
Unit - 1 □ GST in India : Levy and Collection

Structure

- 1.1 Introduction**
- 1.2 Genesis of GST in India**
- 1.3 Constitutional Amendment for GST**
- 1.4 Legislative Framework**
- 1.5 Structure of GST**
- 1.6 Benefits of GST**
- 1.7 Extent of CGST Act/ SGST Act/ UTGST Act/ IGST Act**
- 1.8 Applicability of GST in India**
- 1.9 Levy and collection**
 - 1.9.1 Levy and collection as per CGST Act, 2017**
 - 1.9.2 Levy and collection as per IGST Act, 2017**
- 1.10 GST on Alcohol for human consumption**
- 1.11 GST on Petroleum**
- 1.12 Liability to pay CGST**
- 1.13 Exercises**

1.1 Introduction

Goods and Services Tax (GST) has been identified as one of the most important tax reforms in post independence. GST is a path breaking indirect tax reform which will create a common national market by removing inter-state trade barriers. GST has subsumed (absorbed or include) multiple indirect taxes imposed by central and state governments.

Power to levy any tax is derived from the Constitution of India. As per article 265 of The Constitution of India no tax shall be imposed or collected except by the authority of any Law. The charging section is the must in any Taxing Law for levy(impose) and collection (payment) of taxes. The very basic for the charge of tax in any taxing statute is taxable event, i.e. the point of time when tax will be imposed. Under pre GST regime, each indirect taxes has separate taxable event (such as manufacture in case of Excise Duty, provision of services in case of Service Tax, sale of goods in case of VAT/ CST, etc.) Under the GST regime, the taxable event is supply of goods or services or both. The scope of supply has been discussed in detail in unit-2.

GST subsumed the following :

Central taxes	State taxes
Central excise duty	State VAT
Additional excise duty	Entertainment tax
Service tax	Entry tax
Surcharge and cess	Luxury tax
Central sales tax	Purchase tax

GST was first introduced in France in the year 1954. Within 62 years of its introduction about 160 countries across the world have adopted GST. Generally GST is popular for single model but Canada and Brazil also have dual model of GST. India has adopted a dual GST which will be imposed concurrently by centre and states.

1.2 Genesis of GST in India

2004	The idea of GST was emerged in India from the recommendation of Kelkar Task Force.
2007	Union Finance Minister, Shri P. Chidambaram, while presenting the central budget (2007-08) announced the GST for introduction in India.
2014	NDA government tabled the Constitution (122 nd Amendment) Bill
2016	It got assent of the president on 8th September, 2016 and became Constitution (101 st amendment) Act, 2016, which paved the way for the introduction of GST in India.
2017 (March)	Central Goods and Services Tax Bill, 2017, Integrated Goods and Services Tax Bill, 2017, Union Territory Goods and Services Tax Bill, 2017 and Goods and Services Tax (Compensation to States) Bill, 2017 were introduced and passed in Lok Sabha and on receipt of President assent on 12 th April, 2017 became enacted. Subsequently State GST laws had been enacted by respective State Government.
2017 (July)	w.e.f 1 st July 2017, GST was implemented across India.

1.3 Constitutional Amendment for GST

Constitution (101st amendment) Act, 2016 was enacted on 8.09.2016 for the following significant amendments.

- (a) Concurrent (simultaneously) power on Parliament and State legislatures to make

- laws for imposing taxes on goods and services.
- (b) GST will be levied on all supply of goods and services except alcoholic liquor for human consumption.
 - (c) Parliament has exclusive power to make laws with respect to goods and services tax of inter-state (from one state to another state) supply.
 - (d) Parliament shall decide principles for determining the place of supply and when supply takes place in course of inter-State trade and commerce.
 - (e) The explanation to Article 269A of Constitution of India provides that the import of goods and services will be deemed as a supply takes place in course of inter-State trade and commerce.
 - (f) For the following items Central Excise duty will be imposed on their production and respective States will impose Sales tax the on their sales.
 - i) Petroleum crude
 - ii) High speed diesel
 - iii) Motor spirit (commonly known as petrol)
 - iv) Natural gas
 - v) Aviation turbine fuel
 - vi) Tobacco and tobacco products
 - (g) Article 279A of the Constitution of India empowers the president of India to Constitute Goods and Service tax Council (GST Council) under the chairmanship of the Union Finance Minister to recommend about (Article 279A):
 - i) the GST rate
 - ii) Valuation and other fundamental rules
 - iii) Exemption
 - iv) Future changes
 - v) Return
 - vi) Registration

1.4 Legislative Framework

There are total 35 GST Acts in India:

- 1- The Central Goods and Service Tax Act, 2017 for imposing CGST on intra-State supply of goods and services.
- 31- State Goods and Service Tax Act, 2017 for imposing SGST by respective state on intra-State supply of goods and services.

- 1 – The Union Territory Goods and Services Tax Act, 2017 for levying UTGST in 5 union Territories without State Legislatures on intra-Territory supply of goods and services. (Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu and Chandigarh)
- 1 – The Integrated Goods and Service Tax Act, 2017 for levying IGST and
- 1 – The Goods and services Tax (Compensation to states) Act, 2017 for levying GST Compensation Cess.

1.5 Structure of GST

1. GST is levied on supply of goods and services across India (including Jammu and Kashmir). It is a single tax on the supply of goods and services, right from the manufacturer to the consumer. Under GST credit of taxes paid at previous stages is available as set-off from the output tax.
2. GST is destination based consumption tax. Benefit of tax (STCG/ UTGST) will accrue to the consuming state.
3. Centre and states will impose tax on goods and services simultaneously. Centre now can impose tax on sale of goods within State and States can impose tax on services.
 - (a) **Intra-State supply of goods and services**
 - CGST-Payable to Central Government
 - SGST/ UTGST-Payable to State Government/ Union Territory (as applicable) where they are consumed
 - (b) **Inter-States Supply of goods and services**
 - IGST - Payable to Central Government
4. Centre will levy and administer CGST and IGST while respective States/ UTs will levy and administer SGST/UTGST.
5. Import will be treated as inter-States supply and IGST will be chargeable along with basic Customs duty.
6. However, in GST Export will be treated as Zero rated supplies and no IGST is payable.
7. The rates of GST are 0.5%, 3%, 5%, 12%, 18% and 28%. In addition , compensation cess will be payable on pan masala, coal, aerated water and motor cars (Sin cess). There is no education cess or Swach Bharat cess or Krishi Kalyan cess on GST.

8. GST will be calculated on value of supply of goods and services, which is transaction value. (subject to some exceptions)
9. Under GST, every suppliers who have made taxable supply shall required to get himself registered under GST Law.
10. A registered person is entitled to take credit (deduction) of input tax paid from the output tax (if any) subject to following restriction:
 - (a) **Utilisation of IGST** : first utilized for the payment of IGST then the balance may be utilized towards payment of CGST and SGST/UTGST
 - (b) **Utilisation of CGST**: first utilized for the payment of CGST then the balance may be utilized towards payment of IGST.
 - (c) **Utilisation of SGST/UTGST**: first utilized for the payment of SGST/UTGST then the balance may be utilized towards payment of IGST.
11. Under GST regime there is a seamless (without any obstruction) credit flow in case of inter-state supplies, which was not possible in pre GST period. No credit was available for CST paid by the buyer. Under GST regime the seamless credit will flow as follows:
 - (a) The inter-state supplier in exporting state is allowed to set off the available credit in IGST, CGST and SGST/UTGST against the IGST payable on inter-state supply made by him.
 - (b) The buyer of importing state in inter-state supply can avail the credit of IGST paid on purchase from the output tax payable.
 - (c) The exporting state transfers to the centre the credit of SGST/ UTGST utilised for the payment of IGST.
 - (d) The Centre transfers to the importing state the credit of IGST used in payment of SGST/UTGST.
12. A common portal or platform is needed which could act as a clearing house and verify the claims and inform the respective government to transfer the funds. This is possible with the help of a strong IT infrastructure. Accordingly Government has established common GST Electronic Portal (www.gst.gov.in), a website managed by Goods and Services Network (GSTN) for the tax payer and common IT infrastructure for Central and States. Primarily, GSTN provides three services to taxpayers.
 - (a) Facilitating Registration.
 - (b) Forwarding the returns to Central and States authorities.
 - (c) Computation and settlement of IGST.

- (d) Matching of tax payment details with banking network.
- (e) Providing analysis of taxpayers' profile.

1.6 Benefits of GST

GST is a win-win situation for the entire country. It provides benefits to all the stakeholders of industry, Government and customers. It is expected that it will reduce cost of goods and services and make them globally competitive. The significant benefits of GST are discussed hereunder:

- (a) **Creation of unified national market:** GST aims to make India a common market with common tax rates and compliances (procedures) and remove the economic barriers to form an integrated economy in the national level.
- (b) **Mitigation of ill effects of cascading:** GST subsume most of the Central and States indirect taxes into a single tax and allow the credit of tax paid from the output tax for the transaction across the entire value chain process. Eradication of “tax on tax” gives the benefit to the industry.
- (c) **Boost to ‘Make in India’ initiative:** GST will give major boost to the ‘Make in India’ initiative of government of India by making goods and services produced in India competitive in the national as well as international market.
- (d) **Increase in government revenue:** GST is expected to increase the Government revenue by widening the tax base and improving the taxpayer compliances.

1.7 Extent of CGST Act/ SGST Act/ UTGST Act/ IGST Act

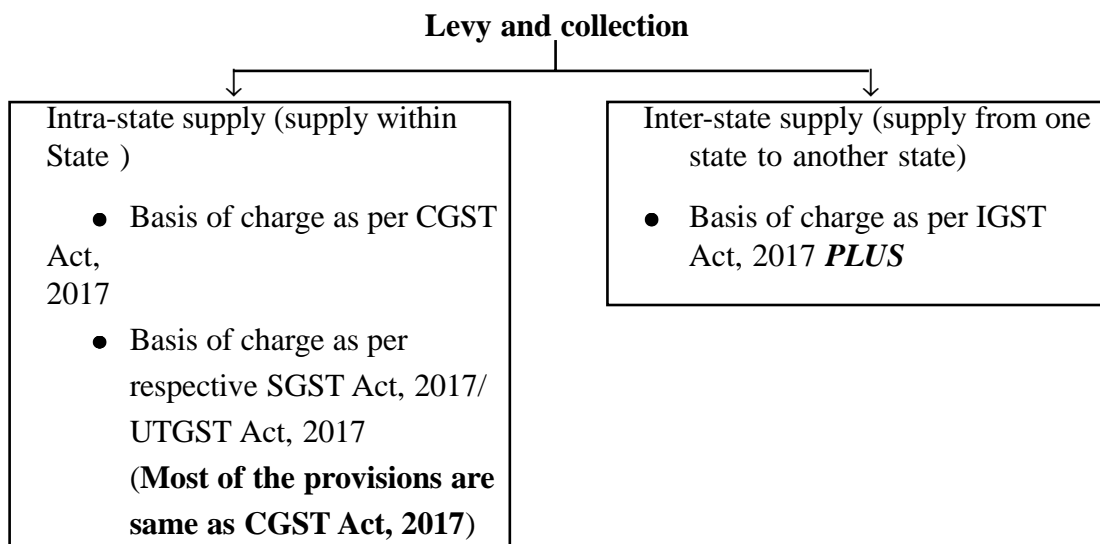
- The Central Goods and Service Tax Act, 2017 for imposing CGST on intra-state supply of goods and services, extends whole of India including Jammu and Kashmir.
- Respective State Goods and Service Tax Act, 2017 for imposing SGST by respective state on intra-state supply of goods and services, extends whole of that state/ Union territory having state legislature (Delhi and Puducherry).
- The Union Territory Goods and Services Tax Act, 2017 for levying UTGST in 5 Union Territories without State Legislatures on intra-Territory supply of goods and services. (Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu and Chandigarh)
- The Integrated Goods and Service Tax Act, 2017 for levying IGST and whole of India including Jammu and Kashmir.

1.8 Applicability of GST in India

India means

- Territory of India (i.e. entire landmass of India including states and union territory)
- Indian territorial waters, seabed and sub-soil underlying such waters, continental shelf, excluding Special Economic Zone (SEZ) and any other notified maritime zone.
- The air space above its territory and territorial waters.

1.9 Levy and collection



1.9.1. Levy and collection as per CGST Act, 2017

- (a) U/s 9(1) of CGST Act, 2017 there shall be levied a tax –
- Called the Central Goods and Services Tax(CGST);
 - On all the intra-state supplies of goods or services or both, except on supply of alcoholic liquor for human consumption;
 - On the value determined u/s 15; and
 - At such a rate (maximum 20%,) as notified by the Central Government on recommendation of GST Council; and
 - Collected in such a manner as may be prescribed; and

- Shall be paid by the taxable person.
- (b) U/s 9(2) of CGST Act 2017, the CGST of following supply shall be levied with the effect from such date as notified by the Central Government on recommendation of GST Council-
 - Petroleum crude
 - High speed diesel
 - Motor spirit (commonly known as petrol)
 - Natural gas
 - Aviation turbine fuel
- (c) U/s 9(3), CGST is to be paid on reverse charge basis by the recipient on notified goods/ services or both (liability to pay tax by the recipient of supply of goods / services rather than supplier of goods/ services under forward charge)
- (d) U/s 9(4), CGST on taxable supply of goods/ services to registered supplier from unregistered supplier is to be paid on reverse charge basis by the recipient.
- (e) U/s 9(5), E-Commerce operator is liable to pay CGST on notified intra-state supplies.

1.9.2. Levy and collection as per IGST Act, 2017

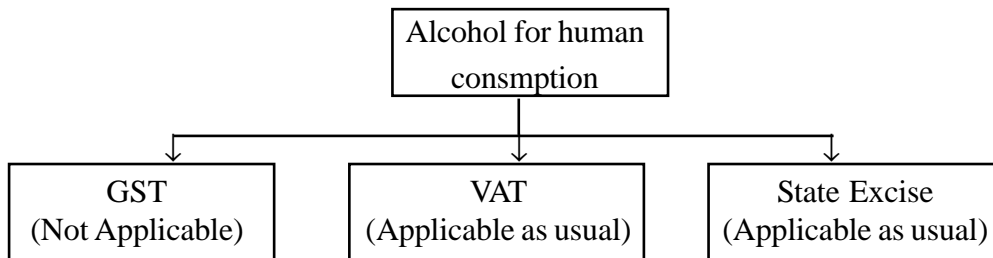
- (a) U/s 5(1) of IGST Act, 2017 there shall be levied a tax –
 - Called the Integrated Goods and Services Tax (IGST);
 - On all the inter-state supplies of goods or services or both, except on supply of alcoholic liquor for human consumption;
 - On the value determined u/s 15 of CGST Act, 2017; and
 - At such a rate (maximum 40%.) as notified by the Central Government on recommendation of GST Council; and
 - Collected in such a manner as may be prescribed; and
 - Shall be paid by the taxable person.

Provided further that IGST will be imposed on goods/ services imported into India.

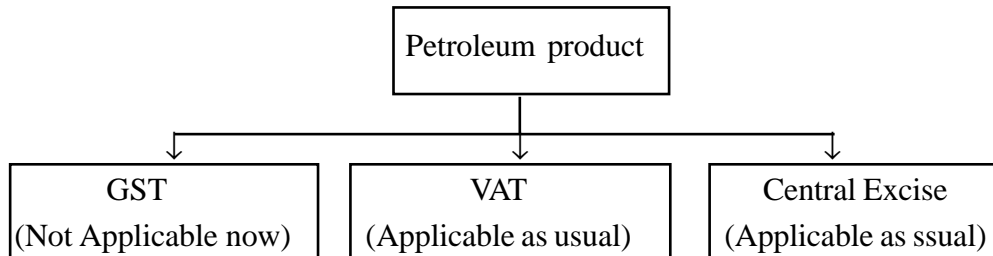
- (b) U/s 5(2) of IGST Act, 2017, the CGST of following supply shall be levied with the effect from such date as notified by the Central Government on recommendation of GST Council-
 - Petroleum crude
 - High speed diesel
 - Motor spirit (commonly known as petrol)
 - Natural gas
 - Aviation turbine fuel

- (c) U/s 5(3), IGST is to be paid on reverse charge basis by the recipient on notified goods/ services or both (liability to pay tax by the recipient of supply of goods / services rather than supplier of goods/ services under forward charge).
- (d) U/s 5(4), IGST on taxable inter-state supply of goods/ services to registered supplier from unregistered supplier (agriculturist) is to be paid on reverse charge basis by the recipient.
- (e) U/s 5(5), E-Commerce operator is liable to pay CGST on notified inter-state supplies.

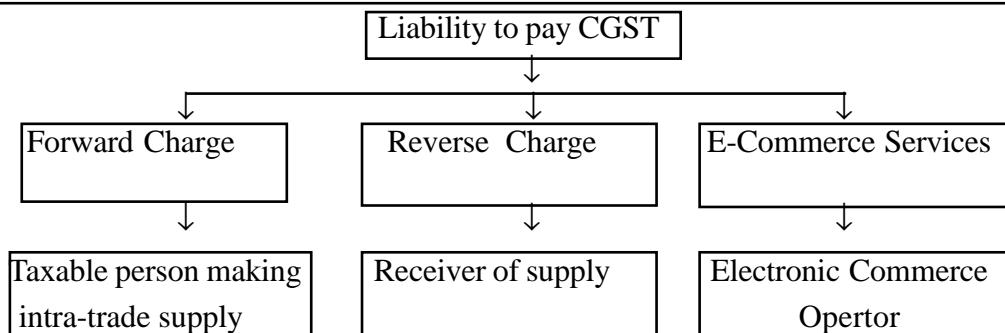
1.10 GST on Alcohol for human consumption



1.11 GST on Petroleum



1.12 Liability to pay CGST



1.13 Exercises

1. Briefly describe the structure of GST in India.
2. How does the seamless Credit flow under GST?
3. How the GST is levied and collected?
4. Briefly describe the provisions of levy and collection of taxes under CGST Act 2017.
5. Briefly describe the provisions of levy and collection of taxes under IGST Act. 2017.

Multiple Choice Questions (MCQ)

1. Authority to levy and collect taxes in India is given to the Central and State Government by
 - (a) Article 246 of Constitution of India
 - (b) Article 265 of Constitution of India
 - (c) Article 269 of Constitution of India
 - (d) Article 279A of Constitution of India
2. The exclusive right to make laws for matters containing in List-I of Schedule VII of the Constitution of India has been given to
 - (a) State Governments
 - (b) Central Government
 - (c) Both Centre and State Governments
 - (d) None of the above
3. The exclusive right to make laws for matters containing in List-II of Schedule VII of the Constitution of India has been given to
 - (a) State Governments
 - (b) Central Government
 - (c) Both Centre and State Governments
 - (d) None of the above
4. The exclusive right to make laws for matters containing in List-III of Schedule VII of the Constitution of India has been given to
 - (a) State Governments
 - (b) Central Government
 - (c) Both Centre and State Governments
 - (d) None of the above

5. Power to make laws with respect to goods and service tax has been given by the Constitution vide,
 - (a) Article 279A
 - (b) Article 246A
 - (c) Article 246
 - (d) Article 366
6. Which of the following taxes have been subsumed in GST?
 - (a) Central Sales Tax
 - (b) Central Excise Duty and service tax
 - (c) VAT
 - (d) All of the above
7. GST is levied on supply of all goods and services except:
 - (a) Alcoholic liquor for human consumption
 - (b) Tobacco
 - (c) Legal services
 - (d) All of the above
8. GST on Petroleum Crude, High Speed Diesel, Motor Spirit (commonly known as Petrol), Natural Gas and Aviation Turbine Fuel:
 - (a) Is not levied at all
 - (b) Is levied, but exempt
 - (c) Will be levied from a date to be notified on the recommendations of the GST Council
 - (d) Will be levied from 1.4.2018
9. The GST Council shall, besides other recommendations, make recommendations to the Union and the States on—
 - (a) The goods and services that may be subjected to, or exempted from the goods and services tax
 - (b) The threshold limit of turnover below which goods and services may be exempted from goods and services tax
 - (c) The rates including floor rates with bands of goods and services tax
 - (d) All the above -
10. Which article of the Constitution empowered the President to Constitute Goods and Service Tax Council?

- (a) 270
- (b) 246A
- (c) 279A
- (d) 269A

11. Who shall be empowered to levy and collect GST on supplies in the course of Inter-State trade or commerce?

- (a) Government of India
- (b) State Governments
- (c) Union Territories
- (d) All the above

Solution to multiple choice Questions

1 (b) 2.(b) 3(b) 4 (c) 5(b) 1.6(d) 7 (a) 8 (c) 9 (d) 10(c) 11 (a)

Unit - 2 □ Concept of Supply under GST

Structure

- 2.1 Introduction**
- 2.2 Definition of important terms**
- 2.3 Scope of Supply**
 - 2.3.1 Supply for Consideration in course of furtherance of business**
 - 2.3.2 Supply without consideration**
 - 2.3.3 Activities treated as Supply of goods/services**
 - 2.3.4 Activities treated neither as Supply of goods nor as Supply of services**
 - 2.3.5 Activities notified by Government**
 - 2.3.6 Illustration**
- 2.4 Composite Supply and Mixed Supply**
 - 2.4.1 Composite Supply**
 - 2.4.2 Mixed Supply**
 - 2.4.3 Guiding principles for determining a Supply as Composite Supply or mixed Supply**
 - 2.4.4 Illustration**
- 2.5 Place of Supply**
 - 2.5.1 Scope of the provisions**
 - 2.5.2 Place of Supply of goods other than export and import**
 - 2.5.3 Place of Supply of services other than export and import**
 - 2.5.4 Illustration**
- 2.6 Time of Supply (Point of Taxation)**
 - 2.6.1 Time of Supply of goods**
 - 2.6.2 Time of Supply of services**
 - 2.6.3 Time of Supply of vouchers**
 - 2.6.4 Time of Supply of goods under RCM**
 - 2.6.5 Time of supply of services under RCM**
 - 2.6.6 Time of Supply in case of change in rate of Tax**
 - 2.6.7 Date of Tax**
 - 2.6.8 Illustration**

2.7 Value of Supply

2.7.1 Determination of Supply

2.7.2. Illustration

2.8 Exercises

2.1 Introduction

The incidence of tax is the foundation stone of any taxation system. It determines the point at which tax would be levied (i.e. the taxable event). The earlier framework of taxable event across various areas of indirect taxes was subject to varying interpretations resulting in endless litigation since decades. Broadly, the controversies related to issues like whether a particular process amounted to manufacture or not, whether a particular transaction was sale of goods or rendering of services, etc. The GST laws resolve these issues by laying down one comprehensive taxable event, i.e. 'supply of goods or services or both'. GST law, by levying tax on the 'supply of goods and/or services', departs from the historically understood concepts of 'taxable event' under the erstwhile indirect tax laws (i.e. sale under state VAT laws, manufacture under excise laws and provisioning of service under service tax laws). For a better understanding of this topic, it is imperative to understand the meaning of a few important terms which have been explained in this unit.

2.2 Definition of important terms

Meaning of 'Goods' {Section 2 (52) of CGST Act}

'Goods' means every kind of movable property other than money and securities but includes:

- actionable claim;
- growing crops, grass and things attached to/forming part of the land which are agreed to be severed before supply or under a contract of supply.

Meaning of 'Services' {Section 2(102) of CGST Act}:

Services means anything other than goods, money and securities.

Services include activities relating to the use of money or its conversion of money by cash or by any other mode, from one form of currency or denomination to another form, currency or denomination for which a separate consideration is charged.

Meaning of ‘Consideration’ {Section 2(31) of CGST Act}:

The scope of the word ‘consideration’ in relation to the supply of goods or services or both would include:

- any payment made or to be made, whether in money or otherwise, by the recipient or by any other person; and
- the monetary value of any act or forbearance by the recipient or by any other person.

