

PRACTICE QUESTIONS
TAX LAWS
(Relevant for June 2021 examination)

PART II
INDIRECT TAXES
[Goods and Services Tax (GST)
and
Customs Law]



THE INSTITUTE OF
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CONTENTS

S. No.	Chapter No.	Subject	Page No.
Goods and Services Tax (GST)			
1	Chapter 11	Concept of Indirect Taxes at a glance	4
2	Chapter 12	Basics of Goods and Services Tax 'GST'	10
3	Chapter 13	Concept of Time, Value & Place of Taxable Supply	18
4	Chapter 14	Input Tax Credit & Computation of GST Liability	27
5	Chapter 15	Procedural Compliance under GST	37
6	Chapter 16	Basic Overview on Integrated Goods and Service Tax (IGST), Union Territory Goods and Service Tax (UTGST), and GST Compensation to States	46
Customs Act			
7	Chapter 17	Overview of Customs Act	50

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 (101st Amendment) 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 September 08, 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 is divided equitably between manufacturing and services through a lower tax rate by increasing the tax base and minimizing exemptions. GST is levied only at the destination point, and not at various points (from manufacturing to retail outlets).

Some of the benefits of GST is enumerated below:

i) **GST eliminates the cascading effect of Tax:**

Under the GST administration, the final tax is paid by the consumer for the goods and services purchased. However, there is an ITC structure in place to ensure that there is no slumping of taxes. GST is levied only on the value of the goods or services.

ii) **Abolition of Multiple Layers of Taxation:**

GST integrates different tax lines such as Central Excise, Service Tax, Sales Tax, Luxury Tax, Special Additional Duty of Customs, etc. into one consolidated tax. It prevents multiple tax layers imposed on goods and services.

iii) **Regulation of Unorganized Sector:**

There are certain industries in India which are still unorganized. The GST provisions help them to streamline the process of online compliances and payments and thereby help in regulation of unorganized sector.

iv) **IT Infrastructure:**

The entire process under GST regime starting from registration to return filling is online. This is quite advantageous for startup companies who do not have to opt for registration under various indirect tax regimes.

v) **Lesser Compliance:**

In the past, indirect taxes such as VAT, service tax and excise each required separate return filing and compliances. Under GST, however, there is just one, unified return to be filed. Therefore, the number of returns to be filed has come down.

vi) **Prevents Tax Evasion:**

As GST is an online tax system, it automatically adds more transparency to the taxation process. Apart from this, manufacturers and service providers are only able to benefit from the input tax credit facility when the input and output invoices match.

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, 2017, mixed supply means two or more individual supplies of goods or services or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

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.*

(v) Supply of Laptop Bag with Laptop

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.
- (v) Composite Supply: Supply of laptop bag is ancillary to the supply of laptop and are naturally bundled. Both such supplies qualify to be a composite supply with supply of laptop as a principal supply.

Question 7

What is Deemed Supply? Explain with examples.

Answer

Deemed Supply means an event or a 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.

Question 9

What are the common goods which are exempt under GST?

Answer

The List of common goods exempt under GST is as follows:

Types of Goods	Examples
Fresh Vegetables	Cauliflower, Potatoes, Onion, Garlic, carrot etc.
Fresh Fruits	Coconut, Apples, Cherries, Bananas, Peaches etc.
Fresh Nuts	Almonds, Kola Nuts, Pistachios, Walnuts etc.
Natural Products	Fresh Milk, Honey, Paneer, Eggs etc.
Live Animals	Asses, mules and hinnies, Bovine animals, Swine, Sheep, Goats, Poultry etc.
Meat	Fresh and frozen meat of sheep, cows, goats, pigs, horses, etc.
Fish	Fresh or frozen fish
Tea, Coffee and Spices	Coffee beans, tea leaves, turmeric, ginger, etc.
Live Trees and Plants	Bulbs, roots, flowers, foliage, etc.
Grains	Wheat, rice, oats, barley, etc.
Sugar	Sugar, jaggery, etc.
Water	Mineral water, tender coconut water, etc.
Seeds	Flower seeds, oil seeds, cereal husks, etc.
Products of the milling industry	Flours of different types
Baked Goods	Bread, Pizza base, puffed rice etc.
Fossil Fuels	Electrical energy
Drugs and pharmaceuticals	Human blood, contraceptives etc.
Fertilisers	Good and Organic Manure
Waste	Municipal Waste, Sewage sludge etc.
Beauty Products	Kumkum, Bindi, Sindur and Alta
Ornaments	Plastic and glass bangles , etc.
Newsprint	Judicial stamp paper, envelopes, rupee notes, etc.
Printed Items	Printed books, newspapers, maps, etc.
Fabrics	Raw silk, silkworm cocoon, khadi, etc.
Hand Tools	Spade, hammer, etc.
Pottery	Earthen pots, clay lamps, etc.

