Ex: Pinki owns a departmental store and is a registered dealer under GST . Concept of consolidated tax invoice can be understood with the help of following table :

Item	Purchasing Party	Amount charged before GST	Answer
Body wash	Y (Unregistered)	100	Consolidated
Fair and lovely	Vivek (Registered)	1000	Tax Invoice
Shampoo	A (Unregistered)	1500	Tax Invoice
Face Wash	B (Unregistered)	250	Tax Invoice
Shaving cream	C (Unregistered) but demand tax invoice	110	Tax Invoice
Nail Polish	E (Composition tax payer)	150	Tax Invoice
Toothpaste	G (Unregistered)	200	Tax Invoice
Nail Polish	D (Unregistered)	190	Consolidated

Rule 54(4A)	• A registered person who is supplying services by way of admission to exhibition of cinematograph films in multiplex screens shall be required to issue an electronic ticket. • The said electronic ticket is deemed to be a tax invoice, even if such ticket does not contain the details of the recipient of service but contains the other information as mentioned under rule 46.
Bill of Supply	Following Persons are required to issue Bill of supply Instead of Tax invoice: • Registered person supplying exempted goods or services or both or • Registered person paying tax under composition levy (or Sec 10(2A)) **Note:** Any tax invoice or any other similar document issued under any other Act for the time being in force in respect of any non-taxable supply shall be treated as bill of supply for the purposes of the Act.
Receipt Voucher	A registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue a Receipt Voucher evidencing receipt of such payment. Where at the time of receipt of advance, rate of tax and/or nature of supply is not determinable

Where at the time of receipt of advance	Applicable
rate of tax is not determinable	18%
nature of supply is not determinable	inter-State supply

NOTES

Refund Voucher	Where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a Receipt Voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a Refund Voucher against such payment.
Invoice and Payment Voucher	• A registered person who is liable to pay tax under reverse charge shall issue an Invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both. • Besides, a registered person who is liable to pay tax under reverse charge shall issue a Payment Voucher at the time of making payment to the supplier.
Tax Invoice in special cases (Rule 54)	
Banking/Financial Institutions	Where the supplier of taxable service is an insurer or a banking company or a financial institution, the said supplier may • issue a consolidated tax invoice or any other document in lieu thereof, by whatever name called for the supply of services made during a month at the end of the month, • whether issued or made available, physically or electronically • whether or not serially numbered, and • whether or not containing the address of the recipient of taxable service.
Goods Transport Agency	where the supplier of taxable service is a goods transport agency, the said supplier may issue a tax invoice or any other document in lieu thereof, by whatever name called, containing • The gross weight of the consignment, • Name of the consigner and the consignee, • Registration number of goods carriage in which the goods are transported, • Details of goods transported, • Details of place of origin and destination, • Goods and Services Tax Identification Number of the person liable for paying tax whether as consigner, consignee or goods transport agency

NOTES

Passenger Transportation Service	Where the supplier of taxable service is supplying passenger transportation service, • a tax invoice shall include ticket in any form, by whatever name called, whether or not serially numbered, and whether or not containing the address of the recipient of service. • However, the signature or digital signature of supplier or his authorized representative shall not be required in case of issuance of electronic invoice
Online Money Gaming/ service provided by/ through ECO or by supplier of OIDAR services to unregistered recipient,	In cases involving supply of online money gaming or in cases where any taxable service is supplied by or through an ECO or by a supplier of OIDAR services to a recipient who is unregistered, irrespective of the value of such supply, a tax invoice issued by the registered person shall contain the name of the State of the recipient and the same shall be deemed to be the address on record of the recipient.

Requirement to furnish HSN code in Tax invoice

- HSN full form is 'Harmonized system of Nomenclature'
- It is a 8-digit code
- It is used to identify goods/services.



Supplier T/o in preceding FY	No. of digit to mention on invoice of HSN Code
Aggregate T/o is less than or equal to 5 crore	B2B Supply – 4 Digit (Mandatory) B2C supply – 4 Digit (Optional)
Aggregate T/o is more than 5 crore	6 Digit (Mandatory)

E-Invoicing

- 'e-Invoicing' or 'electronic invoicing' is a system in which B2B invoices are authenticated electronically by GSTN for further use on the common GST portal. Under the electronic invoicing system, an identification number will be issued against every invoice by the Invoice Registration Portal (IRP), managed by the GST Network (GSTN).
- All invoice information will be transferred from this portal to both the GST portal and e-way bill portal in real-time. Therefore, it will eliminate the need for manual data entry while filing GSTR-1 returns and generation of part-A of the e-way bills, as the information is passed directly by the IRP to the GST portal.

NOTES

Applicability of E-Invoicing

- Taxpayers with an aggregate turnover exceeding ₹5 crore in any financial year from 2017-18 onwards
- The aggregate turnover will include the turnover of all GSTINs under a single PAN across India.
- If the invoice is issued by a notified person in respect of supplies covered under RCM, e-invoicing is applicable.

Note: E-invoicing is mandatory for supplies made to Government Departments, establishments, government agencies, local authorities, or PSUs that are registered solely for the purpose of TDS deduction **under Section 51 of the CGST Act**. These entities, though registered only for TDS purposes, are considered registered persons under GST. Therefore, the supplier must generate e-invoices for supplies made to them.

Exception

E-Invoicing shall not be applicable to the following categories of registered persons irrespective of their turnovers:

a) An insurer or a banking company or a financial institution, including an NBFC
b) A Goods Transport Agency (GTA)
c) A registered person supplying passenger transportation services
d) A registered person supplying services by way of admission to the exhibition of cinematographic films in multiplex services
e) An SEZ unit (SEZ developer gets covered under e-invoicing provisions)
f) A government department and Local authority

Process of getting an e-invoice

The following are the stages involved in generating or raising an e-invoice.

- The taxpayer must raise a regular invoice on Accounting software. He must give all the necessary details like billing name and address, GSTN of the supplier, transaction value, item rate, GST rate applicable, tax amount, etc.
- Thereafter, upload the details of the invoice, especially mandatory fields, onto the IRP. The IRP will act as the central registrar for e-invoicing and its authentication.
- IRP will validate the key details of the B2B invoice, check for any duplications and generate an invoice reference number (hash) for reference.
- IRP generates the invoice reference number (IRN), digitally signs the invoice and creates a QR code for the supplier. On the other hand, the seller of the supply will get intimated of the e-invoice generation through email (if provided in the invoice).
- IRP will send the authenticated payload to the GST portal for GST returns. Additionally, details will be forwarded to the e-way bill portal, if applicable. The GSTR-1 of the seller gets auto-filled for the relevant tax period. In turn, it determines the tax liability.

NOTES

Cancellation of Reported Invoice

Wherever needed, the seller can cancel the IRN for an e-invoice already generated within the specified time. Amendment of e-invoices already uploaded on IRP will be done on GST Portal, there is no option to amend e-invoice on IRP Portal.

Benefits of e-invoicing to businesses

Businesses will have the following benefits by using e-invoice initiated by GSTN:

a) **e-Invoice resolves and plugs a major gap in data reconciliation under GST to reduce mismatch errors.**
b) **e-Invoices created on one software can be read by another, allowing interoperability and help reduce data entry errors.**
c) **Real-time tracking of invoices prepared by the supplier is enabled by e-invoice.**
d) **Backward integration and automation of the tax return filing process – the relevant details of the invoices would be auto-populated in the various returns, especially for generating the part-A of e-way bills.**
e) **Faster availability of genuine input tax credit.**
f) **Lesser possibility of audits/surveys by the tax authorities since the information they require is available at a transaction level.**

How will e-invoicing curb tax evasion?

It will help in curbing tax evasion in the following ways:

a) **Tax authorities will have access to transactions as they take place in real-time since the e-invoice will have to be compulsorily generated through the GST portal.**
b) **There will be less scope for manipulating invoices since the invoice gets generated before carrying out a transaction.**
c) **It will reduce the chances of fake GST invoices, and the only genuine input tax credit can be claimed as all invoices need to be generated through the GST portal. Since the input credit can be matched with output tax details, it becomes easier for GSTN to track fake tax credit claims.**

Clarification on applicability of E-invoice w.r.t. supplies made to TDS deductors

Government departments or establishments / government agencies / local authorities / PSUs, etc. registered solely for the purposes of deduction of TDS under GST are to be treated as registered persons under GST.
Accordingly, the registered persons whose turnover exceeds the prescribed threshold for generation of E-Invoicing is required to issue e-invoice for the supplies made to such Government departments or establishments / government agencies / local authorities / PSUs, etc.

NOTES

Tax Invoice to have Dynamic Quick Response (QR) Code

- Govt. has notified that an invoice issued by a registered person whose aggregate turnover in any preceding financial year from 2017-18 onwards exceeds ₹ 500 crores, to an unregistered person (i.e. B2C Invoice) shall have dynamic QR code.
- The purpose of this provision is to enable and encourage digital payments where buyer can scan the dynamic QR code and make payment from mobile wallet directly.
- Any person, who has obtained a Unique Identity Number (UIN), is not a "registered person" Therefore, any invoice, issued to such person having a UIN, shall be considered as invoice issued for a B2C supply and shall be required to comply with the requirement of Dynamic QR Code.

However, this provision is not applicable to the following persons :

1. Insurer or banking company or financial institution including NBFC
2. Goods Transportation Agency
3. Supplier of passenger transportation service
4. Services by way of admission to exhibition of cinematograph films in multiplex screens
5. Supplier of OIDAR services

Clarification in respect of applicability of Dynamic QR code on B2C Invoices		
S. No.	**Issues**	**Clarification**
1.	Whether there is requirement of dynamic QR code on the invoices issued for supplies made for exports?	No as the supplies made for exports are treated as B2B supplies, as e-invoices are required to be issued in respect of supplies for exports.
2.	What Parameters/details are required to be captured in the Dynamic QR Code	1. Supplier GSTIN number 2. Supplier UPI ID 3. Payee's Bank A/c number and IFSC 4. Invoice number & invoice date, 5. Total invoice value and 6. GST amount along with breakup i.e. CGST, SGST, IGST, Cess, etc. Further, dynamic QR code should be such that it can be scanned to make digital payment

NOTES

3.	If a supplier provides/displays Dynamic QR Code, but the customer opts to make payment without using Dynamic QR Code, then will the cross reference of such payment made without use of Dynamic QR Code, on the invoice be considered as compliance of Dynamic QR code on the invoice ?	In cases where the supplier has digitally displayed the dynamic QR code and customer pays for the invoice using any mode like UPI, credit/debit card or online banking or cash or combination of various modes of payment, with or without using Dynamic QR Code, and the supplier provides a cross reference of the payment (transaction id along with date, time and amount of payment. mode of payment like UPI, Credit card, Debit card, online banking etc.) on the invoice, the said invoice shall be deemed to have complied with the requirements of having dynamic QR code
4.	If a supplier makes available to customers an electronic mode of payment like UPI Collect, UPI Intent or similar other modes of payment, through mobile applications or computer-based applications, where though Dynamic QR Code is not displayed, but the details of merchant as well as transaction are displayed/captured otherwise, how can the requirement of dynamic QR code be complied with ?	• In such cases, if the cross reference of the payment made using such electronic modes of payment is made on the invoice, the invoice shall be deemed to comply with the requirement of Dynamic QR Code. • However, if payment is made after generation/issuance of invoice, the supplier shall provide Dynamic QR Code on the invoice.
5.	Is generation / printing of Dynamic QR code on B2C invoices mandatory for pre-paid invoices i.e. where payment has been made before issuance of the invoice ?	If cross reference of the payment received either through electronic mode or through cash or combination thereof is made on the invoice, then the invoice would have deemed to be complied with the provisions of dynamic QR code

NOTES

6.	In case where the e-commerce operator (ECO)/online application has complied with the Dynamic QR Code requirements, whether the suppliers using such e-commerce portal or application will still be required to comply with the requirement of Dynamic QR Code?	• In case, the supplier is making supply through the e-commerce portal or application, and the said supplier gives cross references of the payment received in respect of the said supply on the invoice, then such invoices would be deemed to have complied with the requirements of Dynamic QR Code. • In cases other than pre-paid supply i.e. where payment is made after generation/issuance of invoice, the supplier shall provide Dynamic QR Code on the invoice.
7.	Whether dynamic QR code is to be provided on invoice issued to a person who has obtained Unique Identity Number (UIN) ?	Any person who has obtained UIN is not a "registered person". Therefore, invoice issued to such person shall be considered as invoice issued for B2c supply and shall be required to comply with the provisions of Dynamic QR code.
8.	UPI ID is linked to bank A/c of the payee/person collecting money. Whether bank A/c and IFSC details also need to be provided separately in the dynamic QR code along with UPI ID?	No
9.	In cases where payment is collected by some person other than ECO or any person authorized by the supplier on his behalf, whether in such cases, in place of UPI ID of supplier, the UPI ID of such person may be provided?	Yes

NOTES

10.	In case of retail sales over the counter, the payment from the customer is received on the payment counter by displaying dynamic QR code on digital display, whereas the invoice, along with invoice number, is generated on the processing system being used by supplier/merchant after receiving the payment. In such cases, it may not be possible for the merchant/supplier to provide details of invoice number in the dynamic QR code displayed to the customer on payment counter. However, each transaction i.e. receipt of payment from a customer is having a unique Order ID/sales reference number, which is linked with the invoice for the said transaction. Whether in such cases, order ID / reference number of such transaction can be provided in the dynamic QR code displayed digitally, instead of invoice number ?	Yes, in these cases, the unique order ID / unique sales reference number, which is uniquely linked to the invoice issued for the said transaction, may be provided In the dynamic QR code for digital display, as long as the details of such unique order ID / sales reference number linkage with the invoice are available on the processing system of the merchant / supplier and the cross reference of such payment along with unique order ID / sales reference number are also provided on the invoice.
11.	When part-payment has already been received by the merchant / supplier, either in advance or by adjustment (e.g. using a voucher, discount coupon etc.) before the dynamic QR code is generated, what amount should be provided in the dynamic QR code for "invoice value"?	When part-payment has already been received from the customer / recipient in form of either advance or adjustment using a voucher, discount coupon etc, then the dynamic QR code may provide only the remaining amount payable by the customer / recipient against "Invoice Value". The details of total invoice value along with the details / cross reference of the part-payment / advance / adjustment done, and the remaining amount to be paid, should be provided on invoice.

NOTES

Difference between E-Invoice and Dynamic QR Code

Particulars	E-Invoice	Dynamic QR code
Type of transactions	B2B supplies [Exports also covered]	B2C supplies [Exports not covered]
Threshold limit	Registered person having ATO > 5cr in any preceding year from 2017-18 onwards	Registered person having ATO > 500cr in any preceding year from 2017-18 onwards
Purpose	To verify whether invoice has been reported or not	To enable payment using UPI by scanning the QR code

Delivery Challan

Rule 55 specifies the cases where at the time of removal of goods, goods may be removed on delivery challan and invoice may be issued after delivery.

Nature of supply	Delivery challan to be issued	Particulars of delivery challan
1. Supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known 2. Transportation of goods for job work, 3. Transportation of goods for reasons other than by way of supply, or 4. Such other supplies as may be notified by the board	• Serially numbered not exceeding 16 characters in one or multiple series • At the time of removal of goods for transportation	• Date and number of the delivery challan • Name, address and GSTIN of the consignee, if registered • HSN Code and description of goods, • Quantity (provisional, where the exact quantity being supplied is not known) • Taxable value • Tax rate and tax amount • Place of supply in case of inter-state movement • Signature

- **Delivery challan in Triplicate**
  1. Original copy for consignee
  2. Duplicate copy for transporter
  3. Triplicate copy for consignor
- **Declaration in E-way bill:** Where goods are being transported on a delivery challan in lieu of invoice, the same shall be declared in E-way bill.
- **Goods transported in SKD/CKD condition or in batches or lots :** Where the goods are being transported in a semi knocked down or completely knocked down condition or in batches or lots.

NOTES

1. The supplier shall issue the complete invoice before dispatch of the first consignment;
2. The supplier shall issue a delivery challan for each of the subsequent consignments, giving reference of the invoice;
3. Copies of the corresponding delivery challan accompany each consignment along with a duly certified copy of the invoice; and
4. The original copy of invoice shall be sent along with the last consignment.

Clarification on issues wherein the goods are moved within state or from the state of registration to another state for supply on approval basis

- The goods which are taken for supply on approval basis can be moved from the place of business of the registered supplier to another place within the same state or to a place outside the state on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of delivery of goods. For this purpose, the person carrying the goods for such supply can carry the invoice book with him so that he can issue the invoice once the supply is made.
- Further, all such supplies, where the supplier carries goods from one state to another and supplies them in a different state will be inter-state supplies and attract IGST.
- This clarification would be applicable to all goods supplied under similar conditions
- Same clarification will apply when the artists send their art work to art gallery for supply on approval basis.

Prohibition of unauthorised collection of tax [section 32]

- A person who is not a registered person shall not collect in respect of any supply of goods or services or both any amount by way of tax under this Act.
- No registered person shall collect tax except in accordance with the provisions of this Act or the rules made there under.
- Not with standing anything contained in this Act or any other law for the time being in force, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made.

Credit Note [section 34]

During the course of trade or commerce, after the invoice has been issued, there can be situations like:

- The supplier has erroneously declared a value which is more than the actual value of the goods or services provided.
- The supplier has erroneously declared a higher tax rate than what is applicable for the kind of the goods or services or both supplied.

NOTES

- The quantity received by the recipient is less than what has been declared in the tax invoice.
- The quality of the goods or services or both supplied is not to the satisfaction of the recipient thereby necessitating a partial or total reimbursement on the invoice value.
- Any other similar reasons.

The credit note is a convenient and legal method by which the value of the goods or services in the original tax invoice can be amended or revised. The issuance of the credit note easily allows the supplier to decrease his tax liability in his returns without requiring him to undertake any tedious process of refunds.

Note: Credit notes are not permitted to be issued in case secondary discounts are allowed by the supplier, since the tax liability of the supplier does not get reduced in such case. However, supplier can issue financial/ commercial credit notes to reduce the value of supply payable by the recipient to the supplier

Credit Note shall be issued earlier of:
- 30th November of the succeeding financial year
- the actual date of furnishing of annual return of the relevant financial year

Debit Note [Section 34]

There can be situations when after the invoice has been issued:
- The supplier has erroneously declared a value which is less than the actual value of the goods or services or both provided.
- The supplier has erroneously declared a lower tax rate than what is applicable for the kind of the goods or services or both supplied.
- The quantity received by the recipient is more than what has been declared in the tax invoice.
- Any other similar reasons.

The debit note/supplementary invoice is a convenient and legal method by which the value of the goods and/or services in the original tax invoice can be enhanced. The issuance of the debit note allows the supplier to pay his enhanced tax liability in his returns without requiring him to undertake any other tedious process.

Note: There is no time limit for issuance of Debit Note in GST Law

NOTES

Sample of Debit Note

NOTES

Sample of Credit Note

NOTES

Sample of E-invoicing

NOTES

Sample of Tax Invoice

NOTES

Sample of Bill of Supply

NOTES

Question Bank

Illustration 01

Briefly discuss the following with reference to GST law:

1. **Revised Tax Invoice**
2. **Bill of Supply**

[MTP May 23]

Solution

1. **A registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him may, issue a revised tax invoice against the invoices already issued during said period, within 1 month from the date of issuance of certificate of registration in prescribed manner.**
2. **A registered person supplying exempted goods and/or services or paying tax under composition levy, shall issue in prescribed manner, a bill of supply instead of a tax invoice, containing prescribed particulars.**

Illustration 02

Kidzee Toys Ltd., a wholesaler of toys registered in Chandigarh, is renowned in the local market for the variety of toys and their reasonable prices. Kidzee Toys Ltd. makes supply of 100 pieces of baby's learning laptops and chat learning phones to Nancy General Store on 25th September by issuing a tax invoice amounting to Rs. 1,00,000. However, the said toys were returned by Nancy General Store on 30th September. Discuss which document Kidzee Toys Ltd. is required to issue in such a case?

[MTP Nov 23]

Solution

Kidzee Ltd. is required to issue a credit note in such a case.

As per section 34 of the CGST Act, 2017, where one or more tax invoices have been issued for supply of any goods or services or both and the goods supplied are returned by the recipient the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.

Therefore, Kidzee Ltd.is required to issue a credit note to Nancy General Store for the good returned.

Illustration 03

a) **Fashion Queen Ltd., registered under GST and dealing in baby products has an aggregate turnover of 40 crore in the preceding financial year. The tax consultant of Fashion Queen Ltd. advised it to issue e-invoices mandatorily. However, Fashion Queen Ltd. is of the view that since it's aggregate turnover is less than the threshold limit applicable for e-invoicing, it is not required to issue e-invoices. You are required to comment upon the validity of the advice given by Tax consultant.**

b) **Ministry of Communications and Information Technology, a Government Department registered under GST has an aggregate turnover of 52 crore in the preceding financial year. You are required to comment whether Ministry of Communications and Information Technology is required to issue e-invoices in the current financial year?**

[RTP Nov 22 & RTP Nov 23]

NOTES

Solution

a) E-invoicing has been made mandatory for all registered businesses (except specified class of persons) with an aggregate turnover in any preceding financial year from 2017-18 onwards greater than 05 crore, in respect of B2B supplies (supply of goods or services or both to a registered person) or for exports. Thus, the advice given by tax consultant of Fashion Queen Ltd. for issuance of e-invoices mandatorily in the current financial year is valid in law as the aggregate turnover of Fashion Queen Ltd. has exceeded the threshold limit i.e. 05 crore in the preceding financial year.

b) Following entities are exempt from the mandatory requirement of e-invoicing:
   a. Special Economic Zone units
   b. Insurer or banking company or financial institution including NBFC
   c. GTA supplying services in relation to transportation of goods by road in a goods carriage
   d. Supplier of passenger transportation service
   e. Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens
   f. Government Department and a local authority

Thus, above mentioned entities are not required to issue e-invoices even if their turnover exceeds 05 crore in the preceding financial year from 2017-18 onwards.
Thus, Ministry of Communications and Information Technology, being a Government Department is not required to issue e-invoices in the current financial year even if it's aggregate turnover has exceeded 20 crore.

Illustration 04

The aggregate turnover of M/s Mangal & Co., a registered person, for the financial year 2022-23 was 8 Crores. It approaches you as GST Consultant for the issue of e-invoicing. Advice whether it is mandatory to issue e-invoice?
Also list out the entities which are exempt from the mandatory requirement of e-invoicing.

[RTP May 24 & PYQ Sep 2024]

Solution

E-invoicing has been made mandatory for all registered businesses (except specified class of persons) with an aggregate turnover in any preceding financial year from 2017-18 onwards greater than 5 crore in respect of B2B supplies (supply of goods or services or both to a registered person) or for exports.
Hence, it is mandatory for M/s Mangal & Co. to issue e-invoices.
Following entities are exempt from the mandatory requirement of e-invoicing:

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

NOTES

Further, the above taxpayers exempted from the mandatory requirement of e-invoicing are required to provide a declaration on the tax invoice stating that though their aggregate turnover exceeds the notified aggregate turnover for e-invoicing, they are not required to prepare an e-invoice.
Thus, above mentioned entities are not required to issue e-invoices even if their turnover exceeds 5 crore in the preceding financial year from 2017-18 onwards but are required to provide a declaration as discussed above.

Illustration 05

Dream World Pvt. Ltd is registered under GST in the State of Haryana. During the Financial Year 2022-23, its annual aggregate turnover was 12 crore. In the month of April 2023, it supplied goods worth 12 lakh to Nightmare Ltd (a registered taxable person).

1. You are required to ascertain whether issue of e-invoice is mandatory in respect of this transaction?
2. What would be your answer if Nightmare Ltd is a SEZ (Special Economic Zone) unit?

[PYQ Nov 23]

Solution

1. All registered businesses with an aggregate turnover (based on PAN) in any preceding financial year from 2017-18 onwards greater than 10 crore are required to issue e-invoices.
   Thus, issuance of e-invoice is mandatory in respect of the given transaction as the aggregate turnover of Dream World Pvt. Ltd. in the preceding financial year exceeded 05 crore.
2. Issue of e-invoice is exempt in respect of supply BY the SEZ (Special Economic Zone) unit.
   Here SEZ unit is receiver of supply. Thus, the issuance of e-invoice is mandatory in respect of given transaction even in case where Nightmare Ltd. is a SEZ (Special Economic Zone) unit.

Illustration 06

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

[MTP Nov 23]

Solution

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

NOTES

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

Illustration 07

Manmohan Textiles has to send cloth for dyeing to its job-worker. It wishes to know whether it needs to issue a tax invoice at the time of sending the goods to job-worker. You are required to advise it with reference to the provisions of the CGST Act.

[MTP Nov 22]

Solution

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

1. date and number of the delivery challan
2. name, address and GSTIN of the consigner, if registered
3. name, address and GSTIN/UIN of the consignee, if registered
4. Harmonized System of Nomenclature code and description of goods
5. quantity (provisional, where the exact quantity being supplied is not known)
6. taxable value
7. tax rate and tax amount – central tax, State tax, integrated tax, Union territory tax or cess , where the transportation is for supply to the consignee
8. place of supply, in case of inter-State movement
9. signature.

The delivery challan shall be prepared in triplicate, in case of supply of goods.

Illustration 08

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

[RTP Sep 2024]

Solution

Government Departments or establishments/ Government agencies/ local authorities/ PSUs, which are required to deduct TDS under section 51 of the CGST Act, 2017, are liable for compulsory registration in accordance with section 24(vi) of the CGST Act, 2017. Therefore, Government Departments or establishments/ Government agencies/ local authorities/ PSUs, registered solely for the purpose of deduction of TDS, are to be treated as registered persons under the GST law as per provisions of section 2(94) of the CGST Act, 2017.

NOTES

Accordingly, the registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, is required to issue e-invoices for the supplies made to such Government Departments or establishments/ Government agencies/ local authorities/ PSUs, etc.

Illustration 09

Bali Limited, a registered taxpayer, provides security services to registered persons from Mumbai office and Delhi office. The aggregate turnover of Mumbai office and Delhi office in the preceding financial year is ₹ 300 crore and ₹ 250 crore respectively. For the month of November in the current financial year, Bali Limited prepares duplicate invoices and does not issue e-invoice as it is of the view that it's aggregate turnover does not cross the threshold limit to make it liable for issuing e-invoices. Briefly explain whether the view taken by Bali Limited is correct in law? Also explain the advantages of e-invoicing, if any

[RTP May 21]

Solution

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

All notified registered businesses (except specified class of persons) with an aggregate turnover (based on PAN) in the preceding financial year greater than ₹ 5 crore are required to issue e-invoices.

The eligibility is based on aggregate annual turnover on the common PAN. Thus, the aggregate total turnover of Bali Limited is more than ₹ 5 crores (considering both the GSTINs) and is required to issue e-invoices.

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

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

1. Auto-reporting of invoices into GST return and auto-generation of e-way bill (wherever required). Under e-invoicing, business has to report the B2B invoice data only once in the e-invoice form and the same is reported in multiple forms (GSTR-1, e-way bill etc.). E-way bill can be auto-generated using e-invoice data. GSTR-1 can also be auto-populated with the e-invoice data. It will become part of the business process of the taxpayer.
2. Accuracy/Reconciliation. Since same data is reported to tax department as well as to the buyer to prepare his inward supplies (purchase) register, transcription errors are reduced. On receipt of information through GST System, buyer can do reconciliation with his Purchase Order
3. Early payment. E-invoicing facilitates standardization and inter-operability leading to reduction of disputes among transacting parties and thus, improving payment cycles.
4. Cost reduction. E-invoicing helps in reducing processing costs and thus, leads to improvement of overall business efficiency
5. Reduction of tax evasion. Since a complete trail of B2B invoices is available with the Department, it will enable the system-level matching of input tax credit and output tax thereby reducing the tax evasion

NOTES

6. Elimination of fake invoices. E-invoicing eliminates the fake invoices. Claiming fictitious input tax credit (ITC) by raising fake invoices is also one of the biggest challenges currently faced by tax-authorities. The e-invoice system helps to curb the actions of unscrupulous taxpayers and reduce the number of fraud cases as the tax authorities have access to data in real-time.
7. Paper Elimination. E-invoicing helps in paper elimination and thereby it is ecofriendly.

Illustration 10

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

(i) Harnam & Co., dealing in interior decoration products made supplies to various registered and unregistered persons in the preceding financial year. The aggregate turnover of Harnam & Co. in the preceding financial year is ₹ 60 crore.

(ii) Rich & Poor Bank, registered under GST has an aggregate turnover of ₹ 75 crore in the preceding financial year

[RTP Nov 21]

Solution

(i) The aggregate turnover of Harnam & Co. exceeds the threshold limit of aggregate turnover applicable for e-invoicing. Thus, Harnam & Co. is mandatorily required to issue e-invoices in respect of supplies made to registered persons.

