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CA FINAL MAY 24 EXAMS

PAPER – 5 – INDIRECT TAX LAWS

MIGHTY 50

TOP 50 QUESTIONS IN
GST, CUSTOMS & FTP

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

Question 1.

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:

- a) Is GST leviable on import of goods from GER Ltd. by IND Ltd.?
 - b) Is GST leviable on supply of goods by IND Ltd. to T1 Ltd.?
 - c) Is GST leviable on supply of goods by T1 Ltd. to T2 Ltd.?
 - d) 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 2.

Answer the following Questions:

- (1)
- a) A Hotel owner provided accommodation service in Haryana, through an electronic commerce operator Cool Trips. The hotel owner is not liable to get registered as per the provisions of section 22(1) of the CGST Act. Who is the person liable to pay GST in this case?
 - b) Would your answer be different if the Electronic Commerce Operator Cool Trips does not have a physical presence in India?
- (2)
- a) Mr. X, a Delhi resident, submits a cab request to Speed Cabs for travelling from Delhi to Gurgaon. Speed Cabs is a mobile application owned and managed by Speed Technologies Ltd. located in India. The application facilitates a potential customer to connect with persons providing cab service under the brand name of Speed Cabs.
After Mr. X pays the cab charges using his debit card, he gets details of the driver, Mr. Y and the cab's registration number. With reference to the Goods & service tax act, discuss who is liable to pay GST in this case.
 - b) Will your answer be different, if Speed Technologies Ltd. is located in New York and does not have a representative in India?

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

(3)

a) Mr. Y Chennai resident books omni bus (Motor vehicle > 6 passengers) operated by XYZ Ltd. through REDBUS, an e commerce operator, for transportation of their employees from one location to another.

b) Will your answer be different if XYZ & Co. a partnership firm is operating omni bus through E Commerce operator.

(1) Provision/Explanation:

Government may notify [on recommendations of the GST Council] specific categories of services that tax on intra state or Inter State supplies of which shall be paid through the electronic commerce operator if such services are supplied through it.

services by way of providing accommodation in hotels through electronic commerce operator are specified service for the said purpose under **Sec. 9(5) of CGST Act, 2017, if the supplier of accommodation service is not registered.**

Conclusion:

(a) Thus, person liable to pay GST in this case is the Electronic Commerce Operator Cool Trips. All the provisions of the GST law shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services.

(b) If Cool Trips does not have a physical presence in India, person liable to pay tax is the person representing the Electronic Commerce Operator-Cool Trips for any purpose in India.

(2) Provision/Explanation:

As per **section 9(5) of CGST Act**, the Government vide **notification 17/2017 CT** has notified services the tax on such supplies shall be paid by electronic commerce operator if such services are supplied through it. **Services by way of transportation of passengers by any motor vehicle is one such service among the notified category.**

Conclusion:

(a) In the given case, the liability to pay GST shall be upon Speed technologies Ltd located in India, irrespective of whether Speed technologies Ltd registered or not.

(b) In 2nd case if Speed technologies Ltd located in New York i.e., a non-taxable territory and also does not have a representative in India then he shall appoint a person in the taxable territory i.e., India for the purpose of paying tax and such person shall be liable to pay tax.

(3) Provision/Explanation:

As per **section 9(5) of CGST Act**, the Government vide **notification 17/2017 CT** has notified services the tax on such supplies shall be paid by electronic commerce operator if such services are supplied through it. **Services by way of transportation of passengers by any motor vehicle is one such service among the notified category.** However, if a company is providing transportation of passengers in Omni bus through ECO, it is not notified for **Sec. 9(5).**

Conclusion:

(a) In the given case, the liability to pay GST shall be upon XYZ Ltd. (Supplier) but not on REDBUS (ECO), irrespective of whether XYZ Ltd. registered or not.

(b) In 2nd case if supplier XYZ & Co. is a partnership firm, then the liability to pay GST is on REDBUS (ECO), irrespective of whether XYZ & co. is registered or not.

Question 3.

X Ltd., a GST registered dealer, is in the business of cashew processing. During Dec 2023, it gets the following supplies.

- 1) Purchase of cashew nuts (not shelled or peeled) from Mr. Ram: ₹ 10,00,000
- 2) Purchase of cashew nuts (not shelled or peeled) from Mr. Laxman: ₹ 12,00,000
- 3) Purchase of cashew nuts (not shelled or peeled) from Mr. ITC Ltd: ₹ 15,00,000

The above figures are excluding GST 5%.

Mr. Ram is a farmer and under takes cultivation of land by paid servant under the supervision of his family.

Mr. Laxman is not a farmer but a trader.

Mr. ITC Ltd. undertakes cultivation of land by paid servants under the supervision of its director. Who is liable to pay GST in the aforesaid cases? Also calculate GST liability.

Supply of cashew nuts (not shelled or peeled) by agriculturist to any registered person is subject to reverse charge [Sec 9(3) of CGST Act/Sec 5(3) of IGST Act].

"Agriculturist" has been defined u/s 2(7) of CGST Act to mean an individual / HUF who undertakes cultivation of land by own labour or by the labour of family or by paid servants under his supervision.

- Mr. Ram (a farmer) is an agriculturist and supply of cashew nuts (not shelled or peeled) to X Ltd., GST registered person shall be subject to 'reverse charge'. GST shall be payable by X Ltd.
- Mr. Laxman (a non-farmer) is not an agriculturist and supply of cashew nuts (not shelled or peeled) to X Ltd., GST registered person shall not be subject to 'reverse charge'. GST shall be payable by Mr. Laxman, the supplier of goods.
- Mr. ITC Ltd., being a company, is not an agriculturist and supply of cashew nuts (not shelled or peeled) to X Ltd., GST registered person shall not be subject to 'reverse charge'. GST shall be payable by Mr. ITC Ltd., the supplier of goods.

GST liability is as follows

	GST Payable by -	
	Supplier (₹)	Recipient - X Ltd (₹)
Cashew nuts supplied by Mr. Ram (Value of ₹ 10,00,000)	-	50,000
Cashew nuts supplied by Mr. Laxman (Value of ₹ 12,00,000)	60,000	-
Cashew nuts supplied by Mr. ITC Ltd (value of ₹ 15,00,000)	75,000	-

Question 4.

Sanmati Industries, registered in the State of Maharashtra, receives a machinery for repair in its workshop located in Mumbai, Maharashtra from Titsubishi Ltd., an automobile manufacturing company based in Japan. The repair work was carried out by Sanmati Industries for which it was to be paid in convertible foreign exchange and goods were returned to Titsubishi Ltd. after being used for some time in India.

While raising the invoice for the said consideration, the accountant of Sanmati Industries approaches you as to whether the Dynamic Quick Response (QR) code is mandatorily required on said invoice? You are required to advise him on the same.

Note - Titsubishi Ltd. is not registered in India. Further, the aggregate turnover of Sanmati Industries was ₹ 550 crores in the preceding Financial Year.

The place of supply for the services provided by Sanmati Industries to Titsubishi Ltd. is as follows:

As per section 13(3)(a) of the IGST Act, 2017, in case where the services are supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, the place of supply of such services shall be the location where the services are actually performed. In the given case, for carrying out the repair work, machinery was required to be made physically available by Titsubishi Ltd. to Sanmati Industries. Thus, the place of supply of services in this case is the location where the services are actually performed i.e., Maharashtra, India.

Further, sixth proviso to rule 46 read with Notification No. 14/2020 CT dated 21.03.2020 provides that all invoices issued by a registered person whose aggregate turnover in any preceding Financial Year from 2017-18 onwards exceeds ₹ 500 crores, in respect of B2C supplies (supply of goods or services or both to an unregistered person) will mandatorily have a Dynamic QR code. Thus, the invoices issued by Sanmati Industries to unregistered persons are mandatorily required to have a Dynamic QR Code. Accordingly, since Titsubishi Ltd. is not registered in India, invoice to be raised by Sanmati Industries to it should mandatorily have a Dynamic Quick Response (QR) code.

However, Circular No. 165/21/2021 GST dated 17.11.2021 has clarified that wherever an invoice is issued to a recipient located outside India, for supply of services, for which the place of supply is in India, as

per the provisions of IGST Act 2017, and the payment is received by the supplier in convertible foreign exchange, such invoice may be issued without having a Dynamic QR Code, as such dynamic QR code cannot be used by the recipient located outside India for making payment to the supplier.

Thus, the Dynamic Quick Response (QR) code is NOT mandatorily required on the invoice to be issued by Sanmati Industries to Titsubishi Ltd.

Question 5.

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:

<u>Particulars</u>	<u>Taxable Value (₹)</u>	<u>GST (₹)</u>
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 exempt from GST]	Nil	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]	Nil	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 [Baking powder do not fall under flours and it is not notified goods. Therefore, its transportation is not exempted] – GST payable by recipient under <u>reverse charge</u> .	1,500	75
Transportation of biscuits by GTA to sister concern - Taxable [GST is payable by XYZ Ltd. under <u>reverse charge</u>]	40,000	2,000
Total tax payable by XYZ Ltd. on availing services of different transporters		38,325

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 minivan 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 6.

"Chanakya Academy" is registered under GST in the State of Uttar Pradesh. The Academy runs the following educational institutions:

- (i) 'Keshav Institute of Technology' (KIT), a private engineering college in Ghaziabad. KIT also runs distance learning post graduate engineering programmes. Exams for such programmes are conducted in select cities at centres appointed by the KIT. All the engineering courses including the distance learning post graduate engineering programme run by KIT are recognised by the law [The All India Council for Technical Education (AICTE)].
- (ii) 'Little Millennium', a pre-school in Lucknow.
- (iii) 'Bright Minds', a coaching institute in Kanpur. The Institute provides coaching for Institute of Banking Personnel Selection (IBPS) Probationary Officers Exam.

(iv) 'Spring Model' a higher secondary school affiliated to CBSE Board.
The Academy provides the following details relating to the expenses incurred by the various institutions run by it during the period April to September:

S. No.	Particulars	KIT	Little Millennium	Bright Minds	Spring Model
		(₹)	(₹)	(₹)	(₹)
(i)	Printing services for printing the question papers (paper and content are provided by the Institutions)	2,50,000		1,50,000	2,00,000
(ii)	Paper procured for printing the question papers	4,30,000		2,58,000	3,44,000
(iii)	Honorarium to paper setters and examiners (not on the rolls of the Institution)	5,00,000			
(iv)	Rent for exam centers taken on rent like schools etc., for conducting examination	8,00,000		1,00,000	
(v)	Subscription for online educational journals [Little Millennium has taken the subscription for online periodicals on child development and experiential learning]	4,00,000	80,000	2,20,000	2,40,000
(vi)	Hire charges for buses used to transport students and faculty from their residence to the institutions and back	4,80,000	5,50,000	1,30,000	7,50,000
(vii)	Catering services for running a canteen in the campus for students (Catering services for KIT include a sum of ₹ 60,000 for catering at a student event organised in a banquet hall outside the campus)	3,20,000	2,60,000	1,80,000	5,00,000
(viii)	Security and housekeeping services for the institution(s) (Security and housekeeping services for Spring Model include a sum of ₹ 80,000 payable for security and housekeeping at the student event organised in a banquet hall outside the campus)	6,00,000	4,00,000	3,75,000	4,65,000

With the help of the above details, determine the amount of GST payable, if any, (ignoring ITC provisions) on goods and services received during April to September by the various educational institutions run by the 'Chanakya Academy'; all the amounts given above are exclusive of taxes, wherever applicable. Note: Rate of GST on goods is 12%, catering service is 5% and on other services is 18%.

Exemption notification exempts select services provided to an educational institution. Here, the "educational institution" means an institution providing services by way of-

- (i) pre-school education and education up to higher secondary school or equivalent;
- (ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;
- (iii) education as a part of an approved vocational education course; The select services which are exempt when provided to an educational institution are-
 - (i) transportation of students, faculty and staff;

- (ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;
- (iii) security or cleaning or house-keeping services performed in such educational institution;
- (iv) services relating to admission to, or conduct of examination by, such institution;
- (v) supply of online educational journals or periodicals.

However, the services mentioned in points (i), (ii) and (iii) are exempt only when the same are provided to an educational institution providing services by way of pre-school education and education up to higher secondary school or equivalent. Also, the supply of online educational journals or periodicals is not exempt from GST when provided to-

- (i) pre-school education and education up to higher secondary school or equivalent; or
- (ii) education as a part of an approved vocational education course. Further, services by way of giving on hire motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent is exempt.

In the given case, all the engineering courses including the distance learning post graduate engineering programme run by KIT are recognised by the law [The All India Council for Technical Education (AICTE)]. Therefore, since KIT imparts education as a part of a curriculum for obtaining a qualification recognised by the Indian law, the same is an educational institution in terms of the exemption notification.

Similarly, Little Millennium and Spring Model, being a pre-school and a higher secondary school respectively are also educational institutions in terms of the exemption notification. However, Bright Minds, being a coaching centre, training candidates to secure a banking job, is not an educational institution in terms of the exemption notification. Hence, none of the select services (mentioned above) will be exempt when provided to Bright Minds.

In the light of the foregoing provisions, the amount of GST payable on goods and services received by these educational institutions during April to September is computed as under:

Particulars	KIT	Little Millennium	Bright Minds	Spring Model
	(₹)	(₹)	(₹)	(₹)
Printing services for printing the question papers (paper and content are provided by the Institutions)	Exempt [Services provided to educational institution in relation to conduct of examination]		27,000 [1,50,000 × 18%]	Exempt
Paper procured for printing the question papers [Supply of select services to educational institutions is exempt and not supply of goods to such educational institutions]	51,600 [4,30,000 × 12%]		30,960 [2,58,000 × 12%]	41,280 [3,44,000 × 12%]
Honorarium to paper setters and examiners (not on the rolls of the educational institution)	Exempt [Services provided to educational institution in relation to conduct of examination]			
Rent for exam centres taken on rent like schools etc., for conducting examination	Exempt [Services provided to educational institution in relation to conduct of examination]		18,000 [1,00,000 × 18%]	
Subscription for online educational journals [Little Millennium has taken the subscription for online	Exempt	14,400 [80,000 × 18%]	39,600 [2,20,000 × 18%]	43,200 [2,40,000 × 18%]

periodicals on child development and experiential learning]				
Hire charges for buses used to transport students and faculty from their residence to the institutions and back	86,400 [4,80,000 × 18%]	Exempt	23,400 [1,30,000 × 18%]	Exempt
Catering services for running a canteen in the campus for students [Catering service provided to preschool and the higher secondary school is exempt irrespective of whether the same is provided within or outside the premises of the pre-school and the higher secondary school]	16,000 [3,20,000 × 5%]	Exempt	9,000 [1,80,000 × 5%]	Exempt
Security and housekeeping services for the institution(s) [Security and housekeeping service provided to preschool and the higher secondary school for the student event organised in a banquet hall will be taxable as only the security and housekeeping service provided within the premises of the preschool and the higher secondary school are exempt.]	1,08,000 [6,00,000 × 18%]	Exempt	67,500 [3,75,000 × 18%]	14,400 [80,000 × 18%]
Total GST payable on goods and services received	2,62,000	14,400	2,15,460	98,880

Question 7.

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 8.

Alpha is a manufacturer and supplier of a machine in India. Gamma of USA helps Alpha in selling the machine by identifying client in USA, viz., Beta who wants to purchase this machine and helps in finalizing the contract of supply of machine by Alpha to Beta. Gamma charges Alpha for his services of locating Beta and helping in finalizing the sale of machine between Alpha and Beta, for which Gamma invoices Alpha and is paid by Alpha for the same. Determine the place of supply of the services provided by Gamma to Alpha.

As per section 13(8)(b) of the IGST Act, 2017, the place of supply of the intermediary services shall be the location of the supplier of services. 'Intermediary' has been defined in of section 2(13) of the IGST Act, as a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account.

Further, the concept of intermediary services has been clarified vide Circular No. 159/15/2021 GST dated 21.09.2021 as follows:

- I. **Minimum of three parties and two distinct supplies:** There must be minimum of three parties, two principals transacting in the supply of goods or services or securities (the main supply) and one intermediary arranging or facilitating (the ancillary supply) the said main supply.
 - II. **Intermediary service provider to have the character of an agent, broker or any other similar person:** Intermediary only arranges or facilitates the main supply and does not himself provide the main supply. Thus, the role of intermediary is only supportive.
 - III. **Does not include a person who supplies such goods or services or both or securities on his own account:** It implies that in cases wherein the person supplies the main supply, either fully or partly, on principal-to-principal basis, the said supply cannot be covered under the scope of "intermediary".
 - IV. **Sub-contracting for a service is not an intermediary service:** Sub-contractor provides the main supply, either fully or a part thereof, and does not merely arrange or facilitate the main supply between the principal supplier and his customers, and therefore, clearly is not an intermediary.
- In the backdrop of the above discussion, while Alpha and Beta are the two principals involved in the main supply of the machinery, Gamma, is facilitating the supply of machine between Alpha and Beta. In this arrangement, Gamma is providing the ancillary supply of arranging or facilitating the 'main supply' of machine between Alpha and Beta and therefore, Gamma is an intermediary and is providing intermediary service to Alpha.

Resultantly, in terms of section 13(8)(b) of the IGST Act, 2017, the place of supply of the intermediary services provided by Gamma shall be the location of the supplier of services, viz. outside India (USA).

Question 9.

Determine place of supply along with reasons in the following cases:

- I. Mr. X, an architect (Kolkata), provides interior decorator services to Mr. Y of New York (USA) in relation to his immovable property located in New Delhi.
 - II. Mr. A (a Chartered Accountant registered in Kolkata) supplies services to his client in Bhubaneswar (registered in Bhubaneswar, Odisha).
 - III. ABC Ltd. of Patna imported certain goods from XYZ Inc. of USA. The goods were imported through vessel and delivery of goods was taken at Kolkata, whereafter the movement terminates and the goods are stored
 - IV. Mr. X, registered in Guwahati, has availed land-line services from BSNL. The telephone is installed in residential premises in Kolkata and the billing address is office of Mr. X in Guwahati
 - V. Mr. X, residing in Chennai, is travelling with an Indian Airline aircraft and is provided with movie-on-demand service for ₹100 as on-board entertainment during Delhi-Chennai leg of a Bangkok-Delhi-Chennai flight.
 - VI. Mr. X of Kolkata purchased online tickets for Aquatica water park in Mumbai.
 - VII. Mr. Z, an unregistered person of Kolkata, sends a courier from New Delhi to his friend in Chennai, Tamil Nadu while he was on trip to New Delhi.
 - VIII. Mr. X, a registered person in Ranchi, Jharkhand, buys shares from a broker in Patna on NSE, Mumbai. Determine the place of supply of brokerage service
 - IX. XYZ Ltd., New Delhi entered into contract with an Indian airline for the supply of biscuit packets for further supply by airline to the passengers in Kolkata-Guwahati route. The biscuits were loaded on board in Lucknow.
- (i) **New Delhi.** In a case where location of the supplier or location of recipient of service is outside India, the place of supply of services supplied directly in relation to an immovable property including that of interior decorators is the place where the immovable property is located.
 - (ii) **Bhubaneswar, Odisha.** The place of supply of services, except the specified services made to a registered person, is the location of such person. **(General provisions)**
 - (iii) **Patna.** The place of supply of goods imported into India is the location of the importer
 - (iv) **Kolkata.** The place of supply of services by way of fixed telecommunication line is the location where the telecommunication line is installed for receipt of services.
 - (v) **Bangkok.** The place of supply of services on board an air craft is the location of the first scheduled point of departure of that aircraft or flight for the journey **(i.e., Starting point of conveyance)**
 - (vi) **Mumbai.** The place of supply of services provided by way of admission to an amusement park is the place where the park is located.
 - (vii) **New Delhi.** The place of supply of services by way of transportation of goods by courier to a person other than a registered person is the location at which such goods are handed over for their transportation. **(i.e., Starting point of goods)**
 - (viii) **Ranchi.** (Jharkhand). The place of supply of stock broking services to any person shall be the location of the recipient of services on the records of the supplier of services.
 - (ix) Where the supply involves movement of goods, the place of supply of such goods is the location of the goods at the time at which the movement of goods terminates for delivery to the recipient. Therefore, the place of supply of biscuit packets sold by XYZ Ltd. to Indian Airlines is Lucknow. Further, where the goods are supplied on board an aircraft, the place of supply shall be the location at which such goods are taken on board. Thus, the place of supply of biscuit packets sold by Indian Airlines to the passengers in Kolkata-Guwahati route is **Lucknow.**

Question 10.

Binaca Electronics Ltd. (hereinafter referred to as BEL) is engaged in manufacturing televisions. It is registered in the State of Haryana. It has appointed distributors across the country who sell the televisions manufactured by it. The maximum retail price (MRP) printed on the package of a television is ₹ 12,000. The applicable rate of GST on televisions is 18%. BEL dispatches the stock of televisions to its distributors ordered by them on a quarterly basis.