However, any subsidy given by Central Government or State Government shall not be treated as a part of consideration; and

a deposit given in respect of supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies the deposit as consideration for the said supply.

Meaning of ‘Money’ {Section 2(75) of CGST Act}:

Money means Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognised by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination.

However, money shall not include any currency that is held for its numismatic value.

Meaning of ‘Business’ (Section 2(17) of CGST Act):

Business includes:

- a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
- b) any activity or transaction in connection with or incidental or ancillary to (a) above;
- c) any activity or transaction in the nature of (a) above, whether or not there is volume, frequency, continuity or regularity of such transaction;
- d) supply or acquisition of goods including capital assets and services in connection with commencement or closure of business;
- e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members, as the case may be;
- f) admission, for a consideration, of persons to any premises;

- g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- h) services provided by a race club by way of totalisator or a licence to book maker in such club; and
- i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities.

Meaning of ‘Person’ {Section 2(84) of CGST Act):

Person includes:

- an individual (i.e. a natural human being);
- a Hindu Undivided Family (‘HUF’) (The meaning of HUF has not been given under the tax laws. As per the Hindu law, it means a family which consists of all persons lineally descended from a common ancestor including their wives and daughters. Married daughters are no longer treated as a member of HUF after they get married in other families):
- a firm;
- a limited liability partnership firm;
- a company;
- a trust;
- a body -corporate incorporated by or under the laws of a country outside India;
- an association of persons (AOP), whether incorporated or not (an AOP refers to a situation where two or more persons join hands to carry on any business);
- a body of individuals (BOI), whether incorporated or not (a BOI is similar to AOP; however, all the participants of BOI are only individuals whereas in case of AOP, one or more participant is a non-individual);
- government (Central Government as well as State Government);
- a local authority (ie, panchayat, municipality, cantonment board, etc); and
- a co-operative society registered under any law relating to cooperative societies;
- a society as defined under the Societies Registration Act, 1860;
- a corporation established by/under any Central, State or Provincial Act or Government company as defined u/s 2(45) of Companies Act, 2013;
- every artificial juridical person not covered above (artificial juridical persons are entities which are not natural persons but are separate entities in the eyes of law. Though they may not be sued directly in a court of law, but they can be sued through persons managing them. Examples are universities, ICAI, ICSI, etc);

Meaning of ‘Related Persons’ {Explanation to Section 15 of CGST Act}

Persons shall be deemed to be ‘related persons’ if:

- such persons are officers or directors of one another’s businesses;
- such persons are legally recognised partners in business;
- such persons are employer & employee;
- a third person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them;
- one of them directly or indirectly controls the other;
- both of them are directly or indirectly controlled by a third person;
- together they directly or indirectly control a third person;
- they are members of the same person; or
- one of them is the sole agent, sole distributor or sole concessionaire of the other.

2.3 Scope of Supply {Section 7 of CGST Act}

- **Section 7(1):** For the purposes of this Act, the expression “supply” includes:
 - a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;
 - b) import of services for a consideration whether or not in the course or furtherance of business;
 - c) the activities specified in Schedule I, made or agreed to be made without a consideration; and
 - d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.
- **Section 7(2):** Notwithstanding anything contained in sub-section (1),
 - a) activities or transactions specified in Schedule III; or
 - b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.
- **Section 7(3):** Subject to the provisions of sub-sections (1) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as:

- a) a supply of goods and not as a supply of services; or
- b) a supply of services and not as a supply of goods.

Overview of Supply:

Inclusions	Exclusions
<ul style="list-style-type: none"> ✓ Supply for consideration in course or furtherance of business {Section 7(1)(a)} ✓ Importation of services for consideration whether or not in course or furtherance of business {Section 7(1)(b)} ✓ Supply without consideration {Section 7(1)(c)+ Schedule I} ✓ Activities to be treated as Supply of goods or Supply of services {Section 7(1)(d) + Schedule II} 	<p>Activities to be treated neither as Supply of goods nor Supply of services {Section 7(2) + Schedule III}</p>

2.3.1 Supply for consideration in course or furtherance of business {Section 7(1) of CGST Act}

Section 7(1)(a) of CGST Act provides that a supply of goods/services should be carried out for consideration in the course or furtherance of business.

Modes of Supply:

- Section 7(1)(a) of CGST Act includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for consideration in the course or furtherance of business.
- **Sale and Transfer:**
Earlier, VAT was levied by State Governments on sale of goods within their respective states wherein 'sale was defined to mean transfer of property in goods for consideration. Under CGST Act, sale has been treated as a form of supply leviable to GST.
- **Barter and Exchange:**
 - Barter transactions involve only exchange of goods/services whereas exchange

may cover a situation where the goods are partly paid for in goods and partly in money.

- When there is a barter of goods or services, same activity constitutes supply as well as consideration. By making a specific inclusion in the definition of supply, all barter and exchanges have been made liable to GST.
- **Licence, Lease, Rental etc:**
 - Licences, leases and rentals of goods were earlier treated as services where the goods were transferred without transfer of right to use (effective possession and control over the goods) and were treated as sales where the goods were transferred with transfer of right to use.
 - Under the GST regime, such licences, leases and rentals of goods with or without transfer of right to use are covered under the scope of 'supply of services' because 'there is no transfer of title in such supplies. Such transactions are specifically treated as 'supply of services' under Schedule II of CGST Act.

CONSIDERATION:

- One of the essential conditions for the supply of goods and/or services to fall within the ambit of GST is that the supply should have been made for a consideration.
- However, consideration does not always mean money. It covers anything which might be possibly done, given or made in exchange for something else.
- Further, consideration need not always flow from the recipient of the supply. It can also be made by a third person.

In Course or Furtherance of Business:

- GST is essentially a tax on only commercial transactions. Hence, only those supplies which are made in the course or furtherance of business qualify as 'supply' under GST.

Resultantly, any supplies made by an individual in his personal capacity do not come under the ambit of GST unless they fall within the definition of business.

Example: Rishabh buys a car for his personal use and after a year sells it to a car dealer. Sale of car by Rishabh to car dealer is not a supply under CGST Act because supply is not made by Rishabh in the course or furtherance of business.

- In order to understand the term 'in the course or furtherance of business', we need to understand the term 'business'. Business has been defined u/s 2(17) of CGST Act to include, inter-alia, any trade, commerce, manufacture, profession, vocation etc whether or not undertaken for a monetary benefit. Business also

includes any activity or transaction which is incidental or ancillary to the afore mentioned listed activities.

Example: Sundaram Acharya, a famous actor, paints some paintings and sells them. The consideration from such sale is to be donated to a Charitable Trust - 'Kind Human'. The sale of paintings by the actor qualifies as supply even though it is a one-time occurrence.

Import of Services for Consideration {Section 7(1)(b) of CGST Act}

- Section 7(1)(b) of CGST Act expands the scope of the term 'supply' by including importation of services for a consideration within its ambit irrespective of the fact whether such importation is in the course or furtherance of business or not.
- Section 7(1)(b) of CGST Act (ie importation of services for consideration) is the only exception to the condition of supply being in course or furtherance of business.

Example: Mr. M, a proprietor, has received designing services for his house from an architect located in New York at an agreed consideration of US \$5,000. The import of services by Mr. M shall be treated as a supply u/s 7(1)(b) of CGST Act even though it is not in the course of or furtherance of business.

2.3.2 Supply without Consideration

As a general rule, for an activity to qualify as supply, the same should have been provided for consideration. However, Section 7(1)(c) of CGST Act read along with Schedule I of CGST Act lists down the following four cases where existence of consideration is not a pre-requisite for an activity to qualify as supply:

1. Permanent Transfer/ Disposal of Business Assets:

- Transfer/disposal of business assets by an entity on permanent basis without consideration shall be regarded as supply if input tax credit has been availed on procurement of such assets.
- This clause is wide enough to cover transfer of business assets from holding to subsidiary company or vice versa without consideration.

Example: Donation of old laptops to charitable schools by XYZ & Co. At the time of purchase of new laptops will qualify as supply provided input tax credit has been availed by XYZ & Co. on such laptops.

Example: A cloth retailer gives clothes from his business stock to his friend free of cost. In this case, transfer of business stock would amount to supply if he had claimed input tax credit on his procurement of such business stock.

2. Supply to Related Persons/Distinct Persons:

Transactions involving supply of goods/services/both without consideration between related persons or distinct persons as specified u/s 25 of CGST Act will qualify as supply provided such supply has been made in the course or furtherance of business.

➤ **Taxability of Stock Transfers//Branch Transfers:**

Under the earlier law, no tax was applicable on stock transfers/branch transfers since such transactions do not involve transfer of property in goods. However, under the GST regime, stock transfers/branch transfers between different locations (with separate GST registrations) of same legal entity will qualify as 'supply'.

Example: Raghubir Fabrics transfers 1,000 shirts from his factory located in Lucknow to his retail showroom in Delhi so that the same can be sold from there. The factory and retail showroom of Raghubir Fabrics are registered in the states where they are located. Although no consideration is charged, supply of goods from factory to retail showroom constitutes supply.

➤ **Employer-Employee Transactions:**

- The definition of 'related persons' covers employer-employee relationship within its scope. Accordingly, all employer-employee transactions should be regarded as supply irrespective of the fact whether consideration is involved or not.
- However, Schedule I of CGST Act provides that gifts given by an employer to an employee shall not be treated as supply if the amounts of gifts given during a financial year does not exceed Rs 50,000. However, gifts exceeding Rs 50,000 shall be subject to GST.
- Moreover, Schedule III of CGST Act clearly states that services provided by an employee to the employer in the course of or in relation to his employment shall not be treated as supply of services. Therefore, any kinds of benefits given by an employer to his employee in terms of contractual agreement entered into between the employer and the employee will not be subject to GST.
- **Example:** Where an employer provides free housing to his employee, when the same is provided in terms of the contract between the employer and employee and is part and parcel of the employee's remuneration package, no GST implications should arise on such free housing.

3. Supply of Goods Between Principal & Agent:

Supply of goods by a principal to his agent, without consideration, where the agent undertakes to supply such goods on behalf of the principal is considered as supply. Similarly, supply of goods by an agent to his principal, without

consideration, where the agent undertakes to receive such goods on behalf of the principal is also considered as supply.

Example: ABC Manufacturers Ltd. engages Raghav & Sons as an agent to sell goods on its behalf. For this purpose, ABC Manufacturers Ltd. has supplied the goods to Raghav & Sons. Supply of goods by ABC Manufacturers Ltd. to Raghav & Sons will qualify as supply even though no consideration has been recovered from Raghav & Sons.

4. Import of Services from Related Persons Located Outside India:

Import of services by a taxable person from a related person or from any of his establishments located outside India in the course or furtherance of business shall be treated as supply irrespective of the presence of consideration.

Example: ABC Associates received legal consultancy services from its head office located in Malaysia. The head office has rendered such services free of cost to its branch office. Since ABC Associates and the branch office are related persons, services received by ABC Associates will qualify as supply even though the head office has not charged anything from it.

Example: Sumit, a proprietor registered in Delhi, has sought architect services from his brother located in US with respect to his newly constructed house in Delhi. Although services have been received by Sumit without consideration from a related person, the transaction will not qualify as supply since the same has not been received in course or furtherance of business.

2.3.3 Activities to be treated as Supply of goods/services

Section 7(1)(d) of CGST Act read along with Schedule II of CGST Act enlists various matters/transactions which are to be treated as supply of either goods or services. The matters listed under Schedule II are primarily those which had been entangled in litigation in the earlier regime owing to their complex nature and susceptibility to double taxation.

SL.No.	Nature of Transaction	Nature of Supply
1.	a) Transfer of title in goods b) Transfer of right in goods/undivided share in goods without transfer of title in goods. c) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date.	Supply of Goods Supply of Goods Supply of Goods
2.	a) Lease, tenancy, easement, license to occupy land b) Lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly.	Supply of Goods

3.	<p>Any treatment or process which is applied to another person's goods.</p> <p>Example: Job work performed by a job worker like dyeing of fabric in various colours.</p>	Supply of Goods
4.	<p>a) Goods forming part of business assets are transferred or disposed-off by/under directions of person carrying on the business so as no longer to form part of those assets, whether or not for consideration.</p> <p>b) Goods held/used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, by or under the direction of a person carrying on a business, whether or not for consideration.</p> <p>Example: A director using company's car for personal travels</p> <p>c) Goods forming part of assets of any business carried on by a person who ceases to be a taxable person, shall be deemed to be supplied by him, in the course or furtherance of his business, immediately before he ceases to be a taxable person.</p> <p>Exceptions:</p> <ul style="list-style-type: none"> ➤ Business is transferred as a going concern to another person; or ➤ Business is carried on by a personal representative who is deemed to be a taxable person 	<p>Supply of Goods</p> <p>Supply of Goods</p> <p>Supply of Goods</p>
5.	<p>a) Renting of immovable property</p> <p>b) Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer before its completion provided some part of the consideration is received before the issuance of completion certificate</p> <p>c) Temporary transfer or permitting the use or enjoyment of any intellectual property right</p> <p>d) Development, design, programming, customization,</p>	Supply of Goods

	<p>adaptation, upgradation, enhancement, implementation of information technology software</p> <p>e) Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act</p> <p>f) Transfer of right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration</p>	Supply of Goods
6.	<p>Following Composite Supplies.</p> <p>a) Works Contract {Works contract has been defined u/s 2(119) of CGST Act to mean a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract}</p> <p>b) Supply of food or any other article for human consumption or any drink by way of or as part of any service or in any other manner whatsoever</p>	<p>Supply of Goods</p> <p>Supply of Goods</p>
7.	<p>Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration</p> <p>Example : A local club supplies snacks to its members during its monthly meeting for a nominal payment.</p>	Supply of Goods

2.3.4 Activities treated neither as Supply of goods nor as Supply of services

Activities covered within the scope of Section 7(2) shall be treated neither as supply of goods nor as supply of services. Resultantly, such activities shall not be liable to GST.

Section 7(2)(a) – Activities Under Schedule III:

following activities covered under Schedule III of CGST Act can be termed as ‘Negative List’ under the GST regime:

1. Services by an Employee to his Employer in the Course of or in relation to his Employment.

- Services provided by an employee to his employer during the course of employment are not taxable under GST law.
- Services provided outside the course of employment for a consideration would qualify as a supply and thus liable to GST.
Example: If an employee provides private coaching to his employer’s children, such services would not get covered under the above exclusion and would be liable to GST.
- Amounts paid by the employer to the employee for premature termination of a contract of employment are treated as amounts paid in relation to services provided by the employee to the employer in the course of employment. Thus, such amount would not be liable to GST.

Nature of Transaction	Whether regarded as ‘services carried out during the course of employment’?
Services provided by a casual worker to employer who gives wages on daily basis to the worker	Yes. These are services provided by the worker in the course of employment.
In case the casual workers are employed by a contractor, like a building contractor or security agency services, who deploys them for execution of a contract or for provision of security services	<ul style="list-style-type: none"> ■ Yes. Services provided by the casual workers to the contractors are in the course of employment. ■ However, services provided by the contractor to his client by deploying such workers would not be a service provided by the workers to the client in the course of employment. The consideration received by the contractor would therefore be taxable if other conditions of taxability are present.
Services provided on contract basis by a person to another	No. Services provided on contract basis (ie principal-to-principal basis) are not services provided in the course of employment.

2. Services by any Court or Tribunal established under any Law for the time being in force

3. Functions/Duties Performed By Following Persons:

- the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;

- the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or
 - the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.
4. Services of Funeral, Burial, Crematorium or Mortuary including transportation of the Deceased
 5. Sale of Land and Sale of Building Subject to Paragraph 5(b) of Schedule II
 6. Actionable Claims, other than Lottery, Betting and Gambling

2.3.5 Activities notified by Government

Section 7(2)(b) of CGST Act provides that activities undertaken by Central Government/State Government/Local Authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the GST Council, shall be treated neither as supply of goods nor as supply of services. In terms of the above provision, services by way of any activity in relation to a function entrusted to a Panchayat under Article 243G of the Constitution has been notified.

2.3.6 Illustration

Problem 1:

R is a supplier of goods located in Mumbai. In October, 2017 he has imported Consultancy Services for Development of IT Software from U.S.A. for a stipulated consideration of \$ 80,000. Will the import of consultancy services be treated as supply?

Solution : The importation of service in the above case shall fall within the ambit of term “**supply**” as it is for a **consideration** and in the course or furtherance of business and shall be liable to IGST.

Problem 2 :

R is a supplier of goods located in Chandigarh. In November, 2017, he has imported ‘Architecture Services’ from a relative consultant located in Germany, without any consideration (**monetary or non-monetary**) for construction of his personal house.

- (a) Will the import of architecture services for personal use be treated as supply and liable to IGST?
- (b) What will be your answer if the above services have been imported by R in the course or furtherance of business?

Solution : (a) Since, there is no consideration and it is for personal use,

importation of service in the given case shall not fall within the ambit of term '**supply**' and not liable to IGST.

However, in the above example if the import of Architecture Service is for a consideration, it shall fall within the scope of term 'supply', although services have been imported for personal purposes.

- (b) Since the services have been imported from a related person and these are in the course or furtherance of business, it will be treated as supply even if it is without consideration,

Problem 3 :

A dealer of washing machines, who has availed input tax credit on washing machines, **permanently transfers** a washing machine from his stock-in-trade, for personal use at his residence.

Will this transfer for personal use be treated as supply and liable for GST?

Solution : Such transaction though without, a consideration shall constitute supply and be liable to GST, as it is a permanent transfer of washing machine for his personal use.

Problem 4 :

R, a Chartered Accountant, purchased 3 laptops of value Rs. 2,40,000 on 1.10.2017 and paid IGST amounting Rs. 67,200 thereon. He availed ITC of Rs. 67,200 in his books on the same day. After 3 years of using the laptops, he has donated one laptop to a college when its fair market value is Rs. 30,000.

Will such donation be treated as supply and liable to GST?

Solution : In the above case, R shall be liable to pay an amount under GST equivalent to:

- (a) The input tax credit availed on the said laptop as reduced by the input tax credit attributable to 3 years for which asset has been used in business, Input credit availed at the time of purchase of laptop = Rs. 22,400 (1/3 of the total input credit of Rs.67,200)

Useful life of the laptop 5 years

Unused period 2 years

Therefore, GST amount payable (Rs. 22,400 x 2/5): Rs.8,960

- (b) Tax payable on the fair market value of such capital goods as determined under section 15, i.e. 30,000 x 28% = 8,400.

Whichever is higher.

Thus, R shall be liable to pay GST amounting to Rs. 8,960 on donation of such laptop.

Problem 5 :

R is engaged in supply of certain goods in Delhi and Haryana. He wishes to transfer goods worth Rs. 1,40,000 from Delhi to its branch in Haryana. Will such transfer be treated as supply and liable for GST?

Solution : R shall be treated as distinct persons. Thus any supply of goods or services or both between Delhi to branch at Haryana shall be subject to integrated tax in terms of IGST Act, even though such transaction may not involve any payment of consideration.

Problem 6 : Employees of a R Ltd., which is a subsidiary of G Limited, have been sent on deputation basis to its Holding Company namely G Limited.

Will such transfer on deputation be treated as supply and liable to GST?

Solution : Such transfer of employee shall fall within the ambit of the term 'supply' even in the absence of any consideration. As both the companies fall under the definition of related person.

Problem 7:

R, the Principal located in Nagpur (Maharashtra) supplies certain goods to his agent G, located in Delhi. G undertakes to supply the said goods in Delhi on behalf of R. Will the above activity be treated as supply and liable for GST?

Solution : As per Schedule I of CGST Act, supply of goods by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal is treated as supply even if such supply is without any consideration. Thus, such supply of goods by R to G shall fall within the ambit of the term 'supply' even if made without consideration and shall be liable for integrated tax under IGST Act.

Problem 8:

R works as an agent and is located in Mumbai. G is a manufacturer located in Delhi. R agrees to purchase certain goods from Mumbai on behalf of G every month and supply the same to G. Will the above activity be treated as supply and liable for GST?

Solution : As per Schedule I of CGST Act, supply of goods by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal shall be treated as supply even if it is without consideration. Thus such supply of goods by R to G shall fall within the term of supply, even if made without consideration. This supply of goods from R to G shall be subject to integrated tax under IGST Act.

Problem 9:

R lives in Germany. His brother G is carrying on business in India. G imports technical services from R without any consideration in November, 2017 in the course or furtherance of business. Will this be treated as supply or services although G did not pay any consideration to R?

Solution : As per Schedule I of the CGST Act, import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business shall be treated as supply even if it is without any consideration. The said importation of service shall fall within the ambit of term “supply” and G shall be liable to pay integrated tax under IGST Act, 2017 even if R has provided consultancy services without any consideration. However, if such services are for personal use then it will not be treated as supply unless there is a consideration.

Problem 10:

Under a scheme of finance, Maruti Ltd. gives the possession of car to the buyer in November, 2017. It agrees to transfer the ownership of the car to the buyer in January, 2019 upon payment of full consideration of Rs. 9,60,000, in installments as agreed.

What will be the nature of this transaction?

Solution : As per Schedule II of the CGST Act, transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed shall be treated as supply of goods.

Thus, the aforesaid transaction shall be treated as supply of goods on hire purchase and liable to GST.

Problem 11:

R, the owner of a specific piece of land in Delhi, leases the same to G for one year for an agreed, Consideration in November, 2017.

What will be the nature of this transaction?

Solution :

As per Schedule II of the CGST Act, any lease, tenancy, easement, license to occupy land shall be treated as supply of services.

Thus, the aforesaid lease of land shall be treated as a supply of services and liable to GST.

Problem 12:

R is a manufacturer of goods. He sends his goods for the purpose of special packaging to G on job work. The packaging material has also been provided by R.

What is the nature of this activity?

Solution : As per Schedule II of the CGST Act, treatment or process applied to another person’s goods (job work) shall be treated as supply of services. Further, it shall be immaterial, whether the job-work is to be carried out by a job-worker with or without any material.

In the given case, the activity of special packing by G shall be treated as supply of services. Further, it shall be immaterial whether G uses his own packing material or the

same is provided by R.

Problem 13 :

R is carrying on the business of consumer durable products. He disposed of a defective TV for Rs. 20,000 to G whereas its normal price is Rs.2,00,000.

- (a) Will the aforesaid disposal be treated supply of goods or services.
- (b) Assume in the above example, R donated the above-refrigerator to an NGO and he has claimed the input tax credit on such refrigerator at the time of purchase.

Solution : (a) As per Schedule II of the CGST Act, where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person.

Thus, the aforesaid disposal shall be considered as supply of goods by R and liable to GST.

- (b) The aforesaid donation shall be considered as supply of goods by R. Valuation of the defective refrigerator for payment of GST shall be done on fair market value basis in accordance with CGST Rules, 2017 concerned with determination of value.

Problem 14 :

R deals in home appliances like washing machines, refrigerator, etc. He uses computers in his shops for keeping track of inventory and for other business purposes. Out of 2 computers, R takes home one computer to be used by his son for his studies during the month of October, 2017 and thereafter computer is brought back to the show room of R.

What will be the nature of this transaction?

Solution :

As per Schedule II of the CGST Act, where goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, the usage or making available of such goods is supply of services.

The aforesaid private use of a computer by R/his son shall be treated as a **'supply of services'**, although it is without consideration and thus liable to GST.

Problem 15 :

R gives generator-sets on rental basis to various customers. He gives a generator-set to his brother-in-law for a period of one month in September, 2017 on the occasion of some function in the home of his brother-in-law and thereafter generator is brought back to the show room of R. What will be the nature of this transaction?

Solution : As per Schedule II of the CGST Act, where goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, the usage or making available of such goods is supply of services.

The activity of making available the said generator for the private use of brother-in-law of R shall be treated as a 'supply of services' although it is without consideration and thus liable to GST.

