



# 50 MIGHTY

CA Final  
NOVEMBER 24 EXAM

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**MIGHTY 50 QUESTIONS**

**Question 1.** [SWB Q.No 6 Pg.No 479]

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

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

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

The other details furnished by Mr. X are

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

Compute -

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

**Computation of Assessable Value & Customs Duty -**

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

**Working Notes:**

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

- 3) **Section 15 of the Customs Act, 1962** provides that rate of duty shall be the rate in force on the date of presentation of Bill of Entry or the rate in force on the date of arrival of aircraft, **whichever is later.**
- 4) Integrated tax is levied on the sum total of the assessable value of the imported goods and customs duties [**Section 3(8) of the Customs Tariff Act, 1975**]. Social Welfare Surcharge leviable on Integrated Tax have been exempted **vide Notification No. 13/2018-Cus. dated 02-02-2018.**

**No landing charges are to be added to the CIF value in view of the amendment in Rule 10(2) of the CVR vide Notification No. 91/2017-Cus. (NT) dated 26-09-2017.**

**Question 2.**

[SWB Q.No 9 Pg.No 482]

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 \$

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

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

**Computation of Assessable Value as per Rule 8**

(1) Cost of Materials incurred by Mr. Paul	\$	2,000
(2) Fabrication Charges incurred by Mr. Paul	\$	1,000
(3) Other Chargeable expenses incurred by Mr. Paul	\$	400
(4) Other Indirect costs incurred by Mr. Paul	\$	250
(5) Freight from Mr. Paul's factory to US port	\$	250
(6) Loading Charges at US port	\$	100
<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	}	\$1000
b) \$1,500 + \$250 + \$100 = \$1,850		
Which ever 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</b>	<b>\$5700*</b>	<b>₹65</b>
		<b>370500</b>

**Question 3.**

[SWB Q.No 9 Pg.No 531]

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

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

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

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

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

Computation of Customs Duty payable	₹
Travel souvenir	Nil
Articles carried on in person	1,50,000
Cigarettes [100 sticks can be accommodated in General Free Allowance (GFA)]	10,000
Fire arms cartridge (50 cartridges can be accommodated in GFA) (i.e., 50 x ₹500)	25,000
Baggage that can be accommodated in GFA	1,85,000
Less: GFA	(15,000)
Baggage on which Duty is payable	1,70,000
Duty payable @ 38.50% (including 10% Social welfare Surcharge)	65,450

**Note:**

Fire arms, cartridges of firearms exceeding 50 and cigarettes exceeding 100 sticks are not chargeable to rate applicable to baggage [Notification No. 26/2016 Customs dated 31.03.2016]. These items are charged @ 100% to baggage under Heading 9803 of the Customs Tariff.

Therefore, CD Payable on fire arms & cartridges in excess of 100 & cigarettes in excess of 50 shall be ₹ 77,000 (₹ 75,000 + 2,000) × 110% = ₹ 84,700

₹ 75,000 = 500/cartridge × 50 cartridges (₹ 25,000) + Fire Arms (₹ 50,000)

**Question 4.**

[SWB Q.No 12 Pg.No 533]

Mr. X, an Indian resident, returns to India on 10.04.2021 after visiting France for 3 months. On his return to India, he brings with him the following articles:

- I. Used personal effects like clothes etc., valued at ₹ 1,75,000
- II. Music system valued ₹ 1,20,000
- III. Jewelry valued ₹ 1,30,000 measuring 20 grams brought by Mr. 'X'
- IV. Laptop worth ₹ 1,20,000
- V. Wine 1 litre worth ₹ 6,000
- VI. Mobile Phone worth ₹ 50,000

You are required to determine the taxable value of Baggage with reference to the Baggage Rules, 2016.

Goods imported as Baggage	Explanation	Amount (₹)
Used personal effects	Exempted irrespective of value	-
Music System	Eligible for GFA	1,20,000

Jewelry	Eligible for GFA (Jewelry allowance not available as the period of stay abroad is not more than an year)	1,30,000
Laptop	Exempted if person having age more than 18 years	-
Wine	Eligible for GFA as the quantity imported has not exceeded 2 Litre.	6,000
Mobile phone	Eligible for GFA	50,000
Total		3,06,000
(-) GFA		50,000
Taxable Value of Baggage		2,56,000
Baggage Rate		38.5%
Baggage Duty	2,56,000 X 38.5%	98,560

**Question 5.**

[SWB Q.No 5 Pg.No 540]

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.

**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	<u>65,200</u>
Total Customs Duty Payable	<u>7,17,200</u>

**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 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 × $\frac{15}{20} \times \frac{56}{365}$ (Rounded off)	₹ 16,505

**Question 6.**

[SWB Q.No 7 Pg.No 448]

Examine the validity of the following statements:

- A beneficial owner of imported goods is a person on whose behalf the goods are being imported.
  - Customs area does not include a warehouse.
  - Customs station includes international courier terminal
- a) **The statement is valid.** Section 2(3A) defines beneficial owner to mean any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported.
- b) **The statement is not valid.** The definition of customs area includes within its ambit a warehouse too. The customs area is defined to mean the area of a customs station or a warehouse and includes any area in which imported goods or export goods are ordinarily kept before clearance by customs authorities.
- c) **The statement is valid.** International courier terminal and foreign post office are included within the scope of customs station as defined under section 2(13) of the Customs Act, 1962. As per section 2(13), a customs station means any customs port, customs airport, international courier terminal, foreign post office or land customs station

**Question 7.**

[SWB Q.No 9 Pg.No 454]

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

Following further particulars are available:

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

Integrated Tax is leviable @ 12%.

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

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

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

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

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

Computation of total Duty payable by Kankan Corp.

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

**Notes:**

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

**Question 8.**

[SWB Q.No 16 Pg.No 459]

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

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

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

**Case I & Case II:**

In case, where, the imported goods are pilfered at any time before order for clearance (either for home consumption or for warehousing), Customs Duty not payable on such pilfered goods as per Sec. 13 of Customs Act, 1962. However, if such goods are restored to importer, Customs Duty payable.

**Note:** If pilferage identified before unloading the goods, then there is no levy as per supreme court judgement in Mangalore refineries case.

**Case III:**

In case, where, the imported goods are damaged before actual clearance (incl. warehoused goods), abatement of duty is available under Sec. 22 of Customs Act, 1962. Proportionate Customs Duty payable based on the value of goods after damage.



**Question 9.**

[SWB Q.No 16 Pg.No 521]

Moris Lal has imported goods from Germany and is finally re-assessed u/s 18(2) of the Customs Act, 1962 for two such consignments. Particulars are as follows:

Date of Provisional Assessment	12th December, 2020
Date of Final Re-assessment	2nd February, 2021
Duty demand for 1st consignment	₹ 1,80,000
Refund for the 2nd consignment	₹ 4,20,000
Date of refund made by the department	28 <sup>th</sup> April, 2021
Date of payment of duty demanded	5 <sup>th</sup> February, 2021

Determine the Interest payable and receivable, if any, by Moris Lal on the final re-assessment of the two consignments, with suitable notes thereon.

As per section 18(3) of the Customs Act, 1962, an importer is liable to pay interest at the rate of 15% p.a. (Notification No. 33/2016-Cus. (NT) dated 01.03.2016), on any amount payable consequent to the re-assessment order from the first day of the month in which the duty is provisionally assessed till the date of payment.

Therefore, in the given case, Moris Lal is liable to pay following interest in respect of 1<sup>st</sup> consignment:

$$= ₹ 1,80,000 \times 15\% \times 67/365$$

$$= ₹ 4,956 \text{ (Rounded off)}$$

If any amount refundable consequent to the re-assessment order is not refunded within 3 months from date of re-assessment of duty, interest is payable to importer on unrefunded amount at the specified rate till the date of refund of such amount in terms of section 18(4) of the Customs Act, 1962.

Since, in the given case, refund has been made (28.04.2021) within 3 months from the date of re-assessment of duty (02.02.2021), interest is not payable to Moris Lal on duty refunded in respect of 2<sup>nd</sup> consignment.

**Question 10.**

[SWB Q.No 11 Pg.No 518]

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.

**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 11.**

[SWB Q.No 74 Pg.No 259]

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

The company has provided the following details of the activities/transactions undertaken in a tax period:

S. No.	Particulars	Mumbai unit (₹)	Nagpur unit (₹)
(i)	Sale of taxable goods	12,50,000	13,50,000
(ii)	Interest received on fixed deposits with a nationalised bank		1,08,000
(iii)	Sale of securities [Such securities were purchased for ₹ 2,75,000]	4,50,000	
(iv)	Sale of agricultural land in the vicinity of the manufacturing plant [Stamp duty was paid on ₹ 1,85,00,000]		1,85,00,000
(v)	Sale of old factory building which was not used anymore [Stamp duty was paid on ₹ 75,00,000]	90,00,000	
(vi)	Transfer of actionable claims (other than specified actionable claims)		2,00,000

With the help of above information, you are required to determine the value of exempt supply under GST law as provided by Nagpur unit and Mumbai unit. Will your answer be different if the value of exempt supply provided by Nagpur unit and Mumbai unit is to be determined, for the purpose of apportionment of ITC under section 17(3)?

As per section 2(47), exempt supply means supply of any goods or services or both which attracts nil rate of GST or which may be wholly exempt from GST and includes non-taxable supply. An activity or transaction which is not a supply per se is not an exempt supply.

In view of the same, the value of exempt supply by Nagpur unit and Mumbai unit has been computed as under:

Particulars	Mumbai unit (₹)	Nagpur unit (₹)
Sale of taxable goods	--	--
Interest received on fixed deposits [Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest are exempt vide Notification No. 12/2017 CT (R) dated 28.06.2017]	"	1,08,000
Sale of securities [Securities are neither goods nor services in terms of sections 2(52) and 2(102). Hence, sale of securities is neither a supply of goods nor a supply of services. Thus, the same is not an exempt supply.]		
Sale of agricultural land		

[Sale of land is neither a supply of goods nor a supply of services in terms of para 5 of Schedule III to the CGST Act, 2017. Hence, the same is not an exempt supply.]		
Sale of old factory building [Sale of building is neither a supply of goods nor a supply of services in terms of para 5 of Schedule III to the CGST Act, 2017, provided the entire consideration has been received after issue of completion certificate by the competent authority or after its occupation, whichever is earlier. Hence, the same is not an exempt supply.]		
Transfer of actionable claims (other than lottery, betting and gambling) [Transfer of actionable claims (other than lottery, betting and gambling) is neither a supply of goods nor a supply of services in terms of para 6 of Schedule III to the CGST Act, 2017. Hence, the same is not an exempt supply.]		
Total value of exempt supply	Nil	1,08,000

However, value of exempt supply by Nagpur unit and Mumbai unit for the purpose of apportionment of ITC under section 17(3) is not same and is determined as follows:

As per section 17(3), value of exempt supply includes supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building and sale of warehoused goods under customs. As per explanation to section 17(3), the expression "value of exempt supply" shall not include the value of activities or transactions specified in Schedule III, except sale of land and, subject to clause of paragraph 5 of Schedule II, sale of building. Further, as per explanation to Chapter V (Input Tax Credit) of the CGST Rules, 2017, for determining the value of an exempt supply as referred in section 17(3), the value of exempt supply in respect of land and building is the value adopted for paying stamp duty and for security is 1% of the sale value of such security.

Further, as per explanation 1 to rule 43, the aggregate value of exempt supplies for the purpose of rules 42 and 43, inter alia, excludes the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances.

In view of the aforesaid provisions, value of exempt supply by Nagpur unit and Mumbai unit for the purpose of apportionment under section 17(3) is as follows:

Particulars	Mumbai unit (₹)	Nagpur unit (₹)
Sale of taxable goods	--	--
Interest received on fixed deposits [Excluded from value of exempt supply by virtue of explanation 1 to rule 43]		
Sale of securities [1% of ₹ 4,50,000] [Includible as per section 17(3). Value of exempt supply in respect for security is 1% of the sale value of such security.]	4,500	
Sale of agricultural land [Includible as per section 17(3). Value of exempt supply in respect of land is the value adopted for paying stamp duty.]		1,85,00,000
Sale of old factory building [Includible as per section 17(3). Value of exempt supply in respect of building is the value adopted for paying stamp duty.]	75,00,000	
Transfer of actionable claims (other than specified actionable claims – HCBLOG i.e., Horse racing, Casinos, Betting, Lottery, Online money gaming and gambling)		

[Excluded from value of exempt supply by virtue of explanation to section 17(3).]		
Total value of exempt supply	75,04,500	1,85,00,000

**Question 12.**

[SWB Q.No 58 Pg.No 247]

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

S. No.	Invoices received for inward supplies	IGST (₹)
1.	Raw material - X	2,00,000
2.	Rent of the factory building	1,50,000
3.	Raw material - Y	1,30,000
4.	Car purchased for the use of the director	1,20,000
5.	Consumables	80,000
6.	Machinery for being used in the manufacturing process	1,50,000
7.	Raw material - Z	1,10,000
8.	Technical consultancy for improvement in the manufacturing process	60,000
9.	Import of services (On which GST paid under RCM)	50,000
<b>Total</b>		<b>10,50,000</b>

S.No	Particulars	IGST (₹)
(i)	Balance in Form GSTR-2B on 28th October (Invoices at S. Nos. 1, 2 and 3 uploaded by the respective suppliers in their Form GSTR-1s)	4,80,000
(ii)	Balance in Form GSTR-2B on 13 <sup>th</sup> November (Invoices at S. Nos. 1, 2, 3 and 4 uploaded by the respective suppliers in their Form GSTR-1s)	6,00,000
(iii)	Balance in Form GSTR-2B on 20th November (Invoices at S. Nos. 1, 2, 3, 4 and 5 uploaded by the respective suppliers in their Form GSTR-1s)	6,80,000

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

Note: The due date of filing of Form GSTR-1 and Form GSTR-3B for the month of October are 11<sup>th</sup> November and 20<sup>th</sup> November respectively. Subject to the information given above, all the other conditions for availing ITC have been complied with. Also, whether there is any notice issued for the purpose of excess avilment of ITC beyond matched ITC.

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

<u>Invoices</u>	<u>Amount of input tax involved in the invoices (₹)</u>	<u>Amount of ITC that can be availed (₹)</u>
Balance in GSTR-2B on 13 <sup>th</sup> November [Note 1] (Invoices at S. Nos. 1, 2, 3 and 4 uploaded by the respective suppliers in their GSTR-1s)	6,00,000	4,80,000 [Note 2]
Invoices at S. Nos. 5, 6, 7 and 8 not uploaded in GSTR-1	4,00,000	Nil [Note 3]
Invoice at S. No. 9	50,000	50,000 [Note 4]
<b>Total</b>	<b>10,50,000</b>	<b>5,30,000</b>

**Notes:**

- 1) Eligible Input tax credit available to the recipient in respect of invoices or debit notes the details of which have been uploaded by the suppliers under Sec. 37(1) of CGST Act, 2017 as on the due date of filing of the returns in GSTR – 1 of the suppliers for the said tax period. The taxpayer can ascertain the same from his auto-populated FORM GSTR 2B as available on the due date if filing of FORM GSTR 1 under Sec. 37(1) i.e., by 13<sup>th</sup> November.
- 2) 100% ITC can be availed on invoices uploaded by the suppliers in their Form GSTR-1. However, section 17(5) of the CGST Act, 2017 blocks ITC on motor vehicles for transportation of persons having approved seating capacity of not more than 13 persons if they are not used for making the following taxable supplies, namely: –
  - (A) further supply of such motor vehicles; or
  - (B) transportation of passengers; or
  - (C) imparting training on driving such motor vehicles

Since Sunshine Pvt. Ltd. is not using the car for any of the aforesaid mentioned purpose, ITC thereon will not be available as per Sec. 16(2)(ba) of CGST Act, 2017

**Thus, 100% ITC will be available in respect of invoices at S.Nos . 1, 2 & 3.**

- 1) In respect of invoices at S.Nos. 5, 6 7 and 8 not uploaded in Form GSTR-1s by the due date, ITC cannot be availed as per Sec. 16(2)(aa) of CGST Act, 2017.
- 2) The restriction of availment of ITC is imposed only in respect of those invoices, details of which are required to be uploaded by the suppliers under section 37(1) of the CGST Act, 2017 and which have not been uploaded. **Therefore, full ITC can be availed** in respect of IGST paid on imports which are outside the ambit of section 37(1) [Circular No. 123/42/2019 GST dated 11.11.2019].

