



CMA FINAL JUNE 24/ DEC 24 EXAMS

PAPER – 19 – INDIRECT TAX LAWS and
PRACTICE

MIGHTY 50

TOP 50 QUESTIONS IN
GST, CUSTOMS & FTP

@THARUNRAJ

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.

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

b) Will your answer be different, if Speed Technologies Ltd. is located in New York and does not have a representative in India?

(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.

Mr. Lakshminarayanan is a registered supplier in the State of Orissa under the regular scheme. Following are the details of transaction entered into by him during the half year ended on 31st March, 2021:

Particulars	Amount (Rs.)
Intra-State supplies of product 'Sun' (GST rate 12%)	30,00,000
Intra-State supplies of product 'Moon' (GST payable by the recipient under reverse charge)	10,00,000
Export of product 'Sun' without payment of GST	5,00,000
Legal services received from an advocate for Product 'Sun'	2,00,000
Common inputs used for supplies of above (GST rate 12%)	25,00,000

You are required to determine the Net GST liability for the above tax period.

All amounts given above are excluding GST wherever applicable. GST rate on services is 18%, all conditions for availing the ITC have been complied with. Turnover during the earlier Financial Year was ₹ 35 lakhs

Computation of GST liability:

Particulars	Amount (₹)	
	FCM	RCM
GST on outward supply (Note 1)	3,60,000	
GST payable on legal services under reverse charge (Note 3)	-	36,000
Total GST liability	3,60,000	36,000
Less: ITC (Note 2)	(2,61,333)	-
Balance GST liability	98,667	36,000
Total Net GST payable	₹ 1,34,667	

Note 1: Computation of GST on outward supply:

Particulars	Value (₹)	GST (₹)
Intra-State supplies of product "Sun" (GST rate 12%)	30,00,000	3,60,000
Intra-State supplies of product "Moon" (GST payable by the recipient under reverse charge)-Treated as exempt supply for computation of ITC	10,00,000	Nil
Export of product "Sun" without payment of GST (export is a zero-rated supply)	5,00,000	Nil
Total	45,00,000	3,60,000

Note 2: Computation of ITC:

Particulars	Value (₹)
GST on inward supply (₹. 25,00,000 × 12%)	3,00,000
GST payable on legal services under reverse charge, see note 3 below*	36,000
Total ITC as per Electronic credit Ledger	3,36,000
Less: Common credit relating to exempt supply = $\left[3,36,000 \times \frac{10,00,000}{45,00,000} \right]$	(74,667)
[Exempt turnover: ₹. 10,00,000; total turnover ₹ 45,00,000] As per Sec. 17(3) of CGST Act outward supply covered under RCM is treated as exempted for availment of ITC.	
ITC available	2,61,333

Note 3:

Tax on legal services provided by an advocate to an individual (Mr. Lakshminarayanan is an individual) is exempted vide entry 45(b) of Notification No. 12/2017. However, assuming that the turnover of the entity exceeds the turnover limit for tax audit, GST under reverse charge would be applicable. In such case the tax liability on ₹. 200000 will be ₹. 36,000. Same is added to tax liability as well as availed as ITC in current month.

Alternate answer: If credit for ITC is claimed for GST paid under RCM on advocate fees of ₹. 36,000 the same will be allowable upto (₹. 36,000 × ₹.35 lakh / ₹.45 lakhs. = ₹. 28,000. Hence GST Net of further ITC of Rs. 28,000 will be ₹. 1,62,667 – ₹. 28,000 = ₹. 1,34,667

Question 5.

LIC of India provides you the following information for the month of January 2021. You are required to compute value of taxable Supply of services under Rule 32(4) of Determination of value of supply Rules, 2017.

- 1) General policies: Total premiums collected ₹ 12,000 lakhs (Out of which 1st year premium is ₹ 5,000 lakhs)
- 2) Single premium annuity policies : Premiums collected ₹ 850 lakhs.
- 3) Only Risk Cover Policies : Premiums collected ₹ 500 lakhs.
- 4) Life micro-insurance policies where insured amount does not exceed ₹ 2,00,000: Premium collected ₹ 10 lakhs.

Variable Insurance Policies: Premiums collected ₹ 8,000 lakhs. (80% of the amount is allocated for investments on behalf of policy holder for which policy holder is given separate break up in premium receipts)

Computation of Value of Taxable Supply of services (₹ in lakhs):

Particulars	Amount	Rate	Taxable Value
General policies:			
I. First year premium	5,000	25%	1,250
II. Subsequent years i.e., policies issued in earlier years	7,000	12.5%	875
Single premium annuity policies	850	10%	85
Only Risk Cover Policies Since the entire premium is for risk cover, hence, the option under Rule 32(4) is not available.	500	100%	500
Life micro-insurance policies [Exempt vide Entry 36 of Notification No. 12/2017-	10	Exempt	-

CT (Rate)]			
Variable Insurance Policies: [Gross premium - Amount allocated towards investment] [₹ 8,000 - (80% of 8000)] = ₹ 1600	8,000	-	1,600
Total Taxable Value			4,310

Question 6.

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

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

Jhumroo Logistics raised an invoice in July as follows:

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

*exclusive of GST, wherever applicable

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

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

- enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;
- neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;
- does not use for his own interest such goods or services so procured; and
- receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

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

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

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

Further, **Rule 33 of the CGST Rules, 2017** stipulates that notwithstanding anything contained in the provisions of Chapter IV – Determination of Value of Supply, the **expenditure or costs incurred by a**

supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely-

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

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

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

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

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

Question 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.

Rolex Forex Private Limited, registered in Delhi, is a money changer. It has undertaken the following purchase and sale of foreign currency:

- a) 1,000 US \$ are purchased from Rajesh Enterprises at the rate of ₹68 per US \$. RBI reference rate for US \$ on that day is ₹68.60.
- b) 2,000 US \$ are sold to Srinithi at the rate of ₹67.50 per US\$. RBI reference rate for US \$ for that day is not available.

Determine the value of supply in each of the above cases in terms of:

- a) Rule 32(2)(a) of the CGST Rules, 2017
- b) Rule 32(2)(b) of the CGST Rules, 2017.

Rule 32(2) of the CGST Rules, 2017 prescribes the provisions for determining the value of supply of services in relation to the purchase or sale of foreign currency, including money changing.

A. Determination of value under Rule 32(2)(a) of the CGST Rules, 2017

- I. Rule 32(2)(a) of the CGST Act, 2017 provides that the value of supply of services for a currency, when exchanged from, or to, Indian Rupees, shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency.

Thus, value of supply is:

$$= (\text{RBI reference for US \$} - \text{Buying rate of US \$}) \times \text{Total number of units of US \$ bought}$$

$$= (\text{₹68.6} - \text{₹68}) \times \$1,000$$

$$= \text{₹600}$$

- II. First proviso to Rule 32(2)(a) of the CGST Act, 2017 lays down that when the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received by the person changing the money.

