



CA FINAL NOV 22 EXAMS

PAPER – 8 – INDIRECT TAX LAWS

MIGHTY 50

TOP 50 QUESTIONS IN
GST, CUSTOMS & FTP

@THARUNRAJ

REFERENCE TO SOLVED WORK BOOK – NOV 22 EXAMS

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MIGHTY 50 – TOP 50 QUESTIONS IN GST, CUSTOMS & FTP

Question No. 1

[SWB – Q.NO:16; PG.NO: 8]

Answer the following with reference to GST (Compensation to States) Act, 2017:

- (i) Projected Growth Rate
- (ii) Base year
- (iii) Projected Revenue for any year
- (iv) Calculation and release of compensation
- (v) Objective of GST (Compensation to States) Act, 2017

I. Projected Growth Rate

The projected nominal growth rate of revenue subsumed for a State during the transition period shall be fourteen percent (14%) per annum.

II. Base Year

For the purpose of calculating the compensation amount payable in any financial year during the transition period, the financial year ending 31st March, 2016 shall be taken as the base year.

III. Projected Revenue for any year

The projected revenue for any year in a State shall be calculated by applying the projected growth rate over the base year revenue of that State.

Illustration: If the base year revenue for 2015-16 for a concerned State, calculated as per section 5 is one hundred rupees, then the projected revenue for financial year 2018-19 shall be as follows:

Projected Revenue for 2018-19 = $100 (1 + 14/100)^3$.

IV. Calculation and release of compensation

The compensation payable to a state has to be provisionally calculated and released at the end of every two months, which shall be finally calculated for every financial year after the receipt of final revenue figures, as audited by Comptroller and Auditor General of India.

V. Objective

The objective behind providing compensation to the states is for the loss of revenue arising on account of implementation of the Goods and Services Tax (GST) in pursuance of the provisions of the Constitution (One Hundred and First Amendment) Act, 2016.

Question No. 2

[SWB – Q.NO:16; PG.NO: 15]

State answers to the following as in accordance with the provisions of GST pertaining to Reverse Charge:

- i) What are implications to supplier if recipient refuses to pay tax on reverse charge?
- ii) In case supplier has paid GST, is recipient discharged from the liability to pay tax on reverse charge?
- iii) Is GST wrongly paid by supplier available as Input Tax Credit (ITC) to recipient?
- iv) What are registration requirement of Supplier & Recipient if supplier supplies goods or services which are liable to tax under Reverse Charge?
- v) If all the Supplies of a person are under Reverse charge mechanism, can such person avail an exemption from registration under the Act although the aggregate turnover is exceeding the prescribed limit?

- i) As per **sec 9(3) & 9(4)** reverse charge is applicable & liability to pay tax is on recipient & hence there is no recourse back to the supplier (i.e. it should not be demanded from supplier) in case of default by recipient to discharge reverse charge liability.
- ii) As per **sec 9(3)**, even if supplier has somehow paid tax the reverse charge tax liability must be discharged by the recipient.
- iii) **No**, the recipient must not claim credit of tax paid by supplier - However supplier can claim for refund of tax erroneously paid
- iv) If such persons are receiving inward supplies liable to tax on reverse charge basis under section 9(3), they shall compulsorily be liable to register by section 24 and comply with other

- requirements of law. However, this compulsory registration is not applicable in case of supplies covered under Sec. 9(4) (i.e. inward supplies of promoter/builder from an unregistered person)
- v) As per Sec 23 read with Notification No. 05/2017- Central Tax. The persons who are only engaged in making supplies of taxable goods or services or both, the total tax on which is liable to paid on reverse charge basis by the recipient of such goods or services or both under sub-section (3) of section 9 of the said Act are exempted from obtaining registration under the aforesaid Act. **(Supplier making exclusively RCM supplies is exempted from registration)**
Example: In case of an independent director providing services, and his only income is from independent directorship (or such other services covered under RCM) to the company, in this case the director is not required to take registration.

Question No. 3

[SWB – Q.NO:23; PG.NO: 19]

Sundar is HRD head of Infosys. For the year ending March 31, 2021, CTC of Sundar (as per employment agreement) is as follows –

	₹
Salary (₹2,00,000 per month)	24,00,000
Residential accommodation (cost to company: ₹6,00,000)	6,00,000
Conveyance facility (reimbursement up to ₹25,000 per month)	3,00,000
Cost to company (CTC)	33,00,000

On January 1, 2021, Infosys gifts a new car to Sundar (worth ₹12 Lakhs). Gift of car is not covered by CTC as well employment agreement.

Sundar owns a commercial flat. He has given on rent to Infosys (monthly rent being ₹3,00,000). Discuss whether GST is applicable. Determine the amount of GST liability (assume that GST rate is 28% for car and 18% for others) –

- 1) Rent received on account of renting of commercial flat by Sundar to Infosys
- 2) Salary received
- 3) Residential accommodation, conveyance facility provided by Infosys to Sundar
- 4) Gift of car by Infosys to Sundar



Taxability in hands of Sundar-

1. **Taxability of rent received:** Transaction of renting services by Sundar to Infosys falls within the scope of supply, renting being a commercial activity undertaken by Sundar (Sec 7(1)(a) of CGST Act). Thus, it will attract any GST liability*. GST@18% is payable.
2. **Taxability of Salary received:** Supply of employment services by Sundar to Infosys is out of scope of supply (Sec 7(2) of CGST Act read with Schedule III of CGST Act). Thus, it will not attract any GST liability. (Sundar has received his remuneration/salary in cash as well as in kind/facilities – none of this will attract GST in hands of employee)

*Presumed that Sundar is not opting for benefit of threshold benefit as available u/Sec 22 of CGST Act.

Taxability in hands of Infosys-

3. **Taxability of supply of residential accommodation:** As per Press Release, supply of service of residential accommodation to the employee shall not be treated as supply by employer, rather it shall be treated as payment of remuneration from employer. Provisioning of residential accommodation to employee as a part of employment contract shall not be treated as 'gift' by employer to employee. Thus, it will not attract any GST liability.

Taxability of supply of conveyance facility: For same reasoning as discussed above, provisioning of conveyance facility to employee as a part of employment contract shall not be treated as 'gift' by employer to employee. Rather it is payment of remuneration for employment services provided by Sundar. Thus, it will not attract any GST liability.

4. **Taxability of gift of car:** Gift of car is not covered by employment contract. Though Infosys has not charged anything from Sundar, but still transaction will fall within the scope of supply as it being related party transaction (Sec 7(1)(c) read with Schedule I (Para 2)). Further, the value of car being in excess of ₹50,000, such gift will attract GST @28% on full value of car (GST Cess payable additionally)

Question No. 4

[SWB – Q.NO:34; PG.NO: 26]

A hotel owner is providing following services:

- Room renting for lodging purposes;
- Banquet renting for holding functions;
- Restaurant services;

His ATO from all the above services is ₹ 40 lakhs. His ATO being more than threshold exemption of 20 lakhs, he is liable to take registration u/Sec 22(1) of CGST Act.

Such hotel owner has now started providing above services through ohoroom.com (USA based website). Whether in such case in respect of any of service provided through ECO, ECO shall be liable to pay GST in terms of Sec 9(5) of CGST Act?

As per section 9(5) of CGST Act, ECO is liable to pay GST only in respect of notified services supplied through ECO.

One of the notified service is service 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 u/s 22(1) of the CGST Act.

Liability of ECO to pay GST-

- Room renting service:** ECO shall not be liable to pay GST. Since ATO of hotel is more than threshold exemption and it is liable to take GST registration u/s 22 of CGST Act, such renting service does not fall into notified category of service u/s 9(5). Thus, GST shall be payable by hotel under forward charge.
- Banquet renting service:** Such renting service has not been notified u/s 9(5), thus ECO shall not be liable to pay GST. Thus, GST shall be payable by hotel under forward charge.
- Restaurant service:** Restaurant service has been notified u/s 9(5), thus ECO shall be liable to pay GST, even if the supplier is registered. However, if such hotel is having a declared tariff of > ₹7,500 per day, then Hotel shall pay GST on restaurant service

Question No. 5

[SWB – Q.NO:38; PG.NO: 28]

E-Comm. Ltd. (an Electronic Commerce operator) has provided the following supplies during December, 2020 through E-Comm. Ltd. –

	Supply	Returns, if any
1. Supplies of goods taxable at 12% by registered supplier	5,00,000	50,000
2. Supply of goods taxable at NIL-rate by registered supplier	2,00,000	20,000
3. Supply of housekeeping services by unregistered supplier	50,000	–
4. Supply of other services by registered supplier	1,50,000	–

Required:

- Determine the amount of tax to be collected at source by E-comm. Ltd.
- Determine consequences if said amount is paid and return is filed on 15-1-2021. Assume no extensions.



The amount of tax to be collected at source by E-Comm. Ltd. is as under (₹) –

1. Supplies of goods taxable at 12% (net of returns)	4,50,000
2. Supply of goods taxable at NIL-rate (not liable to TCS, as it is exempted)	–
3. Housekeeping services (not liable to TCS, as it falls u/s 9(5) & GST is payable by E-Commerce operator)	–
4. Other services (liable to TCS)	1,50,000
Amount on which tax is to be collected at source	6,00,000
Rate of TCS [0.5% + 0.5%]	1%
Amount of TCS	6,000
Due date of payment and due date of filing return in GSTR-8	10-01-2021
Actual date of filing return	15-01-2021
Interest and late fee for	5 days
Interest @18% for 5 days [₹ 6,000 × 18% × 5 / 365]	₹ 15
Late fee for belated filing of GSTR-8 @100 per day under CGST + 100 under SGST	₹ 1,000
= ₹ 200 per day	

Question No. 6 [ICAI STUDY MATERIAL] | [SWB – Q.NO:66; PG.NO: 44]

Manihar Enterprises, registered in Delhi, is engaged in supply of various goods and services exclusively to Government departments, agencies etc. and persons notified under section 51 of the CGST Act, 2017. It has provided the information relating to the supplies made, their contract values and the payment due against each of them in the month of October, 20XX as under:

S.No.	Particulars	Total contract value (inclusive of GST) (₹)	Payment due in October, 20XX (₹)
(i)	Supply of stationery to Fisheries Department, Kolkata	2,60,000	15,000
(ii)	Supply of car rental services to Municipal Corporation of Delhi	2,95,000	20,000
(iii)	Supply of a heavy machinery to Public Sector Undertaking located in Uttarakhand	5,90,000	25,000
(iv)	Supply of taxable goods to Delhi office of National Housing Bank, a society established by Government of India under the Societies Registration Act, 1860	6,49,000	50,000
(v)	Interior decoration of Andhra Bhawan located in Delhi. Service contract is entered into with the Government of Andhra Pradesh (registered only in Andhra Pradesh)	12,39,000	12,39,000
(vi)	Supply of printed books and printed post cards to a West Delhi Post Office [Out of total contract value of ₹9,72,000, contract value for supply of books (exempt from GST) is ₹7,00,000 and for supply of printed post cards (taxable under GST) is ₹2,72,000.]	9,72,000	50,000 for books & 20,000 for printed post cards
(vii)	Maintenance of street lights in Municipal area of East Delhi* [The maintenance contract entered into with the Municipal Corporation of Delhi also involves replacement of defunct lights and other spares. However, the value of supply of goods is not more than 25% of the value of composite supply.] *an activity in relation to any function entrusted to a Municipality under article 243W of the Constitution	3,50,000	3,50,000

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

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

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*, with effect from 01.10.2018,

Following persons are required to deduct CGST @ 1% [Effective tax 2% (1% CGST + 1% SGST/UTGST)] or IGST @ 2% from the payment made/credited to the supplier (deductee) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds ₹2,50,000:

- (a) 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, -
 - (i) set up by an Act of Parliament or a State Legislature; or
 - (ii) 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. Since in the given case, Manihaar Enterprises is supplying goods and services exclusively to Government departments, agencies etc. and persons notified under section 51 of the CGST Act, 2017,

applicability of TDS provisions on its various receivables is examined in accordance with the above-mentioned provisions as under:

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

Notes:

- Being an **inter-State supply of goods**, supply of stationery to Fisheries Department, Kolkata is subject to **IGST @ 18%**. Therefore, total value of taxable supply [excluding IGST] under the contract is as follows:
 $= ₹2,60,000 \times 100 / 118$
 $= ₹2,20,339$ (rounded off)
Since the total value of supply under the contract does not exceed ₹2,50,000, tax is not required to be deducted.
- Being an **intra-State supply of services**, supply of car rental services to Municipal Corporation of Delhi is subject to **CGST and SGST @ 9% each**. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:
 $= ₹ 2,95,000 \times 100 / 118$
 $= ₹ 2,50,000$
Since the total value of supply under the contract does not exceed ₹ 2,50,000, tax is not required to be deducted.
- Being an inter-State supply of goods, supply of heavy machinery to PSU in Uttarakhand is subject to IGST @ 18%. Therefore, total value of taxable supply [excluding IGST] under the contract is as follows:
 $= ₹ 5,90,000 \times 100 / 118$
 $= ₹ 5,00,000$
Since the total value of supply under the contract exceeds ₹ 2,50,000, PSU in Uttarakhand is required to deduct tax @ 2% of ₹ 25,000, i.e. ₹ 500.
- Being an intra-State supply of goods, supply of taxable goods to National Housing Bank, Delhi is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:
 $= ₹ 6,49,000 \times 100 / 118$
 $= ₹ 5,50,000$
Since the total value of supply under the contract exceeds ₹ 2,50,000, National Housing Bank, Delhi is required to deduct tax @ 2% (1% CGST + 1% SGST) of ₹ 50,000, i.e. ₹ 1,000.

5. Proviso to section 51(1) of the CGST Act, 2017 stipulates that no tax shall be deducted if the location of the supplier and the place of supply is in a State or Union territory 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 (Manihar Enterprises) and the place of supply is Delhi and the State of registration of the recipient i.e. Government of Andhra Pradesh is Andhra Pradesh, no tax is liable to be deducted in the given case.

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

$$= ₹ 2,72,000 \times 100 / 118$$

$$= ₹ 2,30,509 \text{ (rounded off)}$$

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

7. Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply provided to, inter alia, local authority by way of any activity in relation to any function entrusted to a Municipality under article 243W of the Constitution is exempt from GST.

Thus, maintenance of street lights (an activity in relation to a function entrusted to a Municipality) in Municipal area of East Delhi involving replacement of defunct lights and other spares where the value of supply of goods is not more than 25% of the value of composite supply is a service exempt from GST. Since tax is liable to be deducted from the payment made or credited to the supplier of taxable goods or services or both, no tax is required to be deducted in the given case as the **supply is exempt.**

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

Note: w.e.f 01.01.2022, above exemption not available if services are provided to Government authority (or) Government entity. Exemption available only if services are provided to Government including local authority.

Question No. 7

[ICAI Jan 21 – 5 Marks] | [SWB – Q.NO:69; PG.NO: 49]

GER Ltd. of Germany supplies luxurious car worth ₹ 1 Crore to IND Ltd. of India. Before the car reached Indian port but after crossing of the territorial waters of India, IND Ltd. sells it to T1 Ltd. by way of transfer of documents of title.

T1 Ltd. clears the said car for warehousing and stores the said goods in customs bonded warehouse.

T1 Ltd. sells the said car from warehouse to T2 Ltd., and T2 Ltd., clears the said car from the customs bonded warehouse.

Answer the following with brief reasons:

- Is GST leviable on import of goods from GER Ltd. by IND Ltd.?
- Is GST leviable on supply of goods by IND Ltd. to T1 Ltd.?
- Is GST leviable on supply of goods by T1 Ltd. to T2 Ltd.?
- Is GST leviable on clearance of goods by T2 Ltd. from the Customs bonded warehouse?

- a) GST on import of goods is levied at the time when customs duty is levied on the said goods under the Customs Act, 1962, i.e., on importation. Importation gets completed when the goods become part of the mass of goods within the country¹.
Thus, GST is not leviable on import of goods from GER Ltd. by IND Ltd. since the import of goods is not complete.
- b) GST is not leviable on supply of goods by IND Ltd. to T1 Ltd. as supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption is treated neither as a supply of goods nor a supply of services.
- c) GST is not leviable on supply of goods by T1 Ltd. to T2 Ltd. since supply of warehoused goods to any person before clearance for home consumption is treated neither as a supply of goods nor a supply of services.
- d) Yes, GST is leviable on clearance of goods by T2 Ltd. from the customs bonded warehouse as customs duty is levied on warehoused goods at the time of clearance thereof from the warehouse and as mentioned in point (i), GST on import of goods is levied at the time when customs duty is levied thereon.

Question No. 8

[SWB – Q.NO:17; PG.NO: 60]

Determine the Time of supply in each of owing independent cases in accordance with provisions of Section 12 of the CGST Act, 2017 in case supply not involve movement of goods.

SI. No.	Date of invoice	Date when goods made available to recipient	Date of receipt of payment
1.	02-10-2021	03-10-2021	15-11-2021
2.	04-10-2021	01-10-2021	25-11-2021
3.	04-11-2021	06-11-2021	01-10-2021

Time of supply of goods in each of the above cases has been given in following table—

SI. No.	Date of invoice	Date when goods made available to recipient	Date of receipt of payment	Time of supply	Reason
1.	02-10-2021	03-10-2021	15-11-2021	02-10-2021	TOS is date of issuance of invoice since invoice is issued prior to date when goods are made available to recipient.
2.	04-10-2021	01-10-2021	25-11-2021	01-10-2021	TOS is date when goods are made available to the recipient and date of issuance of invoice is after that date.
3.	04-11-2021	06-11-2021	01-10-2021	04-11-2021	TOS is date of issue of invoice. Advance received is not liable to be taxed at the time of receipt vide Notification No. 66/2017-CT dated 15-11-2017.