(ii) Banking company is specifically exempt from mandatory requirement of e-invoicing even if the turnover exceeds ₹ 5 crore in the preceding financial year. Thus, e-invoicing is not applicable to Rich & Poor Bank.

Illustration 11

Sultan Industries Ltd., Delhi, entered into a contract with Prakash Entrepreneurs, Delhi, for supply of spare parts of a machine on 7th September. The spare parts were to be delivered on 30th September. Sultan Industries Ltd. removed the finished spare parts from its factory on 29th September for supply to Prakash Entrepreneurs. Determine the date by which tax invoice must be issued by Sultan Industries Ltd. under GST law

Solution

As per the provisions of section 31, invoice shall be issued before or at the time of removal of goods for supply to the recipient, where the supply involves movement of goods. Accordingly, in the given case, the tax invoice must be issued on or before 29th September.

Illustration 12

MBM Caretakers, a registered person, provides the services of repair and maintenance of electrical appliances. On April 1, it has entered into an annual maintenance contract with P for its Air Conditioner and Washing Machine. As per the terms of contract, maintenance services will be provided on the first day of each quarter of the relevant financial year and payment for the same will also be due on the date on which service is rendered. During the year, it provided the services on April 1, July 1, October 1, and January 1 in accordance with the terms of contract. When should MBM Caretakers issue the invoice for the services rendered?

NOTES

Solution

Continuous supply of service means, inter alia, supply of any service which is provided, or agreed to be provided continuously or on recurrent basis, under a contract, for a period exceeding 3 months with the periodic payment obligations.

Therefore, the given situation is a case of continuous supply of service as repair and maintenance services have been provided by MBM Caretakers on a quarterly basis, under a contract, for a period of one year with the obligation for quarterly payment.

In terms of section 31, in case of continuous supply of service, where due date of payment is ascertainable from the contract (as in the given case), invoice shall be issued on or before the due date of payment.

Therefore, in the given case, MBM Caretakers should issue quarterly invoices on or before April 1, July 1, October 1, and January 1.

Illustration 13

The aggregate turnover of Sangri Services Ltd., Delhi, exceeded ₹ 20 lakh on 12th August. He applied for registration on 3rd September and was granted the registration certificate on 6th September. You are required to advice Sangri Services Ltd. as to what is the effective date of registration in its case. It has also sought your advice regarding period for issuance of Revised Tax Invoices.

Solution

As per section 25 read with CGST Rules, where an applicant submits application for registration within 30 days from the date he becomes liable to registration, effective date of registration is the date on which he becomes liable to registration. Since, Sangri Services Ltd.'s turnover exceeded ₹20 lakh on 12th August, it became liable to registration on same day. Further, it applied for registration within 30 days of so becoming liable to registration, the effective date of registration is the date on which he becomes liable to registration, i.e. 12th August.

As per section 31read with CGST Rules, every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue Revised Tax Invoices. Revised Tax Invoices shall be issued within 1 month from the date of issuance of certificate of registration. Revised Tax Invoices shall be issued within 1 month from the date of issuance of registration in respect of taxable supplies effected during the period starting from the effective date of registration till the date of issuance of certificate of registration.

Therefore, in the given case, Sangri Services Ltd. has to issue the Revised Tax Invoices in respect of taxable supplies effected during the period starting from the effective date of registration (12th August) till the date of issuance of certificate of registration (6th September) within 1 month from the date of issuance of certificate of registration, i.e. on or before 6th October.

NOTES

Illustration 14

Shyam Fabrics has opted for composition levy scheme in the current financial year. It has approached you for advice whether it is mandatory for it to issue a tax invoice. You are required to advise him regarding same.

Solution

A registered person paying tax under the provisions of section 10 [composition levy] shall issue, instead of a tax invoice, a bill of supply containing such particulars and in such manner as may be prescribed.

Illustration 15

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

a) **Examine whether the tax invoice has been issued within the time limit prescribed under law.**
b) **Tax consultant of Royal Fashions objected to the invoice raised suggesting that the amount of tax charged in respect of the taxable supply should be shown separately in the invoice raised by Aura Beauty Services Ltd. However, Aura Beauty Services Ltd. contended that there is no mandatory requirement of showing tax component separately in the invoice. You are required to examine the validity of the objection raised by tax consultant of Royal Fashions.**

Solution

a) **As per section 31 read with the CGST Rules, in case of taxable supply of services, invoices should be issued before or after the provision of service, but within a period of 30 days [45 days in case of insurer/ banking company or financial institutions including NBFCs] from the date of supply of service.**
In view of said provisions, in the present case, the tax invoice should have been issued in the prescribed time limit of 30 days from the date of supply of service i.e. up to 3rd February. However, the invoice has been issued on 10th February
b) **Section 31 read with the CGST Rules, inter alia, provides that tax invoice in addition to other mandatory details shall also contain the amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess). Further, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax charged in respect of taxable goods or services which shall form part of the price at which such supply is made.**
The objection raised by the tax consultant of Royal Fashions suggesting that the amount of tax charged in respect of the taxable supply of makeover services should be shown separately in the invoice raised by Aura Beauty Services Ltd., is valid in law.

NOTES

Illustration 16

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

Date	Bill No.	Particulars	Invoice Value (including GST)
5th April	102	Notebooks [10 in numbers]	1200
10th May	197	Chart Paper [4 in number]	600
20th May	230	Crayon colors [2 packets]	500
2nd June	254	Poster colors [5 packets]	900
22nd June	304	Pencil box [4 sets]	700

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

Solution

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

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

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

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

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

Illustration 17

Chidanand Products Pvt. Ltd. is a registered supplier who has opted for composition levy in the current financial year. He wishes to know whether the issue of a bill of supply can be dispensed with under any circumstances. You are required to advise him.

Solution

Yes. Chidanand Products Pvt. Ltd. may not issue a bill of supply if the value of the goods or services or both supplied is less than ₹ 200 subject to the condition that:

a) the recipient is not a registered person; and
b) the recipient does not require such bill of supply,

and he shall issue a consolidated bill of supply for such supplies at the close of each day in respect of all such supplies.

Illustration 18

A registered person has to mandatorily issue separate invoices for taxable and exempted goods when supplying both taxable as well as exempted goods to an unregistered person. Examine the validity of the statement.

NOTES

Solution

The statement is not valid in law. As per the CGST Rules, where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single "invoice-cum-bill of supply" may be issued for all such supplies.

Illustration 19

Sakthi Enterprises, Kolkata entered into a contract with Suraj Enterprises, Surat for supply of goods and the delivery shall be made on or before 31st October. The goods were removed from the factory at Kolkata on 11th October for supply to Suraj Enterprises. As per the agreement, the goods were to be delivered on or before 31st October. Suraj Enterprises has received the goods on 14th October. Determine the time of issue of invoice as per the provisions of CGST Act.

Solution

A registered person supplying taxable goods shall issue a tax invoice, before or at the time of removal of goods for supply to the recipient, where the supply involves movement of goods.

Therefore, in the given case, invoice has to be issued on or before, 11th October (the time of removal of goods).

Illustration 20

Trust and Fun Ltd., an event management company, has provided its services for an event at Kapoor Film Agencies, Mumbai on 5th June. Payment for the event was made on 19th June. Determine the time of issue of invoice as per the provisions of CGST Act.

Solution

A registered person [other than an insurer/banking company/financial institution, including an NBFC] supplying taxable services shall issue a tax invoice before or after the provision of service, but within a period of 30 days from the date of supply of service.

Thus, in the given case, invoice has to be issued within 30 days of 5th June (date of supply of service), i.e. on or before, 5th July.

Illustration 21

Bhoj Raj, a registered person, has availed GTA services from unregistered supplier, on which he is liable to pay tax under reverse charge. He wishes to know whether he is required to issue an invoice. Please advise him discussing the relevant provisions under CGST Act and rules thereunder.

Solution

Bhoj Raj is required to issue an invoice with regard to the GTA services availed by him. A registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 (i.e. where the recipient is liable to discharge GST on reverse charge basis) shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both.

NOTES

Illustration 22

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

a) Value of supply charged in invoice no. 1 was ₹ 2,50,000 against the actual taxable value of ₹ 2,30,000.

b) Tax charged in invoice no. 4 was ₹ 32,000 against the actual tax liability of ₹ 68,000 due to wrong HSN code being chosen while issuing invoice.

c) Value charged in invoice no. 8 was ₹ 3,20,000 as against the actual value of ₹ 4,20,000 due to wrong quantity considered while billing.

Kartik & Co. asks you to answer the following:

1. Who shall issue a debit/credit note under the CGST Act, 2017 in each of the above circumstances?
2. Whether debit note or credit note has to be issued in each of the above circumstances?
3. What is the maximum time-limit available for declaring the credit note in the GST Return?

Solution

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

Illustration 23

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

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

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

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

NOTES

Solution

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

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

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

Illustration 24

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

S. No.	Recipient of Supply	Date
1.	Commencement of the business of supplying goods and services	01/08
2.	Turnover exceeds ₹ 10,00,000 on	15/08
3.	Turnover exceeds ₹ 20,00,000 on	05/09
4.	Application for registration made on	28/09
5.	Registration certificate granted on	06/10

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

Solution

A supplier of both goods and services whose aggregate turnover in a financial year exceeds ₹ 20 lakh in a State/UT [₹ 10 lakh in specified Special Category States] is liable to apply for registration within 30 days from the date of becoming liable to registration (i.e., the date of crossing the threshold limit of ₹ 20 lakh/ ₹ 10 lakh) in terms of section 22. Since Meghalaya is not a specified Special Category State, applicable threshold limit is ₹ 20 lakh.

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

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

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

NOTES

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

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

Illustration 25

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

(i) Value of supply charged in invoice no. 1 was ₹ 2,50,000 against the actual taxable value of ₹ 2,30,000.

(ii) Tax charged in invoice no. 4 was ₹ 32,000 against the actual tax liability of ₹ 68,000 due to wrong HSN code being chosen while issuing invoice.

(iii) Value charged in invoice no. 8 was ₹ 3,20,000 as against the actual value of ₹ 4,20,000 due to wrong quantity considered while billing.

Kartik & Co. asks you to answer the following:

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

[MTP Nov 2021]

Solution

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

NOTES

Illustration 26

Blue Panda Pvt. Ltd. is a manufacturing company that supplies goods to various registered dealers across India. The company had an aggregate turnover of ₹ 6 crore in the financial year 2023-24. The finance team of the company is not sure whether e-invoicing provisions are applicable to the company and is of the view that under e-invoicing system, invoices need to be generated directly on the e-invoicing portal instead of its ERP system.

You are required to advise the finance team on the following Question:-

(a) What is e-invoicing, and whether it would apply to Blue Panda Pvt. Ltd.?

(b) Does Blue Panda Pvt. Ltd. need to create its invoices directly on the e-invoicing portal?

[RTP Jan 2025]

Solution

(a) E-invoicing is a system for electronically reporting Business-to- Business (B2B) invoices to the GST system for certain notified taxpayers whose turnover exceeds ₹ 5 crore in any financial year from 2017-18 onwards. Since Blue Panda Pvt. Ltd. had an aggregate turnover of ₹ 6 crore in FY 2023-2024, it is required to issue e-invoices for its B2B transactions.

(b) No, Blue Panda Pvt. Ltd. does not need to create invoices directly on the e-invoicing portal. The company will continue generating its GST invoices using its own Accounting/Billing/ERP system. The only requirement is that these invoices must be reported to the Invoice Registration Portal (IRP) for validation and issuance of a unique Invoice Reference Number (IRN).

Illustration 27

List any three situations that warrant issue of credit note. Briefly explain the time line to declare such credit note in the GST return

[PYQ Nov 2022]

Solution

Situations that warrant the issue of credit note are as follows:

- **The supplier has erroneously declared a value which is more than the actual value of the goods or services provided.**
- **The supplier has erroneously declared a higher tax rate than what is applicable for the kind of the goods or services or both supplied.**
- **The quantity received by the recipient is less than what has been declared in the tax invoice.**
- **The quality of the goods or services or both supplied is not to the satisfaction of the recipient thereby necessitating a partial or total reimbursement on the invoice value.**

The details of credit note are declared in the GST return for the month during which such credit note has been issued but not later than:

(i) September following the end of the financial year in which such supply was made, or

(ii) the date of furnishing of the relevant annual return,

Whichever is earlier.

NOTES

Chapter 11: Accounts & Records

Who is required to maintain books of accounts and at which place?

- Every registered person shall keep and maintain, books of accounts at his principal place of business and books of account relating to additional place of business [as mentioned in the certificate of registration].
- Where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business.
- Unless proved otherwise, if any documents, registers, or any books of account belonging to a registered person are found at any premises other than those mentioned in the certificate of registration, they shall be presumed to be maintained by the said registered person.

Illustration 01

Who is required to maintain books of accounts and at which place in terms of section 35 read with relevant rules?

Solution

Every registered person shall keep and maintain, his books of accounts at his principal place of business and books of account relating to additional place of business as mentioned in the certificate of registration. Where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business.

Which accounts and records are required to be maintained?

A true and correct account of following is to be maintained:

1. **production or manufacture of goods;**
2. **inward and outward supply of goods or services or both;**
3. **stock of goods;**
4. **input tax credit availed;**
5. **output tax payable and paid**
6. **such other particulars as may be prescribed**

- The Commissioner may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified therein.
- Where the Commissioner considers that any class of taxable persons is not in a position to keep and maintain accounts in accordance with the provisions of this section, he may, for reasons to be recorded in writing, permit such class of taxable persons to maintain accounts in such manner as may be prescribed.

NOTES

The additional records to be maintained by specified persons

1. Registered person

In addition to the particulars mentioned in section 35(1), the rules also provide that the registered person is required to maintain a true and correct account of:

- **the goods/services imported/exported,**
- **supplies attracting payment of tax on reverse charge along with relevant documents, including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers**
- **separate account of advances received, paid and adjustments made thereto.**
- **particulars of:**
  - **names and complete addresses of suppliers from whom he has received the goods or services chargeable to tax under the Act;**
  - **names and complete addresses of the persons to whom he has supplied goods or services, where required under the provisions of this Chapter.**
- **particulars of the complete address of the premises where goods are stored by him, including goods stored during transit along with the particulars of the stock stored therein.**

  However, if any taxable goods are found to be stored at any place(s) other than those so declared without the cover of any valid documents, the proper officer shall determine the amount of tax payable on such goods as if such goods have been supplied by the registered person.

  A supplier is required to maintain following records relating to stock of goods and tax details.

  Note : a supplier who has opted for composition scheme is not required to maintain such records

  a) **Stock of goods: Accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.**



  b) **Details of tax: Account, containing the details of tax payable (including tax payable under reverse charge), tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period**

Illustration 02

Mr. Sky is engaged in the business of trading of mobiles. He is eligible for composition scheme and has opted for the same. He seeks your advice for records which are not required to be maintained by him as composition taxable person. [RTP Jan 2025]

Solution

A supplier who has opted for composition scheme is not required to maintain records relating to;

NOTES

b) Stock of goods: Accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of the opening balance, receipt, supply, goods lost stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.

c) Details of tax: Account, containing the details of tax payable (including tax payable under reverse charge), tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.

Thus, Mr. Sky is not required to maintain above mentioned records.

2. Agent

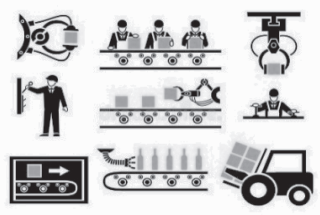
Every agent shall maintain accounts depicting the-



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

3. Manufacturer

Apart from other records, every registered person manufacturing goods has to maintain monthly production accounts showing quantitative details of raw materials/services used in the manufacture and quantitative details of the goods so manufactured including the waste and by products thereof.



4. Service Provider

Every registered person supplying services has to additionally maintain the accounts showing quantitative details of goods used in the provision of services, details of input services utilised and the services supplied.



NOTES

1. Person executing works contract

Every registered person executing works contract shall keep separate accounts for works contract showing-



- the names and addresses of the persons on whose behalf the works contract is executed;
- description, value and quantity (wherever applicable) of goods/services received for the execution of works contract;
- description, value and quantity (wherever applicable) of goods/services utilized in the execution of works contract;
- the details of payment received in respect of each works contract; and
- the names and addresses of suppliers from whom he received goods or services.

Illustration 03

Mr. Harsh Manjula is engaged in the business of works contract services and seeks your guidance as to specific records required to be maintained by him under GST law, if any.

Solution

Mr. Harsh Manjula, executing works contract shall keep separate accounts for works contract showing –

1. the names and addresses of the persons on whose behalf the works contract is executed; description, value and quantity (wherever applicable) of goods/services received for the execution of works contract;
2. description, value and quantity (wherever applicable) of goods/services utilized in the execution of works contract;
3. the details of payment received in respect of each works contract; and
4. the names and addresses of suppliers from whom he received goods or services.

Illustration 04

Every registered person executing works contract shall keep separate accounts for works contract under CGST Rules, 2017.
List the details to be maintained.

[PYQ Sep 2024]

Solution

Every registered person executing works contract shall keep separate accounts for works contract showing -

- the names and addresses of the persons on whose behalf the works contract is executed;
- description, value and quantity (wherever applicable) of goods/services received for the execution of works contract;
- description, value and quantity (wherever applicable) of goods/services utilized in the execution of works contract;
- the details of payment received in respect of each works contract; and
- the names and addresses of suppliers from whom he received goods or services.

NOTES

2. Custodian/clearing and forwarding agent

Any person having custody over the goods in the capacity of a carrier or a clearing and forwarding agent for delivery or dispatch thereof to a recipient on behalf of any registered person shall maintain true and correct records in respect of such goods handled by him on behalf of such registered person and shall produce the details thereof as and when required by the proper officer.



3. Owner/operator of a warehouse/ godown and transporter

- Every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter, irrespective of whether he is a registered person or not, shall maintain records of the consigner, consignee and other relevant details of the goods in such manner as may be prescribed Enrolment, if not already registered in GST
- If such persons are not already registered, they shall obtain a unique enrolment number by applying electronically [In Form GST ENR-01] at the GST Common Portal.
- The person enrolled as aforesaid in any other State or Union territory shall be deemed to be enrolled in the State or Union territory.
- Such person may also amend the details furnished in the prescribed form.
- Such person, once obtained unique enrolment number, shall not be eligible to use any of the GSTIN.

Transporter

Any person engaged in the business of transporting goods shall maintain records of goods transported, delivered and goods stored in transit by him along with GSTIN of the registered consignor and consignee for each of his branches.



Owner/operator of a warehouse/ godown



- Every owner or operator of a warehouse or godown shall maintain books of accounts with respect to the period for which particular goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt, and disposal of such goods.
- The owner or the operator of the godown shall store the goods in such manner that they can be identified item-wise and owner-wise and shall facilitate any physical verification or inspection by the proper officer on demand.

Illustration 05

Chill Chain Cold is operating cold storage warehouse and seeks your guidance on the GST accounts and records to be maintained by them in terms of section 35.

NOTES

Solution

Chill Chain Cold shall maintain records of the consigner, consignee and other relevant details of the goods in the prescribed manner.

Chill Chain Cold shall also maintain books of accounts with respect to the period for which particular goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt, and disposal of such goods.

Chill Chain Cold shall store the goods in such manner that they can be identified item-wise and owner-wise and shall facilitate any physical verification or inspection by the proper officer on demand.

How the accounts and records will be maintained?

1. **Each volume of books of account maintained manually by the registered person shall be serially numbered.**
2. **Records may be maintained in electronic form**
3. **Books of account include any electronic form of data stored on any electronic device.**

- **The registered person may keep and maintain such accounts and other particulars in electronic form stored on any electronic device and record so maintained shall be authenticated by means of a digital signature.**
- **Proper electronic back-up of records shall be maintained and preserved in such manner that, in the event of destruction of such records due to accidents or natural causes, the information can be restored within a reasonable period of time.**
- **The registered person maintaining electronic records shall produce, on demand, the relevant records or documents, duly authenticated by him, in hard copy or in any electronically readable format.**
- **Where the accounts and records are stored electronically by any registered person, he shall, on demand, provide the details of such files, passwords of such files and explanation for codes used, where necessary, for access and any other information which is required for such access along with a sample copy in print form of the information stored in such files.**

4. **No entry to be erased/overwritten**

- **Any entry in registers, accounts and documents shall not be erased, effaced or overwritten.**
- **All incorrect entries, otherwise than those of clerical nature, shall be scored out under attestation and there after correct entry shall be recorded.**
- **Where the registers and other documents are maintained electronically, a log of every entry edited or deleted shall be maintained.**

NOTES

5. Accounts maintained by the registered person together with all the invoices, bills of supply, credit and debit notes, and delivery challans relating to stocks, deliveries, inward supply and outward supply shall be preserved for the period as provided in section 36 and shall, where such accounts and documents are maintained manually, be kept at every related place of business mentioned in the certificate of registration and shall be accessible at every related place of business where such accounts and documents are maintained digitally.
6. Every registered person shall, on demand, produce the books of accounts which he is required to maintain under any law for the time being in force.

Illustration 06

Mr. X is of the view that records are to be mandatorily maintained manually only. You are required to examine the view taken by Mr. X.

Solution

The view taken by Mr. X is not valid in law. Books of account include any electronic form of data stored on any electronic device. The registered person may keep and maintain such accounts and other particulars in electronic form stored on any electronic device and record so maintained shall be authenticated by means of a digital signature. The registered person maintaining electronic records shall produce, on demand, the relevant records or documents, duly authenticated by him, in hard copy or in any electronically readable format.

Where the accounts and records are stored electronically by any registered person, he shall, on demand, provide the details of such files, passwords of such files and explanation for codes used, where necessary, for access and any other information which is required for such access along with a sample copy in print form of the information stored in such files

What are the consequences of failure to maintain the accounts?

Where the registered person fails to account for the goods and/or services in accordance with the provisions of section 35(1), the proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for, as if such goods or services or both had been supplied by such person and the provisions of section 73/section 74, as the case may be, shall, mutatis mutandis, apply for determination of such tax.

Period of Retention of Accounts [Section 36]

- Every registered person required to keep and maintain books of account or other records in accordance with the provisions of section 35(1) shall retain them until the expiry of 72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records.

NOTES

- **However, a registered person, who is a party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or Court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of**
  a) **one year after final disposal of such appeal or revision or proceedings or investigation, or**
  b) **for the period specified above (i.e. expiry of 72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records), whichever is later.**

NOTES

Chapter 12: E-Way Bill

Meaning of e-way bill

- E-way bill is an electronic document generated on the GST portal evidencing movement of goods.
- Section 68 mandates that the Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed.
- Rule 138 of CGST Rules, 2017 prescribes e-way bill as the document to be carried for the consignment of goods in certain prescribed cases.

The benefits of E-way bill

- Paving way for digital interface resulting in elimination of state boundary check-posts;
- Facilitating faster movement of goods; and
- Improving the turnaround time of trucks and helping the logistics industry by increasing the average distances travelled, reducing the travel time as well as costs.

When is it required to be generated?

E-way Bill is mandatory in case of movement of goods of consignment value exceeding ₹50,000. Movement should be:

1. in relation to a supply; or
2. for reasons other than supply; or
3. due to inward supply from an unregistered person, registered person causing movement of goods shall furnish the information relating to the said goods in Part A of Form GST EWB-01 before commencement of such movement.

Exceptions to minimum consignment value of ₹50,000 (Mandatory to Generate E-Way Bill)

- Inter-State transfer of goods by principal to job worker
- Inter-State transfer of handicraft goods by a person exempted from obtaining registration u/s 24.

Note : In case of Bill to Ship to model, only one E-way bill is required to be generated

Meaning of Consignment value

Consignment value of goods shall be:

1. Determined in accordance with the provisions of Section 15
2. Declared in an invoice, a bill of supply or delivery challan, as the case may be, issued in respect of the said consignment
3. It also includes Taxes under GST
4. It shall not include the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

NOTES

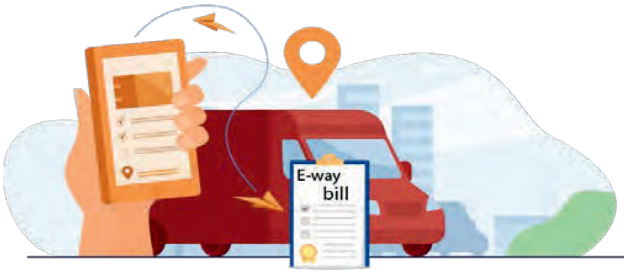
Unique E-Way Bill number (EBN)

A unique e-way bill number (EBN) shall be made available to the supplier, the recipient and the transporter upon generation of e-way bill on the common portal

Information to be furnished in e-way bill

Part A: to be furnished by the registered person who is causing movement of goods.

- GSTIN of Supplier;
- Place of dispatch = origin
- GSTIN of recipient
- Place of delivery = Destn.
- Document number
- Document date
- Value of goods
- HSN Code
- Reason for transportation



However, information in Part-A may be furnished:

a) by the transporter if so authorised or
b) by the e-commerce operator/courier agency, where the goods are supplied through them.

Part B: to be furnished by the person who is transporting the goods. Transp. Detail

Who causes movement of goods?

- If a supplier is registered and undertakes to transport the goods, movement of goods is caused by the supplier.
- If the recipient arranges transport, movement would be caused by him.
- If goods are supplied by an unregistered supplier to a registered known recipient, movement shall be caused by such recipient.

Who can generate the e-way bill?

E-way bill is to be generated by

1. the registered consignor; or
2. consignee (if the transportation is being done in own/hired conveyance or by railways by air or by vessel); or
3. the transporter (if the goods are handed over to a transporter for transportation by road).

Note: Where neither the consignor nor consignee generates the e-way bill and the value of goods is more than ₹50,000/- it shall be the responsibility of the transporter to generate it.

NOTES

Blocking of E-way Bill

E-way bill generation facility is blocked in respect of any outward movement of goods of the registered person where:

- A person paying tax under composition scheme or under S.10 (2A) has not furnished the statement for payment of self-assessed tax for 2 consecutive quarters, or
- A person paying tax under regular scheme has not furnished the returns for 2 consecutive months, or
- A person paying tax under a regular scheme has not furnished GSTR-1 (Statement of outward supplies) for any 2 months or quarters, as the case may be.

However, Commissioner (jurisdictional commissioner) may, on receipt of an application from a registered person in prescribed form, on sufficient cause being shown and for reasons to be recorded in writing, by order, in prescribed form allow furnishing of the said information in Part A of Form GST EWB-01, subject to prescribed conditions and restrictions.

An order rejecting said request shall not be passed without giving the said person a reasonable opportunity of being heard. The permission granted or rejected by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be granted or, as the case may be, rejected by the Commissioner.

Illustration 01

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

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

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

[MTP May 24 & RTP May 22]

Solution

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

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

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

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

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

NOTES

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

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

Other points

1. Goods transported by railways shall be delivered only on production of e-way bill.
2. E-way bill can be generated even if consignment value is less than ₹50,000. (Optional)
3. Details of conveyance may not be furnished in Part B In case of intra-State movement of goods up to 50 km distance:
   a. from place of business of consignor to Place of business of transporter for further transportation or
   b. from place of business of transporter finally to Place of business of the consignee.
4. In case of Transfer of goods to another conveyance, the transporter or generator of the e-way bill shall update the new vehicle number in Part B of the EWB before such transfer and further movement of goods.

Illustration 02

"It is mandatory to furnish the details of conveyance in Part-B of E-way Bill." Comment on the validity of the above statement with reference to provisions of E-Way Bill under CGST Rules, 2017.

Solution

The given statement is partially valid.

An e-way bill is valid for movement of goods by road only when the information in Part-B – which includes details of conveyance–is furnished.

However, the details of conveyance may not be furnished in Part-B of the e-way bill where the goods are transported for a distance of up to 50 km within the State/Union territory:

a) from the place of business of the consignor to the place of business of the transporter for further transportation or

b) from the place of business of the transporter finally to the place of business of the consignee

Cancellation of e-way bill

- E-way bill can be cancelled if either goods are not transported or are not transported as per the details furnished in the e-way bill.
- The e-way bill can be cancelled within 24 hours from the time of generation.

NOTES

Illustration 03

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

Solution

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

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

Validity period of e-way bill

Shipment By	Validity period from relevant date
Normal Cargo	One day For every 200 km or part thereof
Over Dimensional Cargo	One day For every 20 km or part thereof
Multimodal shipment in which at least one leg involves transport by ship	One day For every 20 km or part thereof

Relevant date shall mean the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as the period expiring at midnight of the day immediately following the date of generation of e-way bill.