In order to promote its sales, the Sales Head of BEL has formulated a sales promotion scheme on 1st April. Under this scheme, BEL offers a discount of 10% (per television) on televisions supplied to the distributors if the distributors sell 500 televisions in a quarter. The discount is offered on the price at which the televisions are sold to the distributors (excluding all charges and taxes).

It appoints Shah Electronics (an unrelated party as per GST Law) as its distributor in Haryana on 1st April and dispatches 750 televisions on 8th April as stock for the quarter April-June. BEL has sold the televisions to distributor - Shah Electronics at ₹ 8,400 per television (exclusive of applicable taxes).

Shah Electronics has requested BEL for a special packing of the televisions delivered to it for which BEL has charged ₹ 1,200 per television.

Shah Electronics places a purchase order of 1,000 televisions with BEL for the quarter July - September. The distributor reports sales of 700 televisions for the quarter April-June and 850 televisions for the quarter July-September. The discount policy offered by BEL as explained above is also available to Shah Electronics as per the distributorship agreement. While Shah Electronics reverses the input tax credit availed for the quarter July -September, it has failed to reverse the input tax credit availed for the quarter April-June.

Examine the scenario with reference to section 15 of the CGST Act, 2017 and compute the taxable value of televisions supplied by BEL to Shah Electronics during the quarters April-June and July-September.

Section 15(3)(a) allows discounts to be deducted from the value of taxable supply if the same is given before or at the time of the supply and if such discount has been duly recorded in the invoice issued in respect of such supply. In other words, pre-supply discounts recorded in invoices are allowed as deduction.

Further, post supply discounts are also allowed as deduction from the value of supply under section 15(3)(b) if-

- (i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and
- (ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

In the given case, Shah Electronics is entitled for 10% discount on televisions supplied by BEL for the quarters April-June as well as July-September as it has sold more than 500 televisions in each of these quarters. However, since the sales targets are achieved after the entire stock for the respective quarters of April-June and July-September has been dispatched, the discounts on the televisions supplied to Shah Electronics for the quarters of April-June and July-September is a post-supply discount.

Such post-supply discount will be allowed as a deduction from the value of supply since the discount policy was known before the time of such supply and the discount can be specifically linked to relevant invoices (invoices pertaining to televisions supplied to Shah Electronics for the quarters of April-June and July-September) provided Shah Electronics reverses the input tax credit attributable to the discount on the basis of document issued by BEL.

The value of supply for the quarters of April-June and July-September will thus, be computed as under: **Computation of value of supply for the quarter - April-June**

Particulars	Amount (₹)
Price at which the televisions are supplied to Shah Electronics [Note 1]	8,400
Add: Packing expenses [Note 2]	1,200
Less: Discount [Note 3]	Nil
Value of taxable supply of one unit of television	9,600
Value of taxable supply of televisions for the quarter April-June [₹ 9,600 x 750]	72,00,000

Notes:

- 1) The value of a supply is the transaction value, which is the price actually paid or payable for the said supply, in terms of section 15(1) presuming that the supplier and the recipient of supply are not related and price is the sole consideration for the supply as the supplier and recipient are not related parties.
- 2) The value of supply includes incidental expenses like packing charges in terms of section 15(2)(c).
- 3) Since Shah Electronics has not reversed the input tax credit attributable to such discount on the basis of document issued by BEL, the conditions specified in section 15(3)(b) have not been fulfilled. Thus, the post-supply discount will not be allowed as deduction from the value of supply.

Computation of value of supply for quarter - July-September

Particulars	Amount (₹)
Price at which the televisions are supplied to Shah Electronics [Note 1]	8,400
Add: Packing expenses [Note 2]	1,200
Less: Discount [Note 3]	(840)
Value of taxable supply of one unit of television	8,760
Value of taxable supply of televisions for the quarter July-September [₹ 8,760 × 1,000]	87,60,000

Notes:

- I. The value of a supply is the transaction value, which is the price actually paid or payable for the said supply, in terms of section 15(1) presuming that the supplier and the recipient of supply are not related and price is the sole consideration for the supply as the supplier and recipient are not related parties.
- II. The value of supply includes incidental expenses like packing charges in terms of section 15(2)(c). Since all the conditions specified in section 15(3)(b) have been fulfilled, the post-supply discount will be allowed as deduction from the value of supply. The input tax credit to be reversed will work out to be ₹ 1,51,200 [1,000 × (8,400 × 10%) × 18%].

Question 11.

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.	Import of services (On which GST paid under RCM)	50,000
Total		10,50,000

S.No	Particulars	IGST (₹)
(i)	Balance in Form GSTR-2B 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-2B on 13 th 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-2B 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
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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. Also, whether there is any notice issued for the purpose of excess availment of ITC beyond matched ITC.

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-2B on 13 th November [Note 1] (Invoices at S. Nos. 1, 2, 3 and 4 uploaded by the respective suppliers in their GSTR-1s)	6,00,000	4,80,000 [Note 2]
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 Sec. 37(1) of CGST Act, 2017 as on the due date of filing of the returns in 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 if filing of FORM GSTR 1 under Sec. 37(1) i.e., by 13th November.
- 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 as per Sec. 16(2)(ba) of CGST Act, 2017

Thus, 100% ITC will be available in respect of invoices at S.Nos . 1, 2 & 3.
- 3) In respect of invoices at S.Nos. 5, 6, 7 and 8 not uploaded in Form GSTR-1s 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].

As per Rule 88D of CGST Rules, If ITC availed in GSTR-3B exceeds ITC in GSTR-2B by prescribed amount or %, an intimation in Part A of FORM GST DRC 01C shall be issued on the common portal or email address of such person. In the present case, as Sunshine P. Ltd. availed ITC w.r.to Invoice No. 9, even though not reflected in GSTR-2B, they shall get such intimation and based on such intimation a reply can be furnished within 7 days in part B of Form GST DRC 01C stating that such ITC is w.r. to GST paid under RCM. Based on the reply furnished, tax officer will review and validate the claim of ITC.

Question 12.

Pari Ltd. of Jodhpur (Rajasthan) is a registered manufacturer of cosmetic products. Pari Ltd. has furnished following details for a tax period:

Particulars		(₹)
Details of Outward supplies		
(i)	Supplies in Rajasthan	8,75,000
(ii)	Supplies in States other than Rajasthan	3,75,000
(iii)	Export under LUT	6,25,000
Details of expenses		
(i)	Raw materials purchased from registered suppliers located in Rajasthan	1,06,250
(ii)	Raw materials purchased from unregistered suppliers located in Rajasthan	37,500
(iii)	Raw materials purchased from Punjab from registered supplier	1,00,000
(iv)	Integrated tax paid on raw materials imported from USA	22,732
(v)	Consumables purchased from registered suppliers located in Rajasthan including high speed diesel (Excise and VAT paid) valuing ₹ 31,250 for running the machinery in the factory	1,56,250
(vi)	Monthly rent for the factory building to the owner in Rajasthan	1,00,000
(vii)	Salary paid to employees on rolls	6,25,000
(viii)	Premium paid on life insurance policies taken for specified employees. Life insurance policies for specified employees have been taken by Pari Ltd. to fulfil a statutory obligation in this regard. The life insurance service provider is registered in Rajasthan.	2,00,000

All the above amounts are exclusive of all kinds of taxes, wherever applicable. However, the applicable taxes have also been paid by Pari Ltd.

The opening balance of ITC with Pari Ltd. for the given tax period is-

CGST ₹ 20,000
SGST ₹ 15,000
IGST ₹ 15,000

Assume CGST, SGST and IGST rates to be 9%, 9% and 18% respectively, wherever applicable.

Assume that all the other necessary conditions to avail the ITC have been complied with by Pari Ltd., wherever applicable.

Compute (i) ITC available with Pari Ltd. for the tax period; and (ii) Net GST payable [CGST, SGST or IGST, as the case may be] from Electronic Cash Ledger by Pari Ltd. for the tax period.

Computation of ITC available with Pari Ltd.:

Computation of ITC available with Pari Ltd.:

S. No.	Particulars	Eligible input tax credit		
		CGST (₹)	SGST (₹)	IGST (₹)
1)	Raw Material			
	Purchased from local registered suppliers [Note 1(i)] (₹ 1,06,250 × 9%)	9,562.50	9,562.50	

	Purchased from local unregistered suppliers [Note 1(ii)]	Nil	Nil	
	Purchased from Punjab from registered supplier [Note 1(i)] (₹ 1,00,000 × 18%)			18,000
	Raw material imported from USA [Note 1(iii)]			22,732
2)	Consumables [Note 2](₹ 1,56,250 - ₹ 31,250) × 9%	11,250	11,250	
3)	Monthly rent for the factory building to the owner in Rajasthan [Note 3]	9,000	9,000	
4)	Salary paid to employees on rolls [Note 4]	Nil	Nil	Nil
5)	Premium paid on life insurance policies taken for specified employees [Note 5] (₹ 2,00,000 × 9%)	18,000	18,000	-
	Total	47,812.50	47,812.50	40,732
	Add: Opening balance of ITC	<u>20,000</u>	<u>15,000</u>	<u>15,000</u>
	Total ITC [Note 7]	67,812.50	62,812.50	55,732

Computation of Net GST payable:

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Intra-State supply	78,750	78,750	
Inter-State supply			67,500
Exports under LUT [Note 6]	Nil	Nil	Nil
Total output tax liability	78,750	78,750	67,500
Less: ITC	(67,812.50)	(62,812.50)	(55,732)
Net GST payable	10,937.50	15,937.50	11,768

Notes:

- 1)
 - i. Credit of input tax (CGST & SGST/ IGST) paid on raw materials used in the course or furtherance of business is available in terms of **section 16**.
 - ii. Tax on procurements made by a registered person from an unregistered supplier is levied only in case of notified goods and services in terms of **section 9(4)**. Therefore, since no GST is paid on such raw material purchased, there does not arise any question of ITC on such raw material
 - iii. IGST paid on imported goods qualifies as input tax in terms of **section 2(62)**. Therefore, credit of IGST paid on imported raw materials used in the course or furtherance of business is available in terms of **section 16**
- 2) ITC on consumables, being inputs used in the course or furtherance of business, is available. However, since levy of GST on high-speed diesel has been deferred till a date to be notified by Government, therefore, ITC on the same cannot be availed.
- 3) ITC on monthly rent is available as the said service is used in the course or furtherance of business.
- 4) Services by employees to employer in the course of or in relation to his employment is not a supply in terms of section 7 read with Schedule III to the CGST Act. Therefore, since no GST is paid on such services, there cannot be any ITC on such services.
- 5) ITC on life insurance service is available if the same is obligatory for an employer to provide to its employees under any law for the time being in force as per **proviso to section 17(5)(b)**.
- 6) Export of goods is a zero-rated supply in terms of **section 16(1)(a) of the IGST Act**. A zero-rated supply under bond is made without payment of IGST in terms of **section 16(3)(a)**. Since export of goods is a zero-rated supply, there will be no apportionment of ITC and full credit will be available as per section 17(2).

Question 13.

XYZ Pvt. Ltd. is a manufacturing company registered under GST in the State of Uttar Pradesh. It manufactures two taxable products 'Alpha' and 'Beta' and one exempt product 'Gama'. On 1st October, while product 'Beta' got exempted through an exemption notification, exemption available on 'Gama' got withdrawn on the same date. The turnover (exclusive of taxes) of 'Alpha', 'Beta' and 'Gama' in the month of October was ₹ 9,00,000, ₹ 10,00,000 and ₹ 6,00,000.

XYZ Pvt. Ltd. has furnished the following details:

S. No.	Particulars	Price (₹)	GST (₹)
(i)	Machinery 'U' purchased on 1 st October for being used in manufacturing all the three products	2,00,000	36,000
(ii)	Machinery 'V' purchased on 1 st October for being used in manufacturing product 'Alpha' and 'Gama'	1,00,000	18,000
(iii)	Machinery 'W' purchased on 1 st October for being exclusively used in manufacturing product 'Beta'	3,00,000	54,000
(iv)	Machinery 'Y' purchased on 1 st October four years ago for being exclusively used in manufacturing product 'Beta'. From 1 st October, such machinery will also be used for manufacturing product 'Gama'.	4,00,000	72,000
(v)	Machinery 'Z' purchased on 1 st October two years ago for being used in manufacturing all the three products	3,00,000	54,000
(vi)	Raw Material used for manufacturing 'Alpha' purchased on 5 th October	1,50,000	27,000
(vii)	Raw Material used for manufacturing 'Beta' purchased on 10 th October	2,00,000	36,000
(viii)	Raw Material used for manufacturing 'Gama' purchased on 15 th October	1,00,000	18,000

Compute the following:

- Amount of ITC credited to Electronic Credit Ledger, for the month of October
- Amount of aggregate value of common credit (T_c)
- Common credit attributable to exempt supplies, for the month of October
- GST liability of the company payable through Electronic Cash Ledger, for the month of October

Note: Assume that all the procurements made by the company are from States other than Uttar Pradesh. Similarly, the company sells all its products in States other than Uttar Pradesh. Rate of IGST is 18%. Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled. Ignore interest, if any and make suitable assumptions wherever required.

S. No.	Particulars	ITC (₹)
i.	Amount of ITC credited to Electronic Credit Ledger, for the month of October:	
	Machinery 'U' - 'A' [Note 1]	36,000
	Machinery 'V' [Note 2]	18,000
	Machinery 'W' [Note 3]	-
	Machinery 'Y' [Note 4]	-
	Machinery 'Z' [Note 5]	-
	Raw Material used for manufacturing 'Alpha' [Note 6]	27,000
	Raw Material used for manufacturing 'Beta' [Note 6]	-
	Raw Material used for manufacturing 'Gama' [Note 6]	<u>18,000</u>
	Amount of ITC credited to Electronic Credit Ledger, for the month of October	99,000
ii.	Aggregate value of common credit (T _c) – Note 7:	
	Value of 'A' for Machinery 'U' purchased on 1 st October	36,000
	Value of 'A' for Machinery 'Z' purchased on 1 st October	54,000

	2 years ago for effecting both taxable and exempt supplies	
	Input tax claimed on Machinery 'Y' purchased on 1 st October 4 years ago for effecting taxable supplies but used for effecting both taxable and exempt supplies from 1 st October in the current year [Note 8]	<u>72,000</u>
	Aggregate value of common credit (T _c)	1,62,000
iii.	<u>Common credit attributable to exempt supplies, for the month of October:</u>	
	Common credit for the month of October (T _m) [Note 9]	2,700
	Common credit attributable to exempt supplies, for the month of October (T _e) – Note 10	1,080
iv.	<u>Computation of GST liability of the company for October payable through Electronic Cash Ledger:</u>	
	IGST payable on 'Alpha' [₹ 9,00,000 × 18%]	1,62,000
	IGST payable on 'Beta' [Exempt]	Nil
	IGST payable on 'Gama' [₹ 6,00,000 × 18%]	<u>1,08,000</u>
	Total IGST payable on outward supply	2,70,000
	<u>Add: Common credit attributable to exempt supplies for the month of October [Note 11]</u>	<u>1,080</u>
	Total output tax liability of October	2,71,080
	<u>Less: ITC available in the Electronic Credit Ledger</u>	<u>(99,000)</u>
	<u>IGST payable from Electronic Cash Ledger</u>	<u>1,72,080</u>

Notes:

- ITC in respect of capital goods used commonly for effecting taxable supplies and exempt supplies denoted as 'A' shall be **credited to the electronic credit ledger [Rule 43(1)(c)]**.
- ITC in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies but including zero rated supplies shall be **credited to the electronic credit ledger [Rule 43(1)(b)]**.
- ITC in respect of capital goods used or intended to be used exclusively for effecting exempt supplies **shall not be credited to electronic credit ledger [Rule 43(1)(a)]**.
- Machinery 'Y' is being used for effecting both taxable and exempt supplies from 1st October. Prior to that it was exclusively used for effecting taxable supplies. Therefore, **ITC in respect of such machinery would have already been credited to the electronic credit ledger**.
- Machinery 'Z' is being used for effecting both taxable and exempt supplies from 1st October two years ago. Therefore, **ITC in respect of such machinery would have already been credited to the electronic credit ledger**.
- ITC in respect of inputs used for effecting taxable supplies will be credited in Electronic Credit Ledger. ITC in respect of inputs used for effecting exempt supplies will **not be credited in the electronic credit ledger [Rule 42]**.
- The aggregate of the amounts of 'A' credited to the electronic credit ledger in respect of common capital goods whose useful life remains during the tax period, to be denoted as 'T_c', **shall be the common credit in respect of such capital goods [Rule 43(1)(d)]**.
- Where any capital goods which were used exclusively for effecting taxable supplies are subsequently also used for effecting exempt supplies, the ITC claimed in respect of such capital goods shall be added to arrive at the aggregate value of common credit 'T_c' [Proviso to Rule 43(1)(d)].
- ITC attributable to a month on common capital goods during their useful life (T_m) shall be computed in accordance with rule 43(1)(e) as under:

$$= T_c / 60$$

$$= ₹ 1,62,000 / 60$$

$$= ₹ 2,700$$

The useful life of any capital goods shall be considered as five years from the date of invoice and the said formula shall be applicable during the useful life of the said capital goods
- The amount of common credit attributable towards exempted supplies, be denoted as 'T_e', and shall be calculated as:

$$T_e = (E / F) \times T_r^*$$
 where,

'E' is the aggregate value of exempt supplies, made, during the tax period, and

'F' is the total turnover in the State of the registered person during the tax period [Rule 43(1)(g)].

=Tr × T/O of exempt supplies during the month of October/ Total T/O of XYZ Pvt. Ltd. During Oct month

=₹ 2,700 × 10,00,000/25,00,000 = ₹1080

11. Common credit attributable to the exempt supplies (T_e) along with the applicable interest (which is to be ignored in this case) shall, during every tax period of the useful life of the concerned capital goods, be added to the output tax liability of the person making such claim of credit [Rule 43(1)(h)].

*Prior to the amendment vide Notification No. 16/2020 CT dated 23.03.2020 clause (f) of rule 43(1) provided that the amount of ITC, at the beginning of a tax period, on all common capital goods whose useful life remains during the tax period, be denoted as 'Tr' and shall be the aggregate of 'T_m' for all such capital goods. However, clause (f) has been omitted vide the said notification. Consequently, the term "Tr" becomes redundant in the formula provided in rule 43(1)(g). However, for the sake of computation of common credit attributable to exempt supply, value of 'T_m' has been used here. It may be noted that as per the rest while clause (f) of rule 43(1) value of 'Tr' was the aggregate of 'T_m'.

Question 14.

Discuss the applicability of e-way bill in following cases-

- 1) Transportation of goods through pipeline (like oil, petroleum, gases, water etc.)
- 2) Movement of petroleum
- 3) Transportation of text books by a publishing house (text books are exempt from GST)
- 4) Transport of cash
- 5) Transportation of jewellery items (falling under Chapter 71)
- 6) Transportation of imitation jewellery items (falling under Chapter 71)
- 7) Transport of used household TV valuing 1 lakh
- 8) Transport of EMPTY Cargo Containers.
- 9) Imported goods moved from port to Inland container depot.
- 10) Movement of goods for weighment at weigh- bridge located 30 Kms away

- 1) Transportation of goods through pipeline (like oil, petroleum, gases, water etc.): EWB requirement is exempt (being movement is in non-motorized conveyance)
- 2) Movement of petroleum: EWB requirement is exempt (being goods transported are non-GST goods)
- 3) Transportation of text books by a Publishing House (text books are exempt from GST): EWB requirement is exempt (being goods transported are exempt from GST)
Note: There is no need to generate EWB when a person is causing movement of exempted category of goods
- 4) Transport of cash: EWB requirement is exempt
- 5) Transport of used household TV valuing 1 lakh: EWB requirement is exempt
- 6) Transport of jewellery items: EWB requirement is exempt
- 7) Transport of imitation jewellery items: EWB is required,
- 8) Transport of EMPTY CARGO CONTAINERS: relaxation has been given for generation of EWB by registered person where the empty cargo containers are being transported. This exemption may be applicable in case of transportation of empty bins or container which are returned to the original supplier by customer.
- 9) Imported goods moved from port to Inland container depot: EWB requirement is exempt
- 10) Movement of goods for weighment at weigh-bridge located 30 kms away: EWB required (as exemption from EWB is for distance upto 20 kms only).

Question 15.

Super Lever Limited is engaged in manufacture of taxable electronic goods. Its two manufacturing units are located in Mumbai and Nagpur and both the units are registered under GST in the State of Maharashtra. The company has another manufacturing unit in Bangalore, registered under GST in the State of Karnataka and a retail showroom located in Ahmedabad, registered under GST in the State of Gujarat.