Question No. 9

[SWB – Q.NO:26; PG.NO: 64]

The aggregate turnover of Kamlesh Enterprises Ltd. exceeded ₹ 20 lakh (Threshold limit) on 10th October, 2021. It applied for registration on 27th October, 2021 and was granted the registration certificate on 1st November, 2021. You are required to advise Kamlesh Enterprises 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.

As per Section 25 read with CGST Rules, 2017, 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, Kamlesh Enterprises Ltd.'s turnover exceeded ₹ 20 lakh on 10th October, 2021, it became liable to registration on same day. Further, it applied for registration within 30 days of becoming liable to

¹ Garden Silk Mills Ltd. UOI 1999 AIR SCW 4150 (SC 3-member bench)

registration, the effective date of registration is the date on which it becomes liable to registration, i.e. 10th October, 2021.

Time period for issuance of Revised Tax Invoice As per Section 31 Read with CGST Rules, 2018, 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 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, Kamlesh Enterprises Ltd. has to issue the Revised Tax Invoices in respect of taxable supplies effected during the period starting from the effective date of registration (10th October, 2021) till the date of issuance of certificate of registration (1st November, 2021) within 1 month from the date of issuance of certificate of registration, i.e., on or before 1st December, 2021.

Question No. 10 [ICAI NOV 18 - 5 Marks | ICMAI Dec 19 - 7 Marks | SWB - Q.NO:30; PG.NO: 67]

Mr. Mahendra Sharma, an interior decorator registered at Ahmedabad (Gujarat), provided service to one of his clients XYZ Company Ltd., registered at Pune (Maharashtra). The provision of service was completed on 10-08-20XX and payment received was entered in the books of Mr. Mahendra Sharma on 11-08-20XX.

With effect from 16/08/20XX, applicable GST rate was increased from 5% to 12%. However, payment for the service received was credited in his bank account on 17/08/20XX and invoice for the same was raised on 23-08-20XX.

Mr. Mahendra Sharma claimed that he is liable to pay IGST @ 5%. But the department took the view that he is liable to pay IGST @12%.

Examine the correctness of Mr. Mahendra Sharma's contention and determine the time of supply and applicable rate of tax as per the statutory provisions.

Would your answer undergo any change in the above case if the payment was credited to the bank account on 14-08-20XX instead of 17-08-20XX?

Note: You may assume that all days are working days.

As per section 14 of the CGST Act, 2017, in case of change in rate of tax, date of receipt of payment is earlier of:

- I. date of entering payment in the books of account of the supplier (11.08.20XX) (or)
- II. date on which the payment is credited to his bank account (17.08.20XX).

However, if the payment is credited in the bank account after 4 working days from the date of change in the rate of tax, the date of receipt of payment will be the date of credit in the bank account.

In the given case, since the payment has been credited in the bank within 4 working days from the date of change in the rate of tax, the date of receipt of payment will be 11.08.20XX [i.e., earlier of 11.08.20XX or 17.08.20XX].

Section 14 further provides that where goods and/or services have been supplied before the change in rate of tax (10.08.20XX) and the payment has been received before the change in rate of tax (11.08.20XX), but the invoice for the same is issued after the change in rate of tax (23.08.20XX), the time of supply shall be the date of receipt of payment.

Therefore, in the given case, the time of supply will be 11.08.20XX and the applicable rate of tax will be rate prevalent at the time of supply, i.e. IGST @ 5%.

Therefore, the contention of Mahendra Sharma is correct.

Further, if the date on which the payment is credited to bank account of supplier is 14.08.20XX, the date of receipt of payment will continue to be 11.08.20XX [i.e., earlier of 11.08.20XX or 14.08.20XX] since the payment is credited in the bank account before change in rate of tax. **Consequently, with other things remaining the same, the time of supply and the applicable rate of tax will remain the same.**

Question No. 11

[ICAI STUDY MATERIAL | SWB – Q.NO:39; PG.NO: 73]

Andes Pvt. Ltd., a registered supplier, manufactures product 'A' and 'B'. While 'A' is taxable under forward charge, 'B' is taxable under reverse charge. The following details are provided in relation to two individual supplies of products 'A' and 'B' made by the company:



S. No.	Date	Event
(i)	10 th February	Payment of ₹ 1,00,000 made by buyer for supply of 'A' to be delivered in the month of March
(ii)	13 th February	Receipt of ₹ 1,00,000 [as mentioned in point (i) above]
(iii)	17 th February	Payment of ₹ 2,00,000 made by buyer for supply of 'B' to be delivered in the month of March
(iv)	20 th February	Receipt of ₹ 2,00,000 [as mentioned in point (iii) above]
(v)	5 th March	Product 'A' manufactured and removed
(vi)	6 th March	Receipt of product 'A' [as mentioned in point (v) above] by the buyer
(vii)	10 th March	Product 'B' manufactured and removed
(viii)	23 rd March	Receipt of product 'B' [as mentioned in point (vii) above] by the buyer
(ix)	4 th March	Invoice for ₹ 2,00,000 issued for supply of 'A'
(x)	11 th March	Invoice for ₹ 4,00,000 issued for supply of 'B'
(xi)	25 th March	Payment made by the buyer of 'A'
(xii)	31 st March	Payment [as mentioned in point (xi) above] received
(xiii)	1 st April	Payment made by the buyer of 'B'
(xiv)	4 th April	Payment [as mentioned in point (xiii) above] received

Determine the time of supplies of goods for the purpose of payment of tax

In terms of **section 12(2)**, the time of supply of goods is the earlier of, the date of issue of invoice/last date on which the invoice is required to be issued or date of receipt of payment. However, Notification No. 66/2017 CT dated 15.11.2017 specifies that a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a), i.e. date of issue of invoice or the last date on which invoice ought to have been issued in terms of **section 31**.

Also, it is important to note that the relief of not paying GST at the time of receipt of advance is available only in case of supply of goods, the tax on which is payable under forward charge. In case of reverse charge, GST is payable at the time of payment, if payment is recorded/made before receipt of goods (advance payment) [Section 12(3)]. Therefore, time of supply of product 'A', which is taxable under forward charge, is 4th March being the date of issue of invoice. However, time of supply of product 'B', which is taxable under reverse charge, is 17th February to the extent of ₹ 2,00,000 paid as advance being the earliest of the three stipulated dates namely, date of receipt of goods (23rd March), date of payment (17th February) and date immediately following 30 days of issuance of invoice (11th April).

For balance ₹ 2,00,000, the time of supply of product 'B' is 23rd March being the earliest of the three stipulated dates namely, date of receipt of goods (23rd March), date of payment (1st April) and date immediately following 30 days of issuance of invoice (11th April).

Question No. 12

[SWB – Q.NO: 16; PG.NO: 84]

In terms of Sec 12 of IGST Act, what is the place of supply in following cases:

- I. Mr. X (Kolkata) gets a landline phone installed at his home from skybel Ltd.
- II. Mr. Y (Mumbai) gets a DTH installed at his home from RT Ltd.
- III. Mr. D (Mumbai) takes a post-paid mobile connection in Mumbai form skybel Ltd.



- IV. Mr. R (New Delhi) gets his post –paid bill paid online from Goa.
 V. Mr. C (Pune) purchases a pre-paid card from a selling agent in Mumbai.
 VI. Mr. F (Puducherry) gets a pre-paid recharged from a grocery shop in Chennai.
- I. As per Sec 12(11) of the IGST Act, 2017, the place of supply will be the location where the telecommunication line is installed i.e., **Kolkata**.
- II. As per Sec 12(11) of the IGST Act, 2017, the place of supply will be the location where the telecommunication line is installed i.e., **Mumbai**.
- III. As per Sec 12(11) of the IGST Act, 2017, the place of supply will be the location of billing address of the recipient i.e., **Mumbai**.
- IV. As per Sec 12(11) of the IGST Act, 2107. Where the payment is being made for a post-paid bill through electronic mode, the place of supply shall be the location of the recipient in the records of the supplier i.e., **New Delhi**.
- V. As per Sec 12(11) of the IGST Act, 2017, the place of supply is the address of the selling agent or re-seller i.e., **Mumbai**.
- VI. As per Sec 12(11), the place of supply is the location where such pre-payment is received i.e., **Chennai**.

Question No. 13 [ICAI RTP MAY 20] | [SWB – Q.NO: 28; PG.NO: 89]

'PQ', a statutory body, deals with the all the advertisement and publicity of the Government. It has issued a release order to 'Moon Plus' channel (registered in State 'A') for telecasting an advertisement relating to one of the schemes of the Government in the month of September 20XX. The advertisement will be telecasted in the States of 'A', 'B', 'C', 'D' and 'E'. The total value of the service contract entered into between 'Moon Plus' and 'PQ' is ₹ 10,00,000 (exclusive of GST).



You are required to determine the place of supply of the services in the instant case as also the value of supply attributable to the States of 'A', 'B', 'C', 'D' and 'E'. Further, compute the GST liability [CGST & SGST or IGST, as the case may be] of 'Moon Plus' as also advise it as to whether it should issue one invoice for the entire contract value or separate State-wise invoices.

The other relevant information is given hereunder:

Table – 1

States	Viewership figures of 'Moon Plus' channel in the last week of June 20XX as provided by the Broadcast Audience Research Council
A	50,000
B+C	1,00,000
D+E	50,000

Table – 2

States	Population as per latest census (in crores)
A	50
B	180
C	20
D	100
E	25

The applicable rate of GST is 9% of CGST, 9% of SGST and 18% IGST

As per section 12(14) of the IGST Act, 2017, the place of supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for the States or Union territories identified in the contract or agreement is taken as being in each of such States or Union territories (where the advertisement is broadcasted/ run /played/disseminated).

Therefore, in the given case, the place of supply of advertisement service is in the States of 'A', 'B', 'C', 'D' and 'E'.

The value of the supply of such advertisement services 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.

In the absence of such a contract or agreement between the supplier and recipient of services, **the proportionate value of advertisement services attributable to different States/Union territories (where the advertisement is broadcasted/run/played/ disseminated) is computed in accordance with Rule 3 of the IGST Rules, 2017.**

As per Rule 3(f) of the IGST Rules, 2017, in the case of advertisement on television channels, the amount attributable to the value of advertisement service disseminated in a State shall be calculated on the basis of the viewership of such channel in such State, which in turn, shall be calculated in the following manner, namely: -

- (i) the channel viewership figures for that channel for a State or Union territory shall be taken from the figures published in this regard by the Broadcast Audience Research Council;
- (ii) the figures published for the last week of a given quarter shall be used for calculating viewership for the succeeding quarter;
- (iii) where such channel viewership figures relate to a region comprising of more than one State or Union territory, the viewership figures for a State or Union territory of that region, shall be calculated by applying the ratio of the populations of that State or Union territory, as determined in the latest Census, to such viewership figures;
- (iv) the ratio of the viewership figures for each State or Union territory as so calculated, when applied to the amount payable for that service, shall represent the portion of the value attributable to the dissemination in that State or Union territory.

Therefore, value of supply attributable to 'A', 'B', 'C', 'D' and 'E', will be computed as under:

<u>States</u>	<u>Viewership figures of 'Moon Plus' channel as provided by the Broadcast Audience Research Council in the last week of June 20XX</u>	<u>Viewership ratio of 'Moon Plus' Channel in the state 'A' ('B + 'C') and ('D'+ 'E')</u>	<u>Proportionate value of advertisement services for states 'A', ('B' + 'C') and ('D' + 'E')</u>
A	50,000	50,000: 1,00,000: 50,000 = 1 : 2 : 1	₹ 10,00,000 × 1/4 = ₹ 2,50,000
B + C	1,00,000		₹ 10,00,000 × 2/4 = ₹ 5,00,000
D + E	50,000		₹ 10,00,000 × 1/4 = ₹ 2,50,000

<u>States</u>	<u>Population as per latest census (in crores)</u>	<u>Population ratio in the states 'B' & 'C' and 'D' & 'E'</u>	<u>Proportionate value of advertisement services in the States 'A', 'B', 'C', 'D', & 'E'</u>
A	50		₹ 2,50,000
B	180	B : C = 180 : 20 = 9 : 1	₹ 5,00,000 × 9 / 10 = ₹ 4,50,000
C	20		₹ 5,00,000 × 1/10 = ₹ 50,000
D	100	D : E = 100 : 25 = 4: 1	₹ 2,50,000 × 4/5 = ₹ 2,00,000
E	25		₹ 2,50,000 × 1/5 = ₹ 50,000

Since, there are five different places of supply in the given case, 'Moon Plus' channel will have to issue five separate invoices for each of the States namely, 'A', 'B', 'C', 'D' & 'E' indicating the value pertaining to that State. The GST liability of 'Moon Plus' channel will, therefore, be worked out as under:

Computation of GST liability of 'Moon Plus'

_States	Proportionate value of advertisement services (₹)	CGST @ 9% (₹)	SGST @ 9% (₹)	CGST @ 18% (₹)
A	2,50,000	22,500	22,500	
B	4,50,000			81,000
C	50,000			9,000
D	2,00,000			36,000
E	50,000			9,000

Only in case of supply of services in State 'A', the location of supplier (State 'A') and the place of supply are in the same State, hence the same is an intra-State supply in terms of section 8(1) of the IGST Act, 2017 and is thus, liable to CGST and SGST. In all the remaining cases of supply of services, the location of the supplier (State 'A') and the places of supply (States 'B', 'C', 'D' & 'E') are in two different States, hence the same are inter-State supplies liable to IGST [Section 7(1)(a) of the IGST Act, 2017 read with section 5(1) of that Act].

Question No. 14

[ICAI RTP MAY 21] | [SWB – Q.NO: 36; PG.NO: 96]

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

- I. Mr. Sahukaar (New Delhi) boards the New Delhi -Kota train at New Delhi. Mr. Sahukaar sells the goods taken on board by him (at New Delhi), in the train, at Jaipur during the journey.
- II. Vidhyut Pvt. Ltd. imports electric food processors from China for its Kitchen Store in Noida, Uttar Pradesh. Vidhyut Pvt. Ltd. is registered in Uttar Pradesh.
- III. Mr. Aatmaram, a manager in a Bank, is transferred from Bareilly, Uttar Pradesh to Bhopal, Madhya Pradesh. Mr. Aatmaram's family is stationed in Kanpur, Uttar Pradesh. He hires Gokul Carriers of Lucknow, Uttar Pradesh (registered in Uttar Pradesh), to transport his household goods from Kanpur to Bhopal.
- IV. Bholunath, a resident of New Delhi, opens his saving account in New Delhi branch of Best Bank after undergoing the KYC process. He goes to Amritsar for some official work and withdraws money from Best Bank's ATM in Amritsar thereby crossing his limit of free ATM withdrawals.
- V. Mr. Chakmak, an architect (New Delhi), enters into a contract with Mr. Zeeshaan of New York to provide professional services in respect of immovable properties of Mr. Zeeshaan located in Pune and New York.

- (i) Section 10(1)(e) of the IGST Act, 2017 lays down that place of supply of goods supplied on board a conveyance like aircraft, train, vessel, or a motor vehicle, is the **location where such goods have been taken on board**. Thus, in the given case, the place of supply of the goods sold by Mr. Sahukaar is the location at which the goods are taken on board, i.e. **New Delhi** and not Jaipur where they have been sold.
- (ii) As per **section 11(a) of the IGST Act 2017**, if the goods have been imported in India, the place of supply of goods is the place where the **importer is located**. Thus, in the present case, the place of supply of the goods imported by Vidhyut Pvt. Ltd. is **Noida, Uttar Pradesh**.
- (iii) As per **section 12(8) of the IGST Act, 2017**, the place of supply of services by way of transportation of goods, including by mail or courier provided to an unregistered person, is the location at which such goods are handed over for their transportation. Since in the given case, the recipient – Aatmaram – is an **unregistered person**, the place of supply is the location where goods are handed to Gokul Carriers over for their transportation, i.e. **Kanpur**.
- (iv) As per **section 12(12) of the IGST Act, 2017**, 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**. Thus, in the given case, the place of supply is the location of the recipient of services in the records of the supplier bank, i.e. **New Delhi**.
- (v) As per **section 13(4) read with section 13(6) of the IGST Act, 2017**, where services supplied directly in relation to an immovable property are supplied at more than one location, including

a location in the taxable territory, the place of supply is the location in the taxable territory. Since in the given case, the immovable properties are located in more than one location including a location in the taxable territory, the Place of Supply of architect services is the location in the taxable territory. i.e., Pune.

Question No. 15 [ICAI Nov 2020 – 4 Marks] | [SWB – Q.NO: 41; PG.NO: 99]

M/s Joinder Drills of Australia exports rough rock cutting diamonds to M/s Ankit Enterprises of India, a registered supplier in the state of Haryana. M/s Ankit Enterprises is expected to process them into tools and export the same to the supplier in Australia. The process does not involve any sophisticated process other than cutting polishing and finishing. M/s Ankit Enterprises requests M/s Joinder Drills for use of such tools for his business in India for 3 months, which is agreed to by the supplier. He then exports it to the Australian supplier, invoicing it for ₹ 12,00,000 for processing it into the required tool.