Problem 16 :

R has closed down his business but was left with certain capital goods and inputs forming part of the assets of the business carried on by him. The closure of the business is due to his ill health.

What will be the nature of this transaction?

Solution : As per Schedule II of the CGST Act, where goods forming part of the assets of any business carried on by a person shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless—

- (i) the business is transferred as a going concern to another person; or
- (ii) the business is carried on by a personal representative who is deemed to be a taxable person.

In this case, such goods shall deemed to be supplied by him in the course of furtherance of his business immediately before he ceases to be a taxable person. Thus, the capital goods which have some useful life and such inputs lying with him on which credit has been availed should be treated as deemed supply and shall be subject to GST.

2.4 Composite Supply and Mixed Supply

GST is payable on supply of goods/ services at a rate notified by the government. In case of supply of single goods/ services poses no problem for determination of applicable GST rate, if they are clearly identifiable. However, some of the supplies are a combination of goods/combination of services/ combination of services and goods wherein each individual component of such supply attracts a different rate of tax. In such cases, determination of applicable rate of tax to be levied on such supplies may be a challenge. To address this issue, the GST law categorises such supplies into composite supplies and mixed supplies.

2.4.1 Composite Supply

U/s 2(30) of 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 ordinary course of business,
- and out of all supplies, one of which is principal supply. (Principal supply means predominant element of composite supply for which other supplies forming part of composite supply play an ancillary role)

Condition for Composite Supply

Any supply of goods or services will be treated as composite supply if it satisfies the following conditions simultaneously:

- ii) supply of two or more taxable supply
- ii) it is naturally bundled i.e., goods or services are usually provided together in normal course of business. They cannot be separated.
- iii) One of the supplies must be principal supply.

Tax liability for Composite Supply

As per Sec. 8 of CGST Act, 2017 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. Accordingly the tax rate applicable for the goods or services which is treated as principal supply is the rate of tax for Composite Supply.

2.4.2 Mixed Supply

As per Sec. 2(74) 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.

Condition for Mixed Supply

Any supply of goods or services will be treated as mixed supply if it satisfies the following conditions simultaneously:

1. Supply of two or more individual supply
2. It is not naturally bundled i.e., goods or services are usually not provided together in normal course of business. They can be separated.
3. None of the supplies is principal supply.

Tax liability for Composite Supply

As per Sec. 8 of CGST Act, 2017 a Mixed Supply comprising two or more shall be treated as a supply of that particular supply which attracts the highest rate of tax.

2.4.3 Guiding principles for determining a supply as Composite Supply or Mixed Supply

Following guiding principles could be adopted to determine whether it would be a Composite Supply or Mixed Supply.

Description	Composite Supply	Mixed Supply
Naturally bundled	Yes	No
Supplied together	Yes	Yes
Can be supplied separately	No	Yes
One is predominant supply for recipient	Yes	No
Each supply priced separately	No	No

Criteria for determining natural bundle

- Perception of customer about the supply.
- Market trend i.e. how other supplier supplies.
- Nature of ingredient of supply.

2.4.4 Illustration

Problem 1 :

R is selling hampers consisting of canned foods, sweets, chocolates, cakes and dry fruits on diwali and other festivals. What is the kind of supply and at which rate will GST be payable by R?

Solution : The supply of hamper consisting of canned foods, sweets, chocolates, cakes and dry fruits if sold for a single price shall be a mixed supply and the GST rate shall be rate of any of these items which attracts the highest rate of tax. However, if each of the items is supplied separately and is not dependant on any other item, it shall not be mixed supply and GST rate applicable shall be the rate applicable for each supply.

Problem 2:

R dispatched chocolates to G from Delhi to Punjab after getting it packed and paying insurance charges of such goods. What is the kind of such supply of chocolates and what rate will GST be applicable?

Solution : 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 the principal supply. GST rate applicable in this case shall be the GST rate of chocolates.

Problem 3 :

R purchases air travel ticket of Air India from Delhi to Bangalore for Rs. 9,000 which includes free food on board and free insurance. What is the kind of such supply and what rate will GST be applicable?

Solution: Air travel ticket from Delhi to Bangalore costing Rs. 9,000 includes free food on board and free insurance. Therefore, it is a case of composite supply. In this case, the transport of passenger, institutes the pre-dominant element of the composite supply, and is treated as the principal supply and all other supplies are ancillary. Hence, GST rate applicable in this case shall be the GST rate of transportation of passenger by air.

Problem 4 :

Mr. Ram being a dealer in laptops, sold laptop to a customer in Laptop Bag, for Rs. 55,000. CGST and SGST for laptop @ 18% and for laptop bag @ 28%. What would be the rate of tax leviable? Also find the GST liability.

Solution : If the laptop bag is supplied along with the laptop in the ordinary course of business, the principal supply is that of the laptop and the bag is an ancillary.

Therefore, it is a composite supply and the rate of tax would that as applicable to the laptop. Hence, applicable rate of GST 18% on Rs.55,000. CGST is Rs.4,950 and SGST is Rs. 4,950

Problem 5 :

Mr. A booked a Rajdhani train ticket, which includes meal. Is it composite supply or mixed supply?

Solution : It is a bundle of supplies. It is a composite supply where the products cannot be sold separately. The transportation of passenger is, therefore, the principal supply.

Rate of tax applicable to the principal supply will be charged to the whole composite bundle.

Therefore, rate of GST applicable to transportation of passengers by rail will be

charged by IRCTC on the booking of Rajdhani ticket.

Problem 6 :

Big Bazar offers a free bucket with detergent purchased. Is it composite supply or mixed supply? Assume rate of GST for detergent @ 28% and bucket @ 18%.

Solution : This is a mixed supply. These items can be sold separately. Product which has the higher rate will apply on the whole mixed bundle.

Problem 7:

XYZ Ltd. is a manufacturer of cosmetic products, supplied a package consisting of hair oil (GST Rate -18%), Sun screen cream (GST Rate - 28%), Shampoo (GST rate - 28%) and hair comb (GST Rate -12%). The Price per package is Rs. 500 (exclusive of taxes). 10,000 packages were supplied by the company to its dealers. Determine the nature of supply and its tax liability.

Solution : This supply would be regarded as mixed supply, since in this case each of the goods in the package have individual identity and can be supplied separately, but are deliberately supplied conjointly for a single consolidated price. The tax rates applicable in case of mixed supply would be the rate of tax attributable to that one supply (goods, or services) which suffers the highest rate of tax from amongst the supplies forming part of the mixed supply. Therefore, the package will be chargeable to 28% GST.

The tax liability will be arrived as under :

Particulars	Rs.
Value of taxable supply per package	Rs. 500
No. of packages	<u>10,000</u>
Total Taxable Value of supply	Rs. 50,00,000
Applicable GST Rate	28%
Total Tax liability	Rs.14,00,000

Problem 8 :

A Ltd. a manufacturing concern in Rajasthan has opted for composition scheme furnishes you with the following information for Financial Year 2018-19. It requires you to determine its composition tax liability and total tax liability. In Financial Year 2017-18 total value of supplies including inward supplies taxed under reverse charge basis are Rs. 68,00,000. The break up of supplies are as follows –

Particulars	Rs.
(1) Intra State Supplies of Goods X chargeable @ 5% GST	30,00,000
(2) Intra State Supplies made which are chargeable to GST at Nil rate	18,00,000
(3) Intra state supplies which are wholly exempt under section 11 of CGST Act, 2017	2,40,000
(4) Value of inward supplies on which tax payable under RCM (GST Rate 5%)	5,00,000
(5) Intra State Supplies of Goods Y chargeable @ 18 % GST	30,00,000

Solution: The composite tax liability of A Ltd. shall be as under :

(1) Computation of Aggregate Turnover and composite tax :

Particulars	Rs.
(1) Supplies made under forward charge	30,00,000
(2) Supplies made which are chargeable to GST at Nil rate	18,00,000
(3) Supplies which are wholly exempt under section 11 of CGST Act, 2017	2,40,000
(4) Value of inward supplies on which tax payable under RCM (GST Rate 5%) (not to be included)	NIL
(5) Intra State Supplies of Goods Y chargeable @ 18 % GST	30,00,000
Aggregate turnover	30,00,000
Rate of composite tax	2%
Total Composite tax [Rs. 30,00,000 ×2%]	60,000

(2) Tax payable under reverse charge basis:

Particulars	Rs.
Value of inward supplies on which tax payable under RCM	5,00,000
Rate of GST	5%
Tax payable under RMC	25,000
Total Tax liability (Rs. 60,000+2,5000)	85,000

2.5 Place of Supply

Under the GST environment, Place of Supply (PoS) of Goods and Services is the most important concept because the chargeability of GST is based on three pillars.

- Taxable event i.e supply
- Time of supply of Goods / Services (point of taxation)
- Place of Supply of Goods and Services.

Therefore it can be said that Place of Supply is very significant for computation of tax under GST regime. In case the Place of Supply is wrongly determined, it has vast implication under provision of Section 77. According to that section if a person wrongly collect and paid the CGST and SGST assuming the transaction is a Intra-State supply, while the actual transaction is a Inter-State supply, shall refund the CGST/SGST and paid IGST along with interest and vice versa. Under GST it is very important to determine the nature of supply because it's only after determining the same we can make sure the tax that is to be collected and paid. Hence, in case the nature of supply is Inter-State we shall apply Integrated Goods and Service Tax (IGST) on the transaction and in case of Intra-State supply we need to apply both i.e. Central Goods and Service Tax (CGST) and State Goods and Service Tax (SGST). As per Section 7 of IGST Act, a transaction is said to be a Intra-State supply if the location of supplier and the Place of Supply of goods and services are in same state or same Union Territory. As per Section 8 of IGST Act, a transaction is said to be a Inter-State supply if the location of supplier and the Place of Supply of goods and services are two different States or two different Union Territory or one in Union Territory and another is State Territory. Inter- State supplies also includes the supply of goods or services imported into India, where LoS (location of supplier) is outside India and PoS (Place of Supply) is in India, and supply of goods and services exported from India, where LoS in India but PoS is outside India. Apart from this, there are some specified transactions which actually looks like Intra- State supplies but deemed to be a Inter- State supplies, for example supplies made to or by SEZ units even within the State would be considered as Inter- State Supplies. All Intra-State supplies are governed by Central GST Act and State/ Union Territory GST Act, 2017 and applicable taxes are CGST plus SGST/UGST. So imposition of two different kinds of taxes on the same transaction indicates the equal share of taxes by Central and State/ UT Government. All Inter-State supplies are governed by the IGST Law applicable levy on the transaction is IGST. This IGST include the share of both Central Government and respective state/ UT Government which is consider as the Place of Supply. Thus the concept of Place of Supply is the utmost important from the point of Government to determine which State or Union Territory will get the share of

IGST and it is also important for the business to identify which taxes to be imposed depending upon whether the transaction is Inter State supply or Intra- State supply.

2.5.1 Scope of the Provisions

Sections 10 to 13 of the IGST Act, 2017 indicate the principles to determine the Place of Supply.

1. Section 10 governs the Place of Supply of goods other than goods imported into and exported from India.
2. Section 11 governs the Place of Supply of Goods imported into or exported from India.
3. Section 12 governs the Place of Supply of services, where location of supplier and location of recipient is in India.
4. Section 13 governs the Place of Supply of services, where the location of supplier or location of recipient is outside India.

It is important to state that where Sections 10 and 12 deal with domestic transaction but Sections 11 and 13 deal with cross border transactions of goods and services. Also Sections 10 and 11 cover the Place of Supply of goods, but Sections 12 and 13 cover the supply of services, both are independent provisions.

2.5.2 Place of Supply of goods other than export and import

According to the related provisions, Rules governing the Place of Supply of Goods other than Imports and export (for Domestic supply) are as under-

1) where the supply involves movement of goods:

Supply involves movement of goods whether by the supplier or the recipient, the Place of Supply of such goods shall be the location of the goods when the movement of goods terminates for delivery to the recipient. This implies that place of supplier or receiver is of no consequence to determine the Place of Supply when it comes to those transactions which involve the movement of goods. The place where delivery terminates i.e. where the ownership is passed on shall be critical to determine the Place of Supply.

Case study 1:

A Ltd. of West Bengal sold 300 units of computer to Info Traders of Bihar, to be delivered at his office at Jharkhand. Place of Supply of goods is Jharkhand and IGST will be levied as it is a Inter- State supply.

2) where the goods are delivered on the direction of a third person:

where the goods are delivered by the supplier to a recipient on the direction of a third person, whether acting as an agent or otherwise, before or during movement of

goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the Place of Supply of such goods shall be the **principal place of business** of such person. When goods are delivered to a party on the direction of a third person the Place of Supply will be the location of such third person and not where the delivery terminates.

Case study 2:

Samanta Traders, a dealer in Furniture, located in west Bengal place an order to Rahim traders located at Assam, for 100 units of Chairs, with the direction that to deliver the Chairs to City College of Kolkata, West Bengal, who is the customer of Samanta Traders.

There are two legs of the Transaction

Leg 1: Samanta Traders and Rahim Traders, Place of Supply is West Bengal and IGST will be levied as Inter- State sale.

Leg 2: Samanta Traders and City College (having registered under GST), PoS of goods is West Bengal and Intra- State supply, CGST plus SGST will be charged.

3) Where supply involves no movement of goods:

Where the supply does not involve movement of goods, whether, by the supplier or the recipient, the Place of Supply shall be the location of such goods at the time of the delivery to the recipient. However, when goods are of such nature which does not require any movement, Place of Supply shall be the location of such goods.

Case study 3:

Silk Traders of Gujarat Sold 20 pieces of silk salwar to Amit traders of west Bengal at Gujarat show room. Here the transaction is Intra -State Supply of goods, as Place of Supply is Gujarat.

4) When Goods are Installed :

Where the goods are assembled or installed at site, the Place of Supply shall be the place of such installation or assembly.

Case study 4:

Ramco Limited registered in Bihar opens a new office in Delhi. It purchases 10 ACs to be installed at its Delhi office from Patil electronics in Bihar. In this case, the location of the supplier is Bihar, but a Place of Supply of goods will be Delhi. Hence, IGST will be levied.

5) Goods on Board a conveyance :

In case the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, the Place of Supply shall be the location at which such goods are taken on board. This provision includes those purchases which are

done while travelling on a conveyance.

Case Study 5:

Mr. Mehta is travelling on a cruise liner from Mumbai to Goa. He purchases a book from the in-house store in the cruise liner. These books were on-boarded from Mumbai. Registered place of business of the book shop is in Mumbai. Place of location of supplier is Maharashtra and Place of Supply of goods, in this case, will be Maharashtra. This is an Intra-State supply, and CGST and SGST will be charged.

2.5.3 Place of Supply of services other than export and import

Broad principles governing the Place of Supply of services where the location of service supplier (provider) and recipient (Receiver) is in India, are 13 in numbers, out of which 1 is general principle and 12 are specific situation based principles. For the most supplies of services, the places of supply of services are determined by “General Rule”. However, some supplies are subject to special rules for fixing the Place of Supply of services, depending upon the nature of services referred in those respective rules.

1) General Rules:

Where both supplier and recipient are located in India, the Place of Supply of service would be:

- a) When the service supplied or provided to persons registered under the GST the Place of Supply of service is the location of registered person.

Case Study 7:

Mr. Rahaman is the chartered accountant of West Bengal, provided professional services to ABC Ltd, of Assam. The PoS of the Service is the location of Registered person. Here it is Assam. So Mr. Rahaman will charge IGST for his service as Inter- State Supply.

- b) When the services are provided to an un-registered person but the address exists on records of the supplier of service, the Place of Supply of service is the location of service recipient of to un-registered persons.

Case study 8:

Samanta Furniture of Kolkata is providing services of renting of furniture to Amit of Midnapur. Then the location of supply of services is at West Bengal, hence Intra- States supply. So both CGST and SGST will be levied.

- c) When the services are provided to an un-registered person but the address doesn't exist on records of the supplier of service, the Place of Supply of service is the location of service supplier or provider.

Case study 9:

Infotech Kolkata is providing computer repair services to Rahul of Jharkhand, unregistered person and address is not available in its records. In this situation Place of Supply is location of service provider i.e West Bengal (Intra- State supply)

The general rule has been framed keeping in the view the difference between B to B and B to C supplies. The rule is very well aligned with the overall philosophy of GST Act which is destination based consumption tax.

2) Specific Rules :

- a) Place of Supply of the Services in relation to immovable property is the location of the immovable property without differentiating the B to B and B to C supplies (Availing input tax credit from a state where the service receiver has no place of business may difficult). The rule covers
 - Services like architecture, interior decoration, construction or any others similar in nature.
 - Services of accommodation for staying in hotel, guest house, lodge, inn etc. or for organising any function or events.
- b) Place of Supply for the restaurant and catering services personal grooming, health and beauty services etc., is the location of actual performance.
- c) Place of Supply for services like training and performance appraisal is the
 - For Registered service recipient –location of the service recipient (can claim input tax credit)
 - For un-registered recipient – place of actual performance (no question of claiming input tax credit)
- d) Place of Supply for the services provided by way of admission to an event or amusement park or any other place is the location of the event or park without differentiating the B to B and B to C supplies.
- e) Place of Supply for the services provided by way of organising such events and other ancillary services in this connection is the
 - For Registered service recipient –location of the service recipient (can claim input tax credit)
 - For un-registered recipient – location of actual performance.(no question of claiming ITC). If the event is outside India then location of service recipient will be Place of Supply for un-registered person..

- f) Place of Supply for the services transportation of goods, including mail or courier is the
- For Registered service recipient –location of the service recipient (can claim input tax credit)
 - For un-registered recipient – location where goods are handed over for transportation
- g) Place of Supply for the services of **Passenger transportation** is
- For Registered service recipient –location of the service recipient (can claim input tax credit)
 - For un-registered recipient – location where passenger embarks on a conveyance for the continuous journey.
- h) Place of Supply for the services on the board of conveyance like aircraft, vessel, train, motor vehicles is the first departure point of the conveyance of that journey.
- i) Place of Supply for the telecommunication services like data transfer, broadcasting, cable and DTH services to any person has been prescribed differently
- For fixed line, leased circuits, cable or dish antenna – place of installation
 - For post paid mobile/ internet connection – location of billing address.
 - For pre paid mobile/ internet connection – address of the selling agent or the location of sale in different situation.

This is largely in the line with the provision followed by other developed nations.

- j) Place of Supply for banking and financial services including services of stock broking firm shall be
- Location of receiver is available in records - the location of service receiver.
 - Location of receiver is not available in records – the location of service provider

Such provision is similar to the previous provision in service tax.

- k) Place of Supply for insurance services shall be the location of the service recipient in case of business or otherwise.
- l) A special rule is framed for the advertising services provided to the government whether central or state / union territory. Place of Supply is the respective state for which the advertisement is meant for.

After discussing the principles governing PoS for the entire domestic supplies of services, it may be seen that overall objective of the principle is to capture the location of consumption of services and to ascertain the PoS accordingly.

2.5.4 Illustration

Problem 1 :

- (a) What shall be the place of supply and kind of GST chargeable, if R of Delhi makes a supply of goods to G of Gujarat?
- (b) What shall be your answer if G is also located in Delhi?

Solution : (a) The place of supply in this case shall be Gujarat where the movement goods terminate and it will be a case of inter-State supply liable to IGST.

(b) On the other hand, if G is also located in Delhi, the place of supply shall be Delhi and it will be a case of intra-state supply liable to CGST and Delhi SGST.

Problem 2 : R of Ghaziabad (UP) comes to Delhi and wishes to buy a washing machine for his residence at Ghaziabad. He visited a showroom of washing machine of G in Delhi. G agreed to transport and deliver the washing machine to R at his residence in Ghaziabad for a sum of Rs. 20,000 including transportation charges.

- (a) What shall be the place of supply and kind of GST chargeable in this case?
- (b) Will the situation be different if R agrees to take the washing machine himself to Ghaziabad?

Solution : (a) In this case, supply involves movement of goods from Delhi to Ghaziabad (UP) and responsibility of movement of goods is of the supplier G. The place of supply in this case shall be Ghaziabad where the movement terminates for delivery. Hence, it shall be a case of inter-state supply and liable to IGST.

- (b) The situation will not be different if R agrees, that he will himself move the goods to Ghaziabad.

Problem 3 :

R of Delhi has supplied goods to G of Ambala (Haryana). During the movement of goods G directed R to transfer the documents of title to S of Chandigarh (Union Territory). What shall be the 'place of supply' and kind of GST chargeable in this case?

Solution : The place of supply of such goods shall be Chandigarh (Union Territory) and it will be a case of Inter-State supply liable to IGST.

Problem 4 :

R of Haryana, books an order to supply toys to J of Jaipur (Rajasthan). R places the order on G Itoys Ltd. Mumbai, the manufacturer of such toys and instructs G

Toys Ltd. to deliver the toys directly to J of Jaipur to save the transportation cost. What shall be the place of supply and kind of GST Chargeable in this case?

Solution : In this case goods are delivered to J in Jaipur by G Toys Ltd. the supplier of goods located at Mumbai on the direction of R. Delivery of goods by G Toys Ltd. to J of Jaipur (Rajasthan) shall be considered as supply to R of Haryana and the place of supply of this transaction shall be Haryana being the principal place of business of R. This supply shall be considered as inter-state supply and shall be subject to IGST which will be charged by G Toys Ltd. of Mumbai in his invoice raised to R of Haryana.

Problem 5 :

R of Mumbai (Maharashtra) enters into an agreement with G to Ahmedabad (Gujrat) for installation of a machine in his factory at Goa.

- (a) What shall be the place of supply and kind of GST chargeable to this case
- (b) What shall be your answer if the machine has to be installed on G's factory at Pune (Maharashtra)

Solution : (a) The place of supply in this case shall be the place of installation of machine i.e. Ahmedabad (Gujrat). Thus it will be a case of inter-state supply and R will have to pay IGST at Delhi.

- (b) If this machine has to be installed by R on behalf of G in Pune (Maharashtra). It will be a case of intra-state supply and R will have to pay CGST and Maharashtra SGST at Mumbai.

Problem 6 :

R, a flight caterer, of Gurgaon (Haryana) has loaded food and drinks on Air India aircraft at Delhi on its flight from Mumbai to Amritsar via Delhi for passengers on board. What shall be the place of supply and kind of GST chargeable in this case?

Solution : The place of supply in this case shall be Delhi from where foods and drinks were loaded on the aircraft and it will be a case of inter-State supply as R is in Gurgaon (Haryana) and the place of supply is in Delhi. Thus R will have to pay IGST at Delhi.

Problem 7 :

A ticket for anywhere travel in India is issued by Jet Airways to R. How would you determine the 'place of supply' in this case?

Solution : In this case the place of embarkation will not be available at the time of issue of invoice as the right to passage is for future use. Accordingly, place of supply cannot be the place of embarkation. In such case, the place of supply of such

service shall be determined in accordance with the provisions of section 12(2) i.e. if the services are made to—

- (a) a registered person, it shall be the location of such person;
- (b) any person, other than a registered person it shall be—
 - (i) the location of the recipient where the address on record exists: and
 - (ii) the location of the supplier of services in other cases.

Problem 8 :

A person travels from Delhi to Chennai and back to Delhi. How would you determine the place of supply in this case?

Solution : The place of supply shall be determined as under:

If the person is registered, the place of supply shall be the location of recipient. If the person is not registered, the place of supply for the for on ward journey from Delhi to Chennai shall be Delhi, the place where he embarks.

However, for the return journey, the place of supply shall be Chennai as the return journey has to be treated as separate journey.

Problem 9 :

From the following information determine the place of supply of goods as per IGST Act, 2017, where the goods are delivered by the supplier to a recipient on the direction of a third person during the course of movement of goods. Also determine the nature of supply -whether inter state or intra-state supply?

