



# CMA FINAL- PAPER 19 INDIRECT TAX LAWS & PRACTICE

**MIGHTY**

**50**

## CMA INDIRECT TAX LAWS & PRACTICE – MIGHTY 50

### QUESTION 1

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%

### Answer

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:**

1. 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)]**

2. 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.**

3. 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 2

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

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

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

Answer the following with brief reasons:

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

## Answer

- 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 country<sup>1</sup>.  
Thus, GST is not leviable on import of goods from GER Ltd. by IND Ltd. since the import of goods is not complete.
- 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.
- 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.
- 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 3

X Ltd. is located in Ludhiana. It is GST registered with ATO of ₹20 crores. It is in the business of manufacture of cast glass. It has received the following services from different persons during December 2021 —

- Service by Department of Posts by way of express parcel post (value of service: ₹40,000).
- For transportation of goods, X Ltd. pays ₹1,00,000 to Indian Railways.
- X Ltd. (GST Registered) has taken a commercial property on rent from the Punjab Government for which company pays rent of ₹2,00,000.
- X Ltd. has taken security services for factory complex from the Mumbai Government for which payment of ₹50,000 is made.

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

5. X Ltd. has taken security services for office from Task Force Security Ltd. (a private sector company) for which payment of ₹95,000 is made.  
Discuss the applicability of reverse charge to the above transactions.

Answer			
Supplier of services	Nature of service	Value of taxable services (₹)	Applicability of reverse charge (RCM)
Department of Post, Government of India	Express parcel post	40,000	RCM not applicable to these services- supplier will charge GST in its invoice.
Indian Railways, Government of India	Transportation of goods	1,00,000	Services provided by Indian Railways is always covered under FCM as per Notification No. 14/2023. Therefore, RCM not applicable in this case.
Punjab Government (State Government)	Renting of immovable property	2,00,000	RCM applicable to these services- Recipient shall be liable to pay GST.
Mumbai Government (State Government)	Security services	50,000	RCM is applicable to these services- Recipient shall be liable to pay GST.
Task Force Security Ltd.	Security services	95,000	RCM not applicable to these services- supplier will charge GST in its invoice. (Supplier of security service is body corporate)

#### QUESTION 4

Sarva Sugam Charitable Trust, a trust registered under section 12AB of the Income Tax Act, 1961 provides the following information relating to supply of its services for the month of August 20XX:

Particulars	₹
Renting of residential dwelling for use as a residence to an unregistered person	18,00,000
Renting of rooms for Pilgrims (Charges per day ₹. 1,200)	8,00,000
Renting of rooms for devotees (Charges per day ₹. 750)	6,00,000
Renting of Kalyana Mandapam (Charges per day ₹. 15,000)	12,00,000
Renting of halls and open space (Charges per day ₹. 7,500)	10,75,000
Renting of Shops for business (Charges per month ₹. 9,500)	4,75,000
Renting of Shops for business (Charges per month ₹12,000)	7,50,000

Compute the total taxable value of supply for the month of August 20XX assuming that the above amounts are exclusive of GST.

#### Answer

Under GST law, exemption has been granted to following renting services:

- ➔ Renting of residential dwelling for use as residence to an unregistered person.
- ➔ Renting of precincts\*\* of a religious place meant for general public, owned/managed by, inter alia, an entity registered as a charitable or religious trust under section 12AB of the Income-tax Act, 1961 excluding the following renting: -
  - Room renting where charges for rented rooms are **₹1,000 or more per day**;
  - Renting of premises, community halls, kalyanamandapam or open area, and the like where charges for rented property are **₹10,000 or more per day**;
  - Renting of shops or other spaces for business or commerce where charges are **₹10,000 or more per month**.

In view of the aforesaid provisions, value of supply of Sarva Sugam Charitable Trust for August, 20XX has been computed as under:

Particulars	Amount (₹)
Renting of residential dwelling for use as residence [Exempt vide exemption notification]	Nil
Renting of rooms for pilgrims [not exempt Since charges per day are not below ₹1,000]	8,00,000
Renting of rooms for devotees [exempt since charges per day are below ₹1,000]	Nil
Renting of Kalyana Mandapam [not exempt since charges per day are not below ₹10,000]	12,00,000
Renting of halls and open spaces [exempt since charges per day are below ₹10,000]	Nil
Renting of shops for business [exempt since charges per month are below ₹10,000]	Nil
Renting of shops for business [not exempt since charges per month are not below ₹10,000]	7,50,000
<b>Value of taxable supply</b>	<b>27,50,000</b>

#### QUESTION 5

A2X Services Limited, registered under GST, is engaged in providing various services to various educational institutions. The company provides the following information in respect of services provided during the month of April 2021:

S. No.	Description of Services provided
(i)	Transportation of Students & Staff of 'Love All', a deemed University
(ii)	Catering Services provided to 'Rank CBSE School'
(iii)	Security services provided to 'Win CBSE School', for its annual sports day held at SAI Sports complex owned by Government of India
(iv)	Supply of online periodical science journal to 'Merit CBSE' school for its higher secondary students
(v)	Services, in relation to Placement of students, to 'SKILL', a Government recognized vocational training college

Comment on the taxability or otherwise of the above transactions under GST law. Also state the correct legal provisions for the same.

#### Answer

As per Sec. 11 read with Notification No. 12/2017, services provided to an educational institution is exempted as follows:

Services provided to educational institution by way of	Pre-School education & Education upto higher secondary or equivalent	Education as a part of curriculum for obtaining a qualification recognised by law for the time being in force	Approved Vocational Education
1. Transportation of students, faculty & Staff	Exempted	Taxable	Taxable
2. Catering	Exempted	Taxable	Taxable
3. Security or House keeping	Exempted	Taxable	Taxable
4. Admission to or Conduct of examination	Exempted	Exempted	Exempted
5. Supply of online educational journals and periodicals	Taxable	Exempted	Taxable

- (i) Transportation of students and staff of a deemed university – Taxable, as transportation services to educational institution providing pre-school education and education upto higher secondary or equivalent is only exempted.
- (ii) Catering services to Rank CBSE School – Exempted, as catering services provided to educational institution providing pre-school education and education upto higher secondary or equivalent is exempted.
- (iii) Security services provided to WIN CBSE School – Even though security services provided to educational institution providing pre-school education and education upto higher secondary or equivalent is exempted, such exemption is not available, if the said services are provided in a premises other than the premises of such educational institution. Consequently, in the present case, it is taxable.
- (iv) Supply of online periodical science journal to Merit CBSE School – Taxable, as supply of online periodicals and journals to educational institution providing education as a part of curriculum for obtaining a qualification recognized by law is only exempted.
- (v) Placement services to vocational training college – Taxable, as the said service is not covered under the exemptions w.rto services provided to educational institution.

#### QUESTION 6

In the following cases based on information given and the query, give your comments on the taxability under GST and the rate of GST applicable, if any:

- I. Renting of vacant land to a stud farm for ₹ 1,50,000. Is it a supply of service? Will GST be leviable?
- II. A contract awarded by Kolkata Municipal Corporation (KMC) for repair of a particular road to M/s B Ltd., with terms and conditions that the entire work should be completed within 30 days. However, there is a delay of 10 days to complete the work. KMC charged liquidated damages of ₹ 1,20,000 and the same recovered from M/s B Ltd. Applicable rate of CGST 9% and SGST 9%. Previous year turnover of M/s B Ltd. ₹ 2 crores.  
Find the following:  
(a) Who is liable to pay GST on what amount?  
(b) Total tax liability if any.
- III. M/s X Ltd. paid penalty under section 49 of the CGST Act, 2017, ₹ 2,00,000 to the Department in the month of October, 2020. Is it taxable under the GST law?
- IV. M/s M & Co. a sole proprietor, is in the business of selling furniture. Its owner took a set of furniture to furnish his house permanently. Will the transaction be a supply in terms of GST Act?

**Note:** ITC on such furniture not availed

Answer	
(i)	It is supply of service. GST is liable to be paid.
(ii)	In the ordinary course it is a supply of service. However, non-performance of contract by the supplier of service in case of supplies to Government, local authority is covered under exemption. The fine or penalty chargeable by Government or local authority imposed for violation of statute, bye-laws, rules or regulations or contract are not leviable to GST. Hence no liability to GST and no tax liability.
(iii)	Such payment is not a supply of service. The fine or penalty chargeable by Government or local authority imposed for violation of statute, bye-laws, rules or regulations are not leviable to GST. The penalty of ₹ 2,00,000 is not taxable under GST law.
(iv)	No, the transfer of the furniture by the owner without consideration is not a supply of goods, because credit is not allowed in case of personal consumption of business assets under sec 17(5)(g) of CGST Act, and ITC on such furniture is not availed.

**QUESTION 7**

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%.

**Answer**

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
<b>Value of Taxable Supply</b>	<b>29,00,000</b>
<b>Total GST payable @18% on ₹ 29,00,000</b>	<b>5,22,000</b>

**QUESTION 8**

M/s A2Z, a proprietary firm, registered under GST, is engaged in providing various services under one roof. The firm provides the following information pertaining to supplies made/input services availed by it during the month of March 2022:

S. No.	Particulars	Amount (₹)
1.	Amount collected for loading, unloading, packing and warehousing of potato chips.	15,000
2.	Fees paid for yoga camp conducted by a charitable trust registered under section 12AB of the Income-tax Act, 1961 for employees of the firm.	20,000

3.	Interest received on fixed deposits with APNA Bank by the firm.	30,000
4.	Professional services provided to foreign diplomatic mission located in India.	50,000
5.	Recovery agent services provided to ABC Finance Ltd. a NBFC Located in Delhi.	1,00,000
6.	Security services (by way of supply of security personnel) provided to XYZ Ltd. - a registered person under GST	80,000
7.	Receipts from running an educational institution (a Senior Secondary School) for services provided to its students (including receipts for providing residential dwelling service of ₹ 18,20,000 by the institution to the students)	35,00,000
8.	Supply Value including cost of fuel for provision of renting of motor vehicle service to NPS Ltd.	88,000

Determine the GST liability (inclusive of liability for the supplies received also) of M/s A2Z for the month of March 2022 with necessary explanation for treatment of each item. Rate of tax for both inward and outward supply is CGST and SGST @ 9% each except for the service of renting a vehicle for which CGST and SGST @ 2.5% each is applicable. All the supplies are intra-state only.