M/s Ankit Enterprises is of the assumption that it is an export transaction and therefore entitled to treat it as a zero-rated supply and decides that no tax is payable under LUT although the rate applicable to such services for domestic supplies is CGST 9%, SGST 9% and IGST 18%.

State the provisions relating to the above supply of service and explain whether the stand taken by M/s Ankit Enterprises is correct and also determine the tax, if applicable, as the goods are now moving out of Haryana.

One of the conditions for a supply of service to qualify as export of service is that the place of supply of said service must be outside India.

The place of supply of services supplied in respect of the goods which are temporarily imported into India for any other treatment/process and are exported after such treatment/process without being put to any use in India, other than that which is required for such treatment/process, is the location of recipient of such service [Second proviso to section 13(3)(a) of the IGST Act, 2017].

In view of the above, in the given case, the place of supply of the services provided by M/s Ankit Enterprises is the place where the services are actually performed, i.e., in India as the tools to be exported have been used in India for 3 months before their export. Resultantly, the supply of services by M/s Ankit Enterprises do not qualify as export of service.

Since the recipient is outside India, the place of supply is governed by section 13 and hence, the supply is not an intra-State supply in terms of section 8(2) of the IGST Act, 2017². Therefore, since the place of supply is in India and the supply is not an intra-State supply, the same is an inter-State supply [in terms of section 7(5)(c) of the IGST Act, 2017] of services and not of goods. Thus, the same is liable to IGST of ₹ 1,83,051 (₹ 12,00,000/118 × 18)³.

Question No. 16 [ICAI MTP MAY 18 (12 MARKS)] | [ICAI MTP MAY 19] | [SWB – Q.NO: 19; PG.NO: 116]

Honeycure Laboratories Ltd. is a registered supplier of bulk drugs in Delhi. It manufactures bulk drugs and supplies the same in the domestic and overseas market. The bulk drugs are supplied within Delhi and in the overseas market directly from the company's warehouse located in South Delhi. For supplies in other States of India, the company has appointed consignment agents in each such State. However, supplies in Gurgaon (Haryana) and Noida (U.P.) are effected directly from South Delhi warehouse. The drugs are supplied to the consignment agents from the South Delhi warehouse.

Honeycure Laboratories Ltd. also provides drug development services to drug manufacturers located in India, including testing of their new drugs in its laboratory located in Delhi.

² In case where the place of supply (determined under section 13 of the IGST Act, 2017) and the location of supplier are in the same State, CBIC FAQs on 'Banking, Insurance and Stock Brokers Sector' have taken a view that such supplies will be treated as intra-State supply.[Contrary of IGST ACT]

³ It has been assumed that the amount of ₹ 12,00,000 is inclusive of IGST.

The company has furnished the following information for the month of January, 2021:

Particulars	₹
Advance received towards drug development services to be provided to Orochem Ltd., a drug manufacturer, located in Delhi [Drug development services have been provided in February, 2019 and invoice is issued on 28.02.2021]	5,00,000
Advance received for bulk drugs to be supplied to Novick Pharmaceuticals, a wholesale dealer of drugs in Gurgaon, Haryana [Invoice for the goods is issued at the time of delivery of the drugs in March, 2021]	6,00,000
Supply of bulk drugs to wholesale dealers of drugs in Delhi	60,00,000
Bulk drugs supplied to Anchor Pharmaceuticals Inc., USA under bond [Consideration received in convertible foreign exchange]	90,00,000
Drug development services provided to Unipharma Ltd., a drug manufacturer, located in Delhi	6,00,000

You are required to determine the GST liability [CGST & SGST or IGST, as the case may be] of Honeycure Laboratories Ltd. for the month of January, 2021 with the help of the following additional information furnished by it for the said period:

- 1) Consignments of bulk drugs were sent to Cardinal Pharma Pvt. Ltd. and Rochester Medicos – agents of Honeycure Laboratories Ltd. in Punjab and Haryana respectively. Cardinal Pharma Pvt. Ltd. and Rochester Medicos supplied these drugs to the Medical Stores located in their respective States for ₹60,00,000 and ₹50,00,000 respectively.
- 2) Bulk drugs have been supplied to Ronn Medicos Pvt. Ltd. – a wholesale dealer of bulk drugs in Gurgaon, Haryana for consideration of ₹15,00,000. Honeycure Laboratories Ltd. owns 60% shares of Ronn Medicos Pvt. Ltd. Open market value of the bulk drugs supplied to Ronn Medicos Pvt. Ltd. is ₹30,00,000. Further, Ronn Medicos Pvt. Ltd. is not eligible for full input tax credit.

Note:

- (i) All the given amounts are exclusive of GST, wherever applicable.
- (ii) Assume the rates of GST to be as under:

Goods/services supplied	CGST	SGST	IGST
Bulk drugs	2.5%	2.5%	5%
Drug development services	9%	9%	18%

You are required to make suitable assumptions, wherever necessary.

Computation of GST Liability of Honeycure Laboratories Ltd. for the month of January, 2021:

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Advance received for drug development services supplied to Orochem Ltd., a drug manufacturer, located in Delhi [Note - 1]	45,000 [5,00,000 × 9%]	45,000 [5,00,000 × 9%]	
Advance received for bulk drugs to be supplied to Novick Pharmaceuticals, a wholesale dealer of drugs in Gurgaon, Haryana [Note - 2]			Nil
Supply of bulk drugs to wholesale dealers of drugs in Delhi [Note - 3]	1,50,000 [60,00,000 × 2.5%]	1,50,000 [60,00,000 × 2.5%]	
Bulk drugs supplied to Anchor Pharmaceuticals Inc., USA [Note - 4]			Nil
Supply of drug development services to Unipharma Ltd., a drug manufacturer, located in Delhi [Note - 5]	54,000 [6,00,000 × 9%]	54,000 [6,00,000 × 9%]	
Supply of bulk drugs to consignment agents - Cardinal Pharma Pvt. Ltd. and Rochester Medicos of Punjab and Haryana [Note - 6]			4,95,000 [99,00,000 × 5%]
Supply of bulk drugs to Ronn Medicos of Gurgaon, Haryana [Note - 7]			1,50,000 [30,00,000 × 5%]
Total GST liability	2,49,000	2,49,000	6,45,000

Notes:

1. Being an **intra-State supply of services**, supply of drug development services to Orochem Ltd. of Delhi is subject to CGST and SGST @ 9% each. Further, in terms of section 13(2) of the CGST Act, the time of supply of services is the earlier of the date of invoice or date of receipt of payment, if the invoice is issued within 30 days of the supply of service. In the given case, invoice is issued within 30 days of the supply of service. Therefore, **time of supply of services will be date of receipt of advance and hence, GST is payable on the advance received in January, 2021.**
2. Being an **inter-State supply of goods**, supply of bulk drugs to Novick Pharmaceuticals of Gurgaon, Haryana is subject to IGST @ 5%. Further, in terms of section 12(2) of the CGST Act, the time of supply of goods is the earlier of the date of issue of invoice/last date on which the invoice is required to be issued or date of receipt of payment. However, Notification No. 66/2017 CT has postponed the time of supply of advance received for suppliers of goods till the time of issue of invoice. Thus, GST is not payable at the time of receipt of advance against supply of goods. **The time of supply of the advance received for bulk drugs to be supplied to Novick Pharmaceuticals is the time of issue of invoice, which is in March, 2021. Thus, said advance will be taxed in March, 2021 and not in January, 2021.**
3. Being an intra-State supply of goods, supply of bulk drugs to wholesale dealers of drugs in Delhi is subject to CGST and SGST @ 2.5 % each.
4. Export of goods means taking goods out of India to a place outside India. Supply of the bulk drugs to Anchor Pharmaceuticals Inc. of USA under bond is export of goods. Export of goods is a zero-rated supply [Section 16(1) of the IGST Act]. A zero-rated supply under bond is made without payment of integrated tax.
5. Being an **intra-State supply of services**, supply of drug development services to Unipharma Ltd. of Delhi is subject to CGST and SGST @ 9% each.
6. **Value of supply of goods made through an agent is determined as per Rule 29 of the CGST Rules.** Accordingly, the value of supply of goods between the principal and his agent is the open market value of the goods being supplied, or at the option of the supplier, is 90% of the price charged for the supply of goods of like kind and quality by the recipient to his unrelated customer, where the goods are intended for further supply by the said recipient. In the given case, **since open market value is not available, value of bulk drugs supplied to consignment agents - Cardinal Pharma Ltd. and Rochester Medicos – will be ₹ 99,00,000 [90% of (₹60,00,000 + ₹50,00,000)].** Further, being an inter-State supply of goods, supply of bulk drugs to the consignment agents is subject to IGST @ 5%.
7. If any person directly or indirectly controls another person, such persons are deemed as related persons. In the given case, since Honeycure Laboratories Ltd. owns 60% shares of Ronn Medicos, both are related persons. **Value of supply of goods between related persons (other than through an agent) is determined as per Rule 28 of the CGST Rules.** Accordingly, the value of supply of goods between related persons is the open market value of such goods and not the invoice value. Furthermore, since Ronn Medicos is not eligible for full input tax credit, value declared in the invoice cannot be deemed to be the open market value of the goods. Thus, **open market value of the bulk drugs supplied to Ronn Medicos i.e., ₹30,00,000 is the value of supply of such goods.** Further, being an inter-State supply of goods, supply of bulk drugs to Ronn Medicos is subject to IGST @ 5%.

Question No. 17

[SWB – Q.NO: 25; PG.NO: 122]

A Ltd. (Delhi) is an authorized money changer registered under FEMA, 1999. It has entered the following transaction of money changing during July, 2021:

- 1) 600 transactions of conversion of Dollar into Indian Rupees of ₹20,000 per transaction;
- 2) 500 transactions of conversion of Dollar into Indian Rupees of ₹1 lakh per transaction;
- 3) 200 transactions of conversion of Indian Rupee in Dollar of ₹5 lakhs per transaction;

- 4) 100 transactions of conversion of Euro into Indian Rupee of ₹500 lakhs per transaction;
5) 300 transactions of conversion of Dollar into Euro of ₹100 lakhs per transaction;
Compute the value of supply. Presume supplier has opted for Rule 32(2)(b) of CGST Rules, 2017

TRANSACTION	GST / Transaction	Trans	Value of Supply(₹)
1) Conversion of Dollar into INR of ₹20,000 per transaction	(₹20,000 × 1%) = ₹200 (subject to minimum of ₹250)	600	1,50,000
2) Conversion of Dollar into INR of 1 lakh each	(₹1 lakh × 1%) = ₹1,000	500	5,00,000
3) Conversion of INR into Dollar of 5 lakh per transaction	(₹1000 + ₹4,00,000 × 0.5%) = ₹3,000	200	6,00,000
4) Conversion of Euro into INR of ₹500 lakhs per transaction	(₹5,500 + ₹490 lakhs × 0.1%) = ₹54,500	100	54,50,000
5) Conversion of Dollar into Euro of ₹100 lakhs per transaction	Atleast one money converted should be INR	300	Nil
Total Value of Supply			67,00,000

Question No. 18

[MTP NOV 19 (9 MARKS) ADAPTED] | [RTP May 20] |

[SWB – Q.NO: 37; PG.NO: 126]

Sacrosant Manufacturers Ltd., a manufacturer of bottle caps, is registered in Dhanbad (Jharkhand). It imports a bottle caps making machine from Japan. Sacrosant Manufacturers Ltd. avails the services of Jhumroo Logistics, a licensed customs broker in Kolkata (West Bengal), in meeting all the legal formalities for getting the said machine cleared from the customs station.



Sacrosant Manufacturers Ltd. also authorises Jhumroo Logistics to incur, on its behalf, the expenses in relation to clearance of the imported machine from the customs station and bringing the same to its warehouse at Dhanbad. These expenses would be reimbursed by Sacrosant Manufacturers Ltd. to Jhumroo Logistics on actual basis. In addition, Sacrosant Manufacturers Ltd. will also pay the agency charges to Jhumroo Logistics for the services rendered by it.

Jhumroo Logistics raised an invoice in July as follows:

S.No.	Particulars	Amount* (₹)
(i)	Agency charges	5,00,000
(ii)	Customs duty on machine	3,80,000
(iii)	Port charges	33,000
(iv)	Dock dues	56,000
(v)	Charges for transport of machine from Kolkata port, West Bengal to Jhumroo Logistics godown in Asansol, West Bengal	48,000
(vi)	Charges for transport of machine from Jhumroo Logistics' Asansol godown to the warehouse of Sacrosant Manufacturers Ltd. in Dhanbad, Jharkhand	67,000
(vii)	Unloading of machine at Kolkata port, West Bengal	83,000
(viii)	Hotel expenses	45,000
(ix)	Travelling expenses	50,000
(x)	Telephone expenses	2,000

*exclusive of GST, wherever applicable

Compute the value of supply made by Jhumroo Logistics with the help of given information. Would your answer be different if Jhumroo Logistics charges ₹ 13,00,000 as a lump sum consideration for clearing the imported machine from the customs station and bringing the same to the warehouse of Sacrosant Manufacturers Ltd.?

As per **explanation to Rule 33 of the CGST Rules, 2017**, a "pure agent" means a person who-

- (a) enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;

- (b) neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;
- (c) does not use for his own interest such goods or services so procured; and
- (d) receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

The supplier needs to fulfil ALL the above conditions in order to qualify as a pure agent.

In the given case, Jhumroo Logistics has been authorised by the recipient of supply – Sacrosant Manufacturers Ltd. – to incur, on its behalf, the expenses incurred in relation to clearance of the imported machine from the customs station and bringing the same to the warehouse of the recipient, i.e. expenses mentioned in S.No. (ii) to (vii). Further, Jhumroo Logistics does not hold any title to said services and does not use them for his own interest.

Lastly, Jhumroo Logistics receives only the actual amount incurred to procure such services in addition to agency charges. Thus, **Jhumroo Logistics qualifies as a pure agent.**

Further, **Rule 33 of the CGST Rules, 2017** stipulates that notwithstanding anything contained in the provisions of Chapter IV – Determination of Value of Supply, the **expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely-**

- (I) the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;
- (II) the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and
- (III) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

Since conditions (I) to (III) mentioned above are satisfied in the given case, expenses (ii) to (vii) incurred by Jhumroo Logistics as a pure agent of Sacrosant Manufacturers Ltd. Shall be excluded from the value of supply.

Accordingly, value of supply made by Jhumroo Logistics will be computed as under:

Particulars	Amount (₹)
Agency charges	5,00,000
Add: Customs duty	Nil
Add: Port charges	Nil
Add: Dock charges	Nil
Add: Charges for transport of machine from Kolkata port, West Bengal to its Jhumroo Logistics' godown in Asansol, West Bengal	Nil
Add: Charges for transport of machine from Jhumroo Logistics' Asansol godown to the warehouse of Sacrosant Manufacturers Ltd.in Dhanbad, Jharkhand	Nil
Add: Unloading of machine at Kolkata port, West Bengal	Nil
Add: Hotel expenses	45,000
Add: Travelling expenses	50,000
Add: Telephone expenses	2,000
Value of supply	5,97,000

However, if Jhumroo Logistics charges ₹ 13,00,000 as a lump sum consideration for getting the imported machine cleared from the customs station and bringing the same to the warehouse of Sacrosant Manufacturers Ltd., Jhumroo Logistics would incur expenses (ii) to (vii) for its own interest (as the agreement requires it to get the imported machine cleared from the customs station and bring the same to the Sacrosant Manufacturers Ltd.'s warehouse). Thus, Jumroo Logistics would not be considered as a pure agent of Sacrosant Manufacturers Ltd. For said services. Consequently, in that case, value of supply will be ₹ 13,00,000 in terms of section 15 of the CGST Act, 2017.

Question No. 19 [ICSI Dec 21 – 5 Marks (Similar)] | [SWB – Q.NO: 41; PG.NO: 129]

Rustagi & Co. manufactures customized products at its unit situated in Madhya Pradesh. Cost of production for Rustagi & Co. for 1000 products is ₹ 20,00,000. These products require further processing before sale, and for this purpose products are transferred from its Madhya Pradesh unit to its another unit in Himanchal Pradesh. The value declared on the invoice for such transfer is the cost of production of such products.

The Himanchal Pradesh unit, apart from processing its own products, engages in processing of similar products of other persons who supply the products of the same kind and quality. Thereafter, the Himanchal Pradesh unit sells these processed products to wholesalers. There are no other factories in the neighbouring area which are engaged in the same business as that of Himanchal Pradesh unit.

1,000 units of the products of same kind and quality are supplied to Himanchal Pradesh unit, at the time when goods are sent by Madhya Pradesh unit, by another manufacturer located in Himanchal Pradesh. The ex-factory price of such goods is ₹ 19,00,000. The Himanchal Pradesh unit of Rustagi & Co. is eligible for full ITC.

Determine the value of 1000 products supplied by Rustagi & Co. to its Himanchal Pradesh unit.

As per **section 25(4)**, a person who has obtained or is required to obtain 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 for the purposes of this Act.

Therefore, units of Rustagi & Co. in Madhya Pradesh and Himanchal Pradesh are distinct persons under GST.