Supplier and his location	Location of the buyer (third person)	Recipient and his location	Place of delivery of the goods
A Ltd. Jaipur	A Ltd. Jaipur	M Ltd. Mumbai	Mumbai
A Ltd. Jaipur	M Ltd. Mumbai	B Ltd. Jaipur	Jaipur
A Ltd. Jaipur	S Ltd. Surat	M Ltd. Mumbai	Mumbai
A Ltd. Jaipur	M Ltd. Mumbai	P Ltd. Mumbai	Mumbai

Solution: The place of supply of goods shall be determined as under—

Supplier and his location	Location of the buyer (third person)	Recipient and his location	Place of delivery of the goods	Place of Supply (As per Section 10(1)(b) shall be the principal place of business of third person i.e. buyer)	CGST/IGST
A Ltd. Jaipur	B Ltd. Jaipur	M Ltd. Mumbai	Mumbai	Jaipur	Intra-State - CGST
A Ltd. Jaipur	M Ltd. Mumbai	B Ltd. Jaipur	Jaipur	Mumbai	Inter-State - IGST
A Ltd. Jaipur	S Ltd. Surat	M Ltd. Mumbai	Mumbai	Surat	Inter-State - IGST
A Ltd. Jaipur	M Ltd. Mumbai	P Ltd. Mumbai	Mumbai	Mumbai	Inter-State - IGST

Problem10 :

Determine place of supply of goods in the following cases and also state the nature of supply and the type of tax leviable:

Supplier and his location	Recipient and his location	Place of assembly/ installation of goods
A Ltd. Jaipur	B Ltd. Jaipur	Kolkata
A Ltd. Jaipur	M Ltd. Mumbai	Surat
A Ltd. Jaipur	S Ltd. Surat	Allahabad
A Ltd. Jaipur	M Ltd. Mumbai	Jaipur

Solution : The place of supply shall be determined as under—

Supplier and his location	Recipient and his location	Place of assembly/ installation of goods	Place of Supply	Nature of supply and tax leviable
A Ltd. Jaipur	B Ltd. Jaipur	Kolkata	Kolkata	Inter-State -IGST
A Ltd. Jaipur	M Ltd. Mumbai	Surat	Surat	Inter-State -IGST
A Ltd. Jaipur	S Ltd. Surat	Allahabad	Allahabad	Inter-State -IGST
A Ltd. Jaipur	M Ltd. Mumbai	Jaipur	Jaipur	Intra-State - CGST

2.6 Time of Supply/ Point of Taxation

GST is payable on supply of goods or services. A supply consists of elements that can be segregated or separated in respect to time, like purchase order or agreement for sale, provision of services, despatch of goods, delivery of goods. Payment, entry of payment or amount deposited to Bank. So at which of these points of time, will GST become payable? Will it become payable when an agreement to supply goods or services are provided or when invoice is issued or when payment is made? What happens if the goods are delivered over a period of time? What happens if the services are provided over a period of time? Provision relating to 'time of supply' provides answer to all such questions that arise on the timing of the liability to pay CGST and SGST/UTGST (Intra-State supply) and IGST (Inter-State Supply) as time of supply fixes the point of time when the liability to pay tax arises.

2.6.1 Time of Supply of Goods, u/s 12 of CGST Act

Time of Supply of Goods under forward charge

The time of supply of goods shall be

- (a) Date of issue of tax invoice [When invoice is issued within time limit of issue of invoice]
- (b) Last date on which invoice ought to have been issued [When invoice is not issued within time limit]
- (c) Date of receipt of payment
–Earlier of the above three

Note : 1. Time limit for issue of invoice for supply of goods

- (a) Where supply involves movement of goods → at the time or before the removal of goods.
- (b) Where supply does't involve movement of goods → at the time or before the delivery of goods.
- (c) In case of continuous supply of goods: → at the time or before the time of issuance of periodical statement.

Note: 2. Date of receipt of payment shall be

- (a) Date on which the payment is recorded in the books of accounts of the supplier
- (b) Date on which the payment is credited to the supplier's Bank A/c

Note : 3. If the payment received is upto Rs. 1000 in excess of the invoice amount, the supplier can choose to take the date of invoice issued with respect to such excess amount as the time of supply of goods for such excess value.

Note: 4. When the payment is received in instalments, the time of supply shall be determined separately for each instalment.

2.6.2 Time of Supply of Services

Time of supply of services under forward charge

Section 13(2) CGST Act prescribed the manner for determination of time of supply in case of supply of services under forward charge:

Case 1 : Invoice has been issued within time limit u/s 31

The time of supply shall be

- (a) Date of issue of invoice
- (b) Date of receipt of payment

Earlier of the above two.

Case 2 : Invoice has not been issued within time limit u/s 31

The time of supply shall be

- (a) Date of provision of service
- (b) Date of receipt of payment

Earlier of above two

Note: 1. Time limit for issue of invoice

- (a) For Banking and Financial institution-within 45 days from the provision of service
- (b) For other case–whihin 30 days from the date of provision of service.

Note: 2. Date of receipt of payment shall be

- (a) Date on which the payment is recorded in the books of accounts of the supplier
- (b) Date on which the payment is credited to the supplier's Bank A/c

Note : 3. If the payment received is upto Rs. 1000 in excess of the invoice amount, the supplier can choose to take the date of invoice issued with respect to such excess amount as the time of supply of goods for such excess value.

Note: 4. When the payment is received in instalments, the time of supply shall be determined separately for each instalment.

2.6.3 Time of Supply of vouchers

In case of supply of vouchers by a supplier, the time of supply (TOS) shall be

- (a) The date of issue of voucher → If supply is identifiable at the point
- (b) The date of redemption of Voucher → if supply is not identifiable at that point of issue of voucher.

Where it is not possible to determine the time of supply u/s 12, then time of supply shall be

- (a) Date on which periodic return has to be filed
- (b) In other case → the date on which tax is paid.

2.6.4 Supply of Goods under Reverse Charge Mechanism (RCM)

Section 12(3) of CGST Act provides that in case of supply of goods under RCM, the time of supply shall be

- (a) Date on which the goods received
- (b) Date of payment earlier of
 - (i) Date of payment by Debiting Bank A/c
 - (ii) Date of Book entry
- (c) Date immediately following 30 days from the date of issue of invoice.

2.6.5 Time of Supply of Service under RCM

- (a) Transaction between non-associate enterprises

Section 13(3) of CGST Act provides that in case of supply of services taxable under RCM the time of supply shall be

- (i) Date of payment
- (ii) Date immediately following 60 days from the date of issue of invoice.

Note: If Time to supply (TOS) can't be determined as above parameters, then the TOS is the date of book entry of services in the Books of recipient.

- (b) Transaction between associated enterprises. TOS shall be earlier of
 - (i) Date of payment
 - (ii) Date of debit entry in the books of accounts of the recipient of services.

2.6.6 Time of Supply in case of change in the rate of tax [u/s 13 of CGST Act]

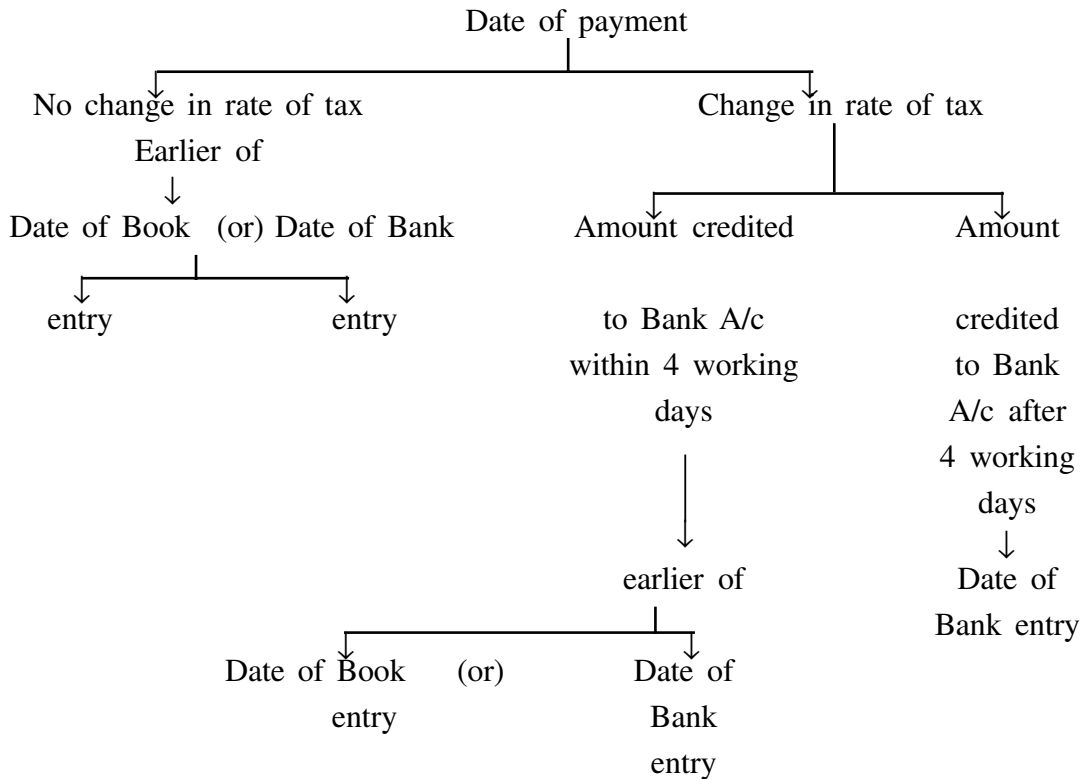
When there is a change in the rate of tax in respect of goods or services, the time of supply shall be determined as follows.

Situations	Supply completed	Invoice issued	Payment Made	TOS (Time of supply)	Applicable Rate
1.	Before change	After change	After change	Earlier of Date of invoice and date of payment	New rate
2.	Before change	Before change	After change	Date of issue of invoice	Old rate
3.	Before change	Before change	Before change	Date of receipt of payment	Old rate
4.	After change	Before change	Before change	Earlier of Date of Invoice and date of payment	Old rate
5.	After change	After change	After change	Date of Receipt of payment	New rate
6.	After change	Before change	Before change	Date of issue of Invoice	New rate

Note: Normally the date of receipt of payment is the date of credit in the bank A/c of the recipient of payment [suppliers] or the date of Book entry by the supplier in their books of account.

However, in case of change in the rate of tax, the date of receipt of payment is the date of credit in the bank A/c if such credit is after 4 working days from the date of change in rate of tax.

2.6.7 Date of Payment of Tax



2.6.8 Illustration

Problem 1 :

Determine the Time of supply in each of the following independent cases in accordance with provisions of Section 12 of the CGST Act, 2017 in case supply involves movement of goods.

SI. No.	Date of Removal	Date of invoice	Date when goods made available to recipient	Date of receipt of payment
1.	01-10-2017	02-10-2017	03-10-2017	15-11-2017
2.	03-10-2017	01-10-2017	04-10-2017	25-11-2017
3.	04-11-2017	04-11-2017	06-11-2017	01-10-2017

Solution: Time of supply of goods in each of the above cases has been given in following table—

SL. No.	Removal	Date of Invoice	Date of goods made available to recipient	Date when receipt of payment	Date of Supply (TOS)	Time of Reasons
1.	01-10-2017	02-10-2017	03-10-2017	15-11-2017	01-10-2017	Since, invoice is not issued on or before the date of removal of goods and payment is received after the date of removal, hence time of supply is date of removal of goods.
2.	03-10-2017	01-10-2017	04-10-2017	25-11-2017	01-10-2017	TOS is date of issuance of invoice since invoice is issued prior to date of removal of goods and payment is received after the date of invoice.
3.	04-11-2017	04-11-2017	06-11-2017	01-10-2017	01-10-2017	TOS is date of receipt of payment since invoice is issued after date of receipt of payment.

Problem 2 :

From the following information determine the time of supply if supply involves movement of goods :

SL. No.	Invoice date	Removal of goods	Receipt of payment
1.	15-11-2017	26-10-2017	20-11-2017
2.	26-10-2017	30-10-2017	05-11-2017

Solution: Time of supply of goods in each of the above cases has been given in the following table—

SL. No.	Invoice date	Removal of goods	Receipt of payment	Time of supply	Reasons
1.	15-11-2017	26-10-2017	20-11-2017	26-10-2017	TOS is the date of removal of goods, since Invoice is not issued before removal of goods and payment is received after removal of goods.
2.	26-10-2017	30-10-2017	05-11-2017	26-10-2017	TOS is the date of invoice since the same is issued before removal of goods and payment is received after the date of invoice.

Problem 3 :

Determine the Time of Supply in each of following independent cases in accordance with provisions of Section 12 of the CGST Act, 2017 in case supply involves movement of goods.

S.No.	Invoice date	Invoice due date	Payment entry in supplier's books	Credit in bank account
1.	10-11-2017	20-11-2017	28-11-2017	30-10-2017
2.	30-11-2017	18-11-2017	10-11-2017	28-11-2017

Solution: Time of supply of goods in each of the above cases has been given in following table—

SL. No.	Invoice date (DOI)	Invoice due date	Date of payment i.e. (DOP) Earlier of Payment entry in supplier's books or credit in his bank account	Time of Supply (TOS)	Reason
1.	10-11-2017	20-11-2017	28-11-2017	10-11-2017	TOS shall be earlier of the DOI or DOP .
2.	30-11-2017	18-11-2017	10-11-2017	10-11-2017	TOS shall be earlier of due date of DOI (since actual date of invoice is after due date) or DOP

Problem 4 :

Determine the Time of Supply in each of following independent cases in accordance with provisions of Section 12 of the CGST Act, 2017 in case recipient of goods is liable to pay tax under reverse charge mechanism.

SI.No.	Date of invoice	Date of receipt of goods	Date of payment in books	Date when payment debited in bank account
1.	01-10-2017	05-10-2017	10-10-2017	12-10-2017
2.	01-10-2017	15-10-2017	10-10-2017	12-10-2017
3.	01-10-2017	15-10-2017	12-10-2017	10-10-2017
4.	01-10-2017	15-11-2017	18-11-2017	20-11-2017

Solution Time of Supply of goods in each of the above cases has been given in the following table—

SL. No.	Date of invoice	Date of receipt of goods	Date of payment in books	Date when payment debited in bank account	Time of Supply (TOS)	Reasons
1.	01-10-2017	05-10-2017	10-10-2017	12-10-2017	05-10-2017	TOS is date of receipt of goods
2.	01-10-2017	15-10-2017	10-10-2017	12-10-2017	10-10-2017	TOS is date of payment in books.
3.	01-10-2017	15-10-2017	12-10-2017	10-10-2017	10-10-2017	TOS is date when payment is debited in bank account.
4.	01-10-2017	15-11-2017	18-11-2017	20-11-2017	01-11-2017	TOS is the date immediately following 30 days from the date of issue of invoice by the supplier.

Problem 5:

From the following information determine the time of supply if supply is taxed under reverse charge basis:

SL. No.	Date of invoice issued by supplier	Removal of goods	Receipt of goods	Date of entry in books of accounts of recipient	Date of debit in bank account of recipient
1.	31-12-2017	31-12-2017	20-01-2018	30-01-2018	01-02-2018
2.	31-12-2017	31-12-2017	20-01-2018	05-01-2018	06-01-2018
3.	31-12-2017	28-02-2018	05-03-2018	-	

Solution : Time of supply of goods in each of the above cases has been given in following table—

SL. No.	Date of invoice issued by supplier	Removal of goods	Receipt of goods	DOP is earlier of the date of entry in books or date of debit in bank account	Time of Supply (TOS)	Reasons
1.	31-12-2017	31-12-2017	20-01-2018	30-01-2018	20-01-2018	Earlier of (i) receipt of goods or (ii) date of payment by the recipient.
2.	31-12-2017	31-12-2017	20-01-2018	05-01-2018	05-01-2018	Earlier of (i) receipt of goods or (ii) date of payment by the recipient.
3.	31-12-2017	28-02-2018	05-03-2018	-	31-01-2018	Earlier of (i) the date of receipt of goods or (ii) date immediately following 30 days after the date of issue of invoice.

Problem 6 :

Determine the time of supply in each of following independent cases in accordance with provisions of CGST Act, 2017:

SL. No.	Date of actual provision of service	Time / Date / of Invoice, Bill or Challan as the case may be	Date on which payment received
1.	10-11-2017	30-11-2017	15-12-2017
2.	10-11-2017	30-11-2017	15-11-2017
3.	10-11-2017	30-11-2017	15-11-2017 (Part) and 10-12-2017 (remaining)
4.	10-11-2017	30-11-2017	06-11-2017 (Part) and 09-11-2017 (remaining)
5.	10-11-2017	30-11-2017	06-11-2017 (Part) and 16-11-2017 (remaining)
6.	10-11-2017	12-12-2017	30-04-2018
7.	10-11-2017	12-12-2017	05-11-2017 (Part) and 25-12-2017 (remaining)
8.	10-11-2017	22-12-2017	12-12-2017

Solution: Time of supply of services in each of the above cases has been given in the following table—

SL No.	Date of provision of service	Date of Invoice	Date of receipt of payment	Time of Supply	Remarks
1.	10-11-2017	30-11-2017	15-12-2017	30-11-2017	Invoice issued within 30 days and before receipt of payment.
2.	10-11-2017	30-11-2017	15-11-2017	15-11-2017	Invoice issued within 30 days but payment received before invoice.
3.	10-11-2017	30-11-2017	15-11-2017 (Part) and 10-12-2017 (remaining)	15-11-2017 and 30-11-2017 for respective amounts	Invoice issued within 30 days. Part payment received before invoice and remaining payment after invoice. As per Explanation (i) The supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.
4.	10-11-2017	30-11-2017	06-11-2017 (Part) and 09-11-2017	06-11-2017 and 09-11-2017 for the respective amount	Invoice issued within 30 days. However, the advance has been received in two installments before the date of completion of service. Thus, date of receipt of such advance shall be treated as TOS. As per Explanation (i) The supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.

5.	10-11-2017	30-11-2017	06-11-2017 and (Part) and 16-11-2017 (remaining)	06-11-2017 16-11-2017 for for the respective amounts	Invoice issued within 30 days. Part payment (in the form of advance) received before issue of invoice and remaining payment received after completion of service. As per Explanation (i) The supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.
6.	10-11-2017	12-12-2017	30-04-2018	10-11-2017	Invoice not issued within 30 days and payment received after completion of service.
7.	10-11-2017	12-12-2017	05-11-2017 (Part) and 25-12-2017 (remaining)	05-11-2017 and 10-11-2017 for respective amounts	Invoice not issued within 30 days. Part payment received as advance before completion of service and remaining payment received sub- sequently. As per Explanation (i) The supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.

Problem 7:

From the following information determine the time of supply of services :

SL. No.	Date of completion of service	Invoice date	Payment entry in supplier's books	Credit in bank account	
1.	20-10-2017	21-10-2017	26-10-2017	30-10-2017	Rs. 5,00,000 is received as advance on 30-10-2017 and balance amount Rs. 6,80,000 is received on 06-12-2017.
2.	20-10-2017	30-10-2017	24-10-2017	22-10-2017	
3.	16-11-2017	26-12-2017	28-01-2018	29-01-2018	
4.	01-12-2017	30-10-2017 30-10-2017	30-10-2017 06-12-2017	30-10-2017 08-12-2017	

Solution: Time of supply of services in each of the above cases has been given in following table—

SL. No.	Date of completion of service	Invoice date	DOP- Earlier of the date when payment is entered in books or credited in bank account	Time of supply	Reasons
1.	20-10-2017	21-10-2017	26-10-2017	21-10-2017	Earlier of date of invoice or date of payment since invoice is issued within 30 days of completion of service.
2.	20-10-2017	30-10-2017	22-10-2017	22-10-2017	Earlier of date of invoice or date of payment since invoice is issued within 30 days of completion of service.
3.	16-11-2017	26-12-2017	28-01-2018	16-11-2017	Since invoice is not issued within 30 days of completion of service and advance payment is not received, the date of completion of provision of service shall be considered.
4.	01-12-2017	30-10-2017 30-10-2017	30-10-2017 06-12-2017	30-10-2017 30-10-2017	Since Rs. 5,00,000 is received as advance prior to completion of service, TOS - date of receipt of such advance. For balance amount of Rs. 6,80,000, TOS is date of invoice.

2.7 Value of Supply

GST is payable on supply of goods or services for a consideration in the course or furtherance of business.

$$\text{GST} = \text{value of supply} \times \text{Rate of GST}$$

Sections of CGST Act prescribe the mechanism for the determining the value of a supply Provided.

- (a) Supply is made between unrelated persons;
- (b) Price is the sole consideration for supply.

Where value of a supply can't be determined u/s 15 of CGST Act, the same has to be determined as per relevant to the provision of 'Chapter IV-Determination of value of supply' of CGST Rules. However, the provision of these rules have been excluded from the syllabus of M.Com therefore they have not been discussed.

Section 15(1) of CGST Act provides that the taxable value of any Supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said Supply of goods or services or both. However, Section 15(1) of CGST can't be adopted where,

- (a) transaction of Supply takes place between two related persons
- (b) price charged is not the sole consideration
- (c) supply is made for non-monetary consideration

Section 15(2) of CGST Act lists down various itmes which are to be charged or added with transaction value of a Supply as follows:

- (a) Any types of taxes, cess, duties, fees and charged levied by other laws (irrespective of the fact whether they have charged seperately or not) other than GST [SGST, CGST, UTGST, IGST, GST compensation cess].
- (b) Any amount which is payable by supplier in relation to such supply but paid by recipient of supply and not included in the price of the goods or services or both.
- (c) Incidental expenses including commission, packing etc. charged by the supplier or anything else done by the supplier in relation to the supply at the time of or before the delivery of goods or supply of services.
- (d) The value of taxable supply shall include not only the base price but also the charges for delay in payment, like, interest, late fine, penalty etc.
- (e) Subsidies directly related to the price of supply is the part of taxable value, provided it is not paid by Central Government or State Government.

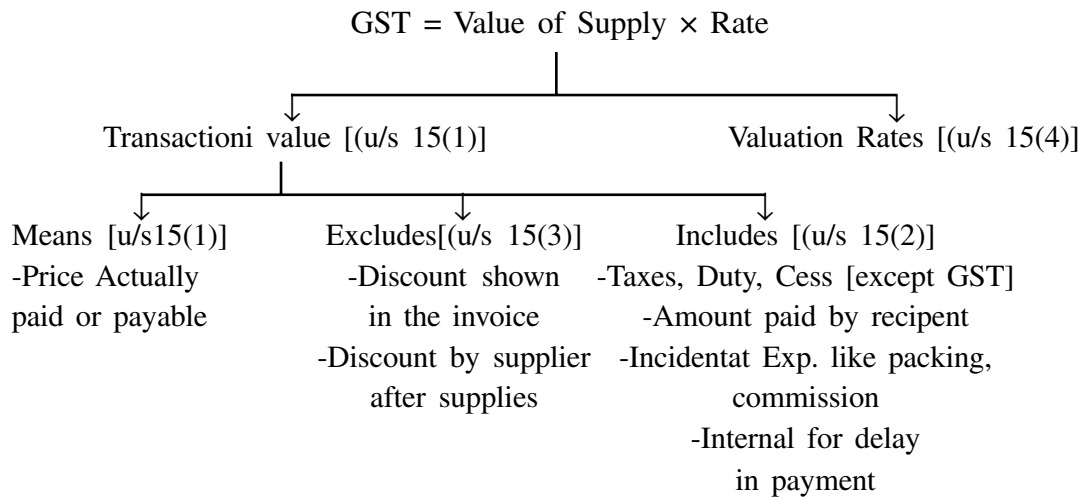
Section 15(3) of CGST Act lists down item which are to be excluded while calculating transaction value of supply as follows:

- (a) Discount which are allowed before or at the time of supply are allowed to be deducted from the value of supply if such discount has been shown properly in the invoice.

