CHAPTER 1: GST INTRODUCTION

PART 1: ROAD MAP OF GST

1. If we look back the history, the idea of national GOOD AND SERVICES TAX (GST) was mooted by Kelkar Task Force in 2004. The task force strongly recommended fully integrated ‘GST’ on national basis.

2. In his budget speech on 28th February, 2006, P. Chidambaram, then Finance Minister announced the target date for implementation of GST to be 1st April, 2010 and formed another empowered committee of State Finance Ministers to design the road map.

3. The implementation of GST was assigned to the Empowered Committee of State Finance Ministers (EC).

4. In April, 2008, the EC (Empowered Committee) submitted a report, titled “A Model and Road map for Goods and Services Tax (GST) in India” containing broad recommendations about the structure and design of GST.

5. A dual GST model for the country has been proposed by the EC (Empowered Committee).

6. This dual GST model has been accepted by centre.

7. Under this model GST have two components viz. Central GST to be levied and collected by the Centre and the State GST to be levied and collected by the respective States. Central Excise duty, Additional Excise duty, Service Tax, and Additional duty of Customs (equivalent to Excise), State VAT, Entertainment Tax, Taxes on lotteries, Betting and Gambling and Entry tax (not levied by local bodies) would be subsumed within GST.

8. France was the first country to implement GST in the year 1954. Within 62 years of its origin, about 160 countries across the world have adopted GST because this tax has the capacity to raise the revenue in the most disciplined manner

Existing Indirect Tax Structure in India

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PART 2: ADMINISTRATION

Section 3: officers under this Act
The Government shall, by notification, appoint the following classes of officers for the purposes of this Act, namely:—
(a) Principal Chief Commissioners of Central tax or Principal Directors General of Central tax,
(b) Chief Commissioners of Central tax or Directors General of Central tax,
(c) Principal Commissioners of Central tax or Principal Additional Directors General of Central tax,
(d) Commissioners of Central tax or Additional Directors General of Central tax,
(e) Additional Commissioners of Central tax or Additional Directors of Central tax,
(f) Joint Commissioners of Central tax or Joint Directors of Central tax,
(g) Deputy Commissioners of Central tax or Deputy Directors of Central tax,
(h) Assistant Commissioners of Central tax or Assistant Directors of Central tax, and
(i) such other class of officers as may be appointed for the purposes of this Act.
Provided that the officers appointed under the Central Excise Act, 1944 shall be deemed to be the officers appointed under the provisions of this Act.

Section 4: Appointment of officers
(1) The Board may, in addition to the officers as may be notified by the Government under section 3, appoint such persons as it may think fit to be the officers under this Act.
(2) Without prejudice to the provisions of sub-section (1), the Board may, by order, authorise any officer referred to in clauses (a) to (h) of section 3 to appoint officers of central tax below the rank of Assistant Commissioner of central tax for the administration of this Act.

Section 5: Powers of officers
(1) Subject to such conditions and limitations as the Board may impose, an officer of central tax may exercise the powers and discharge the duties conferred or imposed on him under this Act.
(2) An officer of central tax may exercise the powers and discharge the duties conferred or imposed under this Act on any other officer of central tax who is subordinate to him.
(3) The Commissioner may, subject to such conditions and limitations as may be specified in this behalf by him, delegate his powers to any other officer who is subordinate to him.
(4) Notwithstanding anything contained in this section, an Appellate Authority shall not exercise the powers and discharge the duties conferred or imposed on any other officer of central tax.
Section 6: Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances

(1) Without prejudice to the provisions of this Act, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such conditions as the Government shall, on the recommendations of the Council, by notification, specify.

(2) Subject to the conditions specified in the notification issued under sub-section (1),—
   (a) where any proper officer issues an order under this Act, he shall also issue an order under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as authorised by the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, under intimation to the jurisdictional officer of State tax or Union territory tax; (b) where a proper officer under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act has initiated any proceedings on a subject matter, no proceedings shall be initiated by the proper officer under this Act on the same subject matter.

(3) Any proceedings for rectification, appeal and revision, wherever applicable, of any order passed by an officer appointed under this Act shall not lie before an officer appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act.
PART 1: BASIC CONCEPTS

1. Constitution of India is popularly known as “MOTHER OF ALL LAWS” without a provision in constitution no law can be inserted.

2. **Power to levy tax:**

   *Article no 265:* Taxes not to be imposed save by authority of law. No tax shall be levied or collected except by authority of law.

3. **Is the word tax defined in constitution of India and if yes whether the definition is inclusive or exhaustive?**

   - *Article 366(28):* taxation includes the imposition of any tax or impost, whether general or local or special, and tax shall be construed accordingly;
   - *Refer case of Kesoram Industries Ltd*

4. **'Consolidated Fund'**

   - *Definition:* Consolidated Fund of India is the most important of all government accounts. Revenues received by the government and expenses made by it, excluding the exceptional items, are part of the Consolidated Fund.
   - *Description:* This fund was constituted under Article 266 (1) of the Constitution of India. All revenues received by the government by way of direct taxes and indirect taxes, money borrowed and receipts from loans given by the government flow into the Consolidated Fund of India.
   - All government expenditure is made from this fund, except exceptional items which are met from the Contingency Fund or the Public Account. Importantly, no money can be withdrawn from this fund without the Parliament’s approval.

5. **The Contingency Fund of India**

   - The Contingency Fund of India established under Article 267 (1) of the Constitution is in the nature of an imprest (money maintained for a specific purpose) which is placed at the disposal of the President to enable him/her to make advances to meet urgent unforeseen expenditure, pending authorization by the Parliament.
   - Approval of the legislature for such expenditure and for withdrawal of an equivalent amount from the Consolidated Fund is subsequently obtained to ensure that the corpus of the Contingency Fund remains intact.
• The corpus for Union Government at present is Rs 500 crore (Rs 5 billion) and is enhanced from time to time by the Union Legislature. The Ministry of Finance operates this Fund on behalf of the President of India.

6. **Can Constitution of India be amended?**
   Yes, but parliament has limited power to amend the constitution

**PART 2: CONSTITUTIONAL AMENDMENTS**

**THE CONSTITUTION (ONE HUNDRED AND TWENTY-SECOND AMENDMENT) BILL, 2014**

**Insertion of new article 246A**

(1) After article 246 of the Constitution, the following article shall be inserted, namely:—

"246A. (1) Notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.

(2) Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

Explanation: The provisions of this article, shall, in respect of goods and services tax referred to in clause (5), of article 279A, take effect from the date recommended by the Goods and Services Tax Council."

**Insertion of new article 269A: Levy and collection of goods and services tax in course of inter State trade or commerce.**

After article 269 of the Constitution, the following article shall be inserted, namely:—

"269A.

(1) Goods and services tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

**Explanation:** For the purposes of this clause, supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.

(2) Parliament may, by law, formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce."
Insertion of new article 279A: Goods and Services Tax Council.

“279A.

(1) The President shall, within sixty days from the date of commencement of the Constitution (One Hundred and Twenty-second Amendment) Act, 2014, by order, constitute a Council to be called the Goods and Services Tax Council.

(2) The Goods and Services Tax Council shall consist of the following members, namely:
   (a) the Union Finance Minister........................ Chairperson;
   (b) the Union Minister of State in charge of Revenue or Finance.................. Member;
   (c) the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government................. Members.

(3) The Members of the Goods and Services Tax Council referred to in sub-clause (c) of clause (2) shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide.

(4) The Goods and Services Tax Council shall make recommendations to the Union and the States on—
   (a) the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax;
   (b) the goods and services that may be subjected to, or exempted from the goods and services tax;
   (c) model Goods and Services Tax Laws, principles of levy, apportionment of Integrated Goods and Services Tax and the principles that govern the place of supply;
   (d) the threshold limit of turnover below which goods and services may be exempted from goods and services tax;
   (e) the rates including floor rates with bands of goods and services tax;
   (f) any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;
   (g) special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and
   (h) any other matter relating to the goods and services tax, as the Council may decide.

(5) The Goods and Services Tax Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.

(6) While discharging the functions conferred by this article, the Goods and Services Tax Council shall be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.

(7) One half of the total number of Members of the Goods and Services Tax Council shall constitute the quorum at its meetings.

(9) Every decision of the Goods and Services Tax Council shall be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the members present and voting, in accordance with the following principles, namely:
(a) the vote of the Central Government shall have a weightage of one third of the total votes cast, and
(b) the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast, in that meeting.

(10) No act or proceedings of the Goods and Services Tax Council shall be invalid merely by reason of—
(a) any vacancy in, or any defect in, the constitution of the Council; or
(b) any defect in the appointment of a person as a member of the Council; or
(c) any procedural irregularity of the Council not affecting the merits of the case.