As per Rule 28, the value of the supply of goods between distinct persons, other than where the supply is made through an agent, shall –

- a) be the open market value of such supply;
- b) if open market value is not available, be the value of supply of goods of like kind and quality;

if value cannot be determined under the above methods, be cost of the supply plus 10% mark-up or be determined by other reasonable means, in that sequence.

Rule 28 also provides that where the goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to 90% of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person.

Further, Rule 28 provides that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services.

In the given case, the option of valuing the goods @ 90% of the price charged by the recipient to his unrelated customer is **not available** as the goods are not further supplied 'as such' but only after processing at Himanchal Pradesh unit. However, since the Himanchal Pradesh unit is eligible for full ITC, the value declared by the Madhya Pradesh unit in the invoice for transfer of such products, i.e. ₹ 20,00,000 shall be deemed to be the open market value of the products. Thus, the value of 1000 products supplied by Rustagi & Co. to its Himanchal Pradesh unit in terms of Rule 28 is the open market value of such products which is ₹ 20,00,000.

Question No. 20 [ICSI Dec 19 – 5 Marks] | [SWB – Q.NO: 10; PG.NO: 146]

Veena Manufacturers a registered person, instructs the supplier to send capital goods directly to RS Ltd, a job worker outside its factory premises for carrying out certain processing on the goods. The goods were sent by the supplier on 18.09.2018 and were received by RS Ltd on 25.09.2018. The job worker, RS Ltd, carried out the job work but did not return the capital goods to their Principal Veena Manufacturers. Discuss whether Veena manufacturers are eligible to retain the input tax credit availed by them on the capital goods.

Would your opinion differ if in place of capital goods jigs and fixtures are supplied to the job worker and the same has not been returned to the principal?

As per **section 19(5) of CGST Act**, the principal shall be entitled to take credit of input tax on capital goods even if the capital goods are directly sent to a job worker for job work without being first brought to his place of business.

However as per **section 19(6) of CGST Act**, Where the capital goods sent for job work are not received back by the principal within a period of **three years** (or further extended period of 2 years) of being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out and **in case of direct dispatch to the job worker, the period of 3 years shall be counted from the date of receipt of capital goods by the job worker.**

Applying the above provisions, in the given case, Veena manufacturers can take input tax credit on such capital goods even if they are sent directly to RS Ltd premises. **Here the 3 years period shall be counted from the date of receipt of the capital goods by the job worker, i.e. 25.09.2018** and hence the capital goods be returned before 25.09.2021, otherwise it shall be treated as deemed supply of the capital goods by the principal to the job worker as on 25.09.2018.

Thus, in case the **capital goods are not returned** within the above mentioned time by the job worker, Veena Manufacturers will have to **pay tax along with interest on such deemed supply of capital goods to RS Ltd.**

In case of moulds, dies, jigs or tools to job worker in place of capital goods: As per **section 19(7) of CGST Act**, the time limit as given above shall not apply in case of moulds, dies, jigs or tools sent to the job worker.

Therefore, in this case Veena manufacturer is not required to pay tax even if RS Ltd has not returned the moulds and dies, jigs or tools.

Question No. 21

[SWB – Q.NO: 25; PG.NO: 154]

Moksha Bank Ltd., is engaged in providing services, which are both taxable and exempted. You have following information Value of different services of bank for year ended 31 March –

	Amount (₹)
Value of Exempted services (interest earned on loans and advances)	2,00,000
Value of Taxable services	8,00,000
Input Credit on input services for the month of April 2021	60,000
Input Credit of ₹60,000 includes –	
input services exclusively used for provision of exempted services	20,000
input services exclusively used for provision of taxable services	10,000

Bank wants to determine input credit for set-off against output tax, during next month April and avail option more beneficial to it. Determine which of the two options is more beneficial to the bank.



The Banks have two options: (a) Pro rata, and (b) 50% adhoc.

Option I : In case the Bank opts for option to avail 50% Eligible Input tax credit under Section 17(4)

Particulars	GST (₹)
Total Eligible Input tax credit available	60,000
Less : Amount of input tax credit credited to electronic ledger (50% of eligible input tax credit on input services) i.e., ₹60,000 x 50%	(30,000)
Remaining input tax credit Lapsed	30,000
Tax on taxable supply of services [₹8,00,000 x 18%]	1,44,000
Less : Net/Eligible Credit available on Input services	(30,000)
Net output Tax liability of bank after availing eligible Input tax Credit	1,14,000

Option II : In case Bank opted to comply with the provisions of Section 17(2) [Pro rata reversal]

Particulars	GST (₹)
1. Input services exclusively used for provision of exempted services	Ineligible

2. Input services exclusively used for provision of taxable services (fully allowed)	10,000
3. Common Credit = ₹30,000 divided in ratio of 2 lakh (Exempt) : 8 lakh (Taxable). Hence, that relating to exempt services = ₹6,000 and that for taxable services = ₹24,000.	24,000
4. Total eligible credit = ₹24,000 + ₹10,000	34,000
Tax on taxable supply of services of [₹8,00,000 × 18%]	1,44,000
Less : Net/Eligible Credit available on Input services	(34,000)
Net output Tax liability of bank after availing eligible Input tax Credit	1,10,000

Option 2 (pro rata reversal is better); this is so because taxable services are more (80%), as compared to deemed adhoc figure of 50% under Option 1. (But, the option once availed shall be applicable for all transactions throughout the financial year)

Note: Ratio of exempt supply to total supply is only 20%. Thus, Sec. 17(2) will require 20% reversal towards exempt fully. On the other- hand, Sec. 17(4) will require ad-hoc 50% reversal. Thus, 17(2) is better.

Question No. 22

[SWB – Q.NO: 47; PG.NO: 175]

B & D Company, a partnership firm, in Nagpur, Maharashtra is a wholesaler of taxable product 'P' and product 'Q' exempted by way of a notification. The firm supplies these products only in the eastern part of Maharashtra. All the procurements (both goods and services) of the firm are from the suppliers registered under regular scheme in the State of Maharashtra. The firm pays tax under composition scheme.



B & D Company has furnished the following details with respect to its turnover (exclusive of taxes) and stock (exclusive of taxes):

Particulars	Turnover for the quarter ended 30 th June (₹)	Turnover for the quarter ended 30 th September (₹)
'P'	60,00,000	50,00,000
'Q'	17,65,000	17,00,000

Particulars	Stock as on 30th June (₹)	Stock as on 30th September (₹)	Stock as on 31st October (₹)
'P'	25,00,000	10,00,000	3,60,000
'Q'	10,00,00	2,00,000	1,20,000

The entire stock of the products 'P' and 'Q' available with the firm as on 30th September is purchased during the said half year except a consignment of product 'P' valuing ₹ 3,00,000, which was purchased in the April month of the preceding financial year. The said stock could not be sold during the month of October. In the current financial year, in the month of October, no purchases were made, and the products were sold with a profit margin of 20% on sales [exclusive of taxes].

The extract of the only bill book maintained by the firm showed the following details-

Bill No.	Date	Value of products (exclusive of taxes)		
		'P' (₹)	'Q' (₹)	Total (₹)
2306	1 st October	2,00,000	3,000	2,03,000
2307	1 st October	1,33,000	5,250	1,38,250
2308	2 nd October	67,000	39,250	1,06,250
2309	3 rd October	58,750	33,750	92,500
2310	5 th October	1,00,000	-	1,00,000
2311	6 th October	94,000	6,000	1,00,000
2312	6 th October	-	17,000	17,000
2313	8 th October	50,000	6,000	56,000

2314	9 th October	60,000	9,000	69,000
2315
.....

All the above amounts are exclusive of taxes, wherever applicable

Compute the ITC credited to the Electronic Credit Ledger of the B & D Company, when it exits composition scheme and becomes liable to pay tax under regular scheme, in accordance with the provisions of section 18(1)(c).

Note: Make suitable assumptions wherever required. Stock is valued at cost price.

As per section 10(3) read with Notification No.14/2019 CT dated 07.03.2019 as amended, the option availed of by a registered person to pay tax under composition scheme shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds ₹ 1.5 crore [₹ 75 lakh in case of Special Category States except Assam, Himachal Pradesh and Jammu and Kashmir].

As per section 2(6), aggregate turnover means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same PAN, to be computed on all India basis but excludes CGST, SGST/UTGST, IGST and GST Compensation Cess.

In the given case, the firm is registered under the composition scheme in the State of Maharashtra. The aggregate turnover of the firm exceeds ₹ 1.5 crore on 3rd October [aggregate of both taxable and exempt turnover from 1st April to 3rd October, i.e. ₹ 1,50,05,000 (₹ 1,44,65,000 + ₹ 2,03,000 + ₹ 1,38,250 + ₹ 1,06,250 + ₹ 92,500)].

Thus, the firm will pay tax under regular scheme (Section 9) from 3rd October.

As per section 18(1)(c) read with Rule 40, where any registered person ceases to pay tax under section 10, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax under section 9

Further, ITC on supplies of inputs and capital goods shall not be available after the expiry of one year from the date of issue of tax invoice [Section 18(2)].

In the light of the above-mentioned provisions, the ITC credited to the Electronic Credit Ledger of the B & D Company on inputs held in on 2nd October will be computed as under:

Particulars		Amount (₹)
Stock of taxable inputs as on 30 th September [Since no tax is paid on exempt purchases, there does not arise any question of availing ITC on the same. Hence, stock of only taxable inputs is considered]		10,00,000
Add: Purchases [No purchases are made in October]		Nil
Less: Cost of taxable goods sold from 1st October to 2nd October [(2,00,000 + 1,33,000 + 67,000) × 80%]		(3,20,000)
Stock of taxable inputs as on 2 nd October [Since the bill numbers are in continuation, it can be concluded that no sales are missing from the extract]		6,80,000
Less: More than one year old stock		(3,00,000)
Stock of inputs on which ITC can be claimed		3,80,000
ITC of CGST @ 9%	[Since all purchases are intra-State and from the suppliers registered under regular scheme]	34,200
ITC of SGST @ 9%		34,200

Question No. 23

[ICAI MAY 19(OLD)- 10 MARKS] | [SWB – Q.NO: 50; PG.NO: 184]

Vansh Shoppe is a registered supplier of both taxable and exempted goods, registered under GST in the State of Rajasthan. Vansh Shoppe has furnished the following details for a month:



		(₹)
1)	Details of sales:	
	Supply of taxable goods	50,00,000
	Supply of goods not leviable to GST	10,00,000
2)	Details of goods purchased for being sold in the shop:	
	Taxable good	45,00,000
	Goods not leviable to GST	4,00,000
	Details of expenses:	
3)	Monthly rent payable for the shop	3,50,000
	Telephone expenses paid (₹ 30,000 for land line phone installed at the shop and ₹ 20,000 towards mobile phone bills of the employees – Mobile phones are given to employees for official use)	50,000
	Audit fees paid to a Chartered Accountant (₹ 35,000 for filing of income tax return & the statutory audit of preceding financial year and ₹ 25,000 for filing of GST return)	60,000
	Premium paid on health insurance policies taken for specified employees of the shop as per company policy.	10,000
	Freight paid to goods transport agency (GTA) for inward transportation of goods not leviable to GST	50,000
	Freight paid to goods transport agency (GTA) for inward transportation of taxable goods	1,50,000
	Goods given as free samples (Not included in Taxable goods value of 45,00,000)	5,000

All the above amounts are exclusive of all kind of taxes, wherever applicable.

All the purchases and sales made by Vansh Shoppe are within Rajasthan. All the purchases are made from registered suppliers. All the other expenses incurred are also within Rajasthan.

Assume, wherever applicable, for purpose of reverse charge payable by Vansh Shoppe, the CGST, SGST and IGST rates as 2.5%, 2.5% and 5% respectively. CGST, SGST and IGST rates to be 6%, 6% and 12% respectively in all other cases.

There is no opening balance in the electronic cash ledger or electronic credit ledger. Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.

You are required to compute the following:

- 1) Input Tax Credit (ITC) credited to Electronic Credit Ledger
- 2) Common credit available for apportionment
- 3) ITC attributable towards exempt supplies out of common credit

Net GST payable from Electronic Cash Ledger for the month

1) Computation of ITC credited to Electronic Credit Ledger:

ITC attributable to inputs and input services intended to be used for business purposes is credited to the electronic credit ledger. ITC attributable to inputs and input services intended to be used exclusively for non-business purposes, for effecting exclusively exempt supplies and on which credit is blocked under section 17(5) is not credited to electronic credit ledger [Sections 16 and 17].

In the light of the aforementioned provisions, the ITC credited to electronic credit ledger of Vansh Shoppe is calculated as under:

Particulars	Amount (₹)	CGST @ 6% (₹)	SGST@6% (₹)
GST paid on taxable goods	45,00,000	2,70,000	2,70,000
Goods not leviable to GST [Since non-taxable, no GST is paid]	4,00,000	Nil	Nil

GST paid on monthly rent for shop	3,50,000	21,000	21,000
GST paid on telephone expenses	50,000	3,000	3,000
GST paid on audit fees	60,000	3,600	3,600
GST paid on premium of health insurance policies as per company policy [ITC on health insurance service is allowed only if it is obligatory for employers to provide such services to its employees under any law for the time being in force- Proviso to section 17(5)(b)].	10,000	Nil	Nil
Goods given as free samples [ITC on goods disposed of by way of free samples is blocked under section 17(5)(h)]	5,000	Nil	Nil
Particulars	Amount (₹)	CGST @ 2.5% (₹)	CGST @ 2.5% (₹)
Freight paid to GTA for inward transportation of non-taxable goods under reverse charge [Since definition of exempt supply under section 2(47) specifically includes non-taxable supply, the input service of inward transportation of non-taxable goods is being exclusively used for effecting exempt supplies.]	50,000	Nil	Nil
Freight paid to GTA for inward transportation of taxable goods under reverse charge	1,50,000	3,750	3,750
ITC credited to the electronic ledger		3,01,350	3,01,350
Less: ITC reversal [ITC out of common credit, attributable to exempt supplies] (Refer point no. 2 & 3 below)		(4,600)	(4,600)
Net ITC available		2,96,750	2,96,750

2) Computation of common credit available for apportionment:

Common Credit = ITC credited to Electronic Credit Ledger – ITC attributable to inputs and input services intended to be used exclusively for effecting taxable supplies [Section 17 read with Rule 42].

Particulars	CGST (₹)	SGST (₹)
ITC credited to Electronic Credit Ledger	3,01,350	3,01,350
Less: ITC on taxable goods	2,70,000	2,70,000
Less: ITC on freight paid to GTA for inward transportation of taxable goods	3,750	3,750
Common credit	27,600	27,600

3) Computation of ITC attributable towards exempt supplies out of common credit:

ITC attributable towards exempt supplies = Common credit × (Aggregate value of exempt supplies during the tax period / Total turnover during the tax period) [Section 17 read with rule 42].

Particulars	CGST (₹)	SGST (₹)
ITC attributable towards exempt supplies [₹ 27,600 × (₹ 10,00,000 / ₹ 60,00,000)]	4,600	4,600

4) Computation of net GST liability for the month

Particulars	CGST (₹)	SGST (₹)
GST liability under forward charge:		
Supply of taxable goods [₹ 50,00,000 × 6%]	3,00,000	3,00,000
Total output tax liability under forward charge	3,00,000	3,00,000
Less: ITC credited to the electronic credit ledger	2,96,750	2,96,750
Net GST payable [A]	3,250	3,250

<u>GST liability under reverse charge:</u>		
Freight paid to GTA for inward transportation of taxable goods [₹ 1,50,000 × 2.5%]	3,750	3,750
Freight paid to GTA for inward transportation of non-taxable goods [₹ 50,000 × 2.5%]	1,250	1,250
Total tax liability under reverse charge [B]	5,000	5,000
Net GST liability [A] + [B]	8,250	8,250

Note: Amount available in the electronic credit ledger may be used for making payment towards output tax [Section 49]. However, tax payable under reverse charge is not an output tax in terms of definition of output tax provided under section 2(82). Therefore, tax payable under reverse charge cannot be set off against the input tax credit and thus, will have to be paid in cash.

Question No. 24 [ICAI RTP MAY 21] | [SWB – Q.NO: 58; PG.NO: 199]

Sunshine Pvt. Ltd. manufactures taxable goods. The company is registered under GST in the State of West Bengal. The company has provided following information in relation to inward supplies received by it in the month of October:

S. No.	Invoices received for inward supplies	IGST (₹)
1.	Raw material - X	2,00,000
2.	Rent of the factory building	1,50,000
3.	Raw material - Y	1,30,000
4.	Car purchased for the use of the director	1,20,000
5.	Consumables	80,000
6.	Machinery for being used in the manufacturing process	1,50,000
7.	Raw material - Z	1,10,000
8.	Technical consultancy for improvement in the manufacturing process	60,000
9.	Raw material - W (imported from China)	50,000
Total		10,50,000

S.No	Particulars	IGST (₹)
(i)	Balance in Form GSTR-2A on 28th October (Invoices at S. Nos. 1, 2 and 3 uploaded by the respective suppliers in their Form GSTR-1s)	4,80,000
(ii)	Balance in Form GSTR-2A on 11th November (Invoices at S. Nos. 1, 2, 3 and 4 uploaded by the respective suppliers in their Form GSTR-1s)	6,00,000
(iii)	Balance in Form GSTR-2A on 20th November (Invoices at S. Nos. 1, 2, 3, 4 and 5 uploaded by the respective suppliers in their Form GSTR-1s)	6,80,000

Compute the ITC that can be claimed by Sunshine Pvt. Ltd. in its Form GSTR -3B for the month of October to be filed by 20th November.