(b) Discount allowed after supply are allowed to be deducted from the value of supply if all the following conditions are satisfied:

- (i) Such discount is allowed in terms of an agreement that existed at the time of supply.
- (ii) Such discount has been worked out invoice-wise.
- (iii) Input tax credit as is attributed to the discount on the basis of document issue by the supplier has been reversed by the recipient of the supply.

2.7.1 Value of Supply



2.7.2. Illustration

Mr. Ramakant, a manufacturer provided the following particulars. Compute the value of machine when Mr. Ramakant has to deliver machine to factory of recipient.

Particulars	Rs.
Price of the machine	2,00,000
Packing charges	20,000
Designing charges	40,000
Transit insurance	2,000
Freight outward	6,000
Installation	10,000
Cash discount	4% on price of machine

Solution :

	Rs.
Price of the machine	2,00,000
Add : Items to be added u/s 15(2)	
Packing charges	20,000
Designing charges	40,000
[as incident to supply]	
Transit insurance	2,000
Freight outward	6,000
Installation	10,000
[as connected to supply]	<u>78,000</u>
Less : Items to be deducted u/s 15(3)	2,78,000
Cash discount [2,00,000×4%]	(8,000)
Value of supply	<u>2,70,000</u>

Note : Here value of supply is based on transaction value as

- (i) Supplier and recipient are not related
- (ii) Price is the sole consideration.

Problem 2 :

Mr. Rahul provides the following information about taxable supplies–

Value of machine (including GST @ 12%) = Rs. 5,00,000

Already added

1. Testing charges	Rs. 10,000
2. Installation Planning (Pre-delivery)	Rs. 20,000
2. Weighing charges	Rs. 30,000

Note:

1. Subsidy from Government	Rs. 40,000
2. Subsidy from NGO	Rs. 10,000
3. Trade discount	Rs. 20,000

Calculate the value of supply.

Solution:

	Rs.
Value of machine	5,00,000
Add: Testing charges (as already included)	-
Instalation charges (as already included)	-
Weighting charges (as already included)	-
Subsidy from NGO	10,000
Subsidy from Government	-
	<hr/> 5,10,000
Less: Trade Discount [assuning not deducted]	20,000
value including GST	<hr/> 4,90,000
Less: GST [4,90,000 ×12/112]	52,500
Value of supply	<hr/> 4,37,500 <hr/>

Problem 3:

From the following information determine the value of taxable supply as per provisions of Section 15 of the CGST Act, 2017. Contracted value of supply of goods (including GST @ 18%) Rs. 11,00,000. The contracted value of supply includes the following :

	Rs.
(1) Cost of primary packing	10,000
(2) Cost of protective packing at recipient's request for safe transportation	15,000
(3) Design and engineering charges	85,000
Other information:	
(i) Commission paid to agent by recipient on instruction of supplier	5,000
(ii) Freight and insurance charges paid by recipient on behalf of supplier	75,000

Give reasons with suitable assumptions where necessary.

Solution:

Computation of value of taxable supply of goods :

Particulars	Rs.	Rs.
Contracted value of supply of goods		11,00,000
(1) Cost of primary packing	Nil	
(2) Cost of protective packing at recipient's request for safe transportation	Nil	
(3) Design and engineering charges	Nil	
Add: Commission paid to agent by recipient on instruction of supplier	5,000	
Freight and insurance charges paid by recipient on behalf of supplier	75,000	80,000
Cum tax value		11,80,000
Less: GST @ 18% [Rs. 11,80,000 x 18 / 118]		1,80,000
Value of taxable supply		10,00,000

Working Notes :

For the purpose of determining the value of taxable supply, the following adjustments shall be made-

- (1) cost of primary packing and protective packing at recipient's request for safe transportation charged by supplier from the recipient shall be included for determining the value of taxable supply. Since it is already included in the value, no treatment is required.
- (2) any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods shall be included in the value of taxable supply. Hence design and engineering charges shall also be included in the value of taxable supply. Since it is already included in the value, no treatment is required.
- (3) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods shall be included in the value of supply. Thus, commission paid to agent by recipient on instruction of supplier and freight and insurance charges incurred by recipient on behalf of supplier shall form part of value of taxable supply.
- (4) value of supply shall not include any taxes or cesses levied under CGST Act, SGST Act, UTGST Act and the GST(compensation to States) Act, if charged separately by the supplier.

Problem 4:

From the following information determine the value of taxable supply as per provisions of section 15 of the CGST Act, 2017.

Value of machine (including GST @ 12%) : Rs. 15,00,000

The invoice value includes the following.

(1) Taxes (other than CGST/SGST/IGST) charged separately by the supplier	15,000
(2) Weighment and loading charges	25,000
(3) Consultancy charges in relation to pre-installation planning	10,000
(4) Testing Charges	2,000
(5) Inspection Charges	4,500
Other information:	
(i) Subsidy received from Central government for setting up factory in backward region	51,000
(ii) Subsidy received from third party for timely supply of machine to recipient	50,000
(iii) Trade discount actually allowed shown separately in invoice	24,000

Solution:

Computation of Value of taxable supply of Goods

Particulars	Rs.	Rs.
Value of Machine	-	15,00,000
Less : Deductions		
(1) Taxes other than CGST/SGST/IGST charged separately by the supplier		
(2) Weighment and loading charges	-	
(3) Consultancy charges in relation to pre-installation planning	-	
(4) Testing Charges	-	
(5) Inspection charges charged before supply		
(6) Trade discount actually allowed shown separately in invoice	24,000	(24,000)
Add: Subsidy received from third party for timely supply of machine to recipient		50,000
Cum tax value		15,26,000
Less: GST @ 12% [Rs.15,26,000 x 12/112]		1,63,500
Value of taxable supply		<u>13,62,500</u>

Problem 5:

Computation of value of taxable supply and tax payable. Determine the value of taxable supply as per Section 15 of the CGST Act, 2017 and the Rules thereof :

Contracted sale price of goods (including CGST and SGST @ 5%)	10,56,000
The contracted sale price includes the following elements of cost :	
(i) Cost of drawings and design	5,000
(ii) Cost of primary packing	2,000
(iii) Cost of packing at buyer's request	4,000
(iv) Freight and insurance from 'place of removal' to buyer's premises	43,000

A discount of Rs. 6,000 was given by the supplier at the time of supply of goods. CGST and SGST is levied @ 5 % .

Solution:**Computation of Assessable value :**

Particulars	Rs.	Rs.
Contracted sale price of goods		10,56,000
Less : Discount	6,000	(6,000)
Cum tax value		10,50,000
Less: GST @ 5% [Rs.10,50,000 x 5 / 105]		50,000
Value of taxable supply		10,00,000

Working Notes :

- (1) any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods shall be included in the value of taxable supply. Hence drawing and design charges, cost of packing (even at buyer's request) shall form a part of the transaction value of the supply. Since these are already included in the value of the goods, hence separate treatment is not required.
- (2) The value of supply shall include any taxes, duties, cess, fees and charges levied under any law for the time being in force other than the CGST Act, the SGST Act, the UTGST Act and the GST (Compensation to States) Act, if charged separately by the supplier.
- (3) The value of supply shall not include any discount which is given before or at the time of supply.

2.8 Exercises

1. Define the following terms as per CGST Act. 2017.
 - a) Goods
 - b) Services
 - c) Consideraton
 - d) Business
 - e) Person
 - f) Related Person
 - g) Supply
2. What do you mean by considertions under CGST Act?
3. In which cases, supply without consideration may be treated as supply for GST purposes?
4. Which activities are treated neither as supply of goods nor as supply of services under GST?
5. What do you mean by Composite Supply?
6. When a supply would be treated as Composite Supply?
7. When a sply would be treated as a Mixed Supply?
8. Briefly describe the provisions for Place of Supply of goods (other than export and import).
9. What would be the time of supply of goods under Reverse Charge Mechanism?
10. How do you determine the time of supply if there is a change in tax rate?
11. How do you value the suplies for tax purposes?

Multiple Choice Questions (MCQ)

1. Where a supply of service is made from a place of business for which the registration has been obtained, the location of supplier of service shall be
 - (a) the location of such place of business
 - (b) the location of the usual place of residence of the supplier
 - (c) either the location of such place of business of the location of the usual place of residence of the supplier.
 - (d) any of the above
2. Where a supply of service is made from a fixed establishment elsewhere i.e. a place other than the place of business for which registration has been obtained, the location of supplier of service shall be
 - (a) the location of such place of business
 - (b) the location of such fixed establishment
 - (c) the location of the usual place of residence of the supplier .
 - (d) any of the above?

3. Where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of goods shall be
 - (a) the location of the goods at the time at which the movement of goods terminates delivery to the recipient
 - (b) the location of the goods at the time from which the movement of goods originates for delivery to the recipient
 - (c) the location of such goods at the time of the delivery to the recipient
 - (d) any of the above
4. Where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise the place of supply of goods shall be
 - (a) the principal place of business of such third person
 - (b) the principal place of business of the recipient of goods
 - (c) the principal place of business of supplier of goods
 - (d) none of the above
5. Where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply of goods shall be
 - (a) the location of such goods at the time of the delivery to the recipient
 - (b) the location of the supplier
 - (c) the location of the recipient
 - (d) any of the above
6. Where the goods are assembled or installed at site, the place of supply of goods shall be
 - (a) the location of the supplier
 - (b) the location of the recipient
 - (c) the place of such installation or assembly
 - (d) any of the above
7. Where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, the place of supply of goods shall be
 - (a) the location of the supplier
 - (b) the location of the recipient

- (c) the location at which such goods are taken on board
 - (d) any of the above
8. Where the service are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, the place of supply of goods shall be
- (a) the location of the supplier
 - (b) the location of the recipient
 - (c) the first scheduled point of departure of that conveyance for the journey
 - (d) any of the above
9. Where restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery is provided to the registered person, the place of supply of such service shall be
- (a) the location of such registered person
 - (b) the location of the supplier of services
 - (c) either the location of such registered person or the location of the supplier of services
 - (d) any of the above
10. Where restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery is provided to any person other than a registered person, the place of supply of such service shall be
- (a) the location of the supplier of services
 - (b) the location of the recipient of services
 - (c) the location of the recipient where the address on record exists and the location of the supplier of services in other cases
 - (d) any of the above
11. Where the services in relation to training and performance appraisal are provided to a registered person, the place of supply of such service shall be
- (a) the location of the supplier of services
 - (b) the location of such registered person
 - (c) either the location of such registered person or the location of the supplier of services
 - (d) any of the above

12. Where the services in relation to training and performance appraisal are provided to a person other than a registered person, the place of supply of such service shall be
 - (a) the location of the supplier of services
 - (b) the location where the services are actually performed
 - (c) the location of the recipient of services
 - (d) any of the above
13. Where services are provided by way of admission to a cultural, artistic, sporting, scientific or educational, entertainment event, the place of supply of such service shall be
 - (a) the location of the supplier of services
 - (b) the location of the recipient of services
 - (c) the place where the event is actually held
 - (d) any of the above
14. Where the services are provided to a registered person by way of organisation of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of services in relation to a conference, fair, exhibition, celebration or similar events, the place of supply of such service shall be
 - (a) the location of the supplier of services
 - (b) the place where the event is actually held
 - (c) the location of such registered person
 - (d) any of the above
15. Where the services are provided to a person other than a registered person by way of organisation of a cultural, artistic, sporting, scientific, educational or entertainment including supply of services in relation to a conference, fair, exhibition, celebration of events, the place of supply of such service shall be
 - (a) the location of the supplier of services
 - (b) the place where the event is actually held
 - (c) the place where the event is actually held and if the event is held outside India, then of supply shall be the location of the recipient
 - (d) any of the above
16. Where the services by way of transportation of goods, including by mail or courier provided to a registered person, the place of supply of such service shall be

- (a) the location of the supplier of services
 - (b) the location of such registered person
 - (c) the location at which such goods are handed over for their transportation
 - (d) any of the above
17. Where the services by way of transportation of goods, including by mail or courier provided to a person other than a registered person, the place of supply of such service be
- (a) the location of the supplier of services
 - (b) the location of recipient of such services
 - (c) the location at which such goods are handed over for their transportation
 - (d) any of the above
18. Where passenger transportation service are provided to a registered person, the point of supply of such service shall be
- (a) the location of such registered person
 - (b) the place where the passenger embarks on the conveyance for a continuous journey
 - (c) the place where the passenger disembarks from the conveyance
 - (d) any of the above
19. Where passenger transportation service are provided to a person other than a registered person, the place of supply of such service shall be
- (a) the place where the passenger embarks on the conveyance for a continuous journey
 - (b) the place where the passenger disembarks from the conveyance
 - (c) the place of supplier of service
 - (d) any of the above

Solution :

<i>1(a)</i>	<i>2(b)</i>	<i>3(a)</i>	<i>4(a)</i>	<i>5(a)</i>	<i>6(c)</i>
<i>7(c)</i>	<i>8(c)</i>	<i>9(a)</i>	<i>10(b)</i>	<i>11(a)</i>	<i>12(b)</i>
<i>13(c)</i>	<i>14(c)</i>	<i>15(c)</i>	<i>16(b)</i>	<i>17(c)</i>	<i>18(a)</i>
<i>19(a)</i>					

Unit - 3 □ Composition Levy

Structure

- 3.1 Introduction**
- 3.2 Applicability**
- 3.3 Tax rate under Composition Scheme**
- 3.4 Aggregate turnover**
- 3.5 Persons not eligible for Composition Scheme**
- 3.6 Restrictions imposed on Composition Supplier**
- 3.7 Intimation of opting for composition levy**
 - 3.7.1 Validity of composition levy**
- 3.8 Illustration**
- 3.9 Exercises**

3.1 Introduction

The GST law casts a lot of compliances and procedural burden on taxable person. Such as

- Proper classification of supply of goods/ services
- Correctly determining the applicable rate of tax
- Correct value of supply
- Raising proper invoice
- Maintaining proper records for availing credit of taxes paid on inward supplies
- Discharging monthly tax liability
- Filing monthly return, etc.

Such cumbersome procedures are not in the best interests of small taxpayers. Resultantly, an alternative manner for discharging tax liability has to be prescribed keeping in the mind the interest of small tax payers. The GST law seeks to simplify the compliance procedures for small taxpayers through composition scheme. Section 10 of CGST Act read along with “Composition Rules” of CGST Rules prescribes the regulations governing taxation of persons opting for composition scheme.

3.2 Applicability

A registered person will be eligible to opt for payment of tax under composition scheme if his aggregate turnover did not exceed in the preceding financial year of the following amount:

- (a) North Eastern states including Himachal Pradesh – 75 Lakh
- (b) Other states including Uttarakhand – 150 lakh

3.3 Tax rate under Composition Scheme

	CGST	SGST/UTGST	TOTAL GST
Manufacturers (excluding manufactures of notified items)	0.5%	0.5%	1%
Restaurant and catering supply	2.5%	2.5%	5%
Other supplies	0.5%	0.5%	1%

3.4 Aggregate turnover

Aggregate turnover means the aggregate value of –

- All taxable supply (excluding the inward supplies on which tax is payable on reverse charge basis)
- Exempted supplies
- Export of goods or services or both
- Inter-state supplies

of person having the same Permanent Account Number (PAN) but excluding central tax, state tax, union territory tax and cess (on sin goods).

3.5 Persons not eligible for Composition Scheme

The following persons cannot opt for composition scheme and therefore, such persons are required to discharge their tax liability if any in normal manner:

- Supplier of any taxable services other than supplier of restaurant/ catering services;

- Supplier of inter-state outward supplies of goods (however under composition scheme the composition suppliers is free to procure goods from inter-state suppliers).
- Person supplying goods through an electronic commerce operator;
- Manufacturer of goods notified u/s 10(2)(e), i.e. ice cream, pan masala, tobacco and other manufactured tobacco substitutes;
- Casual person as well as non resident taxable person.
- Service provider (except Restaurant and catering).

3.6 Restrictions imposed on Composition Supplier

Multiple restrictions have been imposed on a person who opts for composition levy which has been described below:

- The goods held in stock of composition dealer should have been purchased from registered supplier. Where goods have been purchased from an unregistered supplier, the composition supplier should have paid the applicable tax under reverse charge basis u/s 9(4).
- The composition dealer is required to pay tax under reverse charge basis u/s 9(3) and 9(4) in CGST Act, 2017 if applicable to him.
- A dealer opting for composition scheme should not have been engaged in notified goods u/s 10(2)(e).
- A composition dealer shall mention the words “composition taxable person, not eligible to collect tax” on supplies at the top of every bill of supply (cannot issue Tax Invoice).
- Composition scheme has to be adopted uniformly by all the registered persons having the same PAN. If one such registered person opts for normal scheme, other became ineligible for composition scheme.
- A taxable person opting for composition scheme shall not collect any tax from the recipient on supplies made by him.
- A taxable person opting for composition scheme is not entitled to any credit on input tax paid.

3.7 Intimation of opting for composition levy

- In case of unregistered dealer opts to pay tax under composition scheme shall apply for registration in prescribed form (GST REG-01). As and when registration is granted, it shall be deemed that he has given an intimation to

pay tax under composition scheme.

- In case of existing registered person who opts to pay tax under composition scheme based on condition given u/s 10 of CGST Act, shall apply in prescribed form prior to commencement of financial year (as eligibility of composition scheme depends on aggregate turnover of last year). The option to pay tax under composition levy shall be effective from the beginning of the financial year for which intimation has been filed.

3.7.1 Validity of composition levy

- The option exercised by a registered person to pay tax under composition scheme shall remain valid till the time he satisfies all the condition mentioned u/s 10.
- The option to pay tax under this scheme shall lapse from the day on which the aggregate turnover during the financial year exceeds the specified limit (Rs. 75 lakh/ 150 lakh).
- Such person has to pay normal tax from the day he ceases to satisfy any of the condition prescribed for composition levy.
- Further, he is required to file intimation about the withdrawal from the scheme in a prescribed form within 7 days.

3.8 Illustration

Problem 1:

XYZ Ltd., a manufacturing concern had effected intra-state taxable supply of Rs. 20,00,000 and inter-state taxable supply of Rs. 25,00,000 in Financial year 2017-18. The company wants to opt for composition scheme under Section 10 of CGST Act, 2017. As a GST consultant advise XYZ Ltd. whether it can opt for composition scheme.

Solution : As per provisions of Section 10 of CGST Act, 2017, a manufacturer can opt for composition scheme if he is not engaged in making any inter-State outward supplies of goods. In this case since XYZ Ltd. has effected inter-state taxable supply of goods, hence it cannot opt for composition scheme.

Problem 2:

Mr. A, a retailer who keeps no inventories, presents the following information for the year -

- (1) Purchases of goods : Rs. 50 lakhs (GST @ 5%).
- (2) Sales (at fixed selling price inclusive of all taxes): Rs. 60 lakhs (GST on sales @ 5%). Discuss whether he should opt for composition scheme if composite

tax is 1% of turnover. Expenses of keeping detailed statutory records required under the GST Laws will be Rs. 1,20,000 p.a., which shall get reduced to Rs. 50,000 if composition scheme is opted for. Other expenses are Rs.3,00,000 p.a.

Solution: The cost to the ultimate consumer under two schemes is as under -

Particulars	Normal GST Scheme*	Composition scheme
Cost of goods sold (*No credit under composition scheme, hence, cost of goods sold will be higher)	50,00,000	52,50,000
Add: Costs of maintaining records	1,20,000	50,000
Add: Normal Expenses	3,00,000	3,00,000
Total Costs	54,20,000	56,00,000
Sales (inclusive of all taxes)	60,00,000	60,00,000
Less: Tax (GST = 60 lakh x 5 /105); (Composite Tax = 60 lakh x 1%)	2,85,714	60,000
Sales (net of taxes)	57,14,286	59,40,000
Profit of the dealer (Sales, net of taxes - Total Costs)	2,94,286	3,40,000

Conclusion: It is apparent that while cost to ultimate consumer, in both the cases remains same, the profit of the dealer is higher if the dealer opts for composition scheme. Hence, composition scheme should be opted.

Problem 3:

Applicability of composition scheme: XYZ Ltd. is having two factories. One factory is located in Rajasthan, manufacturing readymade garments and another factory located in Gujarat engaged in manufacturing auto components. The turnover details of Financial Year 2017-18 are as under:

articulars	Rs.
(1) Intra-State supply of readymade garments in Rajasthan	28,00,000
(2) Intra-State supply of auto- components in Gujarat	18,00,000
Total Value of taxable supplies	46,00,000

The company wants to opt for composition scheme for factory in Rajasthan and tax at normal rates in Gujarat. Advise.

Solution: According to Section 10(2) of CGST Act, 2017, All Registered person having same PAN have to opt for Composition Scheme. If one opts for regular levy for one registered place, others become ineligible for composition levy. Thus, XYZ Ltd. cannot opt for composition scheme in Rajasthan and pay normal tax in Gujarat.

Problem 4:

The aggregate turnover of R & Sons, a registered firm during the financial year 2017-18 is Rs. 5,00,000. During the financial year 2018-19, the aggregate turnover for the firm till 12.10.2018 is Rs. 800,000. On 13.10.2018 it issues three invoices of Rs. 1,50,000, Rs. 80,000 and Rs. 90,000. Will the firm Die to pay GST and if so on what amount?

Solution : R shall be liable to pay GST under normal scheme on all the three invoices as its turnover on 13.10.2018 exceeds Rs. 1 crore.

Problem 5:

R Ltd. is manufacturing ice cream and its turnover in the financial year 2016-17 was Rs. 70,00,000.

(a) Can R Ltd. opt for composition scheme during the financial year 2017-18?

(b) What will be your answer if R Ltd. is a trader of ice cream?

Solution : (a) As per section 10(2)(e), the Government on the recommendation of the council can issue notification in case of manufacturer of certain goods who will not be allowed to opt for composition scheme.

The Government has since issued a notification where the manufacturer of ice cream shall not be entitled to opt for composition scheme even if his aggregate turnover is within the limit of Rs. 1 crore prescribed.

Hence, R Ltd. cannot opt for composition scheme.

(b) R Ltd. in this case is a trader and not a manufacturer. Therefore, he can opt for composition

Problem 6:

R of Delhi, a trader, wishes to make Inter-State sale of goods during the financial year 2017-18. Can he opt for composition scheme?

Solution : As per section 10(2)(c), a person who is engaged in making any Inter-State outward supply of goods is not eligible to opt for composition scheme. Hence, R will not be entitled to opt for composition scheme if he makes an Inter-State sale.

Problem 7:

R, a trader, is selling tobacco and pan masala from his shop at Delhi. Can he opt for composition scheme? If so what are the conditions to be satisfied.

Solution : As per notification issued under section 10(2)(e), a registered person who is a manufacturer of tobacco and pan masala cannot opt for composition scheme. But R in this case is not a manufacturer but a trader, hence he can opt for composition scheme.

Problem 8:

R is having its head office located in New Delhi. It has two branches located in Noida, (UP) and Gurugram (Haryana).

- (a) Can he opt for composition scheme?
- (b) Can he opt for composition scheme in case of Delhi and Noida and the normal scheme for Gurugram?

Solution : (a) R can opt for composition scheme for all the branches provided the aggregate turnover of all the branches does not exceed Rs. 1 crore as he will be having one PAN number for all the branches.

(b) R cannot opt for composition scheme in this case as he has to opt for composition scheme for all the branches because the registration of all the branches are on the basis of same PAN number.

3.9 Exercises

1. What is Composition Scheme?
2. What would you consider to determine aggregate turnover?
3. List out the persons who are not eligible for Composition Scheme.

