

EXECUTIVE PROGRAMME

MODULE 1, PAPER 4

PRACTICE QUESTIONS

Tax Laws

(Relevant for June 2020 examination)

INDIRECT TAXES

Goods and Services Tax (GST)

and

Customs Law



**THE INSTITUTE OF
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Chapter 11

Concept of Indirect Taxes at a glance

Background; Constitutional powers of taxation; Indirect taxes in India – An overview; Pre-GST tax structure and deficiencies; Administration of Indirect Taxation in India; Existing tax structure.

Question 1

What were the major deficiencies of VAT system in India?

Answer

The major deficiencies of VAT system in India were as under:

- (1) There was lack of uniformity in the rates of VAT in different States. Distortion occurs on account of different rates of VAT, composition Scheme, exemptions, difference in classification of goods, etc.
- (2) Central Sales Tax was not integrated with the State VAT. Therefore, it was difficult to put the purchases from other States at par with the purchases within the State. Consequently, the advantage of neutrality was confined only for purchases within the State.
- (3) For complying with the VAT provisions, the accounting cost increased which was not commensurate with the benefit to traders and small firms.
- (4) VAT was paid at various stages and not at last stage. This had increased the requirement of working capital and the interest burden.
- (5) As a result of introduction of VAT, the administrative cost to the States had increased on account of number of dealers going up significantly.

Question 2

What were the taxes which GST subsumed?

Answer

GST subsumed the following:

Central Taxes

- (a) Service tax;
- (b) Central excise duty;
- (c) Additional Duties of Excise (Goods of Special Importance);

- (d) Excise duty levied under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955;
- (e) Additional Duties of Excise (Textiles and Textile Products)
- (f) Additional customs duty (countervailing duty or CVD);
- (g) Special additional duty of customs (SAD);
- (h) Central surcharges and cesses.

State Taxes

- (a) State VAT;
- (b) Central sales tax;
- (c) Entertainment tax not levied by local bodies;
- (d) Luxury tax;
- (e) Taxes on lottery, betting, and gambling;
- (f) Tax on advertisements;
- (g) State cesses and surcharges related to supply of goods and services;
- (h) Entry tax not levied by local bodies.
- (i) State Surcharges and Cesses so far as they relate to supply of goods and services*
- (j) Purchase tax*

Question 3

What were the highlights of Constitutional (101stAmendment) Act,2016 with respect to Goods and Service Tax?

Answer

Highlights of the Constitution (One Hundred and First Amendment) Act, 2016:

The Constitution (One Hundred and First Amendment) Act, 2016 received the assent of the President on the 8thSeptember, 2016.

- **Amendment of Constitution:** The Bill amended the Constitution to introduce the goods and services tax (GST). Consequently, the GST subsumed various central indirect taxes including the Central Excise Duty, Countervailing Duty, Service Tax, etc. It also subsumes state value added tax, octroi and entry tax, luxury tax, etc.
- **Concurrent powers for GST:** The Bill insert a new Article in the Constitution to give the central and state governments the concurrent power to make laws on the taxation of goods and services.

- **Integrated GST (IGST):** Only the centre may levy and collect GST on supplies in the course of inter-state trade or commerce. The tax collected would be divided between the centre and the states in a manner as prescribed by law, on the recommendations of the GST Council.
- **GST Council:** The President must constitute a Goods and Services Tax Council within sixty days of this Act coming into force. The GST Council aim to develop a harmonized national market of goods and services.

The GST Council is to consist of the following three members:

- (i) the Union Finance Minister (as Chairman),
- (ii) the Union Minister of State in charge of Revenue or Finance, and
- (iii) the Minister in charge of Finance or Taxation or any other, nominated by each state government.

- **Functions of the GST Council:** These include making recommendations on:
 - (i) taxes, cesses, and surcharges levied by the centre, states and local bodies which may be subsumed in the GST;
 - (ii) goods and services which may be subjected to or exempted from GST;
 - (iii) model GST laws, principles of levy, apportionment of IGST and principles that govern the place of supply;
 - (iv) the threshold limit of turnover below which goods and services may be exempted from GST;
 - (v) rates including floor rates with bands of GST;
 - (vi) special rates to raise additional resources during any natural calamity;
 - (vii) special provision with respect to Arunachal Pradesh, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and
 - (viii) any other matters. Resolution of disputes: The GST Council may decide upon the modalities for the resolution of disputes arising out of its recommendations.
- **Restrictions on imposition of tax:** The Constitution imposes certain restrictions on states on the imposition of tax on the sale or purchase of goods. The Bill amends this provision to restrict the imposition of tax on the supply of goods and services and not on its sale.
- **Additional Tax on supply of goods:** An additional tax (not to exceed 1%) on the supply of goods in the course of inter-state trade or commerce would be levied and collected by

the centre. Such additional tax shall be assigned to the states for two years, or as recommended by the GST Council.

- **Compensation to states:** Parliament may, by law, provide for compensation to states for revenue losses arising out of the implementation of the GST, on the GST Council's recommendations. This would be up to a five year period.
- **Goods exempt:** Alcoholic liquor for human consumption is exempted from the purview of the GST.

Further, the GST Council is to decide when GST would be levied on:

- (i) petroleum crude,
- (ii) high speed diesel,
- (iii) motor spirit (petrol),
- (iv) natural gas, and
- (v) aviation turbine fuel.

Question 4

What is Goods and Services Tax (GST) and what are the principles of GST?

Answer

GST is an Indirect Tax which has replaced many Indirect Taxes in India. It is a destination based tax on consumption of goods and services. It is levied at all stages right from manufacture up to final consumption with credit of taxes paid at previous stages available as set-off. In a nutshell, only value addition will be taxed and burden of tax is to be borne by the final consumer.

Goods and Service Tax (GST) is applicable in India from 1st July 2017.

GST is basically based on two principles:

1. Destination Principle:

This principle seeks to tax the goods and services on simple theory that the goods or services should be taxed in the jurisdiction where their consumption takes place rather than the point where their origin or production takes place. Thus, entire revenue relating to the goods or services accrues to the jurisdiction where they are being ultimately consumed.

'Destination Principle' states that the supply of goods and services would be taxed at the point of consumption.

Destination based tax on consumption means the tax would accrue to the taxing authority which has jurisdiction over the place of consumption which is also termed as

place of supply.

2. Value Added Principle:

Under GST the tax shall be collected on value-added to goods or services at each stage of the supply chain. Right from the original producer or service provider to the ultimate consumer, GST will be collected on value added at every stage of the supply chain.

Question 5

What are the benefits of Goods and Services Tax (GST)?

Answer

Goods and Services Tax (GST) is considered as a major tax policy reform in India as it simplifies the whole indirect tax procedure by making India a single unified market, thereby minimizing compliances for people at all ends and making tax collection a much simpler process. It also makes it easier for the administration to certify that the taxes have been paid properly and duly collected. For consumers, it ensures benefit through reduction in prices, incentivizing greater consumption by providing set off of inputs.

Under GST, the taxation burden will be divided equitably between manufacturing and services through a lower tax rate by increasing the tax base and minimizing exemptions. GST will be levied only at the destination point, and not at various points (from manufacturing to retail outlets).

Question 6

Why Dual Goods and Services Tax (GST) was required?

Answer

India is a federal country where both the Centre and the States have been assigned the powers to levy and collect taxes through appropriate legislation. Both the levels of Government have distinct responsibilities to perform according to the division of powers prescribed in the Constitution for which they need to raise resources. A dual GST is, therefore, in keeping with the Constitutional requirement of fiscal federalism.

The Central GST and the State GST would be levied simultaneously on every transaction of supply of goods and services except the exempted goods and services, goods which are outside the purview of GST and the transactions which are below the prescribed threshold limits. Further, both would be levied on the same price or value unlike State VAT which is levied on the value of the goods inclusive of CENVAT.

Question 7

Which commodities have been kept outside the purview of Goods and Services Tax (GST)?

Answer

Article 366(12A) of the Constitution as amended by 101st Constitutional Amendment Act, 2016 defines the Goods and Services tax (GST) as a tax on supply of goods or services or both, except supply of alcoholic liquor for human consumption. So, alcohol for human consumption is kept out of GST by way of definition of GST in the constitution.