#### ANSWER

Computation of GST payable by A2Z, a proprietary firm for the month of March, 2022:

S. No.	Particulars	Note	Taxable Value (₹)	CGST	SGST
	OUTWARD SUPPLIES				
1.	Amount collected for loading, unloading, packing, and warehousing of potato chips.	1	15,000	₹1,350	₹1,350
2.	Interest received on fixed deposits with APNA Bank by the firm.	2	Nil	-	-
3.	Professional services provided to foreign diplomatic mission located in India.	3	50,000	₹4,500	₹4,500
4.	Recovery agent services provided to ABC Finance Ltd. a NBFC Located in Delhi.	4	Nil	-	-
5.	Security services provided to XYZ Ltd. a registered person under GST.	5	Nil	-	-
6.	Receipts from running an educational institution (including receipts for providing residential dwelling service of ₹ 18, 20,000 by the Institution to the students)	6	Nil	-	-
7.	Supply Value including cost of fuel for provision of renting of motor vehicle service to NPS Ltd.	7	Nil	-	-
	INWARD SUPPLIES				
8.	Fees paid for yoga camp conducted by a charitable trust registered under section 12AB of the Income-tax Act, 1961 for employees of the firm.	8	Nil	-	-
	<b>Gross GST payable</b>			<b>₹5,850</b>	<b>₹5,850</b>

#### Notes to above:

- Potato Chips are not agricultural produce and warehousing of the same is not covered under exemptions under Notification No. 12/2017.
- Interest on loans (or) advances (or) deposits is covered under exemptions.
- Services provided by Foreign diplomatic mission located in India is exempted. However, Services provided to such foreign diplomatic mission is not exempted.
- Recovery agent services provided to banking company or financial institution or NBFC is covered under reverse charge mechanism as per Sec. 9(3) read with Notification No. 13/2017. In the preset case, the said service is taxable in the hands of ABC Finance Ltd. NBFC under RCM.

5. Security services provided by a person other than body corporate to a registered person not opting for composition scheme (or) not registered only to deduct TDS under Sec. 51 is covered under RCM as per Sec. 9(3) read with Notification No. 13/2017. In the present case, supplier is a proprietary firm (other than Body Corporate) and recipient is registered. Therefore, GST is payable by XYZ Ltd. under RCM.
6. Services provided by an educational institution to its students, faculty and staff is exempted. In the present case, entire receipts including by way of residential accommodation is exempted.
7. In case of renting of motor vehicle by a person other than body corporate to body corporate, where the rate of GST charged is 5%, is taxable under RCM as per Sec. 9(3) read with Notification No. 13/2017. In the present case, supplier is proprietary firm (Other than body corporate) and recipient is body corporate and the applicable rate of GST is 5%. Therefore, GST payable by NPS Ltd. under RCM. (Alternatively, it can be assumed that motor vehicle is designed to carry goods & GST Payable under FCM by A2Z)
8. "Advancement of Yoga" is covered under charitable activities and amount collected by the charitable trust is not chargeable to GST and accordingly it is irrelevant for ITC computation.

#### QUESTION 9

Swasthya Nursing Home, a clinical establishment, offers the following services:

- I. Rooms provided to the in-patients where the room charges per day are ₹ 6,500.
- II. Plastic surgery conducted to repair cleft lip of a new born baby.
- III. Air ambulance services to transport critically ill patients from distant locations to Swasthya Nursing Home.
- IV. Supply of food to the in-patients as per the advice of the doctor/nutritionist from its restaurant - Annapurna Bhawan - located in the basement of Swasthya Nursing Home. The food is prepared by its employees and nothing is outsourced to any third-party vendors.
- V. Homeopathic medical treatment.

Swasthya Nursing Home also operates a cord blood bank which provides services in relation to preservation of stem cells.

Determine whether GST is payable in respect of each of the above services provided by Swasthya Nursing Home.

#### ANSWER

Health care services provided by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST vide Notification No. 12/2017 CT (R) dated 28.06.2017. In light of the same, the eligibility to exemption in respect of each service offered by Swasthya Nursing Home is examined below:

- I. **Not Exempt.** Exemption available to health care services provided by a clinical establishment shall not apply to the services provided by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neo natal Intensive Care Unit (NICU)] having room charges exceeding ₹ 5000 per day to a person receiving health care services.
- II. **Exempt.** Health care service does not include, inter alia, cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma. Therefore, plastic surgeries will not be entitled to the said exemption, but the plastic surgery conducted to repair a cleft lip will be eligible for exemption as it reconstructs anatomy or functions of body affected due to congenital defects (cleft lip).
- III. **Exempt.** Health care service includes services by way of transportation of the patient to and from a clinical establishment. Thus, air ambulance service to transport critically ill patients to Swasthya Nursing Home would be eligible for exemption under the said notification.
- IV. **Exempt.** Circular No. 32/06/2018 GST dated 12.02.2018 has clarified that food supplied by the hospital canteen to the in-patients as advised by the doctor/nutritionists is a part of

composite supply of health care services and is not separately taxable. Thus, it is exempt from GST.

- V. **Exempt.** Since Homeopathy is a recognized system of medicine in terms of section 2(h) of Clinical Establishments Act, 2010, the same would be eligible for exemption under the said notification.

Further, exemption available to services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation has been withdrawn and thus, said services are no longer exempt from GST. Therefore, services provided in relation to preservation of stem cells by the cord blood bank operated by Swasthya Nursing Home will be liable to GST.

#### QUESTION 10

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.

#### ANSWER

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 11

Musicera Pvt. Ltd. owned by Nitish Daani - a famous classical singer - wishes to organise a 'Nitish Daani Music Concert' in Gurugram (Haryana). Musicera Pvt. Ltd. (registered in Ludhiana, Punjab) enters into a contract with an event management company, Supriya (P) Ltd. (registered in Delhi) for organising the said music concert at an agreed consideration of ₹ 10,00,000. Supriya (P) Ltd. books the lawns of Hotel Dumdum, Gurugram (registered in Haryana) for holding the music concert, for a lump sum consideration of ₹ 4,00,000. Musicera Pvt. Ltd. fixes the entry fee to the music concert at ₹ 5,000. 400 tickets for 'Nitish Daani Music Concert' are sold.

You are required to determine the CGST and SGST or IGST liability, as the case may be, in respect of the supply(ies) involved in the given scenario.

Will your answer be different if the price per ticket is fixed at ₹ 450?

Note: Rate of CGST and SGST is 9% each and IGST is 18%. All the amounts given above are exclusive of taxes, wherever applicable.

#### ANSWER

In the given situation, three supplies are involved:

- I. Services provided by Musicera Pvt. Ltd. to audiences by way of **admission** to music concert.
- II. Services provided by Supriya (P) Ltd. to Musicera Pvt. Ltd. by way of **organising** the music concert.
- III. Services provided by Hotel Dumdum to Supriya (P) Ltd. by way of **accommodation** in the Hotel lawns for organising the music concert.

The CGST and SGST or IGST liability in respect of each of the above supplies is determined as under:

- i. As per the provisions of **section 12(6)**, the place of supply of services provided by way of admission to, inter alia, a cultural event shall be the place where the event is actually held. Therefore, the place of supply of services supplied by Musicera Pvt. Ltd. (Ludhiana, Punjab) to audiences by way of admission to the music concert is the location of the Hotel Dumdum, i.e. **Gurugram, Haryana**.  
Since the location of the supplier (Ludhiana, Punjab) and the place of supply (Gurugram, Haryana) are in different States, IGST will be leviable.  
Therefore, IGST leviable will be computed as follows:  
Consideration for supply (400 tickets @ ₹ 5,000 per ticket) = ₹ 20,00,000  
IGST @ 18% on value of supply = ₹ 20,00,000 × 18% = **₹ 3,60,000**.
- ii. **Section 12(7)(a)(i)** stipulates that the place of supply of services provided by way of organization of, inter alia, a cultural event to a registered person is the location of such person.  
Therefore, the place of supply of services supplied by Supriya (P) Ltd. (Delhi) to Musicera Pvt. Ltd. (Ludhiana, Punjab) by way of organising the music concert is the location of the recipient, i.e. **Ludhiana (Punjab)**.  
Since the location of the supplier (Delhi) and the place of supply (Ludhiana, Punjab) are in different States, IGST will be leviable.  
Therefore, IGST leviable will be computed as follows:  
Consideration for supply = ₹ 10,00,000  
IGST @ 18% on value of supply = ₹ 10,00,000 × 18% = **₹ 1,80,000**

- iii. As per the provisions of section 12(3)(c) of the IGST Act, 2017, the place of supply of services, by way of accommodation in any immovable property for organizing, inter alia, any cultural function shall be the location at which the immovable property is located.

Therefore, the place of supply of services supplied by Hotel Dumdum (Gurugram, Haryana) to Supriya (P) Ltd. (Delhi) by way of accommodation in Hotel lawns for organising the music concert shall be the location of the Hotel Dumdum, i.e. Gurugram, Haryana.

Since the location of the supplier (Gurugram, Haryana) and the place of supply (Gurugram, Haryana) are in the same State, CGST and SGST will be leviable.

**Therefore, CGST and SGST leviable will be computed as follows:**

Consideration for supply = ₹ 4,00,000

CGST @ 9% on value of supply = ₹ 4,00,000 × 9% = ₹ 36,000

SGST @ 9% on value of supply = ₹ 4,00,000 × 9% = ₹ 36,000

**If the price for the entry ticket is fixed at ₹ 450**, answer will change in respect of supply of service provided by way of admission to music concert, as mentioned in point (i) above. There will be **No IGST liability** if the consideration for the ticket is ₹ 450 as the inter-State services by way of right to admission to, inter alia, musical performance are exempt from IGST vide Notification No. 9/2017 IT (R) dated 28.06.2017, if the consideration for right to admission to the event is not more than ₹ 500 per person.