(11) The Goods and Services Tax Council may decide about the modalities to resolve disputes arising out of its recommendation.”

**Amendment of article 366.**
In article 366 of the Constitution,
(i) after clause (12), the following clause shall be inserted, namely:— ‘(12A) “goods and services tax” means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption;’;
(ii) after clause (26), the following clauses shall be inserted, namely:— ‘(26A) “Services” means anything other than goods; (26B) “State” with reference to articles 246A, 268, 269, 269A and article 279A includes a Union territory with Legislature’.

**Amendment of Seventh Schedule.**
In the Seventh Schedule to the Constitution,

(a) in List I — Union List,—
(i) for entry 84, the following entry shall be substituted, namely:— "84. Duties of excise on the following goods manufactured or produced in India, namely:— (a) petroleum crude; (b) high speed diesel; (c) motor spirit (commonly known as petrol); (d) natural gas; (e) aviation turbine fuel; and (f) tobacco and tobacco products.”;
(ii) entries 92 and 92C shall be omitted;

(b) in List II — State List,—
(i) entry 52 shall be omitted;
(ii) for entry 54, the following entry shall be substituted, namely:— "54. Taxes on the sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption, but not including sale in the course of inter-State trade or
commerce or sale in the course of international trade or commerce of such goods."

(iii) entry 55 shall be omitted; (iv) for entry 62, the following entry shall be substituted, namely:— "62. Taxes on entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District Council.".

Compensation to States for loss of revenue on account of introduction of goods and services tax.

Parliament may, by law, on the recommendation of the Goods and Services Tax Council, provide for compensation to the States for loss of revenue arising on account of implementation of the goods and services tax for such period which may extend to five years.

Q1. WHETHER ROYALTY IS A TAX?

State Of West Bengal vs Kesoram Industries Ltd. And Ors on 15 January, 2004

1. Such a question may not strictly arise for consideration in this case as royalty is a statutory impost. Royalty stricto sensu and in common parlance may not be a tax.
2. having regard to the definition of taxation contained in Clause 28 of Article 366 of the Constitution of India, there may not be any dispute that royalty being a statutory impost would come within the purview thereof.
3. A royalty may not be a tax in its usual sense as has been held in Quarry Owners’ Association v. State of Bihar and Ors. [(2000) 8 SCC 655] but the question as to whether it will come within the purview of Clause 28 of Article 366 of the Constitution of India or not has not been considered in any of the judgments.

Q2. AMENDMENTS TO CONSTITUTION OF INDIA

Section 55 of the 42nd Amendment, had added clauses (4) and (5) to Article 368 of the Constitution which read:

(4) No amendment of this Constitution (including the provisions of Part III) made or purporting to have been made under this article whether before or after the commencement of section 55 of the Constitution (Forty-second Amendment) Act, 1976 shall be called in question in any court on any ground.

(5) For the removal of doubts, it is hereby declared that there shall be no limitation whatever on the constituent power of Parliament to amend by way of addition, variation or repeal the provisions of this Constitution under this article.

Answer:

The above clauses were unanimously ruled as unconstitutional. Chief Justice Yeshwant Vishnu Chandrachud explained in his opinion that since, as had been previously held in Kesavananda Bharati v. State of Kerala, the power of Parliament to amend the constitution was limited, it could not by amending the
constitution convert this limited power into an unlimited power (as it had purported to do by the 42nd amendment).

Since the Constitution had conferred a limited amending power on the Parliament, the Parliament cannot under the exercise of that limited power enlarge that very power into an absolute power. Indeed, a limited amending power is one of the basic features of our Constitution and therefore, the limitations on that power can not be destroyed. In other words, Parliament can not, under Article 368, expand its amending power so as to acquire for itself the right to repeal or abrogate the Constitution or to destroy its basic and essential features. The donee of a limited power cannot be the exercise of that power convert the limited power into an unlimited one.[4]

Minerva Mills Ltd. and Ors. v. Union Of India and Ors.

In the Minerva Mills case, the Supreme Court provided key clarifications on the interpretation of the basic structure doctrine. The court unanimously ruled that the power of the Parliament of India to amend the constitution is limited by the constitution. Hence the parliament cannot exercise this limited power to grant itself an unlimited power. In addition, a majority of the court also held that the parliament's power to amend is not a power to destroy. Hence the parliament cannot emasculate the fundamental rights of individuals, including the right to liberty and equality.

PART 3: ROAD MAP OF GST

1. If we look back the history, the idea of national GOOD AND SERVICES TAX (GST) was mooted by Kelkar Task Force in 2004. The task force strongly recommended fully integrated ‘GST’ on national basis.
2. In his budget speech on 28th February, 2006, P. Chidambaram, then Finance Minister announced the target date for implementation of GST to be 1st April, 2010 and formed another empowered committee of State Finance Ministers to design the road map.
3. The implementation of GST was assigned to the Empowered Committee of State Finance Ministers (EC).
4. In April, 2008, the EC (Empowered Committee) submitted a report, titled “A Model and Road map for Goods and Services Tax (GST) in India” containing broad recommendations about the structure and design of GST.
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### PART 4: ADMINISTRATION

**Section 3: officers under this Act**
The Government shall, by notification, appoint the following classes of officers for the purposes of this Act, namely:—

(a) Principal Chief Commissioners of Central tax or Principal Directors General of Central tax,

(b) Chief Commissioners of Central tax or Directors General of Central tax,

(c) Principal Commissioners of Central tax or Principal Additional Directors General of Central tax,

(d) Commissioners of Central tax or Additional Directors General of Central tax,

(e) Additional Commissioners of Central tax or Additional Directors of Central tax,

(f) Joint Commissioners of Central tax or Joint Directors of Central tax,

(g) Deputy Commissioners of Central tax or Deputy Directors of Central tax,

(h) Assistant Commissioners of Central tax or Assistant Directors of Central tax, and

(i) such other class of officers as may be appointed for the purposes of this Act.

Provided that the officers appointed under the Central Excise Act, 1944 shall be deemed to be the officers appointed under the provisions of this Act.
Section 4: Appointment of officers

(1) The Board may, in addition to the officers as may be notified by the Government under section 3, appoint such persons as it may think fit to be the officers under this Act.

(2) Without prejudice to the provisions of sub-section (1), the Board may, by order, authorise any officer referred to in clauses (a) to (h) of section 3 to appoint officers of central tax below the rank of Assistant Commissioner of central tax for the administration of this Act.

Section 5: Powers of officers

(1) Subject to such conditions and limitations as the Board may impose, an officer of central tax may exercise the powers and discharge the duties conferred or imposed on him under this Act.

(2) An officer of central tax may exercise the powers and discharge the duties conferred or imposed under this Act on any other officer of central tax who is subordinate to him.

(3) The Commissioner may, subject to such conditions and limitations as may be specified in this behalf by him, delegate his powers to any other officer who is subordinate to him.

(4) Notwithstanding anything contained in this section, an Appellate Authority shall not exercise the powers and discharge the duties conferred or imposed on any other officer of central tax.

Section 6: Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances

(1) Without prejudice to the provisions of this Act, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such conditions as the Government shall, on the recommendations of the Council, by notification, specify.

(2) Subject to the conditions specified in the notification issued under sub-section (1),—

(a) where any proper officer issues an order under this Act, he shall also issue an order under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as authorised by the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, under intimation to the jurisdictional officer of State tax or Union territory tax; (b) where a proper officer under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act has initiated any proceedings on a subject matter, no proceedings shall be initiated by the proper officer under this Act on the same subject matter.

Any proceedings for rectification, appeal and revision, wherever applicable, of any order passed by an officer appointed under this Act shall not lie before an officer appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act.

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5.8
CHAPTER 7 - GST: CONCEPT OF SUPPLY (SEC 7 AND 8)

PART 1: DEFINITION OF SUPPLY

Section 7: Definition of supply.

(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, license, 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; AND

(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.

(1A) of the CGST Act stipulates that where certain activities or transactions, constitute a supply in accordance with the provisions of section 7(1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.

(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.

(3) Subject to the provisions of sub-sections (1), (1A) 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.
PART 2: INTERPRITATION

Weather the term INCLUDE enhance or restrict the scope of definition

C.I.T. Andhra Pradesh V. M/S Taj Mahal Hotel, Secunderabad on 12 August, 1971

It was held by the supreme court that The word 'includes' is generally used to enlarge the meaning of words or phrases used in the statute so that, words and phrases may be construed as comprehending not only such things as they signify according to their nature and import, but also these things which the interpretation clause declares that they shall include.

What is the scope of GOODS and SERVICES under GST?

Refer chapter 3

Scope of the term “such as”

Answer:

IN COCA COLA INDIA PVT. LTD V. CCE (2009) the Hon. Bombay High Court held that the use of the word such as the activity specified therein is not exhaustive and accordingly will be considered as an examples.