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

**Question 13.**

**[SWB Q.No 51 Pg.No 235]**

Mr. Rajesh Surana has a proprietorship firm in the name of Surana & Sons in Jaipur. The firm, registered under GST in the State of Rajasthan, manufactures three taxable products 'M', 'N' and 'O'. Tax on 'N' is payable under reverse charge. The firm also provides taxable consultancy services.

The firm has provided the following details for a tax period:

Particulars	(₹)
Turnover of 'M' (excluding export sales)	14,00,000
Turnover of 'N'	6,00,000
Turnover of 'O' (excluding export sales)	10,00,000
Export of 'M' with payment of IGST (not eligible to avail benefit of merchant exports under Notification No. 41/2017)	2,50,000
Export of 'O' under letter of undertaking	10,00,000
Consultancy services provided to unrelated clients located in foreign countries. In all cases, the consideration has been received in convertible foreign exchange	20,00,000
Sale of building (excluding stamp duty of ₹ 2.50 lakh, being 2% of value) [Entire consideration is received post issuance of completion certificate; building was occupied thereafter]	1,20,00,000
Interest received on investment in fixed deposits with a bank	4,00,000



Sale of shares (Purchase price ₹ 2,40,00,000/-)	2,50,00,000
Legal services received from an advocate in relation to product 'M'	3,50,000
Common inputs and input services used for supply of goods and services mentioned above [Inputs - ₹ 35,00,000; Input services - ₹ 15,00,000]	5000,000

With the help of the above-mentioned information, compute the net GST liability of Surana & Sons, payable from Electronic Credit Ledger and/or Electronic Cash Ledger, as the case may be, for the tax period.

Note: Assume that rate of GST on goods and services are 12% and 18% respectively (Ignore CGST, SGST or IGST for the sake of simplicity). Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled. Turnover of Surana & Sons was ₹ 85,00,000 in the previous Financial Year.

**Computation of net GST liability of Surana & Sons for the tax period:**

Particulars	(₹)
GST payable on outward supply [Refer Working Note 1]	3,18,000
Less: Input tax credit (ITC) [Refer Working Note 3]	2,78,180
GST payable from Electronic Cash Ledger [A]	39,820
Add: GST payable on legal services under reverse charge [₹ 3,50,000 X 18%] [B]	63,000
[Tax on legal services provided by an advocate to a business entity, is payable under reverse charge by the business entity in terms of Notification No. 13/2017 CT (R) dated 28.06.2017. Further, such services are not eligible for exemption provided under Notification No. 12/2017 CT (R) dated 28.06.2017 as the turnover of the business entity (Surana & Sons) in the preceding Financial Year exceeds ₹ 20 lakh.]	
<b>Total GST paid from Electronic Cash Ledger [A] + [B]</b> [As per section 49(4) amount available in the electronic credit ledger may be used for making payment towards output tax. However, tax payable under reverse charge is not an output tax in terms of section 2(82). Therefore, input tax credit cannot be used to pay tax payable under reverse charge and thus, tax payable under reverse charge will have to be paid in cash.]	1,02,820

**Working Note 1:**

**Computation of GST payable on outward supply:**

Particulars	Value (₹)	GST (₹)
Turnover of 'M' [liable to GST @ 12%]	14,00,000	1,68,000
Turnover of 'N' [Tax on 'N' is payable under reverse charge by the recipient of such goods]	6,00,000	Nil
Turnover of 'O' [liable to GST @ 12%]	10,00,000	1,20,000
Export of 'M' with payment of IGST @ 12%	2,50,000	30,000
Export of 'O' under letter of undertaking (LUT) [Export of goods is a zero-rated supply in terms of section 16(1)(a) of the IGST Act, 2017. A zero-rated supply can be supplied without payment of tax under a LUT in terms of section 16(3)(a) of that Act.]	10,00,000	Nil
Consultancy services provided to independent clients located in foreign countries.	20,00,000	Nil
[The activity is an export of service in terms of section 2(6) of the IGST Act, 2017 as- <ul style="list-style-type: none"> <li>the supplier of service is located in India;</li> <li>the recipient of service is located outside India;</li> <li>place of supply of service is outside India (in terms of section 13(2) of the IGST Act, 2017);</li> </ul>		



<ul style="list-style-type: none"> <li>• payment for the service has been received in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India; and</li> <li>• supplier of service and recipient of service are not merely establishments of distinct person.</li> </ul> <p>[Export of services is a zero-rated supply in terms of section 16(1)(a) of the IGST Act, 2017. A zero-rated supply can be supplied without payment of tax under a LUT in terms of section 16(3)(a) of that Act.]</p> <p>It is assumed that export has been made under LUT</p>		
<p>Sale of building</p> <p>[Sale of building is neither a supply of goods nor a supply of services in terms of para 5 of Schedule III to the CGST Act, provided the entire consideration has been received after issue of completion certificate by the competent authority or after its occupation, whichever is earlier. Hence, the same is not liable to GST]</p>	1,20,00,000	Nil
<p>Interest received on investment in fixed deposits with a bank</p> <p>[Exempt vide Notification No. 12/2017 CT (R) dated 28.06.2017]</p>	4,00,000	Nil
<p>Sale of shares</p> <p>[Shares are neither goods nor services in terms of section 2(52) and 2(102). Hence, sale of shares is neither a supply of goods nor a supply of services and hence, is not liable to any tax.]</p>	2,50,00,000	Nil
<b>Total GST payable on outward supply</b>		<b>3,18,000</b>

<u>Particulars</u>	<u>(₹)</u>
<p>Common credit on inputs and input services</p> <p>[Tax on inputs - ₹ 4,20,000 (₹ 35,00,000 × 12%) + Tax on input services - ₹ 2,70,000 (₹ 15,00,000 × 18%)]</p>	6,90,000
<p>Common credit attributable to exempt supplies (rounded off)</p> <p>= Common credit on inputs and input services × (Exempt turnover during the period / Total turnover during the period)</p> <p>= ₹ 6,90,000 × ₹ 1,33,50,000 / ₹ 1,94,00,000</p> <p>Exempt turnover = ₹ 1,33,50,000 and total turnover = ₹ 1,94,00,000 [Refer note below]</p>	4,74,820

**Note:**

As per section 17(3), value of exempt supply includes supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building and sale of warehoused goods under customs.

As per explanation to Chapter V of the CGST Rules, the value of exempt supply in respect of land and building is the value adopted for paying stamp duty and for security is 1% of the sale value of such security and in case of sale of warehoused goods under customs, it is transaction value at which it is sold.

Further, as per explanation to Rule 42, the aggregate value of exempt supplies inter alia excludes the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances.

Therefore, **value of exempt supply** in the given case will be the sum of value of output supply on which tax is payable under reverse charge (₹ 6,00,000), value of sale of building (₹ 2,50,000 / 2 × 100 = ₹ 1,25,00,000) and value of sale of shares (1% of ₹ 2,50,00,000 = ₹ 2,50,000), which comes out to be **₹ 1,33,50,000**.

**Total turnover = ₹ 1,94,00,000**

(₹ 14,00,000 + ₹ 6,00,000 + ₹ 10,00,000 + ₹ 2,50,000 + ₹ 10,00,000 + ₹ 20,00,000 + ₹ 1,25,00,000 + ₹ 4,00,000 + ₹ 2,50,000)

**Working Note 3**

**Computation of ITC available in the Electronic Credit Ledger of the Surana & Sons for the tax period:**

Particulars	(₹)
Common credit on inputs and input services	6,90,000
Legal services used in the manufacture of taxable product 'M'	<u>63,000</u>
ITC available in the Electronic Credit Ledger	7,53,000
Less: Common credit attributable to exempt supplies during the tax period [Refer Working Note 2]	(4,74,820)
Net ITC available	<u>2,78,180</u>

**Question 14.**

[SWB Q.No 57 Pg.No 246]

Mr. Nakul, a manufacturer of pesticides registered under the GST law, provides to you the following information pertaining to the GST paid by him in the month of January, 2021:

Particulars	Amount (₹)
GST on machinery purchased and sent directly to a job worker	1,20,000
GST on car purchased, exclusively used for business purchases	1,92,000
GST on raw materials purchased (Goods are received in lots/ installments and 25% of the materials will be received in February, 2021)	5,50,000
GST on Medical insurance premium paid for the employees working in the factory. Providing this is optional and Mr. Nakul has taken out this measure to improve the relations with the labourers.	96,000
GST on goods procured for distribution to flood affected areas as a part of CSR obligation	80,000

Compute the quantum of input tax credit available to Mr. Nakul for the given month, adducing detailed note for treatment of each item.

**Computation of input tax credit:**

Particulars	Amount (₹)
GST on machinery purchased and sent directly to a job worker [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]	1,20,000
GST on car purchased, exclusively used for business purchases [Car figures in the list of blocked assets for ITC and hence no ITC can be availed.]	Nil
GST on raw materials purchased (25% of the materials are yet to be received) [Where the goods against an invoice are received in lots/installments, ITC is allowed upon receipt of the last lot/installment vide first proviso to section 16(2) of the CGST Act, 2017. ITC can be availed next month only.]	Nil

<b>GST on Medical insurance premium paid for the employees working in the factory</b> [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(5)(b)(iii) of the CGST Act, 2017.]	Nil
<b>GST on goods procured for distribution to flood affected areas as a part of CSR obligation</b> [ITC on GST paid on goods or services procured as a part of Corporate social responsibility obligation under Sec. 135 of companies Act, 2013 is blocked ITC in terms of Sec. 17(5)(fa) of CGST Act, 2017]	<u>Nil</u>
<b>Total ITC available</b>	<b>1,20,000</b>

**Question 15.**

[SWB Q.No 8 Pg.No 192]

Oberoi Industries is a manufacturing company registered under GST. It manufactures two taxable products 'X' and 'Y' and one exempt product 'Z'. The turnover of 'X', 'Y' and 'Z' in the month of April, 2021 was ₹ 2,00,000, ₹ 10,00,000 and ₹ 12,00,000. Oberoi Industries is in possession of certain machines and purchases more of them. Useful life of all the machines is considered as 5 years.

From the following particulars furnished by it, compute the amount to be credited to the electronic credit ledger of Oberoi Industries and amount of common credit attributable towards exempted supplies, if any, for the month of April, 2021.

Particulars	GST paid (₹)
Machine 'A' purchased on 01.04.2021 for being exclusively used for non-business purposes	19,200
Machine 'B' purchased on 01.04.2021 for being exclusively used in manufacturing zero- rated supplies	38,400
Machine 'C' purchased on 01.04.2021 for being used in manufacturing all the three products – X, Y and Z	96,000
Machine 'D' purchased on April 1, which is 2 years before 01.04.2021 for being exclusively used in manufacturing product Z. From 01.04.2021, such machine will also be used for manufacturing products X and Y.	1,92,000
Machine 'E' purchased on April 1, which is 3 years before 01.04.2021 for being exclusively used in manufacturing products X and Y. From 01.04.2021, such machine will also be used for manufacturing product Z.	2,88,000

Particulars	Amount to be credited to ECrL for April 2021 (₹)
<b>Machine 'A'</b> [Since exclusively used for non-business purposes, ITC is not available under Rule 43(1)(a) of CGST Rules, 2017]	Nil
<b>Machine 'B'</b> [For ITC purposes, taxable supplies include zero-rated supplies under Rule 43(1)(b) of CGST Rules, 2017. Hence, full ITC is available]	38,400
<b>Machine 'C'</b> [Commonly used for taxable and exempt supplies – Rule 43(1)(c) of the CGST Rules, 2017. However, monthly based on exempt supplies, proportionate ITC to be added to output tax liability along with interest]	96,000
<b>Machine 'D'</b> [Owing to change in use from exclusively exempt to both taxable and exempt, common credit to be availed is GST paid on such capital goods = ₹1,92,000]	1,92,000
<b>Machine 'E'</b>	Nil

[Owing to change in use from <b>exclusively taxable to both taxable and exempt</b> , common credit to be recognised for reversal of ITC on a monthly basis, but credit need not be availed, as it was already availed in the month of purchase] Amount to be reversed upon conversion = Nil, as the same was used for taxable supply for 3 years	
<b>Amount to be credited to the electronic credit ledger of Oberoi Industries for the month of April, 2021</b>	<b>3,26,400</b>
<b>Less: ITC to be reversed</b>	
<b>W.r.t Machine D used for Exempted supplies</b> Amount to be reversed, upon conversion is 5% for every quarter or part thereof in terms of proviso to rule 43(1)(c) of CGST Rules, 2017 <b>₹ 1,92,000 × 5% × 8 quarters</b>	<b>(76,800)</b>
<b>W.r.t common ITC</b> [(₹ 96,000 + ₹1,92,000+₹2,88,000)/60] × 12/24	<b>(4,800)</b>
<b>Net eligible ITC in GSTR-3B</b>	<b>2,44,800</b>

**Note: Rule 43 is amended Vide Notification No. 16/2020 (Dt: 23/3/20) and following are the gist of amendments**

- Life of capital goods can be taken as less than or equal to 60 months from the date of invoice (but in no case it can go beyond 60 months)
- When Capital goods which were exclusively used for exempted supply is now used for both taxable and exempted supplies, then the ITC availed = GST paid on purchase (Previously, 5% for every quarter was reduced and now it is not required). Also, 5% for every quarter or part thereof from the date of purchase till the date of conversion needs to be reversed.
- When capital goods which were exclusively used for taxable supply is now used for both taxable and exempted supplies, then ITC need not be availed, as the same is already availed and reversal of 5% for every quarter or part thereof is not required.
- In the above 2 cases, the common ITC for every month shall be taken as ITC/60 and the monthly reversal for usage in exempted supplies shall be calculated for the balance useful life of capital goods from the month of conversion.

**Question 16.**

**[SWB Q.No 40 Pg.No 142]**

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

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

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

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

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

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

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

**Question 17.**
**[SWB Q.No 39 Pg.No 142]**

XYZ Ltd. has obtained a loan from a foreign bank. The company does not have an account with the foreign bank from whom it has taken the loan. Whether RCM liability under GST laws should be discharged in this regard for import of services received in relation to the loan? Provide relevant legal provisions in support of your answer.

**Yes. RCM liability needs to be discharged on such services.**

The place of supply of services supplied by a banking company in case where either supplier or recipient is located outside India is location of supplier provided said services are supplied to an account holder; otherwise the place of supply is the location of the recipient.

Accordingly, in the given case, the place of supply is the location of recipient – XYZ Ltd., i.e., **India**. Since the supplier is outside India and recipient and place of supply are in India, said service qualifies as import of services which in turn, is considered as inter -State supply under Section 7(4) of IGST Act, 2017.