**However, there will be no change in the answer in respect of supplies mentioned in point (ii) and (iii) above.**

## QUESTION 12

Determine the place of supply for the following independent cases:

- I. Festival Event, an event management company at Mumbai, organises two business promotion events for Prabhu Enterprises (Registered in Ahmedabad, Gujarat) at New Delhi and in Malaysia.
- II. Global Planners (Jodhpur, Rajasthan) is hired by Mr. John (unregistered person based in Kochi, Kerala) to plan and organize his son's wedding at Mumbai, Maharashtra. Will your answer be different if the wedding is to take place in Singapore?
- III. Dhirubhai Pvt. Ltd. (New Delhi) imports a machine from Japan for being installed in its factory at New Delhi. To install such machine, Dhirubhai Pvt. Ltd. takes the service of an engineer who comes to India from Japan for this specific installation.
- IV. Mr. Gogoi, an architect (New Delhi), provides professional services to Mr. George of New York in relation to his immovable property located in Pune.
- V. Mr. Jigar, an unregistered person based in New Delhi hires a yacht from a company based in London, UK for 20 days.

## ANSWER

- (i) As per sec. 12(7) of IGST Act, 2017, in case of services by way of organization of an event is provided to a registered person, place of supply is the location of recipient.  
In the present case, the event management services are provided to Prabhu Enterprises, Gujarat, a registered person. Thus, place of supply would be Gujarat, even though the event is held in New Delhi and Malaysia.
- (ii) As per Section 12(7) of IGST Act, 2017, in case of services by way of organization of an event is provided to an unregistered person and event is held in India, the place of supply is the location where the event is actually held and if the event is held outside India, the place of supply is the location of recipient.  
In the present case, Mr. John (Recipient) is unregistered and event is held in India, place of supply is the location where the event is actually held i.e., Mumbai (Maharashtra). However, if his son's wedding takes place in Singapore, the place of supply is the location of recipient, i.e., Kochi (Kerala).

- (iii) As per section 13 of the IGST Act, 2017, place of supply of services requiring physical presence of goods on which the services are to be performed is the location where the service is actually performed. Thus, in given case, the place of supply of installation service, which requires the physical presence of machinery, is the location where the service is actually performed, i.e. New Delhi.
- (iv) As per section 13 of the IGST Act, 2017, place of supply of services supplied directly in relation to an immovable property is the location of immovable property located or intended to be located. Thus, in given case, the place of supply is the location of immovable property, i.e. Pune.
- (v) As per section 13 of the IGST Act, 2017, place of supply of services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of 1 month is the location of the supplier of services. Thus, in given case, the place of supply is the location of the supplier of services, i.e., London.

### QUESTION 13

Shri Krishna Pvt. Ltd., a registered dealer, furnishes the following information relating to goods sold by it to Shri Balram Pvt. Ltd. in the course of Intra-State –

- (i) 'Price of the goods' ₹1,00,000
- (ii) 'Municipal Tax' ₹2,000
- (iii) 'Inspection charges' ₹15,000
- (iv) 'Subsidies received from Shri Ram Trust (As the product is going to be used by blind association)' ₹50,000
- (v) 'Late fees for delayed payment (Though Shri Balram Pvt. Ltd. made late payment but these charges are waived by Shri Krishna Pvt. Ltd.) – ₹1,000
- (vi) 'Shri Balram Pvt. Ltd. paid to RadhePvt. Ltd. (on behalf of Shri Krishna Pvt. Ltd.) Weighment charges.' ₹2,000

According to GST Law, determine the value of taxable supply made by Shri Krishna Pvt. Ltd. Items given in Points (ii) to (vi) are not considered while arriving at the price of the goods given in point no. (i)

### ANSWER

The value for GST is as follows –

Particulars	Amount (₹)
(i) Price of the goods	₹1,00,000
(ii) Municipal Tax (presumed that it has been charged and recovered from customer separately) – includible as only GST is not includible – section 15(2)(a) of CGST Act	₹ 2,000
(iii) Inspection charges (presumed that it has been charged and recovered from customer separately)	₹15,000
(iv) Subsidies received from Shri Ram Trust (As the product is going to be used by blind association, includible as only subsidy received from Government is not includible) already included as the given price without considering subsidy.	-
(v) Late fees for delayed payment (Though Shri Balram Pvt. Ltd. made late payment but these charges are waived by Shri Krishna Pvt. Ltd.) – ₹1,000 (not to be added as tax is payable only when late payment charges are actually received)	—

(vi) Weighment charges paid by Shri Balram Pvt. Ltd. to Radhe Pvt. Ltd. (on behalf of Shri Krishna Pvt. Ltd.) (includible as amount paid on behalf of supplier is as good as amount paid to supplier and hence, forms part of transaction value)	₹2,000
<b>Total Value</b>	<b>₹1,19,000</b>

#### QUESTION 14

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

- 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.
- 2,000 US \$ are sold to Sriniti 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:

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

#### ANSWER

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

- 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:**  

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

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

$$= \text{₹600}$$
- 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 15

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.
- 5) 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)

#### ANSWER

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

Particulars	Amount	Rate	Taxable Value
<b>General policies:</b>			
I. First year premium	5,000	25%	1,250
II. Subsequent years i.e., policies issued in earlier years	7,000	12.5%	875
<b>Single premium annuity policies</b>	850	10%	85
<b>Only Risk Cover Policies</b> Since the entire premium is for risk cover, hence, the option under Rule 32(4) is not available.	500	100%	500
<b>Life micro-insurance policies</b> [Exempt vide Entry 36 of Notification No. 12/2017-CT (Rate)]	10	Exempt	-
<b>Variable Insurance Policies:</b> [Gross premium - Amount allocated towards investment] [₹ 8,000 - (80% of 8000)] = ₹ 1600	8,000	-	1,600
<b>Total Taxable Value</b>			<b>4,310</b>

#### QUESTION 16

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.?

#### ANSWER

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
<b>Value of supply</b>	<b>5,97,000</b>

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, Jhumroo 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 17

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

**ANSWER**

Computation of GST liability:

<u>Particulars</u>	<u>Amount (₹)</u>
	FCM
GST on outward supply (Note 1)	3,60,000
GST payable on legal services under reverse charge (Note 3)	-
Total GST liability	3,60,000
<b>Less: ITC (Note 2)</b>	<b>(2,33,333)</b>
Total Net GST payable	₹ 1,26,666

**Note 1: Computation of GST on outward supply:**

<u>Particulars</u>	<u>Value (₹)</u>	<u>GST (₹)</u>
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
<b>Total</b>	<b>45,00,000</b>	<b>3,60,000</b>

**Note 2: Computation of ITC:**

<u>Particulars</u>	<u>Value (₹)</u>
GST on inward supply (₹. 25,00,000 × 12%)	3,00,000
GST payable on legal services under reverse charge, see note 3 below*	Nil
Total ITC as per Electronic credit Ledger	3,00,000
<b>Less: Common credit relating to exempt supply = <math>\left[ 3,00,000 \times \frac{10,00,000}{45,00,000} \right]</math></b>	<b>(66,667)</b>
[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 for utilization	2,33,333

**Note 3:**

The Threshold limit for Lakshmi Narayanan is ₹ 40 lakhs as he is making supply of goods exclusively. Since, aggregate turnover of Previous year is ₹ 35 lakhs which is less than the threshold limit, the legal services availed shall not be subject to RCM.

**QUESTION 18**

Sakshitha Pvt. Ltd., a registered supplier, furnish the following details relating to supplies effected during December, 2021:

<u>Particulars</u>	<u>Amount (₹)</u>
Sale price charged to customers within State (Excluding GST)	10,00,000
Service charges levied in the invoices	11,000
Packing and forwarding expenses incidental to sale	14,200
Weighment charges, shown separately in invoices	7,800
Commission charged to buyers	15,000
Prompt payment discount, indicated in invoice 1 %, if payment made within 1 month.	

The rates of taxes for the goods supplied are as under:

Particulars	Rate
CGST	6%
SGST	6%
IGST	12%

Additional information: 60% of the customers did not make the payment within one month from the date of supply. Hence, the supplier recovered the prompt payment discount offered to them. Determine GST liability.

#### ANSWER

##### Determination of GST liability of Sakshitha Pvt. Ltd.

Particulars	Amount (₹)
Sale price charged to customers within State (Excluding GST)	10,00,000
Add: Service charges levied in the invoices [See Note 1]	11,000
Packing and forwarding expenses incidental to sale [See Note 1]	14,200
Weighment charges, shown separately in invoices [See Note 1]	7,800
Commission charged to buyers [See Note 1]	15,000
	10,48,000
Less: Prompt payment discount, indicated in invoice 1% [See Note 2]	10,000
Value of taxable supply	10,38,000
SGST payable at 6%	62,280
CGST at 6%	62,280

#### Notes:

- As per Section 15 of the CGST Act, 2017, all incidental receipts like service charges, commission, packing and forwarding, weighment charges will form part of the taxable supply.
- Prompt payment discount is deductible, because it is known at the time of supply. It is immaterial that 60% of the customers did not make the payment within the eligible period of 1 month. When the supplier issues debit note and recovers the same from buyers, the same will become taxable then.

#### QUESTION 19

PQR Company Ltd., a registered supplier of Bengaluru (Karnataka), is a manufacturer of goods. The company provides the following information pertaining to GST paid on input supplies during the month of April, 2021.

Sl. No.	Items	GST paid in (₹)
(i)	Life Insurance premium paid by the company on the life of factory employees as per the policy of the company.	1,50,000
(ii)	Raw materials purchased for which invoice is missing but delivery challan is available.	38,000
(iii)	Raw materials purchased which are used for zero rated outward supply.	50,000
(iv)	Works contractor's service used for repair of factory building which is debited in the profit and loss account of company.	30,000
(v)	Company purchased the capital goods for ₹4,00,000 and claimed depreciation of ₹44,800 (@10%) on the full amount of ₹4,48,000 under Income Tax Act, 1961.	48,000
(vi)	In the month of September, 2020, PQR Company Ltd. availed input tax credit of ₹2,40,000 on purchase of raw material which was directly sent to job worker's premises under a challan on 25-09-2020. The said raw material has not been received back from the Job worker up to 30-04-2021.	