Thus, value of supply is:

$$= 1\% \text{ of the gross amount of Indian Rupees received}$$

$$= 1\% \text{ of } (\text{₹67.50} \times \$2,000)$$

$$= \text{₹1,350}$$

B. Determination of value under Rule 32(2)(b) of the CGST Rules, 2017

Rule 32(2)(b) provides that value in relation to the supply of foreign currency, including money changing shall be deemed to be –

	Currency exchanged	Value of supply
1.	Upto ₹1,00,000	1% of the gross amount of currency exchanged (subject to minimum being ₹250)
2.	Exceeding ₹1,00,000 and upto ₹10,00,000	₹1,000 + 0.50% of the (gross amount of currency exchanged over and above ₹ 1,00,000)
3.	Exceeding ₹10,00,000	₹ 5,500 + 0.1% of the (gross amount of currency exchanged over and above ₹ 10,00,000) (subject to maximum being Rs 60,000)

Thus, the value of supply in the given cases would be computed as under:

- I. Gross amount of currency exchanged = ₹68 × 1,000 = ₹68,000.
Since the gross amount of currency exchanged is less than ₹1,00,000, value of supply is 1% of the gross amount of currency exchanged [1% of ₹68,000] or ₹250, whichever is higher.
= ₹680
- II. Gross amount of currency exchanged = ₹67.50 × \$2,000 = ₹1,35,000.
Since the gross amount of currency exchanged exceeds ₹1,00,000, but less than ₹10,00,000, value of supply is ₹1,000 + 0.50% of (₹1,35,000 - ₹1,00,000).
= ₹1,175

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.

Laxmi Ltd. of Bhopal (Madhya Pradesh) is a supplier of machinery. Laxmi Ltd. has supplied machinery to PQR Enterprises in Indore (Madhya Pradesh) on 1st October, 2021. The invoice for supply has been issued on 1st October, 2021. Thus, the time of supply of machinery is 1st October, 2021. Laxmi Ltd. and PQR Enterprise are not related.

Following information is provided:

- Basic price of machinery excluding all taxes but including design and engineering charges of ₹10,000 and loading charges of ₹20,000 - ₹20,00,000.
- Laxmi Ltd. provides 2 years free warranty for the machinery. Laxmi Ltd. also provides an extended one-year warranty on payment of additional charges of ₹1,00,000. PQR Enterprises opted for one year warranty.
- Laxmi Ltd. has collected consultancy charges in relation to pre-installation planning of ₹10,000 and freight and insurance charges from place of removal to buyer's premises of ₹20,000.
- Laxmi Ltd. received subsidy of ₹50,000 from Central Government for supplying the machinery to backward region since receiver was located in a backward region. Laxmi Ltd. also received ₹50,000 from the joint venture partner of PQR Enterprises for making timely supply of machinery to the recipient.
- A cash discount of 1% on the basic price of the machinery is offered at the time of supply, if PQR Enterprises agrees to make the payment within 30 days of the receipt of the machinery at his premises. Discount @ 1% was given to PQR Enterprises as it agreed to make the payment within 30 days.
- The machinery attracts CGST and SGST @ 18% (9% + 9%) and IGST @18%.

Compute the CGST and SGST or IGST payable, as the case may be, on the machinery

<u>Particulars</u>	<u>₹</u>
Price of the machinery [Note 1]	20,00,000
Extended warranty cost [Note 2]	1,00,000
Consultancy charges in relation to pre-installation planning [Note 4]	10,000
Freight and insurance charges [Note 3]	20,000
Subsidy received from Central Government [Note 5]	Nil
Receipts from Joint Venture of PQR Enterprises [Note 5]	50,000
Less: 1% discount on basic price* = ₹ 20,00,000 × 1% [Note 6]	(20,000)
Value of supply	21,60,000
CGST @ 9% (note 7)	1,94,400
SGST @ 9% (note 7)	1,94,400

Notes:

1. Laxmi Ltd. and PQR Enterprises are not related and price is assumed to be the sole consideration for the supply. Therefore, in terms of **section 15(1) of the CGST Act, 2017**, the value of the supply is the **transaction value** i.e., price actually paid or payable for the machinery by PQR Enterprises. Design and engineering charges are **includible** in the value of supply as any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is so includible in terms of **section 15(2)(c) of CGST Act, 2017**. Further, loading charges being incidental expenses charged by the supplier to the recipient of supply, are includible in the value as per section 15(2)(c) of the CGST Act, 2017.

2. Supply of machinery (goods) with supply of ancillary services like extended warranty, is a **composite supply**, the **principle supply of which is the supply of machinery**. [Section 2(30) of the CGST Act, 2017 read with section 2(90) of that Act]. Thus, value of such ancillary supply is includible in the value of composite supply.
3. Supply of machinery (goods) with supply of ancillary services like freight and insurance is a **composite supply**, the **principle supply of which is the supply of machinery** [Section 2(30) of the CGST Act, 2017 read with section 2(90) of that Act]. Thus, value of such ancillary supply is includible in the value of composite supply.
4. Any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is **includible** in the value of supply in terms of **section 15(2)(c) of CGST Act, 2017**.
5. Subsidies provided by the Central Government and State Governments are **not includible** in the value of supply in terms of section 15(2)(e) of the CGST Act, 2017. **However, subsidy directly linked to the price received from a non-Government body is includible in the value in terms of section 15.**
6. Cash discount has been given to PQR Enterprises upfront at the time of supply and thus would have been recorded in the invoice and hence, the same is **excluded** from the value of supply in terms of **section 15(3)(a) of the CGST Act, 2017**.
7. In the given case-
 - the location of the supplier is in Bhopal (Madhya Pradesh); and
 - the place of supply of machinery is the location of the machinery at the time at which the movement of the same terminates for delivery to the recipient i.e., **Indore (Madhya Pradesh)** vide section 10(1)(a) of IGST Act, 2017.

Therefore, as per section 8(1) of IGST Act, 2017, the given supply is an intra-State supply as the location of the supplier and the place of supply are in the same State. Thus, the supply will be leviable to **CGST and SGST**.

***Note: It is also possible to take a view that the basic price of the machinery is ₹19,70,000 [₹20,00,000 – ₹10,000 – ₹20,000] and design and engineering charges and loading charges are added to such price. In that case, 1% of discount amount will come out to be ₹19,700, value of supply would be ₹21,60,300 and CGST and SGST would be ₹1,94,427 each.**
(Student can adopt any view in exam)

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	4,80,000

	(Invoices at S. Nos. 1, 2 and 3 uploaded by the respective suppliers in their Form GSTR-1s)	
(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 20 th November (Invoices at S. Nos. 1, 2, 3, 4 and 5 uploaded by the respective suppliers in their Form GSTR-1s)	6,80,000

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

Note: The due date of filing of Form GSTR-1 and Form GSTR-3B for the month of October are 11th November and 20th November respectively. Subject to the information given above, all the other conditions for availing ITC have been complied with. 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	<u>54,000</u>

	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 x 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 'Tm' 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 'Tm' 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 'Tm.'

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.

Hema Pesticides Pvt. Ltd., a registered person under the GST law, furnishes the following data for the GST paid by them in the month of February, 2022:

Particulars	Amount (₹)
GST on machinery purchased and used in the factory premises	92,000
GST on machinery purchased and sent directly to a job worker working for the company	42,000
GST on car purchased (Used mostly for business purposes; 25% usage estimated for personal use of the directors)	2,10,000
GST on raw materials purchased (Goods are received in lots/instalments and 25% of the materials were received in February, 2022)	2,00,000
In the earlier month, GST has been paid on another lot, for which 90% delivery had been completed then and in the current month, balance materials were received. GST paid in the earlier month was	1,60,000
GST on health insurance premium paid for the employees working in the factory. Providing this is optional and the company has taken out this measure to improve the relations with the labourers.	24,000

You are required to determine the quantum of input tax credit available to the above registered supplier for the given month.