**Question 18.**
**[SWB Q.No 37 Pg.No 141]**

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

- I. Mr. X, an architect (Kolkata), provides interior decorator services to Mr. Y of NewYork (USA) in relation to his immovable property located in New Delhi.
- II. Mr. A (a Chartered Accountant registered in Kolkata) supplies services to his client in Bhubaneswar (registered in Bhubaneswar, Odisha).
- III. ABC Ltd. of Patna imported certain goods from XYZ Inc. of USA. The goods were imported through vessel and delivery of goods was taken at Kolkata, whereafter the movement terminates and the goods are stored
- IV. Mr. X, registered in Guwahati, has availed land-line services from BSNL. The telephone is installed in residential premises in Kolkata and the billing address is office of Mr. X in Guwahati
- V. Mr. X, residing in Chennai, is travelling with an Indian Airline aircraft and is provided with movie-on-demand service for ₹100 as on-board entertainment during Delhi-Chennai leg of a Bangkok-Delhi-Chennai flight.
- VI. Mr. X of Kolkata purchased online tickets for Aquatica water park in Mumbai.
- VII. Mr. Z, an unregistered person of Kolkata, sends a courier from New Delhi to his friend in Chennai, Tamil Nadu while he was on trip to New Delhi.
- VIII. Mr. X, a registered person in Ranchi, Jharkhand, buys shares from a broker in Patna on NSE, Mumbai. Determine the place of supply of brokerage service
- IX. XYZ Ltd., New Delhi entered into contract with an Indian airline for the supply of biscuit packets for further supply by airline to the passengers in Kolkata-Guwahati route. The biscuits were loaded on board in Lucknow.

- (i) **New Delhi.** In a case where location of the supplier or location of recipient of service is outside India, the place of supply of services supplied directly in relation to an immovable property including that of interior decorators is the place where the immovable property is located.
- (ii) **Bhubaneswar, Odisha.** The place of supply of services, except the specified services made to a registered person, is the location of such person. **(General provisions)**

<sup>1</sup> In case where the place of supply (determined under section 13 of the IGST Act, 2017) and the location of supplier are in the same State, CBIC FAQs on 'Banking, Insurance and Stock Brokers Sector' have taken a view that such supplies will be treated as intra-State supply.[Contrary of IGST ACT]

<sup>2</sup> It has been assumed that the amount of ₹ 12,00,000 is inclusive of IGST.



- (iii) **Patna**. The place of supply of goods imported into India is the location of the importer
- (iv) **Kolkata**. The place of supply of services by way of fixed telecommunication line is the location where the telecommunication line is installed for receipt of services.
- (v) **Bangkok**. The place of supply of services on board an air craft is the location of the first scheduled point of departure of that aircraft or flight for the journey (**i.e., Starting point of conveyance**)
- (vi) **Mumbai**. The place of supply of services provided by way of admission to an amusement park is the place where the park is located.
- (vii) **New Delhi**. The place of supply of services by way of transportation of goods by courier to a person other than a registered person is the location at which such goods are handed over for their transportation. (**i.e., Starting point of goods**)
- (viii) **Ranchi**, (Jharkhand). The place of supply of stock broking services to any person shall be the location of the recipient of services on the records of the supplier of services.
- (ix) Where the supply involves movement of goods, the place of supply of such goods is the location of the goods at the time at which the movement of goods terminates for delivery to the recipient. Therefore, the place of supply of biscuit packets sold by XYZ Ltd. to Indian Airlines is Lucknow.  
Further, where the goods are supplied on board an aircraft, the place of supply shall be the location at which such goods are taken on board. Thus, the place of supply of biscuit packets sold by Indian Airlines to the passengers in Kolkata-Guwahati route is **Lucknow**.

**Question 19.**

[SWB Q.No 27 Pg.No 133]

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

You are required to determine the place of supply of the services in the instant case as also the value of supply attributable to the States of 'A', 'B', 'C', 'D' and 'E'.

Further, compute the GST liability [CGST & SGST or IGST, as the case may be] of 'Moon Plus' as also advise it as to whether it should issue one invoice for the entire contract value or separate State-wise invoices.

The other relevant information is given hereunder:

Table – 1

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

Table – 2

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

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

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



such States or Union territories (where the advertisement is broadcasted/ run /played/disseminated).

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

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

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

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

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

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

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

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

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

**Computation of GST liability of 'Moon Plus'**

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

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

**Question 20.**

[SWB Q.No 50 Pg.No 182]

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

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

- (I) Bangalore unit has appointed M/s. Equilibrium Sales as its sole selling agent. M/s. Equilibrium Sales sells the electronic goods of Bangalore unit under the invoice issued in its own name. The Bangalore unit transferred the goods costing ₹ 7,25,000 to M/s. Equilibrium Sales on 20th October which were sold by M/s. Equilibrium Sales on 31st October at ₹ 7,65,000. On 20th October, another electronic goods' manufacturer supplied the goods of like kind and quality to M/s. Equilibrium Sales as the one supplied by the Bangalore unit at a price of ₹ 7,75,000.
- (II) The Retail Showroom at Ahmedabad transfers goods costing ₹ 85,000 to its agent, M/s. Paridhi Sales on 12th October. M/s. Paridhi Sales sells such goods on 18th October at ₹ 5,00,000 under the invoice issued in the name of Retail Showroom at Ahmedabad. On 17th October, M/s Paridhi Sales has sold goods of like kind and quality as the one supplied by the Retail Showroom at Ahmedabad to an unrelated customer at ₹ 4,70,000. The Retail Showroom at Ahmedabad also transfers goods costing ₹ 95,000 to its agent, M/s. Dhara Enterprises on 15th October. M/s. Dhara Enterprises sells such goods on 20th October at ₹ 1,00,000 under the invoice issued in its own name. On 19th October, M/s Dhara Enterprises has sold goods of like kind and quality as the one supplied by the Retail Showroom at Ahmedabad to an unrelated customer at ₹ 98,000.

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

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

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

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

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

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

However, where the goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to 90% of the price charged for the supply of goods of like kind and quality by the recipient to his unrelated customer.

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

Open market value of the goods is not available in the given case. Further, since M/s. Equilibrium Sales is not eligible for full input tax credit, value declared in the invoice cannot be deemed to be the open market value of the goods. Since M/s. Equilibrium Sales further supplies the goods, value of the goods will be lower of:

- I. value of supply of goods or services of like kind and quality, i.e. ₹ 7,75,000 or
- II. 90% of the price charged for the supply of goods of like kind and quality by M/s. Equilibrium Sales to its unrelated customer, i.e. ₹ 6,88,500 [₹ 7,65,000 × 90%].

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

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

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

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

Value of supply of goods made through an agent is determined as per rule 29. Accordingly, the value of supply of goods between the principal and his agent is the open market value of the goods being supplied, or at the option of the supplier, is 90% of the price charged for the supply of goods of like kind and quality by the recipient to his unrelated customer, where the goods are intended for further supply by the said recipient.

In the given case, since open market value is not available, value of the goods supplied to M/s. Dhara Enterprises will be ₹ 88,200 [90% of ₹ 98,000].

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

**Question 21.**

[SWB Q.No 51 Pg.No 184]

Jeevan Life Insurance Company Limited (JLICL) has collected premium from policy subscribers. It does not intimate the amount allocated for investment to subscribers of the policy at the time of supply of insurance services. The company has provided the following details in relation to its receipts:

SI. No.	Particulars	Amount
1.	Premium for only risk cover	25,00,000
2.	Premium from new policy subscribers	40,00,000
3.	Renewal premium	80,00,000
4.	Single premium on annuity policy	1,00,00,000

All amounts are exclusive of tax. You are required to compute the value of supply by JLICL in terms of rule 32(4) of the CGST Rules, 2017.

As per rule 32(4) of the CGST Rules, 2017, the value of supply of services in relation to life insurance business, when the amount allocated for investment/ savings on behalf of the policy holder is not intimated to the policy holder at the time of supply of service, is-

- (i) in case of single premium annuity policies, 10% of single premium charged from the policy holder;
- (ii) in all other cases, 25% of the premium charged from the policy holder in the first year and 12.5% of the premium charged from the policy holder in subsequent years;
- (iii) in case the entire premium paid by the policy holder is only towards the risk cover in life insurance, the premium so paid.

Therefore, in the given case, the value of the services provided by JLICL will be computed as under:

**Computation of value of supply for JLICL**

Particulars	Amount (₹)
Premium for only risk cover	25,00,000
Premium from new policy subscribers 25% of ₹ 40,00,000	10,00,000
Renewal premium 12.5% of ₹ 80,00,000	10,00,000
Single premium on annuity policy 10% of ₹ 1,00,00,000	10,00,000
Total value of supply	55,00,000

**Question 22.**

[SWB Q.No 52 Pg.No 185]

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

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

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

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

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

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

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

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

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

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

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

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

**Computation of value of supply for the quarter - April-June**

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

**Notes:**

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



**Computation of value of supply for quarter - July-September**

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

**Notes:**

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

**Question 23.**

[SWB Q.No 62 Pg.No 98]

Mr. Kanjilal Adani is an oil exploration & production contractor and is registered under GST in the State of Gujarat. He entered into a Production Sharing Contract (PSC) with Government of Gujarat wherein he gets a license to explore, exploit and sell the petroleum crude and/or natural gas from the Government in Aliabet Oilfield in lieu of royalty and a share in profit petroleum.

In the month of June, Mr. Kanjilal Adani explored the petroleum reserves at Aliabet Oilfield. He got a portion of the petroleum silt (non-taxable under GST) worth ₹ 3,00,000 as part of compensation. This petroleum silt is part of cost petroleum as per the contract entered with the Government. Examine the taxability of the petroleum silt received by Mr. Kanjilal Adani under the GST law.

Compensation is received by Mr. Kanjilal Adani in the form of petroleum silt which, as per the contract with the Government of Gujarat, is part of cost petroleum.

As per Circular No. 32/06/2018 GST dated 12.02.2018, the **cost petroleum is not a consideration received** by the oil exploration & production contractors for the services provided to Government under a Production Sharing Contract (PSC) and thus not taxable per se. The reason for the same is that the contractors carry exploration and **production of petroleum for themselves and not as a service to Government**. They had acquired the right to explore, exploit and sell petroleum in lieu of royalty and a share in profit petroleum.

Consequently, the cost petroleum received by Mr. Kanjilal Adani is not taxable under GST.

**Question 24.**

[SWB Q.No 60 Pg.No 95]

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

- (i) 'Keshav Institute of Technology' (KIT), a private engineering college in Ghaziabad. KIT also runs distance learning post graduate engineering programmes. Exams for such programmes are conducted in select cities at centres appointed by the KIT. All the engineering courses including the distance learning post graduate engineering



programme run by KIT are recognised by the law [The All India Council for Technical Education (AICTE)].

- (ii) 'Little Millennium', a pre-school in Lucknow.
- (iii) 'Bright Minds', a coaching institute in Kanpur. The Institute provides coaching for Institute of Banking Personnel Selection (IBPS) Probationary Officers Exam.
- (iv) 'Spring Model' a higher secondary school affiliated to CBSE Board.

The Academy provides the following details relating to the expenses incurred by the various institutions run by it during the period April to September:

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

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

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

- (i) pre-school education and education up to higher secondary school or equivalent;
- (ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;
- (iii) education as a part of an approved vocational education course; The select services which are exempt when provided to an educational institution are-
  - (i) transportation of students, faculty and staff;
  - (ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;
  - (iii) security or cleaning or house-keeping services performed in such educational institution;
  - (iv) services relating to admission to, or conduct of examination by, such institution;
  - (v) supply of online educational journals or periodicals.

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

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

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

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

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

Particulars	KIT	Little Millennium	Bright Minds	Spring Model
	(₹)	(₹)	(₹)	(₹)
Printing services for printing the question papers (paper and content are provided by the Institutions)	Exempt [Services provided to educational institution in relation to conduct of examination]		27,000 [1,50,000 × 18%]	Exempt

Paper procured for printing the question papers [Supply of select services to educational institutions is exempt and not supply of goods to such educational institutions]	51,600 [4,30,000 × 12%]		30,960 [2,58,000 × 12%]	41,280 [3,44,000 × 12%]
Honorarium to paper setters and examiners (not on the rolls of the educational institution)	Exempt [Services provided to educational institution in relation to conduct of examination]			
Rent for exam centres taken on rent like schools etc., for conducting examination	Exempt [Services provided to educational institution in relation to conduct of examination]		18,000 [1,00,000 × 18%]	
Subscription for online educational journals [Little Millennium has taken the subscription for online periodicals on child development and experiential learning]	Exempt	14,400 [80,000 × 18%]	39,600 [2,20,000 × 18%]	43,200 [2,40,000 × 18%]
Hire charges for buses used to transport students and faculty from their residence to the institutions and back	86,400 [4,80,000 × 18%]	Exempt	23,400 [1,30,000 × 18%]	Exempt
Catering services for running a canteen in the campus for students [Catering service provided to preschool and the higher secondary school is exempt irrespective of whether the same is provided within or outside the premises of the pre-school and the higher secondary school]	16,000 [3,20,000 × 5%]	Exempt	9,000 [1,80,000 × 5%]	Exempt
Security and housekeeping services for the institution(s) [Security and housekeeping service provided to preschool and the higher secondary school for the student event organised in a banquet hall will be taxable as only the security and housekeeping service provided within the premises of the preschool and the higher secondary school are exempt.]	1,08,000 [6,00,000 × 18%]	Exempt	67,500 [3,75,000 × 18%]	14,400 [80,000 × 18%]
Total GST payable on goods and services received	2,62,000	14,400	2,15,460	98,880

**Question 25.**

[SWB Q.No 54 Pg.No 92]

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.

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 26.**

[SWB Q.No 52 Pg.No 91]

In the case of transactions at (i) (ii) and (iii) below, determine whether the amounts received are liable to GST. Briefly explain the applicable statutory provisions in support of your conclusions.

- (i) ABC Ltd., a registered bank, recovered cheque discounting charges of ₹ 5,250 from a customer C & Co.

- (ii) T Ltd., A dealer in air conditioners, supplies each unit at a list price of ₹ 30,000 per unit. He also has an EMI scheme where the customer can take delivery of air conditioner on a monthly EMI of ₹ 10,500 payable in three installments.
- (iii) T Ltd. Charges ₹ 600 extra for any delay in payment of monthly installments and this amount was recovered from customer Venkat for delay in payment of his 2nd installment.
- (i) As per Sec. 11 of CGST Act, 2017 read with Notification No. 12/2017, services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) are exempt. In the present case, cheque discounting charges of ₹5,250 is exempted.  
**Note:** ICAI assumed that these charges are service charges over and above discount, and chargeable to GST.
- (ii) As per CBIC circular, penal interest collected for delay in receipt of installment in case of hire purchase transaction (2 parties are involved i.e., Hire vendor and Hire purchaser) is chargeable to GST as the interest involved in hire purchase is chargeable to GST by way of including it in the value of supply in terms of Sec. 15(2)(d) of CGST Act.

**Question 27.**

[SWB Q.No 4 Pg.No 377]

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

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

\*excluding GST

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

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

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

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

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

Maximum Refund =

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

where, -

A. "Net ITC" means input tax credit availed on inputs during the relevant period;

B. Adjusted Total Turnover means the sum total of the value of-



- a) the turnover in a State or a Union territory, as defined under section 2(112), excluding the turnover of services; and
- b) the turnover of zero-rated supply of services determined in specified manner and non-zero-rated supply of services, excluding-
  - (i) the value of exempt supplies other than zero-rated supplies; and
  - (ii) the turnover of supplies in respect of which refund is claimed under rule 89(4A) or rule 89(4B) or both, if any,

during the relevant period.