Compute the value of supply (most beneficial) made by Bangalore unit as well as the value of supply (most beneficial) made by Ahmedabad Retail Showroom, with respect to transfer of goods by these units to M/s. Equilibrium Sales, M/s. Paridhi Sales and M/s. Dhara Enterprises, if Super Lever Limited furnishes the following additional information for the month of October:

(I) Bangalore unit has appointed M/s. Equilibrium Sales as its sole selling agent. M/s. Equilibrium Sales sells the electronic goods of Bangalore unit under the invoice issued in its own name. The Bangalore unit transferred the goods costing ₹ 7,25,000 to M/s. Equilibrium Sales on 20th October which were sold by M/s. Equilibrium Sales on 31st October at ₹ 7,65,000. On 20th October, another electronic goods' manufacturer supplied the goods of like kind and quality to M/s. Equilibrium Sales as the one supplied by the Bangalore unit at a price of ₹ 7,75,000.

(II) The Retail Showroom at Ahmedabad transfers goods costing ₹ 85,000 to its agent, M/s. Paridhi Sales on 12th October. M/s. Paridhi Sales sells such goods on 18th October at ₹ 5,00,000 under the invoice issued in the name of Retail Showroom at Ahmedabad. On 17th October, M/s Paridhi Sales has sold goods of like kind and quality as the one supplied by the Retail Showroom at Ahmedabad to an unrelated customer at ₹ 4,70,000.

The Retail Showroom at Ahmedabad also transfers goods costing ₹ 95,000 to its agent, M/s. Dhara Enterprises on 15th October. M/s. Dhara Enterprises sells such goods on 20th October at ₹ 1,00,000 under the invoice issued in its own name. On 19th October, M/s Dhara Enterprises has sold goods of like kind and quality as the one supplied by the Retail Showroom at Ahmedabad to an unrelated customer at ₹ 98,000.

Note: M/s. Equilibrium Sales, M/s. Paridhi Sales and M/s. Dhara Enterprises are not eligible for full input tax credit. Further, open market value of the goods is not available in any of the above cases.

(I) As per clause (c) of explanation to section 15, persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

Thus, in the given case, since M/s. Equilibrium Sales is a sole selling agent of Bangalore unit, both are related persons.

Further, an activity/transaction qualifies as supply under GST only if it is undertaken for a consideration and is in course/furtherance of business. However, supply of goods between 'related persons' made in the course or furtherance of business qualifies as supply even if made without consideration [Section 7(1)(c) read with Schedule I].

Furthermore, value of supply of goods between related persons (other than through an agent) is determined as per rule 28. Accordingly, the value of supply of goods between related persons will be determined as follows:

- (a) the open market value of such supply;
- (b) if open market value is not available, the value of supply of goods or services of like kind and quality;
- (c) if value cannot be determined under the above methods, it must be worked out based on the cost of the supply plus 10% mark-up or by other reasonable means, in that sequence.

However, 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 unrelated customer.

Further, 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.

Open market value of the goods is not available in the given case. Further, since M/s. Equilibrium Sales 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. Since M/s. Equilibrium Sales further supplies the goods, value of the goods will be lower of:

- I. value of supply of goods or services of like kind and quality, i.e. ₹ 7,75,000 or

II. 90% of the price charged for the supply of goods of like kind and quality by M/s. Equilibrium Sales to its unrelated customer, i.e. ₹ 6,88,500 [₹ 7,65,000 × 90%].

Thus, the value of supply, in the given case, will be ₹ 6,88,500.

- (II) An activity/transaction qualifies as supply under GST only if it is undertaken for a consideration and is in course/furtherance of business. However, supply of goods by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal is considered as supply even if made without consideration provided the invoice for further supply is issued by the agent in his own name [Section 7(1)(c) read with Schedule I to the CGST Act, 2017]. Where the invoice is issued by the agent to the customer in the name of the principal, such agent is not an agent in terms of Schedule I.

Since M/s. Paridhi Sales sells the goods under the invoice issued in the name of Retail Showroom at Ahmedabad, it is not an agent in terms of Schedule I. Resultantly, transfer of goods by Retail Showroom at Ahmedabad to M/s. Paridhi Sales does not qualify as supply since it is made without consideration.

Further, since M/s. Dhara Enterprises sells the goods under the invoice issued in its own name, it falls within the purview of an agent in terms of Schedule I. Resultantly, transfer of goods by Retail Showroom at Ahmedabad to M/s. Dhara Enterprises qualifies as supply even though it is made without consideration.

Value of supply of goods made through an agent is determined as per rule 29. 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 the goods supplied to M/s. Dhara Enterprises will be ₹ 88,200 [90% of ₹ 98,000].

Thus, value of supply of Bangalore unit is ₹ 6,88,500 and of Retail Showroom at Ahmedabad is ₹ 88,200.

Question 16.

Examine whether the suppliers are eligible for composition levy under section 10 in the following independent cases in the beginning of Financial Year 2022-23.

- Technology Enterprises, registered in Jalandhar, Punjab, is engaged in manufacturing and supplying computer systems. Its aggregate turnover in the Financial Year 2021-22 is ₹ 125 lakh. Technology Enterprises supplies the computer systems manufactured by it within the State of Punjab only. With a view to expand its business operations, it will also start providing the repairing services of computer systems in Punjab in the Financial Year 2022-23.
- M/s. Siddharth & Sons, registered in Delhi, owns a restaurant 'Tasty Foods' with a turnover of ₹ 112 lakh in the Financial Year 2021-22. In view of the growing customer demand, it will also start intra-State trading of juices in Delhi from Financial Year 2022-23.
- Sitaram Associates, registered in Sikkim, is engaged in running a restaurant chain 'Veg Kitchen' in the State. It has a turnover of ₹ 73 lakh in the Financial Year 2021-22. In the Financial Year 2022-23, it decides to shut down the food chain owing to huge losses being incurred in the said business. Instead, it will start providing intra-State architect services from Financial Year 2022-23.
- Deepti Services Ltd., registered in Uttarakhand, is exclusively providing intra-State hair styling services. It has turnover of ₹ 34 lakh in the Financial Year 2021-22. Will your answer be different, if Deepti Services Ltd. also start intra-State supply of beauty products alongwith providing hair styling services in the Financial Year 2022-23?

As per section 10(1), the following registered persons, whose aggregate turnover in the preceding Financial Year did not exceed ₹ 1.5 crore, may opt to pay tax under composition levy:

- Manufacturers,
- Persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II (restaurant services), and

(iii) Any other suppliers eligible for composition levy.

The composition scheme under sub-sections (1) and (2) of section 10 can essentially be availed in respect of goods and only one service namely, restaurant service. However, the scheme permits supply of other marginal services for a specified value along with the supply of goods and restaurant service, as the case may be. Such marginal services can be supplied for a value up to 10% of the turnover in the preceding year or ₹ 5 lakh, whichever is higher. Further, the registered person should not be engaged in making any inter-State outward supplies of goods or services.

Furthermore, newly inserted section 10(2A) provides an option to a registered person, who is not eligible to pay tax under section 10(1) and 10(2), of paying tax @ 6% (CGST-3% and SGST/UTGST-3%) provided his aggregate turnover in the preceding Financial Year is upto ₹ 50 lakh. Said person can pay tax @ 6% of the turnover in State or turnover in Union territory up to an aggregate turnover of ₹ 50 lakh, subject to specified conditions. One of such conditions is that the registered person should not be engaged in making any inter-State outward supplies of goods or services. In view of the above-mentioned provisions, the answer to the given independent cases is as under:-

- a) The turnover limit for being eligible for composition scheme under sub-sections (1) and (2) of section 10 for Jalandhar (Punjab) is ₹ 1.5 crore in the preceding Financial Year. Thus, Technology Enterprises can opt for said composition scheme in Financial Year 2022-23 as its aggregate turnover is less than ₹ 1.5 crore in the Financial Year 2021-22 and it is making intra-State supplies. Further, since the registered person opting for composition scheme can also supply services (other than restaurant services) for a value up to 10% of the turnover in the preceding year or ₹ 5 lakh, whichever is higher. Thus, Technology Enterprises can supply repair services up to a value of ₹ 12.5 lakh [10% of ₹125 lakh] in the Financial Year 2022-23.
- b) In the given case: -
- (i) the turnover in the preceding year is less than the eligible turnover limit under composition scheme under sub-sections (1) and (2) of section 10 for Delhi, i.e. ₹ 1.5 crore.
 - (ii) the supplier is engaged in providing restaurant service which is an eligible supply under said composition scheme.
 - (iii) the supplier wants to engage in trading of goods which is also an eligible supply under said composition scheme. Thus, M/s. Siddharth & Sons is eligible for composition scheme under sub-sections (1) and (2) of section 10 from the financial year 2022-23.
- c) The turnover limit for being eligible for composition scheme under sub-sections (1) and (2) of section 10 for Sikkim is ₹ 75 lakh in the preceding Financial Year. However, a registered person who is exclusively engaged in supplying services other than restaurant services are not eligible for said composition scheme. Thus, Sitaram Associates cannot opt for composition scheme under sub-sections (1) and (2) of section 10 in the Financial Year 2022-23. The benefit of composition scheme under section 10(2A) is available in case of a registered person who is not eligible to pay tax under sub-sections (1) and (2) of section 10 provided its aggregate turnover in the preceding Financial Year does not exceed ₹ 50 lakh. Thus, in view of the above-mentioned provisions, Sitaram Associates cannot avail the benefit of composition scheme under section 10(2A) also as its aggregate turnover in the preceding Financial Year is more than ₹ 50 lakh.
- d) A service provider can opt for the composition scheme under sub-sections (1) and (2) of section 10 only if he is engaged in supply of restaurant services. Said scheme permits supply of marginal services for a specified value, but only when the same are supplied along with goods and/ or restaurant service. Since Deepti Services Ltd. is exclusively engaged in supply of services other than restaurant services, it is not eligible for composition scheme sub-sections (1) and (2) of section 10 even though its turnover in the Financial Year 2021-22 is less than ₹ 75 lakh, the eligible turnover limit for Uttarakhand. However, since Deepti Services Ltd. is not eligible to opt for composition scheme under sub-sections (1) and (2) of section 10 and its aggregate turnover in the Financial Year 2021-22 does not exceed ₹ 50 lakh, Deepti Services Ltd. is entitled to avail benefit of composition scheme under section 10(2A)

in the Financial Year 2022-23. Further, the answer will remain the same even if Deepti Services Ltd. also start supplying beauty products along with providing hair styling services in the Financial Year 2022-23 since it fulfils the conditions laid down for availing the benefit of composition scheme under section 10(2A). It can avail the benefit of composition scheme under section 10(2A) till the time its aggregate turnover in the Financial Year 2022-23 doesn't exceed ₹ 50 lakh.

Question 17.

LMN Pvt. Ltd., Coimbatore, Tamil Nadu, exclusively manufactures and sells product 'X' which is exempt from GST vide a notification issued under relevant GST legislations. The company sells product 'X' only within Tamil Nadu and is not registered under GST. Further, all the inward supply of the company are taxable under forward charge. The turnover of the company in the Previous Year was ₹ 45 lakh. The company expects the sales to grow by 30% in the current year. The company purchased additional machinery for manufacturing 'X' on 1st July. The purchase price of the capital goods was ₹ 30 lakh exclusive of GST @ 18%. However, effective from 1st November, exemption available on 'X' was withdrawn by the Central Government and GST @ 12% was imposed thereon. The turnover of the company for the half year ended on 30th September was ₹ 45 lakh.

- a) Examine the above scenario and advise LMN Pvt Ltd. whether it needs to get registered under GST.
b) If the answer to the above question is in affirmative, advise LMN Pvt. Ltd. whether it can avail input tax credit on the additional machinery purchased exclusively for manufacturing "X"?

a) Section 22(1) read with Notification No. 10/2019 CT dated 07.03.2019 inter alia provides that every supplier who is exclusively **engaged in intra-State supply of goods** is liable to be registered under GST in the State/ Union territory from where he makes the taxable supply of goods only when aggregate turnover in a Financial Year exceeds ₹ 40,00,000. However, the above provisions are not applicable to few specified States, i.e., States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand. Further, a person exclusively engaged in the business of supplying goods and/or services that are not liable to tax or are wholly exempt from tax is not liable to registration in terms of section 23(1)(a). In the given case, the turnover of the company for the half year ended on 30th September is ₹ 45 lakh which is more than the applicable threshold limit of ₹ 40 lakh. Therefore, as per above mentioned provisions, the company should be liable to registration. However, since LMN Pvt. Ltd. supplied exempted goods till 31st October, it was not required to be registered till that day; though voluntary registration was allowed under section 25(3).

However, the position will change from 1st November as the supply of goods become taxable from that day and the turnover of company is above ₹ 40 lakh. It is important to note here that in terms of section 2(6), the aggregate turnover limit of ₹ 40 lakh includes exempt turnover also. Therefore, turnover of 'X' prior to 1st November will also be considered for determining the limit of ₹ 40 lakh even though the same was exempt from GST. Therefore, the company needs to register within 30 days from 1st November (the date on which it becomes liable to registration) in terms of section 25(1).

b) Section 18(1)(a) provides that a person who has applied for registration within 30 days from the date on which he becomes liable to registration and has been granted such registration shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act. Thus, LMN Pvt. Ltd. cannot avail credit for additional machinery purchased exclusively for manufacturing X as input tax credit of only inputs is allowed when a person gets registered for the first time.

Question 18.

Mudit Enterprises, registered in the State of Maharashtra (Mumbai) is engaged in supply of various goods and services exclusively to persons notified under Section 51 of the CGST Act, 2017.

Calculate the amount of TDS to be deducted by the recipient if any, from the details given below of three independent contracts for the Month of November, 2020:

Particulars	Contracts		
	I	II	III
Place of supply	Mumbai	Mumbai	Mumbai
Registered place of recipient	Mumbai	Mumbai	Delhi
Total contract value (inclusive of GST) (₹)	2,75,000	3,10,000	4,50,000
Payment due in November, 2020 (exclusive of GST) (₹)	55,000	60,000	1,20,000

Note: Take the rate of CGST, SGST and IGST as 6%, 6% and 12% respectively.

The tax at source (TDS) would be deducted @ 1% under CGST Act and 1% under SGST/UTGST Act or 2% under IGST Act as the case may be, of the payment made to the supplier where the total value of such supply, under a contract, exceeds ₹ 2,50,000 (excluding the amount of GST indicated in the invoice). Thus, individual supplies may be less than ₹ 2,50,000 but if the value of supply under a contract is more than ₹ 2,50,000, TDS will have to be deducted as per rates prescribed.

Case I: Given contract value is inclusive of GST, therefore to calculate contract value for TDS purpose the same is calculated exclusive of GST (CGST and SGST)

$$\begin{aligned} \text{i) } & 2,75,000 \times 100/112 \\ & = 2,45,535.71 \text{ or } ₹ 2,45,536 \text{ (rounded off)} \end{aligned}$$

Since the total value of supply under the contract does not exceed ₹ 2,50,000, tax is not required to be deducted on amount of ₹ 55,000.

Case II: The contract value exclusive of GST shall be:

$$\begin{aligned} \text{ii) } & 3,10,000 \times 100/112 \\ & = 2,76,785.71 \text{ or } ₹ 2,76,786 \text{ (rounded off)} \end{aligned}$$

Since the total value of supply under the contract exceed ₹ 2,50,000, tax is required to be deducted on ₹ 60,000 @ 1% under CGST Act and 1% under SGST Act because this is an intra-state transaction (i.e., place of supply and location of supplier is in the same State).

Hence, TDS would be 1% of 60,000 = ₹ 600 (CGST) and ₹ 600 (SGST)

Case III: The proviso to Section 51 (1) of CGST Act, 2017 lays down that when the location of the supplier and the place of supply is in a State which is different from the State/ Union territory of registration of the recipient, there will be no TDS.

Since the location of the supplier and the place of supply is Mumbai and the State of registration of the recipient is Delhi, no tax is liable to be deducted in the given case on amount of ₹ 1,20,000.

Question 19.

Starkart Limited owns and operates a web portal in the name of "Starkart" and is registered with the jurisdictional GST authorities in Delhi as an electronic commerce operator and is liable to collect tax at source under section 52. Starkart provides listing service to various sellers for selling the goods to ultimate customers. Besides this, Starkart also sells its own products through the same web portal.

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

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

The invoice for goods sold on Starkart is issued by the seller in the name of customers and tax is charged on the basis of location of seller and customer. The goods are shipped directly by the seller to the customer and there is no responsibility of shipping the goods on Starkart for such third-party sellers.

In case of return of goods by the customer, the shipping is arranged by Starkart. It charges a fee equivalent to 20% of the value of goods returned as cancellation charges and refunds the balance amount to the customer.

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

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

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

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

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

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

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

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

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

Particulars	₹
TCS to be collected from Infocom Limited on supply of Laptop and a printer to Pulkit [Starkart is an ECO since it owns and operates a web portal through which Infocom Limited supplies goods. Further, IGST is applicable on said inter-State transaction since supplier - Infocom Limited is located in the State of Uttar Pradesh and place of supply is Rajasthan [i.e. where movement of goods terminates in terms of section 10(1)(a) of the IGST Act, 2017]. Thus, Starkart will collect TCS @ 1% of [₹50,000 + ₹10,000]	600
GST to be paid by Starkart on supply of mobile phone made on its own account @ 18% (IGST) of ₹ 30,000. IGST is applicable on said inter-State transaction since supplier - Starkart is located in Delhi and place of supply is Rajasthan [i.e. where movement of goods terminates in terms of section 10(1)(a) of the IGST Act, 2017]. Since supply has been made by Starkart on its own account, no TCS needs to be collected.	5,400
TCS to be collected from Secure World on supply of CCTV camera system to Pulkit [ECO - Starkart is liable to collect TCS on this transaction. Further, IGST is applicable on said inter-State transaction since supplier - Secure World is located in the State of Gujarat and place of supply is Rajasthan [i.e. where movement of goods terminates in terms of section 10(1)(a) of the IGST Act, 2017]. Thus, Starkart will collect TCS @ 1% of ₹ 1,00,000]	1,000
Listing services provided by Starkart to Infocom Limited and Secure Limited @ 10% of turnover for the month of January. Turnover of Infocom Limited and Secure Limited is ₹ 60,000 and ₹1,00,000 respectively. IGST @ 18% on (₹ 1,60,000 × 10%) is applicable on said inter- State transaction since supplier - Starkart is located in Delhi and place of supply is Uttar Pradesh and Gujarat respectively [i.e. location of recipient in terms of section 12(2) of the IGST Act, 2017]	2,880
Total GST liability (including TCS) of Starkart for January	9,880

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

Particulars	₹
Gross GST liability [18% of turnover for January (₹ 50,000 + ₹ 10,000)]	10,800
Less: ITC of GST payable on listing services received from [(10% of ₹ 60,000) × 18%]	(1,080)
Net GST payable from Electronic Cash Ledger	9,720
Less: TCS credited to Electronic Cash Credit Ledger	(600)
Net GST payable in cash	9,120

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

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

Question 20.

Arpit registered in Tamil Nadu has opted for QRMP Scheme for Q1 (Apr 21 - Jun 21) of FY 2021-22 and its total tax liability (cash liability) for the said quarter was ₹ 1,00,000.

Arpit continues under QRMP Scheme for Q1 (July 21 - Sep 21) and gives the following details:

- July 21: Self-assessed tax liability (cash liability is ₹ 40,000 Paid on 31.08.2021) (PMT-06)
- Aug 21: Self-assessed tax liability (cash liability is ₹ 10,000 Paid on 10.10.2021) (PMT-06)
- Sep 21: Self-assessed tax liability (cash liability is ₹ 70,000 Paid on 11.11.2021)

Case A: Interest if Self-Assessment method of payment opted for M-1 and M-2 of Q2.

Particulars	Interest (₹)
July 21 (Due-Date of Payment is 25-08-2021) Tax under Self-Assessment = ₹40,000	₹ 118 (40,000 * 18% * 6) / 365
Aug 21 (Due-Date of Payment is 25-09-2021) Tax under Self-Assessment = ₹10,000	₹ 74 (10,000 * 18% * 15) / 365
Sep 21 (Due-Date of Payment is 22-10-2021) Tax under Self-Assessment = ₹ 70,000	₹ 690 (70,000 * 18% * 20) / 365
Total Interest (Shown in GSTR-3B in Jul 2021-Sep 2021)	₹ 882

Case B: Interest if Fixed Sum Method of Payment is opted for M-1 and M-2 of Q2

Particulars	Interest (₹)
July 21 (Due-Date of Payment is 25-08-2021) Tax under Fixed-Sum = ₹35,000 (₹1,00,000 * 35%)	₹104 (35,000 * 18% * 6) / 365
Aug 21 (Due-Date of Payment is 25-09-2021) Tax under Fixed-Sum = ₹35,000 (₹1,00,000 * 35%)	₹259 (35,000 * 18% * 15) / 365
Sep 21 (Due-Date of Payment is 22-10-2021) Tax under Self-Assessment = ₹50,000 (40,000 + 10,000 + 70,000 - 35,000 - 35,000)	₹493 (50,000 * 18% * 20) / 365
Total Interest (Shown in GSTR-3B in Jul 2021-Sep 2021)	₹ 856

Case C Interest if Fixed Sum Method of Payment is opted for M-1 and Self-Assessment Method of Payment is opted for M-2.