Unit - 4 □ Exemption under GST and Reverse Charge Mechanism (RCM)

Structure

- 4.1 Introduction**
- 4.2 Goods Exempted from Tax**
- 4.3 Services Exempted From Tax**
- 4.4 Reverse Charge Mechanism**
 - 4.4.1 Person liable to pay GST**
 - 4.4.2 Notified Goods under RCM**
 - 4.4.3 Notified Services under RCM**
 - 4.4.4 Time of Supply of Goods and Services under RCM**
- 4.5 Exercises**

4.1 Introduction

Section 11 of CGST Act and Section 6 of IGST Act empower the government to grant exemption from tax if it is necessary in Public Interest to do so, on recommendation of GST Council by notification or a special order.

4.2 Goods Exempted from Tax

A list of items has been notified as exempted from whole tax. Every day items used by the common man have been included in the list of exempted items. Items like unbranded atta/ mayda/ besan, unpacked food grains, milk, egg, curd, lassi and fresh vegetable are among the items exempted from GST.

4.3 Services Exempted from Tax

A very detailed notification have been issued under GST law providing exemptions on supply of various services. Here we discuss few of them.

Health care Sector

- (a) Health care services by a clinical establishment / an authorised medical practitioner.
- (b) Services provided by way of transportation of patient in an ambulance.
- (c) Services by a veterinary clinic for the health of animals or birds.
- (d) Services provided by blood banks

Amusement/ Entertainment Sector

- (a) Services provided by an artists by way of a performance [not brand ambassador] in the folk or classical art form of music, dance or theatre and consideration charged doesn't exceeds Rs. 1,50,000 per event.
- (b) Services by way of admission to a museum, national park, zoo etc.
- (c) Service by way of right to admission to the following event
 - (i) circus, dance, drama or ballet.
 - (ii) award function, concert, musical performance
 - (iii) sporting event—where consideration doesn't exceeds Rs. 250 per person.

Transportation of Passanger

- (a) Services of transportation of passanger by railways [other than first class or AC Coach]
- (b) Services of transportation of passanger through
 - (i) Metro
 - (ii) Monorail
 - (iii) tram
 - (iv) Inland waterways.
 - (v) Public transport
 - (vi) Metered Cab or auto rickshaws [other than Radio Taxi]
 - (vii) Stage carriage other than AC stage carriage.
 - (vii) Non-AC contract carriage

Transportation of Goods

- (a) Services of transportation of goods by way of road [except the services of Goods Transportation Agency (GTA) or courier Agency] or by way of Inland water ways.

- (b) Services by way of transportation of Goods by rail or a vessel from one place in India to another of following goods
 - (i) Defence of Military equipment
 - (ii) Newspaper or magazine
 - (iii) agricultural produce
 - (iv) milk, salt and food grain including flours, pulses and rice.
- (c) Services provided by a GTA by way of transport in a goods carriage of
 - (i) agricultural produce
 - (ii) Goods where consideration charged in a single carriage not exceeding Rs. 1500
 - (iii) Goods, where consideration charged for transportation of all such goods not exceeding Rs. 750.

Financial/Banking sector

- (a) Interest charged as a consideration of deposit, loans, or advances [other than interest in credit card] except loan processing charge.

Sports Sector

- (a) Services provided to a recognised sports body [BCCI, CAB etc.] by
 - (i) Player, referee, coach, umpire team manager
 - (ii) Other recognised sports body

Note : Indian Premier League, Indian Super League are established on the line of Franchisee-system. These franchisees are not recognised sports body.

Food/ Agricultural Sector

- (a) Services relating to cultivations of plants and rearing of all life form of animals (other than horses) by way of
 - (i) agricultural Operation
 - (ii) Supply of farms labour
 - (iii) Processes carried out at agricultural farm (tending, pruning, cutting, drying, clearing, trimming etc.)
 - (iv) Relating of Agro-machinery
 - (v) Loading, unloading, paking, storing of agricultural produce.
 - (vi) Agricultural extension services. (eg-farmes educations or training)

- (vii) Services by way of slaughtering of animals.

Public Convenience Service

- (a) Services by way of public conveniences such as provision of facilities of bathroom, washrooms, toilets etc.
- (b) Services of public libraries
- (c) Services by way of access to a road or bridge on payment of toll charges
- (d) Transmission or distribution of electricity

Education Sector

- (a) Services provided by an educational institution to its student, faculty and staff
- (b) Services provided by any one to an educational institution by way of
 - (i) Transportation of students, faculty and staff
 - (ii) Security, clearing, house keeping.
 - (iii) Admission, examination
- (c) Services by way of training or coaching in recreational activities relating to arts, or culture or sports by charitable entities.

Services provided by specified person

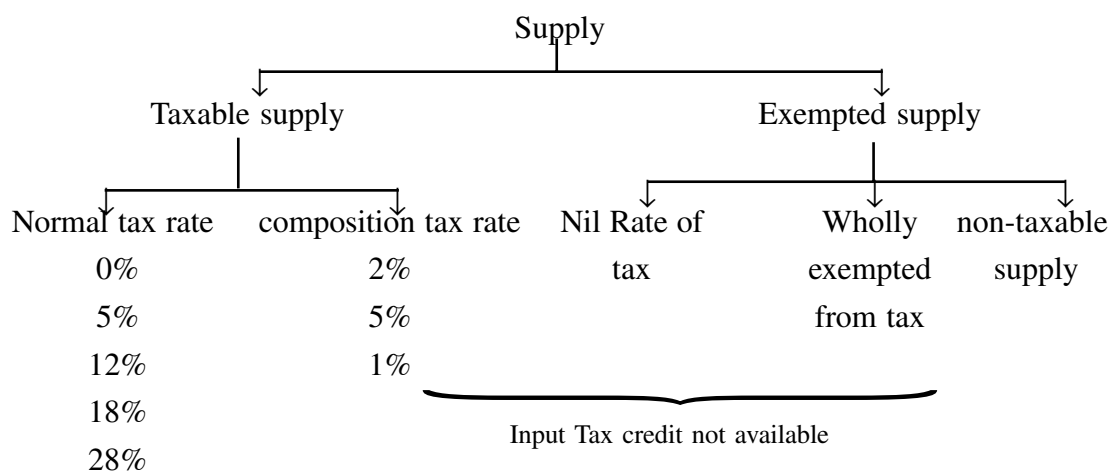
- (a) Legal services provided by advocates
- (b) Tour operator services to foreign tourist
- (c) Services of journalist by way of collecting or providing news
- (d) Services by a person by way of conduct of any religious ceremony.

Renting of immovable property/ motor vehicles

- (a) Services by way of renting of residential dwelling for use as residence
- (b) Services by a hotel, inn, guest house having declared tariff of a unit of accommodation below Rs. 1000 per day.
- (c) Renting of religious place meant for general public.
- (d) Services by way of giving onhire
 - (i) to state transport undertaking.
 - (ii) to goods transport agency.

Services related to Government

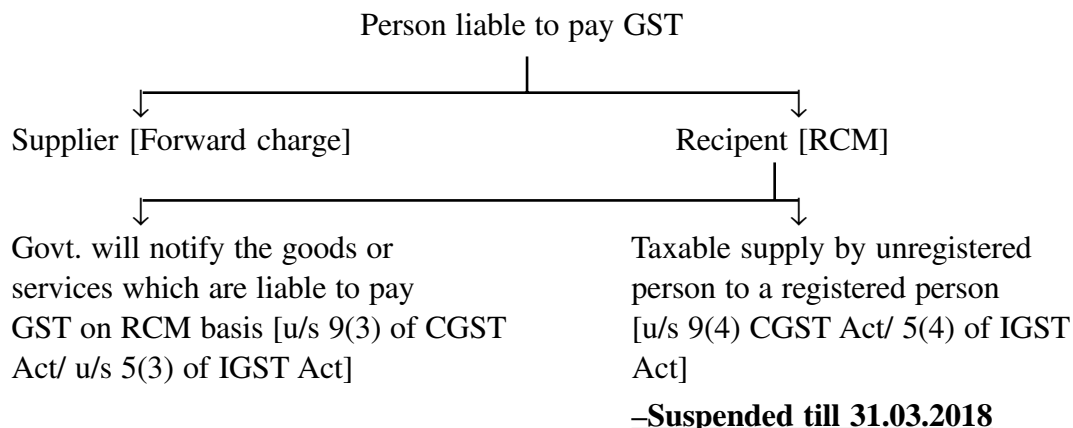
- (a) Services by RBI
- (b) Services by foreign diplomatic mission
- (c) Services by Central Government/ State Government **excluding**
 - (i) Services by postal department-Speed post, Parcel post, Life insurance.
 - (ii) Transportation of goods /passanger
 - (iii) Services in relation to an aircraft or a vessel.
 - (iv) any services provided to business entity.



4.4 Reverse Charge Mechanism (RCM)

Generally, the supplier of goods or services is liable to pay GST. However, in specified cases like import and other notified supplies the GST liability may be cast on the recipient under the RCM (Reverse Charge Mechanism). RCM means the liability to pay tax lies on the recipient of supply of goods or services instead of the supplier of such goods or services.

4.4.1 Person liable to pay GST under RCM



Section 9(3) of CGST Act and Section 5(3) of IGST Act empower the Government to notify on the recommendation of the GST Council, specific categories of supply of goods or services, the tax on which shall be paid on reverse charge basis by the recipient of such supply and all provision of GST law shall apply to such recipients as if he is the person liable for paying tax in relation to the supply of such goods or services or both.

4.4.2 Notified Goods under RCM [includes]

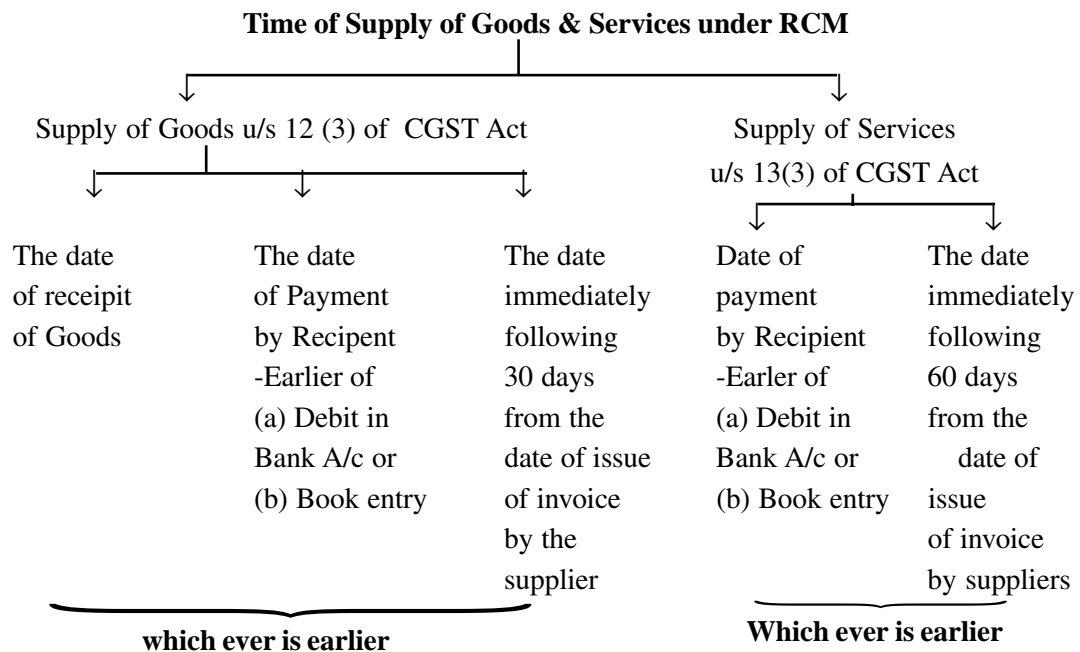
Description	Supplier	Recipient
1. Unshelled/ un peeled cashew nuts.	Agriculturist	Any registered person
2. Bidi wrapper leaves (Tendu)	Do	Do
3. Tobacco Leaves	Do	Do
4. Silk Yarn	Any person who manufactures silk yarn from raw silk	Do
5. Used vehicles/ old or used goods/ waste and scrap/ seined and confiscated goods	Government [CG/SG/Local authority]	Do
6. Lottery ticket supply	Govt. [SG/ Local authority/ union territory]	Lottery Distributor or selling agent

4.4.3 Notified services under RCM [includes]

Description	Supplier	Recipient
1. GTA services	Goods Transport Agency	Any of the following taxable person <ul style="list-style-type: none"> ● Factory ● Co-operative Society ● Person registered Under GST Law ● Body Corporate ● Partnership firm
2. Sponsorship services	Any person	<ul style="list-style-type: none"> ● Any body corporate ● Partnership firm
3. Legal service	Avocates or legal firm	<ul style="list-style-type: none"> ● Any business entity
4. Service of directors of a company [not employee]	Director of a company	<ul style="list-style-type: none"> ● Company or ● Body corporates
5. Services by Insurance agent	An Insurance agent	<ul style="list-style-type: none"> ● Insurance Compnay
6. Service by recovery agent	A recovery agent	<ul style="list-style-type: none"> ● Banking Compnay
7. Services by author, music composer, photographer, artists by way of permitting the use of copy right relating to original literacy, dramatic musical work	Author Music Composer artist	<ul style="list-style-type: none"> ● Publisher ● Music company ● producer
8. Any services supplied by a person located outside India to any person loacted in India.	Person located outside	Person located in India

4.4.4 Time of Supply of Goods and Services under RCM

The time of supply is the point when the supply is liable to GST. In RCM the recipient is liable to pay GST. Thus the time of supply for supplies under RCM is different from the supplies which are under forward charge.



Note : Invoice is to be issued by supplier, but recipient is also required to make an invoice to book credit of GST paid.

4.5 Exercises

1. List the services which are exempted from GST.
2. Who are liable to pay GST under Reverse Charge Mechanism (RCM)?
3. How do you determine the time of supply of goods and services under RCM?

Unit - 5 □ Input Tax Credit and Returns under GST

Structure

- 5.1 Input Tax Credit (ITC) under GST**
 - 5.1.1 Eligibility for claiming ITC**
 - 5.1.2 Important definitions**
 - 5.1.3 Conditions for availing ITC**
 - 5.1.4 Blocked Credit**
 - 5.1.5 Illustration**
- 5.2 Returns under GST**
 - 5.2.1 Furnishing details of Outward Supplies**
 - 5.2.2 Furnishing details of Inward Supplies**
 - 5.2.3 Furnishing of Returns**
 - 5.2.4 Furnishing of Returns by Composition Supplier**
 - 5.2.5 Filing of Annual Return**
 - 5.2.6 Steps in Furnishing Returns**
- 5.3 Payment of Tax**
 - 5.3.1 Electronic Cash Ledger**
 - 5.3.2 Electronic Credit Ledger**
 - 5.3.3 Electronic Liability Register**
 - 5.3.4 Illustration**
- 5.4 Exercises**
- 5.5 References**

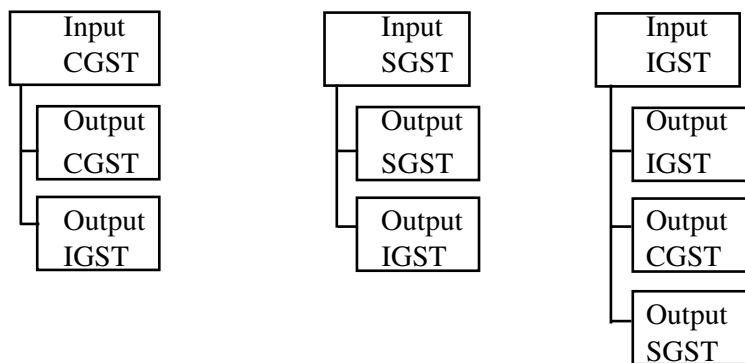
5.1 Input Tax Credit (ITC) under GST

In earlier Indirect tax regime, the credit mechanism for indirect taxes levied by the Union Government was governed by the CENVAT Credit Rules 2004, and the credit mechanism for State-level VAT on sale of goods was governed by the State under their respective VAT legislations. VAT legislation allowed input tax credit of VAT on input and capital goods for transaction within the state, but not on input and capital goods purchased from outside the state on which CST was paid. However, CENVAT credit Rules 2004 allowed availing and utilisation of credit of duty. Tax paid on both goods (capital and inputs) and services by the manufacturer and the

service providers across the country. This resulted in cascading of taxes leading to increase in cost of goods/services.

Simultaneous introduction of GST at both central and state levels has integrated taxes on goods/services for the purpose of set off relief and ensured that the cascading effect prevalent under the earlier regime get removed, there by establishing a continuous chain of set off from the original producer's point/service provider's point upto the retailer's level/ consumer's level.

Input tax credit (ITC) of CGST and SGST/UTGST will be available through the supply chain, but cross utilisation of credit will not be possible, i.e. CGST credit can't be utilised for payment of SGST/UTGST and UTGST/SGST credit can't be utilised for payment of CGST. However cross utilisation will be allowed between CGST/SGST/ UTGST and IGST. i.e. credit of IGST can be utilised for payment of CGST/SGST/UTGST and vice versa.



5.1.1 Eligibility for claiming ITC under GST

- (i) A registered person is entitled to claim input tax credit charged on inward supply of goods and/or services if such goods/services are used or intended to be used in course or furtherance of business u/s 16(1).
- (ii) Where goods and/or services are used partly for non-business purpose and partly for business purpose, ITC attributable only to business purpose can be taken by the registered person. [u/s 17(1)].
e.g.-A registered person purchased 5 computer but 1 computer is being used for personal purpose and others for business. ITC will not be available for the computer used for personal purpose.
- (iii) Where goods and/or services are partly used for making exempt supplies for taxable supplies, ITC attributable to taxable supplies and zero-rated supplies can be taken by the registered person.

e.g.- A registered person purchased 20 containers for the purpose of business, out of which 6 containers were used for goods which are exempted and 2 containers are used for zero rated supply. Hence credit is available for 14 containers.

5.1.2 Important definitions

- (a) **Input:** Input means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business [u/s 2(59) of CGST Act]
- (b) **Capital goods:** capital goods mean goods, the value of which is capitalised in the books of accounts of the person claiming input tax credit and which are used or intended to be used in course or furtherance of business [u/s 2(19) of CGST Act].
- (c) **Input Services :** Input services means any service used or intended to be used by a supplier in the course or furtherance of business [u/s 2(60) of GST Act]
- (d) **Exempt Supply :** Exempt supply means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax and includes non-taxable supply [u/s 2 (47) of GST Act]
- (e) **Zero-Rated Supply :** Zero-Rated Supply means any of the following supplies of goods or services or both namely
 - (i) Export of goods/services or both
 - (ii) Supply of goods or services or both

5.1.3 Condition for availing ITC u/s 16(2)

- (1) Input tax credit can be availed on the basis of possession of tax paying document. (invoice, Debit note, Bill of entry etc.)
- (2) The person taking credit of taxes paid on procurement of goods and/or services must have received the goods and /or services. It is not necessary that goods have been received actually in the premises of recipient. It includes delivery to others person on the direction of the registered person.
- (3) In order to claim credit, the supplier should have paid the said amount of tax to appropriate government in cash or by way of utilisation of input tax credit as admissible.
- (4) The registered person taking input tax credit must have submitted the details of his inward supplies in GSTR-2 by 15th of following month in which the supplies were received.

- (5) A registered person is required to pay the value of goods and/or services to the supplier along with the applicable taxes within 180 days from the date of issue of invoice.
- (6) The time limit for availment of credit shall be earlier of following two dates
 - (a) Due date of filing return for the month of September of the succeeding financial year (or)
 - (b) Date of filing of the relevant annual return.

5.1.4 Blocked Credit

Generally, input tax credit is available on almost every input and input service used for supply of taxable goods or services. However, there is a small list of items provided U/S 17(5) of CGST Act on which input tax credit is not admissible.

- (a) Inward supplies on which tax has been paid under the composition scheme.
- (b) Inward supplies received by non-resident taxable person.
- (c) Goods/Services used for personal consumption
- (d) Goods which are lost, stolen, destroyed, gifted or distributed as free sample.
- (e) Motor vehicles and conveyance [with some exceptions].
- (f) Travel benefits to employees on vacation such as LTC or home travel concession.

5.1.5 Illustration

Problem 1 :

From the following information determine the amount of Input Tax Credit admissible to ABC Ltd. in respect of various inputs purchased during the month of September, 2017.

Purchase	CGST & SGST (Rs.)
(1) Goods purchased without invoice	25,000
(2) Goods purchased from PQR Ltd. (Full Payment is made by ABC Ltd. to PQR Ltd. against such supply but that has not been deposited by PQR Ltd.)	1,20,000
(3) Purchase of goods not to be used for business purposes	18,000
(4) Purchases of goods from TT Ltd, (Invoice of TT Ltd. is received in month of September, 2017, but goods were received in month of October 2017)	24,000
(5) Goods purchased against valid invoice from FF Ltd., Tax has been deposited by FF Ltd. ABC Ltd. has made payment to FF Ltd. for such purchases in the month of October 2017	36,000

Answer:	Purchases		CGST & SGST (Rs.)
(1)	Goods purchased without invoice	[WN-1]	-
(2)	Goods purchased from PQR Ltd.	[WN-2]	-
(3)	Purchase of goods not to be used for business purposes	[WN-3]	-
(4)	Purchase of goods from TT Ltd. (Invoice of TT Ltd. is received in month of September 2017, but goods were received in month of October 2017)	[WN-4]	-
(5)	Goods purchased against valid invoice from FF Ltd., Tax has been deposited by FF Ltd. ABC Ltd., has made payment to FF Ltd. for such purchases in the month of October 2017.	[WN-5]	36,000
Total admissible Input tax credit for the month of September 2017.			36,000

Working Note:

- (1) No Input tax credit will be available since ABC Ltd. is not in possession of valid tax paying document.
- (2) 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. Since PQR Ltd. has not deposited the tax to the credit of Government, No ITC can be claimed by ABC Ltd.
- (3) A registered person shall be entitled to take input tax credit on goods which are used or intended to be used in the course or furtherance of his business. Since ABC Ltd. has purchased the goods for non business purpose, hence no credit will be admissible on such purchases.
- (4) Input tax credit is admissible only when registered person has received such goods. Since the goods are received in the month of October, 2017, input tax credit cannot be taken in the month of September, 2017.
- (5) Input tax credit shall be admissible in month of September, 2017 even if payment is made by ABC Ltd., in month of October, 2017.

Problem 2 :

S Ltd. a registered manufacturer of Jaipur entered in a contract with a supplier for supply of Input 'X' in October, 2017. As per contract it was agreed that 10,000 kgs of Input 'X' will be supplied for Rs. 7,28,000 (inclusive of CGST and SGST @ 6% each) in 4 lots, Invoice of Rs. 7,28,000 has been issued with supply of first lot of Input 'X'. Following further information has been provided regarding supply of Input received in subsequent lots.

Briefly explain whether S Ltd. is eligible to take credit on proportionate basis.

Input 'X' (in lots)	Quantity in Kgs	Date of Receipt of Supply
First Lot	2,500	19-10-2017
Second lot	3,000	21-10-2017
Third Lot	1,500	12-11-2017
Fourth Lot	3,000	01-12-2017

Answer : No. S Ltd. is not eligible to take credit on proportionate basis. As per the provision of Section 16(2), 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. Therefore, in the given case, Input 'X' has been received in lots hence, the credit of tax of Rs. 78,000 i.e. (Rs. 7,28,000 \times 12 \div 112) paid on such input shall be taken by S Ltd. only after the fourth lot.

Problem 3 : Determine the amount of input tax credit available with Diamond Manufacturing Ltd. in respect of the following items procured by them in the month of January 2018.