Examples:

1. ***Suppose an e-way bill is generated at 00.04 hrs on 14th March, then first day would end on 12.00 midnight of 15-16 march. Second day will end on 12.00 midnight of 16-17 march and so on***
2. ***Suppose an e-way bill is generated at 23.58 hrs on 14th March, then first day would end on 12.00 midnight of 15-16 march. Second day will end on 12.00 midnight of 16-17 march and so on***

Illustration 04

A consignor hands over his goods for transportation on Friday to the transporter. However, assigned transporter starts the movement of goods from consigner's warehouse to its depot located at distance of 600 Km. on Monday. When will the e-way bill be generated and for how many days it will be valid?

[PYQ Nov 2021]

Solution

E-way bill will be generated before commencement of movement of goods by transporter on Monday.

The validity period of the e-way bill is one day from relevant date up to 200 km and one additional day for every 200 km or part thereof thereafter.

Thus, validity period in the given case, is 3 days

NOTES

Illustration 05

Agni Ltd. a registered supplier wishes to transport cargo by road between two cities situated at a distance of 368 kilometres. Calculate the validity period of e-way bill under rule 138(10) of CGST Rules, 2017 for transport of the said cargo, if it is over dimensional cargo or otherwise.

Solution

The validity period of e-way bill under rule 138(10) of the CGST Rules, 2017 for transport of cargo by road between two cities situated at a distance of 368 km is as under:

a) If it is over dimensional cargo: the validity period of the e-way bill is one day from relevant date up to 20 km and one additional day for every 20 km or part thereof thereafter. Thus, validity period in given case:
= 1 day + 18 days
= 19 days

368 ÷ 20 = 18.4 — 19d

b) If it is a cargo other than over dimensional cargo: the validity period of the e-way bill is one day from relevant date up to 200 km and one additional day for every 200 km or part thereof thereafter.
Thus, validity period in given case:
= 1 day + 1 day
= 2 days

368 ÷ 200 = 1.84 — 2d

Read.

Acceptance/ rejection of e-way bill

The details furnished shall be made available to both the supplier and the recipient on the common portal, where the supplier or recipient has an option to communicate his acceptance or rejection of the consignment of the e-way bill. This acceptance or rejection has to be communicated within the specified time limit, otherwise it shall be deemed to have been accepted.

The time limit for this purpose is the earliest of the following:

1. **72 hours of the details being made available to him on the common portal.**
2. **The time of delivery of goods.**

3d.

Documents/ devices to be carried by a person-in-charge of a conveyance

- **invoice or bill of supply or delivery challan**
- **copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a RFID embedded on to the conveyance**



Illustration 06

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

Solution

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

a) the invoice or bill of supply or delivery challan, as the case may be; an

NOTES

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

Consolidated E-way Bill in case of road transport

After e-way bill has been generated, where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill in Form GST EWB-02 may be generated by him on the said common portal prior to the movement of goods.

Where the consignor/consignee has not generated the e-way bill in Form GST EWB-01 and the aggregate of the consignment value of goods carried in the conveyance is more than ₹50,000, the transporter shall generate individual Form GST EWB-01 on the basis of invoice or bill of supply or delivery challan and may also generate a consolidated e-way bill in Form GST EWB-02 prior to the movement of goods

However, This provision is not yet effective.

Verification of documents and conveyances

- Commissioner or an officer empowered by him in this behalf may authorise the proper officer to intercept any conveyance to verify the e-way bill or the e-way bill number in physical form for all inter-State and intra-State movement of goods.
- Physical verification of a specific conveyance can also be carried out by any officer, on receipt of specific information on evasion of tax, after obtaining necessary approval of the Commissioner or an officer authorised by him in this behalf.

Inspection and verification of goods

- A summary report of every inspection of goods in transit shall be recorded online on the common portal by the proper officer within 24 hours of inspection and the final report shall be recorded within 3 days of such inspection.
- Once physical verification of goods being transported on any conveyance has been done during transit at one place within the State or in any other State, no further physical verification of the said conveyance shall be carried out again in the State, unless a specific information relating to evasion of tax is made available subsequently.



- Where a vehicle has been intercepted and detained for a period exceeding 30 minutes, the transporter may upload the said information in on the common portal.

Situations where E-way Bill is not required to be generated

1. where the goods being transported are the ones given below:
   a. Liquefied petroleum gas for supply to household and non-domestic exempted category (NDEC) customers

NOTES

b. Kerosene oil sold under PDS
c. Postal baggage transported by Department of Posts
d. Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal
e. Jewellery, goldsmiths' and silversmiths' wares and other articles
f. Currency
g. Used personal and household effects
h. Coral, unworked ([redacted]) and worked cora[redacted]

2. where the goods are being transported by a non-motorised conveyance
3. where the goods are being transported from the customs port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs
4. in respect of movement of goods within such areas as are notified under of rule 138(14)(d) of the State or Union territory GST Rules in that particular State or Union territory
5. where the goods other than de-oiled cake, being transported, are exempt from tax
6. where the goods being transported are alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel.
7. where the supply of goods being transported is treated as no supply under Schedule III of the Act.
8. where the goods are being transported
   a. under customs bond from an inland container depot or a container freight station to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port, or
   b. under customs supervision or under customs seal.
9. where the goods being transported are transit cargo from or to Nepal or Bhutan
10. where the goods being transported are exempt from tax under Notification No. 7/2017 CT (R) 28.06.2017 [Supply of goods by the CSD to the Unit Run Canteens or to the authorised customers and supply of goods by the Unit Run Canteens to the authorised customers] and Supply of heavy water and nuclear fuels by Department of Atomic Energy to Nuclear Power Corporation of India Ltd. (NPCIL).
11. any movement of goods caused by defence formation under Ministry of defence as a consignor or consignee
12. where the consignor of goods is the Central Government, Government of any State or a local authority for transport of goods by rail
13. where empty cargo containers are being transported
14. where the goods are being transported up to a distance of 20 km from the place of the business of the consignor to a weighbridge for weighment or from the weighbridge back to the place of the business of the said consignor subject to the condition that the movement of goods is accompanied by a delivery challan issued in accordance with rule 55.
15. where empty cylinders for packing of liquefied petroleum gas are being moved for reasons other than supply

NOTES

Sample of E-way Bill

NOTES

Question Bank

Illustration 01

Explain the meaning of consignment value of goods.

Solution

Consignment value of goods shall be the value:

a) **determined in accordance with the provisions of section 15,**
b) **declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and,**
c) **also includes the Central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document and,**
d) **shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.**

Illustration 02

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

Solution

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

Thus, the action of Talli Limited of not generating the e-way bill is correct in law.

Illustration 03

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

Solution

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

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

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

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

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

NOTES

Illustration 04

Yash & Co., a manufacturer and supplier of plastic goods, is registered under GST in the State of Maharashtra. Yash & Co. sold plastic goods to a retail seller in Punjab, at a value of Rs.43,000 (excluding GST leviable @ 18%). Now, it wants to send the consignment of such plastic goods to the retail seller in Punjab.

You are required to examine whether e-way bill is mandatorily required to be generated in respect of such movement of goods as per the provisions of the GST law.

[MTP May 23]

Solution

E-way bill is mandatorily required to be generated whenever there is a movement of goods of consignment value exceeding 50,000, inter alia, in relation to a supply. Consignment value of goods, inter alia, includes the central tax, State/Union territory tax, Integrated tax and cess charged, if any. The consignment value of goods, in the given case, will be 50,740 [43,000 + (43,000 ×18%)].

Thus, in the given case, since the movement of goods is in relation to supply of goods and the consignment value exceeds 50,000, e-way bill is mandatorily required to be generated in respect of movement of goods from Maharashtra to Punjab.

Illustration 05

Mr. Venaram proprietor of M/s. Lalit Kirana Stores is registered as a composition dealer in the Jodhpur district of Rajasthan. He has not furnished the statement for payment of self assessment tax in the form GST CMP-08 for two consecutive quarters. He placed an order for purchase of taxable goods worth 5,50,000 with M/s. Bob & Sons (a partnership firm), a registered dealer in the Bikaner district of Rajasthan. M/s. Bob & Sons has been regularly filing its GST returns. M/s. Bob & Sons wants to generate E-way bill with respect to intra- state supply to be made to M/s. Lalit Kirana Stores. Whether M/s. Bob & Sons is allowed to generate E-way bill as per the provisions of CGST Act, 2017? Answer with proper reasoning

[PYQ Nov 23]

Solution

Where a person paying tax under composition scheme has not furnished the statement for payment of self-assessed tax for 2 consecutive quarters, e-way bill shall not be allowed to be generated in respect of any outward movement of goods by such person. However, this restriction does not apply to generation of e-way bill in respect of inward movement of goods by the defaulter.

Hence, in the given case, M/s. Bob & Sons is allowed to generate e-way bill with respect to supply to be made to M/s Lalit Kirana Stores since M/s. Bob & Sons, who is making the outward movement of goods, is a regular return filer.

Illustration 06

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

[MTP Nov 23 & RTP Nov 23]

NOTES

Solution

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

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

Illustration 07

Yash & Co., a manufacturer and supplier of plastic goods, is registered under GST in the State of Maharashtra. Yash & Co. sold plastic goods to a retail seller in Punjab, at a value of Rs.43,000 (excluding GST leviable @ 18%). Now, it wants to send the consignment of such plastic goods to the retail seller in Punjab. You are required to examine whether e-way bill is mandatorily required to be generated in respect of such movement of goods as per the provisions of the GST law.

[MTP May 23]

Solution

E-way bill is mandatorily required to be generated whenever there is a movement of goods of consignment value exceeding 50,000, inter alia, in relation to a supply. Consignment value of goods, inter alia, includes the central tax, State/Union territory tax, integrated tax and cess charged, if any. The consignment value of goods, in the given case, will be ₹50,740 [43,000 + (43,000 ×18%)].

Thus, in the given case, since the movement of goods is in relation to supply of goods and the consignment value exceeds 50,000, e-way bill is mandatorily required to be generated in respect of movement of goods from Maharashtra to Punjab.

Illustration 08

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

[PYQ May 23]

Solution

The said statement is not valid.

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

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

Illustration 09

Mr. Shah, a consignor is required to move goods from Ahmedabad (Gujarat) to Nadiad (Gujarat). He appoints Mehta Transporter for movement of goods. Mehta Transporter moves the goods from Ahmedabad (Gujarat) to Kheda (Gujarat). For completing the movement of goods from Kheda (Gujarat) to Nadiad (Gujarat), Mehta Transporter now hands over the goods to Parikh Transporter. Explain the procedure regarding e-way bill to be followed by consignor and transporter as per provisions of GST law and rules made there under.

NOTES

Solution

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

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

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

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

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

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

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

Illustration 10

Discuss the correctness of the following statements:

(i) Once generated, an e-way bill cannot be cancelled.

(ii) E-way bill generated in one State is valid in another State.

Solution

a) The said statement is partially correct. Where an e-way bill has been generated, but goods are either not transported at all or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal within 24 hours of generation of the e-way bill.
However, an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B of the CGST Rules, 2017.

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

Illustration 11

Happy Company is a registered supplier of electric goods. It has three stores for electric goods in Jodhpur (Rajasthan) namely Ram Store, Shyam Store, Mohan Store. It receives an order for supply of electric goods worth ₹1,40,000 (exclusive of GST @ 18%) from Kishan Sons of Bhopal (Madhya Pradesh). Happy Company found that order worth ₹43,000 can be fulfilled from the company's Ram Store, order worth ₹45,000 can be fulfilled from its Shyam Store and remaining goods worth ₹52,000 can be sent from its Mohan Store. All three stores are instructed to issue separate invoices for the goods

NOTES

sent to Kishan Sons. The goods are transported to Kishan Sons in Bhopal in a single conveyance owned by Shiv Transporters.
You are required to advise Happy Company with regard to issuance of e-way bills as per the provisions of the CGST Act, 2017.

Solution

Rule 138 of the CGST Rules, 2018 stipulates that e-way Bill is mandatorily required to be generated if the goods are moved, inter alia, in relation to a supply and the consignment value [including CGST, SGST/UTGST, IGST and cess charged] exceeds ₹50,000.
Further, the FAQs on E-way Bill issued by CBIC clarify that if multiple invoices are issued by the supplier to one recipient, multiple e-way bills have to be generated – one e-way bill for each invoice. Each invoice is considered as separate consignment for the purpose of generating e-way bills.
In the given case, consignment value of goods supplied against separate invoices from Ram Store, Shyam Store and Mohan Store is ₹50,740 [₹43,000 × 118%], ₹53,100 [₹45,000 × 118%] and ₹61,360 [₹52,000 × 118%] respectively.
Thus, Happy Company is required to prepare 3 separate e-way bills since value of each invoice exceeds ₹50,000.

Illustration 12

With reference to the provisions relating to the electronic way bill (E-way bill) as prescribed under the GST laws, Solution the following questions:

a) Sindhi Toys Manufacturers, registered in Punjab, sold electronic toys to a retail seller in Gujarat, at a value of ₹48,000 (excluding GST leviable @ 18%). Now, it wants to send the consignment of such toys to the retail seller in Gujarat.

You are required to advise Sindhi Toys Manufacturers on the following issues:

- Whether e-way bill is mandatorily required to be generated in respect of such movement of goods?
- If yes, who is required to generate the e-way bill?
- What will be the consequences for non-issuance of e-way bill?

b) Power Electricals Ltd., a registered supplier of air-conditioners, is required to send from Mumbai (Maharashtra), a consignment of parts of air-conditioner to be replaced under warranty at various client locations in Gujarat. The value of consignment declared in the delivery challan accompanying the goods is ₹70,000. Power Electricals Ltd. claims that since movement of goods to Gujarat is caused due to reasons other than supply, e-way bill is not mandatorily required to be generated in this case.
You are required to examine the technical veracity of the claim made by Power Electricals Ltd.

NOTES

c) **Beauty Cosmetics Ltd. has multiple wholesale outlets of cosmetic products in Mumbai, Maharashtra. It receives an order for cosmetics worth ₹1,20,000 (inclusive of GST leviable @ 18%) from Prasannaa, owner of a retail cosmetic store in Delhi. While checking the stock, it is found that order worth ₹55,000 can be fulfilled from the company's Dadar (Mumbai) store and remaining goods worth ₹65,000 can be sent from its Malad (Mumbai) store. Both the stores are instructed to issue separate invoices for the goods sent to Prasannaa. The goods are transported to Prasanna in Delhi, in a single conveyance owned by Radhey Transporters. You are required to advise Beauty Cosmetics Ltd. with regard to issuance of e-way bill.**

NOTES

Solution

a)

1) **Rule 138(1) of the CGST Rules, 2017 provides that e-way Bill is mandatorily required to be generated if the goods are moved, inter alia, in relation to supply and the consignment value exceeds ₹50,000. Further, explanation 2 to rule 138(1) stipulates that the consignment value of goods shall be the value, determined in accordance with the provisions of section 15, declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and also includes CGST, SGST/UTGST, IGST and cess charged, if any, in the document and shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods. Accordingly, in the given case, the consignment value will be as follows:**
   = ₹48,000 × 118%
   = ₹56,640.
   Since the movement of goods is in relation to supply of goods and the consignment value exceeds ₹50,000, e-way bill is mandatorily required to be issued in the given case.
2) **An e-way bill contains two parts namely, Part A to be furnished by the registered person who is causing movement of goods of consignment value exceeding ₹50,000/- and part B (transport details) is to be furnished by the person who is transporting the goods.**
   Where the goods are transported by the registered person as a consignor or the recipient of supply as the consignee, whether in his own conveyance or a hired one or a public conveyance, by road, the said person shall generate the e-way bill on the common portal after furnishing information in Part B [Rule 138(2)].
   Where the goods are transported by railways or by air or vessel, the e-way bill shall be generated by the registered person, being the supplier or the recipient, who shall, either before or after the commencement of movement, furnish, on the common portal, the information in Part B [Rule 138(2A)].
   Where the goods are handed over to a transporter for transportation by road, the registered person shall furnish the information relating to the transporter on the common portal and the e-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in Part A [Rule 138(3)]. Where the consignor or the consignee has not generated the e-way bill and the aggregate of the consignment value of goods carried in the conveyance is more than ₹50,000/, the transporter, except in case of transportation of goods by railways, air and vessel, shall, in respect of inter-State supply, generate the e-way bill on the basis of invoice or bill of supply or delivery challan, as the case may be, and may also generate a consolidated e-way bill on the common portal prior to the movement of goods [Rule 138(7)]

NOTES

3) It is mandatory to generate e-way bill in all cases where the value of consignment of goods being transported is more than ₹50,000/- and it is not otherwise exempted in terms of rule 138(14) of CGST Rules, 2017. If e-way bills, wherever required, are not issued in accordance with the provisions contained in rule 138, the same will be considered as contravention of rules. All such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure.

b) The goods to be moved to another State for replacement under warranty is not a 'supply'. However, rule 138(1) of the CGST Act, 2017, inter alia, stipulates that every registered person who causes movement of goods of consignment value exceeding ₹50,000:
   1. in relation to a supply; or
   2. for reasons other than supply; or
   3. due to inward supply from an unregistered person, shall, generate an electronic way bill (E-way Bill) before commencement of such movement.

   CBIC via FAQs on E-way Bill has also clarified that even if the movement of goods is caused due to reasons others than supply [including replacement of goods under warranty], e-way bill is required to be issued. Thus, in the given case, since the consignment value exceeds ₹50,000, e-way bill is required to be mandatorily generated. Therefore, the claim of Power Electricals Ltd. that e-way bill is not mandatorily required to be generated as the movement of goods is caused due to reasons other than supply, is not correct.

c) Beauty Cosmetics Ltd. would be required to prepare two separate e-way bills since each invoice value exceeds ₹50,000 and each invoice is considered as one consignment for the purpose of generating e-way bills.
   The FAQs on E-way Bill issued by CBIC clarify that if multiple invoices are issued by the supplier to one recipient, that is, for movement of goods of more than one invoice of same consignor and consignee, multiple e-way bills have to be generated. In other words, for each invoice, one e-way bill has to be generated, irrespective of the fact whether same or different consignors or consignees are involved. Multiple invoices cannot be clubbed to generate one e-way bill. However, after generating all these e-way bills, one consolidated e-way bill can be prepared for transportation purpose, if goods are going in one vehicle.

Illustration 13

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

[PYQ Nov 2022]

Solution

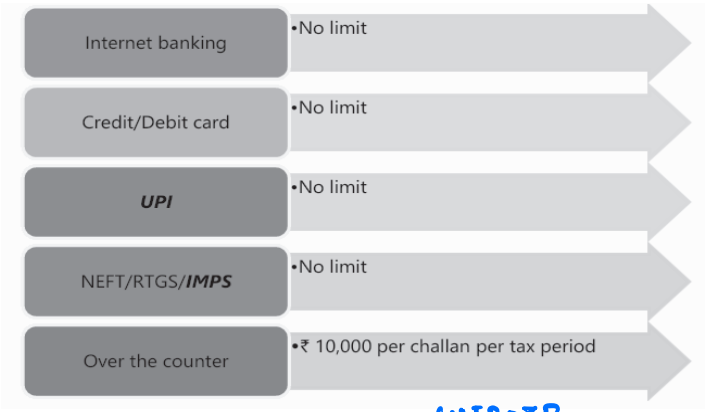
In the given case, consignment value of goods (including GST and excluding value of exempt supply) is ₹ 50,350 (47,500 × 106%).
Since there is a movement of goods of consignment value exceeding ₹ 50,000, M/s Sakura Enterprises is mandatorily required to issue e-way bill.

NOTES

Chapter 13: Payment of Tax

Payment of Tax, Interest, Penalty and other Amounts [Section 49]

- Every deposit made towards tax, interest, penalty, fee or any other amount by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or UPI or IMPS or by such other mode and subject to such conditions and restrictions as may be prescribed, shall be credited to the electronic cash ledger of such person to be maintained in such manner as may be prescribed.
- Over the Counter payment (OTC) is allowed through authorised banks for deposits up to 10,000 rupees per challan per tax period, by cash, cheque or demand draft. This amount restriction is not applicable to remittances by
  1. Government Departments
  2. Proper Officer or any other Officer recovering outstanding dues or during any investigation or enforcement activity or adhoc deposit
  3. Proper officer or any other officer authorised to recover outstanding dues from any person, whether registered or not, including recovery made through attachment or sale of movable or immovable properties;



- The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with section 41, to be maintained in such manner as may be prescribed.
- The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of the Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.
- The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the IGST Act in such manner and subject to such conditions and within such time as may be prescribed.
- The amount of input tax credit available in the electronic credit ledger of the registered person Shall be utilised as follows

NOTES

1st Preference
Credit of IGST
First towards Output IGST
Balance If any, shall be adjusted Towards output CGST or output SGST at the option of Assessee

Note: First of all ITC of IGST shall be utilised completely and then, ITC of CGST or SGST/UTGST shall be used.

2nd Preference	
Credit of CGST	Credit of SGST
First towards Output CGST	First towards Output SGST
Balance If any, shall be adjusted Towards output IGST (If Exists)	Balance If any, shall be adjusted Towards output IGST (If Exists)

Note: If there is output IGST and also ITC of CGST and SGST/UTGST, ITC of CGST shall be used first and only after that ITC of SGST/UTGST shall be used.

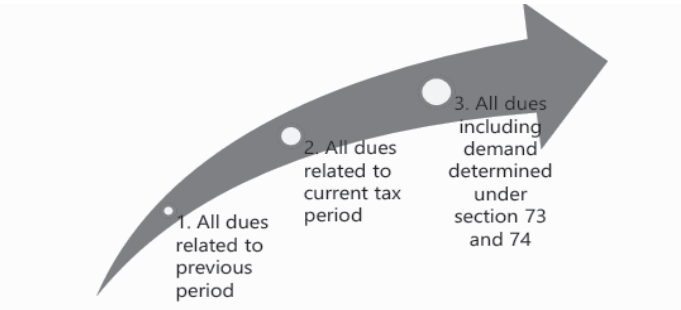
Analysis Table			
ITC available	First Set off (Output liability)	Next Set off (Output liability)	Not allowed to set off
IGST	IGST	CGST/SGST/IGST	NA
CGST	CGST	IGST	SGST & UTGST
SGST	SGST	IGST	CGST
UTGST	UTGST	IGST	CGST
Note : • IGST credit is to be first utilised against IGST liability , then against CGST/SGST/UTGST liability in any order, in any proportion. • Taxpayer has to exhaust ITC of IGST first followed by CGST/SGST/UTGST credit			

- The balance in the electronic cash ledger or electronic credit ledger after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made thereunder may be refunded in accordance with the provisions of section 54.
- All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic liability register as may be prescribed.
- Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order, namely:

1. Self-assessed tax, and other dues related to returns of previous tax periods;
2. Self-assessed tax, and other dues related to the return of current tax period;
3. Any other amount payable under the Act or the rules made thereunder including the demand determined under Section 73 or 74 or 74A.

Demand / Notice = Taxes Chori

NOTES



Read.

Every person who has paid the tax on goods and/or services under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.

Read.

Explanation- For the purposes of this section,

1. **The date of credit to the account of the Government in the authorised bank shall be deemed to be the date of deposit in the electronic cash ledger;**
2. **The expression "tax dues" means the tax payable under this Act and does not include interest, fee and penalty; and "other dues" means interest, penalty, fee or any other amount payable under this Act or the rules made thereunder.**

Illustration 01

State the order in which every taxable person discharges his tax and other dues under GST law, as provided under section 49 of the CGST Act, 2017

[RTP May 23]

Solution

Section 49 of the CGST Act, 2017 stipulates that every taxable person shall discharge his tax and other dues under the GST law in the following order, namely:–

a) **self-assessed tax, and other dues related to returns of previous tax periods;**
b) **self-assessed tax, and other dues related to the return of the current tax period;**
c) **any other amount payable under this Act or the rules made thereunder including the demand determined under section 73 or section 74.**

Illustration 02

Mr. Manik provides the following information regarding his tax & other liabilities under GST law as per Electronic Liability Register:

Sr. No.	Particulars	Amount
1.	Tax due for the month of May	25,000
2.	Interest due for the month of May	2,000
3.	Penalty due for the month of May	3,000
4.	Tax due for the month of June	35,000
5.	Liability arising out of demand notice u/s 73	48,000

Mr. Manik wants to clear his liability of demand notice u/s 73 first.
Discuss the provision of order of discharge of GST liability u/s 49 (8) of the CGST Act & advice to Mr. Manik. **[PYQ May 23]**

NOTES

Solution

The order of discharge of GST liability under section 49(8) of the CGST Act is as under:

1. **self-assessed tax, interest, penalty, fee or any other amount related to returns of the previous tax periods.**
2. **self-assessed tax, interest, penalty, fee or any other amount related to returns of the current tax period.**
3. **any other amount payable including demand determined under section 73 or section 74,**

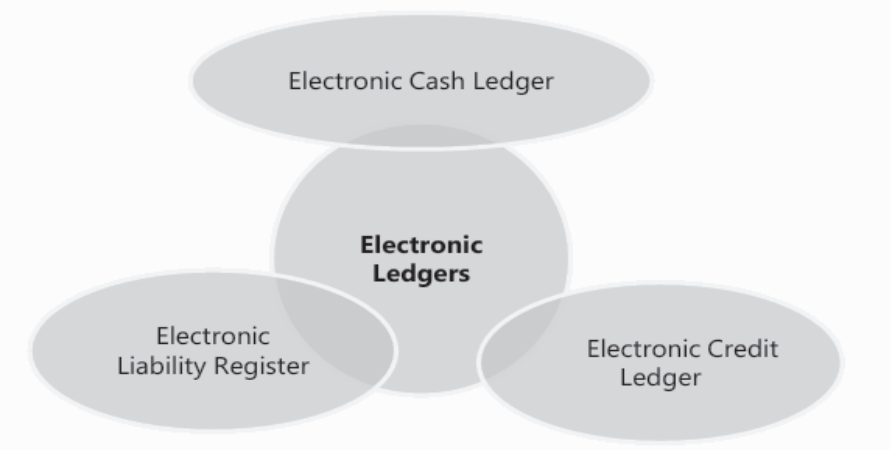
In view of the above provisions, Mr. Manik cannot clear his liability of demand notice u/s 73 first.

The order of discharge of liability of Mr. Manik will be as under:

1. **Tax, interest and penalty for the month of May, 30,000**
2. **Tax due for the month of June, 35,000**
3. **Liability arising out of demand notice u/s 73, 48,000**

Electronic Ledgers/register

- **Electronic Ledgers or E-Ledgers are statements of cash and ITC in respect of each registered taxpayer.**
- **In addition, each taxpayer shall also have an electronic tax liability register.**



Electronic Cash Ledger [Rule 87]

1. **The electronic cash ledger shall be maintained in FORM GST PMT-05 for each person, liable to pay tax, interest, penalty, late fee or any other amount, on the common portal for crediting the amount deposited and debiting the payment therefrom towards tax, interest, penalty, fee or any other amount.**
2. **Any person shall generate a challan in FORM GST PMT-06 on the common portal and enter the details of the amount to be deposited by him towards tax, interest, penalty, fees or any other amount**
3. **The deposit shall be made through any of the following modes, namely:—**
   a. **Internet Banking through authorised banks;**
   b. **Credit card or Debit card through the authorised bank;**

NOTES

c. National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or

d. Over the Counter payment through authorised banks for deposits up to 10,000 rupees per challan per tax period, by cash, cheque or demand draft

Illustration 03

How many types of electronic ledger/register are being maintained on GST common portal?

Solution

a) Electronic cash ledger
b) Electronic credit ledger
c) Electronic liability register

Illustration 04

What are the main features of GST payment process?

Solution

The main features of GST payment process are as follows:-

a) Electronically generated challan from GSTN common portal in all modes of payment and no use of manually prepared challan;
b) Facilitation for the tax payer by providing hassle free, anytime, anywhere mode of payment of tax;
c) Convenience of making payment online;
d) Realtime data for tax collection in electronic format;
e) Faster remittance of tax revenue to the Government Account;
f) Paperless transactions;
g) Speedy Accounting and reporting;
h) Electronic reconciliation of all receipts;
i) Simplified procedure for banks;
j) Warehousing of Digital Challan.

Payment by Challan

CPIN
• CPIN stands for Common Portal Identification Number. • It is created for every Challan successfully generated by the taxpayer. • It is a 14-digit unique number to identify the challan. • CPIN remains valid for a period of 15 days.
CIN or Challan Identification Number
• CIN is generated by the banks, once payment in lieu of a generated Challan is successful. • It is a 17-digit number that is 14-digit CPIN plus 3-digit Bank Code. • CIN is generated by the authorised banks/Reserve Bank of India (RBI) when payment is actually received by such authorised banks or RBI and credited in the relevant Government account held with them.