Particulars	Interest (₹)
July 21 (Due-Date of Payment is 25-08-2021) Tax under Fixed-Sum = ₹35,000 (1,00,000 * 35%)	₹104 (35,000 * 18% * 6) / 365
Aug 21 (Due-Date of Payment is 25-09-2021) Tax under Self-Assessment = ₹10,000	₹74 (10,000 * 18% * 15) / 365
Sep 21 (Due-Date of Payment is 22-10-2021) Tax under Self-Assessment = ₹75,000 [40,000 + 10,000 + 70,000 - 35,000 - 10,000]	₹740 (75,000 * 18% * 20) / 365

Total Interest (Shown in GSTR-3B in Jul 2021-Sep 2021)	₹918
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Note: Arpit can opt for Self-Assessment Method of Payment in M-1 and Fixed Sum Method of Payment M-2 or vice-versa and interest will be calculated accordingly. Also, interest will be calculated for 3rd month accordingly, payment of which is always made under Self-Assessment Method.

Question 21.

Happy company is a registered supplier of electric goods. It has three stores for electric goods in Jodhpur (Rajasthan) namely Ram Store, Shyam Store, Mohan store. It receives order for supply of electronic goods worth ₹1,40,000 (exclusive of GST @18%) from Kishan sons of Bhopal (Madhya Pradesh). Happy Company found that order worth ₹43,000 can be fulfilled from the Company's Ram Store, order worth ₹45,000 can be fulfilled from its Shyam Store and remaining goods worth ₹52,000 can be sent from its Mohan store. All three stores are instructed to issue separate invoices for the goods sent to Kishan sons. The goods are transported to Kishan sons in Bhopal, in a single conveyance owned by Shiv transporters.

You are required to advise Happy Company with regard to issuance of E-way bills as per the provisions of the CGST Act, 2017.

In terms of Rule 138 of CGST Rules, 2017, EWB is required to be generated for all transactions involving movement of goods (being a supply or not) in case consignment value exceeds ₹50,000. Every registered person causing movement of such goods shall generate EWB for the consignment.

The term '**consignment value of goods**' has been defined to mean value, determined in accordance with the **provisions of section 15 of the CGST Act, 2017**, declared in **an invoice, a bill of supply or a delivery challan**, as the case may be, issued in respect of the said consignment and also includes GST and cess charged, if any, in the document. Thus, for purposes of determination of EWB requirement,

- ❖ GST inclusive value shall be considered.
- ❖ Further, each invoice shall constitute an independent consignment in itself.

Considering the above stated legal provisions as to generation of EWB, the requirement of EWB generation in given situations has been discussed in table below:

<u>Consignment</u>	<u>Consignment Value (GST inclusive) (₹)</u>	<u>Place of business from where consignment is being dispatched</u>	<u>Requirement of EWB Generation</u>	<u>Remarks</u>
Consignment-1 (invoice-1)	50,740 (43,000 + GST@18%)	Jodhpur (Rajasthan)	Yes	EWB generation is mandatory as consignment value is exceeding ₹50,000.
Consignment-2 (invoice-2)	53,100 (45,000 + GST@18%)	Jodhpur (Rajasthan)	Yes	EWB generation is mandatory as consignment value is exceeding ₹50,000.
Consignment-3 (invoice-3)	61,360 (52,000 + GST@18%)	Jodhpur (Rajasthan)	Yes	EWB generation is mandatory as consignment value is exceeding ₹50,000.

Question 22.

DF Ltd. exported goods valued ₹ 50 lakh and received refund of integrated tax paid amounting to ₹ 9 lakh on 16th August, 2020. He could realise export proceeds to the extent of ₹ 25 lakh, but did not realise the balance export proceeds within the prescribed time limit of 9 months and has applied for extension of time to RBI. There is no dispute about the supply of the goods as regards quality, time of supply and fulfilment of terms and conditions of sale. He wants you to inform him of the consequences under GST law in case RBI does not give him the extension.

Where any applicant has received the refund of integrated tax paid on export of goods but could not realise the sale proceeds of such exported goods within the prescribed time limit (or extended time

period), he shall deposit the amount so refunded along with interest of 18% within 30 days of the expiry of the said period (or extended time period), to the extent of non-realisation of sale proceeds.

However, if the RBI writes off the requirement of such realization on merits, recovery shall not be made.

In view of the aforesaid provisions, DF Ltd. has to deposit the refund of integrated tax of ₹ 4.5 lakh (9 Lakhs x 25 lakhs / 50 lakhs) (to the extent of non-realisation of export proceeds of ₹ 25 lakh) along with interest @ 18% within 30 days of the expiry of the prescribed time-limit.

In case of failure to do so, the amount will be recovered in accordance with the provisions relating to recovery of erroneous refund and also penalty can be imposed.

Question 23.

Prithviraj Ltd., registered under GST in Uttar Pradesh, is served a notice for audit by the tax authority under GST law on 10th July. The records and other documents as sought by the tax authority have been made available by Prithviraj Ltd. on 25th July. The tax authority visits the office of Prithviraj Ltd. located in Noida, Uttar Pradesh on 8th August for conducting audit.

Determine the time-limit within which the audit under section 65 of the CGST Act, 2017 is required to be completed assuming that no extension is permitted in the given case

As per section 65(4) of the CGST Act, 2017, audit shall be completed within a period of 3 months from the date of commencement of the audit.

Further, commencement of audit means the later of the following:

- a. The date on which the records and other documents, called for by the tax authorities, are made available by the registered person, or
- b. The actual institution of audit at the place of business of the taxpayer.

Accordingly, in the given case, date of commencement of audit is later of:

- a. The date on which the records and other documents, are made available by Prithviraj Ltd., i.e. **25th July**, or
- b. The actual institution of audit at the place of business of Prithviraj Ltd., i.e. **8th August**.

Thus, date of commencement of audit is **8th August**.

Hence, audit shall be completed within 3 months from the date of commencement of the audit (8th August).

Question 24.

Zebrex, registered in Delhi, enters into a contract with Shine Ltd., an advertising company, located and registered in Gurugram, Haryana, to arrange the display of an advertisement of Zebrex's newly launched product on a hoarding placed in Marine Drive-Mumbai, Maharashtra for initial 3 months of the launch of the product. Shine Ltd., in turn, enters into a contract with the owner of Seaside Hotel located and registered in Marine Drive-Mumbai, Maharashtra for display of the advertisement on a hoarding placed in the lawn of the hotel. What will be the place of supply of service(s) provided in the given case?

In the given case, two supplies are involved:

- a) Services provided by Shine Ltd. to Zebrex by way of arranging the display of the advertisement of its newly launched product, and
- b) Services provided by Seaside Hotel to Shine Ltd. by way of placing a hoarding in the lawn of the hotel.

The place of supply in each of the above supplies is as follows:

- I. As per section 12(2)(a) of the IGST Act, 2017, the place of supply of services, except the services specified in sub-sections (3) to (14) of section 12 of the IGST Act, 2017, made to a registered person is the location of the person receiving the services. Advertisement services provided by Shine Ltd. to Zebrex is not covered in any of the sub-sections of section 12 of the IGST Act, 2017. Therefore, the place of supply shall be determined by the default provision under section 12(2)(a) of the IGST Act, 2017, viz. the location of the recipient. Thus, the place of supply, in the given case, is the location of Zebrex, i.e. Delhi.
- II. In case where there is supply (sale) of space or supply (sale) of rights to use the space on the hoarding/ structure (immovable property) belonging to vendor to the client/advertising

company for display of their advertisement on the said hoarding/ structure, the hoarding/structure erected on the land should be considered as immovable structure or fixture as it has been embedded in earth. Further, place of supply of any service provided by way of supply (sale) of space on an immovable property or grant of rights to use an immovable property shall be governed by the provisions of section 12(3)(a) of the IGST Act. Therefore, the place of supply of service provided by way of grant of rights to use the hoarding/ structure for advertising in this case would be the location where such hoarding/ structure is located. Thus, the place of supply, in the given case, is location of hotel where the hoarding is located, viz. Marine Drive-Mumbai, Maharashtra.

Question 25.

Bindusara commences the business of supplying taxable goods locally within the State of Rajasthan in April. He is not yet registered under GST. As his aggregate turnover reaches ₹ 8 lakh by the end of the month of June, Bindusara starts exploring the option to sell the goods supplied by him within Rajasthan on a popular electronic commerce platform - E-vastustore by listing the goods on the said platform.

He approaches you for advice on following issues in this regard:

- a) Bindusara wishes to continue his business without registering under GST since it will enhance the compliance burden under GST law. Can he supply the goods through E-vastustore without obtaining GST registration? You are required to advise him.
- b) Discuss the GST implications in case Bindusara supplies goods through electronic commerce platform - E-vastustore.

A. Yes, Bindusara can supply goods through E-vastustore without obtaining GST registration.

As per section 24(ix), persons who supply goods and/or services, other than services notified under section 9(5), through such electronic commerce operator (hereinafter referred as ECO) who is required to collect TCS under section 52 is required to obtain registration mandatorily. However, the persons making supplies of goods through an ECO who is required to collect TCS and having an aggregate turnover in the preceding financial year and in the current financial year not exceeding the threshold limit in accordance with the provisions of section 22(1), are exempted from obtaining registration, vide *Notification No. 34/2023 CT dated 31.07.2023*, subject to the following conditions, namely:

- I. such persons shall not make any inter-State supply of goods;
 - II. such persons shall not make supply of goods through ECO in more than one State/Union territory;
 - III. such persons shall be required to have a PAN issued under the Income-tax Act, 1961;
 - IV. such persons shall, before making any supply of goods through ECO, declare on the common portal:
 - a) their PAN
 - b) address of their place of business and
 - c) State/UT in which such persons seek to make such supply,
 which shall be subjected to validation on the common portal;
 - V. such persons have been granted an enrolment number on the common portal on successful validation of the PAN declared above;
 - VI. such persons shall not be granted more than one enrolment number in a State/UT;
 - VII. no supply of goods shall be made by such persons through ECO unless such persons have been granted an enrolment number on the common portal; and
 - VIII. where such persons are subsequently granted registration under section 25, the enrolment number shall cease to be valid from the effective date of registration.
- Thus, Bindusara can supply goods through E-vastustore without obtaining GST registration till the time its aggregate turnover does not exceed the threshold limit in accordance with the provisions of section 22(1) thereby complying with the aforesaid conditions.

B. As Bindusara is not required to obtain registration under GST, there shall be no GST implications on the supplies made by him through electronic commerce platform - E-vastustore. However, the electronic commerce operator - E-vastustore - is required to submit the details of supplies made through it by the unregistered suppliers (including Bindusara) having enrolment

number in Form GSTR 8. Further, no tax at source shall be collected by the E-vastustore in respect of such supplies.

Question 26.

Fortune 365 is an online money gaming platform operating from UAE. It provides its users a platform to play and win money in different games that are available on its portal.

In the month of December, Player A, an unregistered person located in India, deposited an amount of ₹ 10,000 (inclusive of GST) in the master wallet available on the portal of Fortune 365.

Subsequently, following transactions were undertaken by Player A in said month:

- I. Player A utilized the amount of ₹ 2,000 from the master wallet towards playing a virtual racing game on the portal. As a winning amount, ₹ 10,000 was credited to the master wallet of Player A.
- II. On another portal operated by Fortune 365 in the name of Bet 180, Player A placed a bet of face value of ₹ 11,000 on an international wrestling match. The amount of such bet was paid by the master wallet of Player A. However, he lost the bet and hence the bet amount of ₹ 11,000 with applicable taxes was transferred from the master wallet to the bank account of Bet 180.
- III. Player A transferred the balance amount from the master wallet to his bank account after the aforesaid transactions. Assume all the above transactions to be exclusive of GST unless otherwise specified.
- IV. Rate of GST applicable is 28% (Please ignore the bifurcation of GST amount into CGST, SGST and IGST.)

Based on the information provided above, answer the following questions, providing brief reasons:

- 1) Compute the total GST payable on the aforesaid given transactions.
- 2) Determine the net amount transferred by Player A to his bank account after the aforesaid transactions.
- 3) Ascertain whether Fortune 365 is required to obtain registration under GST in India. Will your answer be different if Player A is registered under GST in India?

The value of online money gaming related supply shall be determined as per rule 31B. As per said rule, the value of supply of online gaming, including supply of actionable claims involved in online money gaming, shall be the total amount paid or payable to, or deposited with the supplier by way of money or money's worth, including virtual digital assets, by or on behalf of the player.

Further, rule 31A provides the manner of determining the value of supply of actionable claim in the form of chance to win in betting. The value for such supply shall be 100% of the face value of the bet.

In accordance with the above provisions:

1) Total GST payable on given transactions is as follows:

- I. Value of supply of online money gaming = Total amount deposited with the supplier by the player in terms of rule 31B
 = Initial deposit of ₹ 10,000 (inclusive of GST) by Player A with Fortune 365 after excluding GST = ₹ 7,812.50 (₹ 10,000 × 100/128)
 GST payable = ₹ 7,812.50 × 28%
 = ₹ 2,188 - [A]

Value of supply of online bet = 100% of the face value of the bet in terms of rule 31A = ₹ 11,000

GST payable = ₹ 11,000 × 28%

= ₹ 3,080 - [B]

Total amount of GST that would be collected by the Government on the given transactions = [A] + [B] = 5,268 (rounded off)

2) Total amount transferred by Player A to his bank account from the master wallet is as follows:

Particulars	Amount (₹)
Initial Deposit	10,000
Less - GST on deposit	2,188
Less - Payment for virtual racing game	2,000
Add - Winning from virtual racing game	10,000
Less - Payment for bet placed on Bet 180	11,000

Less - GST on the bet place on Bet 180	3,080
Net balance available for transfer	1,732

- 3) As per section 24(xia), every person supplying online money gaming from a place outside India to a person in India shall be required to obtain registration on a mandatory basis in India. Accordingly, Fortune 365 being a supplier of online money gaming operating from UAE and supplying services in India shall be liable to obtain registration compulsorily in India. The answer will not change irrespective of the fact that Player A is registered under GST in India or not.

Question 27.

Sitaram Industries Limited, a registered entity under GST, in the State of Karnataka, is engaged in manufacture and supply of both taxable and exempt goods and services. Following information for the month of October, 2023 is provided by it:

S. No.	Particulars	Amount (₹)
OUTWARD SUPPLIES:		
A	Sold an old warehouse building in the State of Karnataka to a retail giant in the same State	30,00,000
B	Supplied 30 laptops over the counter to Mr. Sudhakar, an unregistered buyer, who took it to his residence in Haryana. [Invoice issued to him mentions only his name and State. However, his complete address of Haryana is missing in the invoice.]	12,00,000
	Special boxes for packing of the laptops	1,30,000
C	Provided Direct Selling Agent service to Kumkum Bank, registered in Karnataka	4,00,000
D	Provided pure labour services pertaining to a single residential unit in Mumbai, Maharashtra (otherwise than as a part of residential complex) for erection and installation of renovation works for a client registered in Maharashtra	6,20,000
E	Provided free of cost training in a resort in Puducherry to its agents based in the State of Karnataka on effective use of the products of the company. [Open market value of the said service is ₹ 1,00,000. Value of supply of service of like kind and quality is ₹ 1,20,000.]	
F	Interest received on fixed deposits from Sulakshan Bank, registered in Karnataka	2,00,000
INWARD SUPPLIES:		
G	Received a debit note in respect of inward intraState taxable supplies received in the financial year 2020-21 for the quantity difference as agreed. These inward supplies were used for all goods manufactured in factory. Date of debit note is 16 th October, 2023.	4,00,000
H	Solar panels installed in the factory for providing electricity to be used in factory (IntraState)	5,00,000
I	Purchased employee uniforms for 1000 employees (Inter-State) [Uniforms worth ₹ 3,00,000 were necessary to ensure the safety of the workers while carrying out the manufacturing activity. Remaining uniforms worth ₹ 4,00,000 were sometimes worn by the employees outside the factory for personal purposes.]	7,00,000

The company provided the following additional information:

- I. In respect of sale of old warehouse building, stamp duty was paid on ₹ 32 lakh.
- II. The company provided a corporate guarantee of ₹ 2 crores to Laxmi Logistics Limited, its related company having registered office in the State of Karnataka, for loan availed by the latter from Jandhan Bank Ltd., Karnataka.
- III. The accountant of the company did not claim input tax credit in respect of debit note received for the reason that the original purchase related to earlier years for which ITC claim eligibility was over.

- IV. Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively for both inward and outward supply of goods and services, except special packing boxes for which the applicable rates of CGST, SGST and IGST are 6%, 6% and 12% respectively.
- V. All the amounts given above are exclusive of taxes, wherever applicable
- VI. From the information given above, you are required to compute the eligible ITC available for set off and minimum net GST payable in cash (CGST, SGST or IGST, as the case may be) for the month of October, 2023. Provide brief reasons for the treatment of each item.

Computation of eligible ITC and net GST payable by M/s Sitaram Industries Ltd., for the month of October, 2023

Particulars	Value	IGST @ 18%	CGST @ 9%	SGST @ 9%
	₹	₹	₹	₹
Outward Supply:				
Sale of old warehouse building [Since sale of building is neither supply of goods nor supply of services in terms of para 5 of Schedule III of the CGST Act, 2017, it does not qualify as supply.]	Nil	-	-	-
Supply of laptops [Inter-State supply since place of supply here is the location as per the address of the unregistered recipient (name of the State) recorded in the invoice issued in respect of the supply, viz. Haryana, in terms of section 10(1)(ca) of the IGST Act, 2017. Further, as per section 8(a), supply of laptops with packing is a composite supply, chargeable to tax at the rate applicable to the principal supply (viz. supply of laptops) i.e.,18%.]	13,30,000 [12,00,000 + 1,30,000]	2,39,400		
Direct Selling Agent service [Intra-State supply since place of supply here is the location of recipient, viz. Karnataka, in terms of section 12(2)(a) of the IGST Act, 2017. Further, tax will be payable under forward charge since such services are provided by a person other than individual - Notification No. 13/2017 CT(R) dated 28.06.2017.]	4,00,000		36,000	36,000
Pure labour services [Inter-State supply since place of supply here is the location of immovable property, viz. Maharashtra in terms of section 12(3) of the IGST Act, 2017. Further, services by way of pure labour contracts of erection and installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex are exempt in terms of Notification No. 12/2017 CT(R) dated 28.06.2017 However, such services in relation to renovation work are not exempt.]	6,20,000	1,11,600		
Free training to agents [Services provided by the company to agents without consideration is not deemed as supply in terms of para 3 of Schedule-I since only goods supplied by principal to agent are covered therein. Further, such services are also not covered in para 2 of Schedule I as agents are not related persons.]	1,00,000			

Corporate guarantee provided to Laxmi Logistics Limited [Supply of service between related parties even when made without any consideration is deemed supply in terms of Schedule I. Further, value of corporate guarantee, in terms of rule 28(2), will be higher of: 1% of the amount of such guarantee offered, or actual consideration] (i.e. 1% of ₹ 2 crore) [Circular No. 204/16/2023 GST dated 27.10.2023]	2,00,000		18,000	18,000
Interest received on fixed deposits [Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest are exempt vide Notification No. 12/2017 CT (R) dated 28.06.2017]	2,00,000			
Gross GST liability [A]		3,51,000	54,000	54,000
Less: ITC available for set off [Refer Note (iii) below]		24,958	16,639	16,639
Net GST payable in cash		3,26,042	37,361	37,361

Notes:

I. Computation of ITC admissible to Sitaram Industries Ltd. for the month of October, 2023

Particulars	Value	IGST	CGST	SGST
Debit note received [ITC on debit notes issued in a financial year can be availed any time till 30 th November of the succeeding financial year or the date of filing of the relevant annual return, whichever is earlier, irrespective of the date of original invoice/ supply, in terms of section 16(4).]	4,00,000		36,000	36,000
Solar panels purchased [ITC cannot be claimed in respect of solar panels, since ITC on goods or services or both received by a taxable person for construction of an immovable property (other than plant and machinery on his own account including when such goods or services or both are used in the course of furtherance of business is blocked in terms of section 17(5)(d).]				
Uniforms purchased [ITC on the uniforms which are necessary to ensure the safety of the employees while carrying out the business activity, is available. However, uniforms not provided for any safety purpose are construed as being used for personal consumption and thus, ITC thereon is blocked in terms of section 17(5)(d).]	3,00,000	54,000		
Total		54,000	36,000	36,000

II. Computation of common credit attributable to exempt supplies in respect of Sitaram Industries Ltd. for the month of October, 2023

Particulars	IGST (₹)	CGST (₹)	SGST (₹)
Common credit on receipt of debit note [Debit note, although received in respect of taxable inward supply, is being used for all goods manufactured in factory which comprises of both taxable and exempt goods.]		36,000	36,000
Common credit on purchase of uniforms [Uniforms are being used commonly for manufacturing of both taxable and exempt goods.]	54,000		
Common credit attributable to exempt supplies (rounded off) = Common credit x (Exempt turnover during the period / Total turnover during the period) = ₹ 54,000 x ₹ 32,00,000 / ₹ 59,50,000 (IGST)	29,042	19,361	19,361

= ₹ 36,000 × ₹ 32,00,000 / ₹ 59,50,000 (CGST/SGST)			
Exempt turnover = ₹ 32,00,000 and total turnover = ₹ 59,50,000 [Refer note below]			

Question 28.