Particulars	Amount (₹)
GST on machinery purchased and used in the factory premises ITC allowable in full in respect of the same.	92,000
GST on machinery purchased and sent directly to a job worker working for the company. ITC on capital goods directly sent to job worker's premises under challan is allowed in terms of Section 19(5) of CGST Act, 2017 read with rule 45(1) of CGST Rules, 2017.	42,000
GST on car purchased (Used mostly for business purposes; 25% usage estimated for personal use of the directors) Car figures in the list of blocked assets for ITC and hence no ITC can be availed.	Nil
GST on raw materials purchased (Goods are received in lots/ instalments and 25% of the materials were received in February, 2022). ITC can be availed only on receipt of last lot.	Nil
Where the goods against an invoice are received in lots/ instalments, ITC is allowed upon receipt of the last lot/ instalment vide first proviso to Section 16(2) of the CGST Act, 2017. ITC can be availed next month only. In the earlier month, GST has been paid on another lot, for which 90% delivery had been completed then and in the current month, balance materials were received. GST paid in the earlier month can now be claimed as ITC, as per reverse logic of earlier para	1,60,000
GST on health insurance premium paid for the employees working in the factory. Providing this is optional and the company has taken out this measure to improve the relations with the labourers. ITC of health insurance is blocked in the given case, since said services are not notified by Government as obligatory for employer to provide to its employees under any law - in terms of Section 17 (3) (b) (iii) of the CGST Act, 2017.	Nil

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.

- a) 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.

- b) 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.
- c) 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.
- d) 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:

- (i) Manufacturers,
- (ii) 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.

Romeo Small Finance Bank Ltd is engaged in providing financial related services and of various types of loan facilities to its constituents, furnishes the following information relating to various services provided and the gross amount received during the month of December, 2021.

Particulars of service	Amount (₹ in lacs)
Commission received for debt collection service	10
Discount earned on bills discounted	3
Penal interest recovered from the customers for the delay in payment of loan. EMIs/Dues	2
Commission received for service rendered to Government for the collection of taxes	5
Interest earned on reverse repo transaction	10
Service to merchants accepting credit debit card payments using point of sale (POS) machine of Bank. (In 30% cases, the amount per transaction was up to ₹ 1,800 while in the other cases the amount was exceeding ₹ 2,000)	20

Compute the value of taxable supply and of the amount of GST payable for the month of December, 2020 of Romeo Small Finance Bank Ltd. Gross amount does not include the amount of GST Take the Rate of GST as 18%.

Romeo Small Finance Bank Ltd.

Computation of Value of Taxable Supply and of GST payable for the month of December, 2021

Particulars	Amount (₹)
Commission received on debt collection	10,00,000
Discount earned on Bills Discounted [Exempt Entry 27 of Notification No. 12/2017-CT (Rate)]	Exempt
Penal interest charged for delay in repayment [Original interest on loans is exempted]	Exempt
Commission received for services rendered to Government for collection of taxes. [Since an activity carried out for consideration and there is no exemption in force, liable to GST]	5,00,000

Interest earned on Reverse Repo transaction [Reverse Repo are 'securities-Not covered in goods as well as in services. Additionally, interest earned on securities is exempt vide Entry 27 of Notification No. 12/2017-CT (Rate), hence not taxable]	Exempt
Service to merchants accepting credit/debit card payments using Point of Sale machine (POS) of Bank [in 30% cases, the amount per transaction was up to ₹1800 hence exempt vide Entry 34 of Notification No 12/2017*CT(R); while in other cases, the amount was exceeding ₹ 2000 hence liable to GST] (70% of 20,00,000)	14,00,000
Value of Taxable Supply	29,00,000
Total GST payable @18% on ₹ 29,00,000	5,22,000

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		
	1	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)

i) $2,75,000 \times 100/112$
= 2,45,535.71 or ₹ 2,45,536 (rounded off)

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:

ii) $3,10,000 \times 100/112$
= 2,76,785.71 or ₹ 2,76,786 (rounded off)

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.

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

S.No.	Particulars	Amount (₹)
(i)	Services related to funeral including transportation of dead bodies	30,000

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

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

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

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

Question 20.

Compute taxable value for transport of goods by Indian railways within India (all sums exclusive of all taxes @ 5%) –

- (1) Transport of petrol: ₹400 lakh;
 - (2) Transport of relief materials to earthquake affected areas: ₹50 lakh;
 - (3) Transport of postal bags: ₹40 lakh;
 - (4) Transport of newspapers: ₹10 lakh;
 - (5) Transport of agricultural produce: ₹60 lakh (including ₹2 lakh for transport of rice);
 - (6) Transport of tea, coffee, sugar, milk products, jaggery, edible oil and alcoholic beverages ₹70 lakh (₹10 lakh * 7 items)
 - (7) Transport of defence equipments: ₹40 lakh;
 - (8) Transport of books: ₹20 lakh;
 - (9) Transport of chemical fertilizers ₹10 lakh and organic manure ₹25 lakh;
- Transport of other goods: ₹4,560 lakh (including ₹200 lakhs for household effects and ₹100 lakh towards demurrage)

Computation of taxable value:

(1)	Transport of petrol – Taxable	₹400 lakh
(2)	Transport of relief materials to earthquake affected areas – EXEMPT;	---
(3)	Transport of postal bags – Taxable	₹40 lakh

(4) Transport of newspapers – EXEMPT	---
(5) Transport of agricultural produce – EXEMPT (transport of rice is also exempt)	---
(6) Transport of tea, coffee, sugar, milk products, jaggery, edible oil and alcoholic beverages – Not covered under specified goods. Therefore, TAXABLE	₹70 lakh
(7) Transport of defence equipment - EXEMPT	---
(8) Transport of books – Not covered under specified goods. Therefore, TAXABLE ;	₹20 lakh
(9) Transport of organic manure is exempt ; but, of chemical fertilizer is taxable	₹10 lakh
(10) Transport of other goods: ₹4,560 lakh – TAXABLE (transport of household effects is taxable, as these are not specified goods and demurrage is includible in value)	₹4,560 lakh
Total taxable value	₹5,100 lakh
GST @5%	₹255 lakh

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.

Jaskaran, a registered supplier of Delhi, has made the following supplies in the month of January, 2021:

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

*excluding GST

You are required to determine the GST liability [CGST & SGST and/or IGST, as the case may be] of Jaskaran for the month of January, 2021 with the help of the following additional information furnished by him for the said period:

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

Assume the rates of GST to be as under:

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

Computation of GST liability of Jaskaran for the month of January, 2021:

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

Notes:

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

Supply of a package containing chocolates, fruit juice bottles and a packet of toy balloons is a mixed supply as each of these items can be supplied separately and is not dependent on any other. Further, as per section 8(b) of the CGST Act, 2017, the mixed supply is treated as a supply of that particular supply which attracts the highest rate of tax. Thus, in the given case, supply of packages is treated as supply of chocolates [since it attracts the highest rate of tax]. **Consequently, being an inter-State supply of goods, supply of packages to Sukhija Gift Shop of Punjab is subject to IGST @ 18% each.**

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

- As per section 8(a) of the CGST Act, 2017, the composite supply is treated as the supply of the principal supply. Therefore, **the service of transportation of generators will also be taxed at the rate applicable for renting of the generator (principal supply).** Consequently, **being an inter-State supply of service, service of hiring out the generators to Morarji Banquet Halls of Chandigarh is subject to IGST @ 18% each.**
- As per **section 7(1)(c) of the CGST Act, 2017**, an activity made without consideration can be treated as supply only when it is specified in **Schedule I of the CGST Act, 2017**. Para 2. of Schedule I provides that supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business, are to be treated as supply even if made without consideration.

However, since the question does not provide that customers are related to Jaskaran, free gifts given to the customers cannot be considered as a supply under section 7. Consequently, no tax is leviable on the same. Also permanent transfer or disposal of business assets point is not applicable, as ITC not availed on the same at the time of purchase.