Further, as per Article 279A (5) of the Constitution, five petroleum products viz. **petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel** have temporarily been kept out and GST Council shall decide the date from which they shall be included in GST. Additionally, though, electricity has not been explicitly excluded from GST but it is considered as Nil rated in GST and continues to be charged with pre-GST taxes i.e. electricity duty by the State Governments.

Chapter 12

Basics of Goods and Services Tax 'GST'

Basics concept and overview of GST; Constitutional Framework of GST; GST Model – CGST / IGST / SGST / UTGST; Taxable Event; Concept of supply including composite and mixed supply; Levy and collection of CGST and IGST; Composition scheme & Reverse Charge; Exemptions under GST.

Question 1

What is CGST, SGST, UTGST and IGST?

Answer

CGST: Central Goods and Services Tax: It is levied & collected under the authority of CGST Act, 2017 passed by the Parliament. It is a tax levied on Intra State Supplies of both goods and services by the Central Government and is governed by the CGST Act, 2017.

SGST : State Goods and Services Tax : It is levied& collected under the authority of SGST Act, 2017 passed by respective State. It is a tax levied on Intra State Supplies of both goods and services by the State Government and is governed by the SGST Act, 2017.

UTGST: Union Territory Goods and Services Tax: It is levied & collected under the authority of UTGST Act, 2017 passed by the Parliament. This is applicable to Union Territories, i.e., Andaman & Nicobar Islands, Lakshadweep, Dadra & Nagar Haveli, Daman & Diu, Chandigarh and other territory. SGST is levied under the respective state legislations. Jammu & Kashmir & Ladakh has been made union territories but for the time being J&K SGST Act is applicable. Dadra & Nagar Haveli & Daman & Diu are to be merged into a single Union Territory.

IGST : Integrated Goods and Services Tax: It is levied on all inter-state supplies in the GST regime and addresses the ills of the Central Sales Tax. The IGST mechanism ensures that the tax money goes to the state where consumption takes place. Though IGST is levied by the centre, the revenue does not belong fully to the centre. The tax revenue collected as IGST goes partially to the Centre as CGST and the remaining to the State/UT where consumption takes place as SGST/UTGST.

Question 2

Discuss in brief the 'taxable event' and the scope of the term 'supply' under Goods and Services Tax (GST) law.

Answer

The 'taxable event' under GST shall be the supply of goods or services or both in terms of Section 7 of the CGST Act, 2017. The taxable events under the existing indirect tax laws such as manufacture, sale, or provision of services shall stand subsumed in the taxable event known as 'supply'.

The term 'supply' is wide in its import covers all forms of supply of goods or services or both that includes sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.

It includes import of service for consideration whether or not in the course or furtherance of business.

It also includes transactions specified in Schedule I made without consideration and the activities to be treated as supply of goods or supply of services as referred to in Schedule II.

Question 3

What are the necessary elements that constitute supply under CGST/SGST Act?

Answer

In order to constitute a 'supply', the following elements are required to be satisfied, i.e.-

- i. the activity involves supply of goods or services or both;
- ii. the supply is for a consideration unless the transaction is covered by Schedule I to the CGST Act, 2017.
- iii. the supply is made in the course or furtherance of business except in case of import of services;
- iv. the supply is a taxable supply; and
- v. the supply is made by a taxable person.

Question 4

How to calculate Goods and Services Tax (GST)?

Answer

GST can be calculated simply by multiplying the Taxable amount by GST rate. If CGST & SGST/UTGST is to be applied then CGST and SGST both amounts are half of the total GST amount.

Goods and Services Tax = Taxable Amount x GST Rate

If you have the amount which is already including the GST then you can calculate the GST excluding amount by below formula

GST excluding amount = GST including amount / (1 + GST rate/100)

For example, GST including amount is Rs. 525 and GST rate is 5%.

GST excluding amount = $525 / (1 + 5/100) = 525 / 1.05 = 500$

GST is calculated on the transaction amount and not on the MRP.

Question 5

Distinguish between composite supply and mixed supply. Explain in the context of CGST Act, 2017, the liability on composite and mixed supplies.

Answer

In terms of Section 2(30) of the CGST Act, 2017, Composite supply means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

The illustration of composite supply appended to Section 2(30) of the CGST Act, 2017 is as follows:

Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply.

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

The illustration of mixed supply appended to Section 2(74) of the CGST Act, 2017 is as

follows:

A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately.

The tax liability on a composite or a mixed supply shall be determined in the following manner;

- (i) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply. Hence, in case of composite supply, tax rate as applicable to principal supply would apply to entire supply; and
- (ii) A mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax. Hence, in case of mixed supply, highest tax rate as applicable to any single supply would apply to all supplies forming part of mixed supply.

Question 6

State which of the following is composite supply or mixed supply under the GST law :

(i) Sale of car with warranty coverage.

(ii) Gift pack with chocolates and books.

(iii) Sale of Refrigerator with power stabilizer.

(iv) Hotel T providing accommodation with complimentary breakfast.

Answer

Composite Supply or Mixed Supply

(i) Composite Supply: Sale of car with warranty coverage is a composite supply as both supplies are naturally bundled and sale of car is a principal supply.

(ii) Mixed Supply: Gift pack with chocolates and books are not bundled due to natural necessities and hence they are mixed supply.

(iii) Mixed Supply: Refrigerator and power stabilizer are not inseparable and are not bundled due to natural necessities. They are mixed supply.

(iv) Composite Supply: Hotel T providing accommodation with complimentary breakfast is a composite supply as the principal supply is supply of service i.e. accommodation.

Question 7

What is Deemed Supply? Explain with examples.

Answer

Deemed Supply means event or transaction where no or inadequate consideration is received for the supply of goods or services.

Schedule I to CGST Act 2017:

Activities to be treated as Supply even if made Without Consideration

1. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
For Example :i.) Mr. A who sells Air Conditioner(AC). He transfers 1 AC from stock in trade to his home for personal use would constitute as Supply.
ii) Scrap of machinery destroyed by fire handed over to insurance company for settlement of claim. Since, ITC has been availed So, when the machinery destroyed by fire is handed over to insurance company in return for insurance compensation, it is a **supply of goods**.
2. Supply of goods or services or both between **related persons** or between distinct persons as specified in section 25, when made in the course or furtherance of business:
Provided that gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.
3. Supply of goods—
 - (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or
 - (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.
3. Import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

Question 8

State whether the following are supply of goods/services, as per GST law, with brief reasons :

(i) Mr. A availed the architectural services of his son living in France (free of cost) for designing his residential building and factory layout.

(ii) Lease of land for two wheeler parking stand.

(iii) Permitting use of registered patent for annual fee.

(iv) Transfer of tenancy right by executing and registering a document.

Answer

Issues on supply of service

(i) In terms of Section 7 of the CGST Act, 2017, import of service for a consideration whether or not in the course of or furtherance of business is a supply.

Here, the services received by Mr. A is **without consideration, thus not a supply**. It is not subject to GST.

(ii) As per Clause 2(a) of Schedule II of the CGST Act, 2017, any lease, tenancy, easement, licence to occupy land is a supply of services.

Thus, lease of land for two wheeler parking is a **supply of service**.

(iii) As per Clause 5(c) of Schedule II of the CGST Act, 2017, provides that Temporary transfer or permitting the use or enjoyment of any intellectual property right is supply of service.

Hence, permitting use of registered patent/ trade mark shall amount to **supply of service**.

(iv) The activity of transfer of tenancy rights is squarely **covered under the scope of supply** of service in terms of Section 7.

However, renting of residential dwelling unit for use as a residence is exempt.

Chapter 13

Concept of Time, Value & Place of Taxable Supply

Basic concepts of Time and Value of Taxable supply; Basic concept of Place of Taxable Supply

Question 1

V Ltd. supplied goods to S Ltd. The terms of the contract stipulated that goods are delivered to the factory of S Ltd. Goods were removed from the factory of V Ltd. on September 9th2019 and were delivered to the factory of S Ltd. on September 15th2019.