Question 10

Mr. AB acts as a referee in a Basketball match organized by Sports Authority of India. He has also acted as a referee in another charity Basketball organized by a local sports club, in lieu of a lump sum payment. Discuss whether he is required to pay any GST?

Answer

Services provided to a recognized sports body by an individual inter alia as a referee in a sporting event organized by a recognized sports body is **exempt** from GST.

Since in the first case, the Basketball match is organized by Sports Authority of India, which is a recognized sports body, services provided by Mr. AB as a referee in such Basketball match will be exempt.

However, when he acts as a referee in a charity Basketball match organized by a local sports club, he would not be entitled to afore-mentioned exemption as a local sports club is not a recognized sports body and thus, GST will be payable in this case.

Question 11

What is Reverse Charge Mechanism under GST? When is it applicable?

Answer

In regular circumstances, any supplier of goods and services is liable to pay the GST. However, when the reverse charge mechanism is applied, the receiver of the goods becomes the party that is liable to pay the taxes.

Reverse charge is generally applicable in three main situations. These include the following:

i) Supply from an unregistered dealer to a registered dealer

In case of an unregistered person is selling goods or providing any services to the registered person, then the liability to pay tax shifts on the registered person i.e. the recipient of goods/services, where such supply is of taxable supplies. No reverse charge mechanism in case of exempted supplies.

The tax will be paid by the registered dealer and all the provisions of the act will be applicable to him as if he is the supplier of the goods or services. It would increase tax compliance and promotes transparency. Input tax credit will be allowed to the registered dealer of the tax paid by him under the reverse charge mechanism.

ii) Services through an e-commerce Website

If an e-commerce operator supplies services then reverse charge will be applicable to the e-commerce operator.

As per Section 2(45) of CGST Act, 2017, E- Commerce operator means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.

iii) Supply of Specific Goods and Services listed by CBIC

If we supply certain goods that have been listed out by the Central Board of Indirect Taxes & Customs (CBIC), then the reverse charge is applicable.

Section 9(3) of CGST Act and section 5(3) of IGST Act state that Government can specify categories of supply of goods or services or both, the tax on which is payable on reverse charge basis

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 9, 2020 and were delivered to the factory of S Ltd. on September 15, 2020.

Now, the invoice was issued on September 18, 2020 and payment was credited to V Ltd.'s account on October 20, 2020. However, the entry was made in the books when the cheque was received, that is on September 19, 2020.

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 18, 2020
- Due date for issue of invoice: September 9, 2020 (as supply involves movement of goods)
- Date of receipt of payment: September 19, 2020 (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 09, 2020.

Question 2

Mrs. A sold goods to Mr. B worth Rs. 1,00,000. The invoice was issued on January 15, 2020. The payment was received on January 31, 2020. The goods were supplied on January 20, 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 = January 15, 2020.
2. Last date on which invoice should have been issued = January 20, 2020. Thus the time of supply is January 15, 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 November 15, 2017.