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

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

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

**Maximum refund amount for Super Engineering Works is as follows:**

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

**Question 28.**

**[SWB Q.No 29 Pg.No 408]**

M/s Fly-by-Night Traders, a taxable person, issued an invoice on 15th April, 2021 involving Input Tax Credit (ITC) of ₹ 25 Lakh to M/s Runaway Traders, who utilised the same. No supply of goods was involved in this transaction between the two traders. Fly-by-Night Traders conducted this transaction at the instance of its tax consultant who was not a qualified professional.

Explain the relevant provision in brief and determine the amount of penalty leviable under CGST Act, 2017, if any, on the persons involved in respect of the above referred transaction

**Penalty on M/s. Fly by Night Traders:**

As per Sec. 122(1) of CGST Act, if a taxable person issues an invoice without actual supply of goods, then penalty shall be 100% of tax involved in such offence i.e., ₹25,00,000 (or) ₹10,000, whichever is HIGHER i.e. ₹25,00,000

**Penalty on M/s Runway Traders**

As per Sec. 122(1) of CGST Act, if a person takes or utilises input tax credit without actual receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act or the rules made thereunder; then penalty shall be 100% of ITC availed i.e., ₹25,00,000 (or) ₹10,000, whichever is HIGHER i.e. ₹25,00,000

**Penalty on Consultant**

As per Sec. 122(1A) Any person who retains the benefit of a transaction covered under invoice default (or) ITC default (or) ISD default, and at whose instance such transaction is conducted, shall be liable to a penalty of an amount equivalent to the tax evaded or input tax credit availed of or passed on. In the present case, penalty shall be ₹25,00,000



**Question 29.**

[SWB Q.No 15 Pg.No 402]

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

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

(ii) 'DatukeshwarDutt' collects ₹ 630 lakh as tax from its clients, but deposits only ₹ 120 lakh with the Central Government. Balance amount of tax is not paid to the Central Government. What would be the implications in above cases if 'HomiGabha' and 'DatukeshwarDutt' repeat the offences?

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

(i) As per section 132 of the CGST Act, 2017, failure to pay any amount collected as tax beyond 3 months from due date of payment is punishable with specified imprisonment and fine provided the amount of tax evaded exceeds at least ₹ 200 lakh. Therefore, failure to deposit ₹ 90 lakh (₹ 240 lakh - ₹ 150 lakh) collected as tax by 'HomiGabha' will **not be punishable with imprisonment**. However, falsification of financial records (Books of Accounts default) by 'HomiGabha' is punishable with **imprisonment up to 6 months or with fine or both** vide section 132 of the CGST Act, 2017 and the said offence is **bailable** in terms of section 132(4) of the CGST Act, 2017

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

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

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

**Question 30.**

[SWB Q.No 35 Pg.No 118]

M/s Housefull Convention Hall is in the business of letting out its halls for functions. It provides you with the following information for determining the amount of refund out of advance received based on time of supply for one of its clients.

SL. No.	Particulars	Date	Amount in ₹
(1)	Advance paid at the time of booking the hall for a function from 1st to 3rd Nov., 2020	16.07.2020	1,00,000
(2)	Additional deposit paid	18.08.2020	2,00,000
(3)	Function is held as scheduled	1st Nov. to 3rd Nov. 2020	
(4)	Invoice is issued (Taxable value)	25.11.2020	2,50,000
(5)	Consider that there is a change in the rate of tax on 15 <sup>th</sup> October, 2020 from (CGST 2.5% and SGST 2.5%) to (CGST 9% and SGST 9%)		
(6)	What would be the amount of refund payable to the Client?		

The time of supply of services is the date of issue of invoice if the same is issued within 30 days from the date of supply of service or the date of receipt of payment, whichever is earlier.

In the given case, invoice is issued within 30 days of the supply of service and advances have also been received. Therefore, tax becomes payable at the time of receipt of advances on 16.07.2020 and 18.08.2020 as it is not clear at the time of receipt of such advances as to what would be the total value of the supply. However, when invoice is issued for a lesser value on refund would become payable to the client.

In case of change in rate of tax, where the service is supplied and invoice is issued after the change in rate of tax and payment is received before change in rate of tax, time of supply shall be date of issue of invoice, i.e.,

Hence, applicable rate of tax is new rate even though tax has been paid at old rate on advances received.

Therefore, refund payable to client will be computed as under:

Total advance received including GST	= ₹ 3,00,000 <sup>3</sup>
Less: Actual liability [₹ 2,50,000 + ₹ 2,50,000 × 18% (new rate of tax)]	= ₹ 2,95,000
Amount of refund	<u>₹ 5000</u>

**Question 31.**

[SWB Q.No 23 Pg.No 110]

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

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

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

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

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

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

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

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

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

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

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

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

<sup>3</sup> It has been assumed that the advances received are inclusive of tax.

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 32.**

**[Inquest C.Sc 25 Pg.No 298]**

Starkart Limited owns and operates a web portal in the name of "Starkart" and is registered with the jurisdictional GST authorities in Delhi as an electronic commerce operator and is liable to collect tax at source under section 52 of the CGST Act, 2017. Starkart provides listing service to various sellers for selling the goods to ultimate customers. Besides this, Starkart also sells its own products through the same web portal. For the listing services provided to sellers, Starkart charges a listing fee at the rate of 10% of turnover of goods sold by the seller in a particular month. Such listing fee is recovered from the seller irrespective of any return of goods sold through Starkart. The customers can choose from wide range of goods listed on the web portal and place an online order for goods. The payment is made by the customers through the payment gateway in online mode only. At the time of monthly settlement, Starkart makes the payment to the sellers after adjusting the tax collection at source at the applicable rates.

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

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

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

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

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

All the amounts given above are exclusive of GST, wherever applicable. The opening balance of input tax credit for the relevant tax period for Starkart, Infocom Limited and Secure World is nil. Further, there is no other inward or outward supply transaction for Starkart, Infocom Limited and Secure World in January apart from the aforementioned transactions. Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled. GST is applicable on all inward and outward supplies at the following rates unless otherwise specified: CGST - 9%, SGST - 9%, IGST -18%. Based on the facts of the case scenario given above, choose the most appropriate answer to Q. Nos. 1 to 4. as follows: -

1. The Net tax liability (including amount payable as tax collection at source and after set-off of credits, if any) of Starkart Limited for the month of January is:
  - (a) IGST - ₹ 8,280
  - (b) IGST - ₹ 5,400
  - (c) CGST - ₹ 3,500 and SGST - ₹ 3,500
  - (d) IGST - ₹ 9,880

2. The Net tax liability (after set-off of credits, if any) of Infocom Limited and Secure World for the month of January is:
- (a) IGST - ₹ 10,800 and IGST - ₹ 18,000 respectively  
 (b) IGST - ₹ 9,720 and IGST - ₹ 16,200 respectively  
 (c) IGST - ₹ 9,120 and IGST - ₹ 15,200 respectively  
 (d) IGST - ₹ 10,200 and IGST - ₹ 17,000 respectively
3. In case it is assumed that Secure World's turnover does not exceed the threshold limit for obtaining registration under applicable GST Law,
- (a) Secure World shall discharge tax only on the sales made through Starkart.  
 (b) Secure World is not required to obtain registration as threshold limit for obtaining registration is not crossed and no tax is payable.  
 (c) Starkart shall be liable to discharge tax liability of sales made by Secure World.  
 (d) Secure World is required to obtain registration and shall be liable to pay tax on all the taxable supplies made through Starkart or on its own.
4. Assuming that Pulkit returns the printer purchased from Infocom Limited in the month of January. As per the return policy, Starkart charges 20% of the value of the printer as cancellation charges from Pulkit and 10% of the value of the printer as handling charges from Infocom Limited. The Net tax liability (including amount payable as tax collection at source and after set-off of credits, if any) of Starkart in such scenario for the month of January would be:
- (a) ₹ 6,900 payable as IGST.  
 (b) ₹ 3,450 payable as CGST and ₹ 3,450 payable as SGST.  
 (c) ₹ 10,320 payable as IGST.  
 (d) ₹ 7,440 payable as IGST

1. d) IGST - ₹ 9,880

Particulars	IGST(₹)	CGST(₹)	SGST(₹)	Total(₹)
GST liability under Forward charge as supplier:				
Sale of Mobile phone of ₹30,000 to Pulkit, (Rajasthan), LOS = Delhi, POS = Rajasthan (where movement of goods terminates as per Sec 10(1)(a))				
IGST on ₹30,000 [₹30,000x 18%] = ₹5400	5,400			5,400
Listing Fee from Infocom Limited, a seller listed on Starkart (Uttar Pradesh) =10% of 60,000= 6,000, [LOS = Delhi, POS = Uttar Pradesh i.e., Place of Registered Person Sec 12(2)]				
IGST = ₹ 6000 x 18% = ₹ 1080	1,080			1,080
Listing Fee from Secure World, listed on Starkart (Gujarat) =10% of '1,00,000 = ₹10,000, [LOS = Delhi, POS = Gujarat i.e. Place of Registered Person Sec 12(2)]				
IGST = ₹ 1000 x 18% = ₹ 1,800	1,800			1,800
GST liability as Tax collector:				
On supplies of Infocom Limited (U.P) listed on Starkart TCS(IGST) = 1% of ₹ 60,000= ₹ 600	600			600
On supplies of Secure World, (Gujarat) listed on Starkart TCS(IGST)= 1% of ₹ 1,00,000 = ₹ 1,000	1,000			1,000
IGST (Net tax liability (including tax collection at source))	9,880	Nil	Nil	9,880

2. c) IGST - ₹ 9,120 and IGST - ₹ 15,200 respectively Net tax liability (after set-off of credits, if any) of Infocom Limited

GST liability under Forward charge:				
Particulars	IGST(₹)	CGST(₹)	SGST(₹)	Total(₹)
Sale Laptop - ₹50,000 and printer -₹10,000 to Pulkit, (Rajasthan)				
LOS = U.P, POS = Rajasthan (where movement of goods terminates as per Sec 10(l)(a))				
IGST on ₹ 60,000 [₹ 60,000× 18%] = ₹ 10,800	10,800			10,800
Less: ITC (IGST) of Listing Fee =10% of ₹60,000= ₹6,000,				
IGST = ₹ 6000 × 18% = ₹ 1080				
[ITC of IGST shall be utilized first for payment of IGST and then, for payment of CGST or SGST, in any order in any ratio]	(1,080)			(1,080)
GST Payable under forward charge	9,720	Nil	Nil	9,720
Less: TCS Balance available in Electronic cash ledger [TCS - IGST collected by Starkart & deposited to Govt. Credited to Electronic Cash ledger of Infocom Limited) 1% of ₹ 60,000= ₹ 600	(600)	Nil	Nil	(600)
<b>Net tax liability (after set-off of credits, if any) of Infocom Limited</b>	<b>9,120</b>			<b>9,120</b>

**Net tax liability (after set-off of credits, if any) of Secure World:**

GST liability under Forward charge				
Particulars	IGST(₹)	CGST(₹)	SGST(₹)	Total(₹)
Sale CCTV camera ₹1,00,000 to Pulkit, (Rajasthan)				
LOS = Gujarat,				
POS = Rajasthan (where movement of goods terminates as per Sec 10(l)(a)).				
IGST on ₹1,00,000 [1,00,000× 18%] = ₹18,000	18,000			18,000
Less: ITC (IGST) of Listing Fee =10% of ₹1,00,000= ₹10,000.				
IGST = ₹ 10000 × 18% = ₹ 1800				
[ITC of IGST shall be utilized first for payment of IGST and then, for payment of CGST or SGST, in any order in any ratio]	(1,800)			1,800
GST Payable under forward charge	16,200	Nil	Nil	16,200
Less: TCS Balance available in Electronic cash ledger				
[TCS - IGST collected by Starkart at deposited to Govt. Credited to Electronic Cash ledger of Secure World 1% of ₹ 1,00,000= ₹ 1000]	(1,000)	Nil	Nil	(600)
<b>Net tax liability (after set-off of credits, if any) of Infocom Limited</b>	<b>15,200</b>			<b>15,200</b>

3. (d) Secure World is required to obtain registration and shall be liable to pay tax on all the taxable supplies made through Starkart or on its own.  
As per Sec 24, Compulsory registration irrespective of Turnover:  
Persons who supply goods, through ECO who is required to collect tax at source under section 52. Since secure World is making supply through ECO(Starkart) who is required to collect tax at source.  
Hence as per Sec 24, Secure World is required to obtain registration mandatorily.  
Registered Person is covered in definition of Taxable Person.



As per Sec 9 CGST/Sec 5 IGST, Every Taxable person making supply liable to pay tax on all taxable supplies made

4. (c) ₹ 10,320 payable as IGST.

Particulars	IGST(₹)	CGST(₹)	SGST(₹)	Total(₹)
GST liability under Forward charge as supplier:				
Sale of Mobile phone of ₹ 30,000 to Pulkit, (Rajasthan), LOS = Delhi, POS = Rajasthan (where movement of goods terminates as per Sec 10(l)(a)),				
IGST on ₹30,000 [30,000x 18%] = ₹5400	5,400			5,400
Listing Fee from Infocom Limited, a seller listed on Starkart (Uttar Pradesh) =10% of 60,000= 6,000, [LOS = Delhi, POS = Uttar Pradesh i.e. Place of Registered Person Sec 12(2)]				
IGST = ₹ 6000 x 18% = ₹ 1080	1,080			1,080
Listing Fee from Secure World, listed on Starkart (Gujarat) =10% of 1,00,000 = 10,000, [LOS = Delhi, POS = Gujarat i.e., Place of Registered Person Sec 12(2)]				
IGST = ₹ 1000 X 18% = ₹ 1,800	1,800			1,800
Sale Return: Cancellation charges from customer:				
IGST= 20% of the value of goods returned [₹ 20,000x 10% x 18%]	360			
Sale Return: Handling charges for return of goods from seller				
IGAT= 10% of				
the value of goods returned [₹10,000x 10% x 18%]	180			
GST liability as Tax collector:				
On supplies of Infocom Limited (U.P) listed on Starkart TCS(IGST) =1% of [₹ 60,000 - ₹ 10,000] = ₹500				
TCS is on net value of taxable supply. Net value excludes sale return. Hence sale return deducted while calculating TCS.	500			600
On supplies of Secure World, (Gujarat) listed on Starkart TCS(IGST)= 1% of ₹1,00,000 = ₹1,000	1,000			1,000
IGST (net tax liability (including tax collection at source)	10,320	Nil	Nil	10,320

**Question 33.**

[Inquest C.Sc 23 Pg.No 291]

ABC Petroleum Limited is engaged in the business of refining and marketing of petroleum products. It has one refinery each in the States of Tamil Nadu, West Bengal & Maharashtra and numerous administrative and marketing offices spread across the country. The company has separate marketing cum administrative offices for every major State and common administrative cum marketing offices for a group of small States e.g., all north-eastern States are covered under one marketing cum administrative office. The company also blends lubricants in its blending plants located in the States of Maharashtra and Tamil Nadu. As a policy, all the places of business of the company in a State are registered under GST under one registration.

Imported crude is used as input in the refinery and following major products are extracted after refining process:

Products chargeable to GST (Group A)	Products not chargeable to GST (Group B)
Base oil (An input for blending lubricants)	Petrol

Furnace oil	Diesel
Bitumen (Used for road construction)	Air turbine fuel
LPG (Domestic and Industrial)	

Base oils are further sent to blending plants where they are blended with additives to produce lubricants. The company provides the following particulars for States of Tamil Nadu, Maharashtra and Kerala for the month of January:

Particulars	Tamil Nadu (₹)	Maharashtra (₹)
Value of supply inclusive of all taxes/duties (Group B products)	1,650	3,400
Value of supply (Group A products) before all taxes/duties	100	200
Excise duty leviable on supply of Group B products	500	1,000
VAT on supply of Group B products	250	600
Tax paid on inputs and input services procured at the blending plant	5	6
Tax paid on spares procured at the refinery (Spares are booked in revenue account)	3	8
Tax paid on inputs and input services procured at the marketing cum administrative office	2	3
Tax paid capital asset procured at the blending plant	0	5
Tax paid capital asset procured at the refinery	12	0

Assume that all of the Group A products are chargeable to GST @ 18% (including both CGST and SGST or IGST, as the case may be). The opening balance of input tax credit of ABC Petroleum Limited for the relevant tax period is nil. Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled. Further, there is no other inward or outward supply transaction for ABC Petroleum Limited in January apart from the aforementioned transactions.