Mr. Rishi, a registered supplier under GST in the State of Maharashtra, provides the following information for the month of January 2022:

SI. No.	Particulars	Amount in ₹
	OUTWARD SUPPLY:	
(i)	Supplied computers (which were purchased from a unregistered supplier) without any consideration to his Brother-in-law in Ranchi (market value of supply was ₹ 62,000)	Nil
(ii)	Supplied a consignment of 10 Laptops to M/s. NK & Co. in the State of Maharashtra at the instruction of third person being M/s. ZX Computers of Tamilnadu.	6,00,000
(iii)	Provided stock counting service to M/s XY Impex registered with GST in the State of Gujarat, whereas the place where the stock counting was carried out was at the Godown located in Mumbai.	80,000
(iv)	Provided renting service of his service apartment in Mumbai at a daily rent of ₹ 1,500 for residential purposes.	30,000
(v)	Recovery agent services provided to M/s. Apex Finance Ltd., an NBFC located in Delhi.	2,00,000
(vi)	Advance received during the month for future intra-state supply.	9,00,000
	INWARD SUPPLY:	₹
(i)	Imported computer accessories from Korea and the goods landed in Mumbai Port and reached at his registered premises on 31.01.2022.	5,00,000
(ii)	Availed GTA services from M/s. Speed Trans of Kolkata with regard to transport of traded goods where rate of CGST/SGST @ 2.5% each/IGST @ 5% was applicable.	1,00,000
(iii)	Apart from the above, received 15 invoices involving IGST of ₹ 1,00,000 during the current month.	-

Mr. Rishi provided the following additional information:

- Turnover for the previous financial year was ₹ 21 Lakhs.
- He had availed services in an inter-state transaction with a taxable value of ₹ 4,00,000 and a tax rate of 18%. This transaction was liable to tax under reverse charge. Payment for the same to the supplier was not made till the current month (overdue for 181 days as at 01.01.2022). However, tax due under the said transaction was paid to Government and credit availed in the month of transaction itself.
- Out of the 15 invoices as per above, 12 invoices involving IGST of ₹ 95,000 was uploaded by the suppliers in their GSTR-1 Return. All the invoices are eligible for claiming as ITC.
- He had sent goods valued ₹ 1,00,000 to his job worker in the state of Kerala, who further processed the said goods and made direct supply on 31.01.2022 from Kerala to a buyer in the State of Maharashtra.
- Out of advance received for future supply, ₹ 5,00,000 related to supply of goods and the rest related to service.
- Rate of CGST, SGST and IGST are 9%, 9% and 18% respectively for both inward and outward supply of goods and services. Same rate is also applicable for inward supplies received, except where otherwise provided.
- All the amount given are exclusive of taxes wherever applicable.

From the information given above, you are required to compute the net GST liability payable in cash (CGST, SGST or IGST as the case may be) for the month of January, 2022. Assessee wants to make the cash payment of GST under SGST head as far as possible

S. No.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
A.	GST liability on outward supply				
(i)	Computers supplied without consideration [Not a supply as it is made without consideration and is also not covered in Schedule 1 because computers have been supplied to an unrelated person and ITC has also not been availed on the same.]	Nil			
(ii)	Consignment of laptops supplied at the instruction of third person [Since supply is a bill to ship to supply where the goods are delivered on the direction of a third person-ZX Computers, goods are deemed to be received by ZX Computers and thus, the place of supply is Tamil Nadu. Hence, it is an inter-State supply.]	6,00,000			1,08,000 [6,00,000 x 18%]
(iii)	Stock counting service to M/s XY Impex of Gujarat [Intra-State supply as the place of supply is the location of recipient, viz. Mumbai ² . Godown at Mumbai being a fixed establishment is the location of recipient.]	80,000	7,200 [80,000 x 9%]	7,200 [80,000 x 9%]	NIL
(iv)	Service apartment rented in Mumbai ¹ [Taxable, since it is renting of residential property for commercial purpose, Renting for temporary stay is considered as commercial purpose. Intra-State supply since place of supply is Maharashtra as property is located in Mumbai.]	30,000	2,700 [30,000 x 9%]	2,700 [30,000 x 9%]	
(v)	Recovery agent services provided to an NBFC [Tax is payable by the NBFC under reverse charge.]	2,00,000			
(vi)	Advance received for intra State supply [Tax on advance received for supply of goods of ₹ 5,00,000 will be payable at the time of issuance of invoice.]	4,00,000	36,000 [4,00,000 x 9%]	36,000 [4,00,000 x 9%]	
(vii)	Finished goods sold from the premises of the job worker ³ [Supply of goods by principal from the job worker's premises is regarded as supply by principal only irrespective of the location of job worker. Therefore, since the place of supply is the location where movement of goods terminates for delivery to recipient, i.e., Maharashtra, it is an intra State supply.]	1,00,000	9,000 [1,00,000 x 9%]	9,000 [1,00,000 x 9%]	
	Total tax liability on outward supplies		54,900	54,900	1,08,000
B.	GST liability on inward supplies under reverse charge				

² Exemption for renting of residential dwelling for use as residence available under entry no. 12 of Notification No. 12/2017 CT(R) dated 28.06.2017 has not been provided basis the view that such renting is for a longer duration and does not cover in its ambit, renting for a day.

³ It has been assumed that either Mr. Rishi has declared the job worker's place of business / premises as his additional place of business or the job worker is registered. Further, it has been assumed that the goods have been sold from the job worker's premises at a price of ₹ 1,00,000 itself.

(i)	GTA services availed from M/s Speed Trans [Tax is payable under reverse charge on the GTA services received by a registered person and on which tax is payable @ 5%. Further, it is an inter-State supply since supplier is located in Kolkata and place of supply is Maharashtra (location of registered recipient)]	1,00,000			5,000 [1,00,000 × 5%]
C. Input tax credit					
(i)	Import of computer accessories [Input tax, inter alia, includes IGST charged on import of goods]	5,00,000 ⁴			90,000 [5,00,000 × 18%]
(ii)	GTA services availed IGST on invoices received during the month	1,00,000			5,000
(iii)	Invoice uploaded by supplier in the GSTR 1 return is reflected in 2B of Mr. Rishi ₹ 95,000 only can be claimed				95,000
	Less: Input tax reversed [Outward supply, tax on which is payable under reverse charge is considered as exempt supply for the purpose of reversal of ITC. = ₹ 1,95,000 × ₹ 2,00,000/₹ 19,10,000 (₹ 1,95,000 × turnover of exempt supply/total turnover) [The condition for making the payment for the supply within 180 days so that the ITC availed does not get added to the output tax liability does not apply to reverse charge supplies. Thus, ITC on ₹ 4,00,000 will not be affected.]				(20,419)
	Total ITC available for set off		-	-	1,69,581
D. Computation of net GST payable in cash					
	Total tax liability on outward supplies		54,900	54,900	1,08,000
	Less: ITC of IGST		(54,900)	(6,681)	(1,08,000)
	Forward charge liability on outward supplies payable in cash after set off of ITC				
	Reverse charge liability on inward supplies payable in cash without set off of ITC [Tax payable under reverse charge, being not an output tax, cannot be set off against ITC and thus, will have to be paid in cash.]				5,000
	Total net GST liability payable in cash⁵		-	48,219	5,000

⁴It has been assumed that the value of imported computer accessories is inclusive of basic customs duty and social welfare surcharge and consequently, the IGST has been computed on the same.

⁵ It has been assumed that IGST has been paid on imported goods before January 2020. Therefore, the same has not been considered as being paid in cash in the month of January 2020.

Question 29.

The details of transactions of J Ltd, Vadodara (Gujarat), a registered taxable person, during the month of February, 2022, are as under:

S. No	Particulars
1	Purchased goods from a manufacturer in Maharashtra as a merchant exporter (on payment of 0.1% IGST) and exported the same directly to an importer of Spain under LUT. FOB value is ₹ 7,00,000. Invoice for the supply of J Ltd was received on 05/02/22 and payment was made on 08/02/22.
2	Imported goods from China with CIF value of ₹ 5,00,000. The goods were sold for ₹ 5,10,000 as high sea sales to an Indian party on 21/02/22.
3	Purchased goods from a party in Taiwan. Sold the goods to a party in Turkey without bringing the goods to India. Purchase value was ₹ 5,00,000 and the sale price was ₹ 7,00,000. J Ltd paid sales commission of ₹ 50,000 to Mrs. T, their agent in connection with this transaction. The transaction was completed in the third week of February. (The figures in rupees have been given after conversion though transaction was in convertible foreign currency).
4	J Ltd has agreed to provide technical services to Mr. K of Ahmedabad who is an unregistered person in connection with the manufacturing operations to be undertaken by him for a consideration of ₹ 5,00,000 and has received an advance of ₹ 1,00,000 for the same on 02/02/22.
5	It has imported raw materials from China. CIF Value of the goods for the purpose of customs included ₹ 1,00,000 as ocean freight paid by J Ltd. The value for the purpose of levy of IGST worked out by customs was ₹ 6,00,000. Clearance of the goods took place on 04/02/22.
6	Locally purchased taxable raw material stored in the factory got spoiled due to rain water in the factory and became unusable. J Ltd claimed and received insurance amount of ₹ 60,00 for the same. Value of the raw material at the time of the receipt was ₹ 70,000. Raw material was purchased from a party in Gujarat on 03/02/22 and payment was made on 07/02/22.
7	Company purchased a three-wheeler having capacity of 2 persons including driver (engine capacity 20CC) at a cost of ₹ 2,50,000 which is being used for transportation of staff of company from residence to factory and back. The vehicle was received on 05/02/22 and payment was made on the same date.
8	It has paid inward transportation expense of ₹ 30,000 to Mr. Z, a tempo owner who has not issued any consignment notes. He has issued a consolidated bill only on 03/02/22 and payment was made on 04/02/22.
9	It has supplied goods of value of ₹ 50,00,000 to V Ltd, Padra, Gujarat (includes ₹ 10,00,000 supplied to SEZ unit of V Ltd).
10	It has purchased goods from X Impex Ltd, Kadi, Gujarat for use as raw materials in its factory. The value of the goods is ₹ 30,00,000. Invoice is dated 02/02/22.
11	It has availed supply of manpower security services from Y Ltd, Vadodara, Gujarat, a registered taxable person. The amount paid is ₹ 1,00,000. The invoice was received on 01/02/22 and payment was made on the same day.

Assume the CGST and SGST rates to be 9% each and IGST rate to be 18% excepting the supply received as a merchant exporter, Ignore compensation cess. J Ltd had an opening balance of ITC of CGST ₹ 20,000 and SGST ₹ 20,000 as on 01/02/2022. In respect of all the inward supplies, suppliers have uploaded their invoices in respective GSTR 1 and the supplies are reflected in GSTR 2A/2B. All the figures given above are exclusive of GST, wherever applicable.

Work out the admissible ITC and GST liability (CGST, SGST or IGST, as the case may be) payable in cash, by J Ltd Vadodara (Gujarat), for February, 2022. Ensure that all the items in the table are covered in your answer. Provide supporting explanatory note for your conclusion wherever required.

I. Statement showing computation of Gross GST payable under FCM by J Ltd. for the month of February 2022:

Particulars	Value	CGST	SGST	IGST
Export of goods to Spain under LUT [Treated as Zero rated supplies, without payment of GST. Such goods are procured by paying concessional tax @0.1% and it can be availed as ITC. Also, such goods can be exported only under LUT/Bond and cannot be exported on payment of IGST]	7,00,000	-	-	-
High Seas Sales to an Indian party [As per Sec. 7(2) read with Schedule III of CGST Act, supply of goods after the goods have been dispatched from the port of Origin located outside India but before clearance for home consumption, is neither supply of goods nor supply of services]	Not included in aggregate turnover	-	-	-
Sale of goods to a party in Turkey [As per Sec. 7(2) read with Schedule III to CGST Act, supply of goods from non-taxable territory to non-taxable territory without goods entering into India is neither supply of goods nor supply of services]	Not included in aggregate turnover	-	-	-
Technical Services to Mr. K [Technical Services provided to K Ltd. of Ahmedabad, is a taxable supply within the state, and as per Sec. 13(2), GST payable on advances]	Advance received not part of aggregate turnover	1,00,000 X 9% = 9,000	1,00,000 X 9% = 9,000	-
Supply of goods to V Ltd, SEZ [It is Zero rated supply and in the absence of information about LUT/Bond, it is treated as supply upon payment of IGST]	10,00,000	-	-	10,00,000 X 18% = 1,80,000
Supply of goods to V Ltd, (other than SEZ and intra state supply)	40,00,000	40,00,000 X 9% = 3,60,000	40,00,000 X 9% = 3,60,000	-
Total Gross GST liability under FCM	57,00,000	3,69,000	3,69,000	1,80,000

II. Statement showing computation of Gross GST payable under RCM by J Ltd. for the month of February 2022:

Particulars	CGST	SGST	IGST
Ocean Freight [Services provided by a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India shall not be taxable in lieu of SC decision in Mohit minerals P. Ltd. case w.e.f 1.10.23]	-	-	-
RCM ITC shall be available on payment of tax.			

III. Statement showing computation of input tax credit available for utilization of J Ltd. for the month of February 2022:

Particulars	CGST	SGST	IGST
Purchase of goods from Manufacturing supplier @ 0.1% IGST (Note: It is assumed that the price at which J Ltd. has purchased such goods is ₹7,00,000)	-	-	₹7,00,000 X 0.1% = 700
Imported goods from China - CIF Value ₹ 5,00,000 [As the said goods are sold on high seas basis by the	-	-	-

original importer (J Ltd.), the buyer (Indian party) who takes delivery of such goods shall pay customs duty incl. IGST and can avail ITC w.r.to the same but not by J Ltd.]			
Commission paid to Mrs. T, an agent of J Ltd. for purchase of goods from Taiwan and sales to Turkey [As per Notification No. 9/2017-IT services provided by an intermediary when location of supplier and recipient of goods is outside India is exempted]	-	-	-
Import of goods from China [As per section 12 of customs Act, 1962 read with section 3 of Customs Tariff Act, 1975 Customs duty shall be levied on ₹6,00,000]	-	-	₹6,00,000 X 18% = 1,08,000
ITC on raw material purchased and destroyed [As per section 17(5)(h) of CGST Act, ITC shall not be availed in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. Even though insurance compensation is received on the same, ITC not available and it is not a supply, as ITC not availed]	-	-	-
Three Wheeler, with an engine capacity of 20cc [It is not a motor vehicle, as per the definition of motor vehicle as per Motor Vehicles Act, 1988. Therefore, it is not a blocked ITC as per Sec. 17(5) and ITC available on the same. Also, it is assumed to be intrastate supply. "motor vehicle" or "vehicle" means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; <u>but does not include</u> a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or <u>a vehicle having less than four wheels fitted with engine capacity of not exceeding 25 cubic centimetres.</u>]	₹2,50,000 X 9% = 22,500	₹2,50,000 X 9% = 22,500	-
Transportation services received [Service by way of transportation of goods, other than GTA or Courier agency is exempted as per Sec. 11 read with Notification No. 12/2017. As the supplier not issued consignment note, it is not a GTA service]	-	-	-
Purchase of goods from X Impex, Gujrat	30,00,000 X 9% = 2,70,000	30,00,000 X 9% = 2,70,000	-
Availment of Manpower security services from Y Ltd. [As the supplier is body corporate, the same is not covered under RCM in terms of Sec. 9(3) of CGST Act read with Notification No. 13/2017]	1,00,000 X 9% = 9,000	1,00,000 X 9% = 9,000	-
Total	3,01,500	3,01,500	1,08,700

Total ITC

Particulars	CGST	SGST	IGST
Opening balance of ITC	20,000	20,000	
ITC w.r.to inward supplies during the month (other than RCM)	3,01,500	3,01,500	1,08,700
ITC w.r.to inward supplies under RCM [Refer Statement II]			-

(-) Reversal of ITC – Does not arise as outward supply of J Ltd. do not contain exempted supplies			
Total ITC available for utilization	3,21,500	3,21,500	1,08,700

IV. Statement showing computation of net GST payable by J Ltd. for the month of February 2022:

Particulars	Statement Reference	CGST	SGST	IGST
Gross GST payable under FCM	I	3,69,000	3,69,000	1,80,000
(-) Input Tax Credit	III			
IGST Credit utilized				1,08,700
CGST Credit utilized		3,21,500		
SGST Credit utilized			3,21,500	
Liability to be discharged under FCM		47,500	47,500	71,300
Reverse Charge Mechanism liability (To be discharged only through Electronic Cash Ledger)	II	-	-	-
Net GST payable		47,500	47,500	71,300

Alternative View:

As the purchase price of inward supplies from a manufacturer is Maharashtra (Referred to in S. No. 1) is not provided, if we do not consider ₹7,00,000 as purchase price, then the ITC w.r.to IGST shall be 1,26,000 and the net IGST liability comes to 72,000.

Question 30.

Motopower Pvt. Ltd., registered under GST, is engaged in the manufacture of 5-seater luxury cars at its factories located in the States of Rajasthan, Uttar Pradesh and Gujarat. The company has obtained registration in each of these States. It also enters into contracts for providing these cars on rent to corporate clients wherein the cost of fuel is included in the value of supply.

The company reports the following details for a tax period pertaining to its factory located in Gujarat:

Payments	(₹) (in lakh)	Receipts	(₹) (in lakh)
Raw material	4.50	Sales	30
Rent paid	1.00	Car rental income	0.50
Consumables	1.50	Income from services provided to Gujarat Government administration	2.50
Security services	0.70		
General insurance of cars manufactured	2.50		
Works contract services	1.60		
Audit fee	0.50		
Bank charges	0.10		
Membership of Automobile Association	0.10		

All the above amounts are exclusive of all kinds of taxes, wherever applicable. However, the applicable taxes have also been paid by the company.

Further, following additional details are furnished by the company in respect of the payments and receipts reported by it:

- (I) Raw materials worth ₹ 0.50 lakh, purchased from a registered supplier located in Gujarat, were destroyed due to fire in the factory and thus, could not be used in the manufacturing process. Remaining raw material has been procured from various vendors located in Maharashtra.
- (II) Rent has been paid for the factory building located in Gujarat to its owner registered in Gujarat.
- (III) Payment for security services (services provided by way of supply of security personnel) for the tax period has been made by Safe and Secure Solutions Pvt. Limited, a company located in Gujarat and not registered under GST.
- (IV) General insurance services have been availed from Divided Insurance Company Ltd. registered in Gujarat.

- (V) Works contract services, availed from Chitra Builders, Gujarat, have been used by the company for construction of a foundation on which machinery to be used in the production process is to be mounted permanently.
- (VI) Audit fee is paid to a firm of Chartered Accountants - M/s Pandya & Associates (registered in West Bengal with an aggregate turnover of ₹ 30 crores in the preceding financial year) - for conducting the statutory audit of the company in the preceding financial year. The firm raises an e-invoice without IRN (Invoice Reference Number) for said services.
- (VII) Bank charges are towards various services availed by the company during a month with regard to its current account maintained with Manimani Bank, registered in Gujarat. The bank issued a consolidated tax invoice for all such services at the end of the month containing the details of tax charged, description of services, total value, GSTIN of the bank and Motopower Pvt. Ltd.
- (VIII) Automobile Association is registered in the State of Gujarat.
- (IX) The breakup of sales is as under:
Sales in Gujarat - ₹ 14 lakh
Sales in States other than Gujarat - ₹ 6 lakh Exports under Letter of Undertaking (LUT) - ₹ 10 lakh
- (X) Car rental income pertains to renting of cars to Jamaze Travels Ltd., registered in Gujarat and cost of fuel is included in the value of said supply. Further, consumables, procured from registered suppliers located in Gujarat, include diesel (excise and VAT paid) worth ₹ 0.75 lakh used for running the cars so rented out to Jamaze Travels Ltd. Assume that except diesel, no other input/input services is used in providing car renting service.
- (XI) Services provided to Gujarat Government administration are under a Health Training programme. 51% of the total expenditure for said programme is borne by Gujarat Government.
- (XII) The opening balance of ITC with the company for the tax period is:
CGST - ₹ 0.50 lakh
SGST - ₹ 0.26 lakh IGST - ₹ 0.35 lakh

Compute the total ITC available with Motopower Pvt. Ltd. for the given tax period and net GST payable [CGST, SGST or IGST, as the case may be] from Electronic Cash Ledger by Motopower Pvt. Ltd. for the given tax period.

Notes-

- (I) CGST, SGST & IGST rates on all inward and outward supplies are 9%, 9% and 18% respectively, except on renting of cars wherein CGST, SGST & IGST rates are 2.5%, 2.5% and 5% respectively.
It is important to note that credit of input tax charged on goods and services used in supplying the service of transport of passengers by any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, is not available except the credit of the input service in the same line of business.
- (II) The necessary conditions for availing ITC have been complied with by Motopower Pvt. Ltd., wherever applicable.