Question 3

Ms. N provides services worth Rs. 20,000 to Ms. M on January 01, 2020. The invoice was issued on January 20, 2020 and the payment for the same was received on February 01, 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. January 31, 2020. The invoice was issued on January 20, 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 = **January 20, 2020**
2. Date of payment = February 01, 2020

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

Question 4

M/s XYZ Pvt. Ltd. undertook service of a director Mr. T worth Rs. 50,000 on January 15, 2020. The invoice was raised on February 01, 2020. M/s XYZ Pvt. Ltd. made the payment on May 01, 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. November 15, 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 = May 01, 2020.
2. 60 days from date of date of invoice = April 02, 2020. Thus, the time of supply of services is **April 02, 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, 2020. 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 of the CGST Act, 2017]
- 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.

Question 15

Determine taxable value of supply under GST law with respect to each of the following independent services provided by the registered persons-

S. No.	Particulars	Amount (Rs.)
i)	Fees charged for Yoga Camp conducted by a charitable trust	1,55,000
ii)	Amount charged by cord blood bank for preservation of stem cells	2,89,000
iii)	Amount charged by business correspondent for the services provided to the rural branch of a bank with respect to Savings Bank Accounts	2,00,000
iv)	Amount charged for service provided by commentator in a Cricket match to a recognized sports body	6,00,000

Answer**Computation of Value of Taxable Supply**

S. No.	Particulars	Amount (Rs.)
i)	Fees charged for Yoga Camp conducted by a charitable trust	Nil
ii)	Amount charged by cord blood bank for preservation of stem cells	Nil
iii)	Amount charged by business correspondent for the services provided to the rural branch of a bank with respect to Savings Bank Accounts	Nil
iv)	Amount charged for service provided by commentator in a Cricket match to a recognized sports body	6,00,000

Working Notes :

- i) Services by an entity registered under section 12AA of the Income-tax Act, 1961 by way of charitable activities are exempt from GST. The activities relating to advancement of yoga are included in the definition of charitable activities. So, such activities are exempt from GST.

[Entry 1 of Notification No. 12/2017-CT (Rate)]

- ii) Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation are exempt from GST.
- iii) Services by business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch have been exempted from GST.
- iv) Services provided to a recognized sports body only by an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body are exempt from GST. Thus, services provided by commentators are liable to GST.

Question 16

Comment on the applicability of GST in the following independent cases-

- i) *Exhibiting movies on TV Channels*
- ii) *Transportation of Milk*
- iii) *Transportation of books on a consignment transported in a single goods carriage for Rs. 7,000.*
- iv) *Transportation of chairs for a single consignee in the goods carriage for Rs. 900.*
- v) *Services provided by way of vehicle parking to general public in a shopping mall.*
- vi) *Services provided by a business facilitator to an insurance company in an urban area.*
- vii) *Milling of paddy into rice.*
- viii) *Services provided by the State Governments and Private Service Providers by way of transportation of patients in ambulance.*
- ix) *Services by way of Slaughtering of animals*

Answer

- i) GST is payable as the exhibition of cinematograph films on television channels is taxable.
- ii) GST is not applicable as the transportation of milk by goods transport agency is exempt.
- iii) GST is payable as the exemption is available for transportation of goods only where the consideration for transportation of goods on a consignment transported in a single goods carriage does not exceed Rs. 1,500.
- iv) GST is payable as the transportation of goods where consideration for transportation of all goods for a single consignee does not exceed Rs. 750 is exempt.
- v) GST is payable as the services provided by way of vehicle parking to general public are not exempt from GST.
- vi) GST is payable as the services provided by a business facilitator to an insurance company in an urban area is not exempt from GST.
- vii) GST is payable as the milling of paddy into rice on job work basis, is liable to GST at the rate of 5%.

on the processing charges (and not on the entire value of rice).

viii) GST is not applicable as the services provided by the State Governments and Private Service

Providers by way of transportation of patients in ambulance is exempt from GST.
[Entry 74 of Notification No. 12/2017-CT (Rate)]

ix) GST is not applicable as the services by way of Slaughtering of animals are exempt under GST.
[Entry 56 of Notification No. 12/2017-CT (Rate)]

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, 1961. :** 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

Mrs. Bharti buys a passenger car worth Rs. 4,00,000 with GST Rs. 70000. She deals in furniture and electronics and uses the car to travel to her showroom. Can she claim ITC for the Car ?