Note: The due date of filing of Form GSTR-1 and Form GSTR-3B for the month of October are 11th November and 20th November respectively. Subject to the information given above, all the other conditions for availing ITC have been complied with.

ITC to be claimed by Sunshine Pvt. Ltd. in its GSTR -3B for the month of October to be filed by 20th November will be computed as under –

<u>Invoices</u>	<u>Amount of input tax involved in the invoices (₹)</u>	<u>Amount of ITC that can be availed (₹)</u>
Balance in GSTR-2A on 11 th November [Note 1] (Invoices at S. Nos. 1, 2, 3 and 4 uploaded by the respective supplier in their GSTR-1s)	6,00,000	4,80,000 [Note 2] (6,00,000 – 1,20,000)
Invoices at S. Nos. 5, 6, 7 and 8 not uploaded in GSTR-1	4,00,000	Nil [Note 3]
Invoice at S. No. 9	50,000	50,000 [Note 4]
Total	10,50,000	5,30,000

Notes:

- 1) Eligible input tax credit available to the recipient in respect of invoices or debit notes the details of which have been uploaded by the suppliers under section 37(1) of the CGST Act, 2017 as on the due date of filing of the returns in Form GSTR-1 of the suppliers for the said tax period. The taxpayer can ascertain the same from his auto populated Form GSTR 2B as available on the due date of filing of Form GSTR-1 under section 37(1).
- 2) 100% ITC can be availed on invoices uploaded by the suppliers in their Form GSTR-1. However, section 17(5) of the CGST Act, 2017 blocks ITC on motor vehicles for transportation of persons having approved seating capacity of not more than 13 persons if they are not used for making the following taxable supplies, namely:—
 - (A) further supply of such motor vehicles; or
 - (B) transportation of passengers; or
 - (C) imparting training on driving such motor vehicles
 Since Sunshine Pvt. Ltd. is not using the car for any of the aforesaid mentioned purpose, ITC thereon will not be available.
Thus, 100% ITC will be available in respect of invoices at S.Nos . 1, 2 & 3.
- 3) In respect of invoices at S.No 5,6,7 & 8 not uploaded in FORM GSTR 1 by the due date. ITC cannot be availed as per Sec.16(2)(aa) of CGST Act, 2017.
- 4) The restriction of availment of ITC is imposed only in respect of those invoices, details of which are required to be uploaded by the suppliers under section 37(1) of the CGST Act, 2017 and which have not been uploaded. **Therefore, full ITC can be availed** in respect of IGST paid on imports which are outside the ambit of section 37(1) [Circular No. 123/42/2019 GST dated 11.11.2019].

Question No. 25

[ICAI RTP NOV 21] | [SWB – Q.NO: 60; PG.NO: 202]

Kaushal Manufacturers Ltd., registered in Delhi, is a manufacturer and supplier of electronic home appliances. It is paying tax under regular scheme. It supplies the electronic home appliances in the domestic as well as overseas market. For supplies in other States of India, the company has appointed consignment agents in each such State, except Gurgaon, Haryana and Noida, Uttar Pradesh, where the goods are supplied directly from its Delhi warehouse.

In the month of January, consignments of electronic home appliances were sent to Cardinal Electricals Pvt. Ltd. and Rochester Technos – agents of Kaushal Manufacturers Ltd. in Punjab and Madhya Pradesh respectively. Cardinal Electricals Pvt. Ltd. and Rochester Technos supplied these electronic home appliances under their invoices to the stores located in their respective States for ₹ 40,00,000 and ₹ 70,00,000 respectively. Open market value of such appliances is not available

Further, in January, electronic home appliances have been supplied to Ronn Technomart - a wholesale dealer of electronic home appliances in Noida, Uttar Pradesh for consideration of ₹ 23,00,000, from its Delhi warehouse. Kaushal Manufacturers Ltd. owns 75% shares of Ronn Technomart. Open market value of the electronic home appliances supplied to Ronn Technomart is ₹ 30,00,000. Further, Ronn Technomart is not eligible for full input tax credit.

Kaushal Manufacturers Ltd. also provides repair and maintenance services to electronic appliance manufacturers located in India.

The company has also furnished the following information for the month of January

Particulars	₹
Supply of electronic home appliances to wholesale dealers of such appliances in Delhi	84,00,000
Electronic home appliances supplied to Anchor Electricals Inc., USA under LUT [Consideration received in convertible foreign exchange]	1,26,00,000
Repair and maintenance services provided to Unitech Ltd., an electronic appliance manufacturer, located in Delhi	8,40,000
Advance received towards repair and maintenance services to be provided to Orelec Ltd., an electronic appliance manufacturer, located in Delhi	7,00,000

[Repair and maintenance services have been provided in February and invoice is issued on 28th February]	
Advance received for electronic home appliances to be supplied to Novick Electricals, a wholesale dealer of such appliances in Gurgaon, Haryana [Invoice for the goods is issued at the time of delivery of the electronic appliances in March]	8,40,000

You are required to determine the gross GST liability [CGST & SGST and/or IGST] of Kaushal Manufacturers Ltd. for the month of January . Note:

- (i) All the given amounts are exclusive of GST, wherever applicable.
(ii) Assume the rates of GST to be as under:

Goods/services supplied	CGST	SGST	IGST
Electronic home appliances	2.5%	2.5%	5%
Repair and maintenance services	9%	9%	18%

You are required to make suitable assumptions, wherever necessary.

Computation of gross GST Liability of Kaushal Manufacturers Ltd. for the month of January:

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Supply of electronic home appliances to consignment agents - Cardinal Electricals Pvt. Ltd. and Rochester Technos of Punjab and Madhya Pradesh [Note - 11]			4,95,000 [99,00,000 × 5%]
Supply of electronic home appliances to Ronn Technomart of Noida, Uttar Pradesh [Note - 2]			1,50,000 [30,00,000 × 5%]
Supply of electronic home appliances to wholesale dealers of such appliances in Delhi [Note - 3]	2,10,000 [84,00,000 × 2.5%]	2,10,000 [84,00,000 × 2.5%]	
Electronic home appliances supplied to Anchor Electricals Inc., USA under LUT [Note - 4]			Nil
Supply of repair and maintenance services to Unitech Ltd., an electronic appliance manufacturer, located in Delhi [Note - 5]	75,600 [8,40,000 × 9%]	75,600 [8,40,000 × 9%]	
Advance received for repair and maintenance services supplied to Orelec Ltd., a electronic appliances manufacturer, located in Delhi [Note - 6]	63,000 [7,00,000 × 9%]	63,000 [5,00,000 × 9%]	
Advance received for electronic home appliances to be supplied to Novick Electricals, a wholesale dealer of electronic appliances in Gurgaon, Haryana [Note - 7]			Nil
Total GST liability	3,48,600	3,48,600	6,45,000

Notes:

- Value of supply of goods made through an agent is determined as per rule 29 of the CGST Rules, 2017. Accordingly, the value of supply of goods between the principal and his agent is the open market value of the goods being supplied, or at the option of the supplier, is 90% of the price charged for the supply of goods of like kind and quality by the recipient to his unrelated customer, where the goods are intended for further supply by the said recipient.
In the given case, since open market value is not available, value of electronic home appliances supplied to consignment agents - Cardinal Electricals Pvt. Ltd. And Rochester Technos - will be ₹ 99,00,000 [90% of (40,00,000 + 70,00,000)]. Further, being an inter-State supply of goods, supply of electronic home appliances to the consignment agents is subject to IGST @ 5%. Rochester Technos - will be ₹ 99,00,000 [90% of (40,00,000 + 70,00,000)]. Further, being an inter-State supply of goods, supply of electronic home appliances to the consignment agents is subject to IGST @ 5%.

2. If any person directly or indirectly controls another person, such persons are deemed as related persons. [Clause (a)(v) of explanation to section 15 of the CGST Act]. In the given case, since Kaushal Manufacturers Ltd. owns 75% shares of Ronn Technomart, both are related persons. Value of supply of goods between related persons (other than through an agent) is determined as per rule 28 of the CGST Rules, 2017. Accordingly, the value of supply of goods between related persons is the open market value of such goods and not the invoice value. Furthermore, since Ronn Technomart is not eligible for full input tax credit, value declared in the invoice cannot be deemed to be the open market value of the goods.
Thus, open market value of the electronic home appliances supplied to Ronn Technomart, i.e. ₹ 30,00,000 is the value of supply of such goods. Further, being an inter-State supply of goods, supply of electronic home appliances to Ronn Technomart is subject to IGST @ 5%.
3. Being an intra-State supply of goods, supply of electronic home appliances to wholesale dealers of said appliances in Delhi is subject to CGST and SGST @ 2.5 % each.
4. Section 2(5) of the IGST Act defines export of goods as taking goods out of India to a place outside India. In view of the said definition, supply of the electronic home appliances to Anchor Electricals Inc. of USA under LUT is export of goods.
Export of goods is a zero-rated supply [Section 16(1) of the IGST Act]. A zero-rated supply under LUT is made without payment of integrated tax [Section 16(3)(a) of IGST Act].
5. Being an intra-State supply of services, supply of repair and maintenance services to Unitech Ltd. of Delhi is subject to CGST and SGST @ 9% each.
6. Being an intra-State supply of services, supply of repair and maintenance services to Orelec Ltd. of Delhi is subject to CGST and SGST @ 9% each. Further, in terms of section 13(2) of the CGST Act, the time of supply of services is the earlier of the date of invoice or date of receipt of payment, if the invoice is issued within 30 days of the supply of service. In the given case, invoice is issued within 30 days of the supply of service. Therefore, time of supply of services will be date of receipt of advance and hence, GST is payable on the advance received in January.
7. Being an inter-State supply of goods, supply of electronic home appliances to Novick Electricals of Gurgaon, Haryana is subject to IGST @ 5%. Further, in terms of section 12(2) of the CGST Act, the time of supply of goods is the earlier of the date of issue of invoice/last date on which the invoice is required to be issued or date of receipt of payment.
However, Notification No. 66/2017 CT dated 15.11.2017 specifies that time of supply of goods for the purpose of payment of tax is the date of issue of invoice/last date when the invoice ought to have been issued under section 31.

Thus, GST is not payable at the time of receipt of advance against supply of goods. The time of supply of the advance received for electronic home appliances to be supplied to Novick Electricals is the time of issue of invoice, which is in March. Thus, said advance will be taxed in March and not in January

Question No. 26

[SWB – Q.NO: 65; PG.NO: 208]

1. Principal (A Ltd.) supplied Fabric to Job-worker (Tailor - lala) to manufacture garments. Whether Tailor can use his own material (e.g thread, Button etc.). Further whether Job-worker (Tailor - lala) can take credit of thread, Button
2. Whether job-worker making (intra-state supply of Rs 8 lakh & inter-state supply of Rs 10 lakh) is liable to get registered in a year.
3. Whether principal Can sell garments manufactured from the place of job-worker (Tailor)
4. What are the documents to be issued for
 - I. Where goods are sent by principal (A Ltd.) to only one job worker (Tailor - lala)
 - II. Where goods are sent from one job worker (Tailor - lala) to another job worker (Tinku)
 - III. Where the goods are returned to the principal by the job worker (Tailor - lala)
 - IV. Where the goods are sent directly by the supplier (Fabric Ltd) to the job worker (Tailor - lala) on direction of buyer (A Ltd.)
 - V. Where the goods imported by the principal (A Ltd.) and sent directly from custom station to the job worker (Tailor - lala)
 - VI. Where goods are returned in piecemeal by the job worker (Tailor - lala)
 - VII. When intimation required to be furnished
5. Determine the value for job- worker

Charges for Job Work	10000
Value of Goods/Services used in performing Job work	2000
Amortized cost moulds, dies jigs & fixtures or tools provided by the principal	8000

6. The principal is located in State A, the job worker in State B and the recipient in State C. In case the supply is made from the job worker's place of business / premises,
- who will issue invoice
 - Further also comment, if recipient is in state A,
 - If goods are exported from job-worker place, then who is required to furnish bond/LUT
7. In input or capital goods are not received back within 1/3 years, what will be the consequence?
- Yes, Tailor (job-worker) can use his own material (e.g thread, Button etc.), further Job-worker (Tailor - lala) can take credit of thread, Button.
 - Clause (i) of Section 24 of the CGST Act, 2017, makes it necessary for the registration for making interstate taxable supply irrespective of threshold limit, but Notification No. 10/2017- Integrated Tax dated October 13,2017 makes inter-state supply of services exempt from registration if threshold limit of supply of services, on all India basis, does not exceed ₹20 Lakhs/ (₹10 Lakhs in special category of states) in a financial year. Hence in this case, job-worker is not required to take registration
 - Section 143 of the CGST Act says that the principal may supply inputs after completion of job work or capital goods (other than moulds and dies, jigs and fixtures or tools) within one year or three years respectively, from the place of business / premises of a job worker only if
 - he declares the job worker's place of business / premises as his additional place of business or
 - if the job worker is registered.
 Further commissioner has power to notify certain goods which principal cannot supply from the place of business of job worker
 - Where goods are sent by principal to only one job worker:**
 - ❖ The principal (A Ltd.) shall prepare in triplicate, the challan in terms of rules 45 and 55 of the CGST Rules, for sending the goods to a job worker (Tailor - lala)
 - ❖ 2 copies of the challan may be sent to the job worker (Tailor - lala) along with the goods.
 - ❖ The job worker (Tailor - lala) should send one copy of the said challan along with the goods, while returning them to the principal (A Ltd.).
 - ❖ The principal (A Ltd.) is also required to file FORM GST ITC-04 which will serve as the intimation every quarter stating the said details.
 - Where goods are sent from one job worker to another job worker:**
 - ❖ In such cases, the goods may be sent with challan issued either by the principal (A Ltd.) or the job worker (Tailor - lala).
 - ❖ In the alternative, the challan issued by the principal (A Ltd.) may be endorsed by the job worker (Tailor - lala) sending the goods to another job worker (Tinku), indicating therein the quantity and description of goods being sent.
 - ❖ The same process may be repeated for subsequent movement of the goods to other job workers.
 - Where the goods are returned to the principal by the job worker:**

The job worker (Tailor - lala) should send one copy of the challan received by him from the principal (A Ltd.) while returning the goods to the principal (A Ltd.) after carrying out the job work.
 - Where the goods are sent directly by the supplier to the job worker:**
 - ❖ In this case, the goods may move from the place of business of the supplier to the place of business/premises of the job worker (Tailor - lala) with A COPY OF THE INVOICE ISSUED BY THE SUPPLIER (Fabric Ltd) IN THE NAME OF THE BUYER (i.e. the principal (A Ltd.)) WHEREIN THE JOB WORKER'S NAME and address (Tailor - lala) should also be MENTIONED AS THE CONSIGNEE, in terms of rule 46(o) of the CGST Rules.
 - ❖ The buyer (i.e., the principal (A Ltd.)) shall issue the challan under rule 45 of the CGST Rules and send the same to the job worker (Tailor - lala) directly

- V. **Where the goods imported by the principal and sent directly from custom station to the job worker:** In case of import of goods by the principal (A Ltd.) which are then supplied directly from the customs station of import, the goods may move from the customs station of import to the place of business/premises of the job worker (Tailor - lala) with a copy of the Bill of Entry and the principal shall (A Ltd.) issue shall issue the challan in triplicate and send two copies of the same to the job worker (Tailor - lala) directly
- VI. **Where goods are returned in piecemeal by the job worker:** In case the goods after carrying out the job work, are sent in piecemeal quantities by a job worker (Tailor - lala) to another job worker or to the principal (A Ltd.), the challan issued originally by the principal (A Ltd.) cannot be endorsed and a fresh challan is required to be issued by the job worker.
- VII. **Submission of intimation:** FORM GST ITC-04 will serve as the intimation and shall be furnished by 25th of the months following every half year (If ATO of PY > ₹ 5 crores) & 25th of the month following every year (if ATO of PY ≤ ₹ 5 Crores). It is clarified that it is the responsibility of the principal to include the details of all the challans relating to goods sent by him to one or more job worker or from one job worker to another and its return there from.
5. Valuation of job worker services: If the Job worker is registered, he shall issue an invoice at the time of supply. The value of job work services would be determined in terms of Section 15 of the CGST Act, 2017, and would include not only the service charges of job work but also the value of any goods or services used by him for performing the job work services, if recovered from the principal, i.e Value of Job Work Service = Charges for Job Work + Value of Goods/Services used in performing Job work + amortized cost moulds, dies jigs & fixtures or tools provided by the principal.
Hence value of job- work service = 10000 + 2000 + 8000 = 20,000
- 6.
- The invoice will be issued by the supplier (principal) located in State A to the recipient located in State C. The said transaction will be an inter-State supply.
 - In case the recipient is also located in State A, it will be an intra-State supply.
 - In case of exports directly from the job worker's place of business/premises, the LUT/Bond shall be executed by the principal.
7. if the inputs or capital goods are neither returned nor supplied from the job worker's place of business/premises within the specified time period,
- the principal would issue an invoice for the same and declare such supplies in his return for that particular month in which the time period of one year/three years has expired.
 - The date of supply shall be the date on which such inputs or capital goods were initially sent to the job worker and interest for the intervening period shall also be payable on the tax.
 - If such goods are returned by the job worker after the stipulated time period, the same would be treated as a supply by the job worker to the principal and the job worker would be liable to pay GST if he is liable for registration in accordance with the provisions contained in the CGST Act read with the rules made thereunder.
 - Further, there is no requirement of either returning back or supplying the goods from the job worker's place of business/premises as far as moulds and dies, jigs and fixtures, or tools are concerned.