You are required to make suitable assumptions, wherever necessary.

Computation of ITC available with Motopower Pvt. Ltd. for the given tax period

S. No.	Particulars	Value of supply	ITC			
			CGST*	SGST*	IGST*	Total
1.	Opening balance of ITC		50,000	26,000	35,000	1,11,000
2.	Raw Materials [₹ 4,50,000 - ₹ 50,000] [Refer Note 1]	4,00,000			72,000	72,000
3.	Rent paid for the factory building [Refer Note 2]	1,00,000	9,000	9,000	--	18,000
4.	Consumables procured from suppliers in Gujarat [₹ 1,50,000 - ₹ 75,000] [Refer Note 3]	75,000	6,750	6,750		13,500
5.	Security services [Refer Note 4]	70,000	Nil	Nil	Nil	Nil
6.	General insurance of cars manufactured [Refer Note 5]	2,50,000	22,500	22,500		45,000
7.	Works contract services [Refer Note 6]	1,60,000	14,400	14,400	--	28,800
8.	Audit fee [Refer Note 7]	50,000	Nil	Nil	Nil	Nil
9.	Bank charges [Refer Note 8]	10,000	900	900	--	1,800

10. Membership of Automobile Association [Refer Note 9]	10,000	900	900	—	1,800
Total ITC available for the tax period		1,04,450	80,450	1,07,000	2,91,900

Computation of net GST payable

Particulars	Value of supply	CGST*	SGST*	IGST*	Total
Intra-State sales in Gujarat	14,00,000	1,26,000	1,26,000	--	2,52,000
Inter-State sales other than Gujarat	6,00,000	--	--	1,08,000	1,08,000
Exports under LUT [Note 10]	10,00,000	Nil	Nil	Nil	Nil
Car rental income (Taxable @ 2.5% CGST and SGST each) [Note 11]	50,000	1,250	1,250		2,500
Income from services provided to Gujarat Government [Note 12]	2,50,000	22,500	22,500		45,000
Total output tax liability		1,49,750	1,49,750	1,08,000	4,07,500
Less: ITC available for being set off [Note 13, Note 14 and Note 15]		(1,04,450)	(80,450)	(1,07,000)	(2,91,900)
Net GST payable from Electronic Cash Ledger		45,300	69,300	1,000	1,15,600

Notes:

- 1) Credit of input tax paid on raw materials used in the course or furtherance of business is available in terms of section 16(1). However, ITC is not available on destroyed inputs in terms of section 17(5)(h).
- 2) ITC on rent paid is available as the said service is used in the course or furtherance of business in terms of section 16(1).
- 3) ITC on consumables, being inputs used in the course or furtherance of business, is available in terms of section 16(1). However, levy of GST on diesel has been deferred till such date as may be notified by the Government on recommendations of the GST Council [Section 9(2)]. Hence, there being no levy of GST on diesel, there cannot be any ITC since VAT & excise paid are not covered in the definition of input tax under section 2(62). Moreover, credit of input tax charged on goods and services used in supplying the service of transport of passengers by any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, is not available except the credit of the input service in the same line of business. Thus, ITC on diesel will not be available.
- 4) Tax on security services (services provided by way of supply of security personnel) provided by a non-body corporate to a registered person is payable under reverse charge. Since in the given case, security services have been provided by a body corporate - Safe and Secure Solutions Pvt. Limited to a registered person - Motopower Pvt. Ltd., GST on the same is payable under forward charge. However, since Safe and Secure Solutions Pvt. Limited is not registered under GST, it would not have charged GST on the said services and hence, no ITC is available.
- 5) ITC on motor vehicles for transportation of persons is allowed in terms of section 17(5)(a) provided such vehicles are further supplied by the supplier. ITC is allowed on general insurance services relating to motor vehicles, ITC on which is allowed [Section 17(5)(ab)].
- 6) Section 17(5)(c) blocks ITC in respect of works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service. Further, the term "plant and machinery" means, inter alia, machinery fixed to earth by foundation or structural support that are used for making outward supply and includes such foundation/structural support. Thus, in view of the above-mentioned provisions, ITC is available in respect of works contract service availed by Motopower Pvt. Ltd. as the same is used for construction of plant and machinery which is not blocked under section 17(5) (c).
- 7) Audit fee are the services used in the course/ furtherance of business and thus, credit of input tax paid on such service will be available in terms of section 16(1). M/s Pandya & Associates is required to issue an e-invoice for audit services as e-invoicing is mandatory for the registered persons whose aggregate turnover in any of the preceding financial years from

- 2017-18 onwards exceed ₹ 5 crores. However, an e-invoice without IRN is not treated as an invoice as per rule 48(5) and hence, without a valid document, ITC cannot be claimed on such input services.
- 8) Bank charges are services used in the course/ furtherance of business and thus, credit of input tax paid on such service will be available in terms of section 16(1). However, ITC can be claimed only on the basis of valid documents. In case of a banking company, as per rule 54(2), a consolidated tax invoice issued for supply of services made during a month at the end of the month containing the details of tax charged, description of services, total value, GSTIN of the supplier and the recipient is deemed to be a tax invoice. Thus, ITC pertaining to the banking services received is allowed.
 - 9) As per section 17(5)(b)(ii), ITC is blocked on membership of a club, health and fitness centre. The membership fee paid by a automobile company to Automobile Association is not covered under said section as it is distinct from membership of a club. Hence, ITC thereon is available.
 - 10) Export of goods is a zero-rated supply in terms of section 16(1)(a) of the IGST Act. A zero rated supply under LUT is made without payment of integrated tax [Section 16(3)(a) of the IGST Act].
 - 11) Tax on services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient is payable under reverse charge only when said service is provided by a non-body corporate to a body corporate and & an invoice charging GST @ 12% is not issued to service recipient. Since in the given case, said services are provided by a body corporate - Motopower Pvt. Ltd. to another body corporate - Jamaze Travels Ltd., GST is payable under forward charge by Motopower Pvt. Ltd. on the same.
 - 12) Services provided to the Central Government, State Government, Union territory administration under any training programme for which 75% or more of the total expenditure is borne by the Central Government, State Government, Union territory administration are exempt from GST. However, in the given case, since the total expenditure borne by the Gujarat Government is less than 75%, services provided to it by Motopower Pvt. Ltd. are liable to GST.
 - 13) Since export of goods is a zero-rated supply, apportionment of ITC is not required and instead, full credit will be available [Section 16 of the IGST Act read with section 17(2) of the CGST Act].
 - 14) As per section 49(5) read with rule 88A, ITC of-
 - I. IGST is utilised towards payment of IGST first and then CGST and SGST in any proportion and in any order.
 - II. CGST is utilised towards payment of CGST and IGST in that order. ITC of CGST shall be utilized only after ITC of IGST has been utilised fully.
 - III. SGST is utilised towards payment of SGST and IGST in that order. ITC of SGST shall be utilized only after ITC of IGST has been utilised fully.
 - 15) Since the value of taxable supply other than zero-rated supply in the given tax period (₹ 14 lakh + ₹6 lakh+ ₹ 0.50 lakh+ ₹ 2.50 lakh) does not exceed ₹ 50 lakh, provisions of rule 86B are not applicable and Motopower Ltd. can discharge its entire output tax liability for said period from the electronic credit ledger.
 - 16) CGST and SGST are chargeable on intra-State inward and outward supplies and IGST is chargeable on inter-State inward and outward supplies. Rate of CGST, SGST and IGST applied is 9%, 9% and 18% except in case of renting of cars wherein the rate of CGST and SGST applied is 2.5% and 2.5% respectively.

Question 31.

Answer the following with reference to the relevant provisions of CGST Act, 2017:

- I. In some of the cases where the SCN has been issued by the PO to a noticee u/Sec 74(1) of CGST Act for demand of tax not paid/ short paid or erroneous refund or ITC wrongly availed or utilized, the Appellate Authority for Appellate Tribunal Or The Court concludes that the said notice is not sustainable u/Sec 74(1) of CGST Act for the reason that the charges of fraud or any willful-misstatement or suppression of facts to evade tax have not been established against the noticee and directs the PO to re-determine the amount of tax payable by the noticee, deeming the notice to have been issued u/Sec 73(1) of CGST

Act, in accordance with the provisions of Sec 75(2) of CGST Act. What would be the time period for re-determination of the tax, interest and penalty payable by the noticee in such cases??

II. How the amount payable by the noticee, deeming the notice to have been issued under u/Sec 73(1), shall be re-computed/ re-determined by the proper officer as per provisions of Sec 75(2)?

- I. Applicable time limit for re-determination of dues shall be as per provisions of Sec 75(3) of CGST Act i.e. within a period of 2 years from the date of communication of the said direction by appellate authority or appellate tribunal or the court, as the case maybe.
- II. The demand would have to be re-determined keeping in consideration the provisions of Sec 73(2) r/w Sec 73(10) of CGST Act. Where the PO has to re-determine the demand in consideration the deeming the notice to have been issued under Sec 73(1) of CGST Act in terms the amount of tax interest and penalty can be re-determined for so much amount of tax short paid or not paid, or ITC wrongly availed (2) of the said Act, the same as refund, in respect of which SCN was issued within the time limit as specified under section 73(2) read with section 73(10) of CGST Act. Thus, only the amount of tax short paid or not paid, or ITC wrongly availed or utilized, along with interest and penalty payable, in terms of section 73 of CGST Act relating to such FYs can be re-determined, where SCN was issued within 2 years and 9 months from the due date of furnishing of annual return for the respective FY. Similarly, the amount of tax payable on account of erroneous refund along with interest and penalty payable can be re-determined only where SCN was issued within 2 years and 9 months from the date of erroneous refund.

<u>Status of SCN issued for tax short paid or tax not paid or wrongly availed utilized ITC</u>	<u>Redetermination of demand as per provisions of Sec 75(2)</u>
1) SCN was issued beyond 2 yrs and 9 months from the due date of furnishing of the annual return for the FY to which such demand relates to	The entire proceeding shall have to be dropped, being hit by the limitations of time as specified in section 73.
2) SCM was issued within 2 yrs and 9 months from the due date of furnishing of the annual return for the FY to which such demand relates to	The entire amount of the said demand in the SCN would be covered under re-determined amount
3) Where the SCN u/Sec 74(1) was issued for FYs, and where notice had been issued before the expiry of the time period as per section 73(2) for one FY but after the expiry of the said due date for the other FYs,	The amount payable in terms of section 73 shall be redetermined only in respect of that FY for which SCN was issued before the expiry of the time period specified Sec 73(2).

Question 32.

Discuss the amount of tax and penalty to be paid if any, in the following independent cases where SCN are issued under Section 74 of the CGST Act, 2017.

s. No.	Date on which credit was taken wrongly	Amount of input tax credit taken wrongly (₹ in lakh)	Present status
1	31st January, 2019	200	Adjudication Order passed on 26 th July, 2021 demanding the entire amount of credit with interest and imposing an amount equal to the credit as penalty.
2	30 th June, 2019	250	Adjudication Order passed on 26 th August, 2021 demanding the entire amount of credit with interest and imposing an amount equal to the credit as penalty.

3	30 th October, 2019	120	Show Cause Notice has been issued on 5 th September, 2021 demanding the entire amount of credit with interest and proposing penalty equal to 100% of the credit taken.
4	30 th January,	50	Statement of the Managing Director has been recorded on 6 th September, 2021 wherein he has admitted the non-receipt of the inputs and availing the credit wrongly.

Note: In all the cases assessee wants to pay the amount on 20-09-2021.

S. No.	Date on which credit was taken wrongly	Amount of ITC wrongly taken (₹ in lakh)	Tax & Penalty under section 74
1	31 st January 2019	200	Adjudication Order is passed on 26 th July, 2021 and payment is made on 20.09.2021 i.e., after 30 days of the communication of the Adjudication Order ⁶ . Therefore, entire amount of ITC wrongly availed which is ₹ 200 lakh and equal amount of penalty i.e., ₹ 200 lakh shall be payable.
2	30 th June 2019	250	Adjudication Order is passed on 26 th August, 2021 and payment is made on 20.09.2021 i.e., within 30 days of the communication of the Adjudication Order ⁷ . Therefore, entire amount of ITC wrongly availed which is ₹ 250 lakh and 50% of the penalty imposed i.e., ₹ 125 lakh shall be payable.
3	30 th October 2019	120	Show cause notice is issued on 5 th September 2021 and payment is made on 20.09.2021 i.e., within 30 days of issue of show cause notice. Therefore, entire amount of ITC wrongly availed which is ₹ 120 lakh and 25% of the penalty imposed i.e., ₹ 30 lakh shall be payable.
4	30 th January, 2020	50	Alternative – I: It is assumed that payment has been made within 30 days of issue of SCN. Therefore, Entire amount of ITC wrongly availed which is ₹50 lakhs and 25% of the penalty imposed i.e., ₹12.5 lakhs shall be payable Alternative – II: It is assumed that SCN has not yet been issued Payment made on 20.09.2021 is before issuance of SCN. Therefore, amount of ITC admitted to be taken wrongly which is ₹50 lakhs and penalty equal to 15% of such ITC i.e., ₹7.5 lakhs shall be payable.

Question 33.

Pursuant to audit conducted by the tax authorities under section 65, a show cause notice was issued to Home Furnishers, Surat, a registered supplier, alleging that it had wrongly availed the input tax credit without actual receipt of goods for the month of July. In the absence of a satisfactory reply from Home Furnishers, Joint Commissioner of Central Tax passed an adjudication order dated 20th August (received by Home Furnishers on 22nd August) confirming a tax demand of ₹ 50,00,000 (i.e., CGST 25,00,000 and SGST 25,00,000) and imposing a penalty of equal amount under section 122.

Home Furnishers does not agree with the order passed by the Joint Commissioner. It decides to file an appeal with the Appellate Authority against the said Adjudication Order. It has approached you for seeking advice on the following issues in this regard:

- (1) Can Home Furnishers file an appeal to Appellate Authority against the Adjudication Order passed by the Joint Commissioner of Central Tax? If yes, till what date can the appeal be filed?
- (2) Does Home Furnishers need to approach both the Central and State Appellate Authorities for exercising its right of appeal?

Home Furnishers is of the view that there is no requirement of paying pre-deposit of any kind before filing an appeal with the Appellate Authority. Give your opinion on the issue.

⁶ It is assumed that adjudication order is communicated the same day on which it is passed.

⁷ It is assumed that adjudication order is communicated the same day on which it is passed.

- 1) An appeal against a decision/order passed by any Adjudicating Authority under the CGST Act or SGST Act/ UTGST Act is appealable before the Appellate Authority [Section 107(1)].
Thus, Home Furnishers can file an appeal to Appellate Authority against the Adjudication Order passed by the Joint Commissioner of Central Tax.
Further, such **appeal can be filed within 3 months** from the date of communication of such decision/order [Section 107(1)]. Thus, Home Furnishers can file the appeal to Appellate Authority on or before 22nd November. Further, the Appellate Authority can also condone the delay in filing of appeal by 1 month if it is satisfied that there was sufficient cause for such delay [Section 107(4)].
- 2) GST law makes provisions for **"Cross Empowerment"** between CGST and SGST/UTGST officers to ensure that a proper officer under the CGST Act is also treated as the proper officer under the SGST/UTGST Act and vice versa. Thus, a proper officer can issue orders with respect to both, the CGST as well as the SGST/UTGST laws.
GST law also provides that where a proper officer under one Act (say CGST) has passed an order, any appeal/review/ revision/rectification against the said order will lie only with the proper officers of that Act (CGST Act).
Accordingly, if any order is passed by the proper officer under a SGST Act, any appeal/ review/ revision/ rectification against the said order will lie only with the proper officer under that SGST Act. Thus, Home Furnishers is required to file an appeal only with the Central Tax Appellate Authority [Section 6 of CGST Act].
- 3) 'Home Furnishers' view is not correct in law. Section 107(6) provides that no appeal shall be filed before the Appellate Authority, unless the appellant has paid—
 - a) full amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
 - b) a sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order subject to a maximum of ₹ 25 crore*.
 *Equivalent amount is required to be deposited with respect to SGST liability.

Since in the given case, Home Furnishers disagrees with the entire tax demanded, it has to make a pre-deposit of 10% of the amount of tax in dispute arising from the impugned order, i.e., 10% of ₹ 50,00,000 which is ₹ 5,00,000 (i.e., CGST ₹ 2,50,000 and SGST ₹ 2,50,000).

Question 34.

Adinath Private Limited, registered under GST in the State of Uttar Pradesh, instructed Ashok Transporters to deliver certain taxable goods to Mahavir Enterprises in Maharashtra on 10th January 20x2. The value of the goods is ₹ 6,80,000 which are chargeable to GST @ 18% IGST. While the goods were in transit, proper officer intercepted the goods and the truck in which goods were being transported, under section 68.

However, the driver of the truck failed to tender any document in relation to the goods in movement. The proper officer, after conducting the physical verification of the goods and the truck, decided to seize the goods and the truck and issued a notice under section 129(3) specifying the penalty payable by Adinath Private Limited after giving it an opportunity of being heard. You are required to determine the amount of penalty payable if Adinath Private Limited does not come forward for the payment of penalty.

Further, discuss the suitable course of action for Ashok Transporters if it intends to get its truck released.

As per section 129(1)(a), when owner of goods does not come forward for payment of tax and penalty or for payment of penalty, detained/seized goods and conveyance (used as a means of transport for carrying said goods) and related documents are released on payment of penalty equal to higher of the following:

- I. 50% of value of goods or
- II. 200% of the tax payable on such goods

In view of the same, the amount of penalty payable if Adinath Private Limited does not come forward for the payment of penalty is as follows:

Goods	Value	Tax	Payment u/Sec 129 for release of goods/conveyance
The owner of goods does not come forward to pay penalty			
Taxable Goods	6,80,000	GST-18%=1,22,400	Penalty = Higher of (50% of value of goods) or (200% of tax payable) = Higher of (50% of 6,80,000 = 3,40,000) or (200% of 1,22,400 = 2,44,800) = 3,40,000

Course of action if Asho Transporter intends to get his truck/ conveyance released:

As per amended section 129(6), conveyance shall be released on payment by the transporter the penalty as mentioned in the order or 1 lakh, whichever is less.

In the given scenario, since the owner - Adinath Private Limited has failed to come forward to make payment of penalty, penalty of ₹ 3,40,000 shall be levied. Further, the transporter of goods can get its truck released upon payment of the lower of the following:

- (i) penalty as mentioned in the order [* 3,40,000]
- (ii) ₹ 1,00,000

Hence, Ashok Transporters can get its truck released upon payment of ₹ 1,00,000.

Question 35.

Examine whether the offences committed in each of the following independent cases are bailable. Further, determine the quantum of punishment on prosecution under the CGST Act, 2017, in each of these cases:

- (i) 'HomiGabha' collects ₹ 240 lakh as tax from its clients and deposits ₹ 150 lakh with the Central Government. Balance amount of tax is not paid to the Central Government. It is found that he has falsified financial records and has not maintained proper records, to evade the tax
- (ii) 'DatukeshwarDutt' collects ₹ 630 lakh as tax from its clients, but deposits only ₹ 120 lakh with the Central Government. Balance amount of tax is not paid to the Central Government.

What would be the implications in above cases if 'HomiGabha' and 'DatukeshwarDutt' repeat the offences?

Note - It may be assumed that offences are proved in the court.

(i) As per section 132 of the CGST Act, 2017, failure to pay any amount collected as tax beyond 3 months from due date of payment is punishable with specified imprisonment and fine provided the amount of tax evaded exceeds at least ₹ 200 lakh. Therefore, failure to deposit ₹ 90 lakh (₹ 240 lakh - ₹ 150 lakh) collected as tax by 'HomiGabha' will **not be punishable with imprisonment.**

However, falsification of financial records (Books of Accounts default) by 'HomiGabha' is punishable with **imprisonment up to 6 months or with fine or both** vide section 132 of the CGST Act, 2017 and the said offence is **bailable** in terms of section 132(4) of the CGST Act, 2017

(ii) Failure to pay any amount collected as tax beyond 3 months from due date is punishable with imprisonment upto 5 years and with fine, if the amount of tax evaded exceeds ₹ 500 lakh in terms of section 132(1)(d)(i) of the CGST Act, 2017

Since the amount of tax evaded by 'DatukeshwarDutt' exceeds **₹ 500 lakh** (₹ 630 lakh - ₹ 120 lakh = ₹ 510 lakh), 'DatukeshwarDutt' is liable to imprisonment upto 5 years and with fine. Further, the imprisonment shall be minimum 6 months in the absence of special and adequate reasons to the contrary to be recorded in the judgment [Section 132(3) of the CGST Act, 2017]. Such offence is **Non-bailable** in terms of section 132(5) of the CGST Act, 2017

If 'HomiGabha' and 'DatukeshwarDutt' **repeat the offence**, they shall be punishable for second and for every subsequent offence with **imprisonment upto 5 years and with fine** in terms of section 132(2) of the CGST Act, 2017. Such imprisonment shall also be for minimum 6 months in the **absence of special and adequate reasons to the contrary to be recorded in the judgment.**

Question 36.