Now, the invoice was issued on September 18th2019 and payment was credited to V Ltd.'s account on October 20th2019. However, the entry was made in the books when the cheque was received, that is on September 19th2019.

Determine the Time of Supply?

Answer

Time of supply

As per Section 12(1) of CGST Act, 2017, the time of supply of goods shall be the earlier of the following dates, namely :—

- (a) the date of issue of invoice by the supplier or the last date on which he is required to issue invoice under section 31; or
- (b) the date on which the supplier receives the payment with respect to the supply.

However, advance received in respect of supply of goods is not liable to be taxed at the time of receipt vide Notification No.66/2017 CT dated 15.11.2017. Therefore, the date of payment in respect of supply of goods shall not be relevant for determining the time of supply.

Further, Section 31 of the CGST Act, 2017 provides that a registered person supplying taxable goods shall issue a tax invoice, before or at the time of, —

- (a) removal of goods for supply to the recipient, where the supply involves movement of goods; or
- (b) delivery of goods or making available thereof to the recipient, in any other case.

As per the above scenario, various dates are as under:

- Actual date of issue of invoice: September 18th2019
- Due date for issue of invoice: September 9th2019 (as supply involves movement of goods)

- Date of receipt of payment: September 19th2019 (earlier of entry in books of accounts and credit made in the bank account)

Therefore, as per rule, the time of supply would be the earliest of the above dates, that is, September 9th2019.

Question 2

Mrs. A sold goods to Mr. B worth Rs 1,00,000. The invoice was issued on 15th January, 2020. The payment was received on 31st January 2020. The goods were supplied on 20th January 2020.

Determine the Time of Supply of goods?

Answer

Time of Supply of Goods :

Time of supply is earliest of –

1. Date of issue of invoice = **15th January, 2020.**
2. Last date on which invoice should have been issued = 20th January, 2020.

Thus the time of supply is 15th January, 2020.

***Note:** GST is not applicable to advances under GST. GST in Advance is payable at the time of issue of the invoice. Notification No. 66/2017 – Central Tax issued on 15.11.2017

Question 3

Ms. N provides services worth Rs. 20,000 to Ms. M on 1st January 2020. The invoice was issued on 20th January 2020 and the payment for the same was received on 1st February, 2020

Determine the time of Supply of Services?

Answer

Time of supply of services is earliest of :

1. Date of issue of invoice
2. Date of receipt of advance/ payment.
3. Date of provision of services (if invoice is not issued within prescribed period)

The prescribed time for issue of invoice is 30 days from the date of supply i.e. 31st January 2020. The invoice was issued on 20th January 2020. This means that the invoice was issued within a prescribed time limit.

The time of supply will be earliest of –

1. Date of issue of invoice = **20thJanuary, 2020**
2. Date of payment = 1stFebruary, 2020

This means that the time of supply of services will be 20th January 2020.

Question 4

M/s XYZ Pvt. Ltd undertook service of a director Mr. T worth Rs. 50,000 on 15th January 2020. The invoice was raised on 1st February, 2020. M/s XYZ Pvt. Ltd. made the payment on 1st May, 2020.

Determine the time of supply?

Answer

Time of Supply under Reverse Charge

In case of reverse charge the time of supply for service receiver is earliest of:

1. Date of payment*
2. 30 days from date of issue of invoice for goods (60 days for services)

*w.e.f. 15.11.2017 'Date of Payment' is not applicable for goods and applies only to services. Notification No. 66/2017 – Central Tax

The time of supply, in this case, will be earliest of –

1. Date of payment = 1stMay, 2020.
2. 60 days from date of date of invoice = 2ndApril, 2020.

Thus, the time of supply of services is **2ndApril, 2020.**

Question 5

What is valuation of Supply under GST?

Answer

GST is charged on the 'transaction value'. Transaction value is the price actually paid(or payable) for the supply of goods or services between un-related parties (i.e., price is the sole consideration)

The value of supply under GST shall include:

- i) Any taxes, duties, cess, fees, and charges levied under any act, except GST. GST Compensation Cess will be excluded if charged separately by the supplier.

- ii) Any amount that the supplier is liable to pay which has been incurred by the recipient and is not included in the price.
- iii) The value will include all incidental expenses in relation to sale such as packing, commission etc.
- iv) Subsidies linked to supply, except Government subsidies will be included.
- v) Interest, late fee and penalty for delayed payment of consideration will be included.

Question 6

B Automobiles of Jaipur has supplied the goods of Rs.2,66,090 to G Automobiles of Ajmer in the month of March, 2019. The supply so made was inclusive of tax charged as CGST and SGST which on the products so sold as per rates prescribed under CGST Act, 2017 is @ 18%.

Determine the value of supply as per Rule 35 of the CGST Rule, 2017 ?

Answer

Where the value of supply is inclusive of integrated tax or, as the case may be, central tax, State tax, Union territory tax, the tax amount shall be determined in the following manner, namely-

Tax amount = (Value inclusive of taxes X tax rate in % of IGST or, as the case may be, CGST, SGST or UTGST) ÷ (100+ sum of tax rates, as applicable, in %)

Let the value of Supply be Rs. X

B Automobiles of Jaipur has supplied the goods of Rs.2,66,090 to G Automobiles of Ajmer
Supply is inclusive of Tax @ 18%.

So, $X + 18\% \text{ of } X = \text{Rs. } 2,66,090$

$X + 18X/100 = \text{Rs. } 2,66,090$

$118X/100 = \text{Rs. } 2,66,090$

$X = \text{Rs. } 2,66,09,000/118$

$X = \text{Rs. } 2,25,500$

The Value of Supply is Rs. 2,25,500.

Question 7

M Enterprises had made supplies of Rs. 5,50,000 to B Enterprises. Municipal Authorities of Jaipur on such supplies levied the tax @ 10% of Rs. 55,000. CGST and SGST chargeable on the supply was of Rs. 66,000. Packing charges not included in the price of Rs. 5,50,000 amounted to Rs. 15,000. Subsidy of Rs. 25,000 was received from an NGO on the sale of such goods and the price of Rs. 5,50,000 is after taking in to account the amount of subsidy so received. Discount offered is @ 1% which was mentioned on the invoice.

Determine the value of supply ?

Answer

	Particulars	Amount (Rs.)	Amount (Rs.)
	Price Charged		5,50,000
Add :	Tax Charged by municipal authorities	55,000	
	Packing Charges	15,000	
	Subsidy from NGO	25,000	
			95,000
Less :	Discount @1%		(5,500)
	Value of Supply		6,39,500

Notes :

1. CGST and SGST is not included in the determination of value of supply, rather taxed post determination on the same.
2. Subsidy since received from a non-governmental body is added back to determine the value of supply.
3. Discount on basic price is an exclusion

Question 8

Will supply of software be treated as a supply of goods or services?

Answer

Development, design, programming, customization, adaptation, upgrades, enhancement, and implementation of information technology software shall be treated as a supply of services as listed in Sl. No. 5 (2) (d) of Schedule II of the model GST law.

Question 9

Discuss whether the following transactions will be considered as supply or not under GST laws:

- a) Mrs. V buys a car for personal use and after a year sells it to a car dealer.*
- b) Provision of service or goods by a club or association or society to its members.*

Answer

- a) **No**, because the sale of old and used car by Mrs. V is not in the course or furtherance of business and hence does not constitute supply. [Section 7 CGST Act]
- b) **Yes**. Provision of facilities by a club, association, society or any such body to its members shall be treated as supply. This is included in the definition of 'business' in section 2(17) of CGST/SGST Act.

Question 10

Discuss whether the following transactions/activities will be treated as supply of goods or supply of service:

- a) Transfer of right to use goods*
- b) Works contracts and Catering services*
- c) Goods supplied on hire purchase basis*

Answer

- a) Transfer of right to use goods shall be treated as supply of service because there is no transfer of title in such supplies. Such transactions are specifically treated as supply of service in Schedule-II of CGST/SGST Act.
- b) Works contracts and catering services shall be treated as supply of services as both are specified under Sl. No. 6 (a) and (b) in Schedule-II of the GST law.
- c) Supply of goods on hire purchase shall be treated as supply of goods as there is transfer of title, albeit at a future date.