Question No. 27

[ICAI MTP May 19 | ICAI RTP Nov 18 | SWB – Q.NO: 2; PG.NO: 218]

XYZ Ltd., New Delhi, manufactures biscuits under the brand name 'Tastypicks'. Biscuits are supplied to wholesalers and distributors located across India on Free on Road(FOR) basis from the warehouse of the company located at New Delhi. The company uses multiple modes of transport for supplying the biscuits to its customers spread across the country. The transportation cost is shown as a line item in the invoice and is billed to the customers with a mark-up of 2% on total amount of freight paid (inclusive of taxes).



Flour used for the production process is procured from vendors located in Madhya Pradesh on ex-factory basis. The company engages goods transport agencies (GTA) to transport the flour from the factories of the vendors to its factory located in New Delhi.

The company has provided the following data relating to transportation of biscuits and flour in the month of April 2021:

- For sales within the NCR region (₹ 20,00,000), the company arranged a local mini- van belonging to an individual and paid him ₹ 54,000.
- For sales to locations in distant States (₹ 1,78,00,000), the company booked the goods by Indian Railways and paid rail freight of ₹ 3,17,000.
- For sales to locations in neighbouring States (₹ 55,00,000), the company booked the goods by road carriers (GTAs) and paid road freight of ₹ 3,73,000.
- For purchase of flour from Madhya Pradesh (₹ 25,00,000), the company booked the goods by a GTA and paid road freight of ₹ 55,000.
- For purchase of butter from Punjab (₹ 15,00,000), the company booked the goods by a GTA and paid road freight of ₹ 35,000.
- For local purchase of baking powder, the company booked the goods by a GTA in a single carriage and paid road freight of ₹ 1,500.
- For transferring the biscuits (open market value - ₹ 4,00,000) to one of its sister concern in Rajasthan, the company booked the goods by a GTA and paid road freight of ₹ 40,000.
 - (i) Based on the particulars given above, compute the GST payable on the amount paid for transportation by XYZ Ltd. when it avails the services of different transporters.
 - (ii) Compute the GST charged on transportation cost billed by the company to its customers.

Note: - Assume the rate of GST on transportation of goods and biscuits to be 5% and 12% respectively [except where any other rate is specified in the question].

Assumption: GTA has two options for payment of GST, either to pay GST under FCM or not to pay GST. If GTA opts not to pay GST, then liability to pay GST is on recipient and for this question it is assumed that GTA services are covered under RCM

Computation of GST payable on amount paid for transportation by XYZ Ltd. when it avails the services of different transporters:

Particulars	Freight (₹)	GST (₹)
Transportation of biscuits in a local minivan belonging to an individual [Only the transportation of goods by road by a GTA is liable to GST. Therefore, transportation of goods by road otherwise than by a GTA is <u>exempt</u> from GST]	54,000	Nil
Transportation of biscuits by Indian Railways – Taxable [Biscuits do not fall under specified goods for <u>exemption</u>]	3,17,000	15,850
Transportation of biscuits by GTA [GST is payable by XYZ Ltd. under <u>reverse charge</u>]	3,73,000	18,650
Transportation of flour by GTA [Services provided by GTA by way of transport (in a goods carriage) of, <i>inter alia</i> , flour are exempt from GST, as flour falls under specified goods]	55,000	Nil
Transportation of butter by GTA [Though services provided by GTA by way of transport (in a goods carriage) of, <i>inter alia</i> , milk is exempt from GST, road transport of butter will not be exempted as butter is milk product and not milk. [GST is payable by XYZ Ltd. under <u>reverse charge</u>]	35,000	1,750
Transportation of baking powder by GTA [Services provided by a GTA by way of transport in a goods carriage of goods, where consideration charged for the transportation of goods on a	1,500	Nil

consignment transported in a single carriage does not exceed ₹ 1,500, are exempt]		
Transportation of biscuits by GTA to sister concern - Taxable [GST is payable by XYZ Ltd. under reverse charge]	40,000	2,000
Total tax payable by XYZ Ltd. on availing services of different transporters		38,250

Computation of GST charged on transportation cost billed by XYZ Ltd. to its customers:

Since XYZ Ltd. is supplying biscuits on FOR basis, the service of transportation of biscuits gets bundled with the supply of biscuits. Thus, the supply of biscuits and transportation service is a composite supply, chargeable to tax at the rate applicable to the principal supply (biscuits) i.e., 12%

Particulars	Freight paid [₹] [A]	GST paid on freight [₹] [B]	Freight billed (with mark-up @ 2% on [A] + [B]) [₹]	GST charged @ 12% [₹]
Transportation of biscuits in a local mini van belonging to an individual	54,000	-	55,080	6,610
Transportation of biscuits by Indian Railways	3,17,000	15,850	3,39,507	40,741
Transportation of biscuits by GTA	3,73,000	18,650	3,99,483	47,938
Total tax charged by XYZ Ltd. on transportation cost billed to the customers*				95,289

**Note: It has been assumed that there is no mark-up on transportation cost billed to sister concern (non-customer).*

Question No. 28

[SWB – Q.NO: 21; PG.NO: 233]

Determine the person liable to pay GST and extent of GST payable in following cases (all sums are exclusive of GST and GST Rate is 18%) (unless otherwise specified, both service provider and service recipient are located in India) –

- GIC Insurance Co. pays commission (excluding tax) ₹ 5 lakh to its agent. Agent has not provided any services and is eligible for small service provider exemption of upto ₹ 10 lakhs;
- Services provided to an Individual by way of sponsorship of events: ₹ 1 lakh;
- Services provided to a company by way of sponsorship of events: ₹ 2 lakh;
- Services provided by a director of a company to the company: ₹ 4 lakh;
- Support Services provided by Government to a business entity: ₹ 3 lakh;
- Royalty paid by TMN Publications to Author (author is unregistered) ₹ 1 lakh.
- Renting of immovable property services provided by Govt. to registered business entity: ₹ 10 lakh;
- Manpower supply services by an Individual to business entity being a company: ₹ 2 lakh;
- Security services by an LLP to registered business entity being a company: ₹ 1 lakh;
- Security services by a company to business entity being a company: ₹ 1.5 lakh;
- Works Contract services provided by an individual to business entity being a company: ₹ 4 lakh.
- Services by an individual recovery agent to a Bank: ₹ 1 lakh.



As per Section 9(3) and Notification issued thereunder –

Particulars	Value	Tax @ 18%	Payable by
1. Insurance Commission – Service recipient is GIC Insurance Co.	5,00,000	90,000	GIC Insurance Co.
2. Sponsorship services to Individual – RCM not applicable as recipient is not body corporate or firm	1,00,000	18,000	Service provider

3. Sponsorship service to company – Person liable to pay tax is recipient-company	2,00,000	36,000	Recipient-Co.
4. Services provided by Director – GST payable by company	4,00,000	72,000	Company
5. Support services by Government to Business entity – Person liable to pay tax is business entity	3,00,000	54,000	Business entity
6. Royalty paid by TMN Publications to Author	1,00,000	18,000	Publisher
7. Renting Services by Government – Person liable to pay GST is recipient, if the recipient is registered. Otherwise, GST is payable by Govt.	10,00,000	1,80,000	Business entity
8. Manpower supply services by an Individual to business entity being a company – Not covered under RCM	2,00,000	36,000	Individual service provider
9. Security services by an LLP to registered business entity being a company – Covered under RCM	1,00,000	18,000	Business entity
10. Security services provided by a company – Entire GST is payable by service provider – RCM applicable only when the supplier is other than body corporate	1,50,000	27,000	Service provider
11. Works contract services provided by an individual to business entity being a company – Not covered under RCM	4,00,000	72,000	Service provider

Question No. 29 [ICSI Dec 21 – 5 MARKS] [[SWB – Q.NO: 50; PG.NO: 260]

UDB Builders Ltd. had undertaken a project to construct residential tower in Jaipur having 100 apartments/flats. The builder has entered into an agreement to sell a flat of carpet area of 1800 sq. ft out of 100 flats to a customer Shiv Charan. The breakup of the cost and charges of the flat as per agreement are as follows:

Price of flat including apportioned value of cost of land	₹ 84,00,000
Prime Location Charges (PLC) (extra charges for getting garden and swimming pool view)	₹ 4,00,000
Club membership fee (Club to be formed after completion of construction of the tower)	₹ 5,00,000
Stamp duty for executing sale deed on actual basis	₹ 6,00,000
Documentation charges	₹ 2,00,000
Maintenance charges to maintain building till the residential complex is handed over to Housing Society of members	₹ 4,00,000

The builder had received payment of ₹ 25,00,000 on agreement and balance amount of the value of flat to be received after obtaining completion certificate from the Corporation. The value of land is 1/3rd of the total consideration for the supply of flat.

Compute the value of taxable supply in respect of the flat so sold by the builder to the customer Shiv Charan for the purpose of GST.

Computation of Value of taxable supply under GST of the Flat

S.No	Particulars	Amount (₹)
1.	Price of flat including apportioned value of cost of land	84,00,000
2.	Prime Location Charges (PLC) (extra charge for getting garden and swimming pool view). (Charges are part of construction service of flat being naturally bundled)	4,00,000
3.	Club membership fee (Club to be formed after construction is complete). Not part of construction service of flat being neither part of composite supply nor naturally bundled	Nil
4.	Stamp duty for executing sale deed on actual basis. (Stamp duty does not form part of value of service. It is only reimbursement of expenses incurred on behalf of the customer)	Nil
5.	Documentation Charges (These charges are part of construction service of flat)	2,00,000

6.	Maintenance charges to maintain building till the residential tower is handed over to Housing Society of Members. (Not part of construction service being neither of composite supply nor naturally bundled).	Nil
	Total Consideration for the supply of flat	90,00,000
	Less: Value of land or undivided share of land being 1/3rd of the total amount charged	(30,00,000)
	Taxable Value of Supply	60,00,000

Question No. 30 [ICSI JUNE 19 – 5 MARKS] | [SWB – Q.NO: 52; PG.NO: 261]

Ramakrishna Trivedi, a registered supplier of Bengaluru has received the following amounts from the various activities undertaken by him during the month ended on 31st October, 2020:

S.No.	Particulars	Amount (₹)
(i)	Services related to funeral including transportation of dead bodies	30,000
(ii)	Commission received as an insurance agent, from insurance company	95,000
(iii)	Business assets (old computer) given to friends free of cost, the market value of all the computers was ₹ 2,00,000. No input tax credit has been availed on such computers when used for business	No amount received as given free
(iv)	Amount received from PQR Ltd. for performance of classical dance in one program	1,99,000
(v)	Service provided to recognized sport body as Coach, for participation in a sporting event organized by a recognized sports body.	75,000

Note: All the amount stated above are exclusive of GST, wherever applicable. You are required to calculate gross value of taxable supply on which GST is required to be paid by Ramakrishna Trivedi for the Month of October, 2020.

Legal provision explained in brief should form part of the answer.

S.No	Particulars	Amount (₹)
(i)	Services related to funeral including transportation of dead bodies of ₹ 30,000 Note: As per Section 7(2)(a) read with Schedule III of CGST Act, 2017 this is neither be treated as supply of goods nor supply of services.	Not a supply
(ii)	Commission received as an insurance agent, from insurance company of ₹ 95,000 Note: Above service is covered under reverse charge mechanism (RCM) where tax is payable by the recipient i.e., insurance company [Notification No. 13/2017-Central Tax (Rate) dated 28-06.2017]	Taxable under RCM
(iii)	Business assets (old computer) given to friends free of cost. Note: As per Schedule 1 any kind of disposal or transfer of business assets made by an entity on permanent basis even though without consideration qualifies as supply. However, this provision would apply only where the input tax credit (ITC) has been availed on such assets. Since no ITC is claimed when such computers used for business, it is not a supply.	Not a supply
(iv)	Amount received from PQR Ltd. for performance of classical dance in one program of ₹ 1,99,000 Note: This service is exempt only if the consideration charged for such performance is not more than ₹ 1,50,000. Here, it is more than ₹ 1,50,000, hence taxable in total	1,99,000
(v)	Service provided to recognized sports body as Coach of ₹ 75,000 Note: This service is exempt from GST under Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017	Exempt
	Total Taxable turnover	1,99,000

Question No. 31 [SWB – Q.NO: 16; PG.NO: 274]

X & Co., a partnership firm, is engaged in intra-state supply of goods and services in Bengaluru. Its turnover for the financial year 2020-21 and the first quarter of the financial year 2021-22 is given below –



	Financial year: 2020-21			First quarter: April to June 2021		
	Taxable	Exempt	Total	Taxable	Exempt	Total
Supply of vegetable fertilizers manufactured by X & Co.	60,00,000	20,00,000	80,00,000	16,00,000	7,00,000	23,00,000
Supply of plugs and sockets as a trader (manufactured by others)	30,00,000		30,00,000	9,00,000	1,00,000	10,00,000
Supply of food / drinks in a restaurant (restaurant services)	10,00,000		10,00,000	3,00,000		3,00,000
Interest on loan/deposit (i.e., supply of services by way of extending deposits, loans or advances where consideration is represented by way of interest or discount)		70,00,000	70,00,000	-	17,00,000	17,00,000
Supply of other services	9,00,000	2,00,000	11,00,000	1,00,000	6,00,000	7,00,000
Total	1,09,00,000	92,00,000	2,01,00,000	29,00,000	31,00,000	60,00,000

X & Co. wants to opt for Composition Scheme with effect from April 1, 2021.

Is it possible? If yes, find out the tax liability of it for the first quarter of 2021-22 under Composition Scheme.

As per Section 10 of CGST Act, 2017,

- Eligibility limit of ATO of PY is ₹150 lakhs/ ₹75 lakhs (in 8 states)
- Suppliers of goods can provide services (other than restaurant and catering) upto certain limit.

Considering the above provisions, answer to the given case is as discussed below:

Status of X & Co. = GST registered supplier - supplier of goods as well as supplier of services (exempt as well as taxable services)

Eligibility - ATO (PY) = ATO for purposes of determination of eligibility for composition scheme shall be upto ₹1.5 crore for a supplier located in Karnataka. ATO shall include all supplies (goods or services - taxable as well as exempt). However, exempt service by way of interest/discount shall be excluded from TO. Considering these provisions, TO of X & Co. for the PY shall be $(80 + 30 + 10 + 11) = ₹131$ lakhs.

Since, ATO is not exceeding ₹150 lakhs, he is eligible from viewpoint of ATO.

Permissible value of supply of services = He being supplier of service (other than restaurant/catering), he shall be eligible for composition if his value of supply of such service is within limits specified in second proviso to Sec 10(1).

The limit is higher of following two:

- (a) 10% of TO (PY) - (in given case, 10% of 131 lakhs) = ₹13,10,000
- (b) ₹5,00,000.

Thus, in given case, applicable limit is ₹13,10,000.

Exempt service by way of interest or discount and services by way of supply of food, shall not be counted in permissible limit. Those services can be provided in addition to above determined permissible limit.

Since his annual value of supplies of services (excluding exempt service by way of interest or discount and supply of food) is ₹7 lakhs is within permissible limit, he will remain eligible for composition scheme if opted by him.

Now, composition tax liability of X & Co. for the quarter ending June 30, 2021 shall be arrived at considering composition rates as notified under Rule 7 of CGST Rules.

In terms of those rates, composition tax liability shall be as follows:

Transactions	Turnover of the first quarter of 2019-20			GST Rate	Turnover for the purpose of Composition tax liability	Amount of GST	Component of GST liability	
	Taxable	Exempt	Total				CGST	SGST
Supply of goods manufactured by X & Co.	16,00,000	7,00,000	23,00,000	1%	All supplies: ₹23,00,000	23,000	11,500	11,500
Supply of food / drinks (restaurant services)	3,00,000		3,00,000	5%	All supplies: ₹3,00,000	15,000	7,500	7,500
Supply of goods as a trader	9,00,000	1,00,000	10,00,000	1%	Taxable Supplies ₹9,00,000	9,000	4,500	4,500
Supply of other taxable services	1,00,000	6,00,000	7,00,000	1%	Taxable services ₹1,00,000	1,000	500	500
Total						48,000	24,000	24,000

Tax liability of X & Co. under Composition Scheme for the quarter ending June 30, 2021 is ₹24,000.

Note: While computing GST payable, turnover do not include interest income.

Question No. 32

[ICSI Dec 19 – 5 Marks] | [SWB – Q.NO: 12; PG.NO: 303]

Tex Mark Inc. of USA, established a liaison office in Mumbai for the purpose of liaising with the suppliers for purchase of raw materials. The purchase orders or contracts were entered into with the suppliers directly by the head office

Liaison office did not enter into any contract with any of the suppliers. Payments were also made by the head office directly to the suppliers. The expenses incurred by the liaison office are reimbursed by the HO. There is no amount excessively charged by the liaison office to the HO. Is the amount received by the liaison office liable for GST as supply of service? Is the liaison office required to get registered under GST law?