Answer

In this case, even if the car is used for her business, ITC Rs. 70000 cannot be claimed.

Section 17(5)(a) of CGST Act, 2017

Notwithstanding anything contained in sub-section (1) of section 16 and subsection (1) of section 18, ITC shall not be available in respect of the following, namely:—

(a) motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are 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;

(aa) vessels and aircraft except when they are used—

(i) for making the following taxable supplies, namely:—

- (A) further supply of such vessels or aircraft; or
- (B) transportation of passengers; or
- (C) imparting training on navigating such vessels; or
- (D) imparting training on flying such aircraft;

(ii) for transportation of goods;

(ab) services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):

Provided that the input tax credit in respect of such services shall be available—

- (i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;
- (ii) where received by a taxable person engaged—

(I) in the manufacture of such motor vehicles, vessels or aircraft; or

(II) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him.

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.

A supplier cannot take Input Tax Credit of GST paid on goods or services used to make supplies on which the recipient is liable to pay tax under reverse charge. The recipient can avail ITC of GST amount that is paid under reverse charge on receipt of goods or services by him.

GST paid on goods or services under reverse charge mechanism is available as ITC to the registered person provided that such goods or services are used or will be used for business or furtherance of business.

The ITC is availed by recipient cannot be used towards payment of output tax on goods or services, the payment of tax under reverse charge only on cash.

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** is 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.)

Question 13

XYZ Ltd., purchased a machinery on August 12, 2019 for Rs. 12 lakhs (excluding GST). The company put the machinery to use after the purchase and availed input tax credit for the eligible amount.

The machinery was sold as second hand machinery on May 14, 2020 for Rs. 9 lakhs. During purchase as well as sale of the machinery, the GST rate applicable was 18%.

Assuming that there was no change in legal position, Discuss the steps which XYZ Ltd., is required to take at the time of sale of the secondhand machine. Briefly state the statutory provisions involved.

Answer

Section 18(6) of the CGST Act, 2017 read with **rule 40(2)** the CGST Rules, 2017 provide that if capital goods or plant and machinery on which input tax credit has been taken are supplied outward by the registered person, he must pay an amount that is the higher of the following:

- (a) Input tax credit taken on such goods reduced by **5% per quarter** of a year or part thereof from the date of issue of invoice for such goods, or
- (b) Tax on transaction value.

XYZ Ltd. is required to take the steps in the light of above provisions for payment of tax at the time of sale of second hand machinery. The amount payable on sale of machinery shall be:

<i>Particulars</i>	<i>Amount (Rs.)</i>	<i>Amount (Rs.)</i>
Input tax credit taken on machine	(1200000 x 18%)	2,16,000
<i>Less</i> : Input tax credit to be reversed @ 5% per quarter for the period of use of machine from August, 2019 to May, 2020		
(i) For the year 2019-20	(216000 x 5%) x 3 Qtrs. = Rs. 32,400	
(ii) For the year 2020-21	(216000 x 5%) x 1 Qtr. = Rs. 10,800	(43,200)
Amount required to be paid as per (a) above		1,72,800
Tax leviable on transaction value (900000 x 18%) as per (b) above		1,62,000
Amount payable towards sale of machine being higher of Rs. 1,72,800/- and Rs. 1,62,000/-		1,72,800

Question 14

Compute the amount of ITC admissible to XYZ Ltd. in respect of various inputs purchased during the month of April, 2020.