Further, the catering services provided by Jaskaran to his elder son without consideration will be treated as supply as Jaskaran and his elder son, being members of same family, are related persons in terms of **explanation (a)(viii) to section 15 of the CGST Act, 2017** and said services have been provided in course/furtherance of business. Value of supply of services between related persons, other than through an agent is determined as per **Rule 28 of the CGST Rules, 2017**. Accordingly, the value of supply is the open market value of such supply; if open market value is not available, the value of supply of goods or services of like kind and quality. However, if value

cannot be determined under said methods, it must be worked out based on the cost of the supply plus 10% mark-up. Thus, in the given case, value of catering services provided to the elder son of Jaskaran is ₹ 60,500 [₹ 55,000 × 110%]. Further, **being an intra-State supply of services, catering services are subject to CGST and SGST @ 2.5% each.**

As per Notification No. 13/2017 CT(R) dated 28.06.2017, GST is payable by the recipient on reverse charge basis on the receipt of services of transportation of goods by road from a goods transport agency (GTA) provided such GTA has not paid GST @ 12%. Since in the given case, Jaskaran has received services from a GTA who has paid GST @ 12%, **reverse charge provisions will not be applicable.**

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:

- Services provided by Shine Ltd. to Zebrex by way of arranging the display of the advertisement of its newly launched product, and
- 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:

- 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.
- 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.

Suraj Ltd. a manufacturing concern of Rajasthan having aggregate turnover of ₹100 lakhs in Financial Year 2019-20 has opted for composition scheme furnishes you with the following information for Financial Year 2020 -21. It requires you to determine its composition tax liability and total tax liability.

The details as to turnover of FY 2020-21 is as follows:

Particulars	₹
(1) Intra State Supplies of Goods X chargeable @5% GST	30,00,000
(2) Intra State Supplies of goods made which are chargeable to GST at Nil rate	18,00,000
(3) Intra State Supplies of Goods Y chargeable @18% GST	30,00,000
(4) Intra State supply of services chargeable with 5% GST	6,00,000
(5) Interest earned on fixed deposits (exempt service)	8,00,000

(6) Value of inward supplies of services on which tax payable under RCM (GST Rate 5%)	5,00,000
---	----------

Also determine composition tax liability if Suraj Ltd. is a trader.

Eligibility of Suraj Ltd. (manufacturer cum supplier of service) for Composition Scheme:

As per recently amended provisions, a supplier of goods will be eligible for composition scheme, if the value of services supplied by him does not exceed higher of 10% of the turnover in the preceding Financial Year in a State (in given case, 10% of 100 Lakhs); or ₹ 5 lakh.

Thus, Suraj Ltd. can supply services to the extent of 10% of ₹100 lakhs i.e. ₹10 lakhs.

Besides, as per Explanation to Sec. 10(1), interest income (service of extending loans for interest) shall not be taken into account while determining the above permissible limits of services which can be supplied.

Considering above provisions, Suraj Ltd. can provide services (excluding interest income) upto ₹10 lakhs while maintaining his eligibility for composition scheme. Since the value of services provided excluding interest earned on deposits is ₹6,00,000 which is within the limit of ₹10 lakhs, hence Suraj Ltd. is eligible for composition scheme.

Composition tax liability (considering composition tax rates as notified u/Rule 7 of CGST Rules, 2017):

Particulars of Supplies forming part of ATO of the year 2020-21	Manufacturer	Trader
(1) Intra State Supplies of Goods X chargeable @5% GST	30,00,000	30,00,000
(2) Intra State Supplies of goods which are chargeable to GST at Nil rate	18,00,000	—
(3) Intra-State supplies of goods Y chargeable @18% GST	30,00,000	30,00,000
(4) Intra state supply of services chargeable with 5% GST	6,00,000	6,00,000
(5) Interest earned on fixed deposits (exempt service) [WN-1]	—	—
(6) Value of inward supplies of services on which tax payable under RCM (GST Rate 5%)[WN-2]	—	—
Aggregate turnover (ATO) liable to composition tax	84,00,000	66,00,000
Rate of composite tax	1%	1%
Total Composite tax [A]	84,000	66,000

Working Note:

1. Interest earned on fixed deposits is exempt from tax vide Entry 27 of Notification No. 12/2017-CT (Rate). The same shall not be taken into account for calculating tax liability under composition scheme.

2. Inward supplies of goods/ services on which tax payable under RCM (GST Rate 5%) does not form part of ATO and hence, not to be included for determination of composition tax liability.

Additional, RCM liability:

Particulars of Supplies	Manufacturer	Trader
Value of inward supplies on which tax payable under RCM	5,00,000	5,00,000
Rate of GST	5%	5%
Tax Payable under RCM [B]	25,000	25,000

Total Tax liability:

Particulars of Supplies	Manufacturer	Trader
Tax Payable under FCM [B]	84,000	66,000
Tax Payable under RCM [B]	25,000	25,000
Total tax liability [A+B]	1,09,000	91,000

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.

Input Service Distributor (ISD) of a company is registered separately in the State of Kerala and is distributing Input Tax Credit (ITC) to other units in the Company. Following details are furnished for a particular month, and you are required to help the ISD department in distributing the ITC to other units that are carrying on manufacturing, supplying goods and services to customers.

SL. No.	Particulars	Amount in Lakhs
	Turnover in the relevant month of each of the units:	
(1)	Mumbai (Maharashtra)	12.00
(2)	Bangalore (Karnataka)	60.00
(3)	Hyderabad (Andhra Pradesh)	36.00
(4)	Trivandrum (Kerala)	72.00
(5)	Total ITC available during the month with the ISD (includes CGST/SGST & IGST) on account of supplies received during the month.	48.00
(6)	From the above, ITC exclusive to Bangalore unit, available as IGST credit.	12.00
(7)	From the above, ITC exclusive to Trivandrum and Hyderabad units (CGST and SGST of ₹ 3.00 lakhs each).	6.00
(8)	Rest of the credits available is allocable as common credit to all the units and is received from local suppliers in Kerala.	
(9)	Basic value of a Debit Note received, during the month, in respect of a previous supply, with rate of tax @ 12% IGST being charged and shown separately.	50.00
(10)	Total value in the Credit Note received, during the month, applicable exclusively to Kerala unit, taxed at the rate of CGST 9% and SGST 9%, which is charged and indicated separately.	118.00

Also make your comments regarding the amount of ITC in Credit Notes, if exceeds the ITC from Invoices and Debit Notes in a particular month for all or any of the units.

Computation of the amount of credit distributed² by the ISD to various units of the company:

Particulars	Mumbai Unit			Bangalore Unit			Hyderabad Unit			Trivandrum Unit		
	CGST (₹)	SGST (₹)	IGST (₹)	CGST (₹)	SGST (₹)	IGST (₹)	CGST (₹)	SGST (₹)	IGST (₹)	CGST (₹)	SGST (₹)	IGST (₹)
ITC exclusive to Bangalore unit available as IGST [ITC of IGST is distributed as IGST only.]						12						
ITC exclusive to Trivandrum and Hyderabad units [ITC of CGST and SGST is distributed as CGST and SGST to unit located in Kerala (Trivandrum unit) and as IGST to unit located in a different State (Hyderabad unit) in the ratio of 2:1.]									2	2	2	
Common credit for all units [Balance credit of CGST and SGST (since supplies are received locally) of ₹ 15 lakh each (₹ 48 lakh - ₹ 12 lakh - ₹			2			10			6	6	6	

² It has been most logically assumed that the credit to be distributed by ISD is the credit of input services.