Question 11

Mr. A from Delhi provides interior designing services to Mr. B (Mumbai). The property is located in Ooty (Tamil Nadu). What is the place of Supply?

Answer

In this case, place of supply will be the location of the immovable property i.e. Ooty, Tamil Nadu.

Question 12

A registered taxpayer offers passenger transport services from Bangalore to Hampi. The passengers do not have GST registration. What will be the place of supply in this case?

Answer

The place of supply is the place from where the departure takes place i.e. Bangalore in this case.

Question 13

A supplier located in Kolkata supplies machinery to the recipient in Delhi. The machinery is installed in the factory of the recipient in Kanpur. What is the place of Supply?

Answer

The place of supply of machinery will be Kanpur because the place of supply is where the goods are delivered.

Question 14

Mr. A is travelling from Mumbai to Delhi by air. He purchases coffee and snacks while on the plane. The airline is registered in both Mumbai and Delhi. What is the place of Supply?

Answer

The Place of Supply would be Mumbai because the food items were loaded into the plane at Mumbai.

Chapter 14

Input Tax Credit & Computation of GST Liability

Input Tax Credit, Apportionment of Credit and Blocked Credits, Goods sent to Job Worker, Input Service Distributor, Computation of GST Liability

Question 1

What is Input Tax Credit (ITC)? What are the conditions which are required to be fulfilled for claiming ITC?

Answer

Input Tax Credit (ITC) is considered as a cornerstone of GST. ITC means reducing the taxes paid on inputs from taxes to be paid on output. When any supply of services or goods is supplied to a taxable person, the GST charged is known as Input Tax.

Eligibility and Conditions for taking Input Tax Credit General Power to take credit

[Section 16(1)]: Subject to such conditions and restriction as may be prescribed, every registered person shall be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business.

Input tax credit as may be allowed shall be credited to the electronic credit ledger of such person.

Conditions for taking credit [Section 16(2)]: Following conditions need to be fulfilled before availing the credit of any input tax.

(a) **Invoice:** He is in possession of a tax invoice or debit note issued by supplier registered under this Act, or such other tax payment documents as may be prescribed;

(b) **Receipt:** He has received the goods or services or both.

(c) **Tax actually paid:** Subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilization of input tax credit admissible in respect of the said supply; and

(d) **Return furnished:** He has furnished the return under section 39.

The following are other important considerations applicable in specific circumstances:

- (i) **Receipt of goods in lots against an Invoice:** where the goods against an invoice are received in lots or installments, the registered person shall be entitled to take credit upon receipt of the last lot or installment.

ITC availed to be paid along with interest if payment to the supplier not made in 180 days of date of invoice : Where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed. As per Rule 37(3) CGST Rules, the Interest shall be calculated for the period starting from the date of availing credit on such supplies till the date when the amount added to the output tax liability is paid.

- (ii) **Credit can be availed if payment is made subsequently:** The recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.
- (iii) **Section 16(3) - ITC not allowed in respect of tax component of capital goods if depreciation claimed on in under Income tax Act:** Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed.
- (iv) **Section 16(4)-Time limit for availing of Input Tax Credit:** A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier. Effectively, the last date for availing ITC on an invoice issued in a particular financial year shall be 31st December of the following financial year.

Question 2

What are the cases in which ITC is not available?

Answer

List of Blocked Credits :

Specific cases are mentioned under GST where no input tax credit shall be available to the applicant.

1. Motor vehicles & Conveyances

- A person cannot avail ITC wherein the given motor vehicle is used to transport people and has a seating capacity of less than or equal to 12 +1 (driver).
- ITC is not available on vessels and aircraft.

Exceptions

ITC will be available if the given vehicle is being used for:

- Supply of other vehicles, conveyances, vessels or aircraft.
- Transportation of passengers.
- Training to drive such vehicle, conveyances, vessel or aircraft.
- Transportation of goods.

2. Food, beverages, Cosmetics, etc.

A person cannot claim ITC for the tax paid for the follows:

- Food and beverages.
- Outdoor catering.
- Beauty treatment.
- Health services.
- Cosmetic and plastic surgery.

Exceptions

ITC will be available if the category of inward and outward supply is same or the component belongs to a mixed or composite supply under GST.

3. Services of general insurance, servicing, repair and maintenance

In cases involving general insurance, services, repair or maintenance of a motor vehicle, vessels or draft (as given in point 1), the taxpayer cannot claim ITC.

Exceptions

ITC will be available if

- Insurance is received by a taxable person engaged—
 - In the manufacture of such motor vehicles, vessels or aircraft; or
 - In the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him

- In case of exceptions as mentioned for motor vehicles/vessels/aircraft (pt. 1)
4. **Sale of membership in a club, health, fitness centre**
ITC is not available on taxes paid for any membership fees for gyms, clubs etc.

5. **Rent-a-cab services, life insurance, health insurance**
ITC is not available for rent-a-cab, health and/or Life insurance

Exceptions:

ITC can be availed if:

- Any services which are made obligatory for an employer to provide its employee by the Indian Government under any current law in force
- If the category is same for the inward supply and outward supply or it is a part of the mixed or composite supply
- Leasing, renting or hiring of motor vehicles, vessels or aircraft with exceptions same as those mentioned for (1).

6. **Travel**

ITC is not available in the case of travel, benefits extended to employees on vacation such as leave or home travel concession.

Exception:

In cases where taxes are paid for Business travels, the given person is eligible to claim ITC.

7. **Works contract**

ITC cannot be claimed any Works Contract services. Similarly, ITC cannot be availed for the construction of an immovable property.

Exceptions:

ITC is available in cases where the input service is used for further work contract services.

8. **Constructing an immovable property on own account**

For the construction of an immovable property on one's own account, the taxpayer cannot avail ITC on his/her inputs. Similarly, if such goods/services are used in the course or furtherance of business, ITC will not be available.

Exceptions:

ITC is available on inputs used to manufacture plant and machinery for own use.

9. **Composition Scheme**

A taxpayer registered under composition scheme cannot avail ITC.

10. Non-residents

A non-resident taxable person cannot avail refunds under ITC mechanism in GST

Exceptions:

In the case of goods imported by a non-resident taxable person, ITC can be availed.

11. Personal use

No ITC will be available for the goods/ services used for personal purposes.

12. Free samples and destroyed goods

ITC cannot be availed if the given good is,

- Lost
- Stolen
- Destroyed
- Written off/given off as gift or free samples.

13. No ITC in fraud cases

ITC will not be available for any tax paid due to fraud cases which has resulted into –

1. Non or short tax payment or
2. Excessive refund or
3. ITC utilised or

Fraud cases include fraud or willful misstatements or suppression of facts or confiscation and seizure of goods.

14. No ITC on restaurants

As per Notification No. 46/2017-Central Tax (Rate), dated 14th November 2017, standalone restaurants will charge only 5% GST but cannot enjoy any ITC on the inputs.

However, restaurants as part of hotels with room tariffs exceeding Rs. 7,500 still continue pay 18% GST and enjoy ITC.

For Example :

McDonald's charges 5% GST and cannot claim any ITC.

Taj's Grill by the Pool restaurant in Kolkata is a part of the Taj Bengal hotel and so it will charge 18% GST while enjoying ITC.

Question 3

Can GST paid on reverse charge basis be considered as input tax?

Answer

Yes. The definition of input tax includes the tax payable under the reverse charge.

Question 4

Does input tax includes tax (CGST/IGST/SGST) paid on input goods, input services and capital goods?

Answer

Yes, it includes taxes paid on input goods, input services and capital goods. Credit of tax paid on capital goods is permitted to be availed in one instalment.

Question 5

What is job-work?

Answer

Section 2(68) of the CGST Act, 2017 defines job-work as 'any treatment or process undertaken by a person on goods belonging to another registered person'. The one who does the said job would be termed as 'job worker'. The ownership of the goods does not transfer to the job worker but it rests with the principal. The job worker is required to carry out the process specified by the principal on the goods.