Describe the scope of consideration under GST?

Section 2(31) of CGST act, 2017 defines consideration as follow:

In relation to the supply of goods or services includes

(a) Any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

(b) The monetary value of any act or forbearance, whether or not voluntary, in respect of, in response to, or for the inducement of, the supply of goods or services, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:

PROVIDED that a deposit, whether refundable or not, given in respect of the supply of goods or services shall not be considered as payment made for the supply unless the supplier applies the deposit as consideration for the supply;

What is the scope of business in GST?

As per section 2(17) 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; and

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;

Explanation.- Any activity or transaction undertaken by the Central Government, a State
Government or any local authority in which they are engaged as public authorities shall
be deemed to be business

PART 3 - SCHEDULE I: ACTIVITIES TO BE TREATED AS
SUPPLY EVEN IF MADE WITHOUT CONSIDERATION

1. Permanent transfer or disposal of business assets where input tax credit has been
availed on such assets.

2. Supply of goods or services or both between related persons or between distinct
persons as specified in section 25, when made in the course or furtherance of
business:

Provided that gifts not exceeding fifty thousand rupees in value in a financial year by
an employer to an employee shall not be treated as supply of goods or services or
both.

3. Supply of goods—

(a) by a principal to his agent where the agent undertakes to supply such goods on
behalf of the principal; or

(b) by an agent to his principal where the agent undertakes to receive such goods
on behalf of the principal.

4. Import of services by a taxable person person from a related person or from any of
his other establishments outside India, in the course or furtherance of business.

RELATED PERSON: Explanation to Section 15 of CGST Act provides -

(a) persons shall be deemed to be “related persons” if –

a) such persons are officers or directors of one another’s businesses;

b) such persons are legally recognised partners in business

c) such persons are employer and employee;
d) any person directly or indirectly owns, controls or holds twenty-five per cent or
more of the outstanding voting stock or shares of both of them;
e) one of them directly or indirectly controls the other;
f) both of them are directly or indirectly controlled by a third person

g) together they directly or indirectly control a third person; or
h) they are members of the same family;

(b) the term “person” also includes legal persons;

(c) Persons who are associated in the business of one another in that one is the sole
agent or sole distributor or sole concessionaire, howsoever described, of the other, shall
be deemed to be related.

DISTINCT PERSON UNDER SECTION 25

(4) A person who has obtained or is required to obtain more than one registration,
whether in one State or Union territory or more than one State or Union territory
shall, in respect of each such registration, be treated as distinct persons for the
purposes of this Act.

(5) Where a person who has obtained or is required to obtain registration in a State or
Union territory in respect of an establishment, has an establishment in another State
or Union territory, then such establishments shall be treated as establishments of
distinct persons for the purposes of this Act.

PRINCIPAL AND AGENT SCOPE

Circular No. 57/31/2018-GST

Scope of Principal-agent relationship in the context of Schedule I of the CGST Act
regarding.

• Here also, it is worth noticing that all the activities between the principal and the
agent and vice versa do not fall within the scope of the said entry.

• The key ingredient for determining relationship under GST would be whether the
invoice for the further supply of goods on behalf of the principal is being issued by
the agent or not.

• Where the invoice for further supply is being issued by the agent in his name then,
any provision of goods from the principal to the agent would fall within the fold of
the said entry.

• However, it may be noted that in cases where the invoice is issued by the agent to
the customer in the name of the principal, such agent shall not fall within the ambit
of Schedule I of the CGST Act.

• Similarly, where the goods being procured by the agent on behalf of the principal
are invoiced in the name of the agent then further provision of the said goods by the
agent to the principal would be covered by the said entry. In other words, the crucial
point is whether or not the agent has the authority to pass or receive the title of the
goods on behalf of the principal.
IMPORT OF SERVICES

- For a consideration: section 7
- Not for a consideration: schedule 1
PART 4: SCHEDULE II ACTIVITIES TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

Section 7(1A) of the CGST Act stipulates that where certain activities or transactions, constitute a supply in accordance with the provisions of section 7(1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.

Transfer
(a) any transfer of the title in goods is a supply of goods;

(b) any transfer of right in goods or of undivided share in goods without the transfer of title thereof, is a supply of services;

(c) any 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, is a supply of goods.

Land and Building
(a) any lease, tenancy, easement, licence to occupy land is a supply of services;

(b) any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.

Treatment or process:
Any treatment or process which is applied to another person's goods is a supply of services.

Transfer of business assets
(a) 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;

(b) where, by or under the direction of a person carrying on a business, 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 a supply of services;

(c) where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him 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.

**Supply of services**

The following shall be treated as supply of services, namely:

(a) renting of immovable property;

(b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.

(1) *Explanation*: For the purposes of this clause—

(2) the expression "competent authority" means the Government or any authority authorised to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely:—

(i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972; or

(ii) a chartered engineer registered with the Institution of Engineers (India); or

(iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority;

(3) the expression "construction" includes additions, alterations, replacements or remodelling of any existing civil structure;

(c) temporary transfer or permitting the use or enjoyment of any intellectual property right;

(d) development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;

(e) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and

(f) transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.
**Composite supply**

The following composite supplies shall be treated as a supply of services, namely:

(a) works contract as defined in clause (119) of section 2; and

(b) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.

**Supply of Goods**

The following shall be treated as supply of goods, namely: Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.
PART 5: SCHEDULE III: NEGATIVE LIST

ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES

1. Services by an employee to the employer in the course of or in relation to his employment.

2. Services by any court or Tribunal established under any law for the time being in force.

3. (a) the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;

   (b) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or

   (c) 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, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

6. Actionable claims, other than lottery, betting and gambling.

7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.

8. (a) Supply of warehoused goods to any person before clearance for home consumption;

   (b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.“; (ii) the Explanation shall be numbered as Explanation 1 and after

   Explanation 1 as so numbered, the following Explanation shall be inserted, namely:—

   ‘Explanation 2.—For the purposes of paragraph 8, the expression “warehoused goods” shall have the same meaning as assigned to it in the Customs Act, 1962.’.
SERVICES AS A PUBLIC AUTHORITY

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.

1) The Central Government vide Notification No. 14/2017-CT (Rate) dated 28-6-2017 w.e.f, 1-7-2017 as amended by Notification No. 16/2018-CT (Rate) dated 26-07-2018 w.e.f. 27-07-2018 has notified that Services by way of any activity in relation to a function entrusted to a Panchayat under Article 243G of the Constitution or to a Municipality under article 243W of the Constitution undertaken by the Central Government or State Government or Union Territory or any local authority in which they are engaged as public authority shall be treated neither as a supply of goods nor a supply of service.

2) The Central Government vide Notification No. 25/2019-CT(Rate) dated 30-09-2019 w.e.f. 30-09-2019 has notified that Service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name it is called when undertaken by the State Governments in which they are engaged as public authorities, shall be treated neither as a supply of goods nor a supply of service.

Explanation:
For the purposes of paragraph 2, the term "court" includes District Court, High Court and Supreme Court.

SUPPLY OF SERVICES BY THE EMPLOYEE TO THE EMPLOYER

| Paper-setters /Examiners | Service: An expert setting question paper for examination working as an invigilator for ICAI or other bodies doesn't provide service in the employment. His activity amounts to supply of services. |
| Director of a company | An executive director is generally an employee of the company. However, a non-executive director of the company, when he acts as an agent, or generally, independent directors, nominee directors, etc. cannot be considered as an employee of the company. Hence, their activities for consideration are not excluded from supply. Accordingly, sitting-fee/commission payable to them by the company is liable to GST. |
| Services provided otherwise than in course of employment | Only services that are provided by the employee to the employer in the course of employment are outside the ambit of supply. Services provided outside ambit of employment for |

7.10
| **Taxable:** | a consideration would be a service. For example, if an employee provides his services on contract basis to an associate company of the employer, then this would be treated as provision of supply of services. |
| **Services provided on contract basis - Principal-to-Principal – Taxable** | Services provided on contract basis i.e. principal-to-principal basis by a person to another cannot be treated as supply of services in the course of employment. |
| **premature termination of contract of employment** | Such amounts paid by the employer to the employee for premature termination of a contract of employment are treatable as amounts paid in relation to services provided by the employee to the employer in the course of employment. Hence, amounts so paid would not be chargeable to GST. |
| **Non-compete fees - Taxable:** | However, any amount paid for not joining a competing business would be taxable, as it is paid for providing the service of forbearance to act. |
| **Status of services provided by casual workers or contract labour:** | **If.....** Services provided by casual worker to employer who gives wages on daily basis to the worker. **Then....** These are services provided by the worker in the course of employment. Casual workers are employed by a contractor, like a building contractor or a security services agency, who deploys them for execution of a contract or for provision of security services to a client. Services provided by the workers to contractor are services in the course of employment & hence not taxable. 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 by employer to employee** | **Services provided for consideration** If employer provides services to its employees for consideration, such services are chargeable to GST, as there is no exclusion. However goods given as a gift by employer to employee upto Rs.50,000 will be exempt from tax. |
PART 6: DIFFERENT TYPES OF SUPPLIES UNDER THE GST LAW?