6 lakh) to be distributed among all four units in proportion of their turnover of the relevant month, i.e., 1:5:3:6. Further, ITC will be distributed to Mumbai, Bangalore and Hyderabad unit as IGST and to Trivandrum unit as CGST and SGST.)												
Additional ITC [₹ 6 lakh (₹ 50 lakh ³ × 12%)] on account of debit note received ⁴ from supplier to be distributed among all four units in proportion of their turnover of the relevant month, i.e., 1:5:3:6. [ITC of IGST is distributed as IGST only.]			0.4			2			1.2			2.4
ITC to be reduced on account of credit note received from supplier, exclusive to Kerala unit ⁵ 9% of (₹ 118 lakh ⁶ × 100/118)										9	9	
Total ITC apportioned to each unit	0	0	2.4	0	0	24	0	0	9.2	-1	-1	2.4
Negative amount apportioned to Trivandrum unit shall be added to its output tax liability since ITC distributed to it by ISD is less than the amount reduced on account of credit note										1	1	

Question 28.

M/s. Jonty India Ltd. a manufacturer of heavy machines registered at Jaipur (Rajasthan) supplied one machine to M/s. Dhanuka Ltd. of Udaipur (Rajasthan) on 05-02-2021 under an invoice of the same date. Using the information given below, compute the value of the machine and the GST payable (CGST & SGST or IGST as the case may be) in cash for the month of February, 2021 by M/s. Jonty India Ltd. with appropriate working notes.

Assume Rate of CGST, SGST and IGST on the machine to be 9%, 9% and 18% respectively.

Sl. No.	Particulars	Amount in ₹
(i)	The Basic price of the machine (exclusive of taxes and discount).	28,50,000
(ii)	Trade discount is allowed at 3% on the basic price and is shown in the invoice	85,500
(iii)	Secondary packing (in iron sheets) charges for safe transportation of the machine on the request of buyer.	30,000
(iv)	Design and engineering charges of the machine.	90,000
(v)	Tax levied by Municipal Authority on the sale of the machine.	25,000

³ Being basic value of the debit note received, the amount of ₹ 50 lakh has been assumed to be exclusive of taxes.

⁴ It has been most logically assumed that the additional ITC of ₹ 6 lakh on account of the debit note received during the month from a supplier in respect of a previous supply pertains to all the four units.

⁵ It has been most logically assumed that there is one unit of the company located in Kerala and i.e., Trivandrum unit.

⁶ Being total value in credit note received, the amount of ₹ 118 lakh has been assumed to be inclusive of taxes.

(vi)	Subsidy received by the supplier from the State Government to encourage manufacture of the machine.	80,000
(vii)	Pre-delivery inspection charges paid to an independent agency in terms of the agreement for supply. The amount was paid by M/s. Dhanuka Ltd.	22,000
(viii)	Interest amount paid by M/s Dhanuka Ltd. for delay in payment for the machine.	12,000
	Inward Supplies	
(i)	IGST paid on food items for consumption by employees working in the factory.	8,000
(ii)	SGST and CGST (₹15,000 each) paid on Electrical transformer used in the manufacturing process.	30,000

Note :

(i) M/s. Jonty India Ltd. has no input tax credit balance at the beginning of February, 2021. All the other conditions necessary for availing the eligible input tax credit have been fulfilled.

(ii) There are no other transactions of supplies during the month of February, 2021

(iii) M/s. Jonty India Ltd. and M/s. Dhanuka Ltd. are not related persons.

The taxability of each is as follows —

Sl. No.	Particulars	Comments	Amount in (₹)
(i)	The Basic price of the machine (exclusive of taxes and discount)	Includible in value as part of transaction value – section 15(1)	28,50,000
(ii)	Trade discount is allowed at 3% on the basic price and is shown in the invoices	Allowed as deduction as discount given at the time of supply – section 15(3)	(85,500)
(iii)	Secondary packing (in iron sheets) charges for safe transportation of the machine on the request of buyer.	Includible as expenses incurred before or at time of supply – section 15(2)(c)	30,000
(iv)	Design and engineering charges of the machine	Includible as expenses incurred before or at time of supply – Section 15(2)(c)	90,000
(v)	Tax levied by Municipal Authority on the sale of the machine.	Value includes taxes other than GST – Section 15(2)(a)	25,000
(vi)	Subsidy received by the supplier from the State Government to encourage manufacture of the machine.	Subsidy given by Government not includible in value – Section 15(2)(e)	—
(vii)	Pre-delivery inspection charges paid to an independent agency in terms of the agreement for supply. The amount was paid by M/s. Dhanuka Ltd.	Liability of supplier incurred by recipient should be included in value as per Sec. 15(2)(b)	22,000
(viii)	Interest amount paid by M/s. Dhanuka Ltd. for delay in payment for the machine.	Includible – section 15(2)(d)	12,000
	Total Value		29,43,500
(A)	Tax payable @ 9% CGST & 9% SGST		CGST ₹2,64,915 and SGST ₹2,64,915
	Less – ITC on Inward Supplies		
(i)	IGST paid on food items for consumption by employees working in the factory.	Blocked input tax credit as supply used for personal consumption – section 17(5)(g)	—
(ii)	SGST and CGST (₹15,000 each) paid on Electrical transformer used in the manufacturing process.	ITC eligible if depreciation on GST	30,000

		component is not claimed – section 16(3)	
(B)	ITC available		CGST ₹15,000 and SGST ₹15,000
(C)	<u>Net Tax payable (A-B)</u>	<u>CGST and SGST payable as supply is within the State</u>	<u>CGST ₹2,49,915 and SGST ₹2,49,915</u>

Hence, net tax payable is CGST ₹2,49,915 and SGST ₹2,49,915

Question 29.

Kailash Global (P) Ltd. supplies various goods in domestic and international markets. It is engaged in both manufacturing and trading of goods. The company is registered under GST in the State of Karnataka. The company exports goods without payment of tax under letter of undertaking in accordance with the provisions of section 16(3)(a) of the IGST Act, 2017.

The company has made the following supplies during a tax period:

S. No.	Particulars	(₹)
(i)	Export of product 'A' to UK for \$ 10,000. Assessable value under customs in Indian rupees. [Export duty is levied on product 'A' at the time of exports. Further, value of like goods domestically supplied by the similarly placed supplier is ₹ 6,00,000]	7,00,000
(ii)	Domestic supplies of taxable product 'B'* during the period [excluding tax @ 5%] [Inputs used in manufacturing of such goods are taxable @18%] *not notified as a product, in respect of which refund of unutilised ITC shall not be allowed under section 54(3)(ii)	10,00,000
(iii)	Supply of goods to Export Oriented Unit [excluding tax @ 18%] [ITC has been claimed by the recipient]	5,00,000
(iv)	Export of exempt supplies of goods (Value of like goods domestically supplied by the similarly placed supplier is ₹ 5,00,000)	6,00,000

The ITC available for the above tax period is as follows:

S.No.	Particulars	₹
(i)	On inputs (including ₹ 50,000 on export of exempt supplies)	3,50,000
(ii)	On capital goods	1,20,000
(iii)	On input services (including ₹ 18,000 on outdoor catering)	2,00,000

Determine the maximum amount of refund admissible to Kailash Global (P) Ltd. for the given tax period.

Computation of maximum amount of refund admissible to Kailash Global (P) Ltd.