NOTES

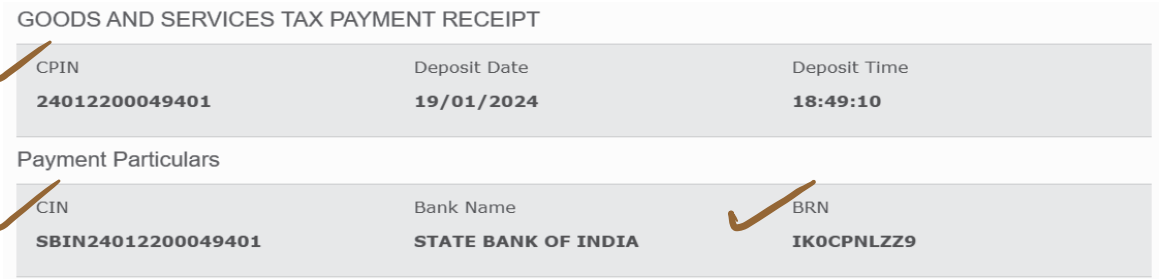
- It is an indication that the payment has been realised and credited to the appropriate Government account.
  CIN is communicated by the authorised bank to the taxpayer as well as to GSTN.

BRN or Bank Reference Number

- BRN is the transaction number given by the bank for a payment against a Challan.

E-FPB stands for Electronic Focal Point Branch.

- These are branches of authorised banks which are authorised to collect payment of GST. Each authorised bank will nominate only one branch as its E-FPB for PAN India transaction.
- The E-FPB will have to open accounts under each major head for all governments. Any amount received by such E-FPB towards GST will be credited to the appropriate account held by such E-FPB.
- For NEFT/RTGS Transactions, RBI will act as E-FPB



GOODS AND SERVICES TAX PAYMENT RECEIPT

CPIN	Deposit Date	Deposit Time
24012200049401	19/01/2024	18:49:10

Payment Particulars

CIN	Bank Name	BRN
SBIN24012200049401	STATE BANK OF INDIA	IK0CPNLZZ9

Read.

Are manual Challans applicable as allowed earlier under the VAT regimes?

- Manual or physical Challans are not allowed under the GST regime.
- It is mandatory to generate Challans online on the GST Portal.

Read.

How many types of Challans are prescribed for various taxes and payments to be paid under the GST regime?

- There is single Challan prescribed for all taxes, fees, penalty, interest, and other payments to be made under the GST regime.
- E-challan validity is for 15 days.
- The commission for making payment through e-challan has to be borne by the person making the payment.
- Any unregistered person has to make payment on the basis of a temporary identification number generated through a common portal.

Illustration 05

Sahil is a supplier of taxable goods in Karnataka. He got registered under GST in the month of September and wishes to pay his IGST liability for the month. Since he is making the GST payment for the first time, he is of the view that he needs to mandatorily have the online banking facility to make payment of GST; offline payment is not permitted under GST. You are required to apprise Sahil regarding the various modes of deposit in the electronic cash ledger. Further, advise him with regard to following issues:

NOTES

a) Are manual challans allowed under GST? – No
b) What is the validity period of the challan? – 15d.
c) Is cross utilization among Major and Minor heads of the electronic cash ledger permitted?

Solution

As per the provisions of CGST Act, 2017 read with relevant rules, the deposit in electronic cash ledger can be made through any of the following modes, namely:-

a) Internet Banking through authorised banks;
b) Unified Payment Interface (UPI) from any bank;
c) Immediate Payment Services (IMPS) from any bank;
d) Credit card or Debit card through the authorised bank;
e) National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or
f) Over the Counter payment through authorised banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft.
   i) Manual or physical challans are not allowed under the GST regime. It is mandatory to generate challans online on the GST Portal.
   ii) Challan is valid for a period of 15 days from the date of generation of challan.
   iii) A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the CGST Act, 2017 to the electronic cash ledger for integrated tax, central tax, State tax or Union territory tax or cess.

Electronic Cash Ledger

Liability Payment	Cash Receipt
• Tax • Interest • Penalty • Fee • Other Amount	• Online Payments or Over the counter payments • TDS • TCS

Major and Minor Heads of Payment

Major Heads	Minor Heads (Each major head have following minor head)
• IGST • CGST • SGST/UTGST • Cess	• Tax • Interest • Penalty • Fee • Other Amount

Note:

a) Cross utilisation of funds across major or minor heads is allowed.
b) The amount available in the electronic cash ledger can be utilised for payment of any liability for the major and minor heads.

NOTES

What if registered person has made a deposit of tax erroneously under a particular head instead of a specific head ?

For instance, if the registered person has made a deposit of tax erroneously i.e. by virtue of human error, under a particular head instead of a specific head, the same can be transferred to the respective intended head vide Form GST PMT-09.

This Form can be used either for

a) transfer of erroneous deposits under any minor head of a major head to any other minor head of same or other major heads or

b) for any of the amounts already lying unutilised under any of the minor heads in Electronic Cash ledger

Transfer of E-cash Ledger Balance to E-cash Ledger of Deemed Distinct Person [Sec 49(10)]

- Sec 49(10) read with Rule 87(14) have been amended to provide that a registered person may, transfer any amount of tax, interest, penalty, fee or any other amount available in his E-cash ledger to E-cash ledger of Deemed distinct person (registered branch in another state or same state if opted for separate GSTIN).
- The above transfer can be done through Form GST PMT-09 on the common portal.
- However, no such transfer shall be allowed if the said registered person has any unpaid liability in his E-liability ledger.

Illustration 06

M/s. Daksha Enterprises has made a cash deposit of ₹ 10,000 under minor head 'tax' of major head 'SGST'. It has a liability of ₹ 2,000 for minor head "Interest" under the major head 'SGST'.

State whether M/s. Daksha Enterprises can utilise the amount available for payment of interest.

Solution

The registered person is allowed to transfer the amount available under any minor head of a major head to any of the minor head of the same or other major head as per Section 49(10) of the CGST Act vide Form PMT-09.

Therefore, in the given case, amount of ₹ 10,000 available under minor head 'tax' of major head 'SGST' can be utilised for payment of liability of ₹ 2,000 under minor head 'interest' of the same major head, after making a due transfer entry using Form GST PMT-09 from the minor head of 'tax' to 'interest'.

Electronic Liability Register [Rule 85]

1. The electronic liability register shall be maintained in FORM GST PMT-01 for each person liable to pay tax, interest, penalty, late fee or any other amount on the common portal and all amounts payable by him shall be debited to the said register.
2. The electronic liability register of the person shall be debited by-
   a. the amount payable towards tax, interest, late fee or any other amount payable as per the return furnished by the said person;
   b. any amount of interest that may accrue from time to time.

NOTES

3. Payment of every liability by a registered person as per his return shall be made by debiting the electronic credit ledger or the electronic cash ledger and the electronic liability register shall be credited accordingly.
4. The amount payable on reverse charge basis, or the amount payable under composition scheme, any amount payable towards interest, penalty, fee or any other amount under the Act shall be paid by debiting the electronic cash ledger and the electronic liability register shall be credited accordingly.

Electronic Liability Ledger

Debit (Due)	Credit (Paid)
• All amounts payable towards tax, interest, late fee and any other amount as per return filed; • All amounts payable towards tax, interest, penalty and any other amount determined in a proceeding by an Assessing authority or as ascertained by the taxable person;	• Electronic cash ledger for any amount payable under GST • Electronic credit ledger for Tax payable under GST

Electronic Credit Ledger [Rule 86]

1. The electronic credit ledger shall be maintained in FORM GST PMT-02 for each registered person eligible for input tax credit under the Act on the common portal and every claim of input tax credit under the Act shall be credited to the said ledger.
2. The electronic credit ledger shall be debited to the extent of discharge of any liability
3. ITC cannot be utilised for tax payable under reverse charge mechanism.
4. Where a registered person has claimed refund of any tax that has been paid wrongly or in excess through electronic credit ledger, the said refund, if found admissible, will be credited to the electronic credit ledger.

Common points for Electronic Cash & Credit Ledger

1. Where a person has claimed a refund of any amount from the electronic cash or credit ledger, the said amount shall be debited to the electronic cash or credit ledger.
2. If the refund so claimed is rejected, either fully or partly, the amount debited earlier, to the extent of rejection, shall be credited to the electronic cash or credit ledger by the proper officer by an order made in prescribed form.

NOTES

One short analysis

Basis	E-Liability ledger	E-Credit Ledger	E-Cash Ledger
Form	GST PMT 01	GST PMT 02	GST PMT 05
Debit's	• Tax, interest, late fees, other dues payable as per return • Tax, interest, late fees, other dues determined by P.O. • Tax and interest arise due to mismatch • Interest accruing time to time	• Discharge of liabilities • Any refund of ITC	• Discharge of liabilities • Any refund claimed from E-Cash ledger
Credit's	Discharge of Payments	ITC earned in the tax period	Deposits made through TDS & TCS

Interest on delayed payment of tax [Section 50]

In case of belated payment of tax

- Interest @ 18% p.a. shall be payable in respect of supplies made during the tax period and declared in the return of the said period furnished after the due date in accordance with the provisions of section 39, shall be payable on that portion of the tax which is paid by through electronic cash ledger i.e. only on net tax liability after adjusting ITC.
- However, if return is furnished after the commencement of any proceedings u/s 73 or 74 or 74A or where tax is paid in respect of any earlier tax period then interest @ 18% shall be levied on the amount of output tax liability i.e. benefit of ITC shall not be allowed. Period of interest shall be from the date following the due date of payment to the actual date of payment.

In case of wrong utilisation of ITC

- Interest @ 18% p.a. shall be levied on the ITC wrongly availed and utilised i.e. if ITC is only wrongly availed but not utilised then interest shall not be levied.
- ITC shall be considered as wrongly utilised when the balance in credit ledger falls below the amount of ITC wrongly availed and the extent of such utilisation of ITC shall be the amount by which the balance in the credit ledger falls below the amount of ITC wrongly availed.
- Further, the date of utilisation shall be taken to be
  1. due date of the return or the actual date of filling the return whichever is earlier, or
  2. in other cases, date of debit in the credit ledger.
- Interest shall be payable on the amount by which the balance in the credit ledger falls below the amount of ITC wrongly availed from the date of utilisation of wrongly availed ITC till the date of reversal.

NOTES

Example 1

Mr. Alok, a registered supplier of taxable goods, filed GSTR 3B for the month of January, 2025 on 15th April, 2025. The prescribed due date to file the said GSTR3B was 20th February, 2025. The amount of net GST payable, in Cash i.e. Electronic Cash Ledger on supplies made by him for the said month worked out to be ₹36,500 which was paid on 15th April, 2025.

Briefly explain the related provisions and compute the amount of interest payable under the CGST Act, 2017 by Mr. Alok. Ignore the effect of leap year, if applicable in this case.

Solution

Interest is payable in case of delayed payment of tax @ 18% per annum from the date following the due date of payment to the actual date of payment of tax.

Thus, the amount of interest payable by Mr. Alok is as under:

Period of delay = 21st February, 2025 to 15th April, 2025 = 54 days.

Hence, amount of interest = ₹36,500 × 18% × 54/365 = ₹972

Example 2

ABC Ltd., have filed their GSTR3B for the month of July, 2025 within the due date prescribed under Section 39 i.e. 20.08.2025. Post filing of the return, the registered person has noticed during September 2023 that tax dues for the month of July, 2025 have been short paid for ₹40,000. ABC Ltd., has paid the above shortfall of ₹40,000, through GSTR3B of September 2025, filed on 20.10.2025 [payment through Cash ledger– ₹30,000 and Credit ledger ₹10,000]. Examine the Interest payable under the CGST Act, 2017.

What would be your answer if, GSTR-3B for the month of July 2025 has been filed belatedly on 20.10.2025 and the self-assessed tax of ₹40,000/- has been paid on 20.10.2025 [payment through electronic cash ledger - ₹30,000 and electronic credit ledger ₹10,000]

Notes:

a) There exists adequate balance in Electronic Cash & Credit ledger as on 31.07.2025 for the above short fall

b) No other supply has been made nor tax payable for the month of July, 2025 other than ₹40,000/- missed out to be paid on forward charge basis

c) Ignore the effect of leap year, if applicable in this case.

Solution

Interest is payable under Section 50 of the CGST Act, 2017 in case of delayed payment of tax @ 18% per annum from the date following the due date of payment to the actual date of payment of tax.

As per proviso to sub-section (1) of Section 50, interest is payable on the net tax liability paid in cash, only if the return to be filed for a tax period under Section 39, has been filed after the due date to furnish such return.

In the above scenario, ABC Ltd., has defaulted in making the payment for ₹40,000 on self-assessment basis in the return for the month of July, 2025. Accordingly, interest is payable on the gross liability and proviso of sub-section 50(1) shall not be applicable.

Thus, the amount of interest payable by ABC Ltd., is as under:

Period of delay = 21st August, 2025 to 20th October, 2025 = 61 days.

Hence, amount of interest = ₹40,000 × 18% × 61/365 = ₹1,203

NOTES

Alternatively, if ABC Ltd., have filed the return for the month of July, 2025 on 20.10.2025, beyond the stipulated due date of 20.08.2025 and if the self-assessed tax for July, 2025 has been paid on 20.10.2025, Interest under proviso to Section 50(1) shall be payable on the tax paid through Electronic Cash Ledger only.
Hence Interest is payable from 21st August 2025 till 20th October 2025 = 61 days
Amount of Interest = ₹30,000 × 18% × 61/365 = ₹902

Illustration 07

Mr. Alok, a registered supplier of taxable goods, filed GSTR 3B for the month of January, 2024 on 15th April, 2024. The prescribed due date to file the said GSTR 3B was 20th February, 2024. The amount of net GST payable, in Cash i.e. Electronic Cash Ledger on supplies made by him for the said month worked out to be ₹ 36,500 which was paid on 15th April, 2024. Briefly explain the related provisions and compute the amount of interest payable under the CGST Act, 2017 by Mr. Alok. Ignore the effect of leap year, if applicable in this case.

Solution

Interest is payable in case of delayed payment of tax @ 18% per annum from the date following the due date of payment to the actual date of payment of tax.
Thus, the amount of interest payable by Mr. Alok is as under:-
Period of delay = 21st February, 2024 to 15th April, 2024 = 54 days
Hence, amount of interest = ₹ 36,500 x 18% x 54/365 = ₹ 972

Illustration 08

ABC Ltd., have filed their GSTR-3B for the month of July, 2024 within the due date prescribed under Section 39 i.e. 20.08.2024. Post filing of the return, the registered person has noticed during September 2024 that tax dues of ₹ 40,000 for the month of July, 2024 have not been paid. ABC Ltd., has paid the above amount of ₹ 40,000, through GSTR-3B of September 2024, filed on 20.10.2024 [payment through Cash ledger - ₹ 30,000 and Credit ledger ₹ 10,000]. Examine the Interest payable under the CGST Act, 2017.
What would be your answer if, GSTR-3B for the month of July 2024 has been filed belatedly on 20.10.2024 and the self-assessed tax of ₹ 40,000/- has been paid on 20.10.2024 [payment through electronic cash ledger - ₹ 30,000 and electronic credit ledger ₹ 10,000]
Notes:

- **No other supply has been made nor tax payable for the month of July, 2024 other than ₹ 40,000/- missed out to be paid on forward charge basis**
- **Ignore the effect of leap year, if applicable in this case.**

Solution

Interest is payable under Section 50 of the CGST Act, 2017 in case of delayed payment of tax @ 18% per annum from the date following the due date of payment to the actual date of payment of tax.
As per proviso to sub-section (1) of Section 50, interest is payable on the net tax liability paid in cash, only if the return to be filed for a tax period under Section 39, has been filed after the due date to furnish such return.

NOTES

In the above scenario, ABC Ltd., has defaulted in making the payment for ₹ 40,000 on self-assessment basis in the return for the month of July, 2024. Accordingly, interest is payable on the gross liability and proviso of sub-section 50(1) shall not be applicable. Thus, the amount of interest payable by ABC Ltd., is as under:-

Period of delay = 21st August, 2024 to 20th October, 2024 = 61 days Hence, amount of interest = ₹ 40,000 x 18% x 61/365 = ₹ 1,203

Alternatively, if ABC Ltd., have filed the return for the month of July, 2024 on 20.10.2024, beyond the stipulated due date of 20.08.2024 and if the self-assessed tax for July, 2024 has been paid on 20.10.2024, Interest under proviso to Section 50(1) shall be payable on the tax paid through Electronic Cash Ledger only.

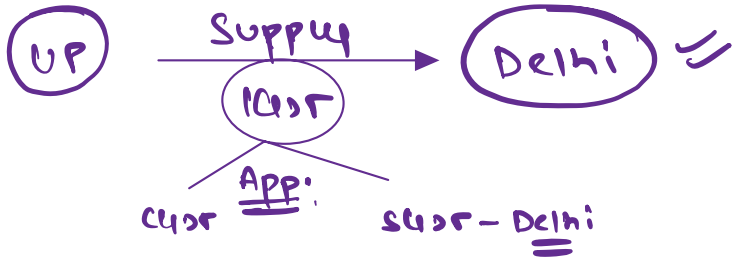
Hence Interest is payable from 21st August 2024 till 20th October 2024 = 61 days

Amount of Interest = ₹ 30,000 x 18% x 61/365 = ₹ 902

Read.

Transfer of Input Tax Credit [Section 53 of CGST Act & Section 18 of IGST Act]

- If the amount of CGST is utilised towards dues of IGST then, in terms of section 53 of the CGST Act, there shall be reduction in the amount of CGST, equal to the credit so utilized, and the Central Government shall transfer such amount equivalent to the amount so reduced in CGST account to the IGST account.
- Similarly, if the amount of IGST is utilised towards dues of CGST/UTGST then, in terms of section 18 of the IGST Act, there shall be reduction in the amount of IGST, equal to the credit so utilized, and the Central Government shall transfer such amount equivalent to the amount so reduced in IGST account to the CGST/UTGST account.
- However, if the amount of IGST is utilised towards dues of SGST then, in terms of section 18 of the IGST Act, there shall be reduction in the amount of IGST, equal to the credit so utilized, and will be apportioned to the **'appropriate State'** Government and the Central Government shall transfer the amount so apportioned to the account of the respective State Government.
- Here, **"appropriate State"** in relation to a taxable person, means the State or Union territory where taxable person is registered or is liable to be registered under the provisions of the Central Goods and Services Tax Act.



NOTES

Question Bank

Illustration 01

XT Pvt. Ltd., a supplier of goods, pays GST under regular scheme. It has made the following outward taxable supplies in a tax period:

Particulars	₹
Intra-State supply of goods	8,00,000
Inter-State supply of goods	3,00,000

It has also furnished the following information in respect of purchases made by it in that tax period:

Particulars	₹
Intra-State supply of goods	2,00,000
Inter-State supply of goods	50,000

The company has following opening balance of ITCs for the tax period:

Particulars	₹
CGST	57,000
SGST	Nil
IGST	70,000

Note:

1. Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively.
2. Both inward and outward supplies are exclusive of taxes, wherever applicable.
3. All the conditions necessary for availing the ITC have been fulfilled.

Compute the minimum GST, payable in cash, by XT Pvt. Ltd. for the tax period. Make suitable assumptions as required.

Solution

Computation of GST payable on outward supplies

S. No.	Particulars	CGST @9%	SGST @9%	IGST @18%	Total
1.	Intra-State supply of goods for ₹ 8,00,000	72,000	72,000		1,44,000
2.	Inter-State supply of goods for ₹ 3,00,000			54,000	54,000
	Total GST Payable				1,98,000

Computation of total ITC

Particulars	CGST @9%	SGST @9%	IGST @18%
Opening ITC	57,000	Nil	70,000
Add: ITC on Intra-State purchases of goods valuing ₹ 2,00,000	18,000	18,000	Nil
Add: ITC on Inter-State purchases of goods valuing ₹ 50,000	Nil	Nil	9,000
Total ITC	75,000	18,000	79,000

NOTES

Computation of minimum GST payable from electronic cash ledger

Particulars	CGST @9%	SGST @9%	IGST @18%	Total
GST payable	72,000	72,000	54,000	1,98,000
Less: ITC [First ITC of IGST should be utilized in full - first against IGST liability and then against CGST and SGST liabilities in a manner to minimize cash outflow]	Nil (IGST)	(25,000) IGST	(54,000) IGST	79,000
ITC of CGST and SGST set off against CGST and SGST respectively	(72,000) CGST	(18,000) SGST		90,000
Minimum GST payable in cash	Nil	29,000	Nil	29,000

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

Illustration 02

Paritosh& Co., a supplier of goods, pays GST under regular scheme. It has made the following outward taxable supplies in a tax period:

Particulars	₹
Intra-State supply of goods	10,00,000
Inter-State supply of goods	8,00,000

It has also furnished the following information in respect of purchases made by it in that tax period:

Particulars	₹
Intra-State supply of goods	3,00,000
Inter-State supply of goods	2,50,000

The company has following opening balance of ITCs for the tax period:

Particulars	₹
CGST	57,000
SGST	60,000
IGST	1,40,000

Note:

1. Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively.
2. Both inward and outward supplies are exclusive of taxes, wherever applicable.
3. All the conditions necessary for availing the ITC have been fulfilled.

Compute the minimum GST, payable in cash, by Paritosh & Co. for the tax period and the ITC to be carried forward to the next month. Make suitable assumptions as required.

NOTES

Solution

Computation of GST payable on outward supplies

S. No.	Particulars	CGST @9%	SGST @9%	IGST @18%	Total
1.	Intra-State supply of goods for ₹ 10,00,000	90,000	90,000		1,80,000
2.	Inter-State supply of goods for ₹ 8,00,000			1,44,000	1,44,000
	Total GST Payable				3,24,000

Computation of total ITC

Particulars	CGST @9%	SGST @9%	IGST @18%
Opening ITC	57,000	60,000	1,40,000
Add: ITC on Intra-State purchases of goods valuing ₹ 3,00,000	27,000	27,000	Nil
Add: ITC on Inter-State purchases of goods valuing ₹ 2,50,000	Nil	Nil	45,000
Total ITC	84,000	87,000	1,85,000

Computation of minimum GST payable from electronic cash ledger

Particulars	CGST @9%	SGST @9%	IGST @18%	Total
GST payable	90,000	90,000	1,44,000	3,24,000
Less: ITC [First ITC of IGST should be utilized in full - first against IGST liability and then against CGST or SGST liabilities in any order to minimize cash outflow]	(22,000) (IGST)	(19,000) IGST	(1,44,000) IGST	1,85,000
CGST and SGST ITC utilized against CGST and SGST output Tax liability respectively	(68,000) CGST	(71,000) SGST		1,39,000
Minimum GST payable in cash	Nil	Nil	Nil	Nil
ITC balance to be carried forward next month	16,000	16,000	Nil	32,000

Note: The above computation is one of the many ways to set off the ITC of IGST (₹ 41,000-after set off against IGST liability) against CGST and SGST liability to compute minimum GST payable in cash and carry forward both CGST and SGST ITC equally. To illustrate, IGST of ₹ 10,000 can be set off against SGST payable and IGST of ₹31,000 can be set off against CGST payable. In this situation also, the net GST payable will be nil but the ITC of CGST and SGST to be carried forward will be ₹25,000and ₹7,000 (totaling to ₹ 32,000), respectively. However, if the entire ITC of ₹ 41,000 is set off against CGST payable, then SGST of ₹ 3,000 will be payable in cash thus, increasing the cash outflow. Therefore, such a set-off would not be advisable for computing the minimum GST payable.

Illustration 03

Are principles of unjust enrichment applicable for payment of tax made under GST?

NOTES

Solution

Yes, as per Section 49(9) of the CGST Act, 2017 every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.

Illustration 04

State the name of output tax under GST, where any of the input tax credit under GST can be utilized?

Solution

IGST. IGST, CGST, SGST, UTGST i.e. all input tax credit can be utilized against output tax liability known as IGST. However, it has to be utilized in prescribed manner.

Illustration 05

Mr. A has deposited a sum of ₹ 30,000 under minor head of "Interest" column for the major head "IGST". At the time of filing GSTR-3B for a particular tax period, he noticed that there is no sufficient amount under the minor head 'Tax' towards payment of ₹ 30,000. When approached with the consultant, Mr. A was guided to deposit the tax amount under proper head of account and claim a refund for the remittance of amount deposited under head "interest". Examine the relevant provisions of CGST Act, 2017 towards payment of tax and compliance with the law.

Solution

Provisions of Section 49(10) of CGST Act, 2017 permit a registered person for transferring the amount deposited under any of the minor head i.e. tax, interest, penalty, fees or others to any of the heads under IGST/CGST/SGST/UTGS and make the payment of taxes there upon. Accordingly, Mr. A need not deposit the tax amount under head "tax" and claim a refund for the remittance of amount deposited under head "interest". Rather, using the Form GST PMT 09, such amount can be transferred suo-moto on the common portal from "interest" to "tax" head and tax liability be paid accordingly.

Illustration 06

M/s ABC & Co. have defaulted in filing the return under Section 39 of CGST Act, 2017 i.e. GSTR-3B for the month of March within the specified due date. Reason for such delay is attributable to delay in closure of books for March, which have been finalised during May. The GST Common portal prompted for payment of late fees payable under Section 47 of CGST Act, 2017 for a sum of ₹ 2,000 under CGST and SGST each. Accountant, of M/s ABC & Co., sought your confirmation for payment of such late fees through the balance available in Electronic Credit Ledger Give your guidance in this regard

Solution

Section 49(3) of the CGST Act, 2017 provides that the amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made there under in prescribed manner.

NOTES

Further, section 49(4) provides that the amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in prescribed manner.
Accordingly, as per the combined reading of the above provisions, late fees shall be paid only through electronic cash ledger and not possible through electronic credit ledger. Thus, contention of the accountant of M/s ABC & Co., is not correct and the above amount shown on the common portal has to be deposited in Electronic Cash Ledger under appropriate minor head, through any of the specified modes.

Illustration 07

Suhasini is a registered software consultant. On account of her ill health, she could not provide any services during the month of October. However, she had to incur all the expenses relating to her office. She paid ₹ 75,000 to various vendors. The total input tax involved on the goods and services procured by her is ₹ 13,500. Out of the total bills paid by her, one bill for ₹ 15,000 relates to security services availed for security of her office, tax on which is payable under reverse charge. Input tax involved in such bill is ₹ 2,700. Suhasini is of the opinion that for the month of October, no GST is payable from electronic cash ledger as she has sufficient balance of ITC for payment of GST under reverse charge on security services.
Do you think Suhasini is right? Explain with reasons assuming provisions of rule 86B are not applicable.

Solution

The amount available in the electronic credit ledger, i.e. ITC may be used for making any payment towards output tax. Output tax in relation to a taxable person, means the tax chargeable on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis.
Therefore, ITC cannot be used to pay the tax liability under reverse charge. The same is always required to be paid through electronic cash ledger and not electronic credit ledger.
Thus, Suhasini is wrong and she will need to pay the GST of ₹ 2,700 on security service through electronic cash ledger.

Illustration 08

Discuss whether the amount available in the electronic credit ledger can be used for making payment of any tax under the GST Laws?

[MTP May 24]

Solution

The amount available in the electronic credit ledger may be used for making any payment towards output tax under the CGST Act or the IGST Act, subject to the provisions relating to the order of utilization of ITC.
Further, output tax in relation to a taxable person is defined as the tax chargeable on taxable supply of goods or services or both but excludes tax payable on reverse charge mechanism.

NOTES

Accordingly, it is clarified that any payment towards output tax, whether self-assessed in the return or payable as a consequence of any proceeding instituted under the provisions of GST laws, can be made by utilization of the amount available in the electronic credit ledger of a registered person.
It is further reiterated that as output tax does not include tax payable under reverse charge mechanism, implying thereby that the electronic credit ledger cannot be used for making payment of any tax which is payable under reverse charge mechanism.

Illustration 09

Mr. Atul of Chennai is a registered dealer under GST. He has an opening balance of input tax credit of 1,20,000 (IGST) lying in the electronic credit ledger relating to the month of November,2022. During the month, a legal proceeding has been initiated under the GST law which resulted in a tax liability of 80,000 (IGST, other than RCM liability). Mr. Atul agrees with the tax liability and wants to use the balance lying in the electronic credit ledger towards payment of same.
He seeks your opinion with regard to the provisions of GST laws as to whether he is allowed to use the amount lying in the electronic credit ledger for making the payment of tax liability, payable as a consequence of the proceeding?

[PYQ Nov 23]

Solution

The amount available in the electronic credit ledger of IGST may be used for making any payment towards tax under the CGST Act or the SGST Act or the IGST Act other than tax payable under reverse charge .
It is clarified that any payment towards output tax, payable as a consequence of any proceeding instituted under the provisions of GST laws, can be made by utilization of the amount available in the electronic credit ledger of a registered person.
Thus, Mr. Atul is allowed to use the credit of IGST in electronic credit ledger for making payment of tax liability of 80,000, payable as a consequence of the legal proceeding.