Based on the facts of the case scenario given above, choose the most appropriate answer to Q. Nos. 1 to 5. as follows: -

- The value of company's supply in the Union Territory of Puducherry is ₹ 32,34,000 (Group A products) and in the State of Goa is ₹ 18,38,000 (Group A and Group B products) for the current financial year. GST registration is:
  - not required for both Puducherry and Goa
  - not required for Goa but required for Puducherry
  - required for both Puducherry and Goa
  - not required for Puducherry but required for Goa
- The eligible ITC attributable to taxable supply, available at marketing cum administrative office located in the State of Maharashtra, for the month of January, is:
  - ₹ 3,000
  - ₹ 300
  - ₹ 166.67
  - ₹ 1,500
- The eligible ITC attributable to taxable supply in respect of the capital asset procured in the State of Tamil Nadu, for the month of January is:
  - ₹ 12,000.
  - ₹ 200.
  - ₹ 11,811.11.
  - ₹ 11,820.

4. Lubricant valued at ₹ 10,000 has been stock transferred from the blending plant located in the State of Tamil Nadu to the refinery located in the same State, in the month of January. The GST (CGST and SGST) payable on such transaction is:  
 (a) Nil as the transaction is not a supply,  
 (b) ₹ 900.  
 (c) ₹ 1,800.  
 (d) Nil as such supply is exempted from GST.
5. Due to sudden fire in the store-room of the refinery located in Maharashtra on 28th January, the entire quantity of spares procured in the month of January gets destroyed. What action is required from ABC Petroleum Limited?  
 (a) No action is required on the part of ABC Petroleum Limited under GST Law.  
 (b) ABC Petroleum Limited should report to jurisdictional GST Department for verification of the loss inputs on account of fire.  
 (c) ABC Petroleum Limited should not avail ITC of tax paid on the spares.  
 (d) ABC Petroleum Limited should avail ITC and reverse the same.

1. (c) Required for both Puducherry and Goa As per Sec 22 read with Sec 25: Every supplier shall be liable to be registered in the State or Union territory, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds Registration threshold limit (Aggregate Turnover Includes Value of all outward supplies = Taxable supplies + Exempt supplies + Exports + Inter-State supplies of persons having same PAN be computed on all India basis) Aggregate Turnover = ₹32,34,000 + ₹18,38,000 = ₹50,72,000. Hence Registration required for both Puducherry and Goa
2. (b) ₹ 300 As per Rule 42 of CGST Rules ITC attributable to Exempt Supply (D1)  $D1 = C2 \times E/F$  of Tax Period = common Credit (C2)  $\times$  Exempt Supply (E) / Total Turnover (F) Note- Exempt Supply & Total TO taken excluding Excise duty/ VAT/CST Common Credit. ITC Eligible (C3) = Common Credit (C2) - ITC attributable to Exempt Supply (D1)  $D1 = ₹3000 \times ₹1800 / ₹2000 = ₹2700$  [Where ₹3000 is the common credit] [Where ₹1800 is Exempt Turnover [i.e., ₹3400 - ₹1000 - ₹600 = ₹1800] [Where ₹2000 is Total Turnover [i.e., ₹1800 + ₹200 = ₹2000] Eligible ITC = Common Credit - ITC Reversed = ₹3000 - ₹2700 = ₹300
3. (d) ₹ 11,820.  
 Common credit for all CG having useful life in that tax period = (Tc)  
 Common Credit of CG during useful life for Tax Period (Tm) = Tc/60  
 Note: Useful life of any CG = 5 years from date of invoice and above formula shall be applicable during the useful life of the said capital goods.  
 ITC attributable To Exempt Supply (Te) = Tr \* E(ES) / F(TS of State)  
 Tr = ITC for all Common CG E(ES) = Exempt supply for Tax Period F(TS) = Total supply for Tax Period  
 Note - Exempt Supply & Total Supply taken excluding Excise duty/ VAT/CST  
 Te i.e. Reversal = ₹200 ₹900/₹1000 = ₹180  
 [Where Tc = ₹12000 is the Common credit on Capital Goods]  
 [Where Tm = ₹12000/60 = ₹200 Common Credit for the Tax Period i.e. Month of Jan as life of asset is taken as 60 Months under GST law]  
 [Where ₹900 is Exempt Turnover [calculated as ₹1650 - ₹500 - ₹250 = ₹900]  
 [Where ₹1000 is Total Turnover [calculated as ₹900 + ₹100 = ₹1000]  
 Eligible ITC = Common Credit Availed - ITC Reversed = ₹12000 - ₹180 = ₹11820
4. (a) Nil as the transaction is not a supply. All the places of business of the company in a State = Single registration [As given in Que] As both premises have same registration, they cannot be considered as distinct persons. Hence stock transfer within same state with single registration is not a supply.

5. (c) ABC Petroleum Limited should not avail ITC of tax paid on the spares. As per Sec 17(5): ITC not available on goods lost or destroyed.

**Question 34.**

[SWB Q.No 12 Pg.No 585]

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

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

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

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

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

- (I) Raw materials worth ₹ 0.50 lakh, purchased from a registered supplier located in Gujarat, were destroyed due to fire in the factory and thus, could not be used in the manufacturing process. Remaining raw material has been procured from various vendors located in Maharashtra.
- (II) Rent has been paid for the factory building located in Gujarat to its owner registered in Gujarat.
- (III) Payment for security services (services provided by way of supply of security personnel) for the tax period has been made by Safe and Secure Solutions Pvt. Limited, a company located in Gujarat and not registered under GST.
- (IV) General insurance services have been availed from Divided Insurance Company Ltd. registered in Gujarat.
- (V) Works contract services, availed from Chitra Builders, Gujarat, have been used by the company for construction of a foundation on which machinery to be used in the production process is to be mounted permanently.
- (VI) Audit fee is paid to a firm of Chartered Accountants - M/s Pandya & Associates (registered in West Bengal with an aggregate turnover of ₹ 30 crores in the preceding financial year) - for conducting the statutory audit of the company in the preceding financial year. The firm raises an e-invoice without IRN (Invoice Reference Number) for said services.
- (VII) Bank charges are towards various services availed by the company during a month with regard to its current account maintained with Manimani Bank, registered in Gujarat. The bank issued a consolidated tax invoice for all such services at the end of the month containing the details of tax charged, description of services, total value, GSTIN of the bank and Motopower Pvt. Ltd.
- (VIII) Automobile Association is registered in the State of Gujarat.

(IX) The breakup of sales is as under:

Sales in Gujarat - ₹ 14 lakh

Sales in States other than Gujarat - ₹ 6 lakh Exports under Letter of Undertaking (LUT) - ₹ 10 lakh

(X) Car rental income pertains to renting of cars to Jamaze Travels Ltd., registered in Gujarat and cost of fuel is included in the value of said supply. Further, consumables, procured from registered suppliers located in Gujarat, include diesel (excise and VAT paid) worth ₹ 0.75 lakh used for running the cars so rented out to Jamaze Travels Ltd. Assume that except diesel, no other input/input services is used in providing car renting service.

(XI) Services provided to Gujarat Government administration are under a Health Training programme. 51% of the total expenditure for said programme is borne by Gujarat Government.

(XII) The opening balance of ITC with the company for the tax period is:

CGST - ₹ 0.50 lakh

SGST - ₹ 0.26 lakh IGST - ₹ 0.35 lakh

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

Notes-

(I) CGST, SGST & IGST rates on all inward and outward supplies are 9%, 9% and 18% respectively, except on renting of cars wherein CGST, SGST & IGST rates are 2.5%, 2.5% and 5% respectively.

It is important to note that credit of input tax charged on goods and services used in supplying the service of transport of passengers by any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, is not available except the credit of the input service in the same line of business.

(II) The necessary conditions for availing ITC have been complied with by Motopower Pvt. Ltd., wherever applicable.

You are required to make suitable assumptions, wherever necessary.

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

S. No.	Particulars	Value of supply	ITC			
			CGST*	SGST*	IGST*	Total
1.	Opening balance of ITC		50,000	26,000	35,000	1,11,000
2.	Raw Materials [₹ 4,50,000 - ₹ 50,000] [Refer Note 1]	4,00,000			72,000	72,000
3.	Rent paid for the factory building [Refer Note 2]	1,00,000	9,000	9,000	--	18,000
4.	Consumables procured from suppliers in Gujarat [₹ 1,50,000 - ₹ 75,000] [Refer Note 3]	75,000	6,750	6,750		13,500
5.	Security services [Refer Note 4]	70,000	Nil	Nil	Nil	Nil
6.	General insurance of cars manufactured [Refer Note 5]	2,50,000	22,500	22,500		45,000
7.	Works contract services [Refer Note 6]	1,60,000	14,400	14,400	--	28,800
8.	Audit fee [Refer Note 7]	50,000	Nil	Nil	Nil	Nil
9.	Bank charges [Refer Note 8]	10,000	900	900	--	1,800
10.	Membership of Automobile Association [Refer Note 9]	10,000	900	900	--	1,800
Total ITC available for the tax period			1,04,450	80,450	1,07,000	2,91,900



**Computation of net GST payable**

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

**Notes:**

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

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

Question 35.

[SWB Q.No 6 Pg.No 571]

MS Ltd. is a GST registered company. During the month of October, 2020, the company has undertaken the following transactions and wants you to work out the GST output liability, admissible input tax credit and the amount that will have to be paid in cash by the company to the Government before taking you as a Manager in the company. There is no carry forward amount in respect of any of the items to be considered for the purpose of calculations other than what is mentioned specifically below.

Rate of IGST can be taken as 18%, CGST 9% and SGST 9% on all goods and services except GTA service/transportation service for which CGST and SGST rate would be 2.50% each and IGST rate would be 5%. The amounts indicated for all the items are without including the CGST and SGST or IGST element. Whether a supply attracts IGST or CGST/SGST has to be determined on the basis of details given.

The company has indicated to you that the GST liability for October, 2020 for their main product alone is ₹ 54 lakh of CGST and SGST each and ₹ 72 lakh IGST and the eligible credit on the inputs and input services for October, 2020 is ₹ 1.45 crore IGST and ₹ 20 lakh each towards CGST and SGST which can be straightaway taken for calculations.

Company has provided you the other details which is not part of the above as under:

S.No.	Details of the transaction
i.	During the month of October 2020, the company offered a special discount of 25% on a product, the sale of which it intended to discontinue from 1st December 2020 onwards and issued credit notes to the dealers. This product was lying in stock with the dealers and the discount offered to the customers was borne by the company by issuing the credit note. The amount reimbursed to the dealers for the discounts given to the customers in the month of October 2020 was ₹ 36,00,000 in the course of inter-State.
ii.	The company sold a van used for personal transport by auction. The van had been purchased at ₹ 3,20,000. The depreciated value at the time of sale was ₹ 1,40,000. No GST credit was taken. The van was sold for an amount of ₹ 1,50,000 during the month of October 2020 in the course of intra-State.
iii.	The company has a policy of raising invoices separately towards transportation cost of their products on their dealers at the time of invoicing for the products sold to them. The company is collecting GST at 5% on all transactions and the amount is collected as a percentage of the value of the goods supplied irrespective of the distance involved. The amount collected during the month of October 2020 towards transportation in intra-State transaction is ₹ 6 lakh and inter-State transactions is ₹ 4 lakh.
iv.	The security establishment of the company caught an employee who had stolen bearings of value ₹ 2.50 lakh during the month of October 2020. Bearings could not be recovered. But the company successfully recovered the cost from the employee. IGST credit of ₹ 45,000 had been taken by the company on these bearings.
v.	The company supplies food and beverages to the employees and all the items are priced at 10% of the actual cost to the company. During the month of October, 2020, the company had charged ₹ 50,000 to the employees. Assume that it is intra-State transaction.
vi.	During the month of October, 2020, the company purchased 10 mobile phones in its name and distributed to the employees to enable them to perform their duties more efficiently for the company. Total price of the phones was ₹ 1,20,000. At the end of the month, company sold these mobiles to employees and company recovered only ₹ 20,000 from the employees. Assume that it is intra-State transaction.
vii.	The company's registered office is located in a building which belongs to the local Municipality. The monthly rent is ₹ 1.50 lakh.
viii.	The whole-time director of the company was paid a salary of ₹ 5 lakh during the month. He was also paid ₹ 20,000 towards sitting fees for his participation in the meeting.

Give a brief note to support your treatment for the items wherever required.

Note: Company wants to pay minimum amount of SGST as far as possible.

Computation of output GST liability of MS Ltd. for October 2020:

<u>Particulars</u>	<u>CGST</u> (₹ in lakh)	<u>SGST</u> (₹ in lakh)	<u>IGST</u> (₹ in lakh)
<b>GST liability for main product</b>	54	54	72
<b>After-sales discount on a product</b> [In the given case, discount given after effecting the supply is not in terms of an agreement that existed at the time of supply. Therefore, discount is not allowed as deduction from value of supply.]	Nil	Nil	
<b>Sale of van used for personal transport by auction – As per Notification No. 8/2018, GST payable on sale price (-) Depreciable value. Therefore, GST payable on 1,50,000 (-) 1,40,000 = 10,000</b>	0.009 [0.10 × 9%]	0.009 [0.10 × 9%]	
<b>Transportation cost charged on the product</b> [Supply of goods and transport service is a composite supply as the transportation cost is charged at a flat rate from all customers irrespective of the distance involved. Therefore, rate of principal supply (product) viz. 9% CGST and SGST each is charged on intra-State supply and 18% IGST is charged on inter-State supply.]	0.54 [6 × 9%]	0.54 [6 × 9%]	0.72 [4 × 18%]
<b>Food and beverages supplied to the employees</b> [Goods being provided to the related person (employees), open market value of the same [actual cost (50,000 × 100/10)] has been considered as value. CGST & SGST @ 9% each is payable on food items.]	0.45 [5.0 × 9%]	0.45 [5.0 × 9%]	
<b>Supply of mobile phones to employees<sup>2</sup></b> [Supply being made to the related person (employees), open market value <sup>3</sup> of the same has been considered as value.]	0.108 [1.20 × 9%]	0.108 [1.20 × 9%]	
<b>Total output tax liability</b>	<b>55.107</b>	<b>55.107</b>	<b>72.72</b>
Less: ITC set off [Refer working note (1) below] [IGST credit is first utilized for payment of IGST liability and then for payment SGST liability followed by CGST liability since the SGST liability is to be kept at minimum.]	(16.597)	(55.233)	(72.72)
After exhausting IGST credit, CGST and SGST credit is to be utilized. ITC of CGST cannot be utilized for payment of SGST and vice versa.	(20.261)		
<b>GST payable in cash [A]</b>	<b>18.123</b>	<b>Nil</b>	<b>Nil</b>

<sup>1</sup> The value of supply as well as applicable rate of tax to be paid in case of old and used motor vehicles can also be determined in terms of Notification No 8/2018 CT (R) dated 25.01.2018.