Department initiated prosecution proceedings against a taxable person who had evaded GST of ₹ 4.2 crores. He has approached the Commissioner with a request for compounding the offence. After considering the request, the Commissioner has directed him to pay an amount of ₹ 2.5 crores as compounding amount.

I. Indicate the minimum and maximum limits for compounding amount.

II. Is the amount fixed by the Commissioner in this case within the limits prescribed under the law?

III. What is the consequence of the decision of the commissioner allowing the request for compounding the offence?

As per Sec. 138 of CGST Act, 2017, any offence (except certain specified offences and specified cases) may be compounded upon payment of the prescribed compounding amount. Such compounding is permissible either before or after the institution of prosecution. The amount for compounding of offences under this section shall be such as may be prescribed, subject to minimum amount of 25% of tax (CGST) Involved and maximum amount being 100% of tax (CGST).. Hence, the issues are answered below

- I. Minimum compounding amount = 25% % of ₹ 4.2 crore = 1.05 crore
Maximum compounding amount = 100% of ₹ 4.2 crore = 4.2 crore
- II. Hence the amount fixed by the Commissioner 2.5 crores is within the limits. [*it has also been presumed that this fine is well within the limits specified in Rule 162 (3-A) of the CGST RULES, 2017
- III. No further proceedings after compounding: On payment of such compounding amount determined by Commissioner, no further proceedings shall be initiated under this Act against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.

Question 37.

Briefly answer the following questions with reference to the provisions of rectification of mistakes/errors apparent on the face of record by any authority, under section 161?

IX. Which documents are covered under section 161?

X. Who can rectify the errors apparent on the face of record?

I. What type of mistakes or errors can be rectified?

I. What is the time limit for rectification?

(a) Following documents are covered under section 161:

- Decision
- Order
- Any notice
- Certificate
- Any other document

(b) Any authority who has passed or issued any decision or order or notice or certificate or any other document may rectify any error which is apparent on the face of record in such documents.

(c) Errors or mistakes which are apparent on the face of record may be rectified. Rectification can only be of error apparent from record. It is a settled law that a decision on a debatable point of law is not a mistake apparent from the record.

(d) No rectification can be made after a period of 6 months from the date of issue of such decision, order, notice, certificate or any other document.

However, such time limit does not apply in cases where the rectification is purely in the nature of correction of a clerical or arithmetical error or mistake, arising from any accidental slip or omission.

Question 38.

Mr. A is a salaried class person, unregistered under GST. He has entered into an agreement/Contract with a builder for supply services of construction of flats/building, etc. and had paid the amount towards consideration for such service, either fully or partially, along with applicable tax. The said contract/ agreement had been cancelled subsequently due to non-completion or delay in construction activity in time or any other reasons. Since the time limit for issuance of credit note (as provided u/Sec 34) is already over, the supplier has issued commercial credit note (not GST Credit note) and refunded the amount collected excluding the GST component. The supplier had not refunded GST component stating that he had paid that GST to the government and he is in no position to claim its adjustment as time limitation for issuing GST credit note had already lapsed.

He had rather asked buyer to apply for GST refund from Govt.

Mr A has approached you seeking yours advice as to following:

- a) Whether he can apply for GST refund?
- b) What supporting documents he shall be required to furnished to claim GST refund

Our advice to Mr A is as stated below:

- a) **Mr. A is entitled to apply for GST refund:** Sec 54(1) provides any person can claim refund of any tax and interest, if any paid on such tax or any other amount paid by him, by making an application before the expiry of 2 years from the relevant date in such form and manner as may be prescribed. Further, In terms of Sec 54(8)(e), in cases where the applicant has borne the incidence of tax and not passed on the same to any other person, the said refund shall be paid to him instead of being credited to Consumer Welfare Fund (CWF).
- b) **Supporting documents to be submitted along with refund application:** Rule 89(2) (as amended recently) provides that in a case where the refund is claimed by an unregistered person where the agreement or contract for supply of service has been cancelled or terminated, refund application shall be accompanied with following documents to establish that refund is due to the applicant.
 - I. A statement containing the details of invoices viz. number, date, value, tax paid and details of payment, in respect of which refund is being claimed along with
 - Copy of such invoices,
 - Proof of making such payment to the supplier;
 - The copy of agreement or registered agreement or contract, as applicable, entered with the supplier for supply of service,
 - The letter issued by the supplier for cancellation or termination of agreement or contract for supply of services.
 - Details of payment received from the supplier against cancellation or termination of such agreement along with proof thereof,
 - II. A certificate issued by the supplier to the effect
 - That he has paid tax in respect of the invoices on which refund is being claimed by the applicant;
 - That he has not adjusted the tax amount involved in these invoices against his tax liability by issuing credit note; and also,
 - That he has not claimed and will not claim refund of the amount of tax involved in respect of them invoices,
 - Also where refund claim is of above 2 Lakh, hen CA certification will not be required to be furnished to establish inapplicability of doctrine of unjust enrichment. [proviso inserted in rule 89(2)(m)]

Question 39.

Y Ltd. exported service valued at US \$ 1,00,000. Supply of service was completed on 15th November 2020. Payment for this service was received on 30th December 2020. Refund claim was filed by Y Ltd. in respect of tax paid on inputs and inputs services for ₹ 6,00,000 on 31st January, 2021. The refund claim was sanctioned on 30th April, 2021. What is the amount of refund Y Ltd. will get in accordance with law? What is the relevant date and rate of interest as per GST law?

As per clause (i) of first proviso to section 54(3) of the CGST Act, 2017, refund claim admissible to Y Ltd. on account of export of services being a zero-rated supply, is the unutilized ITC of ₹ 6,00,000. Where the supply of services had been completed prior to the receipt of payment, **relevant date is the date of receipt of payment in convertible foreign exchange, i.e. 30th December, 2020** [Explanation to section 54 of the CGST Act, 2017.

As per section 56 of the CGST Act, 2017, where any tax ordered to be refunded to any applicant is not refunded within 60 days from the date of receipt of application, **interest shall be payable @ 6% p.a.** from the date immediately after the expiry of 60 days from the date of receipt of application till the date of refund of such tax.

Since in the given case, tax ordered to be refunded is not refunded within 60 days from the date of receipt of application, viz., 31st January, 2020, interest @ 6% p.a. is payable.

Refund = ₹ 6,00,000 × 6% × 29/365 = ₹ 2860

Question 40.

ABC Ltd. is planning to run a 'Duty Free Shop' at the Departure Hall of International Airport, From such shop, it will be making supply of imported as well as domestically procured goods. It wants to know about following issues:

- (a) Whether supply of goods to outgoing passenger will qualify as 'export' under customs law and GST law?
 - (b) Whether it shall be entitled to claim ITC of GST paid on domestically procured goods?
 - (c) Whether it shall be entitled to claim ITC of GST paid on input services like renting of premises, advertisement services?
 - (d) Whether it shall be entitled to claim refund of ITC availed on inputs as well as input services?
- Guide the company on the above stated issues.

- (a) Supply of goods to outgoing passenger qualifies as 'export' under customs law and GST law:
In case of goods sold by DFS at departure hall to outward passengers. The supply by the DFS to the outbound passenger constitutes exports by the DFS. Consequently, in terms of Sec 16(1) of the IGST Act, it becomes a zero-rated supply. [so held in case of M/s Flemingo Travel Retail Limited & Ors-2019- Bomas & view finally accepted by the Dept.]
- (b) ITC admissible of GST paid on domestically procured goods (Outward supply being zero-rate supply, ITC is admissible of GST paid on domestically procured goods. Sec 16 of IGST Act and Sec 17 of CGST Act]
- (c) ITC admissible of GST paid on input services like renting of premises, advertisement services
Outward supply being zero-rate supply, ITC is admissible of GST paid on input services also. Sec 16 of IGST Act and Sec 17 of CGST Act]
- (d) Claim of ITC refund of ITC on inputs as well as input services is admissible:

(Outward supply being zero-rate supply, refund of ITC availed on Inputs as well as input services is admissible. (Sec 16 of IGST Act and Sec 54 of CGST Act r/w Rule 89(4) of the CGST Rules, 2017)

Question 41.

KTU Limited has imported certain goods for sale in India from Country Z, which are liable for Anti-Dumping Duty. Country Z sell the like goods in its domestic market in the ordinary course of trade at USD 300 per piece. The imported goods are sold in domestic Indian industry @ USD 275 per piece. KTU Limited has imported the goods at USD 180 per piece. Landed Value of the imported goods is USD 190 per piece.

Compute the Anti-dumping Duty payable by KTU Limited for 800 pieces of these goods it has imported during the year assuming conversion rate @ ₹ 72 per USD.

The quantum of Anti-Dumping Duty is:

(i) margin of dumping

or

(ii) injury margin whichever is lower.

Margin of dumping is the difference between Export Price and Normal Value of the Imported Article. Injury Margin is the difference between the Fair Selling price [Non -injurious Price (NIP)] due to the domestic industry and the Landed Value of the dumped imports.

Export price in relation to an article, means the price of an article exported from the exporting country or territory. KTU Limited has imported the goods at USD 180 per piece. Thus, export price is USD 180 per piece.

Normal value in relation to an article, means Comparable Price, in the ordinary course of trade, for the like article when destined for consumption in the exporting country or territory as determined in accordance with the rules. Since, Country Z sell the like goods in its domestic market in the ordinary course of trade at USD 300 per piece, thus, normal value in the given case is USD 300 per piece.

Fair Selling Price (FSP) [Non-Injurious Price] is that level of price, which the industry is, expected to have charged under normal circumstances in the Indian market during the period defined. Since, the imported goods are sold in domestic Indian Industry @ USD 275 per piece, thus, Fair selling price in the present case is USD 275 per piece.

Landed Value is taken as the Assessable Value under the Customs Act and the applicable Basic Customs Duties except CVD, SAD and Special Duties. Landed value in the given case is USD 190 per piece.

In the given case, Anti-Dumping Duty per piece is:

(i) Margin of dumping is USD 120 [USD 300- USD 180]

or

(ii) Injury margin is USD 85 [USD 275 – USD 190];

whichever is lower i.e., USD 85

Anti-dumping duty for 800 pieces (in rupees) = USD 85 × 800 pieces × ₹ 72 = ₹ 48,96,000.

Question 42.

Niryaat Exporters imported some goods on 1st January. The goods were not meant for being used in an 100% EOU, STP unit, EHTP unit. The goods were cleared from the Mumbai port for warehousing on 8th January by presenting an 'into Bond' Bill of Entry. The assessable value of the goods was US \$ 10,000. On 8th January, the exchange rate was ₹ 66 per US \$ and the rate of basic customs duty was 15%. The order permitting the deposit of goods in warehouse for 4 months was issued under section 60 of the Customs Act, 1962 on 15th January. The goods were thereafter deposited in a warehouse at Pune and were cleared from Pune warehouse on 31st May. The rate of basic customs duty was 15% and exchange rate was ₹ 68.75 per 1 US \$ on 31st May. IGST @ 10% is applicable on said goods. Further, the rate of basic customs duty was 12% and exchange rate was ₹ 67 per 1 US \$ on 15th May. Ignore IGST and agriculture and infrastructure development cess.

You are required to compute: (a) total Customs Duty payable and (b) interest, if any, payable.

Computation of import duty payable by Niryaat Exporters

Particulars	Amount (US \$)
Assessable value	10,000
Particulars	Amount (₹)
Value in Indian currency (US \$ 10,000 × ₹ 66) [Note 1]	6,60,000
Customs duty @ 12% [Note 2]	79,200
Add: Social welfare surcharge @ 10% on ₹ 79,200	7,920
Total customs duty payable	87,120

Notes:

- As per third proviso to section 14(1) of the Customs Act, 1962, assessable value has to be calculated with reference to the rate of exchange prevalent on the date on which the into bond bill of entry is presented for warehousing under section 46 of the Customs Act, 1962.
- Goods which are not removed from warehouse within the permissible period are deemed to be improperly removed in terms of section 72 of the Customs Act, 1962 on the day they should have been removed [Kesoram Rayon v. CC 1996 (86) ELT 464 (SC)]. The applicable rate of duty in such a case is the rate of duty prevalent on the last date on which the goods should have been removed.

Computation of interest payable by Niryaat Exporters

As per section 61 of the Customs Act, 1962, if goods (not meant for being used in an 100% EOU, STP unit, EHTP unit) remain in a warehouse beyond a period of 90 days from the date on which the order permitting deposit of goods in warehouse under section 60 of the Customs Act, 1962 is made, interest is payable [@ 15% p.a.], on the amount of duty payable at the time of clearance of the goods, for the period from the expiry of said 90 days till the date of payment of duty on the warehoused goods.

Therefore, interest payable will be computed as under:

Period of 90 days commencing from the date of order made under 60 expires on	15 th April
No. of days for which interest shall be payable [15 days of April + 31 days of May]	46 days
Interest payable = ₹ 87,120 × $\frac{15}{100}$ × $\frac{46}{365}$ (rounded off)	₹ 1,647

Note: ICAI consider 45 days in RTP which is incorrect and interest should be computed from the first day after expiry of 90 days from the order of warehousing

Question 43.

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.

(c) 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:

1. 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.**
2. 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.**
3. 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 44.

Supreme Car Decors imported car music systems and GPS devices from Germany. The importer submits the following issues for your consideration,

- I. 7 music systems were pilfered before unloading and before the Proper Officer has made an order for clearance for home consumption.
- II. 10 GPS Devices were pilfered after unloading and before the Proper Officer has made an order for clearance for home consumption.
- III. 30 music systems were damaged after unloading and examination for assessment by the Customs Authorities but before actual home clearance.

Supreme Car Decors seeks your expert advice with reason regarding the impact on Customs Duty on the said goods.

Under the provisions of Sec 13 of Custom Act 1962, if any imported goods are pilfered after the unloading thereof and before the proper officer has made an order for deposit the import goods in warehouse or clearance for home consumption, the importer shall not be liable to pay duty on such goods, However, if the goods are restored to the importer, then importer shall become liable to the duty.

Keeping in mind, answers to given situations are as follows:

- (a) Pilferage of 7 systems before unloading but before PO passed order for clearance for home consumption:
Pilferage before unloading is basically pilferage while goods are in custody of transporter. Sec 13 benefit is available only in respect of pilferage post unloading i.e. where goods pilfered while goods are in the custody of custodian of customs station. In given situation, provisions of Sec 13 shall not be applicable. However, importer shall still not be liable to any import duty as unless imported goods are unloaded at custom station and cleared for home consumption by filing 'Bill of Entry', import of such goods cannot be said to be complete so as to attract any import duty liability [GARDEN SILK MILLS- SC].
- (b) Pilferage of 10 systems post unloading but before PO passed order for clearance for home consumption: Importer shall not be liable to pay import duty on such goods in terms of Sec 13 of Customs Act, 1962.
- (c) Damage of 30 systems post after unloading and examination for assessment by the customs authorities but before actual home clearance: When the goods are damaged post unloading and examination for assessment, abatement in customs duty, on resultant loss in value, has NOT been provided under section 22 of the Customs

Question 45.

Product 'Z' was imported by Mr. X by air. The details of the import transaction are as follows:

Particulars	US\$
Price of 'Z' at exporter's factory	8,500
Freight from factory of the exporter to load airport (airport in the country of exporter)	250
Loading and handling charges at the load airport	250
Freight from load airport to the airport of importation in India	4,500
Insurance charges	2,000

Though the aircraft arrived on 22-08-2021, the Bill of Entry for home consumption was presented by Mr. 20-08-2021.

The other details furnished by Mr. X are

	20-08-2021	22-08-2021
Rate of Basic Customs Duty	20%	10%
Exchange rate notified by CBIC	₹ 60 per US \$	₹ 63 per US \$
Exchange rate prescribed by RBI	₹61 per US\$	₹ 62 per US \$
Integrated tax leviable under section 3(7) of the Customs Tariff Act, 1975	18%	12%

Compute -

- I. value of product 'Z' for the purpose of levying Customs Duty;
- II. Customs Duty and tax payable.

Computation of Assessable Value & Customs Duty -

Particulars		US\$
Factory price	\$ 8,500	
Freight from factory to foreign airport	\$ 250	
Loading at foreign airport	\$ 250	
FOB Value		9,000
Add: Cost of transport under Rule 10(2)(a) a) \$ 9,000 × 20% = \$ 1,800 or b) \$ 4,500 + \$ 250 + \$ 250 = \$ 5,000 } \$ 1,800 Whichever is LOWER	[WN-1]	
Less: Already considered in FOB (\$ 500)		1,300
Add: Insurance cost on actual basis under Rule 10(2)(b)		2,000
CIF Value or Assessable Value		12,300
		(₹)
Exchange rate as per CBIC	[WN-2]	60
Assessable value (₹60 × 12,300 US \$)		7,38,000.00
Add: Basic customs Duty @10% [A]	[WN-3]	73,800.00
Add: SWS @ 10% on BCD [B]		7,380.00
Sub-total		8,19,180.00
Add: IGST on sub-total above @ 12% [C]	[WN-4]	98,302.00
Total duty and tax payable [A + B + C] (rounded off)		1,79,482.00

Working Notes:

- 1) In the case of goods imported by air, the cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation shall not exceed 20% of the FOB value of the goods. [Rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR)]. FOB value in this case is the ex-factory price of the goods (8,500 US \$) plus the cost of transport from factory to load airport (250 US \$) plus loading and handling charges at the load airport (250 US \$) which is 9,000 US \$.
- 2) Rate of exchange determined by CBIC is to be considered. [Clause (a) of the explanation to section 14 of the Customs Act, 1962].
- 3) Section 15 of the Customs Act, 1962 provides that rate of duty shall be the rate in force on the date of presentation of Bill of Entry or the rate in force on the date of arrival of aircraft, whichever is later.

- 4) Integrated tax is levied on the sum total of the assessable value of the imported goods and customs duties [Section 3(8) of the Customs Tariff Act, 1975]. Social Welfare Surcharge leviable on Integrated Tax have been exempted vide Notification No. 13/2018-Cus. dated 02-02-2018.
- 5) No landing charges are to be added to the CIF value in view of the amendment in Rule 10(2) of the CVR vide Notification No. 91/2017-Cus. (NT) dated 26-09-2017.

Question 46.

Mr. X imported certain goods from a related person Mr. Paul of US and Transaction Value has been rejected. Rules 4 and 5 of the Import Valuation Rules are found inapplicable, as no similar/identical goods are imported in India. Mr. X furnishes cost related data of imports and requests Customs Authorities to determine value accordingly as per Rule 8. The relevant data are –

1) Cost of materials incurred by Mr. Paul	\$2,000
2) Fabrication charges incurred by Mr. Paul	\$1,000
3) Other chargeable expenses incurred by Mr. Paul	\$400
4) Other indirect costs incurred by Mr. Paul	\$250
5) Freight from Mr. Paul's factory to US Port	\$250
6) Loading charges at US port	\$100
7) Normal net profit margin of Mr. Paul	20% of FOB
8) Air freight from US port to Indian Port	\$1,500
9) Insurance from US port to Indian Port	\$50
10) Exchange Rate	₹ 65 per \$

The Customs Authorities are of the opinion that since value as per Rule 7 can be determined at ₹4,00,000, there is no need to apply Rule 8. Can the request of Mr. X be legally acceptable? If so compute the Assessable Value under the Customs Act, 1962?

As per Rule 6, at request of importer, Rule 8 may be applied before Rule 7. Hence, request of Mr. X to apply Rule 8 is Valid and since, Rule 8 data is available, the Customs Authorities cannot insist upon valuation as per Rule 7.

Computation of Assessable Value as per Rule 8

(1) Cost of Materials incurred by Mr. Paul	\$	2,000
(2) Fabrication Charges incurred by Mr. Paul	\$	1,000
(3) Other Chargeable expenses incurred by Mr. Paul	\$	400
(4) Other Indirect costs incurred by Mr. Paul	\$	250
(5) Freight from Mr. Paul's factory to US port	\$	250
(6) Loading Charges at US port	\$	100
Total Cost incurred by Mr. Paul	\$	4,000
(7) Normal net profit margin of Mr. Paul [20% of FOB or 25% of cost = 25% of \$ 4,000]		1,000
FOB price		5,000
(8) Air freight from US port to Indian [Air freight cannot exceed 20% of FOB, hence, restricted to as per Rule 10(2)(a)]	\$	
a) 20% of \$5,000 = \$1000 or	}	\$1000
b) \$1,500 + \$250 + \$100 = \$1,850		
Whichever is LOWER		
(-) Already considered in FOB (\$350)		650
(9) Insurance from US port to Indian port [Rule 10(2)(b)]	\$	50
Assessable Value as per Rule 8		5,700
Assessable Value as per Rule 8 in INR	\$5700* ₹65	370500

Question 47.