All the above input supplies except (iii) above have been used in the manufacture of taxable goods. Compute the amount of net Input Tax Credit available for the month of April, 2021 with necessary explanations for your conclusion for each item. You may assume that all the other conditions necessary for availing the eligible input tax credits have been fulfilled.

**ANSWER**

**Eligibility of ITC in each case is as follows –**

Sl. No.	Items	Eligibility of ITC	Amount (₹)
(i)	Life Insurance premium paid by the company on the life of factory employees as per the policy of the company.	<b>Not eligible</b> – blocked credit under section 17(5)(b), as it is not a statutory obligation	
(ii)	Raw materials purchased for which invoice is missing but delivery challan is available.	<b>Ineligible</b> as possession of tax invoice is essential as per section 16(2)(b)	
(iii)	Raw materials purchased which are used for zero rated outward supply.	<b>Eligible</b> even if no GST payable on outward supply– section 16(2) of IGST Act [Zero rated supply is for exports or supplies to SEZ and treated as taxable supplies for availment of ITC	50,000
(iv)	Works contractor's service used for repair of factory building which is debited in the profit and loss account of company.	<b>Eligible</b> if expenses not capitalized in books of account – section 17(5)(c)	30,000
(v)	Company purchased the capital goods for ₹4,00,000 and claimed depreciation of ₹44,800 (@10%) on the full amount of ₹4,48,000 under Income Tax Act, 1961.	<b>Not eligible</b> if depreciation claimed on tax component – section 16(3)	
(vi)	In the month of September, 2020, PQR Company Ltd. availed input tax credit of ₹2,40,000 on purchase of raw material which was directly sent to job worker's premises under a challan on 25-09-2020. The said raw material has not been received back from the Job worker up to 30-04-2021.	Time limit of one year is available to bring goods in factory as per section 143(1)(a) of CGST Act. <b>Hence, reversal of ITC is not required.</b>	
	<b>Eligible ITC for April 2021 to PQR Company Ltd.</b>		<b>80,000</b>

**QUESTION 20**

Arise India Pvt. Ltd., a company engaged in manufacturing of various goods, has its corporate office at Mumbai and manufacturing units in Pune and Chennai and service centres in Kolkata and Bengaluru. The manufacturing units at Pune and Chennai and service centres at Kolkata and Bengaluru are registered in Maharashtra, Tamil Nadu, West Bengal and Karnataka respectively. The corporate office is registered as an input service distributor. All the units and centres of Arise India Pvt. Ltd. are operational in the current year. The corporate office intends to distribute input tax credit (ITC) for the month of October 20XX. The following details are available for such distribution:

Table – 1

Unit/Centre	Turnover for the quarter ending September 20XX* (₹)	Eligible ITC on input services attributable to a specific unit/centre, for the month of October 20XX (₹)
Pune	20,00,000	IGST – ₹ 3,00,000; CGST– ₹ 30,000; SGST– ₹ 30,000

Chennai	30,00,000	IGST – ₹ 24,000; CGST – ₹ 6,000; SGST – ₹ 6,000
Kolkata	10,00,000	Nil
Bengaluru	40,00,000	Nil

\*Note: Turnover excludes all taxes and duties

Table – 2

S.No	Particulars	CGST	SGST	IGST
(i)	Input services used by all units and centres			
	a) Eligible ITC under the provisions of GST law	1,20,000	1,20,000	2,40,000
	b) Ineligible ITC in terms of Section 17(5) of the CGST Act, 2017	40,000	40,000	80,000
(ii)	Inputs used by Pune unit and Kolkata centre	60,000	60,000	
(iii)	Input services used by Chennai unit and Bengaluru Centre (ITC pertaining to such invoices is eligible ITC under the provisions of GST law)	30,000	30,000	10,000

Chennai unit manufactures exempted products.

Compute the amount of ITC to be distributed to each of the units and centres.

#### ANSWER

Computation of ITC to be distributed by ISD:

S.No	Particulars	Pune Unit (₹)	Chennai Unit (₹)	Kolkata Unit (₹)	Bengaluru Unit (₹)
(i)	IGST credit of ₹ 3,00,000, CGST credit of ₹ 30,000 and SGST credit of ₹ 30,000 specifically attributable to Pune unit [Note 1]	3,00,000 (IGST) 30,000 (CGST) 30,000 (SGST)			
(ii)	IGST credit of ₹ 24,000, CGST credit of ₹ 6,000 and SGST credit of ₹ 6,000 specifically attributable to Chennai unit [Note 2]		36,000 (IGST)		
(iii)	Eligible ITC pertaining to input services used by all units and centres [Note 3]	24,000 (CGST) 24,000 (SGST) 48,000 (IGST)	1,44,000 (IGST)	48,000 (IGST)	1,92,000 (IGST)
(iv)	Ineligible ITC pertaining to input services used by all units and centres [Note 4]	8,000 (CGST) 8,000 (SGST) 16,000 (IGST)	48,000 (IGST)	16,000 (IGST)	64,000 (IGST)
(v)	Inputs used by Pune unit and Kolkata centre [Note 5]	Nil	Nil	Nil	Nil
(vi)	Input services used by Chennai unit and Bengaluru centre [Note 6]		30,000 (IGST)		40,000 (IGST)

**Notes:**

(1) IGST credit of ₹ 3,00,000, CGST credit of ₹ 30,000 and SGST credit of ₹ 30,000 specifically attributable to Pune unit will be distributed as IGST credit of ₹ 3,00,000, CGST credit of ₹ 30,000 and SGST credit of ₹ 30,000 respectively, only to Pune unit, since recipient is located in the same State in which ISD is located [Section 20(2)(c) of the CGST Act, 2017 read with clauses (e) & (f)(i) of sub-rule (1) of rule 39 of the CGST Rules, 2017].

(2) Total GST credit (CGST+ SGST + IGST) of ₹ 36,000 specifically attributable to Chennai unit will be distributed as IGST credit of ₹ 36,000, only to Chennai unit, since recipient and ISD are located in different States [Section 20(2)(c) of the CGST Act, 2017 read with clauses (e) & (f)(ii) of sub-rule (1) of rule 39 of the CGST Rules, 2017].

(3) Eligible ITC of CGST [₹ 1,20,000], SGST [₹ 1,20,000] and IGST [₹ 2,40,000] will be distributed among the units and centres in the ratio of their turnover of the last quarter [Section 20(2)(e) of the CGST Act, 2017 read with clause (a)(ii) of the explanation to the said section and rule 39(1)(b) of the CGST Rules, 2017].

Ratio of the turnover of the units and centres in last quarter, previous to the month during which ITC is to be distributed:

= 20 lakh: 30 lakh: 10 lakh : 40 lakh

= **2: 3: 1: 4**

Therefore,

Pune unit will get ₹ 24,000 [ $1,20,000 \times (2/10)$ ] as CGST credit, ₹ 24,000 [ $1,20,000 \times (2/10)$ ] as SGST credit and ₹ 48,000 [ $2,40,000 \times (2/10)$ ] as eligible IGST credit [Clauses (e) & (f)(i) of sub-rule (1) of rule 39 of the CGST Rules, 2017].

Chennai unit will get ₹ 1,44,000 [ $4,80,000^2 \times (3/10)$ ] as IGST credit [Clauses (e) & (f)(ii) of sub-rule (1) of rule 39 of the CGST Rules, 2017]. The credit attributable to a recipient is distributed even if such recipient is making exempt supplies [Clause d) of sub-rule (1) of rule 39 of the CGST Rules, 2017].

Kolkata centre will get ₹ 48,000 [ $4,80,000 \times (1/10)$ ] as IGST credit [Clauses (e) & (f)(ii) of sub-rule (1) of rule 39 of the CGST Rules, 2017].

Bengaluru will get ₹ 1,92,000 [ $4,80,000 \times (4/10)$ ] as IGST credit [Clauses (e) & (f)(ii) of sub-rule (1) of rule 39 of the CGST Rules, 2017].

(4) **Ineligible ITC of CGST [₹ 40,000], SGST [₹ 40,000] and IGST [₹ 80,000] will also be distributed among the units and centres in the ratio of their turnover of the last quarter** [Section 20(2)(e) of the CGST Act, 2017 read with clause (a)(ii) of the explanation to the said section and rule 39(1)(b) of the CGST Rules, 2017].

Ratio of the turnover of the units and centres in last quarter, previous to the month during which ITC is to be distributed:

= 20 lakh : 30 lakh : 10 lakh : 40 lakh

= **2: 3: 1: 4**

Therefore,

Pune unit will get - ₹ 8,000 [ $40,000 \times (2/10)$ ] as CGST credit, ₹ 8,000 [ $40,000 \times (2/10)$ ] as SGST credit and ₹ 16,000 [ $80,000 \times (2/10)$ ] as eligible IGST credit.

Chennai unit will get - ₹ 48,000 [ $1,60,000 \times (3/10)$ ] as IGST credit.

Kolkata centre will get - ₹ 16,000 [ $1,60,000 \times (1/10)$ ] as IGST credit.

Bengaluru will get - ₹ 64,000 [ $1,60,000 \times (4/10)$ ] as IGST credit.

(5) **ISD mechanism is meant only for distributing the credit on common invoices pertaining to input services only and not goods (inputs or capital goods).**

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<sup>2</sup> ₹ 1,20,000 + ₹ 1,20,000 + ₹ 2,40,000

(6) Eligible ITC of CGST [₹ 30,000], SGST [₹ 30,000] and IGST [₹ 10,000] will be distributed among the Chennai unit and Bengaluru centre in the ratio of their turnover of the last quarter [Section 20(2)(d) of the CGST Act, 2017 read with clause (a)(ii) of the explanation to the said section and rule 39(1)(b) of the CGST Rules, 2017].