Question 6

What is the Time Period for Inputs or Capital Goods to be brought back from the Job Worker?

Answer

Time Period for Inputs or Capital Goods to be brought back from the Job Worker

The Principal shall bring back inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, **within one year and three years, respectively**, of their being sent out, to any of his place of business, without payment of tax;

OR

The Principal shall supply such inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, **within one year and three years, respectively**, of their being sent out from the place of business of a job worker on payment of tax within India, or with or without payment of tax for export, as the case may be.

Conditions for Supply from the Place of Job Worker

The Principal shall declare the place of business of the job worker as his additional place of business if the Job Worker is unregistered. Such declaration is not required if the Job Worker is registered under section 25 of CGST Act, 2017, or where the principal is engaged in the supply of such goods as may be notified by the Commissioner.

Such declaration for additional place of business may be given if the Job Worker is in the same state. But if the Job Worker is in other state then such declaration shall not be allowed.

Time Period may be extended by the Commissioner

The period of one year and three years may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding one year and two years respectively.

Question 7

Who is an Input Service Distributor (ISD) under GST?

Answer

An 'Input Service Distributor' is defined in Section 2(61), of Central Goods & Services Tax Act, 2017 (CGST Act, 2017), as an office of the supplier of goods or services or both which receives tax invoices issued under Section 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of CGST, SGST, IGST or UTGST paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office.

The essential conditions for qualifying as an input service distributor are:

- The Input Service Distributor should be an office of the supplier;
- Such supplier can be a supplier of goods or services or both;
- Such office should receive tax invoices issued in respect of receipt of input service. Tax invoices received in respect of input goods are not eligible for ISD benefits;
- Such office should issue a prescribed document for the purposes of distributing credits of CGST, SGST, IGST or UTGST, to a supplier of taxable goods or services or both having same Permanent Account Number as that of the said office.

For example:

Head office of XYZ limited is located at Bangalore having branches at Chennai, Mumbai and Kolkata. The head office incurred annual software maintenance **expense** (service received) on behalf of all its branches and **received the invoice** for the same. Since software is **used by all its branches**, the **input tax credit** of entire services cannot be claimed at Bangalore. The same has to **be distributed** to all the three locations. Here, the Head office at Bangalore is the Input Service Distributor.

Question 8

Mrs. B has procured a machinery for Rs. 50,00,000 and paid GST of Rs. 9,00,000 (18% GST). He has capitalized the invoice value and will claim depreciation of the entire Invoice Value. Please advise on the availability of ITC.

Answer

If the depreciation is claimed on the ITC component, ITC cannot be availed and hence Mrs. B will not be able to avail ITC in this case.

Question 9

What are the various types of Electronic Ledgers under GST?

Answer

Electronic Ledgers is an electronic form of passbook for GST. These e-ledgers are available to all GST registrants on the GST Portal.

The various types of Electronic Ledgers under GST are as follows :

1. Electronic Cash Ledger
2. Electronic Credit Ledger
3. Electronic Liability Ledger

Question 10

What is an Electronic Cash Ledger?

Answer

This is like an e-wallet. Any GST payment made in cash or through bank reflects in Electronic Cash Ledger.

After deduction of Input Tax Credit (ITC) any balance tax liability has to be paid using balance in Electronic Cash Ledger.

For example-

Mrs. N has a GST on sales of Rs 40,000. She also has an Input Tax Credit on purchases of Rs 25,000. The **balance** in his **Electronic Cash Ledger** is **Nil**.

Particulars	Amount
GST on Sales	40,000
Input Tax Credit (ITC)	25,000
GST Liability to be paid	15,000

The GST Liability of Rs. 15,000 has to be paid in the form of cash/bank payment.

Mrs. N will deposit Rs 15,000. This will be shown in Electronic Cash Ledger of Mrs. N. The balance of the ledger will be utilised for payment of GST.

Question 11

What is an Electronic Credit Ledger?

Answer

In the Electronic Credit Ledger, all credits accrued on account of inward supplies made by a taxpayer within a tax period are accumulated. The ledger is maintained Major Head-wise, i.e., **IGST, CGST, SGST, and GST Compensation cess.**

The Electronic Credit Ledger is maintained by the GST System.

The balance of Electronic Credit Ledger cannot be utilised for payment of interest, penalty or late fees. Interest and Penalty can be paid only through actual cash payment.

Specific order and restrictions for utilizing ITC (IGST, CGST, SGST) for payment of GST liability:

- Credit **of IGST** can be utilised against all any tax liability in this order – IGST, CGST, SGST/UTGST.
- Credit **of CGST** cannot be utilised for payment of SGST. It can be set-off in the following order – CGST, IGST.
- Credit **of SGST/UTGST** cannot be utilised for payment of CGST. SGST can be set-off in the following order – SGST/UTGST, IGST.

Question 12

What is an Electronic Liability Ledger?

Answer

This ledger records all liabilities of a taxable person including:

- The tax, interest, late fees, or any other amount payable per the return furnished by the taxpayer or per any proceedings
- The tax and interest payable arising out of any mismatch of ITC or output tax liability
- Any interest that may accrue from time to time
- The reversal of ITC or interest

Taxpayers should settle their liabilities in the following order:

1. Self-assessed tax and other dues, such as interest, penalty, fees, or any other amount relating to **previous tax period returns**
2. Self-assessed tax and other dues relating to the **current tax period return**
3. Any other amount payable under the act/rules (liability arising out of demand notice, proceedings, etc.)

Chapter 15

Procedural Compliance under GST

Registration: Tax Invoice, Debit & Credit Note, Account and Record, Electronic way Bill; Return Payment of Tax, Refund Procedures; Audit

Question 1

What is (Goods & Services Tax) GST Registration?

Answer

In the GST Regime, businesses whose turnover exceeds Rs. 40 lakhs* (Rs. 10 lakhs for NE and hill states) is required to register as a normal taxable person. This process of registration is called GST registration.

For certain businesses, registration under GST is mandatory. If the organization carries on business without registering under GST, it will be an offence under GST and heavy penalties will apply.

Registration of any business entity under the GST Law implies obtaining a unique number from the concerned tax authorities for the purpose of collecting tax on behalf of the government and to avail Input Tax Credit for the taxes on his inward supplies.

Section 22 of Central Goods & Services Tax Act, 2017 mandates that every person who has an aggregate turnover of more than Rs.40 Lacs in the relevant financial year, is liable to be registered under the Act (with effect from 1st April, 2019)

However, where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds Rs. 20 lacs.

Note : As per Notification No. 10/2019-Central Tax dated 7th March, 2019 any person, who is engaged in exclusive supply of goods and whose aggregate turnover is more than forty lakh rupees, is liable to be registered under the act.

The registration under GST is Permanent Account Number (PAN) based and state-specific. GST Identification Number (GSTIN) is a 15-digit number and a certificate of registration, incorporating the GSTIN is made available to the applicant upon registration.

- The first two digits of this number will represent the state code.

- The next ten digits will be the PAN number of the taxpayer.
- The thirteenth digit will be assigned based on the number of registrations within a state.
- The fourteenth digit will be Z by default.
- The last digit will be for check code.

Registration under GST is not tax specific, which means that there is single registration for all the taxes i.e. CGST, SGST/UTGST, IGST and cesses.

Question 2

What are the documents required for GST registration?

Answer

The documents requirement differs for individual and organization.

Applicants must furnish several documents to complete their **GST registration** process successfully. The document requirement is shown in the given table:

	Documents Required
Sole Proprietors and individuals	<ul style="list-style-type: none"> ▪ Individual's or owner's PAN card ▪ Photograph of owner ▪ Address proof ▪ Bank account information ▪ Individual's or owner's Aadhaar card
Hindu Undivided Families	<ul style="list-style-type: none"> ▪ Bank detail ▪ Owner's photograph ▪ Address proof of the business ▪ HUF's PAN card ▪ Family patriarch's PAN card
LLPs and Partnerships	<ul style="list-style-type: none"> ▪ Partners' address proof ▪ Bank details ▪ Partners' PAN card ▪ Deed declaring partnership ▪ Partners' photograph ▪ Proof of registration for the LLP

	<ul style="list-style-type: none"> ▪ Principal address proof for the business ▪ Proof of appointment for the signatory authority ▪ The authorised signatory's Aadhaar card
Companies	<ul style="list-style-type: none"> ▪ PAN card belonging to the company ▪ PAN card of all company directors ▪ Company's primary address proof ▪ Company's bank account details ▪ Proof of signatory's appointment ▪ PAN card belonging to the signatory ▪ Articles of Association and Memorandums ▪ Signatory's Aadhaar card ▪ Incorporation certificate from the Ministry of Corporate Affairs. ▪ All directors' address proof

Question 3

What is effective date of registration under GST?