Illustration 10

Craftmodel Limited, a registered dealer in Patna (Bihar), is engaged in various types of supplies. It is not engaged in renting of cars business. The company provided the following details for the month of January, 2024.

Additional Information:

a) All the amounts given above are exclusive of taxes, wherever applicable
b) During the course of arranging and filing documents, the Accountant of Craftmodel Limited observed that an invoice for ₹ 30,000 (excluding tax) dated 2nd December, 2023 was omitted to be recorded in the books of accounts and no payment was made against the same till the end of January, 2024. This invoice was issued by Mr. Rahuketu of Patna, from whom Craftmodel Limited had taken cars on rental basis. Invoice included cost of fuel also
c) Regarding pledging of shares, the face value of shares is ₹ 5,00,000. The market value of shares is ₹ 8,00,000

NOTES

d) Rate of GST applicable on various supplies are as follows:

Nature of supply	CGST	SGST	IGST
Car rental service	2.5%	2.5%	5%
Transportation of passengers by air	2.5%	2.5%	5%
All other inward and outward supplies	9%	9%	18%

e) No opening balance of input tax credit exists in the beginning of the relevant tax period.

f) Subject to the information given above, conditions necessary for claiming ITC were complied with.

You are required to calculate the amount of net GST liability payable in cash by Craftmodel Limited for the month of January, 2024.

[RTP Sep 2024]

Solution

Computation of net GST payable in cash by Craftmodel Ltd. for the month of January,2024

Particulars	CGST(₹)	SGST(₹)	IGST(₹)
Outward intra-State supply of goods made in the State of Bihar. [Value of supply is the transaction value of the goods.]	36,000	36,000	
Outward supply of goods made to other States. [Value of supply is the transaction value of the goods]			1,08,000
Pledging of 5% equity shares to the merchant banker [Supply includes supply of goods and services. Shares being securities are neither goods nor services. Thus, transfer of shares which is neither goods nor services is not a supply.]			Nil
Intra-State stock transfer to Gaya Branch with no separate registration. [Stock transfer between 2 units of a legal entity under single registration is not a deemed supply under GST and hence, the same is not liable to tax under GST since branch with same GSTIN is not a distinct person.]	-	-	
Services of milling of paddy into rice. [Milling of paddy into rice cannot be considered as an intermediate production process in relation to cultivation of plants for food, fibre or other similar products or agricultural produce. Thus, it is not eligible for exemption.]	18,000	18,000	
Services of giving trucks on hire to a Governmental authority [Services by way of giving motor vehicles on hire to a Governmental authority are taxable.]	13,500	13,500	
Total output tax	67,500	67,500	1,08,000
Less: Input Tax Credit [Refer Working Note below] IGST credit should first be utilized towards payment of IGST			(90,000)

NOTES

ITC of CGST should be utilized for payment of CGST and IGST in that order. ITC of CGST cannot be utilized for payment of SGST	(67,500) CGST		(18,000) CGST
ITC of SGST should be utilized for payment of SGST and IGST in that order. However, ITC of SGST should be utilized for payment of IGST, only after ITC of CGST has been utilized fully. ITC of SGST cannot be utilized for payment of CGST.		(67,500) SGST	
Minimum Net GST payable in cash	NIL	NIL	NIL
ITC balance to be carried forward next month	-	18000	-

Working Note :-

Computation of ITC Available

Particulars	CGST(₹)	SGST(₹)	IGST(₹)
Intra-State inward supply of services used in the course of business. [ITC cannot be availed by a registered person in respect of invoices, the details of which have not been furnished by the supplier in GSTR-1.]	85,500	85,500	-
Training course organized by IIM, Gujarat. [Not exempt. Short duration programmes offered by IIMs for which participation certificate is awarded are not 'qualification recognized by law'. ITC is available in respect of supply of services which are used in the course or furtherance of his business. Further, the place of supply of services in relation to training and performance appraisal to a registered person, shall be the location of such person. Thus, place of supply is Patna (Bihar). Further, where the location of the supplier and the place of supply are in two different States, it shall be treated as inter-State supply of services.	-	-	90,000
Air tickets from Patna to Guwahati [Transport of passengers by air terminating in an airport located in Assam is exempt from GST as said transportation is in economy class.]	-	-	-
Cars taken on rental basis from Mr. Rahuketu. [Tax on renting of motor car services wherein cost of fuel is included in consideration provided by a non-body corporate to a body corporate and CGST/SGST is charged @ 2.5% each, is payable under reverse charge. Time of supply of such services is 1st February being earlier of date of payment, or date immediately following 60 days since issue of invoice by the supplier. Since the time of supply of renting of motor car services in the given case does not fall in January,	-	-	-

NOTES

2024, tax liability on the same does not arise in said month. Further, ITC on renting of motor car services received is blocked since the recipient - Craftmodel Ltd. is not in the same line of business]			
Total ITC available	85,500	85,500	90,000

Illustration 11

Mutiservices Private Ltd., registered in Punjab, is engaged in supplying a variety of services. Its turnover was ₹ 35 lakh in the preceding financial year. It has provided the following information for the month of April:

Particulars	Amount (₹)
Fee for the coaching provided to students for competitive exams. The coaching centre is run by Mutiservices Private Ltd. in Punjab (Intra-State transaction)	6,24,000
Receipts for services provided in relation to conduct of examination in Pureit University, Delhi (providing education recognized by Indian law), being an inter-State transaction	19,200
Amount received for transportation of students and faculty from their residence to Lotus Public School - a higher secondary school – and back (Intra-State transaction)	24,000
Amount received for providing the security and housekeeping services in Dhaani Public School – a pre-school (Intra-State transaction)	36,000

Note: Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively.

All the amounts given above are exclusive of taxes. Compute the total GST liability of Multi-services Private Ltd. for the month of April.

[RTP Nov 2020]

Solution

Computation of net GST liability of Multi-services Private Ltd. for the month of April

Particulars	Value of Supply (₹)	CGST(₹)	SGST(₹)	IGST(₹)
Fee for the coaching provided to students for competitive exams [Note-1]	6,24,000	56,160	56,160	-
Services towards conduct of examination in Pureit University, Delhi [Note-2]	19,200	-	-	-
Services of transportation of students and faculty from their residence to Lotus Public School and back [Note-3]	24,000	-	-	-
Security and housekeeping services in Dhaani Public School [Note-4]	36,000	-	-	-
Total GST liability		56,160	56,160	-

NOTES

Notes :-

1. Coaching centre run by Muti-services Private Ltd. is not an educational institution since competitive exam coaching does not lead to grant of a qualification recognized by law. Therefore, fee received for coaching provided at such coaching centre is taxable.
2. Since Pureit University provides qualification recognized by law, it is an educational institution and services provided to an educational institution, in relation to conduct of examination by such institution are exempt from GST.
3. Since Lotus Public School provides education up to higher secondary school, it is an educational institution and services of transportation of students, faculty and staff provided to an educational institution are exempt.
4. Since Dhaani Public School provides pre-school education, it is an educational institution. Security and housekeeping services provided within the premises of an educational institution are exempt.

Illustration 12

'XY' of Kolkata is engaged in supply of various goods and services. It pays GST under regular scheme. The following information is provided by it for the month of July:

Payments	Amount (₹)	Receipts	Amount (₹)
Inter-State purchases of office stationery IGST ITC	1,40,000	Inter-State supply of office stationery O/P IGST	2,00,000
Repairing of lorry used to transport goods from warehouse to clients' location [Intra-State supply] IGST = C+S	1,00,000	Intra-State supply of 500 combi packs containing one calculator and one diary C=18% D=28% Mixed Supply	4,00,000 O/P C+S = 28%
BC → Bank		Intra-State supply of services of business correspondent to Shubhvidhi Bank with respect to accounts in its urban area branch	1,00,000 O/P C+S

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

1. 10% of the inter-State supply of office stationery are made to unregistered persons.
2. Each combi pack (containing a calculator and a diary) is priced at ₹ 800. The calculator and the diary are individually priced at ₹ 700 and ₹ 200 respectively.
3. An invoice of ₹ 40,000 towards purchase of office stationery is missing and no other tax paying document is available in respect of such goods.
4. All the figures mentioned above are exclusive of taxes, wherever applicable.
5. Rates of CGST, SGST and IGST for all services, office stationery and calculator are 9%, 9% and 18% respectively. Rates of CGST, SGST and IGST for diary are 14%, 14% and 28% respectively.
6. Subject to the information given above, all the necessary conditions for availing input tax credit have been fulfilled.

NOTES

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

Tax	Amount (₹)
CGST	5,000
SGST	5,000
IGST	80,000

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

[RTP Nov 2020]

Solution

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

Particulars	Value (₹)	CGST(₹)	SGST(₹)	IGST(₹)
Total tax liability				
Inter-State supply of stationery [Note 1]	2,00,000			36,000
Intra-State supply of 500 combi packs of calculators and diaries [Note-2]	4,00,000	56,000	56,000	
Intra-State supply of services of business correspondent to a Shubhvidhi Bank with respect to accounts in its urban area branch [Note-3]	1,00,000	9,000	9,000	
Total tax liability		65,000	65,000	36,000
Input tax credit (ITC)				
Brought forward ITC		5,000	5,000	80,000
Inter-State purchase of office stationery [Note-4]	1,00,000			18,000
Intra-State repairing of lorry used for transportation of goods [Note-5]	1,00,000	9,000	9,000	
Total ITC		14,000	14,000	98,000
Minimum net GST payable in cash				
Total tax liability		65,000	65,000	36,000
IGST credit being set off against IGST liability				(36,000)
IGST credit being used to pay CGST and SGST liability in any order and in any proportion		(11000)	(51000)	
CGST and SGST credit being used to pay CGST and SGST liability respectively		(14,000) CGST	(14,000) SGST	
Minimum net GST payable in cash		40,000	Nil	Nil

62wD

Notes:-

1. Taxable supplies made by a registered person are liable to tax irrespective of whether they are made to a registered person or to an unregistered person.
2. Supply of calculator and diary as a combi pack with a single price of ₹ 800 is a mixed supply. Being a mixed supply comprising of two supplies, it shall be treated as supply of that particular supply which attracts highest rate of tax.

NOTES

3. Services provided by a business facilitator/ business correspondent to a banking company only with respect to accounts in its rural area branch are exempt and not with respect to accounts in its urban area branch .
4. ITC can be taken only on the basis of a valid tax paying document. Thus, ITC will not be available on goods for which the invoice is missing.
5. ITC on motor vehicles used for transportation of goods is allowed. Further, ITC is allowed on repair and maintenance services relating to motor vehicles, ITC on which is allowed.

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

Illustration 13

Suhasini is a registered software consultant. On account of her ill health, she could not provide any services during the month of October. However, she had to incur all the expenses relating to her office. She paid ₹ 75,000 to various vendors. Total GST involved on the goods and services procured by her is ₹ 13,500. Out of the total bills paid by her, one bill for ₹ 15,000 relates to security services availed for security of her office, tax on which is payable under reverse charge. GST involved in such bill is ₹ 2,700.
Suhasini is of the opinion that for the month of October, no GST is payable from electronic cash ledger as she has sufficient balance of ITC for payment of GST under reverse charge on security services.
Do you think Suhasini is right? Explain with reasons.

[RTP Nov 2020]

Solution

The amount available in the electronic credit ledger, i.e. input tax credit may be used for making any payment towards output tax. Output tax, in relation to a taxable person, means the tax chargeable on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis.
Therefore, input tax credit cannot be used to pay the tax liability under reverse charge. The same is always required to be paid through electronic cash ledger and not electronic credit ledger. Thus, Suhasini is wrong and she should pay GST of ₹ 2,700 on security service through electronic cash ledger.

Illustration 14

ABC Ltd., a registered supplier in Surat, Gujarat has calculated output net GST liability after adjusting ITC in the books for the month of February 2021:

CGST : ₹ 3,00,000
SGST : ₹ 2,50,000
IGST : ₹ 3,00,000

NOTES

During the above month, the following additional information is provided by ABC Ltd.:

S. No.	Particulars	Amount (excluding GST) ₹
1.	The company had given on hire 5 trucks to one of the transporters of Vadodara (a goods transport agency) for transporting goods for 10 days. The hiring charges for the trucks were ₹ 7,500 per truck per day	3,75,000
2.	The company sold goods to X & Co. of Delhi on 6th January 2021 with a condition that interest @ 2% per month will be charged on invoice value if X & Co. failed to make payment within 30 days of the delivery of the goods. Goods were delivered and also the invoice was issued on 6th January 2021. X & Co. paid the consideration for the goods on 20th February along with applicable interest.	5,00,000
3.	The company sought legal consultancy services for it's business from A & Advocates, a partnership firm of advocates situated at Bhuj, Gujarat.	1,50,000
4.	The company ordered 3,000 packets of tools which are to be delivered by the supplier of Delhi via 3 lots of 1,000 packets monthly. The supplier raised the invoice for full quantity in February 2021 and the last lot would be delivered in April 2021.	5,00,000
5.	The company supplied 10,000 packets of tools to one of it's customer at ₹ 10/- per packet in Gujarat in January 2021. Afterwards, the company re-values it at ₹ 9 per packet in February 2021 and the company issued credit note to the customer for ₹ 1 per packet.	

The rate of GST is 9% CGST, 9% SGST and 18% IGST.
You are required to compute the actual net liability of GST to be paid in cash along with working notes for the month of February 2021.

[PYQ Nov 21]

Solution

Computation of net GST liability of ABC Ltd. to be paid in cash for February 2021

Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
Net output GST liability as given		3,00,000	2,50,000	3,00,000
Add: Trucks given on hire to GTA [Services by way of giving a means of transportation of goods on hire to a goods transport agency are exempt.]	3,75,000	-	-	-
Add: Interest on delayed payment of 15 days (6th February, 2021 to 20th February,2021)	5,900 [5,90,000 × 2% × 15/30]	-	-	900
Total output tax liability		3,00,000	2,50,000	3,00,900

NOTES

Less: ITC in respect of legal services paid as reverse charge is available	1,50,000	(13,500) [1,50,000 × 9%]	(13,500) [1,50,000 × 9%]	
Net output tax liability (A)		2,86,500	2,36,500	3,00,900
Legal consultancy services received(B) [Tax is payable under reverse charge on legal services received by a business entity3 from a partnership firm of advocates. Further, tax payable under reverse charge, being not an output tax, cannot be set off against ITC and thus, will have to be paid in cash.]	1,50,000	13,500 [1,50,000 × 9%]	13,500 [1,50,000 × 9%]	
Total GST payable in cash [(A) + (B)]		3,00,000	2,50,000	3,00,900

Notes:

a) ITC on goods received in lots is available on receipt of last lot. Hence, ITC on tools received will not be available in February 2021.

b) Since discount given by ABC Ltd. on the packets of tools was not known at the time of supply, it shall not be excluded from its value of supply

Illustration 15

M/s. Flow Pro, a registered supplier, is engaged in manufacturing heavy steel fabrication machine. The details pertaining to pricing of each such machine is as follows:

S. No.	Particulars	Amount
1.	Price of the machine [excluding taxes and other charges mentioned at S. Nos. (ii) and (iii)]	25,00,000
2.	Third party inspection charges [Such charges were payable by M/s Flow Pro but the same have been directly paid by BP Ltd. to the inspection agency. These charges were not recorded in the invoice issued by M/s Flo Pro.]	5,00,000
3.	Freight charges for delivery of the machine [M/s Flow Pro has agreed to deliver the goods at BP Ltd.'s premises]	2,00,000
4.	Subsidy received from the State Government on sale of machine under Skill Development Programme [Subsidy is directly linked to the price]	5,00,000 IGNORE
5.	Discount of 2% is offered to BP Ltd. on the price mentioned at S. No. (i) above and recorded in the invoice	(50000)

Note: Price of the machine is net of the subsidy received.

NOTES

S.16 last date of Availing ITC < 30 Nov of Next FY / RFY - Ann. Return 15/9 } earlier 15/9.

M/s. Flow Pro has supplied one such machine in the month of October. It also provided the following details pertaining to the purchases made/services availed during said month:

S. No.	Inward supplies	IGST	Remarks
1.	Inputs 'A'	~~2,00,000~~ 90,000	One invoice on which IGST payable was 10,000, is missing
2.	Inputs 'B'	~~50,000~~	Inputs are to be received in two lots. First lot has been received in October
3.	Capital goods	~~1,20,000~~	M/s. Flow Pro has capitalized the capital goods at full invoice value inclusive of GST as it will avail depreciation on the full invoice value.
4.	Input services	~~2,25,000~~ 1,75,000	One invoice dated 20th January of preceding financial year on which GST payable was ₹ 50,000 was missing and has been found in October

Compute the net GST payable in cash by M/s. Flow Pro for October assuming that all the inward supplies are inter-State supplies and all outward supplies are intra-State supplies. Assume the rates of taxes to be as under:

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

Make suitable assumptions, wherever necessary. All the conditions necessary for availing the ITC have been fulfilled. Opening balance of the input tax credit for the relevant period is Nil. The annual return for the previous financial year was filed on 15th September of the current year.

[MTP May 23]

Solution

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

Particulars	CGST	SGST
GST payable on outward supplies (Refer Working note – 1)	2,83,500	2,83,500
Less: ITC (Refer Working note – 2) [ITC of IGST can be utilised for payment of CGST and SGST in any proportion and in any order.]	1,32,500	1,32,500
Net GST payable in cash	1,51,000	1,51,000

Note: ITC of IGST can be utilised towards payment of CGST and SGST in any proportion and in any order. Therefore, there can be multiple ways of setting off of IGST credit against CGST and SGST liability and accordingly, in the given case, amount of net GST payable in cash under the heads of CGST and SGST will vary. However, total amount of net GST payable in cash will be 3,02,000 in each case

NOTES

Working note – 1

Computation of GST payable on outward supply made by M/s. Flo Pro for the month of July

Particulars	Amount
Price of the machine [Since the subsidy is received from the State Government, the same is not includible in the value of supply in terms of section 15(2)(e)]	25,00,000
Third party inspection charges [Any amount that the supplier is liable to pay in relation to the supply but has been incurred by the recipient and not included in the price actually paid or payable for the goods, is includible in the value of supply in terms of section 15(2)(b)]	5,00,000
Freight charges for delivery of the machine [Since arranging freight is the liability of supplier, it is a case of composite supply and thus, freight charges are added in the value of principal supply.]	2,00,000
Total	32,00,000
Less: Discount @ 2% on 25,00,000 being price charged to BP Ltd. [Discount given before or at the time of supply if duly recorded in the invoice is deductible from the value of supply in terms of section 15(3)(a)]	50,000
Value of taxable supply	31,50,000
GST payable on outward supplies CGST @ 9% SGST @ 9% [Since all the outward supplies are intra-State supplies, CGST and SGST are payable on the same.]	 2,83,500 2,83,500

Working note – 2

Computation of ITC available with M/s Flow Pro for the month of July

S. No.	Inward supplies	ITC
1.	Inputs 'A' [ITC cannot be taken on missing invoice. The registered person should have the invoice in its possession to claim ITC.]	90,000
2.	Inputs 'B' [When inputs are received in lots, ITC can be availed only on receipt of last lot.]	Nil
3.	Capital goods [Input tax paid on capital goods cannot be availed as ITC, if depreciation has been claimed on such tax component.]	Nil

NOTES

4.	Input services [ITC on an invoice cannot be availed after 30th November following the end of financial year to which such invoice pertains or the date of filing annual return, whichever is earlier. Since the annual return for the previous financial year has been filed on 15th September, ITC on the invoice pertaining to previous financial year cannot be availed after 15th September.]	1,75,000
	Total ITC (IGST)	2,65,000

Note - CGST @ 9% and SGST @ 9% are payable on the outward supplies since they are intra-State supplies and IGST @ 18% is payable on the inward supplies since they are inter-State supplies

Illustration 16

M/s. ABC & Co., a chartered accountancy firm, has its office in Bengaluru and is registered under GST in the State of Karnataka. It submitted the following information for the month of April:

Sr. No.	Particulars	Amount of services provided excluding GST
1.	Statutory audit services provided (intra-State supplies)	1,20,000
2.	ITR filing services provided within Karnataka (intra-State supplies)	1,60,000
3.	Internal audit services provided to Mumbai client (inter-State supplies)	1,80,000

M/s. ABC & Co. had also incurred the following expenses in the month of April for the purpose of providing the taxable services:

Sr. No.	Particulars	CGST	SGST
1.	Car purchased by firm for the use of senior partner of the firm for official use	42,000	42,000
2.	Office rent paid to landlord who is registered in State of Karnataka	450	450
3.	Professional fee paid to Mr. Rajesh, a practicing Chartered Accountant, for professional services availed [TDS of 20,000 is deducted under section 194J of the Income-tax Act, 1961]	18,000	18,000
4.	Computer purchased for office purpose	3,000	3,000

Out of the above 4 suppliers/service providers, landlord of office to whom rent was paid did not upload his GSTR-1 within the specified time allowed under GST resulting in the GST amount not being reflected in GSTR-2B of M/s. ABC & Co.
Compute the net GST payable in cash by M/s. ABC & Co. for the month of April.

NOTES

Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively assuming that all the remaining conditions of utilization of ITC are fulfilled.

[MTP May 23]

Solution

Computation of net GST payable by ABC & Co. for the month April

Particulars	Value of supply	CGST	SGST	IGST
Statutory audit services	1,20,000	10,800	10,800	
ITR filing services	1,60,000	14,400	14,400	
Internal audit services	1,80,000	-	-	32,400
Total output tax liability		25,200	25,200	32,400
Less: ITC [Refer Working Note] [CGST credit is set off against CGST liability and SGST credit is set off against SGST liability since CGST credit cannot be utilized towards payment of SGST liability and vice versa.]		(21,000)	(21,000)	
Net GST payable		4,200	4,200	32,400

Working Note:

Computation ITC that can be availed

Particulars	CGST	SGST
Computation of eligible ITC		
Car purchased for official use by senior partner [ITC on motor vehicles used for transportation of persons with seating capacity up to 13 persons (including driver) is blocked except when used for making specified outward supplies.]	Nil	Nil
Office rent paid to landlord [No ITC since the supplier did not upload the details of invoice in his GSTR-1 and said details are not being reflected in GSTR-2B of recipient.]	Nil	Nil
Professional fee paid [ITC on services used in the course/furtherance of the business is allowed.]	18,000	18,000
Computer for office purpose [ITC on goods used in the course/furtherance of the business is allowed.]	3,000	3,000
Total eligible ITC which can be availed [ITC in respect of invoices furnished by the suppliers in their GSTR-1s and reflected in GSTR-2B of recipient.]	21,000	21,000

NOTES

Illustration 17

M/s Cute & Co., a partnership firm, registered supplier under GST in Bengaluru (Karnataka State), has provided the following information for the month of October, 2023:

S. No.	Details of transactions	Amount
1.	Intra-State taxable supply of Direct Selling Agent (DSA) service to public sector Bank.	2,50,000
2.	Services provided to a Governmental authority by way of sanitation conservancy.	99,900
3.	Rent paid to a residential dwelling taken for running an office for providing DSA services; Owner of the residential property was not registered under GST; This is an intra-State supply availed.	25,000
4.	Purchased a car for the official use of managing partners of the Firm for business use (Inter-State purchase).	9,00,000
5.	Availed Information Technology services for their business from Partner's friend Mr. Allan Waugh from Melbourne, Australia. Mr. Waugh refused to take any consideration. Open Market value of said service was 1,25,000. (Inter-State transactions).	Nil
6.	Provided training and performance appraisal services in Bengaluru to following persons: (a) ABC Private Limited, a registered supplier in the State of Kerala (b) Babu Cones, a proprietorship concern of Rajasthan, which was not registered under GST	 3,00,000 1,00,000

Note:

- **Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively.**
- **All the amounts given above are exclusive of taxes.**
- **All the conditions necessary for availing the ITC have been fulfilled**
- **There was no opening balance of any input tax credit.**

The turnover of M/s Cute & Co was 2 crore in the previous financial year.

Compute the net GST payable in cash, by M/s Cute & Co. for the month of October, 2023. Correct legal provisions should form part of your answer.

[RTP May 24]

NOTES

Solution

Computation of net GST payable in cash

Particulars	CGST @ 9%	SGST @ 9%	IGST @ 18%
Output tax liability [Refer Working Note 1]	31,500	31,500	54,000
Less: ITC available [Refer Working Note 2]	2,250	2,250	-
Net GST payable	29,250	29,250	54,000
Add: Tax Payable under reverse charge to be paid in cash [The amount available in the electronic credit ledger may be used for making any payment towards output tax. Further, output tax means the tax chargeable on taxable supply of goods and/or services but excludes tax payable on reverse charge basis. Thus, tax liability under reverse charge has to be paid in cash]	2,250	2,250	
Total GST Payable in cash	31,500	31,500	54,000

Working Notes

1. Computation of total value of taxable supplies made by M/s Cute & Co. for the month of October, 2023

Particulars	Amount	CGST	SGST	IGST
Taxable under Forward Charge				
Intra-State taxable supply of DSA service [Since DSA services are provided by partnership firm, so taxable under forward charge]	2,50,000	22,500	22,500	
Services provided to a Governmental authority by way of sanitation conservancy [Specifically exempt under GST]	99,900	-	-	
Information Technology services [Import of services from a non-related person without consideration, in the course or furtherance of business is not a supply.]	Nil			
Training and performance appraisal services to ABC Private Limited [Taxable; the place of supply of services in relation to training and	3,00,000			54,000

NOTES

performance appraisal to a registered person, shall be the location of such person. Thus, place of supply is Kerala and hence an inter-State transaction.]				
Training and performance appraisal services to Babu Cones. [Taxable, the place of supply of services in relation to training and performance appraisal to an unregistered person, shall be the location where the services are actually performed. Thus, place of supply is Bengaluru, hence Intra-State transaction]	1,00,000	9,000	9,000	
	7,49,900	31,500	31,500	54,000
Taxable under Reverse Charge				
Rent paid for residential unit [Service by way of renting of residential dwelling to a registered person is taxable under reverse charge mechanism]	25,000	2,250	2,250	
	7,74,900	33,750	33,750	54,000

2. Computation of ITC that can be availed by M/s Cute & Co. for the month of October, 2023

Particulars	CGST	SGST	IGST
Rent paid to residential dwelling for providing DSA services [ITC is available as services are used in the course or furtherance of business.]	2,250	2,250	-
Purchase of car [Blocked credit in terms of section 17(5) of the CGST Act, 2017]			Nil
Total ITC	2,250	2,250	-

NOTES

HW

Illustration 18

Chill Ltd., Delhi, a registered supplier, manufacturing machineries has made a taxable supply of machinery during the month of March. It furnished the following details for each such machinery supplied: -

S. No.	Particulars	Amount
1.	List price of machinery (exclusive of taxes)	10,00,000
2.	Subsidy received from the Central Government for supply of machinery to Government School (exclusively related to supply of machinery included at S. No. 1)	2,10,000
3.	Subsidy received from an NGO for supply of machinery to an old age home (exclusively related to supply of goods included at S. No. 1)	2,00,000
4.	Tax levied by Municipal Authority	2,50,000
5.	Packing charges	1,25,000

Additional information:-

The list price of the machinery is after considering the two subsidies received. However, the other charges/taxes/fee are charged to the customers over and above the list price. Further, the company has provided the following information pertaining to purchases made/services availed by it in respect of supply of said machinery during the month of March:

S. No	Particulars	GST
1.	Raw material (to be received in the month of April)	8,50,000
2.	Membership of a club availed for employees working in the factory (not obligatory to be provided under any law)	4,00,000
3.	Inputs to be received in 6 lots, out of which 1st lot was received during the month	3,50,000
4.	Trucks used for transport of raw material	1,50,000
5.	Capital goods (out of 3 items, invoice for 2 items is missing and GST paid on those items is 2,82,000)	3,50,000

Note:

- **Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively.**
- **All inward and outward supplies are exclusive of taxes, wherever applicable.**
- **All the conditions necessary for availing the ITC have been fulfilled, subject to the information given above.**
- **All inward and outward supplies are inter-State supplies.**

Compute the net GST payable in cash, by Chill Ltd. for the month of March

[RTP Nov 23]

NOTES

Solution

Computation of net GST payable in cash

Particulars	Value of supply	CGST @ 9%	SGST @ 9%	IGST @ 18%
Supply of machinery [Refer Working Note]	15,75,000			2,83,500
Less: ITC available				2,18,000
Net GST payable in cash				65,500

Computation of total value of taxable supply made by Chill Ltd. during the month of March

Particulars	Amount
List price of the machinery	10,00,000
Subsidy amounting to 2,10,000 received from the Central Government [Since the subsidy is received from the Government, the same is not includible in the value in terms of section 15(2)(e) of the CGST Act, 2017]	Nil
Subsidy received from NGO [Since the subsidy is received from a non-Government body and directly linked to the supply, the same is includible in the value in terms of section 15(2)(e) of the CGST Act, 2017]	2,00,000
Tax levied by the Municipal Authority [Includible in the value as per section 15(2)(a) of the CGST Act, 2017]	2,50,000
Packing charges [Being incidental expenses, the same are includible in the value as per section 15(2)(c) of the CGST Act, 2017]	1,25,000
Total value of taxable supplies	15,75,000

NOTES

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

Particulars	ITC
Raw Material [ITC not available as raw material is not received in March]	Nil
Membership of a club availed for employees working in the factory (not obligatory to be provided under any law) [ITC is blocked in terms of section 17(5) of the CGST Act, 2017]	Nil
Inputs to be received in 6 lots, out of which 1st lot was received during the month [In case of goods received in lots, ITC can be taken only upon receipt of the last lot]	Nil
Trucks used for transport of raw material [ITC of GST paid on motor vehicles used for transportation of goods is allowed unconditionally]	1,50,000
Capital goods [ITC can be availed only on the basis of a valid document (invoice). Thus, GST paid on items for which invoice is missing, i.e. 2,82,000, is not available.]	68,000
Total ITC	2,18,000

Illustration 19

Prithviraj Pvt. Ltd., a registered supplier, is engaged in manufacturing heavy steel fabrication machine.