<sup>2</sup> It has been assumed that selling of mobile phones to employees at reduced rates does not form part of the employment contract. Further, mobile phones have been considered as inputs. However, it is also possible to consider mobile phones as capital goods. Since in the given case mobile phones (capital goods) are being removed after being used, a specified 'amount' determined in terms of section 18(6) of the CGST Act, 2017 shall be payable.

<sup>3</sup> Since mobile phones have been considered as inputs, purchase price of ₹ 1,20,000 for the mobile phones has been considered as its open market value



GST under reverse charge payable in cash [Refer working note (2) below] [B] [Tax payable under reverse charge, being not an output tax, cannot be set off against ITC and thus, will have to be paid in cash.]	0.153	0.153
<b>Total GST payable in cash = [A]+ [B]</b>	<b>18.276</b>	<b>0.153</b>

**Working notes:**

**(1) Computation of ITC available with MS Ltd. for October 2020**

<u>Particulars</u>	<u>CGST</u> (₹ in lakh)	<u>SGST</u> (₹ in lakh)	<u>IGST</u> (₹ in lakh)
Eligible credit on inputs and input services for the month	20	20	145
<b>Ball bearings stolen</b> [ITC on stolen goods is blocked. Hence, ITC taken on stolen ball bearings needs to be reversed.]			(0.45)
<b>Mobile phones purchased for employees</b> [ITC of goods used in course or furtherance of business is allowed.]	0.108 [1.2 × 9%]	0.108 [1.2 × 9%]	
<b>Rent paid to Municipality</b>	0.135 [1.5 × 9%]	0.135 [1.5 × 9%]	
<b>Sitting fee paid to whole time director</b>	0.018 [0.20 × 9%]	0.018 [0.20 × 9%]	
<b>Total</b>	<b>20.261</b>	<b>20.261</b>	<b>144.55</b>

**(2) Tax payable under reverse charge:**

<u>Particulars</u>	<u>CGST</u> (₹ in lakh)	<u>SGST</u> (₹ in lakh)	<u>IGST</u> (₹ in lakh)
<b>Rent paid to Municipality</b> [Tax on renting of immovable property services supplied by local authority to a registered person is payable under reverse charge.]	0.135 [1.5 × 9%]	0.135 [1.5 × 9%]	
<b>Sitting fee paid to whole time director</b> [Services provided by employee to employer in the course of his employment are not a supply. Hence, salary paid to director is not taxable. However, sitting fee is a consideration for the services provided beyond course of employment and hence, is taxable. Further, tax on <b>sitting fee paid to director</b> is payable under <b>reverse charge</b> .]	0.018 [0.20 × 9%]	0.018 [0.20 × 9%]	
<b>Total tax payable under reverse charge</b>	<b>0.153</b>	<b>0.153</b>	

**Note:** In the above question, ".....GST at 5% on all transactions and the amount is collected as a percentage of the value....." may be read as ".....GST at 5% on all transactions. The transportation cost is collected as a percentage of the value.....".

**Question 36.**

[SWB Q.No 3 Pg.No 441]

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

- Which documents are covered under section 161?
- Who can rectify the errors apparent on the face of record?
- What type of mistakes or errors can be rectified?
- What is the time limit for rectification?

(a) Following documents are covered under section 161:

- Decision



- Order
  - Any notice
  - Certificate
  - Any other document
- (b) Any authority who has passed or issued any decision or order or notice or certificate or any other document may rectify any error which is apparent on the face of record in such documents.
- (c) Errors or mistakes which are apparent on the face of record may be rectified. Rectification can only be of error apparent from record. It is a settled law that a decision on a debatable point of law is not a mistake apparent from the record.
- (d) No rectification can be made after a period of 6 months from the date of issue of such decision, order, notice, certificate or any other document.  
However, such time limit does not apply in cases where the rectification is purely in the nature of correction of a clerical or arithmetical error or mistake, arising from any accidental slip or omission.

**Question 37.**

[SWB Q.No. 20 Pg. No. 435]

In an order dated 20th August issued to GH (P) Ltd., the Joint Commissioner of CGST has confirmed IGST demand of ₹ 280 crore. The company is disputing the entire demand of IGST and wants to know the amount of pre-deposit it has to make under the IGST Act for filing an appeal before the Appellate Authority against the order of the Joint Commissioner. Assuming that the Appellate Authority also confirms the order of the Joint Commissioner and the company wants to file an appeal before the Appellate Tribunal against the order of the Appellate Authority, determine the amount of pre-deposit to be made by the company for filing the said appeal.

Section 107(6) read with section 20 of the IGST Act provides that no appeal shall be filed with the Appellate Authority unless the applicant has paid in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him and a sum equal to 10% of the remaining amount of tax in dispute arising from the said order subject to a maximum of ₹ 50 crore. Thus, the amount of pre-deposit for filing an appeal with Appellate Authority cannot exceed ₹ 50 crore (for tax in dispute) where IGST demand is involved. In the given case, the amount of pre-deposit for filing an appeal with the Appellate Authority against the order of Joint Commissioner, where entire amount of tax is in dispute, is:

- (i) ₹ 28 crore [10% of the amount of tax in dispute, viz. ₹ 280 crore] or  
(ii) ₹ 50 crore,  
whichever is less. = ₹ 28 crore.

Further, section 112(8) provides that no appeal shall be filed with the Appellate Tribunal unless the applicant has paid in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him and a sum equal to 20% of the remaining amount of tax in dispute, in addition to the amount paid as pre-deposit while filing appeal to the Appellate Authority, arising from the said order subject to a maximum of ₹ 100 crores. Thus, in the given case, the amount of pre-deposit for filing an appeal with the Appellate Tribunal against the order of the Appellate Authority, where entire amount of tax is in dispute, is:

- (i) ₹ 56 crores [20% of the amount of tax in dispute, viz. 280 crores] or  
(ii) ₹ 100 crores, whichever is less. = ₹ 56 crores.

**Question 38.**

[SWB Q.No. 26 Pg. No. 424]

Subharti Enterprises collected GST on the goods supplied by it from its customers on the belief that said supply is taxable. However, later it discovered that goods supplied by it are exempt from GST.

The accountant of Subharti Enterprises advised it that the amount mistakenly collected by Subharti Enterprises representing as tax was not required to be deposited with Government. Subharti Enterprises has approached you for seeking the advice on the same. You are required to advise it elaborating the relevant provisions.

Section 76 stipulates that notwithstanding anything to the contrary contained in any order or direction of any Appellate Authority or Appellate Tribunal or Court or in any other provisions of the CGST Act or the rules made thereunder or any other law for the time being in force, every person who has collected from any other person any amount as representing the tax under this Act, and has not paid the said amount to the Government, shall forthwith pay the said amount to the Government, irrespective of whether the supplies in respect of which such amount was collected are taxable or not.

Where any amount is required to be paid to the Government as mentioned above, and which has not been so paid, the proper officer may serve on the person liable to pay such amount a notice requiring him to show cause as to why the said amount as specified in the notice, should not be paid by him to the Government and why a penalty equivalent to the amount specified in the notice should not be imposed on him under the provisions of this Act.

The proper officer shall, after considering the representation, if any, made by the person on whom show cause notice (SCN) is served, determine the amount due from such person and thereupon such person shall pay the amount so determined.

The person who has collected any amount as representing the tax, but not deposited the same with the Government shall in addition to paying the said amount determined by the proper officer shall also be liable to pay interest thereon. Interest is payable at the rate specified under section 50. Interest is payable from the date such amount was collected by him to the date such amount is paid by him to the Government.

The proper officer shall issue an order within 1 year [excluding the period of stay order] from the date of issue of the notice. The proper officer, in his order, shall set out the relevant facts and the basis of his decision.

**Question 39.**

[SWB Q.No. 2 Pg. No. 396]

Radhaswamy owns and supplies certain goods costing ₹ 30,00,000 in a conveyance hired from Manikaran Transporters. Market value of said goods is ₹ 40,00,000 and tax chargeable thereon is ₹ 4,80,000. The goods supplied by Radhaswamy and the conveyance [owned by Manikaran Transporters] used for carriage of such goods are confiscated, since Radhaswamy has supplied said goods in contravention of the provisions of the CGST Act, 2017 with an intent to evade payment of tax. However, the proper officer intends to give an option to Radhaswamy and Manikaran Transporters to pay in lieu of confiscation, a fine leviable under section 130 of the CGST, Act, 2017. Determine the maximum amount of the fine in lieu of confiscation on:

- i. the goods liable for confiscation.
  - ii. the conveyance used for carriage of such goods
- (i) In case of goods liable for confiscation, the maximum amount of fine leviable in lieu of confiscation in terms of first proviso to section 130(2) of the CGST Act, 2017 is the market value of the goods confiscated, less the tax chargeable thereon. Therefore, in the given case, maximum fine leviable: = ₹ 40,00,000 - ₹ 4,80,000 = ₹ 35,20,000
- (ii) In case where conveyance used for carriage of such goods is liable for confiscation, the maximum amount of fine leviable in lieu of confiscation in terms of third proviso to section 130(2) of the CGST Act, 2017 is equal to tax payable on the goods being transported thereon. Therefore, in the given case, maximum fine leviable = ₹ 4,80,000

**Question 40.**

**[SWB Q.No. 14 Pg. No. 393]**

Avataar Industries, a registered person under GST, has sold whole of its business to Rolex Manufacturers. Determine the person liable to pay GST, interest or any penalty under GST law [determined before sale, but still unpaid] due from Avataar Industries upto the time of such transfer.

As per **Section 85 of CGST Act**, where a taxable person, liable to pay tax under this Act, transfers his business in whole or in part, by sale, gift, lease and license, hire or in any other manner whatsoever, the taxable person and the person to whom the business is so transferred shall, **jointly and severally, be liable wholly or to the extent of such transfer, to pay the tax, interest or any penalty** due from the taxable person upto the time of such transfer, whether such tax, interest or penalty has been determined before such transfer, but has remained unpaid or is determined thereafter.

Thus, in the given case, Avataar Industries and Rolex Manufacturers shall, jointly and severally, be liable wholly or to the extent of such transfer, to pay GST, interest or any penalty [determined before sale, but still unpaid] due from Avataar Industries upto the time of such transfer.

**Question 41.**

**[SWB Q.No. 2 Pg. No. 386]**

Kulbhushan & Sons has entered into a contract to supply two consignments of certain taxable goods. However, since it is unable to determine the value of the goods to be supplied by it, it applies for payment of tax on such goods on a provisional basis along with the required documents in support of its request. On 12.01.20XX, the Assistant Commissioner of Central Tax issues an order allowing payment of tax on provisional basis indicating the value on the basis of which the assessment is allowed on provisional basis and the amount for which the bond is to be executed and security is to be furnished.

Kulbhushan & Sons complies with the same and supplies both the consignments of goods on 25.01.20XX thereafter paying the tax on provisional basis in respect of both the consignments on 19.02.20XX.

Consequent to the final assessment order passed by the Assistant Commissioner of Central Tax on 21.03.20XX, a tax of ₹ 1,80,000 becomes due on 1st consignment whereas a tax of ₹ 4,20,000 becomes refundable on 2nd consignment.

Kulbhushan & Sons pays the tax due on 1st consignment on 09.04.20XX and applies for the refund of the tax on 2nd consignment same day. Tax was actually refunded to it on 05.06.20XX. Determine the interest payable and receivable, if any, by Kulbhushan & Sons in the above case.

Section 60 of the CGST Act, 2017 stipulates that where the tax liability as per the final assessment is higher than under provisional assessment i.e. tax becomes due consequent to order of final assessment, the registered person shall be liable to pay interest on tax payable on supply of goods but not paid on the due date @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. In the given case, due date for payment of tax on goods cleared on 25.01.20XX under provisional assessment is 20.02.20XX.

In view of the provisions of section 60(4), in the given case, Kulbhushan & Sons is liable to pay following interest in respect of 1st consignment:

$$= ₹ 1,80,000 \times 18\% \times 48/365 = ₹ 4,261 \text{ (rounded off)}$$

Further, section 60 of the CGST Act, 2017 stipulates that where the tax liability as per the final assessment is less than the provisional assessment i.e. tax becomes refundable consequent to the order of final assessment, the registered person shall be paid interest as per provisions of Sec 56. Consequently, interest @6% p.a. from the date immediately after the expiry of 60 days from the date of receipt of application under section 54(1) till the date of refund of such tax.

Applying the provisions to the case given to us. since refund has been made (05.06.20XX) within 60 days from the date of receipt of application of refund (09.04.20XX), **interest is not payable to Kulbhusan & Sons on tax refunded in respect of 2nd consignment.**

**Question 42.**

[SWB Q.No. 21 Pg. No. 372]

Decide with reason whether E-Way Bill is required to be issued under CGST Act, 2017 in the following independent cases:

- (a) Square Ltd., registered in Andhra Pradesh, sends goods to its job worker Cube & Co. In Karnataka, which is also registered under GST? Value of the consignment was ₹ 45,000 (including GST).
- (b) Mr. Bheeshma of Telangana started doing business in notified handicraft products as a casual taxable person. He got his first order of ₹ 30,000 from Tamil Nadu which he transports. He is not registered under GST since he has a threshold limit of ₹ 20 lakh.
- (a) E-way bill is mandatorily required to be issued in case of inter-State transfer of goods by principal to job-worker, irrespective of the value of the consignment. In view of the same, E-Way is mandatorily required to be issued in the given case.
- (b) E-way bill is mandatorily required to be issued in case of inter-State transfer of handicraft goods by a person exempted from obtaining registration.  
In view of the same, E-Way Bill is mandatorily required to be issued in the present case.

**Question 43.**

[RTP Nov 2024 – Q.No 16]

Agora Ltd. exported certain goods to its customer located in Germany against which a refund of IGST amounting to ₹ 50 lakh was claimed and received by Agora Ltd. The sale proceeds covering 50% of the value of exports were immediately received by Agora Ltd. However, due to financial constraints, the customer failed to pay the balance amount of sale proceeds within the permissible time limits under regulatory provisions prevailing in India.

In view of the aforesaid scenario:

- (a) Determine the amount of refund, if any, which Agora Ltd. is required to deposit back. Also, discuss the time limit which is permissible under law within which the sale proceeds in respect of exported goods should have been realized by Agora Ltd.
- (b) Will your answer to sub-part (a) differ if the Reserve Bank of India writes off the requirement of realisation of sale proceeds on merits?
- (c) Whether Agora Ltd. can claim the refund back in case sale proceeds are realised at a later date?
- (a) As per proviso to section 16(3) of the IGST Act, 2017 read with rule 96B(1) of the CGST Rules, 2017, in the given case, Agora Ltd. shall deposit the amount of refund proportionate to the sale proceeds not realized i.e. 50% of the value of exports. The amount of such refund is ₹ 25 lakh alongwith applicable interest under section 50. Further, such amount is required to be deposited by Agora Ltd. within 30 days of the expiry of the time period allowed under Foreign Exchange Management Act, 1999, including any extension of such time period permitted. (b)
- (b) As per proviso to rule 96B, where sale proceeds, or any part thereof, in respect of such export goods are not realised by the applicant within the time period allowed under the Foreign Exchange Management Act, 1999, but the Reserve Bank of India writes off the requirement of realisation of sale proceeds on merits, the refund paid to the applicant shall not be recovered.  
Thus, if the RBI writes off the requirement of realisation of sale proceeds by Agora Ltd., the refund amount received by Agora Ltd. is not liable to be recovered.
- (c) As per rule 96B(2), where the sale proceeds are realised by the applicant, in full or part, after the amount of refund has been recovered from him under rule 96B(1) and the applicant produces evidence about such realisation within a period of 3 months from the date of



realisation of sale proceeds, the amount so recovered shall be refunded by the proper officer, to the applicant to the extent of realisation of sale proceeds, provided the sale proceeds have been realised within such extended period as permitted by the Reserve Bank of India. In case the refund amount is deposited by Agora Ltd. alongwith interest as per rule 96B(1) on account of non-realization of sale proceeds from the customer, which is realized on a later date, Agora Ltd. can claim the refund within 3 months from the date of realization of sale proceeds in proportion of the sale proceeds recovered. However, in order to claim such refund, the sale proceeds should have been realized within such extended period as may be permitted by the RBI.