S.No.	Particulars	Nature of Supply for payment of GST	Whether refund admissible	Amount of Refund
(i)	Exports of product 'A' to UK	Zero rated Supply - Sec. 16 of IGST Act	As the said transaction in export without payment of tax, refund of unutilized ITC is applicable. But, refund of unutilized ITC is not available as goods are subject to export duty - Proviso to Sec. 54	N.A

(ii)	Domestic supplies of taxable product 'B' during the period	Taxable	As the rate of GST on outward supply is less than the rate of GST on inward supply, the same is inverted tax structure and refund of unutilised ITC is available. [Also, the goods are neither notified for ineligibility of refund nor they are exempted or nil rated]	₹ 92,105 [Refer Note 1 Below]
(iii)	Supply of goods to export oriented unit	Deemed Export - Sec. 147 Therefore, since in the given case the Recipient is claiming ITC, cannot claim refund	In respect of supplies regarded as deemed exports, the application of refund can be filed by the supplier of deemed export supplies only in cases where the recipient does not avail of ITC on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund.	NA
(iv)	Export of exempt supplies of goods	Zero rated Supply - Sec. 16 of IGST Act (Even though it is exempted)	As the said goods are exported without payment of tax, refund of unutilised ITC on account of zero-rated supply is available in the present case	₹ 1,14,000 [Refer Note 2 below]

Notes to above:

- Rule 89(5) of the CGST Rules, 2017 stipulates that in the case of refund on account of inverted duty structure, refund of ITC is granted as per the following formula –

<p>Maximum Refund = [Net ITC X (Turnover of Inverted rate supply/Adjusted total turnover)] (-) [Net ITC X (Tax payable on such inverted rate supply/ITC availed on inputs and input services)]</p>

Where-

“Net ITC” means ITC availed on inputs during the relevant period other than the ITC availed for which refund is claimed under sub- rules (4A) or (4B) or both. Here, Net ITC = ₹3,50,000

“Adjusted total turnover” means the sum total of the value of:

- the turnover in a State/ Union territory, as defined under section 2(112), excluding turnover of services; &
- the turnover of zero-rated supply of services determined in terms of specified manner and non-zero-rated supply of services, excluding:
 - the value of exempt supplies other than zero-rated supplies; and
 - the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any, during the relevant period.

“Relevant period” means the period for which the claim has been filed.

Adjusted Total Turnover = ₹28,00,000 [₹7,00,000 + ₹10,00,000 + ₹5,00,000 + ₹6,00,000] and Turnover of inverted rated supply of goods = ₹10,00,000,

ITC availed on inputs and input services = ₹ 5,32,000 (ITC on outdoor catering disallowed under section 17(5) of CGST Act, 2017)

Thus, maximum refund amount under Rule 89(5) =

(₹3,50,000 x ₹10,00,000/ ₹28,00,000)- (₹3,50,000 X ₹ 50,000/₹5,32,000) =

₹1,25,000 - ₹ 32,895 = ₹92,105

2. Rule 89(4) of the CGST Rules, 2017 stipulates that in the case of zero-rated supply of goods or services or both without payment of tax under bond/LUT in accordance with the provisions of section 16(3) of the IGST Act, 2017, refund of ITC shall be granted as per the following formula:

$$\text{Maximum Refund} = \text{Net ITC} \times \left[\frac{\text{Turnover of zero-rated supply of goods} + \text{Turnover of zero-rated supply of services}}{\text{Adjusted total turnover}} \right]$$

where-

"Net ITC" means ITC availed on inputs and input services during the relevant period other than the ITC availed for which refund is claimed under sub-rules (4A) or (4B) or both. Here, Net ITC = ₹ 5,32,000 (ITC on outdoor catering disallowed under section 17(5) of CGST Act, 2017)

"Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less, other than the turnover of supplies in respect of which refund is claimed under

"Adjusted Total Turnover" means Local Turnover + *Zero rated Turnover - Supplies for which refund is claimed under Rule 89(4A) and/or Rule 89(4B).

* Zero Rated TO = TO of ZR supply of goods (as below) + TO of ZR supply of services

Here, Turnover of zero-rated supply of goods = ₹6,00,000 (or) ₹5,00,000 X 1.5 = ₹7,50,000, whichever is lower i.e. ₹ 6,00,000

and Adjusted Total Turnover = ₹28,00,000 (as computed in point 1 above)

Thus, maximum refund amount under rule 89(4) = ₹5,32,000 x ₹6,00,000 / ₹28,00,000 = ₹1,14,000.

Question 30.

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

Products	Turnover* (₹)	Output GST Rates	ITC availed (₹)	Input GST Rates
A	500,000	5%	54,000	18%
B	350,000	5%	54,000	18%
C	100,000	18%	10,000	18%

*excluding GST

Determine the maximum amount of refund of the unutilized input tax credit that Super Engineering Works is eligible to claim under section 54(3)(ii) of the CGST Act, 2017 provided that Product B is notified as a product, in respect of which no refund of unutilised input tax credit shall be allowed under said section.

Section 54(3)(ii) of the CGST Act, 2017 allows refund of unutilized input tax credit (ITC) at the end of any tax period to a registered person where the credit has accumulated on account of inverted duty structure i.e. rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council.

In the given case, the rates of tax on inputs used in Products A and B (18% each) are higher than rates of tax on output supplies of Products A and B (5% each). However, Product B is notified as a product, in respect of which no refund of unutilised ITC shall be allowed under section 54(3)(ii) of the CGST Act, 2017.

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

Further, Rule 89(5) of the CGST Rules, 2017 stipulates that in the case of refund on account of inverted duty structure, refund of ITC shall be granted as per the following formula -

Maximum Refund =

$$\left\{ \left(\text{Net ITC} \times \frac{\text{Turnover of inverted rate supply of goods or services}}{\text{adjusted total turnover}} \right) - \left(\text{Net ITC} \times \frac{\text{Tax payable on such inverted rate supply of goods or services}}{\text{ITC availed on inputs and input services}} \right) \right\}$$

where, -

- A. "Net ITC" means input tax credit availed on inputs during the relevant period;
- B. **Adjusted Total Turnover** means the sum total of the value of-
- the turnover in a State or a Union territory, as defined under section 2(112), excluding the turnover of services; and
 - the turnover of zero-rated supply of services determined in specified manner and non-zero-rated supply of services, excluding-
 - the value of exempt supplies other than zero-rated supplies; and
 - the turnover of supplies in respect of which refund is claimed under rule 89(4A) or rule 89(4B) or both, if any,

during the relevant period.

- c) Relevant period means the period for which the claim has been filed.

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

- Net ITC = ₹ 1,18,000** (₹ 54,000 + ₹ 54,000 + ₹ 10,000) [Net ITC availed during the relevant period needs to be considered irrespective of whether the ITC pertains to inputs eligible for refund of inverted rated supply of goods or not as clarified vide Circular No. 79/53/2018-GST, dated 31.12.2018]
- Turnover of inverted rated supply of Product A = ₹ 5,00,000**
- Adjusted Total Turnover = ₹ 9,50,000** (₹ 5,00,000 + ₹ 3,50,000 + ₹ 1,00,000)
- Tax payable on inverted rated supply of Product A = ₹ 5,00,000 × 5% = ₹ 25,000**
- ITC availed on inputs and input services = ₹ 1,18,000** (₹ 54,000 + ₹ 54,000 + ₹ 10,000)

Maximum refund amount for Super Engineering Works is as follows:

= [₹ 1,18,000 × (₹ 5,00,000 / ₹ 9,50,000)] - [₹ 1,18,000 × (₹ 25,000 / ₹ 1,18,000)] = **₹ 37,105** (rounded off)

Question 31.

Divy Trader obtained permission for provisional assessment and supplied three consignments of furniture on 28th April, 2021. The tax payment on provisional basis was made in respect of all the three consignments on 20th May, 2021.

Consequent to the final assessment order passed by the Assistant Commissioner on 21st June, 2021, a tax of ₹ 1,20,000 and 1,50,000 became refundable on 1st and 3rd consignments, whereas a tax of ₹ 1,20,000 became due on 2nd consignment. Divy Trader applies for the refund of the tax on 1st and 3rd consignments on 12th July, 2021 and pays the tax due on 2nd consignment on the same day. Tax was actually refunded to it of 1st consignment on 8th September, 2021, whereas of 3rd consignment on 18th September, 2021. Customers of Divy Trader who purchased the consignments have not taken Input Tax Credit (ITC).