Ratio of the turnover of the Chennai unit and Bengaluru centre in last quarter, previous to the month during which ITC is to be distributed:

= 30 lakh: 40 lakh

=3:4

Therefore,

Chennai unit will get – ₹ 30,000 [₹ 70,000 × (3/7)] as IGST credit.

Bengaluru unit will get – ₹ 40,000 [₹ 70,000 × (4/7)] as IGST credit.

### QUESTION 21

On 25th August, M/s Agarwal & Agarwal, a registered supplier of taxable goods located in Bengaluru (Karnataka), purchased one machine for ₹ 12,39,000 (including IGST) from one supplier of Maharashtra who issued the invoice on the same date. M/s Agarwal & Agarwal put the machinery to use on the same day and availed ITC for the eligible amount.

M/s Agarwal & Agarwal used the machine in the process of manufacture of taxable goods. However, M/s Agarwal & Agarwal sold this machine to Mr. Suresh Kumar of Andhra Pradesh on 20th August of next year for ₹ 7,50,000 (excluding IGST).

With reference to section 18(6), determine the amount payable, if any, by M/s Agarwal & Agarwal at the time of sale of the machine.

Note: The applicable rate of IGST is 18%.

### ANSWER

As per section 18(6), if capital goods/ plant and machinery on which ITC has been taken are supplied (outward) by a registered person, he must pay an amount that is higher of the following:

- ITC taken on such goods reduced by 5% per quarter of a year or part thereof from the date of issue of invoice for such goods or
- tax on transaction value of such outward supply determined under section 15.

Accordingly, the amount payable on supply of machinery by M/s Agarwal & Agarwal shall be computed as follows:

Particulars	Amount (₹)
ITC taken on the machinery (₹ 12,39,000 × 18/118)	1,89,000
Less: Input tax credit to be reversed @ 5% per quarter for the period of use of machine	
i. For the previous year = (₹ 1,89,000 × 5%) × 3 quarters	(28,350)
ii. For the current year = (₹ 1,89,000 × 5%) × 2 quarters	(18,900)
Amount required to be paid (A) **	1,41,750
Duty leviable on transaction value (₹ 7,50,000 × 18%) (B)	1,35,000
Amount payable towards disposal of machine is higher of (A) and (B)	1,41,750
Thus, M/s Agarwal & Agarwal is required to pay an amount of ₹ 1,41,750 at the time of sale of machinery.	

\*\* In the above solution, amount payable towards disposal of machine has been computed on the basis of rule 40(2), i.e. ITC to be reversed for the period of use of capital goods/machine has been computed @ 5% for every quarter or part thereof from the date of the issue of invoice.

**Author's Note-** However, the said amount can also be computed in accordance with rule 44(6), i.e., ITC involved in the remaining useful life (in months) of the capital goods/ machine can be reversed on pro-rata basis, taking the useful life as 5 years.

**QUESTION 22**

Quanto Enterprises is not required to register under CGST Act. However, it applied for voluntary registration on 17th September. Registration certificate has been granted to the firm on 25th September. The CGST and SGST liability of the firm for the month of September is ₹ 24,000 each. The firm is not engaged in making inter-State outward taxable supplies. Quanto Enterprises provides the following information regarding capital goods and inputs held in stock by it as on 24th September:

Particulars	Amount (₹)
Inputs procured on 2 <sup>nd</sup> September lying in stock	
- CGST @ 6%	4,500
- SGST @ 6%	4,500
Input received on 21 <sup>st</sup> July contained in semi-finished goods held in stock:	
- CGST @ 6%	7,500
- SGST @ 6%	7,500
Value of inputs contained in finished goods held in stock- ₹ 2,00,000 [Such inputs were procured on 19th September last year. Invoice for the goods was also dated the same day]	
- IGST @ 18%	36,000
Inputs valued at ₹ 50,000 procured on 13 <sup>th</sup> September lying in stock:	
- IGST @ 18%	9,000
Capital goods procured on 12 <sup>th</sup> September	
-CGST @ 6%	12,000
-SGST @ 6%	12,000

You are required to compute the net GST payable from Electronic Cash Ledger by Quanto Enterprises for the month of September.

You are also required to mention reasons for treatment of all above items.

**ANSWER**

Computation of net GST payable from Electronic Cash Ledger by Quanto Enterprises for the month of September:

Particulars	CGST (₹)	SGST (₹)
Output tax liability for the month	24,000	24,000
Less: ITC [Notes 1 & 2]	9,000 (IGST)	12,000 (SGST)
	12,000 (CGST)	
<u>Net GST payable (from electronic cash ledger)</u>	<u>3,000</u>	<u>12,000</u>

**Notes:**

- Credit of IGST is first utilized towards payment of IGST and thereafter for CGST and SGST in any order and in any proportion. Credit of CGST and SGST can be utilized only after IGST credit has been fully utilized [Rule 88A read with sections 49(5), 49A and 49B]. Since Quanto Enterprises does not make any inter-State supply, in the above answer, entire credit of IGST has been utilized towards payment of CGST. Credit of IGST can also be utilised against SGST liability or against both CGST and SGST liabilities in any proportion and thus, the final answer will change accordingly.
- As per **section 18(1)(b)** a person who takes voluntary registration is entitled to take credit of input tax in respect of **inputs held in stock and inputs contained in semi-finished/ finished goods held in stock on the day immediately preceding the date of grant of registration**. However, **he cannot take ITC in respect of capital goods held on the day immediately preceding the date of grant of registration**.

ITC on inputs needs to be availed within 1 year from the date of issue of the invoice by the supplier [Section 18(2)].

In this case, since Quanto Enterprises has been granted voluntary registration on 25th September, it will be entitled to ITC on inputs held in stock and inputs contained in semi-finished/ finished goods held in stock, on 24th September.

In view of the said provisions, eligible ITC for Quanto Enterprises is computed as follows:

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Inputs held in stock since 2 <sup>nd</sup> September	4,500	4,500	-
Inputs received on 21 <sup>st</sup> July contained in semi-finished goods held in stock	7,500	7,500	-
Inputs contained in finished goods held in stock which were procured on 19 <sup>th</sup> September last year [Procured prior to one year, hence ITC cannot be availed]	-	-	Nil
Inputs held on 13 <sup>th</sup> September			9,000
Capital goods procured on 12 <sup>th</sup> September	Nil	Nil	
<b>Total ITC</b>	<b>12,000</b>	<b>12,000</b>	<b>9,000</b>

#### QUESTION 23

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.

#### ANSWER

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)	Nil

Car figures in the list of blocked assets for ITC and hence no ITC can be availed.	
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 24

M/s XYZ, a registered supplier, supplies the following goods and services for construction of buildings and complexes –

- excavators for required period at a per hour rate
- manpower for operation of the excavators at a per day rate
- soil-testing and seismic evaluation at a per sample rate.

The excavators are invariably hired out along with operators. Similarly, excavator operators are supplied only when the excavator is hired out.

M/s XYZ receives the following services:

- Maintenance services for excavators;
- Health insurance for operators of the excavators;
- Scientific and technical consultancy for soil testing and seismic evaluation.

For a given month, the receipts (exclusive of GST) of M/s XYZ are as follows:

- Hire charges for excavators - ₹ 18,00,000
- Service charges for supply of manpower for operation of the excavator - ₹ 20,000
- Service charges for soil testing and seismic evaluation at three sites - ₹ 2,50,000

The GST paid during the said month on services received by M/s XYZ is as follows:

- Maintenance for excavators - ₹ 1,00,000
- Health insurance for excavator operators - ₹ 11,000
- Scientific and technical consultancy for soil testing and seismic evaluation - ₹ 1,00,000

Compute the net GST payable by M/s XYZ from Electronic Cash Ledger for the given month.

Assume the rates of GST to be as under:

Hiring out of excavators – 12%

Supply of manpower services and soil-testing and seismic evaluation services – 18%

(Ignore CGST, SGST or IGST for the sake of simplicity).

Note: - Opening balance of ITC of GST is nil.

#### ANSWER

##### Computation of net GST payable by M/s XYZ

Particulars	GST payable (₹)
Gross GST liability [Refer Working Note 1 below]	2,63,400
Less: ITC [Refer Working Note 2 below]	2,00,000
Net GST payable from Electronic Cash Ledger	63,400

### Working Notes

#### (1) Computation of gross GST liability

Particulars	Value received (₹)	Rate of GST	GST payable (₹)
Hiring charges for excavators	18,00,000	12%	2,16,000
Service charges for supply of manpower for operation of excavators [Refer Note 1]	20,000	12%	2,400
Service charges for soil testing and seismic evaluation [Refer Note 2]	2,50,000	18%	45,000
<b>GST liability</b>			<b>2,63,400</b>

#### Notes:

- Since the excavators are invariably hired out along with operators and excavator operators are supplied only when the excavator is hired out, it is a case of **composite supply** under section 2(30) wherein **the principal supply is the hiring out of the excavator**.  
As per section 8(a), the Composite Supply is treated as the supply of the principal supply. Therefore, the supply of manpower for operation of the excavators will also be taxed at the rate applicable for hiring out of the excavator (principal supply), which is **12%**.
- Soil testing and seismic evaluation services being independent of the hiring out of excavator will be taxed at the rate applicable to them, which is **18%**.

#### Computation of ITC available for set off

Particulars	GST paid (₹)	ITC available (₹)
Maintenance services for excavators [Refer Note 1]	1,00,000	1,00,000
Health insurance for excavator operators [Refer Note 2]	11,000	-
Scientific and technical consultancy [Refer Note 1]	1,00,000	1,00,000
<b>Total ITC available</b>		<b>2,00,000</b>

#### Notes:

- Section 17(5)(d) Blocked credit on goods/ or services received by a taxable person for construction of an immovable property on his own account. Here, though the excavators are used for building projects, the same are not used by M/s. XYZ on its own account for construction of immovable property instead they are used for outward taxable supply of hiring out of machinery. Further, excavators are special purpose vehicles whose credit is not restricted under section 17(5)(a), therefore, ITC on maintenance service for excavators shall be allowed.  
Therefore, the maintenance service for the excavators does not get covered by the bar under section 17 and the credit thereon will be available. The same applies for scientific & technical consultancy for construction projects because in this case also, the service is used for providing the outward taxable supply of soil testing and seismic evaluation service and not for construction of immovable property.
- Section 17(5)(b)(i) allows input tax credit on health insurance only where an inward supply of such services is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply or where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.