Item	GST paid in Rs.
i) Raw materials	75,000
ii) Food and beverages & catering services are used in the guest house primarily for stay of the newly recruited employees.	60,000
iii) Inputs used for making structures for support on plant and machinery	1,25,000
iv) Capital goods used as part components for use in the manufacture of final product	85,000

Answer : Statement showing eligible input tax credit to Diamond Manufacturing Ltd.

Items	GST paid in Rs.
i) Raw materials	75,000
ii) Food and beverages & catering services are used in the guesthouse primarily for stay of the newly recruited employees.	Not allowed
iii) Inputs used for making structures for support on plant and machinery	1,25,000
iv) Capital goods used as parts components for use in the manufacturer of final product	85,000
Total credit allowed	2,85,000

Problem 4 :

ABC India Ltd. is engaged in the manufacture of some taxable goods. It purchased the following goods in the month of October, 2017

Item	GST paid in Rs.
i) Raw material used for production of the final product	1,20,000
ii) Goods used for generation of electricity for captive consumption	25,000
iii) Goods used for providing free warranty–Value of such free warranty provided by ABC India Ltd. is included in price of the final product and is not charged separately from the customers	10,000
iv) Light diesel oil	5,000

Note : ABC India Ltd. also purchased High Speed Diesel oil by paying central excise duty of Rs. 12,000, which is also used in the manufacturer of taxable output.

Compute the amount of input tax credit available to ABC India Ltd.

Answer: Statement showing Input tax Credit of ABC India Ltd.

Item	GST paid in Rs.
i) Raw material used for production of the final product	1,20,000
ii) Goods used for generation of electricity for captive consumption	25,000
iii) Goods used for providing free warranty–Value of such free warranty provided by ABC India Ltd. is included in price of the final product and is not charged separately from the customers	10,000
iv) Light diesel oil	15,000
v) High Speed Diesel oil	Not allowed
Total input tax credit	1,70,000

5.2 Returns under GST

Under any taxation system filing of return is the most important compliance procedure which enables the tax administrators to estimate tax collection for a particular period and determine the correctness and completeness of tax compliances at taxpayer's level. The basic feature of return filing system in GST includes electronic filing of return. Uploading of invoice level information and **auto-populated** information relating to input tax credit from return of supplier to that recipient, invoice-level information matching and auto reversal of ITC in case of mismatch. Section 37 to 48 of CGST Act read along with CGST rules prescribe the provisions relating to filing of return under GST. Same provision is applicable under IGST Act by virtue of section 20.

5.2.1 Furnishing details of outward supplies

- (i) U/s 37 of CGST Act, every registered person including casual registered person is required to furnish return (statement) capturing details of outward supplies.
- (ii) Form : GSTR-1
- (iii) Period : Monthly through Electronic submission
- (iv) Time limit: 10th day of immediately succeeding month

5.2.2 Furnishing details of inward supplies

- (i) Every registered person including casual registered person is required to furnish a statement capturing details of inward supplies
- (ii) Form-GSTR-2.
- (iii) Periodicity : Monthly basis through Electronic submission.
- (iv) Time limit: After 10th day but on or before 15th day immediately succeeding month.

Note: Details of outward supplies for a month furnished by a supplier are communicated and made available electronically to the respective recipient of supply in form GSTR-2A through GST common portal after 10th day of the succeeding month. The recipient is provided an opportunity to add, correct or detail in a two-way communication process. After completion of such modification the recipient files the details of inward supplies during tax period (monthly or quarterly for composition levy) in Form GSTRN-2 by 15th day of that month.

5.2.3 Furnishing of return

- (i) U/s 39 of CGST Act, every registered person including casual registered person is required to furnish return capturing consolidated retails [outward and inward supplies and tax liability.]
- (ii) Form: GSTR-3
- (iii) Periodicity: Monthly basis through Electronic submission

5.2.4 Furnishing of return by Composition Supplier

- (i) A dealer, who has opted for composition scheme, as prescribed u/s 10 of CGST Act, is required to furnish his return as per the required particulars
- (ii) Form : GSTR-4
- (iii) periodicity: Quarterly basis through Electronic submission
- (iv) Time Limit: Within 18 days from the expiry of quarter.

5.2.5 Filing of Annual return

- (i) U/s 44 of CGST Act, all taxpayers filing regular returns [u/s 39] are required to file an annual return.
- (ii) Form: GSTR-9 (Regular tax payer)
GSTR-9A (composition Tax payer)
- (iii) Time limit: 31st December of next financial year.

5.2.6 Steps in furnishing of Returns

Step 1 : Filing of GSTR-1

The tax payer will upload the final GSTR-1 by 10th day of the month succeeding the month during which the supplies have been made. Modification in GSTR-1 would be allowed from 15th day to 17th day of the month on the basis of details uploaded by the respective purchaser in GSTR-2.

Step 2 : Auto-Population of GSTR-2A

GST common portal will auto populate GSTR-2A of tax payer based on invoice details reported by the supplier. While every taxpayer will be able to see the invoices uploaded by the respective supplier, they can finalise their GSTR-2 only after the last date of filing GSTR-1.

Step 3 : Filing of GSTR-2

The invoice auto-populated in GSTR-2A will be accepted/ rejected/ modified by the purchaser in the GSTR-2. He will also be able to add additional invoice details

in his GSTR-2 which have not been uploaded by their suppliers, provided he is in possession of valid invoice and he has actually received such supplies. The taxpayer can then file their GSTR-2 between 10th and 15th day of the month succeeding the month during which the supplies have been received.

Step 4 : Reconciliation of outward and inward supplies

Tax payer will have the option to reconcile their inward supplier with the details of outward suppliers furnished by the respective suppliers to find out whether the respective suppliers have missed out uploading any invoices in their respective GSTR-1.

The recipient can prompt the suppliers to accept the inward supplies as uploaded by them the suppliers can accept / reject the modification made by the recipient between 15th day and 17th day and amend GSTR-1 accordingly.

Step 5 : Finalisation of GSTR-3

Finalisation of GSTR-1 and GSTR-2 would enable tax payer in finalizing their GSTR-3. GST common portal would auto generate part A of GSTR-3 for the tax payer.

GSTR would show the amount that will be credited debited to the ITC (input tax credit) ledger of the taxpayer. The tax payer will fill in the details of ITC that he intends to utilise for payment of taxes. Any balance amount will have to be paid by the taxpayer as cash. The return would also show the late fee and interest payable if any.

Step 6 : Payment of Taxes and submission of GSTR-3

Any payment made through Challans gets credited to Electronic cash ledger. Payment of taxes has to be done by debiting Electronic cash ledger. The tax payer shall pay the self-assessed tax and submit his return.

5.3 Payment of Tax

Introduction of E-ledger is a unique feature under the GST regime. Electronic ledgers or E-ledgers are the statements of cash and input tax credit in respect of every registered tax payer. In addition, each tax payer shall also have an electronic tax liability register.

5.3.1 Electronic Cash Ledger

Electronic cash ledger, maintained on GST common portal is a statement which reflects deposits made in cash by a tax payer along with details of TDS/ TCS deposited on his account. The amounts recorded in Electronic cash ledger can be used

for making any payment towards tax, interest, penalty, fees or any other amount on account of GST.

Two modes have been prescribed for payment of Tax:

Mode A: (i) Internet Banking

(ii) Use of credit card/ Debit card without any restriction on the amount

Mode B: Over the counter (Maximum amount of Rs. 10,000 per challan per tax period)

5.3.2 Electronic Credit Ledger

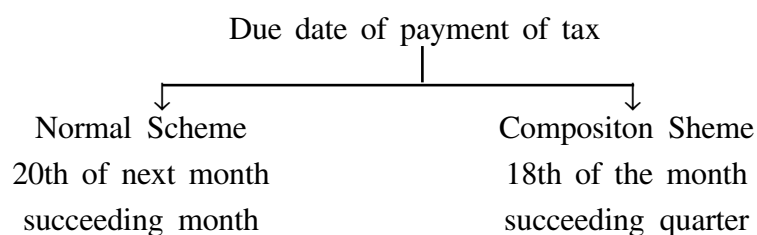
Electronic credit ledger, maintained on GST common portal, is a statement which reflects the details of ITC (input tax credit) as self assessed by a dealer in his returns. The amount recorded in Electronic Credit Ledger can be used only to make payment of output taxes. Other amount such as interest, penalty, fees can't be paid through utilising ITC. Further, where a registered person is liable to pay tax under Reverse Charge Mechanism, such tax need to be discharged in cash only and ITC can't be utilised.

5.3.3 Electronic Liability Register

Electronic Liability Register, maintained on GST common portal is a statement which reflects the total tax liability of a taxpayer for a particular period.

Interest on delayed payment of Tax: Section 50 of CGST Act requires a person to pay interest in the following situations.

(a) Tax paid after the expiry of prescribed period (i.e. delay in payment of tax)



(b) Excess claim of input tax credit.

(c) Excess reduction in output tax liability

Rate of interest

For Situation (a) : 18% p.a [as notified]

For situation (b) & (c) : 24% p.a [as notified]

Time period

Starting from the date following the due date of payment to the actual date of payment of tax.

5.3.4 Illustration

Illustration 1 :

M/S Romit Pvt. Ltd. supplied goods worth Rs. 10,00,000 to M/S Gita Ltd. in the month of September, 2017 plus GST @ 12%. M/S Romit Pvt. Ltd. Paid GST on 5th December 2018. The amount of tax credit is 70,000, available in the books Find the interest payment u/s 50.

Solution :

Tax [GST]	Rs. 1,20,000
Less:Input tax Credit	Rs. 70,000
	<hr/>
Tax payable	Rs. 50,000

- (i) Due date of payment of tax for the month of Sept. 2017 is 20th October, 2017.
- (ii) Date of actual payment is 5th December 2018.
- (iii) Delay in payment 411 days [21st Oct. 2017 to 5th December, 2018]
- (iv) Rate of interest = 18% p.a
- (v) Interest u/s 50 = $[Rs. 50,000 \times 18\% \times 411/365]$
= 10,134/-

Illustration 2 :

ABC Ltd. had reduced its output tax liability of Rs. 2,25,000 in contravention of provision in the month of Jan 2018 by a ITC which is ineligible. As a result, department issues show cause notice u/s 74 of CGST Act along with interest. ABC Ltd. paid the tax on 5.03.2018. Find the interest U/S 50

Solution :

- (i) Excess claim of credit of Rs. 2,25,000.
- (ii) Rate of Interest = 24% for 13 days
- (iii) Interest = $[Rs. 2,25,000 \times 24\% \times 13/365] = Rs. 1923.$

Problem 1:

M/s X Ltd. being a registered person supplying taxable goods in the following manner:

Particulars	Rs.
Intra-State supply of goods	18,00,000
Inter-State supply of goods	13,00,000
Intra-State purchases	13,00,000
Inter-State purchases	1,50,000
ITC at the beginning of the relevant tax period:	
CGST	1,30,000
SGST	1,30,000
IGST	1,70,000

(i) Rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively.

(ii) Inward and outward supplies are exclusive of taxes.

All the conditions necessary for availing the input tax credit have been fulfilled. Compute the net GST payable by M/s X Ltd. during the tax period. Make suitable assumptions.

Solution:**Statement showing input tax credit (i.e. Electronic Credit Ledger)**

Particulars	CGST(Rs.)	SGST(Rs.)	IGST(Rs.)
Opening balance	1,30,000	1,30,000	1,70,000
Add: ITC for the tax period	1,17,000	1,17,000	27,000
Total credit	2,47,000	2,47,000	1,97,000

Statement showing Net GST payable by M/s X Ltd. for the tax period

Particulars	CGST(Rs.)	SGST(Rs.)	IGST(Rs.)
Output tax	1,62,000*	1,62,000*	2,34,000**
Less : ITC allowed	2,47,000	2,47,000	1,97,000
Sub-total	85,000	85,000	37,000
Less: CGST credit adjusted against IGST	37,000	Nil	-37,000
Net GST liability	Nil	Nil	Nil
Excess ITC c/f	48,000	85,000	Nil

* Rs. 18,00,00 × 9/100 = Rs. 1,62,000;

** Rs. 13,00,000 × 18/100 = Rs. 2,34,00.

Problem 2:

Mr. A has output Tax Liability of Rs. 1,00,000 towards CGST & SGST/IGST and Rs.20,000 towards IGST and also interest payable of Rs. 1800.

Explain the manner of discharge tax liability by Mr. A in the following two independent cases:

- i) Input tax credit available of CGST & SGST is Rs.25,000 each & IGST is Rs.25,000
- ii) Input tax credit not available.

Solution: Case (i): In case Input Tax credit available-

Ledger	Particulars	CGST	SGST	IGST	Interest payable	Total
Electronic liability ledger	Output tax payable	50,000	50,000	20,000	1,800	1,21,800
Electronic credit ledger	Input Tax Credit	25,000	25,000	25,000		75,000
	Net output tax liability	25,000	25,000	-		50,000
	IGST Credit set off	5,000 (Note-1)	-	-		5,000
Electronic cash ledger	Cash to be deposited	20,000	25,000	-	1800 (Note-2)	46,800

Note

- 1) IGST Credit can be adjusted against CGST & SGST.
- 2) Interest cannot be adjusted with Input Tax credit

Case (ii): In case Input Tax Credit is not available

Ledger	Particulars	CGST	SGST	IGST	Interest payable	Total
Electronic Liability Ledger	Output tax payable	50,000	50,000	20,000	1,800	1,21,800
Electronic Cash Ledger	Amount to be deposited	50,000	50,000	20,000	1,800	1,21,800

Problem 3:

Y Ltd. is operating in two states West Bengal and Bihar. The tax liability for the month of August 2017 is as follows—

	Tax Liability	West Bengal	Bihar
1.	Output CGST Payable	25,000	10,000
1.	Output SGST Payable	10,000	5,000
3.	Output IGST payable	3,000	2,500
4.	Input CGST	8,000	13,000
5.	Input SGST	15,000	1,500
6.	Input IGST	12,000	16,000

Calculate the tax payable for the month of August 2017.

Solution :

Net Tax payable for the month of August is as follows-

Particulars	West Bengal			Bihar		
	CGST	SGST	IGST	CGST	SGST	IGST
Output tax (a)	25,000	10,000	3,000	10,000	5,000	2,500
Input credit available for setoff (b)	8,000	15,000	12,000	13,000	1,500	16,000
Input credit adjusted (c) [lower of a & b]	8,000	10,000	3,000	10,000	1,500	2,500
Tax payable after setting off ITC (d=a-c)	17,000	-	-	-	3,500	-
Input Tax available for further set-off (e = b-c)	-	5,000	9,000	3,000	-	13,500
Inter Adjustment of ITC	9,000	-	(9,000)	-	3,500	(3,500)
			(Note-1)			
Net Tax payable in cash	8,000	-	-	-	-	-
Input credit carry forwarded to next month	5,000	-	3,900	-	10,000	
	-					

Notes

1. IGST Input tax credit can be adjusted against output tax of liability of IGST, CGST, SGST, UTGST (set off can be done in same order)
2. SGST Input tax credit cannot be adjusted against output CGST & Vice-Versa.
3. CGST & SGST Input tax credit of one state cannot be adjusted against output CGST & SGST of other state (same principle is applicable to IGST credit also).

5.4 Exercises

1. Describe the mechanism of input tax credit under GST.
2. What are the conditions to be fulfilled to get Input Tax Credit (ITC)?

3. When the ITC is not admissible?
4. Describe the steps involved in furnishing return under GST.
5. Write a short notes on-
 - a) Electronic cash ledger
 - b) Electronic credit ledger.

5.5 References

1. Datey, V. S. : Goods and Services Tax, Taxmann.
2. Acharjee, M. : Goods and Service Tax.
3. Singhania & Singhania, : Student Guide to Income Tax including GST, Taxmann.
4. Chatterjee T. B. and Sony V. : Goods and Services Tax, Book Corporation.
5. Banger and Banger : Goods and Services Tax, Aadhya Prakashani.

Unit - 6 □ Customs Duties

Structure

- 6.0 Introduction**
- 6.1 Definition**
- 6.2 Types of Customs Duties**
 - 6.2.1 Basic Customs Duty**
 - 6.2.2 Additional Duty of Customs**
 - 6.2.3 Special Customs Duty**
 - 6.2.4 Protective Duties**
 - 6.2.5 Safeguard Duty**
 - 6.2.6 Countervailing Duty**
 - 6.2.7 Anti-Dumping Duty**
 - 6.2.8 Export Duty**
 - 6.2.9 National Calamities Contingent Duty of Customs**
- 6.3 Levy of and Exemption from Customs Duties**
- 6.4 Valuation of Goods for the Purpose of Assessment**
- 6.5 Clearance of Imported Goods**
 - 6.5.1 Restrictions on Custody and Removal of Imported Goods**
 - 6.5.2 Entry of Goods on Importation**
- 6.6 Clearance of Goods for Home Consumption**
- 6.7 Clearance of Export Goods**
 - 8.7.1 Entry of Goods for Exportation**
- 6.8 Drawback**
 - 6.8.1 Drawback on Imported Materials used in the Manufacture of Goods which are Exported**
 - 6.8.2 Prohibition and Regulation of Drawback in certain Cases**
- 6.9 Exercises**
- 6.10 References**

6.0 Introduction

After independence, manufacturing industries grew and trade expanded. Customs Act, 1962 was passed to consolidate Sea Customs Act, Land Customs Act & provisions for air customs.

Basic Acts :

There are two Acts, which form part of customs Law in India, namely, the Customs Act, 1962 and the Customs Tariff Act, 1975 :

1. The Customs Act, 1962

The Customs Act, 1962 is the basic Act for levy of customs duty in India. It contains various provisions relating to imports and exports of goods and merchandize as well as baggage of persons arriving in India.

Objects of the Act

The customs act is a consolidation of the provisions relating to sea, land and air customs. The main purpose of Customs Act, 1962 is the prevention of illegal imports and exports of goods. The objects of the Act, as defined in its Preamble are “to consolidate and amend the law relating to customs”.

Application of the Act

The Act extends to the whole of India. It was extended to Sikkim vide Notification No. 185/79-Customs, dated 1st September, 1979, w.e.f. 1st October, 1979.

Customs Tariff Act—Indian Tariff Act, 1934 was found to be inadequate to meet the needs of expansion of trade and industry. Tariff Revision Committee was formed, which recommended adoption of Brussels Trade Nomenclature of Customs Co-operation Council (CCCN), with modifications to suit Indian conditions. Accordingly Customs Tariff Act, 1975 was passed, which came into effect in 1976. The Act provided explanatory, clarificatory and interpretative rules and notes, which enabled proper classification of goods. Later, Customs Cooperation Council developed a new system of nomenclature known as ‘Harmonised Commodity Description and Coding System’ (HSN) to take into account latest charges in technology and pattern of international trade. On 28th February, 1986, Import schedule to the Customs Tariff Act, 1975 was replaced with a new schedule, based on HSN. This new schedule is expected to (a) reduce classification disputes (b) common code for goods in international trade (c) facilitate computerisation of customs classification and assessment work. [Central Excise Tariff was also replaced by a new tariff based on HSN on 28th February, 1986].

6.1 Definition

“Manufacture” [Sec. 2(1)] includes any process

- (i) Incidental or ancillary to the completion of a manufactured products; and
- (ii) Which is specified in relation to any goods in the Section or Chapter notes of the [first] schedule to the Central Excise Tariff Act 1958 as amounting to manufacture [or;]
- (iii) [Which is specified in relation to any goods in the central government by notification in the Official Gazette as amounting to manufacture] and the word manufacture shall be considered accordingly and shall include not only a person who employs hired labour in the production or manufacture of excisable goods but also any person who engages in their production or manufacture on his own account.

6.2 Types of Duties

The various types of Customs Duties are :

- (a) Basic Customs Duty;
- (b) Additional Customs Duty;
- (c) Special Customs Duty;
- (d) Protective Duties;
- (e) Safeguard Duty;
- (f) Countervailing Duty;
- (g) Anti-Dumping Duty; and
- (h) Export Duty.

6.2.1 Basic Customs Duty

Basic Customs Duty is levied under section 12 of the Customs Act. The rates at which duties of customs shall be levied under the Customs Act, 1962 are specified in the First and Second Schedules to the Customs Tariff Act, 1975. The first Schedule enlists the goods liable to import duty and the Second Schedule enlists the goods liable to export duties.

There are two types of rates of Basic Customs Duty, namely :

- (a) Standard Rates; and
- (b) Preferential Rates.

Standard Rates of Duty :

Standard rates of duty are applicable at the rate specified in Column 4 of the Tariff Schedule against each item/article specified in Column 3. In absence of any Notification for application of preferential rates of duty based on the country of origin, the standard rates of customs duty are invariably applied.

Preferential Rates of Duty :

The Government is empowered under section 25 of the Customs Act to prescribe by issuing Notification, preferential rate duty in respect of imports from certain preferential areas.

As per section 4(3) of the Customs Tariff Act, “Preferential area” means any country or territory, which the Central Government may, by notification in the Official Gazette, declare to be such area.

6.2.2 Additional Duty of Customs

Section 3 of the Customs Tariff Act empowers the Central Government to levy additional duty equal to excise duty. Accordingly, any article, which is imported into India shall, in addition to standard rate of duty, be liable to an additional duty equal to the excise duty for the time being leviable on a like article, if produced or manufactured in India and if such excise duty on a like article is leviable at any percentage of its value, the additional duty to which the imported article shall be so liable shall be calculated at that percentage of the value of the imported article.

However, in case of any alcoholic liquor for human consumption imported into India, the Central Government may, by notification in the official gazette, specify the rate of additional duty having regard to the excise duty for the time being leviable on a like alcoholic liquor produced or manufactured in different states or if a like alcoholic liquor is not produced or manufactured in any state, then, having regard to excise duty which would be leviable for the time being in different states on the class or description of alcoholic liquor to which such imported alcoholic liquor belongs.

6.2.3 Special Customs Duty

Special Additional Duty is levied under section 3A of the Customs Tariff Act. Accordingly, any article which is imported into India shall, in addition, be liable to a special additional duty, which shall be levied at a rate to be specified by the Central Government, by notification in the Official Gazette, having regard to the maximum sales tax, local tax or any other charges for the time being leviable on a like article on its sale or purchase in India.

However, until such rate is specified by the Central government, the special additional duty shall be levied and collected at the rate of eight per cent of the value of the article imported into India. The duty chargeable under section 3A shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.

6.2.4 Protective Duties

Section 6 of the Customs Tariff Act empowers the Central Government to levy a protective duty based on a recommendation made by the Tariff Commission established under the Tariff Commission Act 1951.

The Central Government may upon receiving such recommendation, if it is satisfied that circumstances exist warranting to take immediate action to provide for the protection of the interests of any industry established in India, it may impose on any goods imported into India in respect of which the said recommendation is made, a duty of customs of such amount, not exceeding the amount proposed in the said recommendation, as it thinks fit. The duty so imposed on any goods is deemed to have been specified, in the First Schedule as the duty leviable in respect of such goods.

6.2.5 Safeguard Duty

The Agreement on Safeguards has come into existence on 1st January, 1995, which authorises importing countries to provide protection to their domestic producers against serious injury caused or threatened to be caused to them by increased imports. The safeguard measures are intended to be applied only for a short duration with a view to allowing an opportunity to the domestic producers to adjust to the new situation of competition offered by the increased imports.

In India, the Agreement on Safeguards has been implemented recently by introducing a new section 8B in the Customs Tariff Act, 1975 on 1st March, 1997. The Safeguard Duty Rules have been notified on 29th July, 1997.

6.2.6 Countervailing Duty

Countervailing Duty can be imposed under section 9 of the Customs Tariff Act, 1975 to offset any adverse effect of subsidies granted on any goods exported to India.