Laxmi Company imported goods valued at ₹ 10,00,000 vide a Bill of Entry presented before the proper officer on 15th December, 2020, on which date the rate of Customs Duty was 20%. The proper officer decided that the goods should be subject to chemical or other test and therefore, the same were provisionally assessed at a value of ₹ 10,00,000 and Laxmi company paid Provisional Duty of ₹ 2,00,000 on the same date. Laxmi Company wants to voluntarily pay duty of ₹ 1,50,000 on 20th January, 2021.

- 1) Can Laxmi Company provisionally pay the Duty and what are the conditions which are to be

complied before such payment is made?

- 2) Determine the amount of interest payable, if any, under section 18 of the Customs Act, 1962 assuming that the payment of ₹ 1,50,000 as stated above is made on 20th January, 2021 and that the final Duty is assessed on 31st January, 2021 at ₹ 4,00,000 and the balance Duty is paid on the same day.
- 1) Provisional Assessment of Duty is permitted in case where, the proper officer deems it necessary to subject any imported goods or export goods to any chemical or other test. [Section 18 of the Customs Act, 1962].

Thus, Laxmi Company can pay the Duty on Provisional Basis.

Before, the Provisional Assessment of Duty, the importer must furnish such security as the proper officer deems fit for the payment of the deficiency, if any, between the Duty finally assessed/re-assessed and the Duty provisionally assessed.

- 2) Section 18 of the Customs Act, 1962 further stipulates that, the importer is liable to pay interest, on any amount payable consequent to the Final Assessment Order @ 15% p.a. from the first day of the month in which the Duty is provisionally assessed till the date of payment thereof. Accordingly, amount of interest payable will be

$$= [₹ 1,50,000 \times 15\% \times 51/365] + [₹ 50,000 \times 15\% \times 62/365] = ₹ 3,144 + ₹ 1,274 = ₹ 4,418$$

Question 48.

Mr. X, a chemical manufacturer, imports a machine from Germany on 12th January, 2019 for ₹ 20 Lakhs. Mr. X is eligible for concessional rate of Customs Duty on capital goods imported by him subjected to condition that he follows the Customs (Import of goods at concessional rate of duty) Rules, 2022. Machinery was put to use on 1st February, 2019. On 5th April, 2022, Mr. X wants to clear the machine for home consumption after having used the machine for the specified purpose for which it was imported. Mr. X requires your help in calculating the Customs Duty he will be liable to pay for such clearance as per rule 7 of Customs (Import of goods at concessional rate of duty) Rules, 2022. Concessional rate of Basic Customs Duty is 5%. Normal rate of Basic Customs Duty is 20%. Calculate the Basic Customs Duty payable by Mr. X on clearance of such capital goods for home consumption on 5th April, 2022. Ignore interest calculation.

Computation of Basic Customs Duty payable by Mr. X

An importer who has imported the capital goods availing benefit of an exemption notification, may clear such goods after using them for specified purpose, on payment of duty equal to difference between the duty leviable on such goods without exemption and duty already paid at the time of importation, along with interest, on the depreciated value allowed in straight line method, as below:

- I. for every quarter in the first year @ 4%;
- II. for every quarter in the second year @3%;
- III. for every quarter in the third year @ 3%;
- IV. for every quarter in the fourth and fifth year @ 2.5%;
- V. and thereafter for every quarter @ 2%.

Thus, depreciation % will be computed as follows:

2019: 4 quarter × 4= 16%

2020: 4 quarter × 3= 12%

2021: 4 quarter × 3= 12%

2022: 2 quarter × 2.5= 5%

Total depreciation % will be 45%

Depreciation amount will be: 45% of ₹ 20 Lakh = ₹ 9 lakh

Depreciated value of the machine is ₹ 20 Lakh - ₹ 9 lakh = ₹ 11 lakh

Accordingly, Basic Customs Duty payable by Mr. X will be computed as follows:

$$= [₹ 11 \text{ lakh} \times 20\%] - [₹ 20 \text{ lakh} \times 5\%]$$

$$= ₹ [2.20-1.00] \text{ lakh} = ₹ 1.20 \text{ lakh}$$

Question 49.

John Biden, aged 32, is a tourist of US origin. He has come to India on a travel visa and carries with him the following articles as part of baggage:

Particulars	Value in ₹
Used personal effects	50,000
Travel souvenirs	50,000
Laptop	1,20,000
200 gms tobacco [Valued @ ₹ 5 per gram]	1,000
50 cigars [Valued @ ₹ 100 each]	5,000
Fire-arms	80,000
80 cartridges of fire-arms [Valued @ ₹ 500 per cartridge]	40,000
1.5 litres wine	5,000
Mobile phone	80,000

With reference to the Baggage Rules, 2016, determine Customs Duty payable. Ignore agriculture infrastructure and development cess.

As per rule 3 of the Baggage Rules, 2016, tourist of foreign origin, excluding infant, is allowed duty free clearance of:

- (I) used personal effects and travel souvenirs; and
- (II) Articles up to the value of ₹ 15,000 (excluding, inter alia, fire-arms, cartridges of fire arms exceeding 50, wine in excess of 2 litres, tobacco exceeding 125 gms and cigars exceeding 25), if carried on in person or in the accompanied baggage of the passenger.

In view of the said provisions, Customs Duty shall be computed as follows: -

Particulars	₹
Used personal effects	Nil
Travel souvenirs	Nil
Laptop [One laptop computer is exempt when imported into India by a passenger > 18 years of age]	Nil
Tobacco [₹ 5 × 125 gm] [125 gms tobacco can be accommodated in General Free Allowance (GFA)]	625
Cigars [₹ 100 × 25] [25 cigars can be accommodated in GFA]	2,500
Fire-arms' cartridges [₹ 500 × 50] [50 fire-arms' cartridges can be accommodated in GFA]	25,000
1.5 litres wine [Wine upto 2 litres can be accommodated in GFA]	5,000
Mobile phone [Can be accommodated in GFA]	80,000
Total value	1,13,125
Less: GFA	15,000
Baggage on which duty is payable	98,125
Duty payable on baggage @ 38.50% (including 10% Social welfare surcharge) [rounded off]	37,778

Note: Firearms, cartridges of firearms exceeding 50, cigars exceeding 25 and tobacco exceeding 125 gms are not chargeable to rate applicable to baggage [Notification No. 26/2016 Cus. Dated 31.03.2016]. These items are charged @ 100% applicable to baggage under Heading 9803 of the Customs Tariff.

Tobacco exceeding 125gms	75 × 5	375
Cigars exceeding 25	25 × 100	2500
Cartridges Firearms exceeding 50	30 × 500	15000
Firearms (NO GFA)		80,000

Total (Baggage on which duty is payable at 110%)		97875
Duty Payable on baggage @ 110%	97,875 x 110%	1,07,663

Question 50.

Two exporters namely, Sunlight Exports Pvt. Ltd. and Moonlight Exports Pvt. Ltd. have achieved the status of Status Holders (One Star Export House) in the Financial Year 2023-28. Every year, both the companies have been regularly exporting goods to approved nations. To achieve such status, what would have been the minimum export performance of the two exporters?

Both the companies are desirous of establishing export warehouses in accordance with the applicable guidelines. What should be their minimum export turnover to enable to establish export warehouses?

According to Foreign trade policy 2023-28 Status Holders are business leaders who have excelled in international trade and have successfully contributed to country's foreign trade. All exporters of goods, services and Technology having an import-export code (IEC) number shall be eligible for recognition as a status holder. Status recognition depends upon export performance. Status holders are given special treatment and privileges to facilitate their trade transaction in order to reduce transaction cost and time. In order to be categorized as One Star Export House, an exporter needs to achieve the export performance of 3 million US \$ [FOB/FOR (as converted)] during current and previous three Financial Years.

Thus, export performance of the two given companies would have been at least 3 million US \$ [FOB/FOR (as converted)] during current and previous three Financial Years.

Further, Two Star Export Houses and above are permitted to establish export warehouses. Therefore, Sunlight Pvt. Ltd. and Moonlight Pvt. Ltd. can establish export warehouses in India only if they achieve the status of Two Star Export House and above. In order to achieve said status, export performance of the exporters during current and previous three Financial Years should be as indicated below:

Status Category	Export Performance [FOB/FOR (as converted) value in US \$ million]
One star Export House	3
Two Star Export House	15
Three Star Export House	50
Four Star Export House	200
Five Star Export House	800

CASE STUDIES ON ETHICS IN GST

Case Study 1:

M/s L and Co., a partnership firm with two partners – Mr. X and Mr. Y, is registered under GST in Kolkata, West Bengal. It is engaged in supplying the materials used for construction related activity. Mr. X and Mr. Y are friends and each of them also have their own separate sole proprietorship firms engaged in supplying construction material; these firms are registered under GST. Mr. A is the tax consultant of the firm – M/s L and Co. Mr. X gets an offer from a customer – M/s W Pvt. Ltd., (hereinafter referred to as WPL) – to issue some supply related bills to meet the budget allocated to WPL by their management in relation to civil works. Mr. X shall earn a commission of 20% of the value of supply charged in the supply bills accepted by WPL. Mr. X agrees to share 50% of his earnings with Mr. Y for undertaking the above project. M/s L and Co. needs a bank loan for expanding its business operations and the supply bills issued to WPL will inflate the turnover of M/s L and Co. Mr. X and Mr. Y sought advice from their tax consultant Mr. A as to how to execute the above project for the supply bills to be issued to WPL. Based on the guidance provided by Mr. A, it is executed as follows:

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

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

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

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

GST implications

- 1) Issue of invoice by M/s L and Co. to Mr. X: Since there has only been an issuance of tax invoice by the registered person – M/s L and Co. – to registered person 'Mr. X' without the underlying supply of steel, jelly stone and cement, therefore, such an activity does not satisfy the criteria of "supply", as defined under section 7. As there is no supply by M/s L and Co. to Mr. X in respect of such tax invoice in terms of the provisions of section 7, no tax liability arises against M/s L and Co. for the said transaction, and accordingly, no demand and recovery is required to be made against M/s L and Co. under the provisions of section 74 in respect of the same. The registered person – M/s L and Co. – shall, however, be liable for penal action under section 122(1)(ii) for issuing tax invoices without actual supply of goods. This offence is also punishable with imprisonment for a term which may extend to 3 years and with fine in terms of section 132(1)(ii).
- 2) Issue of invoice by Mr. X to WPL: The registered person – Mr. X has availed and utilized fraudulent ITC on the basis of the tax invoice issued in contravention of the provisions of section 16(2)(b), without receiving the supply of steel, jelly stone and cement. Further, there was no supply of steel, jelly stone and cement and labour work related services by Mr. X to WPL. Thus, in respect of the said transactions, no tax was required to be paid. In these specific cases, no demand and recovery of either ITC wrongly/ fraudulently availed by Mr. X in such case or tax liability in respect of the said outward transaction by Mr. X to WPL is required to be made from Mr. X under the provisions

of section 74. However, in such cases, Mr. X shall be liable for penal action both under section 122(1)(ii) and section 122(1)(vii), for issuing invoices without any actual supply of goods and/or services as also for taking/ utilizing input tax credit without actual receipt of goods and/or services. This offence is also punishable with imprisonment for a term which may extend to 3 years and with fine in terms of section 132(1)(ii) subject to specified conditions. WPL will be liable for the demand and recovery of the ITC availed and utilised by it, along with penal action under section 74 along with applicable interest under provisions of section 50, for taking/ utilizing ITC without actual receipt of steel, jelly stone and cement and without receiving the assembly and erection services, used for underlying supply of goods. This offence is also punishable with imprisonment for a term which may extend to 3 years and with fine in terms of section 132(1)(ii) subject to specified conditions.

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

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

Case Study 2:

Facts of the case

Doodle LLC is an entity registered in Germany and is engaged in providing online services across multiple countries including India. The service offerings include certain services which are covered within the purview of online information and database access or retrieval services i.e. OIDAR services liable to GST in India. Since Doodle LLC does not have any place of business in India, it appointed one of its employee - Mr. X6 as its authorized representative for all the purposes in India which includes undertaking GST compliances and also as an authorized signatory for any other regulatory compliances in India. Mr. X is a partner in XYZ & Associates LLP. Post appointment of Mr. X, following chain of events unfolded:

- 1) Mr. X, being an authorized representative of Doodle LLC, made an application for registration as an OIDAR service provider in India and undertook other GST compliances. Subsequently, Mr. X started filing the monthly GST returns and made payment of applicable GST in India on behalf of Doodle LLC. In lieu of such services, Mr. X was being remunerated a fixed sum on monthly basis as professional fee. The appointment of Mr. X was in his personal capacity and not a professional service contract with his partnership firm - XYZ & Associates LLP. However, for recovery of amount of fixed monthly remuneration from Doodle LLC, the invoices as 'export of services' were issued by Mr. X in the name of his partnership firm. The corresponding refund benefit was claimed by the partnership firm of Mr. X for input tax credit against such export of service invoices.
- 2) Doodle LLC appointed influencers in India to promote its services in India. The tax invoices of such influencers were received by Mr. X in name of XYZ & Associates LLP and input tax credit was availed by the partnership firm for such services. Said ITC was utilised for further supply of services. However, the actual service recipient in such case was Doodle LLC.
- 3) Subsequently, Doodle LLC was required to submit certain affidavits and accounting records before the office of the Enforcement Directorate. Being an authorized representative/signatory of Doodle LLC, Mr. X approached Mr. P, a practicing Chartered Accountant, to prepare the affidavits and accounting records which included critical financial information and data of Doodle LLC. He elaborated the entire arrangement among Doodle LLC, Mr. X and XYZ & Associates LLP to Mr. P. He further requested Mr. P to certify and attest such records, which would be prepared and compiled by Mr. P in capacity of a practicing Chartered Accountant for submission before Enforcement Directorate.

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

GST implications

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

Mr. X was appointed as authorized representative and signatory of Doodle LLC in his personal capacity to undertake the compliances enumerated under the GST law in India. However, the consideration for such services was received at the behest of invoices issued in the name of his partnership firm. Further, such invoices were issued as 'export of service' invoices and corresponding refund of input tax credit was claimed by the firm of Mr. X. This act of Mr. X along with his firm is punishable as follows:

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

2) Availment of input tax credit without actual receipt of services

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

3) GST implications on Mr. X

Mr. X was fully involved in wrongdoings in terms of the business transactions of Doodle LLC in India. Further, he was the authorized representative and signatory of Doodle LLC in India. Mr. X is liable to penalty under section 122(1A) and section 122(3) since he is involved in aiding and abetting the offences committed hereunder at his instance and has also derived monetary benefits from such practices. This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions. If a Chartered Accountant takes up the assignment offered by Mr. X and also attests/certifies the Doodle LLC's accounting records that would be prepared by him, for submission before the Enforcement Directorate in India, he may be held guilty of professional misconduct.

Case Study 3:

- 1) ABC & Associates LLP (ABC), a firm of Chartered Accountants, was empanelled with the Commissioner of GST for appointment as Special Auditor under section 66. X Ltd., a registered person under GST, was selected by the Office of the Commissioner for special audit under section 66 for a financial year on account of irregularities noticed during scrutiny of returns. ABC was nominated by the Office of the Commissioner for special audit of X Ltd. Assume that the following events unfolded in relation to the appointment and audit procedure:
- 2) The appointment of special auditor was based on the undertaking furnished by the firm that the partners of the firm or any of their relatives are not directly or indirectly related to the auditee. However, while submitting the declaration in relation to such appointment, if ABC fails to disclose the fact that spouse of one of the partners of ABC is working under full time employment as a Head of Tax Department of the auditee i.e. X Ltd., what will be its implications?

- 3) Material discrepancies in the valuation of stock transfer to related parties by the auditee were noticed by ABC. If ABC fails to disclose these material discrepancies in the audit report submitted to the Office of Commissioner, what will be its implications?

The input tax credit claim by X Ltd. i.e. the auditee, under Form GST ITC- 01, was certified by one of the associate firms of ABC in favour of X Ltd. Such certificate was based on incorrect facts and against the eligibility criteria for input tax credit as per section 18. However, if ABC fails to exercise the due diligence and the certificate is taken on record by ABC as an audit procedure and is relied upon at the time of finalization of audit report and submission of findings, what will be its implications?

- 4) ABC receives a consideration of ₹ 5 lakh from X Ltd. in the name of special audit conducted. GST implications Following implications may arise in the above cases:

- 1) False undertaking submitted before the Office of Commissioner GST and the audit engagement undertaken on the basis of such undertaking The essential terms of the appointment as special auditor included that the partners or any of the relatives of the partners are not directly or indirectly linked to X Ltd. i.e. the auditee. If the spouse of one of the partners of ABC is working as Head of Tax Department of the auditee. Non-disclosure of said fact in the undertaking and other engagement documents and accepting such engagement tantamount to submission of false undertaking by a Chartered Accountant firm to the Government Authorities. Further, a question may be raised about the independence of the audit team considering the fact that spouse of one of the partners of the firm is holding a key position in X Ltd. i.e. the auditee.
- 2) Non-reporting of material discrepancies noticed during the audit procedure and reliance upon incorrect certificates and information
ABC audit team did not exercise due diligence to ascertain that the input tax credit availed by X Ltd. is not in compliance with the GST provisions. Instead, ABC relied on the certificate issued by its own associate firm which justified the incorrect input tax credit claim by X Ltd. In such a scenario both ABC and the associate firm, which issued the certificate to justify the input tax credit claim, were aiding and abetting X Ltd. in wrongful availment of credit, which is an offence punishable with penalty under 122(3). This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions. Further, ABC as well as its associate firm may be held guilty of professional misconduct.
- 3) Receiving consideration for special audit from the auditee The consideration for special audit under section 66 is payable by the Office of Commissioner and cannot be directly recovered from the auditee. In the present case the receipt of ₹ 5 lakh from the X Ltd., i.e. the auditee by ABC is an offence under GST provisions. The same is liable to penalty under general penalty under section 125 apart from other penal provisions under the GST Law. Further, this will also have an impact on the independence of the auditor – ABC.

Case Study 4:

Facts of the Case: A Ltd. is engaged in the business of manufacturing cotton yarn, wherein cotton is the principal raw material in the manufacturing process. The price of cotton varies depending upon the market conditions and is dependent on various external factors. Mr. X7 is tax consultant of A Ltd. Mr. X advises A Ltd. on GST compliances. In order to meet expansion related expenditure, A Ltd. sought a term loan and working capital loan from banks. As per the bank, the turnover and profitability criteria of A Ltd. were not meeting the benchmarks of bank for sanction of any loan facility. Accordingly, following actions were undertaken by Mr. X being the tax consultant of A Ltd.:

- 1) A separate entity i.e. B Ltd. was incorporated and the Directors of A Ltd. were appointed as Directors in B Ltd. This ensured that the control of B Ltd. remains with the Directors of A Ltd. Further, B Ltd. obtained GST registration as a manufacturer of yarn wherein Mr. X assisted B Ltd. in obtaining such GST registration. Mr. X obtained registration providing fake documents for registration.

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

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

GST implications

- 1) GST registration of B Ltd. sought on the basis of fake documents As per section 122(1)(xii), furnishing of false information with regard to registration particulars is an offence liable to penalty under GST Law. Thus, B Ltd is liable to penalty under section 122(1)(xii).
- 2) Issuance of tax invoice without actual supply of goods or services Following instances happened wherein there was no actual supply of goods or services, however, tax invoice was issued:
 - Fake issuance of tax invoice for supply of yarn by A Ltd. to B Ltd. (Para 2)
 - Fake issuance of tax invoice for supply of services by B Ltd. to A Ltd. (Para 3)
 - Fake issuance of tax invoice for supply of goods by B Ltd to group entities (Para 4)

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

3) Fraudulent input tax credit availment

B Ltd. availed fraudulent input tax credit of the goods (yarn) which were not at all received by B Ltd. and the same was used in discharge of the tax liability related to invoices issued without any underlying supply of goods or services. B Ltd. has availed and utilized fraudulent ITC on the basis of the said tax invoice, in contravention of the provisions of section 16(2)(b), without receiving the supply of goods and accordingly. In this case, there was no supply of by B Ltd. to A Ltd. in respect of the said transaction and also no tax was required to be paid in respect of the said transaction. Therefore, in these specific cases, no demand and recovery of either input tax credit wrongly/ fraudulently availed by B Ltd. in such case or tax liability in respect of the said outward transaction by B Ltd. to A Ltd. is required to be made from B Ltd. under the provisions of section 74. However, in such cases, B Ltd. shall be liable for penal action both under section 122(1)(ii) and section 122(1)(vii), for issuing invoices without any actual supply of goods and/or services as also for taking/ utilizing input tax credit without actual receipt of goods and/or services. This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

4) Incorrect information in GST returns and falsification of books of accounts

The GST returns filed by A Ltd. and B Ltd. were not backed by correct information in terms of supply of goods and services. Knowing that there was no supply of goods or services and input tax credit is not available, the returns were filed by both the companies. The books of accounts and financial records were also falsified in terms of information related to sales and inventory.

This act of furnishing incorrect information in GST return and falsifying financial records is an offence under section 122(1)(x). This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

5) GST implications on Mr. X

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

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