The details pertaining to pricing of each such machine is as follows:

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

Items given in points (ii) to (iv) have been excluded while arriving at price of the machine given in point (i) above. The contract includes installation and testing of machine at the recipient's premises.

NOTES

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

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

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

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

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

[MTP Nov 22]

Solution

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

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

NOTES

Working note – 1

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

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

GST payable on outward supplies CGST @ 9% SGST @ 9% [Since all the outward supplies are intra-State supplies, CGST and SGST are payable on the same.]	 5,80,500 5,80,500

NOTES

Working note – 2

Computation of ITC available with Prithviraj Pvt. Ltd. for the month of July

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

Illustration 20

Jino Enterprises, a partnership firm is a regular taxable person registered in Guwahati, Assam and is engaged in supply of Air conditioners and its accessories as well as air conditioned repairing services. Details of their various activities for the month of October 2022 are as follows:

a) Intra State supply of Air conditioner to customers in Assam. Freight is separately charged in invoices for delivery of goods at customer's doorstep.

Particulars	Amount
Value of goods	4,00,000
Value of freight charges charged separately in above invoices.	1,00,000

b) Intra State supply of repairing services wherein apart from charging service charges, cost of parts/ spares provided to customers is also charged and consideration for the same is separately mentioned in the invoices.

Particulars	Amount
Value of services component of invoices	3,00,000
Value of parts / spares component in invoices	50,000

c) In order to enhance their sales and to clear the stock of old models of air-conditioner, Jino Enterprises made combo offers to customers wherein, if a customer purchases an Air-conditioner along with a stabilizer, the same is offered at a combo price of 20,000 as against the original price of 30,000 (Air-conditioner 22,000 & stabilizer 8,000) if these are purchased separately. During October, 2022, Jino Enterprises had made inter-State supply of 10 numbers of such combo products.

NOTES

Purchased business class air tickets for intra State travel from Guwahati Airport, Assam to Dibrugarh Airport, Assam for its executive employees relating to business of the concern. Basic air fare was 40,000 and airlines charges GST @ 2.5% CGST, SGST each on basic freight, in case the same is applicable.

Additional Information:

a) All the figures mentioned above are exclusive of taxes.

b) In respect of few of the invoices relating to F.Y. 2021-2022, involving ITC of CGST 20,000, SGST of 20,000, IGST 80,000 was not taken earlier.

c) Jino Enterprises now want to avail credit in respect of such invoices in the current month.

d) The rates of GST applicable on various supplies are as follows:

Nature of Supply	CGST	SGST	IGST
Services	9%	9%	18%
Stabilizers	9%	9%	18%
Freight	6%	6%	12%
Air-Conditioner , Parts and accessories (Except Stabilizers)	6%	6%	12%

Calculate the amount of minimum CGST, SGST & IGST tax payable in cash by Jino Enterprises for the month of October, 2022.

[PYQ May 23]

Solution

Computation of minimum CGST, SGST and IGST payable in cash by Jino Enterprises for the month of October, 2022

Particulars		Value	CGST	SGST	IGST
Intra-State supply of air-conditioners [Since goods are agreed to be delivered at customer's doorsteps, supply of air-conditioners along with transportation thereof is a composite supply which is treated as the supply of the principal supply (air conditioners). Accordingly, rate of principal supply, i.e. air-conditioners will be charged.]		5,00,000	30,000	30,000	
Intra-State supply of repairing services	[Since parts/ spares and repair services are not naturally bundled, they are taxable separately at the applicable rates.]	3,00,000	27,000 [3,00,000 × 9%]	27,000 [3,00,000 × 9%]	
Intra-State supply of parts / spares		50,000	3,000 [50,000 × 6%]	3,000 [50,000 × 6%]	

NOTES

Inter-State supply of 10 combos of air conditioners and stabilizers [Since supplies are not naturally bundled and a single price is being charged, it is a mixed supply. It is treated as supply of that particular supply which attracts highest tax rate (i.e., stabilizers).]	2,00,000 [20,000 × 10]			36,000 [2,00,000 × 18%]
Total output tax		60,000	60,000	36,000
Less: Input Tax Credit [Refer Working Note below] [IGST credit is first utilized for payment of IGST liability. Remaining IGST credit has been utilized for payment of CGST and SGST in such proportion to keep the liability at its minimum. After exhausting IGST credit, CGST and SGST credits have been utilized. CGST credit is utilized for payment of CGST and SGST credit is utilized for the payment of SGST. ITC of CGST cannot be utilized for payment of SGST and vice versa.]		(22,000) (IGST) (21,000) (CGST)	(22,000) (IGST) (21,000) (SGST)	(36,000) (IGST)
Minimum net GST payable in cash		17,000	17,000	Nil

Working Note:

Computation of ITC available

Particulars	CGST	SGST	IGST
Purchase of business class air tickets for travel from Assam [Not exempt, since air travel embarking from Assam is not being undertaken in economy class. Further, ITC is available since service is used in the course/furtherance of business.]	1,000 [40,000 × 2.5%]	1,000 [40,000 × 2.5%]	
Invoices relating to FY 2021-22 [ITC in respect of any invoice can be taken up to 30th November following the end of FY to which such invoice relates or furnishing of the relevant annual return, whichever is earlier.]	20,000	20,000	80,000
Total ITC available	21,000	21,000	80,000

NOTES

Illustration 21

M/s Consultease Services Private Limited, a company registered under GST in Mumbai, Maharashtra, offers business consultancy, digital marketing and project management services across India. The company recorded the following transactions in October:

1. **Consultancy services for market analysis: Provided consultancy services for market analysis to XYZ Ltd., a registered client in Chennai, Tamil Nadu (Inter-State), for ₹ 4,50,000. Additionally, the company paid an amount of ₹ 4,500 as professional tax applicable in the State of Maharashtra as per requirement of local state legislation. The amount of professional tax was recovered separately from XYZ Ltd.**
2. **Digital Marketing Services for Launch Event: Conducted digital marketing for an upcoming product launch for Mr. A based in Rajasthan, who is an unregistered person under GST. The agreed fee for the said services is ₹ 3,00,000. Out of the agreed fee, an amount of ₹25,000 is incurred by Mr. A. The company was liable to pay the same in relation to the supply and the net payment received by the company was ₹ 2,75,000 (exclusive of any tax).**
3. **Travelling payment for the team: The employees incurred an amount of ₹ 50,000 on travel to Kolkata for client project and claimed a reimbursement of the same from the company. As a policy, company charged such expenses from the clients on actual basis.**
4. **Discount passed on to customer: Post supply discount was offered to a customer amounting to ₹ 50,000 against a supply for which invoice was issued in September. The customer has not reversed the input tax credit relating to such discount.**
5. **Recovery of late payment charges: The company received an amount of ₹ 1,00,000 as late payment charges for delay in payment for consideration from a client whose service contract was completed in June.**
6. **Purchase of car: A car was purchased in the name of company for use by the director. The total cost of car was ₹ 10,50,000 (inclusive of IGST amounting to ₹ 1,50,000).**
7. **Insurance services: The company paid for insurance of the above new car amounting to ₹ 25,000 which includes IGST amounting to**
8. **₹ 2,300.**
9. **Procurement of services: The company received inter-State supply of services used for business purpose on which GST paid was Rs. 45,000. Said credit was not restricted under any provision of GST laws.**
10. **Sponsorship: The company sponsored a sports event wherein it paid an amount of ₹ 2,00,000 to the event organizers.**

You are required to compute the following for the month of October:

(a) Total value of supply
(b) output tax payable by the Company.
(c) net GST payable in cash.

Note

(i) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively.
(ii) All the amounts given above are exclusive of taxes.
(iii) There was no opening balance of input tax credit.
(iv) The turnover of the company was ₹ 10 crores in the previous financial year.
(v) All the transactions are inter-State, unless otherwise specified.

[RTP Jan 2025]

NOTES

Solution

(a) Computation of total value of supply

Particulars	IGST (₹)
Consultancy services provided to XYZ Ltd. (As per section 15 of the CGST Act, 2017, the value of supply includes the amount of any tax paid under any law other than GST. Accordingly, the amount of professional tax is includible in the value of services.)	4,54,500
Digital marketing services provided to Mr. A (The amount incurred by the recipient on behalf of the supplier is includible in the value of supply.)	3,00,000
Travelling expenses recovered from the client (Incidental expenses like travelling expenses incurred in course of supply is includible in value of supply)	50,000
Post supply discount (No adjustment of post supply discount is allowed as the customer has not reversed the input tax credit.)	-
Late payment charges (The late payment charges recovered are includible in GST and liable to tax at the time of receipt of amount.)	1,00,000
Total value of supply for October	9,04,500

(b) Computation of output tax payable

Particulars	IGST (₹)
Total value of outward supply	9,04,500
Total output tax payable @ 18% (Company is liable to pay GST on sponsorship services under reverse charge, but the tax payable under reverse charge is not included in the value of output tax.)	1,62,810

(c) Computation of net GST payable in cash

Particulars	IGST (₹)
Total output tax	1,62,810
Less: Input Tax Credit [Refer Working Note below]	(81,000)
Net GST payable (A)	81,810
Add: GST payable under reverse charge for receipt of sponsorship services (B) [Tax on sponsorship services availed by a body corporate from any person is payable under reverse charge. Since the tax payable under reverse charge is not an output tax, ITC cannot be utilized to pay GST payable under reverse charge. Thus, it has to be paid in cash.]	36,000
Total GST payable in cash (A) +(B)	1,17,810

NOTES

Working Note:

Computation of ITC available

Particulars	IGST (₹)
Purchase of car for use by director (ITC on motor vehicles for transportation of persons with seating capacity ≤ 13 persons (including the driver) is blocked except when the same are used for (i) making further taxable supply of such motor vehicles (ii) making taxable supply of transportation of passengers (iii) making taxable supply of imparting training on driving such motor vehicles. Purchase of car for use by director is not a specified purpose.)	-
Insurance of car (ITC is not allowed on services of insurance relating to the motor vehicles on which ITC is blocked. Since, the car is not used for any of the eligible purposes, ITC thereon is blocked and thus, ITC on insurance taken on such car is also blocked)	-
ITC on receipt of services (ITC is available on services used in the course or furtherance of business.)	45,000
ITC on sponsorship services (ITC is available on services used in the course or furtherance of business.)	36,000
Total ITC available	81,000

Illustration 22

DEF Pvt. Ltd., a registered supplier of goods and services in Pune, Maharashtra, has furnished the following details for the month of January, 2024. The turnover of DEF Pvt. Ltd. was ₹ 3.2 crores in last financial year

Sr. No.	Particulars	Amount (₹)
1.	Intra State supply of taxable goods	5,00,000
2.	F Ltd. of Mumbai (unregistered) had promised to DEF Pvt. Ltd. in Oct 23 to complete contract within 3 months, but they were not able to complete committed contract, so DEF Pvt. Ltd. received consideration for non-performance of contract on time as decided by pre written agreement.	2,00,000
3.	DEF Pvt. Ltd. had provided service of booking of flight tickets for employee of H Enterprise (registered in Delhi) in the economy class from Bagdogra (West Bengal) to Pune Maharashtra.	20,000
4.	DEF Pvt. had purchased goods worth ₹ 5,00,000 from R Ltd. (registered in Gujarat) on 15.03.2023. Now R Ltd. issued debit note on 15.01.2024 for post delivery service to DEF Pvt. Ltd. as per part of terms of sales.	25,000

NOTES

5.	DEF Pvt. Ltd. had sold one of its unit in Pune as a going concern (with all goods and unexecuted orders) to H Ltd. (registered in New Delhi)	10,00,000
6.	DEL Pvt. Ltd. had provided service to Mr. Y (registered in Punjab) to organise business exhibition in Dubai.	5,00,000
7.	Inter-State supply of service	10,00,000
8.	Amount towards receipt of intra State services	6,00,000
9.	Purchase of confectionery items which are to be used to supply free of cost to customers in a customer meet organised by DEF Pvt. Ltd.	1,00,000

Opening balance of Input Tax credit at the beginning of Jan 2024. CGST ₹ 25,000
SGST ₹ 25,000
IGST ₹ 30,000
Additional Information:

1. Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively unless otherwise mentioned.
2. Both inward and outward supplies are exclusive of taxes, wherever applicable.
3. All the conditions necessary for availing the ITC have been fulfilled.

From the information given above, compute the output tax liability and input tax credit available to DEF Pvt. Ltd., for the month of January, 2024. Make suitable assumptions wherever required.

[PYQ Sep 2024]

Solution

(i) Computation of output tax liability of DEF Pvt. Ltd. for January, 2024

Particulars	Value (₹)	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)
Output tax payable				
Intra-State supply of taxable goods	5,00,000	45,000	45,000	
Consideration for non-performance of contract [Being 'liquidated damages', they are not the consideration for tolerating the non- performance of the contract. Hence, not a supply]	2,00,000	-	-	

NOTES

Service of booking of flight tickets [Taxable since service of booking of air tickets is being provided here. Only the service of transportation of passengers in economy class embarking from Bagdogra is exempt.Further, the place of supply of services made to a registered person is the location of such person, viz. Delhi in given case. Thus, same is inter-State supply.]	20,000			3,600
Selling of Pune unit as going concern to H Ltd. [Services by way of transfer of going concern is exempt.]	10,00,000	-	-	-
Service in relation to business exhibition in Dubai [Services by an organiser to any person in respect of a business exhibition held outside India is exempt.]	5,00,000	-	-	--
Inter-State supply of service	10,00,000	-	-	1,80,000
Total output tax liability		45,000	45,000	1,83,600

NOTES

(ii) Computation of input tax credit available to DEF Pvt. Ltd. for January, 2024

Particulars	Value (₹)	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)
Opening balance		25,000	25,000	30,000
Issue of debit note for post delivery service [ITC on debit notes issued in a financial year can be availed any time till 30th November of the succeeding financial year or the date of filing of the relevant annual return, whichever is earlier, irrespective of the date of original invoice/ supply. Further, place of supply being Pune in given case, same is inter-State supply.]	25,000			4,500
Receipt of intra-State services [ITC on services used in the course or furtherance of business is allowed.]	6,00,000	54,000	54,000	
Purchase of confectionery items [ITC on food or beverages is specifically disallowed unless the same is used for making outward taxable supply of the same category or as an element of the taxable composite or mixed supply.]	1,00,000	-	-	--
Total		79,000	79,000	34,500

Illustration 23

Pranesh has deposited a sum of ₹ 5,000 under the head of 'Fee' column of Cess and ₹4,000 was lying unutilized under the head of 'Penalty' column of IGST. Both the deposits were made wrongly instead of depositing under the head of Fee column under SGST.

In the light of the provisions of section 49(10) & 49(11) of the CGST Act, 2017, briefly explain the relevant provisions as how can Pranesh rectify these errors?

[PYQ Nov 2022]

Solution

A registered person is allowed to make intra-head or inter-head transfer of amount, as available in electronic cash ledger, using specified form.

It can transfer any amount of tax, interest, penalty, fee or others, under one (major or minor) head to another (major or minor) head, as available in the electronic cash ledger.

NOTES

Therefore, in the given case, amount of ₹ 5,000 available under minor head 'fee' of major head 'cess' and ₹ 4,000 available under minor head 'penalty' of major head 'IGST' can be transferred to minor head 'fee' of major head 'SGST' using specified form.

Illustration 24

Charm Limited, registered under GST in the State of Jharkhand, manufactures cosmetic products and appointed Mr. Handsome of Mumbai, who is registered under GST in the State of Maharashtra, as their Del-credere agent (DCA) to sell their products. Being a DCA, he agrees to raise invoices in his own name and also guarantees for the realization of payments from customers to Charm Limited.

In order to realize the payments from customers on time, he extends short term transaction based loans to them and charges interest for the same.

Mr. Handsome provides you the following details of transactions carried out during the month of March 2022:

Sl. No.	Particulars	Amount in (₹)
	Outward supply:	
i.	Goods sold by Mr. Handsome in his DCA capacity (intra -State transaction)	2,80,000
ii.	Interest earned from the above customers for short term credit facility provided for timely payment of dues. (intra-State transaction)	20,000
iii.	Commission bill raised on Charm Limited (inter-State transaction) in respect of DCA services provided.	30,000
	Inward supply:	
iv	Inter-State supply of goods received from Charm Limited. Being a DCA, no consideration was paid. Value under section 15 - ₹ 2,00,000	Nil
v.	Received training in marketing and distribution from Charm Limited as per DCA agreement, free of cost. Company charges ₹ 75,000 for such training when it provides the same to others.	Nil

Applicable rate of tax on both inward and outward supplies is 9% each for CGST and SGST and 18% for IGST. Amounts given above are exclusive of taxes wherever applicable. Subject to the information given above, necessary conditions are complied with for availment of input tax credit.

You are required to calculate the gross GST liability and eligible input tax credit for the month of March 2022 of Mr. Handsome. Brief notes should form part of your answer for treatment of items in Sl. No. (i) to (v).

[PYQ Nov 2022]

NOTES

Solution

Computation of gross GST liability of Mr. Handsome for the month of March 2022

Particulars		CGST (₹)	SGST (₹)	IGST (₹)
Goods sold by Mr. Handsome in his DCA capacity	2,80,000	27,000 [3,00,000 × 9%]	27,000 [3,00,000 × 9%]	
Add: Interest earned for short term credit facility provided to above customers [Interest included in the value of supply of the goods sold since where DCA is an agent under Schedule - I of the CGST Act, short term credit facility provided by DCA to the buyer is subsumed in the supply of the goods by the DCA to the buyer.]	20,000			
Commission charged for DCA services [Being taxable supply of services.]				5,400 [30,000 × 18%]
Gross GST liability		27,000	27,000	5,400
Note: Since the invoice for goods sold is issued by the DCA – Mr. Handsome in his own name, he would fall under the ambit of an agent under Schedule – I of the CGST Act.				

Computation of eligible ITC for the month of March 2022

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Inward supply of goods from Charm Limited free of cost [Supply of goods by principal – Charm Limited to the agent – Mr. Handsome qualifies as supply even though it is made without consideration.]			36,000 [2,00,000 × 18%]
Training in marketing and distribution received from Charm Limited free of cost [Since no consideration is charged for the services provided, said services do not qualify as supply. As no GST is paid on the same, ITC is not available]	--	--	--
Total ITC available	Nil	Nil	36,000

Illustration 25

Mr. B, a registered supplier of Uttar Pradesh, is doing the trading of taxable goods. He approaches you to understand the manner of utilisation of available Input Tax Credit (ITC). With reference to provisions of payment of tax, state the manner of uilisation of ITC under GST law.

[PYQ May 2022]

NOTES

Solution

The manner of utlisation of ITC under GST law is as under:

1. IGST credit should first be utilized towards payment of IGST.
2. Remaining IGST credit, if any, can be utilized towards payment of CGST and SGST/UTGST in any order and in any proportion.
3. Entire ITC of IGST should be fully utilized before utilizing the ITC of CGST or SGST/UTGST.
4. Subsequently, ITC of CGST should be utilized for payment of CGST and IGST in that order.
5. ITC of SGST /UTGST should be utilized for payment of SGST/UTGST and IGST in that order.
6. ITC of SGST/UTGST should be utilized for payment of IGST, only after ITC of CGST has been utilized fully.
7. ITC of SGST/UTGST cannot be utilized for payment of CGST and vice versa.

Illustration 26

Zeon Ltd., a GST registered supplier located in Ranchi, Jharkhand, is engaged in the manufacturing of washing machines & mixer grinders. It provides you the details of various activities undertaken during the month of September, 2021 as follows:

Sl. No.	Particulars			Amount (₹)
(i)	Outward supplies made during the month			29,00,000
	a.	Within Jharkhand	₹ 24,00,000	
	b.	Outside Jharkhand	₹ 5,00,000	
(ii)	Purchase of raw materials from registered dealers within Jharkhand which includes materials worth ₹ 2,00,000 purchased from Mr. Krishna, a registered person who is paying tax under composition scheme.			7,00,000
(iii)	Bus purchased from a registered dealer in Tatanagar, Jharkhand. Bus used to ferry its 25 workers to and from factory.			12,00,000

Assume the rates of GST applicable on various supplies as follows:

Nature of supply	CGST	SGST	IGST
Composition supplies	0.5%	0.5%	-
Bus	14%	14%	28%
Raw material	6%	6%	12%
Washing machines & mixer grinders	9%	9%	18%

Opening balances of input tax credit as on 01/09/2021 were as follows:

CGST (₹)	SGST (₹)	IGST (₹)
20,000	5,000	95,000

NOTES

Note:

(i) All the figures mentioned above are exclusive of taxes.

(ii) Both inward & outward supplies within the State of Jharkhand are to be considered intra-State supplies and outside the State of Jharkhand are inter-State supplies.

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

(iv) Calculate the amount of net minimum GST payable in cash by Zeon Ltd. for the month of September, 2021.

[PYQ May 2022]

Solution

Computation of minimum net GST payable in cash by Zeon Ltd. for the month of September 2021

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Outward supplies made within Jharkhand	2,16,000 [24,00,000 × 9%]	2,16,000 [24,00,000 × 9%]	
Outward supplies made outside Jharkhand			90,000 [5,00,000 × 18%]
Total output tax	2,16,000	2,16,000	90,000
Less: Input Tax Credit [Refer Working Note below] [IGST credit be first utilized for payment of IGST liability. Remaining IGST credit has been utilized for payment of SGST liability since the SGST liability is to be kept at minimum. After exhausting IGST credit, CGST and SGST credit to be utilized. CGST credit to be utilized for payment of CGST and SGST credit to be utilized for the payment of SGST. ITC of CGST cannot be utilized for payment of SGST and *vice versa*.]	-	5,000 (IGST)	(90,000) (IGST)
	2,16,000 (CGST)		
		2,03,000 (SGST)	
Minimum net GST payable in cash	Nil	8,000	Nil
ITC to be carried forward next month	2,000		

Working Note:

Computation of ITC available

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Opening balance	20,000	5,000	95,000

NOTES

Purchase of raw materials from registered dealers within Jharkhand [7,00,000 – 2,00,000] [ITC on purchases of goods worth ₹ 2,00,000 on which tax has been paid under composition scheme is blocked. ITC on remaining purchases worth ₹ 5,00,000 is available, being supply of goods used/intended to be used in the course/furtherance of business.]	30,000 [5,00,000 × 6%]	30,000 [5,00,000 × 6%]	
Bus purchased from dealer in Jharkhand used to ferry 25 workers to and from factory [ITC on motor vehicles for transportation of persons with seating capacity > 13 persons (including the driver) used for any purpose is allowed.]	1,68,000 [12,00,000 × 14%]	1,68,000 [12,00,000 × 14%]	
Total ITC available	2,18,000	2,03,000	95,000

Illustration 27

Miss Shreya, proprietor of M/s. Happy Enterprise, a registered supplier of taxable goods and services in the state of West Bengal, pays GST under regular scheme. It is not eligible for any threshold exemption. It provided the following information for the month of December 2024:

S. No.	Particulars	Amount (₹)
	OUTWARD SUPPLY:	
i.	Intra-state supply of goods to M/s. Reliable & Sons	7,00,000
ii.	Intra-state transfer of goods to its branch office in the state of West Bengal. Both places are under the same GSTIN.	1,00,000
iii.	Permanent transfer of old computers to orphanage home without consideration. Input tax credit was not availed on the same.	80,000
iv.	Advance received for Future supply of management consultancy service to Mr. Shubam (Intra-state supply)	40,000
	INWARD SUPPLY: (Intra-state)	
i.	Purchase of taxable goods from registered suppliers.	8,00,000
ii.	Availed Works Contract service for repair of office building. Amount of repair was debited in the profit & loss account.	30,000
iii.	Availed legal service form an advocate to represent the matter in the Court relating to collection of disputed proceed from customers.	50,000

NOTES

Notes:

(i) Rate of CGST, SGST and IGST on all supplies are as below:

Particulars	CGST	SGST	IGST
Goods	2.5%	2.5%	5%
Supply of services	9%	9%	18%

(ii) Both inward and outward supplies given above are exclusive of taxes.

(iii) All the conditions necessary for availing the ITC have been fulfilled.

(iv) The aggregate turnover of M/s Happy Enterprise in the preceding financial year exceeds the threshold limit for registration.

(v) Working note should form part of the answer.

(vi) Compute the net minimum GST payable in cash by M/s. Happy Enterprise for the month of December 2024.

[MTP JAN 2025]

Solution

(a) Computation of minimum net GST payable in cash by M/s Happy Enterprise for the month of December 2024

Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
GST payable under forward charge				
Intra-State supply of goods to M/s Natural & Sons	7,00,000	17,500 [7,00,000 × 2.5%]	17,500 [7,00,000 × 2.5%]	
Intra-State branch transfer [Such transfer is not a supply as the branch has the same GSTIN as that of the head office and thus, is not a distinct person.]	1,00,000	--	--	
Permanent transfer of old computers to orphanage home without consideration. [Permanent transfer or disposal of business assets was not treated as supply even if made without consideration in terms of Schedule–I of the CGST Act, 2017, as ITC was not availed on the same.]	80,000			--
Advance received for future intra-State supply of management consultancy service (In case of supply of service, tax is payable at the time of receipt of advance amount too)	40,000	3,600 [40,000 × 9%]	3,600 [40,000 × 9%]	

NOTES

Total output tax		21,100	21,100	
Less: ITC utilized		27,200	27,200	
Net GST payable [A]		Nil	Nil	
Legal services availed [B] [Tax on legal services availed by a business entity from an advocate is payable under reverse charge. Further, tax payable under reverse charge cannot be set off against ITC and thus, reverse charge has to be paid in cash since the tax payable under reverse charge is not an output tax.]	50,000	4,500 [50,000 × 9%]	4,500 [50,000 × 9%]	
Minimum net GST payable in cash [A] + [B]		4,500	4,500	

Working Note:

Computation of ITC available

Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
Intra-State purchase of taxable goods [ITC of goods used in the course/ furtherance of business is available.]	8,00,000	20,000 [8,00,000 × 2.5%]	20,000 [8,00,000 × 2.5%]	
Works contract service for repair of office [ITC is available since the repair amount is debited in the profit & loss account and not capitalized in the books of account.]	30,000	2,700 [30,000 × 9%]	2,700 [30,000 × 9%]	
Legal services availed [ITC of services used in the course/ furtherance of business is available	50,000	4,500 [50,000 × 9%]	4,500 [50,000 × 9%]	
Total		27,200	27,200	

NOTES

Illustration 28

Angira Ltd. is a supplier of taxable goods in Karnataka. It got registered under GST in the month of September, 20XX and wishes to pay its IGST liability for the month. Since it is making the GST payment for the first time, it is of the view that it needs to mandatorily has the online banking facility to make payment of GST; offline payment is not permitted under GST. You are required to apprise Angira Ltd. regarding the various modes of deposit in the electronic cash ledger. Further, advise it with regard to following issues:

(a) Are manual challans allowed under GST?

(b) What is the validity period of the challan?

[MTP Nov 2020]

Solution

As per the provisions of CGST Act, 2017 read with relevant rules, the deposit in electronic cash ledger can be made through any of the following modes, namely:-

(i) Internet Banking through authorised banks;

(ii) Credit card or Debit card through the authorised bank;

(iii) National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or

(iv) Over the Counter payment through authorised banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft. Thus, offline mode is also permitted under GST subject to specified conditions.

(a) Manual or physical Challans are not allowed under the GST regime. It is mandatory to generate Challans online on the GST Portal.

(b) Challan is valid for a period of 15 days.