Answer

When a person take registration within 30 days from the date he is liable to get register- The effective date of registration is the date, person is liable to take registration.

However, if a person take registration after 30 days from the date he is liable to get register- The effective date of registration is the date of grant of registration.

For example,

Mr. Anil is liable to get registered on 01-10-2017

Case 1- if he takes registration on 25-10-2017. The effective date of registration is 01-10-2017.

Case 2- if he takes registration on 05-11-2017. The effective date of registration is 05-11-2017

Question 4

What is Voluntary Registration under GST?

Answer

Voluntary registration is self registration by the dealers in order to get listed within the GST framework. It is applicable for those who are not within the parameters of registration and are not required to register in the GST. All the rules and regulations and prohibitions inhibited by the GST rule-book will be applicable to all those voluntarily registrants same like a normal taxpayer and will have to strictly comply with the provisions asserted on all.

Question 5

What are the benefits of Voluntary Registration under GST?

Answer

The benefits of Voluntary Registration under GST are enumerated below:

- **Provide input tax credit to customers**– Since your business is legally recognized, you can issue taxable invoices. Buyers, in turn, can take input credit on their purchases. This will help expand the customer base and make it more competitive.
- **Take input credit**– Voluntarily registered persons can take input credit on their own purchases and input services like legal fees, consultation fees etc. This will eventually increase their business margin and profitability.
- **Make inter-state sales without many restrictions**– Businesses registered under GST can make inter-state sales without many restrictions. Thus, it widens the potential market for SMEs. These SMEs can also opt for selling their goods online through the e-commerce platform.
- **Be compliant and have good rating**– Registration for GST will ensure that the business is compliant and scalable without any barrier of future registration. Also under GST, compliance rating will be maintained and if this is done correctly, it can attract additional business.
- **Better standing**– A registered business will find it much easier in other business areas such as getting bank loans, renting premises.

Question 6

What is Tax Invoice?

Answer

Invoice in simple terms is nothing but a document specifying list of goods sent or services provided and a statement of the sum due against those items.

Invoice is a document recording the terms of an arrangement already entered into either orally or on a paper. An invoice does not bring into existence a sale agreement but merely records the terms of whatever arrangement that may have been entered into by the parties, involving the subject matter.

GST requires that a tax invoice or bill of supply to be issued before or on the occurrence of certain event or within a prescribed time. Therefore, an invoice is required for every other form of supply such as transfer, barter, exchange, license, rental, lease or disposal.

GST allows seamless flow of Input Tax Credits (ITC) across the supply chain. One of the fundamental pillars of GST is checking the Input Tax Credit (ITC) Claims, for which data of all Invoices to be uploaded and matched. GST system is backed up by strong IT support from Goods and Services Tax Network (GSTN) for matching such data. GSTN seeks all registered dealers shall file Invoice wise details in order to do such matching.

Every registered taxable person under GST supplying Goods or services is required to issue a tax invoice for all supplies effected. The word “Every registered Taxable person” clearly specifies that issuing Tax Invoice is compulsory under GST law. However, government may notify some other document for certain category of services. E.g. Bus ticket, Bank Voucher etc.,

A tax invoice is generally issued to charge the tax and pass on the input tax credit. A GST Invoice must have the following mandatory fields-

1. Invoice number and date.
2. Customer name.
3. Shipping and billing address.
4. Customer and taxpayer’s GSTIN (if registered).
5. Place of supply.
6. HSN code/ SAC code.
7. Item details i.e. description, quantity (number), unit (meter, kg etc.), total value.
8. Taxable value and discounts.
9. Rate and amount of taxes i.e. CGST/ SGST/ IGST.
10. Whether GST is payable on reverse charge basis.
11. Signature of the supplier.

Question 7

What is the Time limit for issue of tax invoice for supply of goods?

Answer

Time limit for issue of tax invoice for supply of goods can be divided in to two parts :

1. Normal case
2. Continuous supply of services

1. Supply of goods in normal case

A registered taxable person who supplies taxable goods has to issue a tax invoice showing the description, quantity and value of goods, **the tax charged thereon and such other particulars as may be prescribed:**

(a) Where supply involves the movement of goods:

On or before the removal of goods for supply to the buyer from the location of supplier.

For example: Dealer X in Delhi is dealing in TV sets. He has to make delivery of 5 TVs to Dealer Y in Mumbai. Here supply involves movement of goods. In such case the invoice will be issued on or before the date of dispatch of consignment.

(b) Where supply does not involve movement of goods:

On or before date of delivery of goods to the recipient

For example: XYZ Ltd purchases an escalator, for its office building. The supplier agrees to assemble and install it at office premises. Here, since the supply does not require movement of the generator set, the invoice must be issued at the time when the escalator is made available to XYZ Ltd.

2. In case of continuous supply of goods

Where successive statements of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, or when such payment is received.

Question 8

What is the time limit to issue GST tax invoices, revised bills, debit notes, and credit note.?

Answer

The GST Act has defined time limit to issue GST tax invoices, revised bills, debit notes, and credit note.

Following are the due dates for issuing an invoice to customers:

- i) For Supply of Goods:*
On or before date of removal or delivery.
- ii) For Continuous Supply of Goods:*
On or before date of issue of account statement or payment.

- iii) *For Services:*
Within 30 days of supply of services.
- iv) *For Supply of Services by Banks and NBFCs:*
Within 45 days of supply of services.

Question 9

Lion enterprises, Kolkata makes a supply of goods to Tiger enterprises, Ghaziabad. The goods were removed from the factory at Kolkata on 3rd May. When should the Tax Invoice be issued?

Answer

Since, the goods were removed from the factory on 3rd May
Hence, the tax invoice must be issued on or before 3rd May.

Question 10

M Ltd. an event management company has provided its services for an event at Photo Film Agencies at Kolkata, on 1st June. When should the Tax invoice be issued?

Answer

The tax invoice must therefore be issued within 30 days, that is, within 30th June.

Question 11

If Mr. N a dealer is liable to be registered on 18th January 2020 and he has applied for registration on 1st February, 2020, what is the effective date of registration?

Answer

The effective date of registration would be 18th January, 2020.

Question 12

What is E Way Bill?

Answer

E Way Bill is an Electronic Way bill for movement of goods to be generated on the E Way Bill Portal. A GST registered person cannot transport goods in a vehicle whose value exceeds Rs. 50,000 (Single Invoice/bill/delivery challan) without an E Way Bill that is generated on ewaybillgst.gov.in.

Alternatively,

E Way Bill can also be generated or cancelled through SMS, Android App and by site-to-site integration through API.

When an E way Bill is generated, a unique E way Bill Number (EBN) is allocated and is available to the supplier, recipient, and the transporter.

Question 13

What is GST Return? What are the different type of GST Returns?

Answer

A GST Return is a document that mentions all details related to GST invoices, payments, and receipts for a specific period. A taxpayer is liable to declare all transactions related to the revenue of the business based on which the authorities will calculate the amount of tax to be paid by the business.