(i) Taxable and exempt supplies;
(ii) Inter-State and Intra-State supplies;
(iii) Composite and mixed supplies; and
(iv) Zero rated supplies.

"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 under Section 11, or under Section 6 of the IGST Act, and
- includes non-taxable supply. (Section 2(47)]

"Taxable supply" means a supply of goods or services or both which is leviable to tax under this Act. [Section 2(108)]

For a transaction to qualify as a taxable supply, the following components are compulsory:
- The transaction must involve either goods or services, or both of them;
- Such goods or services should not be specified under Schedule III (neither a supply of goods nor a supply of services);
- The transaction should fall within the meaning of 'supply' in terms of Section 7 of the CGST Act;
- The supply should be leviable to GST.

"Non-taxable supply" means —
- a supply of goods or services or both
- which is not leviable to tax
  ✓ under this Act or
  ✓ under the Integrated Goods and Services Tax Act. [Section 2(78)]

A transaction must be a 'supply' as defined under the GST law, to qualify as a non-taxable supply under the GST law.
The following aspects need to be noted:
- Supplies that are excluded from the scope of taxation under GST are covered by this definition - i.e., alcoholic liquor for human consumption.
- Stock transfers to unit within the State for which no separate registration is obtained, which does not qualify as a 'supply' as defined under Section 7 of the CGST Act, cannot be said to be a non-taxable supply.
- Transactions specified in Schedule III which are treated as neither a supply of
goods nor a supply of services, would also not qualify as non-taxable supplies.

 Supplies that enjoy the benefit of being wholly exempted from taxes, nil-rated supplies and zero-rated supplies are also not covered under the ambit of 'non-taxable supplies' given that the goods or services are in fact liable to tax, and such tax is exempted by virtue of an exemption notification, or the tax rate is nil.

"Inward supply" in relation to a person, shall mean receipt of goods or services or both—

• whether by purchase, acquisition or any other means
• with or without consideration. [Section 2(67)]

"Outward supply" —

• in relation to a taxable person,
• means supply of goods or services or both, whether by —
  - sale, transfer, barter, exchange,
  - licence, rental, lease or
  - disposal or
  - any other mode,
• made or agreed to tie made by such person in the course or furtherance of business. [Section 2(83)]
PART 7: CIRCULARS

Circular No. 93/12/2019-GST
8th March, 2019

Subject: Nature of Supply of Priority Sector Lending Certificates (PSLC) – regarding

1. Representations have been received requesting to clarify whether IGST or CGST/SGST is payable for trading of PSLC by the banks on e-Kuber portal of RBI.

2. In this regard, it is stated that Circular No. 62/36/2018-GST dated 12.09.2018 was issued clarifying that GST on PSLCs for the period 1.7.2017 to 27.05.2018 will be paid by the seller bank on forward charge basis and GST rate of 12% will be applicable on the supply. Further, Notification No. 11/2018-Central Tax (Rate) dated 28.05.2018 was issued levying GST on PSLC trading on reverse charge basis from 28.05.2018 onwards to be paid by the buyer bank.

3. It is further clarified that nature of supply of PSLC between banks may be treated as a supply of goods in the course of inter-State trade or commerce. Accordingly, IGST shall be payable on the supply of PSLC traded over e-Kuber portal of RBI for both periods i.e 01.07.2017 to 27.05.2018 and from 28.05.2018 onwards. However, where the bank liable to pay GST has already paid CGST/SGST or CGST/UTGST as the case may be, such banks for payment already made, shall not be required to pay IGST towards such supply.

4. Difficulty, if any, in the implementation of this circular may be brought to the notice of the Board immediately.

Circular No. 73/47/2018-GST (DCA – SCH I)

DCA - OPERATION

• In commercial trade parlance, a DCA is a selling agent who is engaged by a principal to assist in supply of goods or services by contacting potential buyers on behalf of the principal.

• The factor that differentiates a DCA from other agents is that the DCA guarantees the payment to the supplier.

• In such scenarios where the buyer fails to make payment to the principal by the due date, DCA makes the payment to the principal on behalf of the buyer (effectively providing an insurance against default by the buyer), and for this reason the commission paid to the DCA may be relatively higher than that paid to a normal agent.

• In order to guarantee timely payment to the supplier, the DCA can resort to various methods including extending short-term transaction-based loans to the buyer or paying the supplier himself and recovering the amount from the buyer with some interest at a later date.

• This loan is to be repaid by the buyer along with an interest to the DCA at a rate mutually agreed between DCA and buyer. Concerns have been expressed regarding the valuation of supplies from Principal to recipient where the payment for such supply is being discharged by the recipient through the loan provided by DCA or by the DCA himself.
Issues arising out of such loan arrangement have been examined and the clarifications on the same are as below:

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| Whether a DCA falls under the ambit of agent under Para 3 of Schedule I of the CGST Act? | As already clarified vide circular No. 57/31/2018-GST dated 4th September, 2018,  
  • In case where the invoice for supply of goods is issued by the supplier to the customer, either himself or through DCA, the DCA does not fall under the ambit of agent.  
  • In case where the invoice for supply of goods is issued by the DCA in his own name, the DCA would fall under the ambit of agent. |
| Whether the temporary short-term transaction based loan extended by the DCA to the recipient (buyer), for which interest is charged by the DCA, is to be included in the value of goods being supplied by the supplier (principal) where DCA is not an agent under Para 3 of Schedule I of the CGST Act? | In such a scenario following activities are taking place:  
  1. Supply of goods from supplier (principal) to recipient;  
  2. Supply of agency services from DCA to the supplier or the recipient or both;  
  3. Supply of extension of loan services by the DCA to the recipient.  
  • It is clarified that in cases where the DCA is not an agent under Para 3 of Schedule I of the CGST Act, the temporary short-term transaction based loan being provided by DCA to the buyer is a supply of service by the DCA to the recipient on Principal to Principal basis and is an independent supply.  
  • Therefore, the interest being charged by the DCA would not form part of the value of supply of goods supplied (to the buyer) by the supplier.  
  • It may be noted that vide notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017 (S. No. 27), services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) has been exempted. |
| Where DCA is an agent under Para 3 of Schedule I of the CGST Act and makes payment to the principal on behalf of the buyer and charges interest to the buyer for delayed payment along with the value of goods being supplied, whether the interest will form a part of the value of | In such a scenario following activities are taking place:  
  1. Supply of goods by the supplier (principal) to the DCA;  
  2. Further supply of goods by the DCA to the recipient;  
  3. Supply of agency services by the DCA to the supplier or the recipient or both;  
  4. Extension of credit by the DCA to the recipient.  
  • It is clarified that in cases where the DCA is an agent under Para 3 of Schedule I of the CGST Act, the temporary short-term transaction based credit being provided by DCA to the buyer no longer retains its character of an independent supply and is subsumed |

7.15
supply of goods also or not?
in the supply of the goods by the DCA to the recipient.
• It is emphasised that the activity of extension of credit by the DCA to the recipient would not be considered as a separate supply as it is in the context of the supply of goods made by the DCA to the recipient.
• It is further clarified that the value of the interest charged for such credit would be required to be included in the value of supply of goods by DCA to the recipient as per clause (d) of sub-section (2) of section 15 of the CGST Act.

Circular No. 76/50/2018
31-12-2018

Issue:
Whether the supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap by Government departments are taxable under GST?