In the given case, it is assumed that it is not obligatory for employer to provide health insurance to its employees under any law for the time being in force, therefore the credit thereon will not be allowed.

#### 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.

#### ANSWER

##### 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]	—	—
<b>Aggregate turnover (ATO) liable to composition tax</b>	<b>84,00,000</b>	<b>66,00,000</b>

Rate of composite tax	1%	1%
<b>Total Composite tax [A]</b>	<b>84,000</b>	<b>66,000</b>

**Working Note:**

- 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**.
- 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%
<b>Tax Payable under RCM [B]</b>	<b>25,000</b>	<b>25,000</b>

**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
<b>Total tax liability [A+B]</b>	<b>1,09,000</b>	<b>91,000</b>

**QUESTION 26**

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

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

**ANSWER**

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

- Manufacturers,
- Persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II (restaurant services), and
- 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 27

Agni Limited filed GST return (under section 39) for the month of January 2021 on 11th April, 2021. Original due date for the said return was 20th February, 2021. Details of tax assessed as payable for the said month are given below:

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

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

#### ANSWER

Computation of net GST payable through Electronic Cash Ledger, If ITC balance is ₹70,000:

Particulars	CGST ₹	SGST ₹
Output tax payable	1,80,000	1,80,000
Less: Input tax credit Utilised	(70,000)	(70,000)
Net tax payable under FCM	1,10,000	1,10,000
Add: RCM liability	40,000	40,000
Total Net Tax payable through Electronic Cash Ledger	1,50,000	1,50,000

Due date of filing GSTR – 3B for Jan 2021 is 20<sup>th</sup> Feb 2021

Actual date of filing GSTR – 3B for Jan 2021 is 11<sup>th</sup> April, 2021

Period of delay = 50 days

Interest payable under CGST = ₹1,50,000 × 18% × 50/365 = ₹3,699

Interest payable under SGST = ₹1,50,000 × 18% × 50/365 = ₹3,699

Computation of net GST payable through Electronic Cash Ledger, If ITC balance is ₹2,50,000:

Particulars	CGST ₹	SGST ₹
Output tax payable	1,80,000	1,80,000
Less: Input tax credit Utilised	(1,80,000)	(1,80,000)
Net tax payable under FCM	0	0
Add: RCM liability	40,000	40,000
Total Net Tax payable through Electronic Cash Ledger	40,000	40,000
Excess ITC carried forward	₹2,50,000 (-) ₹1,80,000 = 70,000	₹2,50,000 (-) ₹1,80,000 = 70,000

Due date of filing GSTR – 3B for Jan 2021 is 20<sup>th</sup> Feb 2021

Actual date of filing GSTR – 3B for Jan 2021 is 11<sup>th</sup> April, 2021

Period of delay = 50 days

Interest payable under CGST = ₹40,000 × 18% × 50/365 = ₹986

Interest payable under SGST = ₹40,000 × 18% × 50/365 = ₹986

**Notes:**

1. RCM liability cannot be paid using Electronic Credit Ledger and has to be paid using Electronic Cash Ledger.
2. As turnover information in a month is not available, Rule 86B restriction is not applied i.e., payment of 1% through Electronic Cash ledger.
3. For delay in filing GSTR – 3B, interest shall be payable under Sec. 50 @ 18% on the liability discharged through Electronic Cash Ledger

**QUESTION 28**

Ragini Traders, a registered supplier of Jaipur, is engaged in supply of various goods and services exclusively to Government departments, agencies, local authority and persons notified under section 51 of the CGST Act, 2017.

You are required to briefly explain the provisions relating to tax deduction at source under section 51 and also determine the amount of tax, if any, to be deducted from each of the receivables given below (independent cases) assuming that the payments as per the contract values are made on 31st October. The rates of CGST, SGST and IGST may be assumed to be 6%, 6% and 12% respectively.

- I. Supply of computer stationery to Public Sector Undertaking (PSU) located & registered in Mumbai. Total contract value is ₹ 2,72,000 (inclusive of GST)
- II. Supply of air conditioner to GST department located & registered in Delhi. Total contract value is ₹ 2,55,000 (exclusive of GST)
- III. Supply of generator renting service to Municipal Corporation of Jaipur (not exempt under GST law). Total contract value is ₹ 3,50,000 (inclusive of GST)

**ANSWER**

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

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

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

[Since the total value of supply under the contract [excluding CGST and SGST (being intrastate supply)] exceeds ₹ 2,50,000, tax is required to be deducted.]				
Total		3,125	3,125	5,100

#### QUESTION 29

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

- Sale of goods worth ₹ 1,47,500/- (including GST) by A Ltd., registered supplier of Rajasthan to B Ltd., Gujarat. Also, goods worth taxable value of ₹ 1,40,000/- sold by A Ltd., Rajasthan to B Ltd., Gujarat in the month of September 2023 were returned back in the month of October 2023.
- Value of services provided from 21.10.23 to 30.10.23 by way of transportation of passengers by motor vehicles by X Ltd., registered under GST in Karnataka to Z Ltd., registered under GST in Karnataka amounting to ₹ 5,50,000/- (it includes ₹ 1,50,000/- against transportation services provided by omnibus).
- Miss Zara of Mumbai books a room for 3 days and 2 nights in Raj Niwas Palace, Jodhpur, Rajasthan through Maharaja Resorts Ltd. (MRL), also an ECO registered under GST in Karnataka. MRL is integrated with ROL who has an agreement with Raj Niwas Palace. Raj Niwas Palace is registered under GST in Rajasthan and raises an invoice for ₹ 1,50,000/- to Miss Zara and receives ₹ 1,45,000/- from ROL for the same.

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

Working notes should form part of your answer.

#### ANSWER

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

**QUESTION 30**

Mr. Gauri Shiva, a registered person in Punjab, supplies goods taxable @ 12% in the States of Punjab and Haryana. He has furnished the following details in relation to independent supplies made by him in June, 20x1:-

Supply	Recipient	Nature of Supply	Value (₹)
1.	Mr. A, a registered person	Inter-State	1,20,000
2.	Mr. B, a registered person	Inter-State	1,55,000
3.	Mr. C, an unregistered person	Intra-State	90,000
4.	Mr. D, an unregistered person	Intra-State	1,30,000
5.	Mr. M, an unregistered person	Inter-State	3,00,000
6.	Mr. N, an unregistered person	Inter-State	50,000
7.	Mr. O, an unregistered person	Inter-State	75,000
8.	Mr. P, an unregistered person	Inter-State	2,80,000
9.	Mr. Q, a registered person	Intra-State	1,50,000
10.	Mr. R, a registered person	Intra-State	4,10,000

Discuss the manner in which the details of above supplies are required to be furnished in GSTR-

1. Gauri is registered person as normal supplier but has not opted for QRMP Scheme

**ANSWER**

The aggregate annual turnover of Mr. Gauri Shiva in the preceding Financial Year was ₹ 1.20 crore, so it is eligible to file GSTR- 1 on quarterly basis.

The reporting in GSTR-1 shall be done as per following provisions:

Nature of Supply	Intra or inter	Details in GSTR-1	
B2B Supply (supply to RP)	(intra-state) or (inter-state)	Invoice level details to be furnished	
B2C Supply (Supply to URP)			
Large B2C Invoice (i.e., invoice value > ₹ 1,00,000)	Inter-State	Invoice level details to be furnished	
	Intra-State	Consolidated details to be furnished	<b>Report</b>
Other invoices (i.e., invoice value upto ₹ 1,00,000)	(intra-state) or (inter-state)	Consolidated details to be furnished	1) State Wise (say, Delhi, Punjab etc.) 2) Rate Wise (say, 5%, 12%, 18%, 28%)

Considering above provisions, manner of furnishing details shall be as stated below:

Supply	Recipient	Nature of Supply	Value (₹)	Manner of furnishing details
1.	Mr. A (RP)	Inter-State (B2B)	1,20,000	Invoice-level details
2.	Mr. B (RP)	Inter-State (B2B)	1,55,000	Invoice-level details
3.	Mr. C (URP)	Intra-State (B2C)	90,000	Consolidated details of supplies 3 and 4
4.	Mr. D (URP)	Intra-State (B2C)	1,30,000	
5.	Mr. M (URP)	Inter-State (B2C)	3,00,000	Invoice-level details (being Inter-State Large B2C invoice)
6.	Mr. N (URP)	Inter-State (B2C)	50,000	Consolidated details of supplies 6 and 7 (being Inter-State but not Large B2C invoice)
7.	Mr. O (URP)	Inter-State (B2C)	75,000	

8.	Mr. P (URP)	Inter-State (B2C)	2,80,000	Invoice-level details (being Inter-State Large B2C invoice)
9.	Mr. Q (RP)	Intra-State (B2B)	1,50,000	Invoice-level details
10.	Mr. R (RP)	Intra-State (B2B)	4,10,000	Invoice-level details

### QUESTION 31

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.

### ANSWER

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 –

**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)]**

Where-

"Net ITC" means ITC availed on inputs during the relevant period. Here, Net ITC = ₹3,50,000

"Adjusted total turnover" means the sum total of the value of:

(a) the turnover in a State/ Union territory, as defined under section 2(112), excluding turnover of services; &

(b) 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 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 × ₹10,00,000/ ₹28,00,000)- (₹3,50,000 × ₹ 50,000/₹5,32,000) =**

**₹1,25,000 - ₹ 32,895 = ₹92,105**

- 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:

Maximum Refund = Net ITC X [(Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services)/Adjusted total turnover]

where-

"Net ITC" means ITC availed on inputs and input services during the relevant period. 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.