Forms	Particulars	Applicability	Type	TimeLine
GSTR – 1	Details of outward supply of goods or services to be filed monthly or quarterly.	Every registered person (other than an Input Service Distributors, a non-resident taxable person and a person paying tax under the provisions of section 10/51/52 of CGST Act, 2017)	Outward Supplies Monthly/ Quarterly Return	Monthly return- On or before 11th of the subsequent month
GSTR – 3B	Summary of Inward and Outward Supplies	Every registered person (other than an Input Service Distributors, a non-resident taxable person and a person paying tax under the provisions of section	Monthly Return	On or before 20th of the subsequent month

		10/51/52 of CGST Act, 2017)		
GSTR-4	Quarterly Return for Compounding Dealer	Every Registered Composition Supplier (section 10 of CGST Act, 2017)	Quarterly Return	Within 18 days after the end of each quarter
GSTR-5	all business details for non- resident (NR) including the details of sales & purchases.	Every Registered non - resident Taxable Person	Inward and Outward Supplies	On or before 20th of the subsequent month
GSTR-5A	Online Information and Database Access or Retrieval (OIDAR) services	Non-resident OIDAR services providers	Monthly Return	On or before 20th of the subsequent month
GSTR – 6	Return for an ISD	Every Input Service Distributor (ISD)	Details of Tax invoices	On or before 13th of the subsequent month
GSTR-7	Return for authorities deducting tax at source	Every Registered Person deducting tax at source (section 51 of CGST Act, 2017)	Details of TDS	On or before 10th of the subsequent month
GSTR-8	Details of supplies effected through e-	Every E- commerce operator	Details of TCS	On or before 10th of the

	commerce operator and the amount of tax collected	required to collect tax (section 52 of CGST Act, 2017)		subsequent month
GSTR-9	Annual Return for a Normal Taxpayer	Every registered person (other than an ISD, a non-resident taxable person and a person paying tax under the provisions of section 10/51/52 of CGST Act, 2017)	Annual Return	31 st December of next Financial year
GSTR-9A	Annual Return a taxpayer registered under the composition levy anytime during the year	Every Registered Composition Supplier	Annual Return	31 st December of next Financial year
GSTR-9C	Reconciliation statement	Every registered person (other than an ISD, a non-resident taxable person and a person paying tax under the provisions of section 10/51/52 of CGST Act, 2017)	Reconciliation statement & Certification	31 st December of next Financial year
GSTR-10	Final Return	Taxable Person whose	Final Return	Within three months of the

		registration has been cancelled or surrendered		date of cancellation or date of order of cancellation, whichever is later
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Chapter 16

Basic overview on IGST, UTGST, and GST Compensation to States

Integrated Goods and Services Tax Act, 2017, Union Territory Goods and Services Act, 2017, Provisions relating to Advance Ruling, GST Compensation to States

Question 1

What are inter-state supplies under GST?

Answer

As per Section 7 of the Integrated Goods and Services Tax Act, 2017, supply of goods and/or services in the course of inter-State trade or commerce means any supply where the location of the supplier and the place of supply are in :

- two different States;
- two different Union territories;
- a State and a Union territory

Further,

- import of goods and services;
- supplies where the supplier is located in India and the place of supply is outside India;
- supplies to/ by SEZ units or developer; or
- any supply that is not an intra state supply

shall be treated to be supply of goods and/or services in the course of inter-State trade or commerce.

Question 2

What are the advantages of IGST Model?

Answer

The major advantages of IGST Model are:

- a. Maintenance of uninterrupted ITC chain on inter-State transactions;
- b. No upfront payment of tax or substantial blockage of funds for the inter-State seller or buyer;
- c. No refund claim in exporting State, as ITC is used up while paying the tax;
- d. Self-monitoring model;
- e. Ensures tax neutrality while keeping the tax regime simple;

- f. Simple accounting with no additional compliance burden on the taxpayer;
- g. Would facilitate in ensuring high level of compliance and thus higher collection efficiency. Model can handle 'Business to Business' as well as 'Business to Consumer' transactions.

Question 3

How will the IGST be paid? Discuss with the help of an example.

Answer

The IGST payment can be done utilizing ITC or by cash. However, the use of ITC for payment of IGST will be done using the following hierarchy, -

- First available ITC of IGST shall be used for payment of IGST;
- Once ITC of IGST is exhausted, the ITC of CGST shall be used for payment of IGST;
- If both ITC of IGST and ITC of CGST are exhausted, then only the dealer would be permitted to use ITC of SGST for payment of IGST.

Remaining IGST liability, if any, shall be discharged using payment in cash. Example:

IGST Liability: Rs. 1,00,000

ITC available:

- IGST: Rs.50,000
- CGST: Rs.20,000
- SGST: Rs.20,000

Liability	Order of setting of Liability			
	1.	2.	3.	4.
	IGST	CGST	SGST	Cash
IGST (Rs.)	Rs.	Rs.	Rs.	Rs.
100000	50000	20000	20000	10000

Question 4

Briefly discuss the provisions related to levy of UTGST.

Answer

Section 7 of UTGST Act, 2017 is a charging section which provides that Union Territory Goods and Services Tax (UTGST) will be levied on all intra state supplies of goods or services or both within a Union Territory.

Intra-State supply of alcoholic liquor for human consumption is outside the purview of UTGST.

Value for levy is guided by Section 15 of the CGST Act.

Rates for UTGST are rates as notified by the Government on the recommendations of the GST Council. Maximum rate of UTGST will be 20%.

Section 7 of UTGST, ACT, 2017 deals only with UTGST. In case of intra-state supply CGST shall also be levied at a rate equal to UTGST.

For Example: If an Intra-state Supply attracts a rate of GST of 12% then CGST will be levied at 6% and UTGST will be levied at 6%.

Question 5

A registered dealer, based in Chandigarh, makes supply to another registered dealer located in Chandigarh, valuing rupees 1,20,000. Applicable rate of GST is 12%. Calculate the amount of tax payable under GST.

Answer

As the location of the supplier and the place of supply are in the same Union Territory, it is the case of intra-state supply and accordingly CGST + UTGST will be levied.

Computation of GST liability

<i>Particulars</i>	<i>Rs.</i>
Value of taxable supply	120000
CGST @ 6%	7200
UTGST @ 6%	7200
Total tax liability	14400

Question 6

Why Goods and Services Tax (Compensation to States) Act, 2017 was enacted?

Answer

One of the biggest challenges while introducing GST in India was that states were opposing GST, because of their fear of losing revenue after introduction of GST. The fear was more pronounced in case of manufacturing/ supplier states since the GST was to accrue to the state(s) where the actual consumption of goods takes place as **GST is a destination-based tax.**

In order to assure steady flow of revenues to the states by way of compensating the loss, if it arises, Clause 18 of **The Constitution (One Hundred And First Amendment) Act,**

2016 specifically provided that the Parliament shall, by law, on the recommendation of the Goods and Services Tax Council, provide for compensation to the States for loss of revenue arising on account of implementation of the goods and services tax for a period of five years.

In line with the Constitutional amendment, the Government enacted the legislation known as, The Goods And Services Tax (Compensation To States) Act, 2017 for providing compensation to the States for the loss of revenue arising on account of implementation of the goods and services tax with effect from the date from which the provisions of the Central Goods and Services Tax Act is brought into force (01/07/2017), for a period of five years or for such period as may be prescribed on the recommendations of the GST Council.

Question 7

Briefly discuss the provisions related to levy of compensation cess.

Answer

Compensation Cess is levied as per section 8(1) of the Goods and Service Tax (Compensation to States) Act, 2017. As per this section, Compensation Cess is levied on notified supply of goods or services or both for the purpose of providing compensation to the States for loss of revenue for 5 years or for such period as may be prescribed on recommendation of Council, from enactment of GST law, which may arise due to implementation of GST.

Question 8

Boy Ltd., a domestic company, intends to start a business in Kolkata, involving supply of certain goods, mostly meant for foreign buyers in China. There is some difficulty in the classification of the goods. Can the company seek advance ruling from the Authority for Advance Ruling formed under CGST Act, 2017 in respect of the issue of classification of goods? Can the company also seek ruling on issues involving place of supply?

Answer

Section 97(2) of the CGST Act, 2017 prescribes the questions/ matters on which the advance ruling can be sought which are as below:

- a. classification of any goods or services or both;
- b. applicability of a notification issued under the provisions of this Act;

- c. determination of time and value of supply of goods or services or both;
- d. admissibility of input tax credit of tax paid or deemed to have been paid;
- e. determination of the liability to pay tax on any goods or services or both;
- f. whether applicant is required to be registered;
- g. whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

Therefore, the Company can seek the advance ruling for determining the classification of goods proposed to be supplied.