Clarification:
(1) Supply of used vehicles, seized and confiscated goods by Government - falls under the ambit of taxable supply: It may be noted that intra-State and inter-state supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap made by the Central Government, State Government, Union territory or a local authority is a taxable supply under GST.
(2) Supply to registered person - Taxability on the reverse charge basis: Intra-State and inter-State supply respectively of used vehicles, seized and confiscated goods, old and used goods, waste and scrap by the Central Government, State Government, Union territory or a local authority to any registered person, would be subject to GST on reverse charge basis as per which tax is payable by the recipient of such supplies.
(3) Supply to unregistered person - Government to pay GST on forward charge basis: Such supply to an unregistered person is also a taxable supply under GST and the respective Government departments (i.e. Central Government, State Government, Union territory or a local authority) shall be liable to get registered and pay GST on intra-State and inter-State supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap made by them to an unregistered person subject to the provisions of sections 22 and 24 of the CGST Act

Circular No.44/18/2018-CGST

Issue related to taxability of ‘tenancy rights’ under GST- regarding
Doubts have been raised as to,-
(i) Whether transfer of tenancy rights to an incoming tenant, consideration for which is in form of tenancy premium, shall attract GST when stamp duty and registration charges is levied on the said premium, if yes what would be the applicable rate?
(j) Further, in case of transfer of tenancy rights, a part of the consideration for such transfer accrues to the outgoing tenant, whether such supplies will also attract GST?
ISSUE
The issue has been examined. The transfer of tenancy rights against tenancy premium which is also known as “pagadi system” is prevalent in some States. In this system the tenant acquires, tenancy rights in the property against payment of tenancy premium (pagadi). The landlord may be owner of the property but the possession of the same lies with the tenant. The tenant pays periodic rent to the landlord as long as he occupies the property. The tenant also usually has the option to sell the tenancy right of the said property and in such a case has to share a percentage of the proceed with owner of land, as laid down in their tenancy agreement. Alternatively, the landlord pays to tenant the prevailing tenancy premium to get the property vacated. Such properties in Maharashtra are governed by Maharashtra Rent Control Act, 1999

Clarification
• As per section 9(1) of the CGST Act there shall be levied central tax on the intra-State supplies of services.
• The activity of transfer of tenancy right against consideration in the form of tenancy premium is a supply of service liable to GST. It is a form of lease or renting of property and such activity is specifically declared to be a service in para 2 of Schedule II i.e. any lease, tenancy, easement, licence to occupy land is a supply of services
• The contention that stamp duty and registration charges is levied on such transfers of tenancy rights, and such transaction thus should not be subjected to GST, is not relevant.
• Merely because a transaction or a supply involves execution of documents which may require registration and payment of registration fee and stamp duty, would not preclude them from the scope of supply of goods and services and from payment of GST. The transfer of tenancy rights cannot be treated as sale of land or building declared as neither a supply of goods nor of services in para 5 of Schedule III to CGST Act, 2017. Thus a consideration for the said activity shall attract levy of GST
• To sum up, the activity of transfer of ‘tenancy rights’ is squarely covered under the scope of supply and taxable per-se. Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable.
• However, renting of residential dwelling for use as a residence is exempt [Sl. No. 12 of notification No. 12/2017-Central Tax(Rate)].
• Hence, grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both is exempt. As regards services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is liable to GST
Circular No. 35/09/2018-GST

Subject: Joint Venture- taxable services provided by the members of the Joint Venture (JV) to the JV and vice versa and inter se between the members of the JV-

a. GST is levied on intra-State and inter-State supply of goods and services.

b. According to section 7 of CGST Act, 2017, the expression “supply” 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 a consideration by a person in the course or furtherance of business, and includes activities specified in Schedule II to the CGST Act, 2017.

c. The definition of “business” in section 2(17) of CGST Act states that “business” includes 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.

d. The term person is defined in section 2(84) of the CGST Act, 2017 to include an association of persons or a body of individuals, whether incorporated or not, in India or outside India.

e. Further, Schedule II of CGST Act, 2017 enumerates activities which are to be treated as supply of goods or as supply of services. It states in para 7 that supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration shall be treated as supply of goods.

f. A conjoint reading of the above provisions of the law implies that supply of services by an unincorporated association or body of persons (AOP) to a member thereof for cash, deferred payment or other valuable consideration shall be treated as supply of services.

g. The above entry in Schedule II is analogous to and draws strength from the provision in Article 366(29A)(e) of the Constitution according to which a tax on the sale or purchase of goods includes a tax on the supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.

h. Therefore, the law with regard to levy of GST on service supplied by member of an unincorporated joint venture (JV) to the JV or to other members of the JV, or by JV to the members, essentially remains the same as it was under service tax law.

i. Thus, it is clarified that the clarification given vide Board Circular No. 179/5/2014 – ST dated 24.09.2014 ibid in the context of service tax is applicable for the purpose of levy of GST also.

j. It is reiterated that the question whether cash calls are taxable or not will entirely depend on the facts and circumstances of each case. ‘Cash calls’ are raised by an operating member of the joint venture on other members in proportion to their participating interests in the joint venture(unincorporated) to meet the expenditure on the operations to be carried out as per the approved work programme and budget.

k. Taxability of cash calls can be further explained by the following illustrations:
Circular No. 34/09/2018-GST

Whether Priority Sector Lending Certificates (PSLCs) are outside the purview of GST and therefore not taxable?

In Reserve Bank of India FAQ on PSLC, it has been mentioned that PSLC may be construed to be in the nature of goods, dealing in which has been notified as a permissible activity under section 6(1) of the Banking Regulation Act, 1949 vide Government of India notification dated 4th February, 2016. PSLC are not securities. PSLC are akin to freely tradeable duty scrips, Renewable Energy Certificates, REP license or replenishment license, which attracted VAT.

In GST there is no exemption to trading in PSLCs. Thus, PSLCs are taxable as goods at standard rate of 18% under the residuary S. No. 453 of Schedule III of notification No. 1/2017-Central Tax(Rate). GST payable on the certificates would be available as ITC to the bank buying the certificates.

Circular No. 32/06/2018 GST dated 12.02.2018

Is GST leviable on the fee/amount charged in the following situations/cases: –

(2) A customer pays fees while registering complaints to Consumer Disputes Redressal Commission office and its subordinate offices.

These fees are credited into State Customer Welfare Fund’s bank account.

(3) Consumer Disputes Redressal Commission office and its subordinate offices charge penalty in cash when it is required.

(4) When a person files an appeal to Consumers Disputes Redressal Commission against order of District Forum, amount equal to 50% of total amount imposed by the District Forum or Rs 25000/- whichever is less, is required to be paid.

Services by any court or Tribunal established under any law for the time being in force is neither a supply of goods nor services. Consumer Disputes Redressal Commissions (National/ State/ District) may not be tribunals literally as they may not have been set up directly under Article 323B of the Constitution. However, they are clothed with the characteristics of a tribunal on account of the following: -

(1) Statement of objects and reasons as mentioned in the Consumer Protection Bill state that one of its objects is to provide speedy and simple redressal to consumer disputes, for which a quasi-judicial machinery is sought to be set up at District, State and Central levels.

(2) The President of the District/ State/National Disputes Redressal Commissions is a person who has been or is qualified to be a District Judge, High Court Judge and Supreme Court Judge respectively.

(3) These Commissions have been vested with the powers of a civil court under CPC for issuing summons, enforcing attendance of defendants/witnesses, reception of evidence, discovery/production of documents, examination of witnesses, etc.

(4) Every proceeding in these Commissions is deemed to be judicial proceedings as per sections 193/228 of IPC.

(5) The Commissions have been deemed to be a civil court under CrPC.
(6) Appeals against District Commissions lie to State Commission while appeals against the State Commissions lie to the National Commission. Appeals against National Commission lie to the Supreme Court. In view of the aforesaid, it is hereby clarified that fee paid by litigants in the Consumer Disputes Redressal Commissions are not leviable to GST. Any penalty imposed by or amount paid to these Commissions will also not attract GST.

Circular No. 34/08/2018

Appropriate clarification may be issued regarding taxability of Cost Petroleum.

• As per the Production Sharing Contract (PSC) between the Government and the oil exploration & production contractors, in case of a commercial discovery of petroleum, the contractors are entitled to recover from the sale proceeds all expenses incurred in exploration, development, production and payment of royalty.
• Portion of the value of petroleum which the contractor is entitled to take in a year for recovery of these contract costs is called “Cost Petroleum”.
• The relationship of the oil exploration and production contractors with the Government is not that of partners but that of licensor/lessor and licensee/lessee in terms of the Petroleum and Natural Gas Rules, 1959.
• Having acquired the right to explore, exploit and sell petroleum in lieu of royalty and a share in profit petroleum, contractors carry out the exploration and production of petroleum for themselves and not as a service to the Government.
• Para 8.1 of the Model Production Sharing Contract (MPSC) states that subject to the provisions of the PSC, the Contractor shall have exclusive right to carry out Petroleum Operations to recover costs and expenses as provided in this Contract.
• The oil exploration and production contractors conduct all petroleum operations at their sole risk, cost and expense.
• Hence, cost petroleum is not a consideration for service to GOI and thus not taxable per se.
• However, cost petroleum may be an indication of the value of mining or exploration services provided by operating member to the joint venture, in a situation where the operating member is found to be supplying service to the oil exploration and production joint venture.