\* 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 32

EverYoung Manufacturers LLP, a registered supplier under GST is engaged in manufacturing of ayurvedic cosmetic products within the State of Gujarat. It provides the following information for the month of January, 2023

Particulars for the month of January, 2023	Rate of CGST	Rate of SGST	Value of supply (excluding GST)
Outward supply of skin care products	2.5%	2.5%	50,00,000
Outward supply of skin care products	6%	6%	50,000
Inward supply of Inputs for skin care products	6%	6%	35,00,000
Inward supply of Input services	2.5%	2.5%	5,00,000
Inward supply of capital goods	9%	9%	25,00,000

Other information:

- ITC in respect of all types of inward supply as given above was claimed in the relevant GSTR 3B and the same was also reflected in GSTR 2B.
- All other conditions for claiming the refund are duly complied with.
- No refund was claimed for the month of January 2023.

You are requested to compute the 'Maximum refund amount' eligible for inverted duty structure.

Working notes should form part of your answer.

### ANSWER

Particulars
In the case of refund on account of inverted duty structure, refund of ITC is granted as per the following formula:
Maximum Refund Amount = $\frac{(\text{Turnover of inverted rated supply of goods and services})}{\text{Adjusted Total Turnover}} \times$
Net ITC - Tax payable on such inverted rated supply of goods and services $\times \frac{\text{Net ITC}}{\text{ITC availed on inputs and input services}}$

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

### QUESTION 33

Bhagwan Manufacturers & Exporters Company (BMEC) is registered under GST in the State of Rajasthan and supplies various goods in domestic as well as in international markets. It is engaged in both manufacturing and trading of goods. It exports goods without payment of tax under bond or letter of undertaking in accordance with the provisions of section 16(3) of the IGST Act, 2017. BMEC provides the following information in relation to various supplies made by it during October, 2023 tax period:

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

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

S.No.	Particulars	(₹)
1	Input tax credit availed on capital goods	1,00,000/-
2	Input tax credit availed on inputs	3,00,000/-
3	Input tax credit availed on inputs services	1,50,000/-

BMEC also provided following additional information

(i)	All the above inputs, input services and capital goods are used in manufacturing process and all the conditions for availing input tax credit have been complied with.
(ii)	The balance in the electronic credit ledger of BMEC at the time of filing the refund application is ₹ 1,50,000/-
(iii)	The balance in the electronic credit ledger of BMEC at the end of the October 2023 tax period for which the refund claim is being filed after GSTR-3B for the said period has been filed is ₹ 3,25,000/-

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

### ANSWER

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

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

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

= ₹ 1,98,000

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

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

Refundable amount is the least of the following:

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

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

ITC is on capital goods is not eligible for refund.

#### QUESTION 34

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.

#### ANSWER

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 —

Particulars	1st Consignment	3rd Consignment	2nd Consignment
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.

<u>Interest</u> [Amount x Rate of Interest x No. of days of interest / 365]	<u>NIL</u>	$\frac{₹1,50,000 \times 6\% \times 8}{365} = ₹ 197.26$	$\frac{₹1,20,000 \times 18\% \times 53}{365} = ₹ 3,136.44$
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#### 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.

#### ANSWER

(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

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

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

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

ANSWER

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

a) ₹ 10,000

Or

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

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

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

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

QUESTION 37

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 <sup>th</sup> July, 2021 demanding the entire amount of credit with interest and imposing an amount equal to the credit as penalty.
2	30 <sup>th</sup> June, 2019	250	Adjudication Order passed on 26 <sup>th</sup> August, 2021 demanding the entire amount of credit with interest and imposing an amount equal to the credit as penalty.
3	30 <sup>th</sup> October, 2019	120	Show Cause Notice has been issued on 5 <sup>th</sup> September, 2021 demanding the entire amount of credit with interest and proposing penalty equal to 100% of the credit taken.
4	30 <sup>th</sup> January,	50	Statement of the Managing Director has been recorded on 6 <sup>th</sup> 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.

ANSWER

S. No.	Date on which credit was taken wrongly	Amount of ITC wrongly taken (₹ in lakh)	Tax & Penalty under section 74
1	31 <sup>st</sup> January 2019	200	Adjudication Order is passed on 26 <sup>th</sup> July, 2021 and payment is made on 20.09.2021 i.e., after 30 days of the communication of

			the Adjudication Order <sup>3</sup> . 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 <sup>th</sup> June 2019	250	Adjudication Order is passed on 26 <sup>th</sup> August, 2021 and payment is made on 20.09.2021 i.e., within 30 days of the communication of the Adjudication Order <sup>4</sup> . 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 <sup>th</sup> October 2019	120	Show cause notice is issued on 5 <sup>th</sup> 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 <sup>th</sup> January, 2020	50	Alternative – I: It is assumed that payment has been made within 30 days of issue of SCN. Therefore, Entire amount of ITC wrongly availed which is ₹50 lakhs and 25% of the penalty imposed i.e., ₹12.5 lakhs shall be payable Alternative – II: It is assumed that SCN has not yet been issued Payment made on 20.09.2021 is before issuance of SCN. Therefore, amount of ITC admitted to be taken wrongly which is ₹50 lakhs and penalty equal to 15% of such ITC i.e., ₹7.5 lakhs shall be payable.

#### QUESTION 38

Adinath Private Limited, registered under GST in the State of Uttar Pradesh, instructed Ashok Transporters to deliver certain taxable goods to Mahavir Enterprises in Uttar Pradesh on 10th January 2022. The value of the goods is ₹ 6,80,000 which are chargeable to CGST & SGST@ 9% each. 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 under CGST Act 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.

#### ANSWER

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

- I. 50% of value of goods [₹ 3,40,000 (50% of ₹ 6,80,000)]
- or
- II. 200% of the tax payable on such goods [₹ 1,22,400 (200% of ₹ 6,80,000 \* 9%)] whichever is higher, i.e., ₹ 3,40,000.

As per the first proviso to 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 case, since, the owner - Adinath Private Limited has failed to come forward to make payment of penalty, penalty of ₹ 3,40,000 under CGST Act shall be levied. Further, the transporter of goods can get its truck released upon payment of the lower of the following under CGST Act:

- I. penalty as mentioned in the order [₹ 3,40,000]

<sup>3</sup> It is assumed that adjudication order is communicated the same day on which it is passed.

<sup>4</sup> It is assumed that adjudication order is communicated the same day on which it is passed.

II. ₹ 1,00,000

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

#### QUESTION 39

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

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

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

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

#### ANSWER

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

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

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

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

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

#### QUESTION 40

Ranjan intends to start selling certain goods in Delhi. However, he is not able to determine (i) the classification of the goods proposed to be supplied by him [as the classification of said goods has been contentious] and (ii) the place of supply if he supplies said goods from Delhi to buyers in U.S.

Ranjan's tax advisor has advised him to apply for the Advance Ruling in respect of these issues. He told Ranjan that the Advance Ruling would bring him certainty and transparency in respect of the said issues and would avoid litigation later. Ranjan agreed with his view, but has some apprehensions.

In view of the information given above, you are required to advise Ranjan with respect to following:

- I. The tax advisor asks Ranjan to get registered under GST law before applying for the Advance Ruling as only a registered person can apply for the same. Whether Ranjan needs to get registered?
- II. Ranjan is apprehensive that if at all Advance Ruling is permitted to be sought, he has to seek it every year. Whether Ranjan's apprehension is correct?
- III. The tax advisor is of the view that the order of Authority for Advance Ruling (AAR) is final and is not appealable. Whether the tax advisor's view is correct?

- IV. Sambhav - Ranjan's friend - is a supplier registered in Delhi. He is engaged in supply of the goods, which Ranjan proposes to supply at the same commercial level that Ranjan proposes to adopt. He intends to apply the classification of the goods as decided in the Advance Ruling order to be obtained by Ranjan, to the goods supplied by him in Delhi. Whether Sambhav can do so?

#### ANSWER

In the present case Advance Ruling is possible only with respect to classification of goods but not with respect to place of supply.

- I. Advance ruling under GST can be sought by a registered person or a person desirous of obtaining registration under GST law [Section 95(c)]. Therefore, it is not mandatory for a person seeking Advance Ruling to be registered.
- II. Section 103(2) stipulates that the Advance Ruling shall be binding unless the law, facts or circumstances supporting the original Advance Ruling have changed. Therefore, once Ranjan has sought the Advance Ruling with respect to an eligible matter/question, it will be binding till the time the law, facts and circumstances supporting the original Advance Ruling remain same.
- III. No, the tax advisor's view is not correct. As per section 100, if the applicant is aggrieved with the finding of the AAR, he can file an appeal with Appellate Authority for Advance Ruling (AAAR). Similarly, if the concerned/ jurisdictional officer of CGST/SGST does not agree with the findings of AAR, he can also file an appeal with AAAR.  
Such appeal must be filed within 30 days from the date on which the ruling sought to be appealed against is communicated. The Appellate Authority may allow additional 30 days for filing the appeal, if it is satisfied that there was a sufficient cause for delay in presenting the appeal.
- IV. Section 103 provides that an Advance Ruling pronounced by AAR is binding only on the applicant who had sought it and on the concerned officer or the jurisdictional officer in respect of the applicant. This implies that an Advance Ruling is not applicable to similarly placed other taxable persons in the State. It is only limited to the person who has applied for an Advance Ruling.

Thus, Sambhav will not be able to apply the classification of the goods that will be decided in the Advance Ruling order to be obtained by Ranjan, to the goods supplied by him in Delhi.

#### QUESTION 41

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?