Determine the interest payable and receivable, if any, under CGST Act, 2017 by Divy Trader.

Where tax becomes due consequent to order of final assessment, interest is payable @ 18% p.a., from the first day after the due date of payment of tax in respect of the goods supplied under provisional assessment till the date of actual payment, whether such amount is paid before/after the issuance of order for final assessment.

Applying the legal provisions to the three given situation, interest amount payable/ receivable shall be as computed below —

<u>Particulars</u>	<u>1st Consignment</u>	<u>3rd Consignment</u>	<u>2nd Consignment</u>
Date of supply	28-4-2021	28-4-2021	28-4-2021
Due date / Date of paying provisional tax	20-5-2021	20-5-2021	20-5-2021
Position on finalization	Refund	Refund	Demand
Amount involved	₹1,20,000	₹1,50,000	₹1,20,000
Date of payment of demand	—	—	12-7-2021
Date of application for refund	12-7-2021	12-7-2021	—

Date of actual refund	8-9-2021	18-9-2021	—
No. of days for interest	NIL, as refund is granted within 60 days from date of application	(12-7-2021 + 60 days) = 10-9-2021 int. from 11-9-2021 till 18-9-2021 i.e., 8 days	(20-5-2021) – (12-7-2021) = 53 days. Therefore, Interest is charged.
Rate of interest	—	6% p.a.	18% p.a.
Interest [Amount x Rate of Interest x No. of days of interest / 365]	NIL	$\frac{₹1,50,000 \times 6\% \times 8}{365} = ₹ 197.26$	$\frac{₹1,20,000 \times 18\% \times 53}{365} = ₹ 3,136.44$

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 ⁷ . 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 ⁸ . 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

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

⁸ It is assumed that adjudication order is communicated the same day on which it is passed.

		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.

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

- In an order dated 18-10-2020 issued to M/s. RR Ltd., the Joint Commissioner of Central Tax has confirmed a tax demand of ₹45,00,000. M/s. RR Ltd. has admitted ₹5,00,000 as tax liability and intends to file an appeal with the Commissioner (Appeals) against tax demand of ₹40,00,000.
- In an order dated 18-10-2020 issued to M/s. KK Ltd., the Joint Commissioner of Central Tax has confirmed a tax demand of ₹45,00,000 and imposed a penalty of ₹5,00,000. M/s. KK Ltd. intends to file an appeal with the Commissioner (Appeals) against the said order.

- Section 107(6) of the CGST Act, 2017 require an appellant before Appellate Authority to pre-deposit full amount of tax, interest, fine, fee and penalty, as is admitted by him, arising from the impugned order and a sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order

Thus, RR Ltd. has to pre-deposit ₹5,00,000 (admitted tax) and 10% of ₹ 40,00,000 (tax in dispute) (Subject to max. of ₹ 25 Crores).

$$= ₹ 9,00,000. (5,00,000 + 4,00,000)$$

- Section 107(6) of the CGST Act, 2017 require an appellant before Appellate authority to pre-deposit full amount of tax, interest, fine, fee and penalty, as is admitted by him, arising from the impugned order and a sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order (Subject to max. of ₹ 25 Crores).

In this case since, the entire amount of tax demanded is in dispute, hence, KK Ltd. has to pre-deposit 10% of ₹45,00,000 = ₹4,50,000

Note: tax demanded amounting ₹ 45,00,000 is assumed as CGST fully.

Alternatively, if tax demanded amounting ₹ 45,00,000 is assumed as CGST and SGST computation are as follows.

- ₹ 2.5 Lakhs + (10% of 20,00,000) i.e., ₹ 2 Lakhs = ₹ 4.5 Lakhs
- 10% of 22,50,000 = 2,25,000

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:

- 50% of value of goods or
- 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.

After staying abroad for 16 months, Mr. Vasudev shifted his residence to India, from Sydney to Kolkata on 12.10.2021. At the time of landing at Kolkata, he brought the following Items:

SL. No.	Particulars	Amount (₹)
(i)	Gold Bars 30 grams valued at	90,000
(ii)	Alcoholic Liquor 4 litre valued at	10,000
(iii)	20 boxes of Cigarettes, each box containing 10 nos., valued at	4,000
(iv)	One Notebook Computer	1,00,000
(v)	One PC meant for personal use	40,000
(vi)	Hand Pistol	83,000

You are required to compute the Customs Duty payable by him for the Baggage

Baggage Allowance and Duty Payable

SN	Particulars	Eligible for GFA	Not Eligible for GFA
1	Gold bar covered under Annexure 1 & Not eligible for GFA However gold jewellery eligible)		90,000 @38.5%
2	Alcoholic Liquor (upto 2 litres covered under GFA) → ₹ 10,000 for 4 litres & 2 litres it is ₹ 5,000	5,000	5,000 @38.5%
3	Cigarettes (upto 100 no's covered under GFA) → ₹ 4,000 for 200 no's & for 100 no's it is ₹ 2,000	2,000	2,000 @ 110%
4	One personal Notebook Computer – Exempted as the person is aged ≥ 18 years	-	-
5	One personal computer – Exemption not available & it is dutiable but eligible for GFA	40,000	
6	Hand Pistol (Covered under Annexure – 1 & not eligible for GFA)	-	83,000 @ 110%
	Gross value of Baggage	47,000	1,80,000

(-) General Free Allowance upto ₹ 50,000	(47,000)	-
Dutiable Value	0	1,80,000
Baggage Duty payable @ 38.5%	-	₹ 36,575
Baggage Duty payable @ 110%	-	₹ 93,500

Notes: As there are no household articles involved, allowance w.r.to transfer of residence is not available in their case.

Question 38.

Determine admissible refund under RoDTEP Scheme from the following (rate of refund may be taken to be 2%)

- 1) Goods X - FOB Value declared in shipping bill is ₹ 5,00,000 (payment realized in advance)
- 2) Goods X - FOB Value declared in shipping bill is ₹2,00,000 (payment is yet to be realized)
- 3) Supplies of goods made to SEZ units: ₹ 50,000
- 4) Supplies of goods made to 100% EOU: ₹ 1,50,000
- 5) Export of products liable to export duty: FOB Value ₹ 1,75,000
- 6) Export of products subject to Minimum export price: FOB Value ₹ 4,25,000

Statement showing computation of admissible refund under RoDTEP Scheme [In terms of Foreign Trade Policy 2023-28]

		Value for purposes of RoDTEP Scheme		Amount in ₹
1)	Goods X (payment realized in advance)	FOB value in shipping bill	₹ 5,00,000	5,00,000
2)	Goods Y (payment yet to be realized)	FOB value in shipping bill	₹ 2,00,000	2,00,000
<p>At the time of arantina rebate, it shall not depend upon realization of export proceeds.</p> <ul style="list-style-type: none"> • Rebate shall be granted subject to receipt of sales proceeds within the time allowed under FEMA, 1999. As per Foreign Exchange Management (Export of Goods & Services) Regulations, 2015, full value of export of goods should be released and repatriated to India within 9 months from the date of export. • If sales proceeds are not received within the time limit given under FEMA then the rebate shall be deemed to never have been allowed. 				
(3)	Supplies of goods made to SEZ unit	N.A. (as such supply is not eligible for RoDTEP Scheme)		Ineligible
(4)	Supplies of goods made to 100% EoU	N.A. (as such supply is not eligible for RoDTEP Scheme)		Ineligible
(5)	Export of products liable to export duty	N.A. (as such supply is not eligible for RoDTEP Scheme)		Ineligible
(6)	Export of products subject to Minimum export price	N.A. (as such supply is not eligible for RoDTEP Scheme)		Ineligible
			Total	7,00,000
			Admissible refund under RoDTEP Scheme @ 2%	14,000

Question 39.