The liaison office does not undertake any activity of trading, commercial or industrial nature. It does not enter into any business contracts. It does not charge any commission, fee or remuneration for the liaison activities / services rendered by it either from the suppliers or from the head office. The head office merely reimburses the expenses incurred by the liaison office on actual expenditure basis without any mark up. There is no **source of income for the liaison office and it is solely dependent on the head office for all expenses** incurred by it and therefore the head office and liaison office cannot be treated as separate persons.

The liaison office **does not render any consultancy services directly or indirectly** with or without consideration and does not have significant commitment powers. **The amount received by liaison office hence cannot be treated as amount received towards supply of service.**

Since it is not in furtherance of business of the liaison office, it is **not required to get registered under GST.**

Case law reference: Habufo Meubelan B.V. 2018(14) G.S.T.L 596 (A.A.R- GST)

Question No. 33

[ICAI Nov 20 – 4 Marks] | [SWB – Q.NO: 20; PG.NO: 307]

Decide with reason whether the Registration is required under CGST Act, 2017 in the following independent cases:

- I. A Casual taxable person (CTP) has provided inter-state supply of notified Products being Textiles hand printing amounting to ₹ 19.25 Lakhs during the month of January, 2022. Those products were made by craftsmen by both hand and machines equally. CTP had obtained PAN and generated e-way bill for supply.
- II. Mr. Bantu of Delhi doing trading business across India and his intrastate turnover details are as below.
 - a) Taxable supplies made from Delhi - ₹ 18 Lakhs.
 - b) Exempt supplies made from Andhra Pradesh - ₹ 10 Lakhs.

c) Both taxable and Exempt supplies made from Tamilnadu - ₹ 5,00,000 and ₹ 6,00,000 respectively.

a) A Casual Taxable Person (CTP) is liable to be registered compulsorily under GST irrespective of the threshold limit. However, CTPs making inter-State taxable supplies of notified products, when made by the craftsmen predominantly by hand even though some machinery may also be used in the process, have been exempted from obtaining registration if their aggregate turnover does not exceed ₹ 20 lakh [₹ 10 lakh for specified special category States].

Since, in the given case, the notified products were made by craftsmen by both hand and machines equally, they are not eligible for exemption and are required to obtain registration mandatorily.

b) For a supplier exclusively engaged in intra-State supply of goods, the threshold limit of turnover to obtain registration in the States of Delhi, Andhra Pradesh and Tamil Nadu is ₹ 40 lakh. Aggregate turnover includes value of all taxable and exempt supplies under same PAN.

Thus, aggregate turnover of Mr. Bantu doing trading business across India⁴ = ₹ (18 lakh + 10 lakh + 5 lakh + 6 lakh) = ₹ 39 lakh.

Therefore, Mr. Bantu is not liable for registration as his turnover does not exceed ₹ 40 lakh.

Question No. 34

[SWB – Q.NO:6; PG.NO: 313]

Determine the amount to be paid through electronic cash ledger for M/s A Ltd. Assuming, it is not covered by exception to Rule 86B.

Export turnover of goods/services under Bond/Letter of undertaking during April, 2021	₹25,00,000
Export turnover of goods with payment of IGST	₹20,00,000
Supply of goods or services or both to SEZ unit or developer	₹10,00,000
Exempt Turnover during April, 2021	₹30,00,000
Supplies which are non-leviable to GST e.g. alcoholic liquor	₹15,00,000
Taxable turnover during April, 2021	₹1,00,00,000
Applicable tax rate	18%
Input tax credit after considering rule 36(4) & reversal in rule 42/43	₹20,00,000

As per Rule 86B,

1. Rule 86B applies, if taxable supplies in a month exceed Rs 50 lakh. However taxable supplies do not include exempt supplies and zero-rated supplies. [Taxable supplies = total taxable supplies - (exempt supplies + zero rate supplies)].
2. As per Sec 2(47), Exempt supply = wholly exempt Supply + NIL rated supply + Supplies which are non-leviable to tax utilization of e-credit ledger is restricted to maximum of 99% of output tax liability

Amount of tax on taxable Turnover	₹1,00,00,000 * 18%	₹18,00,000
utilization from e-credit ledger will be restricted to	[18L * 99%]	₹17,82,000
liability to be discharged using e-cash ledger	[18L * 1%]	₹18,000
The balance in e-credit ledger after utilization would be ₹2,18,000 [20L-17.82L]		

Question No. 35

[ICAI RTP NOV 21] | [SWB – Q.NO:8; PG.NO: 320]

Padmavati Traders, registered in Karnataka, is engaged in supply of taxable goods. Its turnover in the preceding financial year was ₹ 230 lakh and was furnishing its GST return on monthly basis.

In the beginning of April month in the current financial year, it sought advice from its tax consultant, Dua Consultants, whether it can furnish its GST returns on quarterly basis from now onwards. Dua Consultants advised Padmavati Traders that it cannot furnish its return on quarterly basis as the GST law does not provide for quarterly return under any circumstances. Discuss the technical veracity of the advice given by Dua Consultants.

No, the advice given by Dua Consultants is not valid in law.

⁴ It has been assumed that the advances received are inclusive of tax

With effect from 01.01.2021, a quarterly return has been introduced under GST law, where the payment of tax is to be made on monthly basis. The scheme is known as **Quarterly Return Monthly Payment (QRMP) Scheme**.

The scheme has been introduced as a trade facilitation measure and in order to further ease the process of doing business. It is an **optional return filing scheme**, introduced for **small taxpayers** having **aggregate annual turnover (PAN base d) of upto ₹ 5 crore** in the **current and preceding financial year** has to furnish their **Form GSTR -1 and Form GSTR-3B on a quarterly basis** while paying their tax on a monthly basis through a simple challan. Thus, the taxpayers need to file only **4 GSTR -3B returns** instead of 12 GSTR-3B returns in a year. Similarly, they would be required to file only **4 GSTR -1 returns** since Invoice Filing Facility (IFF) is provided under this scheme.

Opting of QRMP scheme is GSTIN wise. Distinct persons can avail QRMP scheme option for one or more GSTINs. It implies that some GSTINs for a PAN can opt for the QRMP scheme and remaining GSTINs may not opt for the said scheme.

Since the aggregate turnover of Padmavati Traders does not exceed ₹ 5 crores in the preceding financial year, it is **eligible for furnishing the return on quarterly basis** till the time its turnover in the current financial year does not exceed ₹ 5 crore. In case its aggregate turnover crosses ₹ 5 crore during a quarter in the current financial year, it shall no longer be eligible for furnishing of return on quarterly basis from the first month of the succeeding quarter and needs to opt for furnishing of return on a monthly basis, electronically, on the common portal, from the first month of the quarter, succeeding the quarter during which its aggregate turnover exceeds ₹ 5 crore.

Question No. 36 [ICAI RTP Nov 19 (Adapted) | [SWB – Q.NO:5; PG.NO: 331]

Compute the quantum of pre-deposit required to be made under Section 107 of the CGST Act, 2017 in each of the following independent cases :

- In an order dated 18-10-2020 issued to M/s. RR Ltd., the Joint Commissioner of central tax has confirmed a tax demand of ₹45,00,000. M/s. RR Ltd. has admitted ₹5,00,000 as tax liability and intends to file an appeal with the Commissioner (Appeals) against tax demand of ₹40,00,000.
- In an order dated 18-10-2020 issued to M/s. KK Ltd., the Joint Commissioner of central tax has confirmed a tax demand of ₹45,00,000 and imposed a penalty of ₹5,00,000. M/s. KK Ltd. intends to file an appeal with the Commissioner (Appeals) against the said order.
- **Section 107(6) of the CGST Act, 2017** require an appellant before Appellate authority to pre-deposit full amount of tax, interest, fine, fee and penalty, as is admitted by him, arising from the impugned order and a sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order.
Thus, RR Ltd. has to pre-deposit ₹5,00,000 (admitted tax) and 10% of ₹ 40,00,000 (tax in dispute)
= ₹ 9,00,000.
- **Section 107(6) of the CGST Act, 2017** require an appellant before Appellate authority to pre-deposit full amount of tax, interest, fine, fee and penalty, as is admitted by him, arising from the impugned order and a sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order.
In this case since entire amount of tax demanded is in dispute, hence KK Ltd. has to pre-deposit 10% of ₹45,00,000 = **₹4,50,000**

Question No. 37 [ICAI STUDY MATERIAL] | [SWB – Q.NO:4; PG.NO: 338]

From the following details, calculate the amount to be paid, for release of goods detained or seized under section 129 of the CGST Act, 2017, if owner of the goods does not come forward for payment of applicable tax and penalty

Details are as follows:

Particulars	Amount (₹)
Value of goods	30,00,000
Applicable GST on such goods	5,40,000
GST already paid on such goods	3,60,000

Would your answer be different if goods were exempted from GST and value remains the same namely ₹ 30,00,000

If owner of the goods does not come forward for payment of applicable tax and penalty:

The amount to be paid for release of goods detained or seized under section 129 of the CGST Act, 2017, is applicable GST and penalty equal to 50% of the value of the goods reduced by the tax amount paid thereon.

Therefore, in the given case, the amount payable* = [₹ 5,40,000 + 50% of ₹ 30,00,000] = ₹ **20,40,000**

However, in case of exempted goods, amount to be paid for release of goods detained is equal to **5% of the value of goods or ₹ 25,000, whichever is less.**

= 5% of ₹ 30,00,000 or ₹ 25,000, whichever is less

= ₹ 1,50,000 or ₹ 25,000, whichever is less

= ₹ **25,000**

Question No. 38 [ICAI RTP Nov 21] | [SWB – Q.NO:10; PG.NO: 346]

1) Nirmal Private Limited, registered in Vasai, Maharashtra, is engaged in supply of taxable goods and services. In the month of April, it sold goods worth ₹ 5,00,000 (excluding GST) to Suraksha Enterprises and collected tax @ 28% on said goods from the buyer. However, the actual rate of tax applicable in the given case was 18%.

Nirmal Private Limited deposited the tax @ 18% on these goods to the Government on the due date and retained the remaining tax collected. Determine the amount of penalty, if any, that may be imposed on Nirmal Private Limited in the month of October in the given case ignoring interest payable, if any

2) Bindusar, Chief Executive Officer of Ashoka Solutions Ltd., is issued a summon to appear before the central tax officer to produce the books of accounts of Ashoka Solutions Ltd. in an inquiry conducted on said company. Determine the amount of penalty, if any, that may be imposed on Bindusar, if he fails to appear before the central tax officer.

1) Section 122(1)(iv) of the CGST Act, 2017 stipulates that a taxable person who collects any tax in contravention of the provisions of the CGST Act, but fails to pay the same to the Government beyond a period of 3 months from the date on which such payment becomes due shall be liable to pay a penalty of:

a) ₹ 10,000

Or

b) an amount equivalent to the tax evaded whichever is higher.

In the given case, since Nirmal Private Limited has collected tax at a wrong rate (i.e. 28%), but fails to deposit the full tax collected to the Government i.e. it deposits only tax @ 18% thereby retaining the remaining tax collected, the amount of penalty that can be imposed on Nirmal Private Limited is as follows:

₹ 10,000 or an amount equivalent to the tax evaded [₹ 50,000 (₹ 5,00,000 × 28%) - (₹ 5,00,000 × 18%)], whichever is higher, i.e. ₹ **50,000.**

2) Section 122(3)(d) of the CGST Act, 2017 stipulates that any person who fails to appear before the officer of central tax, when issued with a summon for appearance to give evidence or produce a document in an inquiry is liable to a penalty which may extend to ₹ 25,000. Therefore, penalty upto ₹ 25,000 can be imposed on Bindusar, in the given case.

Question No. 39 [ICAI Nov 18 – 5 Marks] | [SWB – Q.NO:7; PG.NO: 358]

Mr. Anant Kumar Gupta self-assessed his tax liability as ₹90,000 for the month of April 2021 but failed to make the payment.

Subsequently the Department initiated penal proceedings against Mr. Anant Kumar Gupta for recovery of penalty under section 73 of CGST Act, 2017 for failure to pay GST and issued show cause notice on 10-08-2021 which was received by Mr. Anant Kumar Gupta on 14-08-2021.

Mr. Anant Kumar Gupta deposited the tax along with interest on 25/08/2021 and informed the department on the same day.

Department is contending that he is liable to pay a penalty of ₹45,000 (i.e., 50% of ₹90,000).

Examine the correctness of the stand taken by the Department with reference to the provisions of the CGST Act, 2017, explain the relevant provisions in brief.

Due date for payment of tax for the month of April, 2021 is 20.05.2021.

As per section 73(11) of the CGST Act, 2017, where self-assessed tax is not paid within 30 days from due date of payment of such tax, penalty equivalent to 10% of tax or ₹10,000, whichever is higher, is payable.

Thus, option to pay tax within 30 days of issuance of SCN to avoid penalty, is not available in case of self-assessed tax.

Since in the given case, Mr. Anant Kumar Gupta has not paid the self-assessed tax within 30 days of due date [i.e. 20.05.2021], penalty equivalent to: **10% of tax, viz., ₹9,000 (10% of ₹90,000) or ₹10,000, whichever is higher**, is payable by him.

Thus, **penalty payable is ₹10,000 (Benefit of No penalty is not applicable in case of Self-Assessment tax).**

Note: The above circular is not applicable in this case, as the recovery of penalty is in terms of Sec. 73.

Question No. 40

[SWB – Q.NO:2; PG.NO: 366]

M/s. Kalaji Manufacturers & Exporters Pvt. Ltd. furnishes following information and requests you to compute the maximum refund eligible in respect of Zero-rated supplies for the relevant period:

Particulars	₹
(i) Input tax credit availed on inputs	2,50,000
(ii) Input tax credit availed on input services	50,000
(iii) Input tax credit availed on capital goods	2,00,000
(iv) Taxable value of goods exported without payment of tax	15,00,000
(v) Taxable value of goods supplied within India	35,00,000
(vi) Payments received towards services supplied for exports (includes ₹ 50,000 of advance towards services to be supplied / exported after the current relevant period)	5,50,000
(vii) Taxable value of services supplied within India	5,00,000

Computation of maximum refund admissible in respect of Zero-rated supplies:

	Particulars	₹
(i)	Net ITC i.e. input tax credit availed on inputs and input services during the relevant period [₹ 2,50,000 + ₹ 50,000]	3,00,000
(ii)	Turnover of zero-rated supply of goods i.e. value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking	15,00,000
(iii)	Turnover of zero-rated supply of services (advance received towards services to be supplied / exported after the current relevant period shall not be included, hence ₹ 5,50,000 - ₹ 50,000)	5,00,000
(iv)	Adjusted Total Turnover:	60,00,000
	Turnover in State of goods and services [₹ 35,00,000 + ₹ 5,00,000]	₹ 40,00,000
	Value of Zero rated supplies of goods and services (as computed above)	₹ 20,00,000
(v)	Maximum refund = [(Item (ii) + Item (iii) ÷ Item (iv)) × Item (i) i.e., 3,00,000 × 20/60]	1,00,000

Note: No ITC refund on Capital Goods used for both Zero Rated and Taxable Supplies.

Question No. 41

[ICAI RTP Nov 2014] | [SWB – Q.NO:3; PG.NO: 395]

Mr. X imports a cream called as 'Moisture-BN' which has certain pharmaceutical contents. The cream is prescribed by dermatologists for curing dry skin conditions and at the same time is also available without prescription of a medical practitioner. Mr. X classifies the cream as a medicament since, it has pharmaceutical contents and is being prescribed by dermatologists for treating dry skin conditions. However, the PO is of the view that the cream should be classified as a cosmetic/toilet preparation as (i) the same is mainly used for 'care' of the skin and (ii) can also be purchased without prescription of a medical practitioner. The PO contends that even if a cosmetic product contains certain subsidiary pharmaceutical contents or even if it has certain subsidiary curative value, it would still be treated as cosmetics only. What do you think should be the correct classification of the cream; a medicament or a cosmetic/toilet preparation? Support your answer with the help of a decided case law, if any.

The issue for consideration before us is whether product manufactured by an assessee, 'CREAM', is medicament (medicinal preparation) or cosmetic/toilet preparation. Classification of product is governed by General Rules of Interpretation as contained in CTA, 1975. While determining applicable description of goods for the product, 'Common Parlance theory' shall be applied. In terms of, Common Parlance theory, due regard shall be given as to understanding of product by the person dealing in the product. In common parlance,

- a product is 'medical preparation' if it is 'for cure' (Medicinal products are used to treat or cure some medical condition)
- a product is 'cosmetic/toilet preparation' if it is 'for care' (cosmetic products are used in enhancing or improving a person's appearance or beauty)

CIENS LABORATORIES (SC) - 2013 – The Hon'ble SC held that 'Moisture-BN' is essentially for cure as it is prescribed by doctors in dry skin conditions and hence, it shall be classified as 'medicament' only. Following significant observations were made by SC in this regard: When a product contains pharmaceutical ingredients that have therapeutic or curative properties, **the proportion of such ingredients is not invariably the decisive factor in classification.** The relevant factor is the curative attributes of such ingredients that render the product a medicament and not a cosmetic. A product that is used mainly in curing or treating ailments or diseases and contains curative ingredients, even in small quantities, is to be treated as a medicament.

Question No. 42

[SWB – Q.NO:16; PG.NO: 417]

An importer from Cochin imports goods from an exporter in US. The vessel carrying the goods reaches Mumbai port first and from there goods are transshipped to Cochin Port.