Determination of place of supply is not one of the specified questions/ matters on which advance ruling can be sought under section 97(2). Hence, the applicant cannot seek the advance ruling for determining the place of supply of the goods proposed to be supplied by the applicant.

Chapter 17

Overview of Customs Act

Overview of Customs Law; Levy and collection of customs duties; Types of Custom duties; Classification and valuation of import and export goods; Exemption; Officers of customs; Administration of Customs Law; Import and Export Procedures; Transportation, and Warehousing; Duty Drawback; Demand and Recovery; Confiscation of Goods and Conveyances; Refund.

Question 1

Write a short note on the Basic Customs Duty?

Answer

Basic customs duty is levied under section 12 of the Customs Act, 1962 read with section 2 of the Customs Tariff Act, 1975. The duties of customs shall be levied at such rates as may be specified under the Customs Tariff Act, 1975 or any other law for the time being in force, on goods imported into or exported from India.

The rates of Customs duty are specified in first and second schedule of Section 2 of Customs Tariff Act, 1975 (First Schedule enlist the goods liable to import duty and Second Schedule enlist the goods liable to export duty).

There are different rates for different goods but merit rate is generally 7.5%.

Basic duty may exempted, wholly or partially, with or without any conditions, by a notification under section 25 of the Customs Act.

Basic Customs Duty is also exempted upfront or through drawback mechanism where the imported goods are meant for re-export or for use in the manufacture of export goods.

The basic customs duty may have two rates: (A) Standard rates (B) Preferential rates:

(A) Standard Rates: Standard rate is charged where there is no provision for preferential treatment.

(B) Preferential Rates: If the goods are imported from the area notified by the Government as preferential area duty to be charged at preferential rates. Preferential rate is applied only where the owner of the article (importer) claims at the time of importation, with supporting evidence, that the goods are chargeable with the preferential rate of duty and if importer fails to claim with supporting evidence then duty to be charged as standard rates.

Basic Customs Duty is not creditable against any tax or duty, whatsoever.

Question 2

Explain the concept of "Import" and "importer", with reference to the provisions of the Customs Act, 1962.

Answer

As per section 2(23) of the Customs Act, 1962, the term import refers to bringing into India from a place outside India. Import of goods into India commences when the goods enter the territorial waters of India, but gets completed only when the goods become part of the mass of goods within the country.

As per section 2(26) of the Customs Act, 1962, importer, in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner, beneficial owner or any person holding himself out to be the importer.

Question 3

How is Custom duty calculated?

Answer

Customs Valuation (Determination of Value of Imported Goods) Rules, 2007

Custom duties are calculated on specific or ad valorem basis, i.e. on the value of goods. The value of goods is determined by Rule 3(i) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. This rule pegs the value of imported goods at the transaction value that has been adjusted according to the provisions under Rule 10.

In case there are no quantifiable or objective data regarding the valuation factors, valuation conditions aren't satisfied, or there are doubts regarding the accuracy or truth of declared value as per Rule 12 of Valuation Rules 2007, valuation of items has to be done through other means as per the following hierarchy,

- Comparative Value Method which compares the transaction value of similar items (Rule 4)
- Comparative Value Method which compares the transaction value of similar items (Rule 5)
- Deductive Value Method which uses the sale price of item in importing country (Rule 7)
- Computed Value Method which uses the costs related to fabrication, materials and profit in production country (Rule 8)
- Fallback Method which is based on the earlier methods with higher flexibility (Rule 9)

Question 4

Explain the provisions of determination of value under the Customs Valuation Rules in case the value declared by the importer does not represent the transaction value or Valuation of the goods imported?

Answer

In case the value declared by the importer does not represent the transaction value of the goods imported, the value shall be determined by proceeding sequentially through rules 4 to 9 of the custom valuation **(Determination of value of Imported Goods) Rules, 2007**. These Rules are framed by central Govt Under the provisions of Sec. 14 of Customs Act, 1962.

Transaction value:

Transaction value means the value referred to in sub- section (1) of Section 14 of Customs Act,1962. i.e.

- The price actually paid or payable for the goods when sold for export to India (except in case of exceptions),
- For delivery at the time and place of importation,
- Where the buyer and seller of the goods are not related,
- Price is the sole consideration for the sale

Rule 3

Subject to Rule 12, the value of imported goods shall be the Transaction Value adjusted in accordance with provisions of Rue 10 of Customs Valuation (Determination of Value of Imported (Goods)) Rules, 2007.

Rule 3 (2)

Transaction value can be accepted only if the following requirements are satisfied.

- i) No restrictions on buyer for disposal of goods
- ii) Sale not subject to condition of which value cannot be determined. Ex: buyer to buyer same other goods in specified quantity.
- iii)No further consideration of which adjustment cannot be made seller should not get part subsequent sale.
- iv) Unrelated buyer and seller.

If the value cannot be determined under the provisions of sub- rule(1) or rejected under rule 12, the value shall be determined by proceeding sequentially through rule 4 to 9

Rule 4

Transaction value of identical goods.

Subject to the provisions of Rule 3, the value of the imported goods shall be the transaction

value of identical goods sold for export to India and imported at or about the same time as the goods being valued. If more than one TV is available, the lowest value shall be taken. The provisionally assessed value of identical goods cannot be taken into account.

Rule 5

Transaction Value of similar goods.

Subject to the provisions of rule 3, the value of the imported goods shall be the transaction value of similar goods for export to India and imported at or about the same time as the goods being valued.

If more than one AC is available, the lowest value shall be taken.

The provisionally assessed value of similar goods cannot be taken into account.

Rule 6

Where the Value of the imported goods cannot be determined under rule 3, 4 and 5, the value shall be determined under rule 7 or rule 8. At the request of importer, the application of rules 7 and 8 shall be reversed.

Rule 7

Deductive Value

In case valuation cannot be done under rule 3, 4, and 5, the Value of the imported goods shall be based on the unit price at which, imported goods or identical or similar imported goods are sold in the greatest aggregate quantity to persons who are not related to the sellers in India. This rule would normally not be applicable when, as a result of further processing, the imported goods lose their identity (or)

Rule 8

Computed Value

In case valuation cannot be done under rule 7, the Value of the imported goods shall be done on the basis of 'computed value', which shall consist of the sum of the cost or value of materials and fabrications etc., employed in producing the imported goods, profit and general expenses, freight, insurance and handling charges etc. incurred up to place of importation. The above costs are to be reckoned in the country of production and not in India.

Rule 9

Residual Method

Where the value of imported goods cannot be determined under the provisions of any of the preceding rules, the value shall be determined, using reasonable means on the basis of data available in India.

To extent possible the value to be based on previously determined customs values.

This rule specifically bars fixing of i) minimum customs values ii) arbitrary or fictitious values.

Rule 10 (1)

The following elements are required to be added to the value to determine the transaction Value.

- (i) Commissions and brokerage, except buying commissions.
- (ii) Cost of Container / packing etc.,
- (iii) Engineering / development / artwork, design work etc.
- (iv) Royalties and license fees, related to the imported goods with a condition of sale on such (imported) supplied goods.

Rule 10 (2)

The Value of the imported goods shall be the value of such goods, for delivery at the time and place of importation and shall include. (if not already included)

- (a) The Cost of transport.
- (b) Loading / Unloading / Handling charges.
- (c) The cost of insurance. If the cost of transport (freight) is not ascertainable, it shall be @ 20% of FOB. If the cost of insurance is not ascertainable, it shall be 1.125% of FOB. However, in respect of imports by Air, the freight shall be limited to 20% of the FOB price of the supplier, wherever the Air freight exceeds 20%.

Rule 12

This Rule details the scope and powers of customs officer the circumstances in which transaction value could be rejected by the officer of customs.

Rejection of declared value done if :

- (i) Contemporaneous value significantly higher.
- (ii) Abnormal discount.
- iii) Special discounts.
- iv) Mis declaration of description, quality, quantity, coo, year of manufacture
- v) Non-declaration of brand, grade, specification.
- vi) Fraudulent manipulated documents.