**ANSWER**

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
	<b>Total Cost incurred by Mr. Paul</b>	\$	<b>4,000</b>
(7)	Normal net profit margin of Mr. Paul [20% of FOB or 25% of cost = 25% of \$ 4,000]		1,000
	<b>FOB price</b>		<b>5,000</b>
(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 b) \$1,500 + \$250 + \$100 = \$1,850 } - \$1000 Whichever is LOWER (-) Already considered in FOB (\$350)	\$	650
(9)	Insurance from US port to Indian port [Rule 10(2)(b)]	\$	50
	<b>Assessable Value as per Rule 8</b>		<b>5,700</b>
	<b>Assessable Value as per Rule 8 in INR \$5700* ₹65</b>		<b>370500</b>

**QUESTION 42**

Mission Life, an NGO, from Indore, M.P. has imported 800 MT of food products from Australia for free distribution to needy people in backward area of Sagar, M.P. under a Central Government scheme. Exporter from Australia has charged only US\$ 20 per MT to cover costs towards freight, insurance etc, and none towards cost of food products. Customs Department found that at or about the same time of importation, following imports of said food products of Australian origin have been made:

S. No	Quantity imported in MT	Unit CIF price in US \$
1	40	270
2	100	220
3	500	200
4	900	180
5	400	190
6	760	160

Discuss the various principles to determine the transaction value of aforesaid transaction under Customs Act, 1962 and determine the CIF price that can be considered for assessment in this case.

**ANSWER**

Determination of transaction value of the subject goods: -

In the instant case, while determining the transaction value of the goods, following factors need consideration: -

- In the given case, US \$20 per metric tonne has been paid only towards freight and insurance charges and no amount has been paid or payable towards the cost of goods. Thus, there is no transaction value for the subject goods. Consequently, we have to look

for transaction value of identical goods under rule 4 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

2. Rule 4(1)(a) of the aforementioned rules provides that subject to the provisions of rule 3, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued. In the six imports given during the relevant time, the goods are identical in description and of the same country of origin.
3. Further, clause (b) of rule 4(1) of the said rules requires that the comparable import should be at the same commercial level and in substantially same quantity as the goods being valued. Since, nothing is known about the level of the transactions of the comparable consignments, it is assumed to be at the same commercial level.
4. As far as the quantities are concerned, the consignments of 40 and 100 metric tonnes cannot be considered to be of substantially the same quantity. Hence, remaining 4 consignments are left for our consideration.
5. However, the unit prices in these 4 consignments are different. Rule 4(3) of Customs Valuation Rules, 2007 stipulates that in applying rule 4 of the said rules, if more than one transaction value of identical goods is found, the lowest of such value shall be used to determine the value of imported goods. **Accordingly, the unit price of the consignment under valuation would be US \$ 160 per metric tonne.**

Thus, Assessable value would be \$ 128,000 [800 MT x 160 \$].

#### QUESTION 43

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

- (i) License fee that the buyer was required to pay in UK as a condition of sale was 500 UK Pound
- (ii) Buying commission paid in India was ₹ 20,000
- (iii) Due to deep draught at the port, machine was not taken to the jetty in the port but was unloaded at the outer anchorage. The charges incurred for such unloading and transport of machine from outer anchorage to the jetty in barges (small boats) were ₹ 50,000.
- (iv) Date of presentation of bill of entry was 15.10.2023 and the rate of exchange notified by CBIC on this date was ₹ 100 per pound. Rate of basic customs duty was 10%
- (v) Date of entry inwards was 18.10.2023 and the rate of exchange notified by CBIC on this date was ₹ 105 per pound. Rate of basic customs duty was 15%
- (vi) Insurance premium details were not ascertainable.

Compute the assessable value and basic customs duty payable (rounded off to nearest one rupee) by Paramjit Ltd.

#### ANSWER

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

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

Particulars	Amount
FOB value of machine	5,000 UK Pound
Add: License fee required to pay in UK	500 UK

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

#### QUESTION 44

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

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

Note:

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

#### ANSWER

Computation of assessable value

Particulars	Amount in \$	Amount in ₹
Cost of machine at port of importation	8,200	6,56,000
Add: Local agent's commission [Includible as not a buying commission.]	250	20,000

	(₹ 20,000/₹ 80)	
FOB as per customs	8,450	6,76,000
Add: Freight [Freight charges till port of importation are includible in assessable value.]	1,800	1,44,000
Add: Insurance charges @ 1.125% of FOB	95.0625	7,605
Add: Ship demurrage (₹ 15,000/ ₹ 80) [Includible in cost of transport.]	<u>187.50</u>	15,000
<b>Assessable Value (in \$)</b>	10,532.5625	
<b>Assessable value (in ₹) [\$10,532.5625 × ₹ 80]</b>	8,42,605	8,42,605

**Notes:**

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

**QUESTION 45**

Mr. X, a chemical manufacturer, imports a machine from Germany on 12<sup>th</sup> 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 1<sup>st</sup> February, 2019. On 5<sup>th</sup> 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 5<sup>th</sup> April, 2022. Ignore interest calculation.

**ANSWER**

**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 46**

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

**ANSWER**

**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 47**

Mr. Noddy, aged 40 years and a citizen of Australia, is on a solo trip to India for 1 month to meet his Indian friend residing in Mumbai. He carries with him following articles as part of baggage:

Particulars	Value in ₹
Used personal effects	80, 000
Other articles carried on in person	1,00,000
65 cartridges of fire arms @ ₹ 1,000 per cartridge	65,000
150 gms of tobacco @ ₹ 10 per gram	1,500
Mobile phone	50,000
50 cigars of ₹ 100 each	5,000
Used personal effects of his infant child for donation	10,000

With reference to the Baggage rules 2016, indicate the taxability and taxable value in respect of each item in the table under baggage rules or otherwise. Also calculate the customs duty payable on baggage rounded off to the nearest rupee in accordance with law. Ignore agriculture infrastructure and development cess.

ANSWER

		Taxable value under Baggage Rules
Used personal effects	[Allowed duty free]	NIL
Other articles carried on in person	Taxable	1,00,000
50 cartridges of fire arms		50,000 (50 × ₹ 1,000)
125 gms of tobacco		1,250 (125 gm × ₹ 10)
Mobile phone		50,000
25 cigars of ₹ 100 each		2,500 (25 cigars × ₹ 100)
Used personal effects of his infant child	[Taxable.]	10,000
Total		2,13,750
Less: General Free Allowance		15,000
Baggage on which duty is payable @ 38.50% (including 10% Social welfare surcharge)		1,98,750
Duty payable on baggage <sup>5</sup>		76,519 (rounded off)

QUESTION 48

Vipul imported certain goods in May. An 'into bond' Bill of Entry was presented on 14<sup>th</sup> May and goods were cleared from the port for warehousing. Assessable Value on that date was US \$ 1,00,000. The order permitting the deposit of goods in warehouse for 4 months was issued on 21<sup>st</sup> May. Vipul deposited the goods in warehouse on the same day but did not clear the imported goods even after the warehousing period got over on 21<sup>st</sup> September.

A notice was issued under Section 72 of the Customs Act, 1962, demanding Duty and Interest. Vipul cleared the goods on 14<sup>th</sup> October. Compute the amount of Duty and Interest payable by Vipul while removing the goods on the basis of the following information:

Particulars	14 <sup>th</sup> May	21 <sup>st</sup> September	14 <sup>th</sup> October
Rate of exchange per US \$ (as notified by Central Board of Indirect taxes & Customs)	₹ 65.20	₹ 65.40	₹ 65.50
Basic Customs Duty	15%	10%	12%

Integrated Tax leviable under Section 3(7) of the Customs Tariff Act is exempt. Ignore Agriculture and infrastructure development cess.

ANSWER

Computation of Import Duty payable by Vipul

Particulars	Amount (US \$)
Assessable Value	1,00,000
	Amount (₹)
Value in Indian currency (US \$ 1,00,000 × ₹ 65.20) [Note 1]	65,20,000
Customs Duty @ 10% [Note 2]	6,52,000
Add: Social Welfare Surcharge @ 10% on ₹ 6,52,000	65,200
Total Customs Duty Payable	7,17,200

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 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

<sup>5</sup> Cartridges of fire arms exceeding 50, tobacco exceeding 125 gms and cigars exceeding 25 are not chargeable to rate of 38.50% as applicable to baggage vide Notification No. 26/2016 Cus. dated 31.03.2016. These items are charged @ 100% applicable to baggage under Heading 9803 of the Customs Tariff.

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. (i.e.) 10%

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 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 the 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 Sec. 60 expires on	19 <sup>th</sup> August
No. of days for which interest shall be payable [12 days of August + 30 days of September + 14 days of October]	56 days
Interest payable = ₹ 7,17,200 × $\frac{15}{100} \times \frac{56}{365}$ (Rounded off)	₹ 16,505

#### QUESTION 49

With reference to the provisions of FTP 2023, discuss giving reasons whether the following statements are true or false:

- If any doubt arises in respect of interpretation of any provision of FTP, the said doubt should be forwarded to CBIC, whose decision thereon would be final and binding.
- Authorization once claimed by an importer cannot be refused by DGFT.
- IEC is a unique 12-digit PAN based alphanumeric code allotted to a person for undertaking any export/ import activities.
- Waste generated during manufacture in an SEZ Unit can be freely disposed in DTA on payment of applicable Customs Duty, without any authorization.

#### ANSWER

- False.** If any question or doubt arises in respect of interpretation of any provision of the FTP, said question or doubt ought to be referred to DGFT whose decision thereon would be final and binding.
- False.** No person may claim an Authorization as a right and DGFT shall have power to refuse to grant or renew the same in accordance with provisions of FT(D&R) Act, rules made thereunder and FTP.
- False.** IEC is a unique 10-digit code allotted to a person for undertaking export/ import activities.
- Any waste or scrap or remnant including any form of metallic waste & scrap generated during manufacturing or processing activities are allowed to be disposed in DTA freely, without any authorization, even before fulfilment of export obligation, subject to payment of applicable Customs Duty.

#### QUESTION 50

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

#### ANSWER

Benefit under EPCG Scheme is with the condition to achieve export obligation. Export obligation 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.

<u>Year</u>	<u>FOB value of exports</u>	<u>Average of preceding 3 years</u>	<u>Whether Average EO achieved?</u>	<u>Towards specific export obligation</u>
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
<b>Total</b>	<b>210 lakhs</b>			<b>71.67 lakhs</b>

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.