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

- I. The proper officer is not authorized to lock any warehouse with the lock of the Customs Department.
- II. The Commissioner of Customs (Appeals) may appoint Public warehouses wherein dutiable goods may be deposited.
- III. The Commissioner of Customs or Principal Commissioner of Customs is not required to give a notice to the licensee for cancellation of the license of a private warehouse, if he has contravened any provision of the Customs Act, 1962.

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

Question 40.

Arihant Industries has imported a machine from U.K. From the following particulars furnished by it, arrive at the assessable value for the purpose of Customs Duty payable.

	Particulars	Amount
(i)	Price of the machine	10,000 U.K. Pounds
(ii)	Freight (air)	3,000 U.K. Pounds
(iii)	Engineering and design charges paid to a firm in U.K.	500 U.K. Pounds
(iv)	License fee relating to imported goods payable by the buyer as a condition of sale	20% of Price of machine
(v)	Materials and components supplied in UK by the buyer free of cost valued at ₹ 20,000	
(vi)	Insurance paid to the insurer in India	₹ 6,000
(vii)	Buying commission paid by the buyer to his agent in U.K.	100 U.K. Pounds

Other particulars:

- I. Inter-bank exchange rate: ₹ 98 per U.K. Pound.
- II. CBIC had notified for purpose of section 14 of the Customs Act, 1962, exchange rate of ₹ 100 per U.K. Pound.
- III. Importer paid ₹ 5,000 towards demurrage charges for delay in clearing the machine from the Airport.

Computation of assessable value of machine imported by Arihant Industries

Particulars	Amount (₹)
Price of the machine	10,000
Add: Engineering and design charges paid in UK [Note 1]	500
Licence fee relating to imported goods payable by the buyer as a condition of sale (20% of Price of machine) [Note 1]	2,000
Total	12,500
	Amount (₹)
Value in Indian currency [£12,500 × ₹ 100] [Note 2]	12,50,000
Add: Materials and components supplied by the buyer free of cost [Note 1]	20,000
FOB	12,70,000
Add: Freight [Note 3]	2,54,000
Insurance paid to the insurer in India [Note 1]	6,000
CIF value	15,30,000
Assessable value	15,30,000

Notes:

- I. Engineering and design charges paid in UK, licence fee relating to imported goods payable by the buyer as a condition of sale, materials and components supplied by the buyer free of cost and actual insurance charges paid are all includible in the assessable value.

- II. As per Explanation to section 14(1) of the Customs Act, 1962, assessable value should be calculated with reference to the rate of exchange notified by the CBIC.
- III. If the goods are imported by air, the freight cannot exceed 20% of FOB price.
- IV. Buying commission is not included in the assessable value.
- V. Only ship demurrage charges on chartered vessels are included in the cost of transport of the imported goods. Thus, demurrage charges for delay in clearing the machine from the Airport will not be includible in the assessable value.

Question 41.

X Ltd., imported a machine from USA under EPCG Scheme with zero Customs Duty in the Financial Year 2023-24 for production of product 'P'.

Customs duty otherwise payable is ₹20 lakh. Find the specific export obligation and average export obligation. Exports of finished goods 'P' in the preceding 5 licensing years are as follows:

Particulars	2023-24	2024-25	2025-2026	2026-27	2027-28	2028-29
FOB value of exports in ₹	30 lakhs	30 lakhs	40 lakhs	35 lakhs	45 lakhs	60 lakhs

consists of **specific export obligation (SEO)** and **average export obligation(AEO)**. Specific export obligation is over and above average export obligation. Exports/supplies made over and above AEO shall only be considered for fulfilment of specific export obligation.

Hence, first the average export obligation to be fulfilled and thereafter specific export obligation.

- (i) **Average Export Obligation** is the average of export made in the three preceding licencing years. It has to be achieved within the overall EO period (i.e. within 6 years reckoned from the date of issue of authorization).
- (ii) Specific Export obligation is equal to 6 times the duty saved on capital goods imported under this scheme and to be achieved within the overall EO period (i.e., within 6 years reckoned from the date of issue of authorization). = ₹20 lakhs X 6 = ₹120 lakhs.

Year	FOB value of exports	Average of preceding 3 years	Whether Average EO achieved?	Towards specific export obligation
2023-24	30 lakhs	0	Yes	30 lakhs
2024-25	30 lakhs	30 lakhs	Yes	0
2025-26	40 lakhs	30 lakhs	yes	10 lakhs
2026-27	35 lakhs	33.33 lakhs	Yes	1.67 lakhs
2027-28	45 lakhs	35 lakhs	Yes	10 lakhs
2028-29	60 lakhs	40 lakhs	Yes	20 lakhs
Total	210 lakhs			71.67 lakhs

Even though Average EO achieved in every year over the 6 licencing years, but specific export obligation not achieved. Therefore, the benefit granted under EPCG Scheme shall be recovered as EODC will not granted.

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.
- 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.

From the particulars given below, find out the Assessable Value of the imported goods under the Customs Act, 1962:

SN	Particulars	US\$
(i)	Cost of the machine at the factory of the exporting country	10000
(ii)	Transport charges incurred by the exporter from his factory to the port for shipment	500
(iii)	Handling charges paid for loading the machine in the ship	50
(iv)	Buying Commission paid by the Importer	50
(v)	Freight charges from exporting country to India	1000
(vi)	Exchange Rate to be considered 1 \$ = ₹ 65	

Statement Showing Calculation of Assessable Value of Imported Goods

Particulars	Value in US \$
(i) Cost of Machine at the factory gate of Exporting country	10,000
(ii) Transportation charges incurred by the exporter from his factory to the port for shipment	500
(iii) Handling charges paid for loading the machine in ship	50
(iv) Buying commission paid by importer	-
FOB Value	10,550.0000
(v) Cost of insurance (1.125% of FOB)	118.6875
(vi) Freight Charge from exporting country to India	1000.0000
CIF Value	11668.6875
Assessable Value (US\$ 11668.6875 x ₹ 65)	₹ 7,58,464

Notes:

- As per **Section 14 of the Customs Act, 1962**, the value of the imported goods is the Transaction Value, i.e., the price actually paid or payable for the goods. The cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation are includible in the Assessable Value.
- The FOB value will be sum total of cost of machine, freight from factory of exporter to port for shipment, handling charges paid for loading the machine in the ship and commission paid to local agent appointed by exporter. Further, where such cost is not ascertainable, it shall be 20% of the Free on Board (FOB) value of the goods which would also include demurrage charges [**Rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007**],
- Where insurance cost is not ascertainable, it shall be 1.125% of the Free on Board (FOB) value of the goods [**Rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007**],
- Buying commission is not includible in the Assessable Value. [**Rule 10(1) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007**],
- No loading charges are to be added to CIF value in view of the amendment in **Rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007** vide notification no. 91/2017 dated 26/9/2017.

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		
Whichever is LOWER		1000
(9) Insurance from US port to Indian port [Rule 10(2)(b)]	\$	50
Assessable Value as per Rule 8		6,050
Assessable Value as per Rule 8 in INR \$6,050* ₹65		3,93,250

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.

- Can Laxmi Company provisionally pay the Duty and what are the conditions which are to be complied before such payment is made?
 - 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.

- 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 lakh × 20%] - [₹ 20 lakh × 5%]

= ₹ [2.20-1.00] lakh = ₹ 1.20 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 × 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