NOTES

Chapter 14: TDS & TCS Under GST

Section 51 Tax deduction at source (TDS)

1. **Following Person Shall Deduct Tax u/s 51** (Specified Recipient)
   - Central Govt./State Govt. → Department/Establishment
   - Local Authority
   - Government Agencies
   - Public Sector Undertakings
   - Society Established by CG/SG under Society Act
   - An Authority/Board or other body
     - Setup by an act of Parliament/State legislature
     - Where 51% or more equity/control with Govt
   - Any RP receiving supply of metal scrap from Unregistered Supplier

2. **When to Deduct TDS**

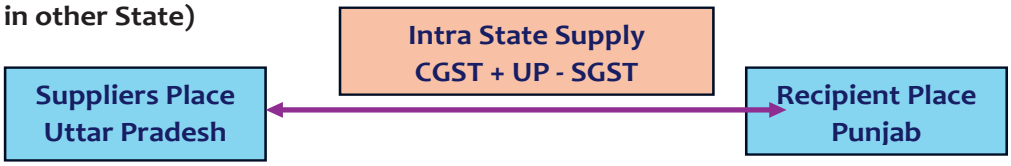
   Supply of taxable Goods & or Services under a CONTRACT exceeds 2,50,000 excluding GST. Further TDS will be deducted even if the supplier is a composition Tax Payer.

3. **TDS Rate**

   1% (CGST) + 1% (SGST) or 2% (IGST) on payment made or credited to supplier for taxable goods & services. [Value shall be taken for deduction of TDS, exclusive of GST shown in Invoices]

4. **When not Required to Deduct TDS**
   - Value of taxable Supplies in a Contract Value ≤ Rs 2,50,000.
   - Contract value > Rs 2,50,000 for both taxable as well as exempt supply, but the value of taxable supply under contract ≤ Rs 2,50,000.
   - Exempt Supplies.
   - Supply Under RCM
   - Payment made to Unregistered Supplier. Except unreg. Supplier of Metal Scrap
   - Goods / Services Supplied between person notified to deduct TDS Except metal scrap supplies.
   - Location of Supplier & Place of Supply (In Same State & But Recipient's place in other State)

Imp.



In Such Case TDS is deduct in form of UP- State tax that would not be possible to be deducted by Recipient in Punjab. Hence TDS N.A. on Such transaction.

NOTES

Morning ✗ — Evening = 7 PM. ✓

Analysis

Location Of Supplier	Place Of Supply	Location Of Recipient	TDS u/s 51
Uttar Pradesh	Uttar Pradesh	Uttar Pradesh	Yes
Delhi	Uttar Pradesh	Uttar Pradesh	Yes
Delhi	Delhi	Uttar Pradesh	No
Chandigarh	Chandigarh	Chandigarh	Yes
Chandigarh	Chandigarh	Ladakh	No
Chandigarh	Ladakh	Ladakh	Yes

INTRA INTER INTRA INTRA INTRA INTER

5. Other Points — Sp. Recipient
   - Deductor Shall Deposit TDS Deducted by 10th of Succeeding month.
   - TDS Certificate in form GSTR-7A shall be provided to deductee.
   - TDS deducted shall reflect in Cash ledger of deductee.
   - Failure to Deposit TDS- Interest @18% & Penalty.

Section 52 Tax Collected at source (TCS)

1. Who shall collect TCS
   - Every E-Commerce Operator (Not an agent)
   - Shall collect TCS from the Net Amount collected by ECO.

2. TCS Rate
   0.25% (CGST) + 0.25% (SGST) or 0.5% (IGST) on Net Value of taxable Supplies.
   INTRA INTER

3. Net Value = Value of G/S Supplied - Returned Supply
   → Not Include GST

4. Eco Obligation
   - Eco Shall File Statement in form GSTR-8 & Deposit TCS within 10 days from end of month
   - Eco Shall also file Annual Statement GSTR 9-B before 31st Dec following end of FY Detailing
     - Outward Supplies of G/S Including returns made
     - Amount collected as TCS

5. TCS Not applicable in following cases
   a. Supplies Own Product through website hosted by him
   b. Supplies Different Vendor Product & amount collected by Vendor Only
   c. Supply of Services notified under section 9(5)
   d. Exempt Supplies
   e. Recipient Required to pay tax on RCM.
   f. Supply of Services by Supplier not liable to register.

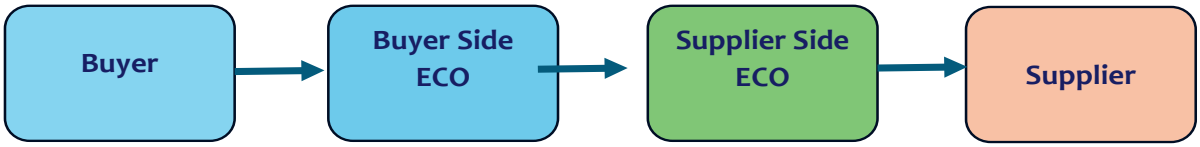
NOTES

Clarifications — Open Network for Digital Commerce ONDC

1. Clarification on TCS liability in case of multiple ECOs in one transaction

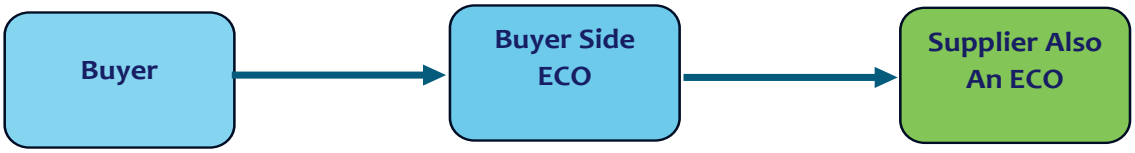
In the case of the ONDC Network (Open Network for Digital Commerce) there can be multiple ECOs in a single transaction - one providing an interface to the buyer and the other providing an interface to the seller.

Issue 1: In a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and where the supplier-side ECO himself is not the supplier in the said supply, who is liable for compliances under section 52 including collection of TCS?



Clarification: The compliances under section 52, including collection of TCS, is to be done by the supplier-side ECO who finally releases the payment to the supplierfor a particular supply made by the said supplier through him.

Issue 2 : 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, who is liable for compliances under section 52 including collection of TCS?



Clarification: In such a situation, TCS is to be collected by the Buyer-side ECO while making payment to the supplier for the particular supply being made through it.

Other Provisions Related To TCS

1. **Unregistered persons with aggregate turnover upto threshold limit permitted to supply goods through an ECO.**
   Person not liable for registration u/s 22 shall be allowed to make supply Goods through ECO subject to following conditions:
   - (i) Restricted from making inter-State supply of goods;
   - (ii) Restricted from making supply of goods through ECO in more than one State/Union territory;
   - (iii) Must be having PAN

NOTES

(iv) Before making any supply of goods through ECO, declare on the common portal:
   a. PAN
   b. address of business and
   c. State/UT in which such persons seek to make such supply.

(v) enrolment number have been granted on the common portal on successful validation of the PAN declared above.

(vi) such persons shall not be granted more than one enrolment number in a State/UT.

(vii) no supply of goods shall be made by such persons through ECO unless such persons have been granted an enrolment number on the common portal.

Obligations Of ECO where URP makes supply through it.

(i) ECO shall allow the supply of goods through it by the unregistered person onlyif enrolment number has been allotted.

(ii) ECO shall not collect tax at source under section 52.

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

Where multiple ECOs are involved in a single supply of goods through ECO platform, "ECO" shall mean the ECO who finally releases the payment to the said person for the said supply made by the said person through him.

2. Special procedure to be followed by ECOs in respect of supplies of goods through them by composition taxpayers

a. The ECO shall not allow any inter-State supply of goods through it by the said person.

b. The ECO shall collect TCS.

c. The ECO shall furnish the details of supplies of goods made through it by the said person in the statement in Form GSTR-8 electronically on the common portal.

3. Section 9(5) Tax payable by ECO on Notified Services

The Government may, on the recommendations of the GST Council, notify specific categories of services the tax [CGST/SGST/IGST] on supplies of which shall be paid by the electronic commerce operator (ECO) if such services are supplied through it. Such services shall be notified on the recommendations of the GST Council.

NOTES

The following categories of services supplied through ECO have been notified for this purpose:

a) **Transportation of passengers** by a radio-taxi, motorcab, maxicab, motor cycle, or any other motor vehicle except omnibus. (Eg. OLA/UBER/RAPIDO).

b) **Transportation of passengers** by omnibus except where person supplying such service through ECO is company. (i.e. where company is supplying services through ECO, then company is liable to pay GST under Normal Charge)

c) **Providing accommodation** in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, **except** where the person supplying such service through ECO is liable for registration. (Eg. YATRA/GOIBIBO/TRIPADVISOR etc)

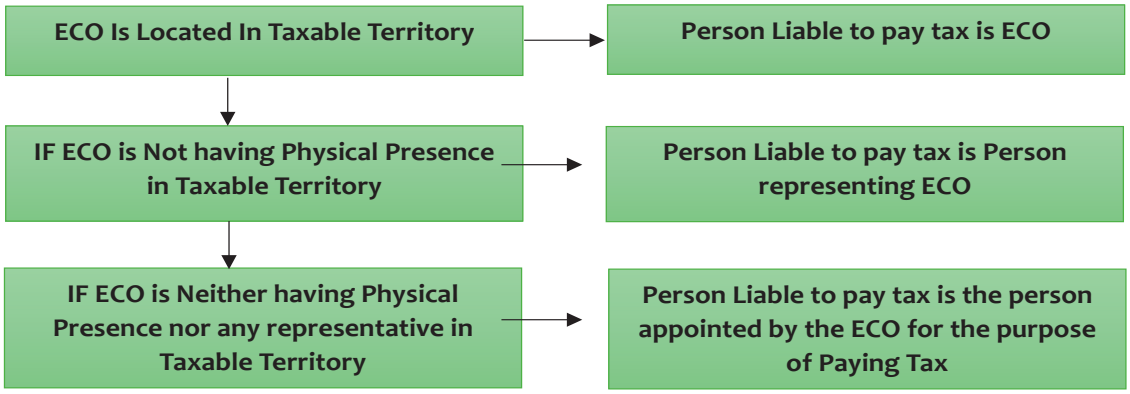
d) **House-keeping services**, such as plumbing, carpentering etc, **except** where the person supplying such service through ECO is liable for registration. (Eg. URBAN-CLAP)

e) Restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.

Note: 'Specified premises' would mean premises providing hotel accommodation service having declared tariff of any unit of accommodation above ₹ 7,500 per unit per day or equivalent.

Not Relevant for Exam & Read.

- Tax on above services supplied through ECO shall be paid by the ECO.
- All the provisions of the CGST/ IGST Act shall apply to such ECO as if he is the supplier liable for paying the tax in relation to the supply of above services.
- Person liable to pay GST for above specified services when supplied through ECO



NOTES

Not Relwant for Exam – Read only.

Clarification regarding GST on Services Supplied by Restaurants Through ECO

Issue	Clarification
Does ECOs have to collect TCS in respect of restaurant services so notified?	No, ECOs will no longer be required to collect TCS and file Form GSTR-8 in respect of restaurant services on which ECO pays tax under section 9(5)
Is ECO required to take separate registration for paying tax on restaurant service supplied through them?	No, as ECOs are already registered as per section 24 (as a supplier of their own goods or services), there would be no mandatory requirement of taking separate registration by ECOs for payment of tax on restaurant service under section 9(5).
Are ECO to pay tax on any restaurant services supplied through them?	Yes, ECOs will be liable to pay GST on any restaurant service supplied through them including services supplied by an unregistered person.
Does Supply of restaurant services to be included in aggregate turnover of person supplying restaurant services through ECO	Yes, Such Supplies shall be include the aggregate value of supplies made by the restaurant through ECOs.
Restaurant services provided through ECO are to be considered as inward supply for ECOs liable to RCM ?	No, ECOs are not the recipient of restaurant service supplied through them. Since these are not input services to ECO, these are not to be reported as inward supply liable to reverse charge.
Is ECO Liable to raise invoice in respect of restaurant service supplied through ECO?	Yes, The invoice in respect of restaurant service supplied through ECO under section 9(5) will be issued by ECO.
Can ECO utilize ITC to pay tax with respect to "restaurant service" supplied through ECO?	No, the liability of payment of tax by ECO with respect to restaurant service shall be discharged in Cash.
Would restaurant service and goods or service other than restaurant service sold by a restaurant to a customer under the same order to be billed differently? Who shall be liable for raising invoices in such case?	Yes, the invoice in respect if restaurant service supplied through ECO will be issued by ECO. And for other supplies, supplier will be liable to issue invoice for the same and ECO shall be liable to deduct TCS from the amount collected for other supplies made through it.

NOTES

E-COMMERCE

Electronic COMM.
↳ online Sell.

Question Bank

Illustration 01

Mr. X is a supplier selling his own products through a web site hosted by him. Does he fall under the definition of an "electronic commerce operator"? Whether he is required to collect TCS on such supplies?

Solution

As per the definitions in Section 2(44) and 2(45) of the CGST Act, 2017, Mr. X will come under the definition of an "electronic commerce operator". However, according to Section 52 of the Act ibid, 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 tax at source as per the provisions of this Section. These transactions will be liable to GST at the prevailing rates.

Illustration 02

If Mr. A purchase goods from different vendors and in turn Mr. A, is selling them on his own website under his own billing, Is TCS required to be collected on such supplies?

Solution

No. According to Section 52 of the CGST Act, 2017, TCS is required to be collected on the net value of taxable supplies made through E-commerce operator by other suppliers where the consideration is to be collected by the ECO. In this case, there are two transactions - Mr. A purchase the goods from the vendors, and those goods are sold through his own website. For the first transaction, GST is leviable, and will need to be paid to vendor, on which credit is available to Mr. A. The second transaction is a supply on own account of Mr. A, and not by other suppliers and there is no requirement to collect tax at source. The transaction will attract GST at the prevailing rates.

Illustration 03

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

Solution

The rate of TCS as notified under CGST Act is payable under CGST and the equal rate of TCS is expected under the SGST Act also, in effect aggregating to 0.5%

Illustration 04

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

Cases.
No TCS

Solution

Yes, every e-commerce operator is required to collect tax where consideration with respect to the supply is being collected by the e-commerce operator.
However, no TCS is required to be collected in the following cases:-

1. on supply of services notified under section 9(5) of the CGST Act, 2017
2. on exempt supplies
3. on supplies on which the recipient is required to pay tax on reverse charge basis.

NOTES

Illustration 05

State whether the provisions pertaining to tax collected at source under section 52 of CGST Act, will be applicable, if Fitan Ltd. sells watch on its own through its own website?

Solution

As per Section 52, every electronic commerce operator not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.

Hence, if the person sells on his own, provisions pertaining to tax collected at source (TCS) won't be applicable.

Illustration 06

There is no onus of filing any monthly & annual statements by ECO. Examine the technical veracity of the statement by explaining relevant provisions.

Solution

The given statement is invalid. An electronic statement has to be filed by the ECO containing details of the outward supplies of goods and/ or services effected through it, including the supplies returned through it and the amount collected by it as TCS during the month within 10 days after the end of the each month in which supplies are made. Additionally, the ECO is also mandated to file an Annual Statement on or before 31st day of December following the end of the financial year.

The Commissioner has been empowered to extend the due date for furnishing of monthly and annual statement by the person collecting tax at source.

Illustration 07

State whether the provisions pertaining to tax collected at source under section 52 of CGST Act, will be applicable, if ABC limited who is dealer of Royal brand sells watches through Slipkart, an electronic commerce operator?

Solution

As per Section 52, every electronic commerce operator not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator. If ABC limited who is dealer of Royal brand sells watches through Slipkart, then the provision of TCS will be applicable to Slipkart.

Illustration 08

Ramlala Enterprises, registered in Delhi, is engaged in supply of interior decoration services to Andhra Bhawan located in Delhi. Service contract is entered into with the Government of Andhra Pradesh (registered only in Andhra Pradesh). The total contract value inclusive of GST is Rs 15,50,000 and payment for the same is due in October, 2023.

NOTES

You are required to determine amount of tax, if any, to be deducted in the above case assuming the rate of CGST, SGST and IGST as 9%, 9% and 18% respectively.
Will your answer be different, if Ramlala Enterprises is registered under composition scheme?

[RTP May 24]

Solution

As per section 51 of the CGST Act, 2017 read with section 20 of the IGST Act, 2017 and Notification No. 50/2018 CT 13.09.2018, following persons are required to deduct CGST @ 1% [Effective tax 2% (1% CGST + 1% SGST/UTGST)] or IGST @ 2% from the payment made/credited to the supplier (deductee) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds 2,50,000:

a) a department or establishment of the Central Government or State Government; or
b) local authority; or
c) Governmental agencies; or
d) an authority or a board or any other body, -
   1. set up by an Act of Parliament or a State Legislature; or
   2. established by any Government,
   with 51% or more participation by way of equity or control, to carry out any function; or
e) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860, or
f) Public sector undertakings.

Further, for the purpose of deduction of tax, the value of supply shall be taken as the amount excluding CGST, SGST/UTGST, IGST and GST Compensation Cess indicated in the invoice.

Proviso to section 51(1) of the CGST Act, 2017 stipulates that no tax shall be deducted if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.

Section 12(3) of the IGST Act, 2017, inter alia, stipulates that the place of supply of services, directly in relation to an immovable property, including services provided by interior decorators, shall be the location at which the immovable property is located or intended to be located. Accordingly, the place of supply of the interior decoration of Andhra Bhawan shall be Delhi.

Since the location of the supplier (Ramlala Enterprises) and the place of supply is Delhi and the State of registration of the recipient i.e. Government of Andhra Pradesh is Andhra Pradesh, no tax is liable to be deducted in the given case.

The answer will remain unchanged even if Ramlala Enterprises is registered under composition scheme.

Illustration 09

Mr. Bholuram, a supplier located in Meerut, U.P. supplied the bedsheets, pillow covers and blankets to a Governmental agency, registered in U.P. under a contract. The total contract value is ₹ 4,61,000 excluding GST. The value of supply is bifurcated as below:

400 Blankets for ₹ 600 each	₹ 2,40,000
850 Bed Sheets for ₹ 180 each	₹ 1,53,000
1700 Pillow Covers for ₹ 40 each	₹ 68,000

S = UP ✓
R = UP ✓
PoS = UP
} Intra = TDS ✓
1% C = 4610
1% UP-S = 461

NOTES

Is Governmental agency required to deduct tax at source (while making the payment to Mr. Bholuram) under section 51 of the CGST Act, 2017 and if yes, determine the amount of tax to be deducted source? [RTP Jan 2025]

Solution

As per section 51 of the CGST Act, 2017, it is mandatory for the following persons to deduct tax at source from payments made to the suppliers of taxable goods and/or services:-

(a) Central/State Government department or establishment;
(b) local authority; or
(c) Governmental agencies; or
(d) such notified persons

The tax would be deducted @ 1% (each under CGST and SGST) of the payment made to the supplier of taxable goods and/or services, where the total value of such supply, under a contract, exceeds ₹ 2,50,000 (excluding the amount of Central tax, State tax, Union Territory tax, Integrated tax and cess indicated in the invoice). Thus, individual supplies may be less than ₹ 2,50,000/-, but if total value of supplies under a contract is more than ₹ 2,50,000/-, TDS has to be deducted.

In the given case, Mr. Bholuram has made supplies to a Governmental agency and total value of supply under a contract exceeds ₹ 2,50,000, it is mandatory for Governmental agency to deduct TDS @1% each under CGST and SGST on the net value of taxable supplies.

The amount of TDS required to be deducted each under CGST & SGST each is ₹ 4,610.

Illustration 10

Mohan, a registered person in Salem, Tamil Nadu, makes intra-State supply of taxable goods amounting to ₹ 13,57,000 (inclusive of GST) to a Public Sector Undertaking (PSU). Consideration for same is received in 5 equal instalments from the PSU.

Tax rates applicable: CGST 9%, SGST 9%, IGST 18%

What will be your view with respect to applicability of TDS provisions as per section 51 of the CGST Act, 2017 regarding above transaction?

What is the period by which TDS is required to be deposited to the Government account?

[PYQ Sep 2024]

Solution

In case of intra-State supply of goods by a supplier to a PSU, TDS @ 1% each under CGST and SGST is liable to be deducted by PSU only when the total value of supply under a contract exceeds ₹ 2,50,000 (exclusive of tax & cess), from the payment made or credited to the supplier.

Accordingly, in the given case, since the value of supply under the contract excluding taxes and cesses is ₹ 11,50,000 (₹ 13,57,000 × 100/118),

TDS @ 1% on payment of each of the instalment of ₹ 2,30,000 (₹ 11,50,000/5), i.e. ₹ 2,300 each under CGST and SGST is to be deducted even though the individual payment is less than ₹ 2,50,000.

The amount of TDS deducted shall be paid to the Government by the deductor within 10 days after the end of the month in which such deduction is made or by 10th of the succeeding month.

NOTES

CHAPTER 15: GST RETURNS

GSTR 1 FURNISHING DETAILS OF OUTWARD SUPPLIES [SECTION 37]

A. Person Liable to furnish details of outward supply

Every registered person including casual registered person except the following:

- input service distributor (ISD) – I
- non-resident taxable person NRTP – N
- person paying tax under composition scheme – C
- person deducting tax at source – T
- person collecting tax at source i.e., e-commerce operator (ECO) – T
- a supplier of online information and database access or retrieval services (OIDAR) – O

CIN-TOT

B. Due Date

GSTR-1 of a month can be filed any time between 1st and 11th day of the succeeding month.

However, The registered persons having aggregate turnover of up to 5 crore rupees in the preceding financial year or the current financial year and opted QRMP Scheme shall be liable to file GSTR-1 for every quarter till the 13th day of the month succeeding such tax period.

C. Kind of details of outward supplies Imp.

i. Invoice-wise Details:
   a) B2B Supplies
   b) inter-State supplies made to unregistered persons with Invoice value exceeding ₹1,00,000

ii. Consolidated Details
   a) Intra-State supplies made to unregistered persons for each rate of tax
   b) Inter-State supplies made to unregistered persons with Invoice value up to ₹1,00,000 for each rate of tax separately for each State

iii. Debit and Credit Notes - Issued during the month for invoices issued previously

Note:

- Invoices can be uploaded any time during the tax period and not just at the time of filing of GSTR-1.
- Invoices can be modified/deleted any number of times till the submission of GSTR-1 of a tax period. The uploaded invoice details are in a draft version till the GSTR-1 is submitted and can be changed irrespective of the due date.

NOTES

D. How are the details of outward supply furnished in prior periods amended?
Under GST there is no option of revise return as available under Income Tax Law. However, any error, mistake or omission made in furnishing the details of invoices in GSTR 1 of earlier tax period can be rectify in the return to be furnished in the tax period in which such error, mistake or omission is noticed. If any tax is payable due to such rectification, then such tax shall be paid along with interest u/s 50.

E. Communication of details of GSTR-1 to the recipient of supply
The details of outward supplies for a month furnished by the supplier are communicated and made available electronically (auto populated) to the respective recipient(s) in Part A of Form GSTR- 2A/Form GSTR-4A (in case of registered person opting for composition levy through the common portal after the ~~10th day~~ 11th | 13th of the succeeding month (due date of filing of GSTR-1).

F. Rectification of errors
If the supplier discovers any error or omission, he shall rectify the same in the tax period during which such error or omission is noticed, However, the maximum time limit within which such amendments or rectification are permissible is earlier of the following dates:

a) Upto 30/11 of next FY
b) Date of filing of the relevant annual return.

G. Other Points

a) GSTR-1 needs to be filed even if there is no business activity (Nil Return) in the tax period.
b) A Nil GSTR-1 can be filed through an SMS using the registered mobile number of the taxpayer. GSTR-1 submitted through SMS is verified by registered mobile number-based OTP facility.
c) Taxpayers opting for voluntary cancellation of GSTIN have to file GSTR-1 for an active period.
d) In cases where a taxpayer has been converted from a normal taxpayer to composition taxpayer, GSTR-1 will be available for filing only for the period during which the taxpayer was registered as a normal taxpayer. The GSTR-1 for the said period, even if filed with delay, would accept invoices for the period prior to conversion.

H. Blocking Of GSTR-1 & IFF Filling

1. In case of persons who have not opted for QRMP scheme: Such registered person has not furnished GSTR-3B of preceding month.
2. In case of persons who have opted for QRMP scheme: Such registered person has not furnished GSTR-3B for preceding quarter.

NOTES

3. If the details of outward supplies for any of the previous tax periods has not been furnished by him through filing of GSTR-1.
4. Has neither deposited the amount specified in the intimation issued u/r 88C(1) nor has furnished a reply explaining the reasons for any amount remaining unpaid
5. Has neither paid the amount equals to the excess ITC as specified in the intimation issued u/r 88D(1) nor has furnished a reply explaining the reasons for any amount remaining unpaid
6. He has not furnished the bank account details as per the provisions of Rule 10A.
7. The registered person shall not be allowed to furnish GSTR-1 for the tax period after the expiry of a period of 3 years from the due date of furnishing the such statement.

Rule 88C- Manner of dealing with the difference in liability reported in FORM GSTR-1 and that reported in FORM GSTR – 3B

- When there is a discrepancy between the tax liability declared in GSTR-1 (outward supplies) and GSTR-3B (summary return), the taxpayer is intimated by the proper officer.
- The taxpayer has 7 days to either pay the differential tax liability along with interest or explain the discrepancy to the satisfaction of the proper officer.
- If the taxpayer fails to deposit the amount or respond within the prescribed time or the officer is not satisfied with the explanation then amount shall be recoverable as per the provisions of section 79.

Rule 88D- Manner of dealing with the difference in ITC available in FORM GSTR-2B and that availed in FORM GSTR – 3B

- When there is a discrepancy between the ITC availed in GSTR-2B and GSTR-3B (summary return), the taxpayer is intimated by the proper officer.
- The taxpayer has 7 days to either pay the excess ITC availed along with interest or explain the discrepancy to the satisfaction of the proper officer.
- If the taxpayer fails to deposit the amount or respond within the prescribed time or the officer is not satisfied with the explanation then amount shall be demanded as per the provisions of section 73/74.

GSTR 1A

Read:

1. This form allows taxpayers to make changes, corrections, and amendments to the data filled in GSTR-1 for the same month before filing GSTR-3B of that month or quarter.
2. It can be filed electronically through the common portal, either directly or through a Facilitation Centre as may be notified by the Commissioner.

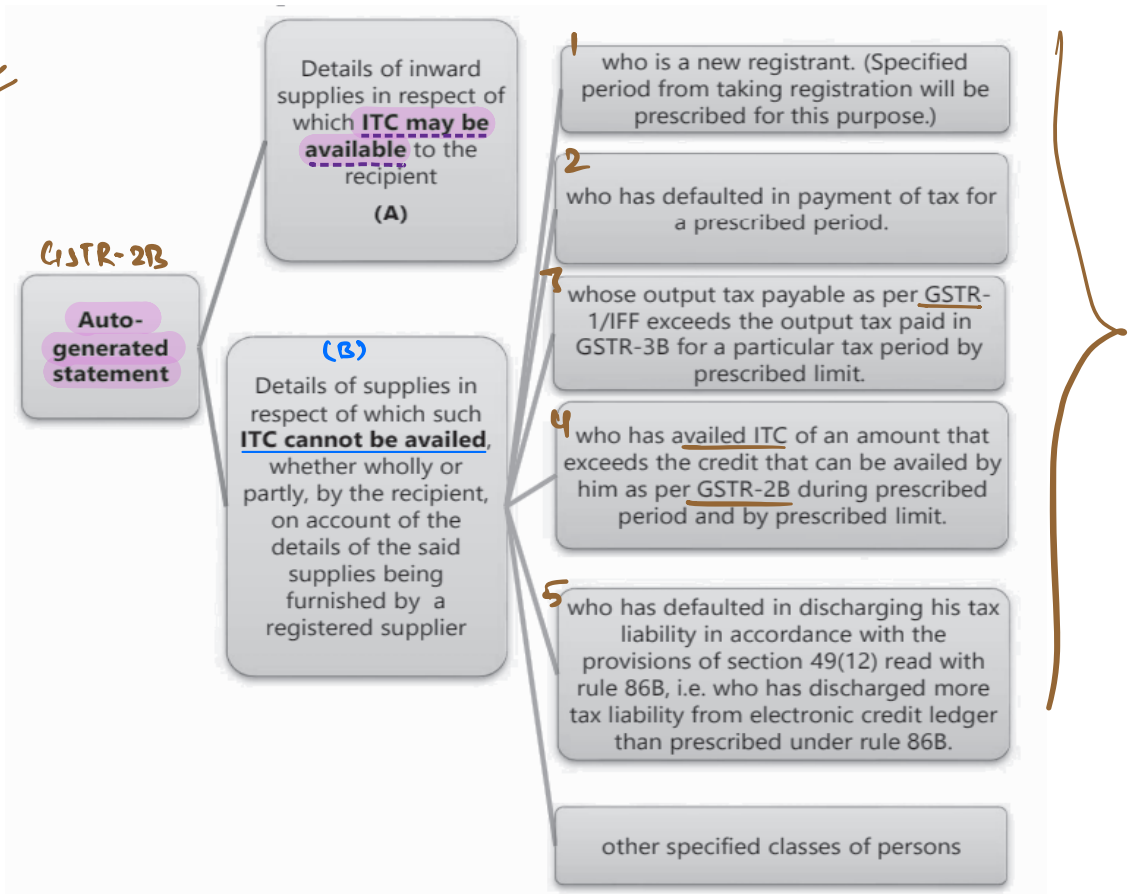
NOTES

3. The corresponding effect of the changes made through Form GSTR1A on the liability of the taxpayer shall be reflected in Form GSTR3B for the same tax period.
4. At the recipient's end, the ITC for the supplies declared or amended by the suppliers through Form GSTR-1A will be available to the recipient in Form GSTR-2B generated for the next tax period.
5. There is no late fee for GSTR-1A as it is optional to file
6. The form is available after the due date or actual filing date of GSTR-1 until the corresponding GSTR-3B is filed.
7. Changes to the recipient's GSTIN cannot be made in GSTR-1A

Example 1: If a supplier files invoice INV1 in GSTR-1 on February 8th but misses INV2 and files it in GSTR-1A on February 15th, INV1 appears in the recipient's GSTR-2B for January (available February 14th), while INV2 appears in the GSTR-2B for February (available March 14th).