Section 9 of Customs Tariff Act provides that where any country or territory pays, bestows, directly or indirectly, any subsidy upon the manufacture or production therein or the exportation therefrom of any article including any subsidy on transportation of such article, then, upon the importation of any such article into India, whether the same is imported directly from the country of manufacture, production or otherwise, and whether it is imported in the same condition as when exported from the country of manufacture or production or has been charged in condition by manufacture, production or otherwise, the Central Government may, by notification in the Official Gazette, impose countervailing duty not exceeding the amount of such subsidy.

The countervailing duty chargeable under section 9 shall be in addition to any other duty imposed under this Act or any other law for the time being in force.

Conditions for levy of CVD :

The countervailing duty shall not be levied unless it is determined that—

- (a) The subsidy relates to export performance;
- (b) The subsidy relates to the use of domestic goods over imported goods in the export article; or
- (c) The subsidy has been conferred on a limited number of persons engaged in manufacturing, producing or exporting the article, unless such a subsidy is for—
 - (i) Research activities conducted by or on behalf of persons engaged in the manufacture, production or export;
 - (ii) Assistance to disadvantaged regions within the territory of the exporting country; or
 - (iii) Assistance to promote adaptation of existing facilities to new environmental requirements.

6.2.7 Anti-Dumping Duty

Dumping means export of an article from any country or territory of India at less than its normal value i.e., when the prices at which the goods are exported to India are less than the comparable price for the like product when destined for consumption

in the domestic market of the exporting country. Antidumping duty is imposed for offsetting the adverse effects of increased imports, subsidized imports or dumped imports.

The Central Government can impose anti-dumping duty only if the imports of dumped article into India cause and threaten material injury to any established industry in India and materially retards the establishment of any industry in India. If the domestic industry has evidence to show dumping and material injury caused to it by dumped imports, it may make an application to the Director-General (Anti-dumping and Allied duties) in the Ministry of Commerce for an investigation in the matter.

6.2.8 Export Duty

Section 8 of Customs Tariff Act provides for emergency powers to the Central Government to increase or levy export duties. Accordingly, where, in respect of any article, whether included in the Second Schedule or not, the Central Government is satisfied that the export duty leviable thereon should be increased or that an export duty should be levied and that circumstances exist which render it necessary to take immediate action, the Central Government may, by notification in the Official Gazette, direct and amendment of the Second Schedule to be made, so as to provide for an increase in the export duty leviable or as the case may be, for the levy of an export duty on the article.

6.2.9 National Calamities Contingent Duty of Customs

The Finance Act, 2003 provides for levy of national Calamity Contingent Duty of Customs on goods specified in Schedule VII to the finance Act, 2001 and imported into India by surcharge at the rate specified in the said Schedule VII as amended by Schedule XIII.

6.3 Levy of an Exemption from Customs Duties

Dutiable goods :

- (1) Except as otherwise provided in this act, or any other law for the time being in force, duties of customs shall be levied at such rates as may be specified under the Customs Tariff Act, 1975 [5] or 1975 or any other law for the time being in force, on goods imported into or exported from India.
- (2) The provisions of sub-section (1) shall apply in respect of all the goods belonging to Government as they apply in respect of goods not belonging to Government.

Duty on pilfered goods

If any imported goods are pilfered after unloading thereof and before the proper officer has made an order for clearance for home consumption or deposit in a warehouse, the importer shall not be liable to pay the duty leviable on such goods except where such goods are restored to the importer after pilferage.

6.4 Valuation of Goods for the Purpose of Assessment

For the purpose of the Customs Act 1975 [51 of 1975] or any other law for the time being in force where under a duty of customs is chargeable on any goods by reference to their value, the value of such goods shall be deemed to be the price at which such or like goods are ordinarily sold, or offered for sale for delivery at the time of importation or exportation as the case may be in the course of {international trade where—

- (a) The seller and the buyer have no interest in the business of each other; or
- (b) One of them has no interest in the business of the other, and the price is the sole consideration for the sale or offer for sale }

Power not to recover duties not levied or short levied as a result of general practice :

(1) Notwithstanding anything contained in this Act, if the Central Government is satisfied—

- (a) That a practice was or is generally prevalent regarding levy of duty (including non-levy thereof) on any goods imported into or exported from India; and
- (b) That such goods were or are liable—
 - (i) To duty in cases where according to the said practice the duty was not or is being levied; or
 - (ii) To a higher amount of duty than what was or is being levied according to the said practice.

Then, the Central Government may, by notification in the Official Gazette direct that the whole of the duty payable on such goods by for the said practice shall not be required to be paid in respect of the goods on which the duty was not or is not being levied or was or is being short-levied in accordance with the said practice.

6.5 Clearance of Imported Goods

6.5.1 Restrictions on custody and removal of imported goods

- (1) Save as otherwise provided in any law for the time being in force all imported goods unloaded within a customs area shall remain in the custody of such persons as may be approved by the Commissioner of Customs until they are cleared for home consumption or the warehoused or are transhipped in accordance with provisions of chapter VIII.
- (2) The person having custody of any imported goods in a customs area, whether under the provisions of sub-section (1) or under any law for the time being in force :-
 - (a) Shall keep a record of such goods and send a copy thereof to the proper officer :
 - (b) Shall not permit such goods to be removed from the customs area; or otherwise dealt with except under and in accordance with the permission in writing of the proper officer.
- (3) Notwithstanding anything contained in any law for the time being in force, if any imported goods are pilfered after unloading thereof in a customs area while in the custody of a person referred to in sub-section (1) that person shall be liable to pay duty on such goods at the rate prevailing on the date of delivery of an import manifest or as the case may be, an import report to the proper officer under section 30 for the arrival of the conveyance in which the said goods were carried.

6.5.2 Entry of goods on importation

The importer of any goods other than goods intended for transit or transshipment, shall make entry thereof by presenting to the proper officer a bill of entry for home consumption or warehouse in the presented form :

Save as otherwise permitted by the proper officer a bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.

A bill of entry under sub-section may be presented at any time after the delivery of the import manifest or import report as the case may be :

The importer while presenting a bill of entry shall, at the foot thereof, make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall

in support of such declaration produce to the proper officer the invoice, if any relating to the imported goods.

If the proper officer is satisfied that the interest of revenue is not prejudicially affected and there was no fraudulent intention, he may permit substitution of a bill of entry for home consumption for a bill of entry for warehousing or vice-versa.

6.6 Clearance of Goods for Home Consumption

Where the proper officer is satisfied that any goods entered for home consumption are not prohibited goods and the importer has paid the import duty if any assessed thereon and any charges payable under this Act in respect of the same the proper officer may make an order permitting clearance of the goods for home consumption.

Where the importer fails to pay the import duty under this sub-section within five days excluding holidays from the date on which the bill of entry is returned to him for payment of duty he shall pay interest at such rate not below the rate being fixed by the Central Government by notification in the official gazette on such duty till the date of payment of the said duty.

6.7 Clearance of Export Goods

6.7.1 Entry of goods for exportation

- (1) The export of any goods shall make entry thereof by presenting to the proper officer in the case of goods to be exported by land a bill of export in the prescribed form.
- (2) The export of any goods while presenting a shipping bill or bill of export shall at the foot thereof make and subscribe to a declaration as to the truth of its contents.

Clearance of goods for exportation :

Where the proper officer is satisfied that any goods entered for export are not prohibited goods and the exporter has paid the duty, if any, assessed thereon and any charges payable under this Act in respect of the same the proper officer may make an order permitting clearance and loading of the goods for exportation.

Transit of certain goods without payment of duty :

Subject to the provisions of section 11 any goods imported in a conveyance and mentioned in the import manifest or the import report, as the case may be, as for

transit in the conveyance to any place outside India or any customs station may be allowed to be so transhipment shall be presented to the proper officer in the prescribed form :

Subject to the provisions of section 11 where any goods imported into a customs station are mentioned in the import manifest or the import report, as the case may be, as for transhipment without payment of duty.

Where any goods imported into a customs station are mentioned in the import manifest or the import report, as the case may be, as for transhipment—

- (a) To any major port as defined in the India Ports Act 1908 (15 of 1908) or customs airport at Mumbai, Kolkata, Delhi or Channai or any other customs port or customs airport specified in this behalf by the Government.

6.8 Drawback

When any goods capable of being easily identified which have been imported into India and upon which any duty has been paid on importation—

- (i) Are entered for export and the proper officer makes an order permitting clearance and loading of the goods for exportation under section 51; or
- (ii) Are to be exported as baggage and the owner of such baggage, for the purpose of clearing it makes a declaration of its contents to the proper entry for export for the purposes of this section and such officer makes an order permitting clearance of the goods for exportation; or
- (iii) Are entered for export by post under section 82 and the proper officer makes an order permitting clearance of the goods for exportation, ninety-eight percent of such duty shall, except as otherwise hereinafter provided, be repaid as drawback, if—
 - (a) The goods are identified to the satisfaction of the Assistant Commissioner of Customs [or Deputy Commissioner of Customs] as the goods which were imported; and
 - (b) The goods are entered for export within two years from the date of payment of duty on the importation thereof :

Provided that in any particular case the aforesaid period of two years may, on sufficient cause being shown, be extended by the Board by such further period as it may deem fit.

Notwithstanding anything contained in sub-section (1) the rate of drawback in the case of goods which have been used after the importation thereof shall be such as the Central Government having regard to the duration of use, depreciation in value and other relevant circumstances may, by notification in the Official Gazette fix.

The Central Government may make rules for the purpose of carrying out of the provisions of this section and in particular such rules may—

- (a) Provide for the manner in which the identity of goods imported in different consignments which are ordinarily stored together in bulk may be established;
- (b) Specify the goods which shall be deemed to be not capable of being easily identified and
- (c) Provide for the manner and time within which a claim for payment of drawback is to be filed.

For the purpose of this section :

- (a) Goods shall be deemed to have been entered for export on the date with reference to which the rate of duty is calculated under section 16,
- (b) In the case of goods assessed to duty provisionally under section 18, the date of payment of the provisional duty shall be deemed to be the date of payment to duty.

6.8.1 Drawback on imported materials used in the manufacture of goods which are exported

Whereas it appears to the Central Government that in respect of goods of any class or description [manufactured, processed or on which any operation has been carried out in India], being goods which have been entered for export and in respect of which an order permitting the clearance and loading thereof for exportation has been made under section 51 by the proper officer or being goods entered for export by post under section 82 and in respect of which an order permitting clearance for exportation has been made by the proper officer a drawback should be allowed of duties of customs chargeable under this act on any imported material or a class or description used in the manufacture or processing of such goods or carrying out any operation on such goods the Central Government may by notification in the Official Gazette direct that drawback shall be allowed in respect of such goods in accordance with and subject to the rules made under sub-section.

The Central Government may make rules for the purpose of carrying out of the provision of sub-section (1) and in particular such rules may provide—

- (a) For the payment of drawback equal to the amount of duty actually paid on the imported material used in the manufacture or processing of the goods or carrying out any operation on the goods or as is specified in the rules as the average amount of duty paid on the material of that class or description used in the manufacture or processing of export goods or carrying out any operation on export goods of the class or description either by manufacturers generally or by processing or carrying on any operation generally or by any particular manufacturer or particular person carrying on any process or other operation and interest, if any, payable thereon;
 - (i) For specifying the goods in respect of which no drawback shall be allowed;
 - (ii) For specifying the goods procedure for recovery or adjustment of the amount of any drawback which had been allowed under sub-section (1) [or interest chargeable thereon];
- (b) For the production of such certificate, documents and other evidence in support of each claim of drawback as may be necessary;
- (c) For requiring the manufacturer or the person carrying on any process or other operation to give access or every part of his manufacturing to any officer of customs specially authorized in this behalf by the Assistant Commissioner of Customs or Deputy Commissioner of Customs to enable such authorized officer to inspect the process of manufacture, process or any other operation carried out and to verify by actual check or otherwise the statement made in support of the claim for drawback;
- (d) For the manner and the time within which the claim for payment of drawback may be filed.

6.8.2 Prohibition and regulation of drawback in certain cases

1. Notwithstanding any thing herein before contained no drawback shall be allowed—

- (a) In respect of any goods the market price of which is less than the amount of drawback due thereon;
- (b) Where the drawback due in respect of any goods is less than fifty rupees.

2. Without prejudice to the provisions of sub-section (1) if the Central Government is of opinion that goods of any specified description in respect of which drawback may be claimed under this Chapter are likely to be smuggled back into India. It may by notification in the Official Gazette direct that drawback shall not be allowed in respect of such goods or may be allowed subject to such restrictions and conditions as may be specified in the notification.

6.9 Exercises

1. Write brief notes on :
 - (a) Customs Act, 1962
 - (b) Customs Tariff Act, 1975
2. What are the different types of Custom Duties?
3. Write short notes on :
 - (a) Countervailing Duty
 - (b) Anti-Dumping Duty
4. What are the various modes of levy of duties under the Customs Act, 1962?
5. Explain the procedure for clearance of the imported good.
6. How is the assessable value determined under the Customs Act?
7. How can claim for refund of customs duty already paid & under what circumstances?
8. Discuss the provisions of Customs Act, 1962 relating to drawback of duties.
9. Discuss the provisions of the Customs Act relating to goods in transit.

6.10 References

1. Customs Act, 1962.
2. Taxmann's Indirect Tax Laws.
3. Indirect Taxes—Dr. Sanjeev Kumar.
4. Indirect Taxes—Law & Practice—V.S. Datey.

POST-GRADUATE COURSE
Term End Examination —
December, 2012 / June, 2013
COMMERCE
Paper – V
(Direct & Indirect Taxation)

Time : Two Hours

Full Marks : 50
(Weightage of Marks : 80%)

Special credit will be given for accuracy and relevance in the answer. Marks will be deducted for incorrect spelling, untidy work and illegible handwriting. The weightage for each question has been indicated in the margin.

MODULE – I

Answer any *two* questions.

$12\frac{1}{2} \times 2 = 25$

1. a) State the conditions which an amalgamated company is required to fulfil for set-off and carry forward of losses.
b) Is it possible to set off and carry forward the business loss ? If yes, state the provisions. 8 + 4½
2. a) What is deemed profit ? Discuss the provision of bad debt recovery.
b) What is the reason behind the introduction of MAT ? Discuss the provisions regarding the MAT credit. 5½ + 7
3. a) What do mean by best judgement assessment ?
b) Discuss the provisions relating to advance payment of tax. 4 + 8½
4. A company is engaged in the manufacturing of textile product. During the financial year 2008-09 to 2010-11, it had incurred Rs. 2,50,000 annually as expenditure as salaries and purchase of raw material for the purpose of research connected with its business. During the previous year 2011-12, it incurred revenue expenditure of Rs. 3,00,000 and a capital expenditure of Rs. 5,50,000 on purchase of plant. On 30.10.12 the company sold the plant for Rs. 7,50,000 and closed its research activity. Compute the admissible deduction under Section 35 for the assessment year 2012-13.

MODULE – II

Answer any *two* questions.

$$12\frac{1}{2} \times 2 = 25$$

5. Explain the procedure for clearance of imported goods under the Customs Act, 1962. 12 $\frac{1}{2}$
6. Describe the different types of sales under VAT. 12 $\frac{1}{2}$
7. Define the following as per Customs Act :
 - a) Protective duties
 - b) Anti-dumping duty
 - c) Safeguard duty. 4 + 4 $\frac{1}{2}$ + 4
8.
 - a) What is Transaction Value under the Central Excise Act?
 - b) What are the special feature of Excise Duties? 4 $\frac{1}{2}$ + 8

POST-GRADUATE COURSE

Term End Examination :

December, 2013 & June, 2014

COMMERCE

Paper – V: Direct and Indirect Taxation

Time : Two Hours

Full Marks : 50

(Weightage of Marks : 80%)

Special credit will be given for accuracy and relevance in the answer. Marks will be deducted for incorrect spelling, untidy work and illegible handwriting. The weightage for each question has been indicated in the margin.

MODULE – I

Answer any *two* questions :

12½ × 2 = 25

1. Write at least ten deductions which are available under chapter VIA. 12½
2. a) Explain the term “self-assessment”.
b) What is a “revised return” ?
c) State the meaning of summary assessment. 3 + 4 + 5½
3. Write notes on the following :
a) Expenditure on “Scientific Research” (Sec-35)
b) Expenditure on “Technical know-how”. (Sec 35AB)
c) Profession. 6 + 4 + 2½
4. Write the provisions of Inter-source set off (Sec-70) and Inter-head set off (Sec-71) mentioning exceptions in each case. 12½

MODULE-II

Answer any *two* questions.

12½ × 2 = 25

5. a) Define Central Excise Duty.
b) What are the conditions to be fulfilled for goods to be excisable? 6 + 6½
6. Write notes on the following :
a) Countervailing duty
b) Basic Customs duty
c) Special Customs duty

- d) Customs Act, 1962. 3 + 3 + 3 + 3½
7. Compare VAT with old system of Sales Tax with the help of an example showing VAT collection at different stages. 12½
8. a) Mention the transactions which are not treated as sales under CST Act, 1956.
- b) Write the essential elements of sale under CST Act, 1956. 6 + 6½

POST-GRADUATE COURSE

**Term End Examination :
December, 2014 / June, 2015**

COMMERCE

Paper – V: Direct and Indirect Taxation

Time : 2 Hours

**Full Marks : 50
(Weightage of Marks : 80%)**

Special credit will be given for accuracy and relevance in the answer. Marks will be deducted for incorrect spelling, untidy work and illegible handwriting. The weightage for each question has been indicated in the margin.

MODULE – I

Answer any *two* questions : 12½ × 2 = 25

1. a) State the incomes chargeable under the head Profits and Gains of Business or Profession.
b) Suppose, you have a software development business. You purchased a machine relating to the scientific research of your business worth Rs. 50,000 in the financial year 2014-15.

State the tax implication of this scientific research expenditure. 6 + 6½

2. a) State provision of section 41 (4) in respect of deemed profit with suitable examples.
b) Mr. X owns a house property from which he derives an income of Rs. 75,000 p.a. w.e.f. 1.4.2014. He converts this property as the property of an HUF of which he is a member. If there is partition in the family and there are five members entitled to share in HUF property i.e. Mr. X, Mrs X, a minor child and two major sons. They have equal share. State tax implication as per the provision u/s 64 (2). 4½ + 8
3. a) What is the reason behind the insertion of MAT provision in the Income Tax Act, 1961 ?
b) The book profit of a company for the assessment year 2015-16 is Rs.10,00,000, whereas its total income as per provision of Income Tax Act is Rs. 2,50,000.

Compute the tax liability of the company and also show the credit entitlement, if any. 5 + 7½

4. a) What are the conditions to be fulfilled by the telecommunication services to avail deduction u/s 80-IA ? Also state the amount of deduction.
 b) From the following information, compute the taxable income.

	Case-I	Case-II
	Rs.	Rs.
Long-term capital gain/loss	1,70,000	(-) 3,00,000
Short-term capital gain/loss	(-) 50,000	1,30,000
Business income/loss	(-) 80,000	(-) 90,000
Loss from Horse race	—	(-) 10,000
		8 + 4½

MODULE-II

Answer any *two* questions.

$12\frac{1}{2} \times 2 = 25$

5. a) Describe the features of Excise Duty.
 b) How do you classify the goods under excise duty? 7 + 5½
6. a) What are the different schedules under West Bengal VAT Act?
 b) What do you mean by 'business' and 'turnover' under Central Sales Tax Act? 4½ + 8
7. a) When is a sale or purchase of goods said to take place in the course of import or export?
 b) What do you mean by 'place of business' according to the Central Sales Tax Act? 6 + 6½
8. a) Discuss the provisions of the Customs Act relating to goods in transit.
 b) What do you mean by anti-dumping duty? 8½ + 4

PGCO-5 (PT/9/V)

POST-GRADUATE COURSE

Term End Examination :

December, 2015 / June, 2016

COMMERCE

Paper – V: Direct and Indirect Taxation

Time : 2 Hours

Full Marks : 50

(Weightage of Marks : 80%)

Special credit will be given for accuracy and relevance in the answer. Marks will be deducted for incorrect spelling, untidy work and illegible handwriting. The weightage for each question has been indicated in the margin.

MODULE – I

Answer any *two* questions :

12½ × 2 = 25

1. a) Give the examples of business income which are not taxable under the head “Profits and Gains of Business or Profession”.
b) Define business u/s 2(13) of the Income Tax Act, 1961. 8½ + 4
2. a) State the provision of the Income Tax Act, if an assessee contributes an amount to outsiders for scientific research purposes.
b) What is meant by ‘Deemed Profit’? Is it taxable? Give reasons. 8½ + 4
3. a) State the conditions to be fulfilled for claiming deduction u/s 35ABB of the I. T. Act, 1961.
b) State the conditions to be fulfilled by a power generation company to get deduction u/s 80IA with the amount of deduction. 5 + 7½
4. a) ITC Ltd. has the book profit of Rs. 10,00,000 for the previous year 2015-16, whereas, its total income for the same year was Rs. 1,50,000 as per provision of the Income Tax Act.
Calculate the tax liability of ITC Ltd. for the assessment year 2016-17. Also state the availability of MAT credit, if any.
b) How do you set-off and carry forward the short-term capital loss?
c) What do you mean by “income escaping assessment” u/s 147?

(4½ + 2) + 3 + 3

MODULE-II

- Answer any *two* questions : $12\frac{1}{2} \times 2 = 25$
5. a) What are the economic effects of VAT on prices?
b) What are the objectives of Central Sales Tax? $6\frac{1}{2} + 6$
6. a) Discuss the provision of the Customs Act relating to goods in transit.
b) Discuss the different schedules of the WBVAT Act. $6 + 6\frac{1}{2}$
7. a) When the transactions do not constitute inter-state sales under the Central Sales Tax Act?
b) What are the different types of excise duties? $7\frac{1}{2} + 5$
8. Write short notes on :
a) Excisable goods
b) Anti-dumping duty
c) Countervailing duty. $4 + 4\frac{1}{2} + 4$

POST-GRADUATE COURSE
Term End Examination : June 2017
COMMERCE

Paper – V: Direct and Indirect Taxation

Time : 2 Hours

Full Marks : 50
(Weightage of Marks : 80%)

Special credit will be given for accuracy and relevance in the answer. Marks will be deducted for incorrect spelling, untidy work and illegible handwriting. The weightage for each question has been indicated in the margin.

MODULE – I

Answer any *two* questions : 12½ × 2 = 25

1. a) Explain the terms 'Business', 'Profession' and 'Vocation'.
b) What is meant by self assessment tax? 6 + 6½
2. a) Discuss the tax implications if there is any income in the hands of recipient in case of discontinued business.
b) Briefly discuss the provisions of Section 80-IC in respect of condition to be fulfilled, amount of deduction and applicable states. 4 + 8½
3. a) XYZ Ltd. Co. furnished the following information :
(i) Total income Rs. 10,50,000
(ii) Book Profit Rs. 3,75,000
Calculate the tax liability of the company and its implication.
b) State the provisions of Section 210 of the Income Tax Act. 6 + 6½
4. a) From the following particulars, compute gross total income of Mr. K for the assessment year 2016-17 :
(i) Loss under the head income from house property — Rs. 25,000.
(ii) Income from business — Rs. 75,000.
(iii) Profit from speculation business — Rs. 5,000.
(iv) Long-term capital gain — Rs. 30,000.
(v) Short-term capital loss — Rs. 2,000.
(vi) Business loss of 2014-15 — Rs. 5,000.

- b) State the clubbing provision in respect of minor child. 6 + 6½

MODULE-II

Answer any *two* questions : 12½ × 2 = 25

5. a) State the applicability of Central Sales Tax.
b) Write the salient features of VAT. 6½ + 6
6. a) State the different schedules of WB VAT Act.
b) What is meant by 'Sale by transfer of documents' under the Central Sales Tax? 6 + 6½
7. State the provision of refund of custom duty which has already paid. 12½
8. Write short notes on :
a) Excisable goods
b) 'Manufacture' as per Central Excise Act
c) Anti-Dumping duty. 4 + 4 + 4½