Circular No. 1/1/2017 IGST dated 07.07.2017**

Inter-State movement of various modes of conveyance Inter-State movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the CGST Act, [explained earlier in this chapter] including-

• Trains,
• Buses,
• Trucks,
• Tankers,
• Trailers,
• Vessels,
• Containers,
• Aircrafts,

(a) carrying goods or passengers or both; or

(b) for repairs and maintenance,

[except in cases where such movement is for further supply of the same conveyance] was discussed in GST Council’s meeting held on 11th June, 2017 and the Council recommended that such inter-State movement shall be treated ‘neither as a supply of goods or supply of service’ and therefore not be leviable to IGST.

Thus, above activity may not be treated as supply and consequently IGST will not be payable on such supply. However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance.

Circular No. 22/22/2017-GST

Subject: Clarification on issues regarding treatment of supply by an artist in various States and supply of goods by artists from galleries—Reg.

Issue

a. Various representations have been received regarding taxation of the supply of art works by artists in different States other than the State in which they are registered as a taxable person.

b. In such cases, if the art work is selected by the buyer, then the supplier issues a tax invoice only at the time of supply. It has been represented that the artists give their work of art to galleries where it is exhibited for supply.

c. There seems to be confusion regarding the treatment of this activity whether it is taxable in the hands of the artist when the same is given to the art gallery or at the time of actual supply by the gallery.

d. Therefore, in exercise of the powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017, for the purpose of uniformity in the implementation of the Act, it has been decided to clarify this matter.

Provision

a. It is seen that clause (c) of sub-rule (1) of rule 55 of the Central Goods and Services Tax Rules, 2017 (hereafter referred as “the said Rules”) provides that the supplier shall issue a delivery challan for the initial transportation of goods where such transportation is for reasons other than by way of supply.
b. Further, sub-rule (3) of the said rule provides that the said delivery challan shall be declared as specified in rule 138 of the said Rules. It is also seen that sub-rule (4) of rule 55 of the said Rules provides that where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods.

**Issue of Invoice**

A combined reading of the above provisions indicates that the art work for supply on approval basis can be moved from the place of business of the registered person (artist) to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of actual supply of art work.

**Intra Or Inter?**

It is also clarified that the supplies of the art work from one State to another State will be inter-State supplies and attract integrated tax in terms of section 5 of the Integrated Goods and Services Tax Act, 2017.

**Artist To Gallery**

a. It is further clarified that in case of supply by artists through galleries, there is no consideration flowing from the gallery to the artist when the art works are sent to the gallery for exhibition and therefore, the same is not a supply.

It is only when the buyer selects a particular art work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply.

**Circular No. 21/21/2017-GST dated 22.11.2017**

**Inter-State movement of rigs, tools and spares, and all goods on wheels [like cranes]**

**Above circular shall mutatis mutandis apply to inter-State movement of rigs, tools and spares, and all goods on wheels [like cranes], [except in cases where movement of such goods is for further supply of the same goods], such inter-State movement shall be treated ‘neither as a supply of goods or supply of service,’ and consequently no IGST would be applicable on such movements. In this context, it is also reiterated that applicable CGST/SGST/IGST, as the case maybe, is leviable on repairs and maintenance done for such goods.**
PART 8: PROBLEM

Q1 An electronics dealer sells a laptop for Rs. 50,000 to earn a profit. Does it qualify as supply?

Q2 - Mr. X (an unregistered person) plans to pursue his higher education in US. He receives career consultancy services from a US based consultant for Rs. 5,00,000. Required:
1. Does it qualify as a supply?
2. What will be your answer, if services are received free of cost?
3. What will be your answer, if services are received free of cost and US based consultant is related to Mr. X.

Q3 - Arch Constructions Ltd. (a registered taxable person) receives architectural design supplied by a foreign architect to design a residential house to be built in Mumbai (India) for a consideration of Rs. 5,00,000. Does it qualify as supply?

Q4 - XYZ & Co. a manufacturer of goods donated old computers to charitable Schools on account of renovation of office. The company has taken input credit on computers so donated. Is it supply?

Q5 - Happy Ltd. provides management consultancy services without any consideration to its subsidiary Joy Ltd. The said consultancy has been provided for benefit of entire group. Does it qualify as a supply?

Q6 - XYZ Ltd. gives Diwali Gifts to employee Mr. X worth Rs. 5,00,000.
1. Does it qualify as supply?
2. Would your answer be different if gifts of Rs. 50,000 each are made 10 employees, thereby, totaling gifts of Rs. 5,00,000 during a financial year.
3. Also specify what would be the treatment of services provided by employee to employer?

Q7 - VDi Businesses Ltd. owns a car which is used to transport its workers to customer's premises. No input tax credit has been taken thereon. During one weekend, said car was used by its managing director Mr. A for his relatives for a family outing. Is it a supply?

Q8 - AB Motors Ltd. engages Sun Cars Ltd. as an agent to sell cars on its behalf. For the purpose, AB Motors Ltd. supplied 200 cars to the showroom of Sun Cars Ltd. Does it qualify as supply.

Q9 - ABC Associates received management consultancy services from its head office located in Malaysia. The head office has rendered such services free of cost to its branch office. Does it qualify as supply?
Q10 - XYZ Ltd. was amalgamated with ABC Ltd. On account of amalgamation Mr. X received 10,000 shares of ABC Ltd. in exchange of 5,000 shares of XYZ Ltd. Is it supply?

Q11 - Jatara Ltd., an NBFC transfers bad loans (unsecured) to Recovery Capital Ltd. Does it qualify as supply?

Q12 - XYZ Ltd. having head office in Allahabad (Uttar Pradesh) supplied goods worth Rs. 2,00,000 to its branch office in Mumbai (Maharashtra). Does it qualify as supply?

Q13 - Examine whether following activities would amount to supply under section 7 of CGST Act:
(a) Damodar Charitable Trust, a trust who gets the eye treatment of needy people done free of cost, donates clothes and toys to children living in slum area.
(b) Sulekha Manufacturers have a factory in Delhi and a depot in Mumbai. Both these establishments are registered in respective State. Finished goods are sent from factory in Delhi to the Mumbai depot without consideration so that the same can be sold.
(c) Raman is an Electronic Commerce Operator in Chennai. His brother who is settled in London is a well-known lawyer. Raman has taken legal advice from him free of cost with regard to his family dispute.
(d) Would your answer be different in (c), if Raman has taken advice in respect of his business unit in Chennai?

Q14 - XYZ Ltd. is manufacturer of cosmetic products: (a) Hair oil (GST Rate - 18%), (b) Sunscreen cream (GST Rate - 28%), (c) Shampoo (GST rate - 28%) and (d) hair comb (GST Rate - 12%). The said products are supplied in a single package and the Price per package is Rs. 500 (exclusive of taxes). 10,000 packages were supplied by the company to its dealer. Determine the nature of supply and its tax liability.

Q15 - Determine whether the following supplies amount to composite supplies:
(a) A hotel provides 4 days - 3 nights package wherein the facility of breakfast and dinner is provided alongwith the room accommodation. [Hint: Composite Supply; Accommodation is Principal Supply]
(b) A toothpaste company has offered the scheme of free toothbrush alongwith the toothpaste. [Mixed Supply]
PART 1: INVOICE PROVISIONS IN RESPECT OF GOODS – SECTION 31

Explain the provisions relating to time limit for issuance of invoice in respect of goods.

Time limit for issuance of invoice in case of Supplier of Goods [Section 31(1)]:
A registered person supplying taxable goods shall issue invoice before or at the time of,-
(a) removal of goods for supply to the recipient where the supply involves movement of goods; or
(b) delivery of goods or making available thereof to the recipient, in any other case.

Issuance of invoice in case of Continuous Supply of Goods [Section 31(4)]:
In case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received.

"Continuous supply of goods" means-
• a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis,
• and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify. [Section 2(32)]

Goods sent on approval – Invoice Requirements [Section 31(7)]:
Where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued –
• before or at the time of supply, or
• 6 months from the date of removal, whichever is earlier.

Time limit for issuing tax invoice [Rule 47]:
Taxable supply of services - Time limit - 30 days from the date of Supply of Service: The invoice in case of taxable supply of services shall be issued within a period of 30 days from the date of supply of service.

Insurers, banks etc. - Time limit - 45 days: Where the supplier of services is an insurer or a banking company or a financial institution, including a non-banking financial company, the invoice or any document in lieu thereof is to be issued within 45 days from the date of supply of service.
**Cessation of supply of services - Invoice to be issued at the time when Supply Ceases:**
In case of cessation of supply of services before completion of supply, the invoice (to the extent of the supply made before such cessation) should be issued at the time when the supply ceases.