Determine the Assessable Value of the imported goods under the Customs Act, 1962 from the following particulars:



S. No.	Particulars	Amount
(i)	Cost of the machine at the factory of the exporter	US \$ 20,000
(ii)	Transport charges from the factory of exporter to the port for shipment	US \$ 1,000
(iii)	Handling charges paid for loading the machine in the ship	US \$ 100
(iv)	Buying Commission paid by the importer	US \$ 100
(v)	Freight charges from exporting country to India	US \$ 2,000
(vi)	Actual Insurance charges paid are not ascertainable	---
(vii)	Charges for design and engineering work undertaken for the machine in US	US \$ 5,000
(viii)	Unloading and handling charges paid at the place of importation	₹ 1,500
(ix)	Transport charges from Mumbai to Cochin port	₹ 25,000
(x)	Exchange rate to be considered: 1\$ = ₹ 70	

Computation of assessable value of imported goods:

Particulars	Amount (US \$)
Price of the machine at the factory of the exporter	20,000
Add: Transport charges up to the port in the country of the exporter [Note 1]	1,000
Handling charges at the port in the country of the exporter [Note 1]	100

Charges for design and engineering work undertaken for the machine in US [Note 2]	5,000
Buying commission [Note 3]	Nil
FOB value	26,100.00
Add: Freight charges up to India	2,000.00
Insurance charges @ 1.125% of FOB [Note 4]	293.63
Transport charges from Mumbai to Cochin port [Note 5]	Nil
CIF value	28,393.63
Add: Unloading and handling charges paid at the place of importation [Note 6]	Nil
Assessable Value	28,393.63
Assessable Value in Indian rupees @ ₹ 70/ per \$	₹ 19,87,554.10
Assessable Value (rounded off)	₹ 19,87,554

Notes:

- 1) The Cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation are includible in the Assessable Value [Rule 10(2)(a) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR)].
- 2) Design and engineering work undertaken elsewhere than in India and necessary for the production of the imported goods is includible in the Assessable Value [Rule 10(1)(b)(iv) of the CVR].
- 3) Buying commission is not included in the Assessable Value [Rule 10(1)(a)(i) of the CVR].
- 4) If insurance cost is not ascertainable, the same shall be added @ 1.125% of FOB value of the goods. [Third proviso to rule 10(2) of the CVR].
- 5) Cost of insurance, transport, loading, unloading, handling charges associated with trans-shipment of imported goods to another customs station in India is not included in the Assessable Value [Sixth proviso to rule 10(2) of the CVR].
- 6) As per Rule 10(2) of the CVR, only charges incurred for delivery of goods "to" the place of importation are includible in the Transaction Value. The loading, unloading and handling charges associated with the delivery of the imported goods at the place of importation are not to be added to the CIF value of the goods. Hence, Transportation charges from Mumbai to Cochin Port not includable.

Question No. 43

[ICAI Jan 21 – 5 Marks] | [SWB – Q.NO:25; PG.NO: 425]

ABC Trade International Limited has imported one machine from USA. It has given the following particulars:

(i) Price of the machine	10,000 USD
(ii) Freight paid (air)	2,500 USD
(iii) Design and development charges paid to supplier in USA	500 USD
(iv) Commission payable to Local agent of exporter, paid by	₹14,000
(v) Date of Bill of Entry	24-10-2021
ABC Trade International Limited	
(a) Price of the machine	10,000 USD
(b) Freight paid (air)	2,500 USD
(c) Design and development charges paid to supplier in USA	500 USD
(d) Commission payable to local agent of exporter, paid by	₹14,000
(vi) Date of arrival of aircraft	20-10-2021
- Rate of Basic Customs Duty (BCD)	20%
- Exchange Rate as notified by CBIC	₹ 68 per USD
- Inter-bank exchange rate on the Date of Arrival of aircraft:	₹71 per USD
(vii) IGST rate:	12%
(viii) Insurance charges have been actually paid but details are not available.	

Compute the total Customs Duty and IGST payable by ABC Trade International Limited. Note: Ignore GST Compensation Cess and Social Welfare Surcharge.

Computation of Customs Duty and Integrated Tax Payable:

Particulars	Amount
Price of the machine	USD 10,000
Add: Design and development charges paid to supplier in USA [since, undertaken elsewhere than in India] [Rule 10(1)(c) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007]	USD 500
Total	USD 10,500

Particulars	(₹)
FOB value in rupees @ ₹ 70 per USD [Rate of exchange notified by the CBIC on the Date of presentation of Bill of Entry - Clause (a) of the explanation to section 14 of the Customs Act, 1962].	7,35,000
Add: Commission payable to local agent of exporter	14,000
FOB value as per Customs	7,49,000
Add: Air Freight @ 20% of FOB value (7,49,000 × 20% = 1,49,800), or Actuals (\$2500 × ₹70/\$) = 1,75,000 whichever is lower. [Fifth proviso to rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR)]	1,49,800
Add: Insurance @ 1.125% of FOB value [since, actual not available] [Third proviso to Rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007]	8426.25
CIF Value	9,07,226.25
Add: Basic Customs Duty @10% (Rounded off) [Rate in force on the date of presentation of Bill of Entry or on the date of Arrival of Aircraft, whichever is later.]	90,723
Total	9,97,949.25
Integrated tax @ 12% (Rounded off)	1,19,754
Total Customs Duty and IGST payable	2,10,477

Question No. 44

[SWB – Q.NO:4; PG.NO: 435]

An importer filed a Bill of Entry after 3 days of filing Import Manifest and Arrival of Vessel. The Deputy Commissioner of Customs imposed a penalty of ₹10,000 by endorsement on the Bill of Entry. Since, importer wants to clear the goods he paid the penalty. Can penalty be imposed for late filing of the Bill of Entry? Examine the issue in the light of relevant statutory provisions.



Submission of Bill of entry: The importer shall present the Bill of entry under Section 46(1) of the Customs Act, 1962 before the date of Arrival of Vessel (Whether such day in a working day (or) holiday – Finance Act, 2021 update).

Provided that, a Bill of Entry may be presented within 30 days prior to the expected arrival of the Aircraft or Vessel or Vehicle by which the goods have been shipped for importation into India.

Provided further that, where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient cause for such delay, the importer shall pay such charges for the late presentation of the Bill of Entry as may be prescribed. Late fee in such case is ₹5,000 per day if the delay is for 3 days and ₹10,000 per day for every day beyond 3 days.

In the given case, there is a delay by 3 days and penalty of ₹ 15,000 (₹5000 X 3) is valid. Hence, as per the provisions of the Customs Act, 1962, penalty can be imposed for late filing of the Bill of Entry.

Question No. 45

[ICAI RTP May 20] | [SWB – Q.NO:9; PG.NO: 442]

Kankan Corp had imported a machine from USA for ₹ 365 lakh on payment of appropriate Customs Duty in February. However, in July, the machine had to be sent back to the supplier for repair (not amounting to manufacture) from the factory of Kankan Corp. This machine was repaired and thereafter, re-imported by Kankan Corp in November next year. The supplier has agreed to provide discount of 60% of the fair cost of repairs, resulting in Kankan Corp paying USD 12,000.

Following further particulars are available:

Particulars	Date	Rate of Duty	Rate notified by Inter Bank Exchange rate (IBEC)	Rate notified by Central Board of Indirect Taxes & Customs (CBIC)
Bill of Entry	21 st February	12%	61.40	62
Aircraft Arrival	26 th February	15%	62.50	63.25

Integrated Tax is leviable @ 12%.

Particulars	Outwards (Amount in ₹)	Inwards (Amount in ₹)
Insurance	23,000	27,000
Air Freight	93,500	1,06,500

Determine the total Duty Payable with appropriate notes for your Computation assuming that Kankan Corp is not an EOU?

Notification No. 45/2017 Customs dated 30.06.2017 stipulates that, in case of re-importation of goods, exported for repairs, Duty is payable on fair cost of repairs carried out, insurance and freight charges - both ways, subject to fulfilment of following conditions: -

- The time limit for re-importation is 3 years
- The exported goods and the re-imported goods must be the same.
- The ownership of the goods should not have changed.

Since all the specified conditions are fulfilled in the given case, total duty payable will be computed as under:-

Computation of total Duty payable by Kankan Corp.

Fair cost of Repairs (in Dollars) = \$12,000/40%	\$ 30,000
	₹
Fair cost of Repairs (in Rupees) = \$30,000 × ₹ 62 [Note-1]	18,60,000
Add: Inward and outward Insurance [₹ 23,000 + ₹ 27,000]	50,000
Add: Inward and outward Air Freight [₹ 93,500 + ₹ 1,06,500]	2,00,000
Assessable Value	21,10,000
Add: Basic Customs Duty (BCD) @15% [Note-2]	3,16,500
Add: Social Welfare Surcharge (SWS) @ 10% of BCD	31,650
Value for computing IGST	24,58,150
IGST @ 12%	2,94,978
Total Customs Duty and Tax payable = [₹ 3,16,500 + ₹ 31,650 + ₹ 2,94,978]	6,43,128

Notes:

- Rate of Exchange Notified by the CBIC on date of presentation of Bill of Entry would be the applicable rate in terms of **third proviso to Section 14(1) of the Customs Act, 1962.**
- Rate of Duty is the Rate in force on date of presentation of Bill of Entry or Arrival of Aircraft, whichever is later in terms of **proviso to section 15(1) of the Customs Act, 1962.**
- Restriction of 20% of FOB in case of air freight is not applicable for computation of Customs Duty under **Section 20 read with Notification 45/2017.**

Question No. 46

[ICAI Nov 17 – 4 Marks] | [SWB – Q.NO:18; PG.NO: 447]

Answer the questions below.

- Briefly discuss the conditions to be satisfied for Remission of duty in case of volatile goods under the provisions of the Customs Act, 1962.
 - Enumerate the goods specified as volatile for the purposes of Remission of duty under the provisions of Customs Act, 1962.
- a) As per Section 70 of the Customs Act, 1962, the conditions to be satisfied for Remission of Duty in case of volatile goods are:
- The goods should be found deficient in quantity at the time of delivery from the warehouse;
 - The deficiency should be on account of natural loss, i.e., evaporation etc. and not due to pilferage or thefts.
- b) The goods specified as volatile for the purpose of Remission of Duty in terms of Notification No. 3/2016-Customs (N.T.) dated 11.01.2016 are:

- I. Aviation fuel, Motor spirit, Mineral turpentine, Acetone, Methanol, Raw naphtha, Vaporizing oil, Kerosene, High Speed Diesel oil, Batching oil, Diesel oil, Furnace oil and Ethylene bichloride, kept in tanks;
- II. Wine, Spirit and beer, kept in casks
- III. Liquid helium gas kept in containers
- IV. Crude oil stored in caverns.

Question No. 47 [ICAI May 17 – 4 Marks] | [ICMAI Dec 19 – 8 Marks] | [ICSI Aug 21 – 5 Marks] | [SWB – Q.NO:22; PG.NO: 457]

X Ltd. exported following goods to USA. Discuss whether any Duty Drawback is admissible under Section 75 of the Customs Act, 1962.



Product	FOB Value of Exported goods	Market price of goods	Duty drawback rate
A	2,50,000	1,80,000	30% of FOB
B	1,00,000	50,000	0.75% of FOB
C	8,00,000	8,50,000	3.50% of FOB
D	2,000	2,100	1.50% of FOB

Note: Imported value of product C is Rs. 9,50,000.

Duty Drawback amount for all the products are as follows:

Product A:S

Drawback amount = ₹2,50,000 × 30% = ₹ 75,000 or ₹1,80,000 × 1/3 = ₹ 60,000

Allowable Duty Drawback does not exceed 1/3rd of the market value. Hence, the amount of Duty Drawback allowed is ₹ 60,000

Product B:

Drawback amount allowed is ₹ 750 (i.e., ₹ 1,00,000 × 0.75%).

Since, the amount is more than ₹ 500 even though the rate is less than 1% it is allowed.

Product C:

No Duty Drawback is allowed.

Since, the value of export is less than the value of import (i.e., negative sale)

Product D:

No Duty Drawback is allowed.

Since, the Duty Drawback amount is ₹ 30 (which is less than ₹50)

Though rate of Duty Drawback is more than 1%, no Duty Drawback is allowed.

Question No. 48 [ICAI MAY 18(OLD) - 4 MARKS] | [SWB – Q.NO:9; PG.NO: 465]

Gregory Peg of Foreign Origin has come on travel visa, to tour in India. He carries with him, as part of Baggage, the following:

Particulars	Value in (₹)
Travel Souvenir	85,000
Other Articles carried on in person	1,50,000
120 sticks of cigarettes of ₹ 100 each	12,000
Fire Arm with 100 Cartridges (value includes the value of Cartridges at @ ₹ 500 per Cartridge)	1,00,000

Determine Customs Duty payable, if the effective rate of Customs Duty is 38.50% inclusive of Social Welfare Surcharge, with short explanations where required.

As per **Rule 3 of Baggage Rules, 2016**, tourist of foreign origin, excluding infant, is allowed Duty Free clearance of

(i) travel souvenirs; and

(ii) Articles up to the value of ₹ 15,000 (excluding inter alia fire arms, cartridges of fire arms exceeding 50 and cigarettes exceeding 100 sticks), if carried on in person.

<u>Computation of Customs Duty payable</u>	₹
Travel souvenir	Nil
Articles carried on in person	1,50,000
Cigarettes [100 sticks can be accommodated in General Free Allowance (GFA)]	10,000
Fire arms cartridge (50 cartridges can be accommodated in GFA) i.e., 50 x 500	25,000
Baggage that can be accommodated in GFA	1,85,000
Less: GFA	(15,000)
Baggage on which Duty is payable	1,70,000
Duty payable @ 38.50% (including 10% Social welfare Surcharge)	65,450
Note:	
Fire arms, cartridges of firearms exceeding 50 and cigarettes exceeding 100 sticks are not chargeable to rate applicable to baggage [Notification No. 26/2016 Customs dated 31.03.2016]. These items are charged @ 100% to baggage under Heading 9803 of the Customs Tariff. Therefore, CD Payable on fire arms & cartridges in excess of 100 & cigarettes in excess of 50 shall be ₹ 77,000(₹ 75000+2000) × 110% = ₹ 84,700	

Question No. 49 [ICSI Dec 18 – 5 Marks] | [SWB – Q.NO:8; PG.NO: 472]

Explain the validity of the following statements with reference to Chapter IX of the Customs Act, 1962 containing the provisions relating to the warehousing:

- I. The proper officer is not authorized to lock any warehouse with the lock of the Customs Department.
 - II. The Commissioner of Customs (Appeals) may appoint Public warehouses wherein dutiable goods may be deposited.
 - III. The Commissioner of Customs or Principal Commissioner of Customs is not required to give a notice to the licensee for cancellation of the license of a private warehouse, if he has contravened any provision of the Customs Act, 1962.
- I. **The given statement is invalid:** As per **Section 58A (1)** of the Customs Act, 1962, the Principal Commissioner of Customs or Commissioner of Customs may subject to such conditions as may be prescribed, license a special warehouse wherein dutiable goods may be deposited and such warehouse shall be caused to be locked by the proper officer and no person shall enter the warehouse or remove any goods there from without the permission of the proper officer.
- II. **The given statement is invalid:** The Commissioner of Customs or the Principal Commissioner of Customs can appoint public warehouse, wherein dutiable goods can be deposited under **Section 57** of the Customs Act, 1962.
- III. **The given statement is valid:** The Commissioner of Customs or the Principal Commissioner of Customs is not required to give a notice to the licensee while cancelling the license of a private warehouse if he has contravened any provision of the said Act, as per **Section 58(2)(b)** of Customs Act, 1962.

Question No. 50 [ICAI Study Material] | [SWB – Q.NO:9; PG.NO: 475]

With reference to the provisions of FTP 2015-2022, discuss giving reasons whether the following statements are true or false:

- (i) If any doubt arises in respect of interpretation of any provision of FTP, the said doubt should be forwarded to CBIC, whose decision thereon would be final and binding.
 - (ii) Authorization once claimed by an importer cannot be refused by DGFT.
 - (iii) IEC is a unique 12-digit PAN based alphanumeric code allotted to a person for undertaking any export/ import activities.
 - (iv) Waste generated during manufacture in an SEZ Unit can be freely disposed in DTA on payment of applicable customs duty, without any authorization.
 - (v) A Customs Clearance Permit (CCP) is required from DGFT in certain specific cases of import of gifts.
- (i) **False.** If any question or doubt arises in respect of interpretation of any provision of the FTP, said question or doubt ought to be referred to **DGFT** whose decision thereon would be final and binding.

- (ii) **False.** No person may claim an Authorization as a right and DGFT shall have power to refuse to grant or renew the same in accordance with provisions of FT(D&R) Act, rules made thereunder and FTP.
- (iii) **False.** IEC is a unique 10-digit code allotted to a person for undertaking export/ import activities.
- (iv) Any waste or scrap or remnant including any form of metallic waste & scrap generated during manufacturing or processing activities of an SEZ Unit/ Developer/ Co-developer are allowed to be disposed in DTA freely, without any authorization, subject to payment of applicable customs duty.
- (v) **True.** A Customs Clearance Permit (CCP) for import of gifts is not required from DGFT if such goods are otherwise freely importable under ITC(HS). Thus, only when the goods imported as gifts are not freely importable under ITC(HS), a CCP is required.