**Question 44.**

[RTP Nov 2024 – Q.No 15]

A notice for audit under section 65 is served by the proper officer on the basis of risk assessment to Ghoomghoom Pvt. Ltd. on 02.12.2023 for audit of financial years 2021-22 and 2022-23. The tax authorities visited its place of business on 20.12.2023 and requested for certain records, documents and books of accounts, from the company. The required records, documents and books of accounts are provided by Ghoomghoom Pvt. Ltd. on 30.12.2023. After in-depth checking of records, documents and books made available by Ghoomghoom Pvt. Ltd. during audit, the audit was completed on 25.03.2024 and audit findings were communicated to the taxpayer in prescribed form by said date. However, the accountant of Ghoomghoom Pvt. Ltd. is of the view that-

- (i) the tax authorities have completed the audit of Ghoomghoom Pvt. Ltd. after the lapse of the maximum time-period permitted by the GST law and
- (ii) the tax authorities cannot conduct the audit of two financial years at a time.

Ghoomghoom Pvt. Ltd. has approached you to advise you on the said issues. You are required to determine the technical veracity of the above views of the accountant of Ghoomghoom Private Ltd. on the same with reference to the relevant provisions of the GST law.

As per section 65, audit of any registered person may be undertaken by:

- the Commissioner; or
- any officer authorized by him, by way of a general or a specific order.

The audit shall be completed within a period of 3 months from the date of commencement of the audit. However, where the Commissioner is satisfied that audit in respect of such registered person cannot be completed within 3 months, he may, for the reasons to be recorded in writing, extend the period by a further period not exceeding six months. For the purposes of this sub-section, the expression "commencement of audit" shall mean:

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

In the given case, the date of commencement of audit shall be determined as follows:

- (a) The date on which requisite information is made available by Ghoomghoom Private Ltd., i.e., 30.12.2023.
- (b) The date of the actual institution of audit at the place of business, i.e., on 20.12.2023 whichever is later.

Therefore, the date of commencement of the audit shall be 30.12.2023 Accordingly, the audit has to be completed within 3 months from the date of commencement of the audit, i.e., by 30.03.2024. Thus, in the given case, the audit was completed by the tax authorities within 3 months from the date of commencement of the audit, i.e., before 30.03.2024. Resultantly, the view of the accountant of Ghoomghoom Pvt. Ltd. that the audit by the tax authorities was completed after the maximum time period prescribed by law for the same, is not correct.

Further, as per section 65 read with rule 101(1), the period of audit to be conducted under said section shall be a financial year or part thereof or multiples thereof. Thus, the view of the accountant that audit cannot be conducted for two financial years is also not correct.



**Question 45.**

[RTP Nov 2024 – Q.No 14]

Mr. Jignesh of Delhi books accommodation, through an e-commerce operator - Plan My Trip Ltd. (PMTL), registered under GST in Uttarakhand, in a newly established budget hotel - Paras Resorts Ltd. (PRL) located in Nainital, Uttarakhand. The turnover of PRL in the current financial year is ₹ 18 lakh.

PRL raises an invoice for ₹ 1,00,000 to Mr. Jignesh. PMTL collects the payment from Mr. Jignesh and after deducting its fees and other charges from the same, remits the balance amount to PRL.

Advise PRL as to whether it is required to obtain GST registration. Also, whether tax is required to be collected at source by PMTL under section 52 on the services provided by PRL to Mr. Jignesh through electronic commerce operator - PMTL. If yes, determine the amount of tax to be collected at source.

Suppose in the above case, other facts remaining same, if PRL, supplying accommodation services, is also an e-commerce operator (registered in Uttarakhand as TCS collector as well as a regular tax payer since its aggregate turnover exceeds the threshold limit) and PMTL has an agreement with PRL for booking the accommodation at the time when Mr. Jignesh booked the accommodation, ascertain whether tax is required to be collected at source under section 52 on the services provided by PRL to Mr. Jignesh through electronic commerce operator - PMTL. If yes, determine the amount of tax to be collected at source and since two e-commerce operators are involved in the said transaction, who is required to collect the tax at source under section 52?

**Note - Amounts given above are exclusive of GST. Assume applicable rate of CGST and SGST to be 9% each and IGST to be 18%.**

As per section 22, every supplier of goods or services or both is required to obtain registration in the State/ Union territory from where he makes the taxable supply if his aggregate turnover exceeds threshold limit in a financial year. However, section 24, inter alia, provides that persons who supply goods or services or both through an electronic commerce operator (hereinafter referred as ECO), who is required to collect tax at source under section 52, are required to obtain registration mandatorily. However, said mandatory registration is not applicable, inter alia, to the suppliers of the services which are notified under section 9(5) or section 5(5) of the IGST Act, 2017; such suppliers are entitled for threshold exemption.

In case where services are notified under section 5(5) of the IGST Act, 2017, the ECO is liable to pay the entire tax on behalf of the suppliers of services. Notification No. 14/2017 IT (R) dated 28.06.2017 issued under said section notifies services by way of providing accommodation in hotels, provided the person supplying such service through ECO is not liable for registration under section 22(1), as one such service where the ECO is liable to pay tax on behalf of the suppliers.

In the given case, PRL provides services by way of providing accommodation in hotel through an ECO. Services by way of providing accommodation in hotels provided by a supplier - PRL - which is not liable for registration under section 22(1) as its turnover is less than the threshold limit for registration, [viz. ₹ 20 lakh], is a service notified under section 5(5). Thus, PRL will be entitled for threshold exemption for registration and will not be required to obtain registration even though it supplies services through ECO.

As per section 52, ECO is not required to collect tax at source (TCS) in cases where the service is notified under section 9(5) of the CGST Act, 2017/section 5(5) of the IGST Act, 2017. The applicable tax on such services is to be paid by the ECO as if he is the supplier liable to pay tax on the supply of such services.

Thus, in the given case, no tax is required to be collected at source under section 52. Further, the supply of accommodation services by PRL to Mr. Jignesh is an intra-State supply liable to CGST and SGST since the place of supply of services by way of lodging accommodation by a hotel is the location at which the immovable property is located in terms of section 12(3) of the IGST Act, 2017. Accordingly, in the given case, place of supply is Uttarakhand and location of supplier – PRL - is also Uttarakhand.

As discussed above, entire tax of ₹ 9,000 (each under CGST and SGST) on ₹ 1,00,000 will be paid by the ECO – PMTL.

In case where PRL is registered under GST, service by way of providing accommodation in hotels provided by it through ECO will no longer be a service notified under section 5(5). The reason for the same is that services by way of providing accommodation in hotels are notified under section 5(5) only where the person supplying such service through ECO is not liable for registration under section 22(1). Consequently, said services shall be subject to the TCS provisions under section 52.

Further, in a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and the supplier-side ECO is himself the supplier of the said supply, Circular No. 194/06/2023 GST dated 17.07.2023 clarifies that the buyerside ECO will be required to collect TCS, as applicable, pay the same to the Government in accordance with section 52 and also make other compliances under said section. As discussed above, the supply of accommodation services by PRL to Mr. Jignesh is an intra-State supply liable to CGST and SGST. Accordingly, in the given case, buyer side ECO – PMTL - is required to collect TCS on ₹ 1,00,000 @ 0.5% each under CGST and SGST as follows:

= ₹ 1,00,000 × 0.5%

= ₹ 500 each under CGST and SGST

**Question 46.**

[RTP Nov 2024 – Q.No 13]

Mr. Dinkar is the owner of Dinkar Associates which is registered in Ahmedabad, Gujarat. He is engaged in supply of various goods and services in the domestic market and exporting the same outside India. During the month of February, he has undertaken the following transactions:

**Outward Supplies**

- (i) Transferred the tenancy rights of a commercial complex (taken on rent) located in Vadodra for a tenancy premium of ₹ 8,00,000 to DB Morgan Ltd. of Ahmedabad, Gujarat. Stamp duty and registration fee have already been paid on the tenancy premium.
- (ii) Hired out excavators and dumpers alongwith operators to mining lease holders of Kuchchh, Gujarat for extracting and transporting minerals within the mining area for a period of 5 years. The excavators/dumpers are invariably hired out along with operators. Similarly, operators are supplied only when the excavators/dumpers are hired out. Hire charges for excavators and dumpers are ₹ 10,00,000 and service charges for supply of manpower for operation of the excavators/dumpers - ₹ 2,00,000.
- (iii) Supplied goods of value of ₹ 35,00,000 to Choksi Ltd. Jamnagar, Gujarat (including goods worth ₹ 10,00,000 supplied to SEZ unit of Choksi Ltd. in Gujarat).
- (iv) Agreed to provide consultancy services to Mr. Krishna of Surat, Gujarat who is an unregistered person in connection with his newly commenced business for a consideration of ₹ 6,80,000. An advance of ₹ 1,50,000 has been received for the same on 10th February.
- (v) Exported the goods to George Inc. of the USA. FOB value of the goods is ₹ 8,40,000.

- (vi) Sold a heavy printing machinery purchased from Japan for ₹ 5,10,000 in high sea to Dhoomketu Printers, Mumbai, Maharashtra on 10th February.
- (vii) Supplied goods to Timahi Corporation, China for ₹ 12,00,000 on 15th February. These goods were purchased for ₹ 10,00,000 from Jamsam Corporation, Japan on 5th February and were supplied in China without bringing them to India.

**Inward Supplies**

- (i) The goods exported to George Inc., USA, were purchased by Mr. Dinkar as a merchant exporter for ₹ 7,00,000 from Shravan Ltd., a manufacturer registered in Bengaluru, Karnataka.
- (ii) The heavy printing machinery sold in high sea to Dhoomketu Printers was originally imported by Mr. Dinkar from Japan on 2nd February, with CIF value of ₹ 5,00,000 and FOB value of ₹ 4,50,000.
- (iii) Mr. Dinkar paid a sales commission of ₹ 5,00,000 to Mr. Kenzo of Japan, his agent in connection with all the imports from Japan.
- (iv) Imported raw materials from Italy under a CIF contract. CIF value of the goods for the purpose of customs included ₹ 2,00,000 as ocean freight paid by the exporter on transport of goods through vessel from port of shipment to port of import. The value for the purpose of levy of IGST worked out by the customs was ₹ 9,00,000.
- (v) Purchased raw cotton for manufacture of garments for ₹ 12,00,000 from Mr. Poonawala, an agriculturist of Kuchch, Gujarat. (vi) Monthly rent of ₹ 35,00,000 payable to Dharam Ltd., Gujarat, for the retail outlet (a commercial property) in Ahmedabad, Gujarat (one third of total space available is used by Mr. Dinkar for personal residential purposes)

Compute the net GST payable in cash [CGST and SGST or IGST, as the case may be], by Mr. Dinkar for February.

**Notes:**

- A. Rates of CGST, SGST and IGST for hiring out of excavators and dumpers are 6%, 6% and 12%. As regards the supply received as a merchant exporter, Mr. Dinkar paid GST at the concessional rates by fulfilling all requisite conditions thereof. Rates of CGST, SGST and IGST for all the other supplies of goods and services including supply of manpower services are 9%, 9% and 18%. Ignore GST compensation cess.
- B. Mr. Dinkar had an opening balance of ITC of CGST of ₹ 35,000 and SGST of ₹ 35,000 for the relevant period. In respect of all the inward supplies, suppliers have uploaded their invoices in respective Form GSTR-1 and the supplies are reflected in Form GSTR 2B.
- C. All the figures given above are exclusive of GST, wherever applicable. The amounts given in respect of import and export transactions in rupees have been arrived after conversion thereof, though transactions were undertaken in convertible foreign currency.
- D. Mr. Dinkar always makes zero-rated supplies under a bond or letter of undertaking (LUT).

Provide supporting explanatory notes for your conclusion wherever required.

Computation of net GST payable in cash, by Mr. Dinkar

Particulars	Value (₹)	CGST(₹)	SGST (₹)	IGST (₹)
<b>GST payable on outward supplies</b>				
Transfer of tenancy rights	8,00,000	72,000 (8,00,000	72,000 (8,00,000	
[Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable even though stamp duty and registration fee have been paid on the same ( <a href="#">Circular No. 44/2018 CT dated 02.05.2018</a> ). It is an intra-State		× 9%)	× 9%)	

supply since place of supply is location of immovable property being Ahmedabad, Gujarat.]				
Hiring out excavators and dumpers including operators [Taxable since renting of trucks and other freight vehicles with driver for a period of time is a service of renting of transport vehicles (with operator) and not service of transportation of goods by road. Further, since the excavators and dumpers are invariably hired out along with operators and the operators are supplied only when the excavators/ dumpers are hired out, it is a case of composite supply under section 2(30) wherein the principal supply is the hiring out of the excavators and dumpers. 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/ dumpers will also be taxed at the rate applicable for hiring out of the excavator and dumpers (principal supply). Further, it is a taxable intra-State supply since place of supply is location of recipient being Kuchchh, Gujarat.]	12,00,000 [10,00,000 + 2,00,000]	72,000 (12,00,000 × 6%)	72,000 (12,00,000 × 6%)	
Goods supplied to SEZ unit of Choksi Ltd. [Supply to SEZ unit is a zero-rated supply in terms of section 16(1)(b) of the IGST Act, 2017. No IGST is payable since Mr. Dinkar makes all zerorated supplies under LUT/bond.]	10,00,000			Nil
Supply of goods to Choksi Ltd., Gujarat [It is a taxable intraState supply since place of supply is location of goods when movement of such goods terminates, viz., Jamnagar, Gujarat.	25,00,000 [35,00,000 - 10,00,000]	2,25,000 [25,00,000 × 9%]	2,25,000 [25,00,000 × 9%]	
Advance received for the consultancy services to be provided to Mr. Krishna [Tax on the services to be provided is payable at the time of receipt of advance. Since the place of supply is location of recipient, i.e. Gujarat, it is an intraState supply.]	1,50,000	13,500 [1,50,000 × 9%]	13,500 [1,50,000 × 9%]	
Export of goods to USA under LUT/bond [Export of goods outside India is a zero-rated supply in terms of section 16(1)(b) of the IGST Act, 2017. No IGST is payable since Mr. Dinkar makes all zerorated supplies under LUT/bond.]	8,40,000			Nil
High sea sales of heavy printing machinery imported from Japan [High sea sales is neither treated as supply of goods nor as	Nil			

supply of services in terms of para 8(b) of Schedule III of the CGST Act, 2017.]				
Goods purchased from Japan sold in China without bringing them into India	Nil			
[Third country shipments or triangular trade is neither treated as supply for goods nor as supply of services in terms of para 7 of Schedule III of the CGST Act, 2017.]				
Total output tax		3,82,500	3,82,500	Nil
Less: ITC [Refer working note below]		81,350 (IGST)	81,350 (IGST)	
[IGST credit has been utilized for payment of CGST and SGST liability in equal proportion. Thereafter, CGST credit and SGST credit have been utilized to pay the CGST liability and SGST liability respectively.]		3,01,150 (CGST)		
			3,01,150 (SGST)	
Net GST payable		Nil	Nil	Nil
<b>Add: GST payable on inward supplies</b>				
Imported raw material from Italy	9,00,000			1,62,000 [9,00,000 × 18%]
Raw material purchased from Mr. Poonawala, Gujarat [Tax on the raw cotton purchased by any registered person from an agriculturist is payable under reverse charge vide Notification No. 4/2017 IT (R) dated 28.06.2017.]	12,00,000	1,08,000 [12,00,000 × 9%]	1,08,000 [12,00,000 × 9%]	
<b>Total net GST payable in cash</b> (CGST and SGST of ₹ 1,08,000 each will be paid in cash through GSTN portal and IGST of ₹1,62,000 will be paid in cash through ICEGATE portal while making customs clearance.)		<b>1,08,000</b>	<b>1,08,000</b>	<b>1,62,000</b>