S. No.	Particulars	Amount (Rs.)
1.	Goods purchased without invoice	37,000
2.	Goods purchased from ABC Ltd. (Full Payment is made by XYZ Ltd. to ABC Ltd. against such supply but tax has not been deposited.)	47,000
3.	Purchases of goods not to be used for business purposes	13,000
4.	Purchases of goods from PQR Ltd. (Invoice of PQR Ltd. is received in month of April, 2020, but goods were received in month of May, 2020)	65,000
5.	Goods purchased against valid invoice from Rabbit Ltd. Tax has been deposited by Rabbit Ltd. XYZ Ltd. has made payment to Rabbit Ltd. for such purchases in the month of May 2020.	40,000

Answer

Computation of admissible ITC to XYZ Ltd. for the month of April, 2020

S. No.	Particulars	Amount (Rs.)
1.	Goods purchased without invoice [W.N. (i)]	-
2.	Goods purchased from ABC Ltd. (Full Payment is made by XYZ Ltd. to ABC Ltd. against such supply but tax has not been deposited.) [W.N. (ii)]	-
3.	Purchases of goods not to be used for business purposes [W.N. (iii)]	-
4.	Purchases of goods from PQR Ltd. (Invoice of PQR Ltd. is received in month of April, 2020, but goods were received in month of May, 2020) [W.N. (iv)]	-
5.	Goods purchased against valid invoice from Rabbit Ltd. Tax has been deposited by Rabbit Ltd. XYZ Ltd. has made payment to Rabbit Ltd. for such purchases in the month of May 2020. [W. N. (v)]	40,000
	Total admissible ITC available for the month of April, 2020	40,000

Working Notes :

- (i) No ITC will be admissible to XYZ Ltd. because XYZ Ltd. is not in possession of a Tax invoice or debit note issued by supplier registered, or such other tax payment documents as may be prescribed;
- (ii) As per Section 16(2), no registered person shall be entitled to the credit of any input tax in respect of any supply of goods unless the tax charged in respect of such supply has been actually paid to the Government.

- (iii) ITC Can not be claimed for goods used for personal purpose. A registered person shall be entitled to take ITC on goods which are used or intended to be used in the course or furtherance of his business.
- (iv) ITC is admissible only when registered person has received such goods. Since the goods are received in the month of May, 2020, ITC cannot be taken in the month of April, 2020.
- (v) ITC shall be admissible in month of April, 2020 even if payment is made by XYZ Ltd. in month of May, 2020.

Question 15

Mr. Pankaj is a registered dealer of gifts and stationery items is a registered person under GST furnished the following transactions for the month of June 2020

S. No,	Particulars	Amount (Rs.)
i)	Sale of leather goods	46,000
ii)	Sale of articles of wood	13,000
iii)	Sale of ceramic products	19,000
iv)	Sale of Alarm clocks	21,000
v)	Sale of non roasted coffee beans	35,000
vi)	Sale of toothpaste & cosmetics	30,000
vii)	Sale of aseptic packaging paper	10,000

Ascertain the GST liability assuming GST for taxable supply is 12% (CGST - 6% & SGST – 6%)

Answer

Statement showing GST liability of Mr. Pankaj

S. No,	Particulars	Amount (Rs.)	Taxability	CGST @ 6%	SGST @ 6%
i)	Sale of leather goods	46,000	Taxable	2760	2760
ii)	Sale of articles of wood	13,000	Exempt	-	-
iii)	Sale of ceramic products	19,000	Exempt	-	-
iv)	Sale of Alarm clocks	21,000	Taxable	1260	1260
v)	Sale of non roasted coffee beans	35,000	Exempt	-	-
vi)	Sale of toothpaste & cosmetics	30,000	Taxable	1800	1800
vii)	Sale of aseptic packaging paper	10,000	Taxable	600	600
	Total Tax liability			6420	6420

Chapter 15

Procedural Compliance under GST

Registration, Tax Invoice, Debit & Credit Note, Account and Record, Electronic way Bill, Returns, Payment of Tax, Refunds and Audit

Question 1

What is (Goods & Services Tax) GST Registration? What is the threshold limit for registration under GST?

Answer

GST Registration is the process of registering with (GST) Goods and Services Taxes (GST) Department. 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.

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.