**Issuance of invoice in case of Continuous Supply of Services [Section 31(5)]:**
In case of continuous supply of services, —

<table>
<thead>
<tr>
<th>(1)</th>
<th>where the due date of payment is ascertainable from the contract</th>
<th>the invoice shall be issued on or before the due date of payment.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(2)</td>
<td>where the due date of payment is not ascertainable from the contract</td>
<td>the invoice shall be issued before or at the time when the supplier of service receives the payment.</td>
</tr>
<tr>
<td>(3)</td>
<td>where the payment is linked to the completion of an event</td>
<td>the invoice shall be issued on or before the date of completion of that event.</td>
</tr>
</tbody>
</table>

"Continuous supply of services" means—

- a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding 3 months with periodic payment obligations, and
- includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify. [*Section 2(33)*]

**PART 2: TIME OF SUPPLY OF GOODS**

**Section 12(1) Liability for payment of tax arises at TOS:**
The liability to pay tax on goods shall arise at the time of supply, as determined in accordance with the provisions of this Section.

**Section 12(2): Time of Supply of goods - Forward Charge:**
The time of supply of goods shall be the earlier of the following dates, namely:-

(a)  
(i) the date of issue of invoice by the supplier; or  
(ii) the last date on which he is required, u/s 31, to issue the invoice with respect to the supply; or

(b) the date on which the supplier receives the payment with respect to the supply.

**Determination of date when supplier receives the payment [Explanation 2]:**
For the purposes of clause (b), "the date on which the supplier receives the payment" shall be -

- the date on which the payment is entered in his books of account; or
- the date on which the payment is credited to his bank account,
  whichever is earlier.
Small advance upto Rs. 1,000 - date of invoice to be time of supply:
Where the supplier of taxable goods receives an amount upto Rs. 1,000 in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount.

Supply deemed to be made to the extent covered by invoice or payment [Explanation 1]:
For the purposes of-
- clause (a) [i.e. the date on which the supplier issues invoice with respect to supply]; and
- clause (b) [i.e. the date when supplier receives the payment with respect to supply],

"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.

Significance of "to the extent the payment covers the goods":
Suppose, a part of the consideration is paid in advance or invoice is issued for part payment, the time of supply will not cover the full supply. The supply shall be deemed to have been made to the extent it is covered by the invoice or the part advance payment.

However, it may be noted that in case of goods, tax will be payable only on the issuance of invoice/last date of issuance of invoice even if any advance or part payment has been received before the issuance of invoice/last date of issuance of invoice.

Conclusion: Thus, time of supply of goods shall be the earliest of the following dates:
(i) the date of issue of invoice by the supplier; or
(ii) the last date on which he is required, u/s 31, to issue the invoice with respect to the supply, or
(iii) the date on which the supplier receives the payment with respect to the supply i.e. earlier of date on which the payment is recorded in the books of account of the supplier or date on which the payment is credited to the supplier's bank accounts.

However, as per special procedure under section 148 for payment of tax in case of goods, GST is to be paid at the time of supply as specified in section 12(2)(a) i.e. Date of issue of invoice/Last date of issue of invoice under section 31. Effectively, in case of goods, no GST will be payable on advances received for supply of goods.

| Notification No. 66/2017-CT dated 15-11-2017 | Exemption to all taxpayers from payment of tax on advances received in case of supply of goods - Tax on 'supply of goods' is to be paid on 'invoice basis' and receipt basis is not applicable. |
The registered person, who did not opt for the composition levy under Section 10 of the said Act, shall pay GST on the outward supply of goods -

- at the time of supply as specified in section 12(2)(a) \[i.e. \textit{date of issuance of invoice}\]
- including in the situations attracting the provisions of section 14 of the said Act, and
- shall accordingly furnish the details and returns as mentioned in Chapter IX of the said Act and the rules made thereunder and the period prescribed for the payment of tax by such class of registered persons shall be such as specified in the said Act.

In simple words, all taxpayers (except composition suppliers) are exempted from paying GST at the time of receipt of advance in relation to supply of goods. The entire GST shall be payable only when the invoice for the supply of such goods is issued or ought to have been issued.

A composition supplier has to pay, in lieu of tax payable by him, an amount calculated at the prescribed rate applied on his 'turnover in the State/Union Territory' for a quarter. Therefore, the composition supplier is not required to pay any tax on advance received as the same does not form part of taxable supplies and, in turn, \textit{also does not form part of the 'turnover in a State/Union Territory' at the end of the quarter (tax period)}.

**TIME OF SUPPLY OF GOODS UNDER REVERSE CHARGE- SECTION 12(3)**

In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely:

(a) the date of the receipt of goods; or

(b) (i) the date of payment as entered in the books of account of the recipient; or
(ii) the date on which the payment is debited in his bank account, \textit{whichever is earlier}; or

(c) the date immediately following 30 days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier.

\textbf{If TOS cannot be determined as above - TOS is date of entry in the books of account of the Recipient of Supply:}

However, where it is not possible to determine the time of supply under Section 12(3)(a)/(b)/(c), the time of supply shall be the date of entry in the books of account of the recipient of supply.
TIME OF SUPPLY OF VOUCHERS EXCHANGEABLE FOR GOODS – SECTION 12(4)

Define Voucher.

"Voucher" means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument. [Section 2(118)]

What is time of supply in case of supply of vouchers in respect of goods?

Time of supply in case of supply of vouchers in respect of goods [Section 12(4)] : In case of supply of vouchers by a supplier, the time of supply shall be —

(a) the date of issue of voucher, if the supply is identifiable at that point; or
(b) the date of redemption of voucher, in all other cases.

TIME OF SUPPLY OF GOODS IN RESIDUAL CASES- SECTION 12(5)

TOS in residuary cases - due date of return or date of Payment of Tax [Section 12(5)] : Where it is not possible to determine the time of supply as per above provisions, the time of supply shall -

(a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or
(b) in any other case, be the date on which the tax is paid.

For example: Investigation reveals clandestine removal of goods by a supplier who is not registered under GST. The evidence is in the form of noting, often undated, and some corroborative material. The supplier voluntarily pays tax during the investigation, to close the case. The time of supply will be the date on which the tax is paid, as being unregistered, the supplier is not required to file periodical returns.

Time of supply applicable with regard to addition in the value by way of interest, late fee or penalty or any delayed payment of consideration?

The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value. In other words the receipt of payment of these amounts are essential to attract levy of tax.
PART 3: TIME OF SUPPLY OF SERVICES

Section 13(1): Liability for payment of tax arises at TOS

The liability to pay tax on services shall arise at the time of supply, as determined in accordance with the provisions of this Section.

Section 13(2): Determination of time of supply:

The time of supply of services shall be the earliest of the following dates, namely: —

if the invoice is issued within the period prescribed under Section 31

i. the date of issue of invoice by the supplier; or

ii. the date of receipt of payment,

whichever is earlier; or

if the invoice is not issued within the period prescribed under Section 31

i. the date of provision of service; or

ii. the date of receipt of payment,

whichever is earlier; or

Explanation For the purposes of clauses (a) and (b) -

(i) Deemed supply - To the extent covered by invoice or payment: 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.

(ii) "Date of receipt of payment" shall be -

- the date on which the payment is entered in the books of account of the supplier; or

- the date on which the payment is credited to his bank account, whichever is earlier.

Small advance upto Rs. 1,000 - Option not to change TOS i.e. TOS may be opted to be date of invoice:

Where the supplier of taxable service receives an amount upto Rs. 1,000 in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice relating to such excess amount.

<table>
<thead>
<tr>
<th>Notification</th>
<th>No. 06/2019-CT (R) dated 29-03-2019 w.e.f. 01-04-2019</th>
<th>TOS in case of TDR, FSI and long term lease for construction of residential/ commercial apartments - TOS shall arise on shall arise on the date of issuance of completion certificate or on its first occupation, whichever is earlier.</th>
</tr>
</thead>
</table>

The Central Government, on the recommendations of the Council, hereby notifies the following classes of registered persons, namely:-
(i) a promoter who receives development rights or Floor Space Index (FSI) (including additional FSI) on or after 1st April, 2019 for construction of a project against consideration payable or paid by him, wholly or partly, in the form of construction service of commercial or residential apartments in the project or in any other form including in cash;

(ii) a promoter, who receives long term lease of land on or after 01-04-2019 for construction of residential apartments in a project against consideration payable or paid by him, in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name), as the registered persons in whose case the liability to pay central tax on, —

(a) the consideration paid by him in the form of construction service of commercial or residential apartments in the project, for supply of development rights or FSI (including additional FSI);

(b) the monetary consideration paid by him, for supply of development rights or FSI (including additional FSI) relatable to construction of residential apartments in project;

(c) the upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid by him for long term lease of land relatable to construction of residential apartments in the project; and

(d) the supply of construction service by him against consideration in the form of development rights or FSI (including additional FSI), shall arise on the date of issuance of completion certificate for the project, where required, by the competent authority or on its first occupation, whichever is earlier.