**Working Note - Computation of admissible ITC for February**

Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
Opening balance		35,000	35,000	
Goods purchased as merchant exporter [It is an inter-State supply since the place of supply is Gujarat, i.e. location where the movement of goods terminates. Shraavan Ltd. would have supplied the goods to merchant exporter - Mr. Dinkar - at concessional rate of IGST of 0.1% prescribed under Notification Nos. 41/2017 IT(R) dated 23.10.2017. Further, the merchant exporter is eligible to take ITC of concessional IGST so paid <sup>4</sup> .]	7,00,000			700

<sup>4</sup> Circular No. 125/44/2019 GST dated 18.11.2019



Heavy printing machinery imported from Japan [No ITC is available since tax is not payable by Mr. Dinkar on the same since in case of high sea sales, IGST is paid by the last high sea sales buyer who clears the goods for home consumption by filing the bill of entry.]	Nil			
Goods purchased from Jamsam Corporation, Japan [No ITC is available since tax is not payable by Mr. Dinkar on the same as goods do not become part of the landmass of the country.]	Nil			
Sales commission paid to agent - Mr. Kenzo [Since service provider - Mr. Kenzo - is an intermediary in the given transaction, place of supply is location of supplier - Mr. Kenzo, i.e. outside India (Japan), in terms of section 13(8)(b) of the IGST Act, 2017. Since location of supplier and place of supply are outside India, tax is not payable on said transaction under reverse charge on said services.]	5,00,000			
Imported raw material from Italy [Input tax, inter alia, includes IGST charged on import of goods, in terms of section 2(62). No separate levy of IGST will be there on the component of ocean freight paid by the foreign exporter to the foreign shipping line in the CIF contract by virtue of Union of India vs. Mohit Minerals Pvt. Ltd. 2022 (61) G.S.T.L. 257 (SC) since the Indian importer is liable to pay IGST on the 'composite supply', comprising of supply of goods and supply of services of transportation, insurance, etc. in a CIF contract.]	9,00,000			1,62,000 [9,00,000 × 18%]
Raw cotton purchased from Mr. Poonawala, Gujarat [It is an intra-State supply since the place of supply is location where movement of goods terminates, i.e. Gujarat, in terms of section 10(1)(a) of the IGST Act, 2017. ITC on goods used in course or furtherance of business is allowed in terms of section 16.]	12,00,000	1,08,000 [12,00,000 × 9%]	1,08,000 [12,00,000 × 9%]	
GST paid on monthly rent [In case of services used partly for the business purpose and partly for other purposes, ITC is restricted to so much of ITC as is attributable to the purposes of business. Thus, ITC for GST paid on only 2/3rd of monthly rent is available since GST paid on monthly rent	35,00,000	2,10,000 [35,00,000 × 9%×2/3]	2,10,000 [35,00,000 × 9%×2/3]	
attributable to personal purposes (one-third) is not allowed. Further, it is an intra-State supply since the place of supply of services provided in relation to an immovable property is location of immovable property, i.e. Gujarat				

in terms of section 12(3) of the IGST Act, 2017.]				
Total ITC available		3,53,000	3,53,000	1,62,700

**Note** - Since as per section 49(5) read with rule 88A, ITC of IGST can be utilised towards payment of CGST and SGST in any proportion and in any order, the ITC of IGST of ₹ 1,62,700 can be set off against the CGST and SGST liability in any proportion and in any order. In above answer, ITC of IGST has been set off in equal proportion against the payment of CGST and SGST liability. However, multiple answers are possible to given question owing to multiple ways of utilizing the ITC of IGST for payment of CGST and SGST liability.

**Question 47.**

[RTP May 2024 – Q.No 13]

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

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

The company provided the following additional information:

- In respect of sale of old warehouse building, stamp duty was paid on ₹ 32 lakh.

- ii. The company provided a corporate guarantee of ₹ 2 crores to Laxmi Logistics Limited, its related company having registered office in the State of Karnataka, for loan availed by the latter from Jandhan Bank Ltd., Karnataka.
- iii. The accountant of the company did not claim input tax credit in respect of debit note received for the reason that the original purchase related to earlier years for which ITC claim eligibility was over.
- iv. Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively for both inward and outward supply of goods and services, except special packing boxes for which the applicable rates of CGST, SGST and IGST are 6%, 6% and 12% respectively.
- v. All the amounts given above are exclusive of taxes, wherever applicable

From the information given above, you are required to compute the eligible ITC available for set off and minimum net GST payable in cash (CGST, SGST or IGST, as the case may be) for the month of October, 2023. Provide brief reasons for the treatment of each item.

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

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

services are also not covered in para 2 of Schedule I as agents are not related persons.]				
Corporate guarantee provided to Laxmi Logistics Limited [Supply of service between related parties even when made without any consideration is deemed supply in terms of Schedule I. Further, value of corporate guarantee, in terms of rule 28(2), will be higher of: (i) 1% of the amount of such guarantee offered, or (ii) actual consideration] (i.e. 1% of ₹ 2 crore) [Circular No. 204/16/2023 GST dated 27.10.2023]	2,00,000		18,000	18,000
Interest received on fixed deposits [Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest are exempt vide Notification No. 12/2017 CT (R) dated 28.06.2017]	2,00,000			
<b>Gross GST liability [A]</b>		<b>3,51,000</b>	<b>54,000</b>	<b>54,000</b>
Less: ITC available for set off [Refer Note (iii) below]		24,958	16,639	16,639
<b>Net GST payable in cash</b>		<b>3,26,042</b>	<b>37,361</b>	<b>37,361</b>

Notes:

(i) Computation of ITC admissible to Sitaram Industries Ltd. for the month of October, 2023

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

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

Particulars	IGST (₹)	CGST (₹)	SGST (₹)
Common credit on receipt of debit note [Debit note, although received in respect of taxable inward supply, is being used for all goods manufactured in factory which comprises of both taxable and exempt goods.]		36,000	36,000

Common credit on purchase of uniforms [Uniforms are being used commonly for manufacturing of both taxable and exempt goods.]	54,000		
Common credit attributable to exempt supplies (rounded off) = Common credit x (Exempt turnover during the period / Total turnover during the period) = ₹ 54,000 x ₹ 32,00,000 / ₹ 59,50,000 (IGST) = ₹ 36,000 x ₹ 32,00,000 / ₹ 59,50,000 (CGST/SGST) Exempt turnover = ₹ 32,00,000 and total turnover = ₹ 59,50,000 [Refer note below]	29042	19361	19361

Note: As per explanation to section 17(3), the expression "value of exempt supply" shall not include the value of activities or transactions specified in Schedule III, except, inter alia, sale of building subject to clause (b) of paragraph 5 of Schedule II. Further, as per explanation to Chapter V (Input Tax Credit) of the CGST Rules, 2017, for determining the value of an exempt supply as referred to in section 17(3), the value of exempt supply in respect of land and building is the value adopted for the purpose of paying stamp duty.

Further, as per explanation 1 to rule 43, the aggregate value of exempt supplies for the purpose of rules 42 and 43, inter alia, excludes the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances.

Therefore, value of exempt turnover in the given case will be the value of building (₹ 32,00,000). Total turnover will be sum of value of building (₹ 32,00,000) + supply of laptop (₹ 13,30,000) + supply of Direct Selling Agent service (₹ 4,00,000) + supply of pure labour service (₹ 6,20,000) + supply of corporate guarantee (₹ 2,00,000) + interest received on fixed deposits (₹ 2,00,000) = ₹ 59,50,000

(iii) Computation of ITC available for set off of Sitaram Industries Limited for the month of October, 2023

Particulars	IGST (₹)	CGST (₹)	SGST (₹)
Common credit on inputs and input services	54,000	36,000	36,000
ITC available in the Electronic Credit Ledger	54,000	36,000	36,000
Less: Common credit attributable to exempt supplies during the tax period [As calculated in Note (ii) above]	29,042	19,361	19,361
ITC available for set off	24,958	16,639	16,639

**Question 48.**

[RTP May 2024 – Q.No 15]

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

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

- Yes, Bindusara can supply goods through E-vastustore without obtaining GST registration. As per section 24(ix), persons who supply goods and/or services, other than services notified under section 9(5), through such electronic commerce operator (hereinafter referred as



ECO) who is required to collect TCS under section 52 is required to obtain registration mandatorily.

However, the persons making supplies of goods through an ECO who is required to collect TCS and having an aggregate turnover in the preceding financial year and in the current financial year not exceeding the threshold limit in accordance with the provisions of section 22(1), are exempted from obtaining registration, vide *Notification No. 34/2023 CT dated 31.07.2023*, subject to the following conditions, namely:

- (i) such persons shall not make any inter-State supply of goods;
- (ii) such persons shall not make supply of goods through ECO in more than one State/Union territory;
- (iii) such persons shall be required to have a PAN issued under the Income-tax Act, 1961;
- (iv) such persons shall, before making any supply of goods through ECO, declare on the common portal:
  - a) their PAN
  - b) address of their place of business and
  - c) State/UT in which such persons seek to make such supply, which shall be subjected to validation on the common portal;
- (v) such persons have been granted an enrolment number on the common portal on successful validation of the PAN declared above;
- (vi) such persons shall not be granted more than one enrolment number in a State/UT;
- (vii) no supply of goods shall be made by such persons through ECO unless such persons have been granted an enrolment number on the common portal; and
- (viii) where such persons are subsequently granted registration under section 25, the enrolment number shall cease to be valid from the effective date of registration.

Thus, Bindusara can supply goods through E-vastustore without obtaining GST registration till the time its aggregate turnover does not exceed the threshold limit in accordance with the provisions of section 22(1) thereby complying with the aforesaid conditions.

- B. As Bindusara is not required to obtain registration under GST, there shall be no GST implications on the supplies made by him through electronic commerce platform - E-vastustore.

However, the electronic commerce operator - E-vastustore - is required to submit the details of supplies made through it by the unregistered suppliers (including Bindusara) having enrolment number in Form GSTR 8. Further, no tax at source shall be collected by the E-vastustore in respect of such supplies.

**Question 49.**

**[RTP May 2024 – Q.No 16]**

A Ltd. is registered under GST in Rajasthan, Delhi, Haryana and Punjab. Due to closure of business activities in Rajasthan with effect from May 31, 2023, A Ltd. filed an application for cancellation of registration before the jurisdictional tax authorities of Rajasthan. The application for cancellation of registration was filed on June 30, 2023. The registration was suspended with immediate effect from June 30, 2023, by the jurisdictional tax authorities. The final order of cancellation was dated July 31, 2023. You are required to advise A Ltd. regarding the last date for filing the final return by it in Rajasthan. Further, A Ltd. was also registered as an ISD (Input Service Distributor) in Rajasthan; said registration was cancelled with effect from June 30, 2023 with an order dated July 31, 2023. Advise whether the final return is required to be filed upon cancellation of ISD registration by A Ltd.? If yes, what is the due date for filing said final return?

As per section 45 read with rule 81, every registered person who is required to file a return under section 39(1) and whose registration has been cancelled is required to file a final return electronically in Form GSTR-10 through the common portal. The final return has to be filed within 3 months of the:

- (i) date of cancellation
- or

(ii) date of order of cancellation  
whichever is later.

Thus, in the given case, final return for Rajasthan registration has to be furnished within three months of the date of order of cancellation of registration (July 31, 2023). Hence, final return has to be filed by A Ltd. on or before October 31, 2023. Further, since an ISD is not required to furnish return under section 39(1) but under section 39(4), final return is not required to be filed upon cancellation of ISD registration. Therefore, A Ltd. is not required to furnish final return for ISD registration cancelled.

**Question 50.**

**[SWB Q.No. 13 Pg. No. 275]**

Shubhlaxmi Foods is engaged in supplying restaurant/catering service in Maharashtra. In the preceding Financial Year, it has a turnover of ₹ 90 lakh from the restaurant/catering service and ₹30 lakh from the supply of farm labour in said State. Further, it has also earned a bank interest of ₹30 lakh from the fixed deposits.

Shubhlaxmi Foods wishes to opt for composition scheme in the current year. You are required to advise Shubhlaxmi Foods on the same. Would your answer be different if Shubhlaxmi Foods is engaged in milling of paddy into rice on job work basis instead of supply of farm labour and the turnover from the said activity is ₹30 lakh?

As per section 10(1) of the CGST Act, 2017, a registered person, whose aggregate turnover in the preceding Financial Year did not exceed ₹1.5 crore (₹75 lakhs in 8 specified states) may opt to pay composition scheme. Such person shall be so eligible if he is not attracting any disqualification as specified in Sec 10(2) of CGST Act.

One such disqualification is if he is engaged in supply of any service other than restaurant/catering services or services upto a specified limit. However, if they are engaged in supply of any services during the Previous Year, that is not a disqualification but they should ensure that such services are not provided during the current year or the value of such services should not exceed limit specified. Therefore, they can render the service upto ₹12 lakh i.e., 10% of turnover during the Previous Year (₹90lakh + ₹30lakh) or ₹5,00,000, whichever is higher.

Also, in the computation of aggregate turnover during the Previous Year for determination of eligibility to opt for composition scheme, interest income shall be excluded.

**Therefore, the aggregate turnover of Shubhlaxmi foods for the previous Financial Year is ₹120 lakhs** (₹90 lakhs of restaurant service which is a taxable supply and ₹30 lakhs of supply of farm labour, which is an exempt supply) and they are eligible to opt for composition scheme. Even, if they provide supply of services in relation to milling of paddy into rice which is a taxable supply, they are eligible to opt for composition scheme.

**IMPORTANT THEORY QUESTIONS/ CONCEPTS**

<b>GST</b>
1) Cases involving cancellation of registration
2) Contravention of provisions resulting in cancellation of registration
3) Situation where GSTR-1 is blocked
4) Who are not required to comply with Aadhar authentication for registration
5) E-Invoice / Dynamic QR Code non-applicability
6) Non appellate orders
7) Revisional authority u/s 108
8) Procedure for advance ruling u/s 98
9) Exceptions to information obtained by public servant should not be disclosed u/s 158
10) Exceptions to doctrine of unjust enrichment in case of refund under GST
11) Situations where TDS is not applicable
12) Situations where TCS is not applicable
13) Areas where CA has to ensure ethics under GST
14) Rule 88C & Rule 88D – procedure to be followed of GSTR – 1 liability > GSTR-3B liability (or) ITC in GSTR-3B > ITC in GSTR-2B
15) Restrictions where ITC not available even though reflected in GSTR-2B u/s 38
16) Situations where ITC cannot be utilised under Rule 86A
17) Exceptions to Rule 86B
18) Access to business premises u/s 71
19) Various accounts & records to be maintained
20) Situations where composition scheme is not applicable

<b>Customs &amp; FTP</b>
1) Advance authorisation for annual requirement
2) Exceptions to doctrine of unjust enrichment
3) Circumvention/Absorption of ADD/ASD
4) RODTEP Scheme
5) Status holders
6) Authorised economic operator
7) Situations where provisional assessment can be restored
8) Conditions for concession w.rto re-importation
9) Deferrred payment of customs duty
10) Electronic Cash ledger & electronic duty ledger credit ledger in customs