The threshold limit for registration under GST is explained in the below table :

(Notification No. 10/2019-Central Tax dated March 07, 2019)

- i) For Supplier engaged exclusively in supply of goods

S. No.	States	Registration is mandatory if Aggregate Turnover exceeds
1.	States other than Special Category States	Rs. 40 Lakh
2.	Puducherry, Telangana	Rs. 20 Lakh
Special Category States		
3..	Uttarakhand, Meghalaya, Sikkim, Arunachal Pradesh	Rs. 20 Lakh
4..	Manipur, Mizoram, Nagaland, Tripura	Rs. 10 Lakh

ii) For Supplier engaged exclusively in supply of Services or both goods and services

S. No.	States	Registration is mandatory if Aggregate Turnover exceeds
1.	Normal Category States	Rs. 20 Lakhs
2.	Special Category States (Manipur, Mizoram, Nagaland, Tripura)	Rs. 10 Lakhs

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 ▪ Principal address proof for the business ▪ Proof of appointment for the signatory authority ▪ The authorised signatory's Aadhaar card
Company	<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 ▪ Board resolution appointing authorised signatory / Any other proof of appointment of authorised signatory

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 registered- The

effective date of registration is the date of grant of registration.

For example,

Mr. Anil is liable to get registered on 01-10-2020

Case 1- if he takes registration on 25-10-2020. The effective date of registration is 01-10-2020.

Case 2- if he takes registration on 05-11-2020. The effective date of registration is 05-11-2020.

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

Section 2(66) of Central Goods & Services Tax Act, 2017 mandates “invoice” or “tax invoice” as the tax invoice referred to in section 31 of CGST Act, 2017. An invoice is a commercial instrument, issued by a supplier of goods / services, to a recipient. It identifies both the parties involved, and lists and describes the items sold / services supplied, quantifies them, exhibits the dates, prices and necessary discounts.

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.

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

Mr. Abhi, a registered supplier, runs a general store in Ludhiana, Punjab. Some of the goods sold by him are exempt whereas some are taxable. You are required to advise him on the following issues:

- a) Whether Mr. Abhi is required to issue a tax invoices in all cases, even if he is selling the goods to the end consumers?*
- b) Mr. Abhi sells some exempted as well as taxable goods valuing Rs. 5,000 to a school student. Is he mandatorily required to issue two separate GST documents?*
- c) Mr. Abhi wishes to know whether it's necessary to show tax amount separately in the tax invoices issued to the customers. Advise Accordingly?*

Answer

- a)** No, He is not required to issue tax invoice in all cases. As per Section 31(1) of the CGST Act, 2017, every registered person supplying taxable goods is required to issue a **'Tax invoice'**. Section 31(3)(c) of the CGST Act, 2017 stipulates that every registered person supplying exempted goods is required to issue a **bill of supply** instead of tax invoice. Further, **Rule 46A**

of the CGST Rules, 2017 provides that a registered person supplying taxable as well as exempted goods or services or both to an un-registered person may issue a single ‘**invoice-cum-bill of supply**’ for all such supplies.

However, as per section 31(3)(b) of the CGST Act,2017 read with rule 46 of the CGST Rules,2017, a registered person may not issue a tax invoice if:

- i. Value of the goods supplied < Rs.200,
- ii. the recipient is unregistered; and
- iii. the recipient does not require such invoice.

Instead, such registered person shall issue a **Consolidated Tax Invoice** for such supplies at the close of each day in respect of all such supplies.

- b) As per rule 46A of the CGST Rules,2017, where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single “**invoice-cum-bill of supply**” may be issued for all such supplies. Thus, there is no need to issue a tax invoice and a bill of supply separately to the school student in respect of supply of the taxable and exempted goods respectively.
- c) As per section 33 of the CGST Act, 2017 read with rule 46(m) of the CGST Rules, 2017, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made. Hence, Mr. Abhi has to show the tax amount separately in the tax invoices issued to customers.