Example 2: If a supplier files invoice INV3 in GSTR-1 on February 15th but files INV4 in GSTR-1A on February 16th, both INV3 and INV4 appear in the recipient's GSTR-2B for February (available March 14th).

Furnishing details of inward supplies [Section 38]



NOTES

- **Form GSTR-2A – is a system generated read only statement of inward supplies for a recipient. This statement is updated on a real time basis. The details become available to the recipient for view/ download and are updated incrementally as and when supplier(s) upload or change details in their respective form of return/statement, for the given tax period. Details of outward supplies furnished by the supplier in Form GSTR-1 or using the IFF are made available electronically to the concerned registered persons (recipients) in Form GSTR-2A.**
- **Form GSTR-2B – an auto-drafted read only statement containing the details of eligible ITC – is made available to the registered person (recipient) for every month. It is a static statement and is available only once a month.**
- **It consists of – the details of outward supplies furnished by the suppliers in Form GSTR1, other than a supplier who has opted for QRMP scheme, between the day immediately after the due date of furnishing of Form GSTR-1 for the previous month to the due date of furnishing of Form GSTR-1 for the month**

In case of monthly Form GSTR-1, the cut-off date is 00:00 hours on 12th of the relevant month to 23:59 hours, on 11th of the succeeding month. Whereas for quarterly Form GSTR-1/IFF the cut-off date is 00:00 hours on 14th day of relevant month to 23:59 hours, on 13th day of succeeding month.

FURNISHING OF RETURNS UNDER [SECTION 39]

A. GSTR-3B

- **GSTR-3B is a simple return containing summary of outward supplies, inward supplies liable to reverse charge, eligible ITC, payment of tax etc. Thus, GSTR3B does not require invoice-wise data of outward supplies.**
- **GSTR-3B can be submitted electronically through the common portal, either directly or through**
- **a Facilitation Centre notified by the Commissioner. Further, a Nil GSTR-3B can be filed through**
- **an SMS using the registered mobile number of the taxpayer.**
- **GSTR-3B can be filed monthly or quarterly.**
- **GSTR 3B Blocked:**
  - ✓ **A registered person shall not be allowed to furnish return in Form GSTR-3B for the current tax period, if he has not furnished the details of outward supplies in Form GSTR-1 or return in Form GSTR-3B for any of the previous tax periods.**
  - ✓ **The registered person shall not be allowed to furnish GSTR-3B for the tax period after the expiry of a period of 3 years from the due date of furnishing the such statement.**
- **Due Date**

NOTES

- ✓ Monthly GSTR-3B - on or before 20th of the month succeeding the month for which return is furnished.
- ✓ Quarterly GSTR-3B - on or before 22nd or 24th of the month succeeding the quarter for which return is furnished in case of a taxpayer opting for QRMP scheme.

B. Composition Supplier

(1) G/Rs (2A) other services

- Every registered person paying tax under section 10 i.e. composition supplier are required to file an annual return in FORM GSTR-4
- The persons required to file GSTR-4 are also required to furnish a statement in the FORM GST CMP-08 containing details of payment of self assessed tax, for every quarter (or part of the quarter), by 18th day of the month succeeding such quarter.
- GSTR-4 for a financial year should be furnished by 30th June of the succeeding financial year.
- Consolidated details of outward supplies
  - ✓ Composition taxpayers are neither entitled for any ITC nor entitled to pass on any input tax credit to its customers (registered/unregistered). Therefore, composition taxpayers are required to provide consolidated details of outward supplies in GSTR-4 and not invoice-wise details.
  - ✓ However, details of inter-State and intra-State inward supplies received from registered and unregistered persons are to be provided invoice wise.

2

- If a registered person opts to pay tax under composition scheme from the beginning of a financial year, he will, where required, furnish statements/return relating to the period prior to paying tax under composition scheme till earlier of:
  a) Upto 30/11 of next FY
  b) Date of filing of the relevant annual return.
- A registered person opting to withdraw from the composition scheme at his own motion or where option is withdrawn at the instance of the proper officer will, where required, furnish
  1. GST CMP-08 relating to the period prior to his exiting from composition scheme till 18th of the month succeeding the quarter in which the date of withdrawal/cessation falls
  2. GSTR-4 relating to the period prior to his exiting from composition scheme 30th June following the end of the financial year during which such withdrawal/cessation falls

Single Point

- A Nil GST CMP-08 can be filed through an SMS using the registered mobile number of the taxpayer. A Nil GST CMP-08 submitted through SMS is verified by registered mobile number-based OTP facility.

NOTES

C. GSTR-5 - Return for Non-Resident Taxable Persons

- NRTP has to file simplified monthly return for every calendar month or part thereof. The details of outward supplies and inward supplies of an NRTP are incorporated in GSTR-5.
- GSTR-5 should be furnished within 13 days after the end of the calendar month or within 7 days after the last day of validity period of the registration, whichever is earlier
- An NRTP should pay the tax, interest, penalty, fees or any other amount payable till the last date of filing GSTR-5.

NOTES

D. GSTR-7 - Return for tax deducted at source [Section 39(3) read with rule 66]

Read.

Hw.

Normally, whenever taxable goods or services or both are supplied to a Central/ State Government's Department/ establishment or, local authority, or Governmental agencies, recipient is required to deduct tax at source under section 51 where the total value of such supply exceeds ₹ 2,50,000.

a) The Deductor must submit a monthly return using Form GSTR-7.
b) The details for GSTR-7 must be provided by the 10th of the month following the calendar month in which tax was deducted at source.
c) It is mandatory to File GSTR-7 i.e. even if no tax is deducted during the month then also person registered u/s 51 have to file NIL return.
d) Details of TDS furnished by the Deductor in GSTR-7 shall be available to each deductee on the common portal. The deducted amount can be utilized by the supplier as credit in their electronic cash ledger, for tax payment or other liabilities.
e) The Deductor is required to issue a TDS certificate in Form GSTR-7A to the deductee within 5 days of crediting the amount to the Government.

E. GSTR – 8 - Statement for tax collection at source

Read.

Hw.

a) An ECO liable to collect tax at source shall furnish a monthly statement in Form GSTR-8. Form GSTR-8 contains the details of supplies of goods or services or both effected through ECO, including the supplies of goods or services or both returned through it and the amount of tax collected at source.
b) Due Date - upto 10th of the month succeeding the calendar month in which tax has been collected at source
c) These details shall be available to each supplier who supplied goods and/or services through the ECO on the common portal. TCS amount shall be credited to Electronic Cash Ledger of supplier.
d) If after submission of GSTR-8, the ECO discovers any discrepancy therein on his own - not being the result of any scrutiny, audit, inspection or enforcement proceedings - he should rectify such discrepancy. Rectification is allowed up to earlier of:
    i. 30th November following the end of the financial year
    ii. the actual date of filing of the relevant annual statement [GSTR-9B]
e) Registered Person shall not be allowed to furnishstatement (GSTR-8) after the expiry of a period of 3 years from the due date of furnishing the said return or statement.

NOTES

Read.

Due Date for Payment of Tax [Section 39(7)]

1. Due dates for payment of tax in respect of the persons required to file GSTR 3B and GSTR-5 are linked with the due dates for filing of such returns. However, due dates for payment of tax in respect of the persons required to file quarterly GSTR-3B under QRMP Scheme is delinked.
2. Persons paying tax under composition scheme u/s 10 & 10(2A) the due date for payment of tax and filing of GSTR-4 is delinked. They are required to pay tax quarterly by 18th of the month succeeding such a quarter.
3. NRTPs or casual taxable persons are required to make advance deposit of an amount equivalent to their estimated tax liability for the period for which registration is sought or extension of registration is sought in terms of section 27(2).

Hw.

Rectification of Errors/Omissions [Section 39(9)]

- Omission or incorrect particulars discovered in the returns filed u/s 39 can be rectified in the return to be filed for the tax period during which such omission or incorrect particulars are noticed. Any tax payable as a result of such error or omission will be required to be paid along with interest.
  However, rectification is not allowed where error or omission is discovered on account of scrutiny, audit, inspection or enforcement activities by tax authorities.
- Time limit for rectification of error or omission in GSTR
  (a) 30th November of the succeeding Financial year or
  (b) Actual Date of filing of annual return of the relevant FY, whichever is earlier.

First Return [Section 40]

1. When a person becomes liable to registration, he may apply for registration within 30 days of becoming liable. Thus, there might be a time lag between a person becoming liable to registration and grant of registration certificate.
2. During the pendency of registration, such person might have made the outward supplies, i.e. after becoming liable to registration but before grant of the certificate of registration.
3. Section 40 provides that registered person shall declare his outward supplies made during said period in the first return furnished by him after grant of registration.

Annual Return [Section 44 read with rule 80 of the CGST Rules]

1. **Who is Required to Furnish Annual Return**

   All registered persons are required to file an annual return. However, following persons are not required to file the annual return:

   a) Casual taxable persons.
   b) Non-resident taxable person
   c) Input service distributors and
   d) Persons authorised to deduct/collect tax at source under section 51/52
   e) Person supplying OIDAR services from a place outside India to a person in India.

CIN-TOT

NOTES

Rel. FY 25-26 | Next FY 26-27 — Due dat 31/12/26

2. **Due Date**

   The annual return for a financial year needs to be filed by 31st December of the next financial year.

3. Form for Annual Return
   - Regular Supplier – GSTR 9
   - Composition supplier – GSTR 9A
   - ECO required to collect tax at source – GSTR-9B (yet to be notified)

4. Self-certified reconciliation statement
   - Self-certified reconciliation statement will reconcile the value of supplies declared in the return furnished for the financial year with the audited annual financial statement.
   - All registered persons are required to file furnish a self certified reconciliation statement in Form GSTR-9C alongwith annual return if their aggregate turnover during a financial year exceeds ₹5 crores. Except
     (a) Casual taxable persons
     (b) Non-resident taxable person + OIDAR.
     (c) Input service distributors
     (d) Persons authorized to deduct/collect tax at source under section 51/52
   - The department of the Central/State Government or a local authority, whose books of account are subject to audit by CAG are exempt furnishing an annual return including self-certified reconciliation statement.

5. Registered Person shall not be allowed to furnish annual return after the expiry of a period of 3 years from the due date of furnishing the said return or statement.

Final Return [Section 45] Imp.

1. Who is Required to Furnish → GSTR-3B

   Every registered person who is required to furnish return u/s 39(1) and whose registration has been surrendered or cancelled is required to file a final return electronically in Form GSTR-10 through the common portal.

2. Time-limit

   The final return has to be filed within 3 months of the:
   (i) Date of cancellation or
   (ii) Date of order of cancellation whichever is later.

Canc. order = 15/10/25 → Reg cancl w.e.f 1/11/25 } Later 1/11/25 + 3m = 1/2/26

Canc. order = 15/10/25 → Reg cancl w.e.f 1/10/25 } later 15/10/25 + 3m = 15/1/26.

NOTES

GSTR 11 - Details of inward supplies of persons having UIN

Every person to whom UIN has been allotted shall furnish the details of the inward supplies of taxable goods and/or services on which refund of taxes has been claimed, in Form GSTR-11, along with application for such refund claim.

DEFAULT/DELAY IN FURNISHING RETURN [SECTIONS 46 & 47]

1. Notice to Return Defaulters [Section 46]
   A notice shall be issued to a registered person who fails to furnish return under
   a. section 39 [Normal Return] or
   b. section 44 [Annual Return] or
   c. section 45 [Final Return] or
   d. section 52 [TCS Statement].
   The notice would require the registered person to furnish the return within 15 days.
2. Late Fees [Section 47] → Removed From Syllabus.

QUARTERLY RETURN MONTHLY PAYMENT (QRMP) SCHEME

1. Registered person having Aggregate Annual Turnover (PAN based) of upto ₹5 crores in PFY can opt for QRMP scheme.
2. Conditions of Opt-in → Last Due return must be filed.
3. QRMP option can be exercised GSTIN wise.
4. Timeline for opting in/opting out of QRMP scheme:
   Opt QRMP between 1st day of 2nd Month of preceding quarter and last day of 1st month of relevant quarter

Quarter	Time Limit To Exercise
April/May/June	1st Feb to 30th April
July/Aug/Sep	1st May to 31st July
Oct/Nov/Dec	1st Aug to 31st Oct
Jan/Feb/March	1st Nov to 31st Jan

5. Option of QRMP lapsed from following quarter when ATO exceeds ₹5 crores in current quarter.
6. Voluntarily Opt-out → Same manner as we avail QRMP.

7. Manner of Furnishing outward details:
   B2B Supplies → 1st & 2nd Month → IFF(Optional)
   B2B Supplies → 3rd Month → GSTR-1
   B2C Supplies → 1st/2nd/3rd Month → GSTR-1

   Due Date of IFF → 13th of the succeeding month.
   Due Date of GSTR-1 → 13th of the month succeeding the quarter.

NOTES

9. **Concept of Invoice Furnishing Facility (IFF):**

(a) IFF is not mandatory but an optional facility made available to RP under QRMP scheme.

(b) RP can furnish only B2B supplies under IFF for first 2 months of Quarter involving invoices, debit notes & credit note.

10. **Manner of furnishing the GSTR-3B**

a) South/West/Mid States → upto 22nd of the month succeeding the Quarter.

b) North/East States → upto 24th of the month succeeding the Quarter.

11. **Payment of tax under QRMP scheme:**

a) 1st & 2nd month of the Quarter → 25th day of the succeeding month.

b) 3rd month of the quarter → Due date of GSTR-3B

Method 1 – Fixed Sum Method

Quarterly Returns Filed in Last Quarter	Monthly Returns Filed in Last Quarter
Deposit 35% of tax paid in last quarter using E-Cash Ledger	Deposit 100% of tax paid in last month of the preceding Quarter using E-Cash Ledger

Method 2 – Self Assessment Method → Calculate Tax liability on Monthly basis and deposit amount payable

Note: No amount is required to be deposited if balance in E-cash ledger/E-credit ledger is adequate or when the tax liability is NIL.

Question Bank

Illustration 01

Mr. X, a registered taxpayer under regular scheme, did not make any taxable supply during the month of July. Is he required to file a GSTR-3B if he is monthly filer?

[ICAI Module]

Solution

A registered taxpayer is required to furnish a return u/s 39 for every month (every quarter in case of quarterly filers) even if no supplies have been effected during such period. In other words, filing of Nil GSTR-3B is also mandatory.

Therefore, being a monthly filer, Mr. X is required to file GSTR-3B even if he did not make any taxable supply during the month of July.

Illustration 02

If a return has been filed, how can it be revised if some changes are required to be made?

[ICAI Module]

Evening: 7PM - 8PM. Returns Ques. + A/c & Rec 30 min.

Solution

In GST since the returns are built from details of individual transactions, there is no requirement for having a revised return. Any need to revise a return may arise due to the need to change a set of invoices or debit/ credit notes. Instead of revising the return already submitted, the system allows amendment in the details of those individual details of those transactions (invoices or debit/credit notes) that are required to be amended. They can be amended in any of the future GSTR- 1 in the tables specifically provided for the purposes of amending previously declared details.

As per section 39(9), omission or incorrect particulars discovered in the returns filed u/s 39 can be rectified in the return to be filed for the month during which such omission or incorrect particulars are noticed. Any tax payable as a result of such error or omission will be required to be paid along with interest. The rectification of errors/omissions is carried out by entering appropriate particulars in "Amendment Tables" contained in GSTR-1. However, no such rectification of any omission or incorrect particulars is allowed after the due date for furnishing of return for the month of September or second quarter (in case of quarterly filers) following the end of the financial year to which such details pertain, or the actual date of furnishing of relevant annual return, whichever is earlier.

Illustration 03

"All taxpayers are required to file GSTR-1 only after the end of the tax period." Examine the validity of the statement.

[ICAI Module]

Solution

The statement is partially valid.

A taxpayer cannot file Form GSTR-1 before the end of the current tax period.

However, following are the exceptions to this rule:

1. Casual taxpayers, after the closure of their business
2. Cancellation of GSTIN of a normal taxpayer.

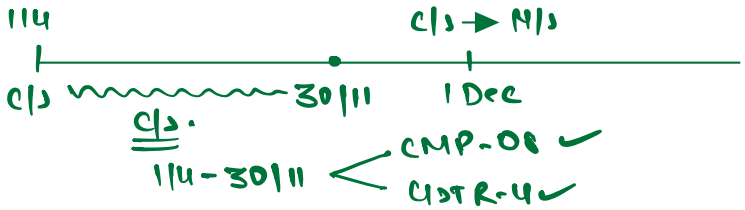
A taxpayer who has applied for cancellation of registration will be allowed to file Form GSTR-1 after confirming receipt of the application.

Illustration 04

Mr. Kohli is a registered supplier in the State of Gujarat. He is filing GSTR-1 every month. During the month of February, he went out of India and thus, could not do any business transaction during that month. He believes that as there is no transaction, there is no need to file GSTR-1 for the month of February. Is he correct if he is a monthly filer? Explain.

[ICAI Module]

NOTES



Solution

No, Mr. Kohli is not correct. GSTR-1 needs to be filed even if there is no business activity in the tax period. Therefore, in the given case, even though Mr. Kohli was out of India and thus, could not do any business transaction during the month of February, he is still required to file GSTR-1 for that month.

Illustration 05

Mr. Kalpesh is a registered dealer in Kerala paying tax under composition levy from 1st April. However, he opts to pay tax under regular scheme from 1st December.
Is he liable to file GSTR-4 for the said F.Y. during which he opted out of composition scheme? Discuss [ICAI Module]

Solution

Where a taxpayer opts to withdraw from the composition scheme, he has to file GSTR-4 for the period for which he has paid tax under the composition scheme. Such return is required to be furnished till 30th day of June following the end of the financial year during which such withdrawal falls. Therefore, in the given case, Mr. Kalpesh is liable to file GSTR-4 for the said F.Y. during which he opted out of composition scheme by 30th June of next F.Y.

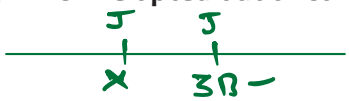


Illustration 06

Mrs. Zarina, a registered dealer in Rajasthan, did not file GSTR-3B for the month of June but she wants to file GSTR-3B for the month of July.
Is it possible? Answer with reference to section 39.

[ICAI Module]

Solution

As per section 39(10), a registered person is not allowed to furnish a return for a tax period if the return for any of the previous tax periods has not been furnished by him Therefore, in the given case, Mrs. Zarina cannot file GSTR-3B for July if she has not filed GSTR-3B for the preceding month, i.e., June

B2B (Recipient = Reg) — 11 2nd of QH

Illustration 07

List the details of outward supplies which can be furnished using Invoice Furnishing Facility (IFF).

[ICAI Module & PYQ Nov 22]

Solution

Details of outward supplies which can be furnished using IFF are as follows:

1. invoice wise details of inter-State and intra-State supplies made to the registered persons;
2. debit and credit notes, if any, issued during the month for such invoices issued previously

Illustration 08

A is a chartered accountant in practice and is registered under GST. On a query regarding return filing process by a potential client, A has represented him as a GST practitioner. A is of the view that since he is a qualified chartered accountant with a GST registration in the name of his proprietorship firm, he also qualifies as GST practitioner.
Is the understanding of A correct? Discuss. [ICAI Module]

Kaun?

NOTES

Solution

The understanding of A is not correct.

A chartered accountant can become a GST practitioner (GSTP). However, holding a certificate of practice as a chartered accountant and having GST registration does not imply that such chartered accountant is a GST practitioner as well. For becoming a GSTP, even a chartered accountant in practice has to follow the enrolment process of GSTP as provided under the GST law and only upon approval of such enrolment can a chartered accountant represent himself as a GSTP.

Illustration 09

Quicktax, a GST return filing service provider, has asked its clients to provide the scanned copies of the tax invoices issued to B2B customers for uploading on the GST portal and filing the return.

Whether the process followed by Quicktax is correct?

[ICAI Module]

Solution

No, the process followed by Quicktax is not correct.

The registered persons supplying goods or services to B2B customers are required to upload the invoice wise details of supplies made during the tax period. However, there is no requirement to upload the scanned copies of the invoices issued to the customers on the GST portal at the time of filing returns. Only information required as per the format of GST returns is to be captured in the return filing utility and the same is to be uploaded on the GST portal and not the scanned copies of the actual invoices

Illustration 10

X Ltd., a normal taxpayer, is winding up its business in Rajasthan. The Tax Consultant of X Ltd. has suggested that X Ltd. will have to file either the annual return or the final return at the time of voluntary cancellation of registration in the state of Rajasthan. Do you agree with the stand taken by Tax Consultant of X Ltd.? Offer your comments

[ICAI Module]

Solution

No, the stand taken by Tax Consultant of X Ltd. is not correct.

Annual return is required to be filed by every registered person paying tax as a normal taxpayer. Final return is filed by the registered persons who have applied for cancellation of registration within three months of the date of cancellation or the date of cancellation order.

In the given case, X Ltd., a registered person, is winding up its business and has thus, applied for cancellation of registration. Therefore, it is required to file both annual return and final return.

Illustration 11

Batra Ltd., a normal taxpayer, is winding up its business in Rajkot. The Tax Consultant of Batra Ltd. has suggested that Batra Ltd. will have to file either the annual return or the final return at the time of voluntary cancellation of registration in the State of Rajkot. Do you agree with the stand taken by Tax Consultant of Batra Ltd.? Offer your comments. Ignore the aggregate turnover of Batra Ltd

[RTP Nov 23]

NOTES

Solution

No, the stand taken by Tax Consultant of Batra Ltd. is not correct.

Annual return is required to be filed by every registered person paying tax as a normal taxpayer. Final return is filed by the registered persons who have applied for cancellation of registration within three months of the date of cancellation or the date of cancellation order.

In the given case, Batra Ltd., a registered person, is winding up its business and has thus, applied for cancellation of registration. Therefore, it is required to file both annual return and final return.

Illustration 12 = Registration = Aadhaar authentication

"Aadhaar authentication is not required for persons who are already registered under GST." Examine and discuss the correctness of the statement

[RTP Nov 22]

Solution

The given statement is incorrect. Aadhaar authentication has been made mandatory for the new registrants as well as for the existing registrants. With regard to existing registrants, section 25(6A) of the CGST Act, 2017 stipulates that every registered person shall undergo authentication, or furnish proof of possession of Aadhaar number, in the prescribed form, manner and time. New rule 10B of the CGST Rules, 2017 prescribes the manner in which aadhaar authentication needs to be done by a registered person.

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

1. Proprietor, in the case of proprietorship firm,
2. Any partner, in the case of a partnership firm,
3. Karta, in the case of a Hindu undivided family,
4. Managing director or any whole-time director, in the case of a company,
5. Any of the Members of the Managing Committee of an Association of persons or body of individuals or a Society, or
6. Trustee in the Board of Trustees, in the case of a Trust;

and of the Authorized Signatory, in order to be eligible for the following purposes:

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

Illustration 13 Similar to Q5

"All taxpayers are required to file GSTR-1 only after the end of the current tax period." Comment on the validity of the above statement with reference to GST law

[PYQ May 22]

Solution

The statement is partially valid.

A taxpayer cannot file Form GSTR-1 before the end of the current tax period.

However, following are the exceptions to this rule:

a) Casual taxpayers, after the closure of their business
b) Cancellation of GSTIN of a normal taxpayer

NOTES

A taxpayer who has applied for cancellation of registration will be allowed to file Form GSTR-1 after confirming receipt of the application.

Illustration 14

Mr. Sumit is a registered dealer in the state of Punjab. In the month of May, he decides to apply for QRMP scheme. As he wants to switch to QRMP scheme, he had not filed his returns for the months of May and June.

Please guide to Mr. Sumit regarding the following:

- Conditions and restrictions of QRMP scheme
- Manner of exercising option of QRMP scheme

[PYQ May 23]

Solution

a) Conditions and restrictions of QRMP scheme

Mr. Sumit has to fulfil the following conditions and restrictions for opting for QRMP scheme:

- His aggregate annual turnover (PAN based) is up to ₹ 5 crore in the preceding financial year
- He has furnished the return for the preceding month, as due on the date of exercising such option.
- He is not required to exercise the option every quarter.

b) Manner of exercising option of QRMP scheme

Registered person – Mr. Sumit - intending to opt for QRMP scheme for any quarter should indicate his preference for furnishing of return on a quarterly basis from 1st day of the 2nd month of the preceding quarter till the last day of the 1st month of the quarter for which the option is being exercised.

Illustration 15

GSTR 3B for the month of January 2024 has been filed by M/s Avisha Limited, a registered person, within the due date prescribed by the CGST Act 2017 which is on February 20th, 2024. It came to the notice of the Co. that tax due for the month of January, 2024 has been paid short by ₹ 16,000. The short fall of ₹ 16,000 has been paid through cash ledger and credit ledger at the time of filing GSTR 3B for the month of February 2024 on March 20th, 2024 in the following manner:

Particulars	Cash Ledger	Credit Ledger
Shortfall	₹ 12,000	₹ 4,000

16000 - 4000 = 12000

Assume that electronic cash ledger and credit ledger carry sufficient balance for the above short fall.

a) You are required to calculate the amount of interest payable if any under section 50 of the CGST Act 2017 and rule 88B of the CGST rules 2017.

b) Give the effect if GSTR3B for the month of January 2024 had been filed belatedly on March 20, 2024 and all other conditions remaining same.

Calculation should be rounded off to nearest rupee. As 2024 is leap year give effect of same

[PYQ May 24]

NOTES

Solution

Interest is payable in case of delayed payment of tax @ 18% per annum from the date following the due date of payment to the actual date of payment of tax.

Above interest is payable on the net tax liability paid in cash only if return in Form GSTR-3B for a tax period has been filed after the due date to furnish such return. Otherwise, interest is payable on gross tax liability

a) Since Avisha Limited has furnished Form GSTR-3B for the month within the prescribed due date, interest is payable on the gross tax liability deposited with a delay of 29 days [21.02.2024 - 20.03.2024 (both inclusive)] as under:
= ₹ 16,000 x 18% x 29/366 = ₹ 228 (rounded off)

b) If Avisha Limited has filed Form GSTR-3B for the month after the due date, i.e. on 20.03.2024, interest is payable on the net tax liability paid through Electronic Cash Ledger only, for a delay of 29 days, as under:
= ₹ 12,000 x 18% x 29/366 = ₹ 171 (rounded off)

Illustration 16

Mr. Sameer, a registered person under GST, is unable to tile GSTR-1 on the reason being shown that tax payable under GSTR-1 which has been filed in respect of last tax period exceeds the tax payable under GSTR-3B which has been filed for the corresponding tax period. Explain the procedure to be followed by the department and Mr. Sameer for the same as per the provisions of Rule 88C of the CGST Rules 2017.

[PYQ Nov 23]

Solution

In the given case, Mr. Sameer would be intimated on the portal and his email address of such difference and be directed to either

a) pay the differential tax liability along with interest, or
b) explain the difference

within 7 days period

On receiving such intimation, Mr. Sameer should either

a) deposit the amount specified in the said intimation fully or partially, along with interest and furnish the details on the common portal or
b) furnish a reply explaining the reasons for any amount of differential tax liability remaining unpaid

within 7 days period.

Where any amount specified in the said intimation remains unpaid within 7 days' period and where no explanation is furnished by Mr. Sameer or where the explanation furnished by him is not found to be acceptable by the proper officer, the said amount shall be recoverable from him.

GST Practitioner.