Question 9

Lion enterprises, Kolkata makes a supply of goods to Tiger enterprises, Ghaziabad. The goods were removed from the factory at Kolkata on May 03. When should the Tax Invoice be issued?

Answer

Since, the goods were removed from the factory on May 03. Hence, the tax invoice must be issued on or before May 03.

Question 10

M Ltd. an event management company has provided its services for an event at Photo Film Agencies at Kolkata, on June 01. When should the Tax invoice be issued?

Answer

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

Question 11

If Mr. N a dealer is liable to be registered on January 18, 2021 and he has applied for registration on February 01, 2021, what is the effective date of registration?

Answer

The effective date of registration would be January 18, 2021.

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 Aadhaar authentication or e-KYC under GST?

Answer

Aadhaar authentication is a process by which the Aadhaar number along with other biometric details of the taxpayer are submitted to the Central Identities Data Repository (CIDR) for verifying its correctness. The CIDR verifies the correctness of data on the basis of information available with it. All taxpayers registered as Regular Taxpayers (including Casual Taxable person, SEZ Units/Developers), ISD and Composition taxpayers can do their Aadhaar Authentication or e-KYC on GST Portal. This is not applicable for Government Departments, Public Sector Undertakings, Local Authorities and Statutory Bodies.

If Aadhaar is available, the Primary Authorized signatory and 1 person who is Proprietor/Partner/Director /Managing Partner/ Karta of the entity registered can go for the Aadhaar Authentication.

In absence of Aadhaar, they can upload any of the following documents to undergo e-KYC:

- Aadhaar Enrolment Number

- Passport
- EPIC (Voter ID Card)
- KYC Form
- Certificate issued by Competent Authority
- Others

CBIC has prescribed condition of Aadhaar authentication for registration. If a person do not go for Aadhaar authentication then he has to go for physical verification. While applying for registration, taxpayer has to opt to go for Aadhaar authentication or otherwise. If he opts for Aadhaar authentication, then application will be deemed to be filed from the date of authentication or 15 days of filing of application, whichever is earlier. If taxpayer does not opt for Aadhaar authentication, then physical verification will be conducted. However, one more option is given, that if joint Commissioner permits then verification of documents can be done. The time limit has also been prescribed wherein deemed registration will be granted, if the officer failed to take action within time limit prescribed.

CBIC had issued a notification on March 23, 2020 about Aadhaar authentication for GST registration from April 01, 2020. The same has been amended vide notification 62/2020 dated August 20, 2020 to be made optional. The aadhaar authentication for GST registration is not required for non-residents, persons other than citizens of India and persons who have already been registered under GST.

The main purpose behind the Aadhaar authentication is to create an online platform wherein the identity of Aadhaar holders can be validated anytime anywhere. This will keep a check on the malpractices happening under the Goods and Services Tax.

As per Section 25(6C) of the CGST Act, the Aadhaar authentication is mandatory for the class of individuals as per Rule 8 of the CGST Act in order to become eligible for the GST registration namely Authorised signatory of all types; Managing/authorised partners of a partnership firm and Karta of a Hindu Undivided Family.

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 :

- a. two different States;
- b. two different Union territories;
- c. a State and a Union territory Further,
- d. import of goods and services;
- e. supplies where the supplier is located in India and the place of supply is outside India;
- f. supplies to/ by SEZ units or developer; or
- g. 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

What are the goods covered under GST Compensation Cess ?

Answer

The goods covered under GST Compensation Cess are :

- i) Pan Masala;
- ii) Tobacco and Tobacco products;
- iii) Cigarettes;
- iv) Coal, briquettes, ovoids and similar solid fuels manufactured from coal, lignite excluding jet and peat (including peat litter);
- v) Aerated Waters;
- vi) Motor Vehicles.

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	1,20,000
CGST @ 6%	7,200
UTGST @ 6%	7,200
Total tax liability	14,400

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 Rule 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 upto 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 rules 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.,
- (ii) Engineering / development / artwork, design work etc.
- (iii) 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.