SECTION 13(3): TIME OF SUPPLY OF SERVICES UNDER REVERSE CHARGE

Time of Supply - Date of payment or the date immediately following 60 days from the date of issue of invoice, whichever is earlier:

In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earlier of the following dates, namely :-

(a) (i) the date of payment as entered in the books of account of the recipient; or

(ii) the date on which the payment is debited in his bank account, whichever is earlier; or

(b) the date immediately following 60 days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier.
**Time of supply in other cases - TOS - Date of entry in the books of account of the recipient of supply:**
Where it is not possible to determine the time of supply as per above provisions, the time of supply shall be the date of entry in the books of account of the recipient of supply.

**Time of supply in case of associated enterprises:**
In case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be —
(a) the date of entry in the books of account of the recipient of supply; or
(b) the date of payment, whichever is earlier.

"Associated enterprises" shall have the same meaning as assigned to it in Section 92A of the Income-tax Act, 1961. [Section 2(12)]

**SECTION 13(4): TIME OF SUPPLY OF VOUCHERS EXCHANGEABLE FOR SERVICES**
In case of supply of vouchers by a supplier, the time of supply shall be—
(a) the date of issue of voucher, if the supply is identifiable at that point; or
(b) the date of redemption of voucher, in all other cases.

**SECTION 13(5): TIME OF SUPPLY OF SERVICES IN RESIDUARY CASES**
Determination of time of supply in Residuary Cases [Section 13(5)]:
where it is not possible to determine the time of supply as per above provisions, the time of supply shall—
(a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or
(b) in any other case, be the date on which the tax is paid.

**SECTION 13(6): What is the time of supply applicable with regard to addition in the value by way of interest, late fee or penalty or any delayed payment of consideration?**
The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.
PART 4: CHANGE IN RATE OF TAX IN RESPECT OF SUPPLY OF GOODS OR SERVICES

Determination of time of supply in case of change in rate of tax [Section 14]: Notwithstanding anything contained in Section 12 or Section 13, the time of supply, where there is a change in the rate of tax in respect of goods or services or both, shall be determined in the following manner, namely :-

In case the goods or services or both have been supplied BEFORE the change in rate of tax,

<table>
<thead>
<tr>
<th>Condition</th>
<th>Time of Supply</th>
<th>Applicable Rate</th>
</tr>
</thead>
</table>
| (i) Where the invoice for the same has been issued and the payment is also received after the change in rate of tax. | Earlier of –
⇒ Date of receipt of payment, or
⇒ Date of issue of invoice. | New Rate |
| (ii) Where the invoice has been issued prior to the change in rate of tax but payment is received after the change in rate of tax. | Date of issue of invoice. | Old Rate |
| (iii) Where the payment has been received before the change in rate of tax, but the invoice for the same is issued after the change in rate of tax. | Date of receipt of payment. | Old Rate |

In case the goods or services or both have been supplied AFTER the change in rate of tax,

<table>
<thead>
<tr>
<th>Condition</th>
<th>Time of Supply</th>
<th>Applicable Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) Where the payment is received after the change in rate of tax but the invoice has been issued prior to the change in rate of tax.</td>
<td>Date of receipt of payment</td>
<td>New Rate</td>
</tr>
</tbody>
</table>
| (ii) Where the invoice has been issued and payment is received before the change in rate of tax. | Earlier of –
⇒ Date of receipt of payment, or
⇒ Date of issue of invoice | Old Rate |
| (iii) Where the invoice has been issued after the change in rate of tax but the payment is received before the change in rate of tax. | Date of issue of invoice | New Rate |
"Date of receipt of payment" shall be -

(a) the date on which the payment is entered in the books of account of the supplier; or

(b) the date on which the payment is credited to his bank account,

whichever is earlier. [Explanation]

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

**PART 5: PROBLEMS**

**Q1** - 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.

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Date of Removal</th>
<th>Date of invoice</th>
<th>Date when goods made available to recipient</th>
<th>Date of receipt of payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>01-10-2019</td>
<td>02-10-2019</td>
<td>03-10-2019</td>
<td>15-11-2019</td>
</tr>
<tr>
<td>2.</td>
<td>03-10-2019</td>
<td>01-10-2019</td>
<td>04-10-2019</td>
<td>25-11-2019</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Date of Removal</th>
<th>Date of invoice</th>
<th>Date when goods made available to recipient</th>
<th>Date of receipt of payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>01-10-2019</td>
<td>02-10-2019</td>
<td>03-10-2019</td>
<td>15-11-2019</td>
</tr>
<tr>
<td>2.</td>
<td>03-10-2019</td>
<td>01-10-2019</td>
<td>04-10-2019</td>
<td>25-11-2019</td>
</tr>
</tbody>
</table>

**Reason**

1. Since, invoice is not issued on or before the date of removal of goods, hence time of supply is date of removal of goods.

2. TOS is date of issuance of invoice since invoice is issued prior to date of removal of goods.

3. TOS is date of issue of invoice. Advance received is not liable to be taxed at the time of receipt vide Notification No. 66/2017-
Q2 – From the following information determine the time of supply of goods where supply involves movement of goods:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Invoice/document date</th>
<th>Removal of goods</th>
<th>Delivery of goods</th>
<th>Receipt of payment</th>
<th>Other information</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.</td>
<td>01-11-2019</td>
<td>01-12-2019</td>
<td>16-11-2019</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>3.</td>
<td>01-12-2019</td>
<td>01-12-2019</td>
<td>04-12-2019</td>
<td>20-11-2019</td>
<td>TOS is date of issue of invoice. Advance received is not liable to be taxed at the time of receipt vide Notification No. 66/2017-CT dated 15-11-2017.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Invoice/document date</th>
<th>Removal of goods</th>
<th>Delivery of goods</th>
<th>Receipt of payment</th>
<th>Time of supply</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.</td>
<td>01-11-2019</td>
<td>10-11-2019</td>
<td>16-11-2019</td>
<td>-</td>
<td>Since invoice date is prior to the date of removal of goods.</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>01-12-2019</td>
<td>04-12-2019</td>
<td>20-11-2019</td>
<td>TOS is date of issue of invoice. Advance received is not liable to be taxed at the time of receipt vide Notification No. 66/2017-CT dated 15-11-2017.</td>
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</tbody>
</table>

Q3 - **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 does not involve movement of goods.

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Date of invoice</th>
<th>Date when goods made available to recipient</th>
<th>Date of receipt of payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>02-10-2019</td>
<td>03-10-2019</td>
<td>15-11-2019</td>
</tr>
<tr>
<td>2.</td>
<td>04-10-2019</td>
<td>01-10-2019</td>
<td>25-11-2019</td>
</tr>
<tr>
<td>3.</td>
<td>04-11-2019</td>
<td>06-11-2019</td>
<td>01-10-2019</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Date of invoice</th>
<th>Date when goods made available to recipient</th>
<th>Date of receipt of payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>02-10-2019</td>
<td>03-10-2019</td>
<td>15-11-2019</td>
</tr>
<tr>
<td>2.</td>
<td>04-10-2019</td>
<td>01-10-2019</td>
<td>25-11-2019</td>
</tr>
<tr>
<td>3.</td>
<td>04-11-2019</td>
<td>06-11-2019</td>
<td>01-10-2019</td>
</tr>
<tr>
<td>Sl. No.</td>
<td>Date of invoice</td>
<td>Date when goods made available to recipient</td>
<td>Date of receipt of payment</td>
</tr>
<tr>
<td>--------</td>
<td>----------------</td>
<td>---------------------------------------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>1.</td>
<td>02-10-2019</td>
<td>03-10-2019</td>
<td>15-11-2019</td>
</tr>
<tr>
<td>2.</td>
<td>04-10-2019</td>
<td>01-10-2019</td>
<td>25-11-2019</td>
</tr>
<tr>
<td>3.</td>
<td>04-11-2019</td>
<td>06-11-2019</td>
<td>01-10-2019</td>
</tr>
</tbody>
</table>

Q4 - Mr. X purchased certain goods from M/s. ABC a registered supplier on 15-11-2019 worth Rs. 15,750. He made a payment of Rs. 16,000 with an instruction to adjust the excess payment against future purchases, and hence the same was adjusted by the supplier against his future purchase made on 01-01-2020 (invoice issued on same date). Determine the tax implications with regard to such excess payment in light of the GST law.

Q5 - During the course of search it was found that 200 cartons of wall tiles were dispatched on 25th August, 2019 but no invoice was made and the cartons were not entered in the accounts. There was no evidence of receipt of payment. What is the time of supply of the 200 cartons?

Ans: Time of supply of goods is the earlier of the following two dates in terms of Section 12(2):

- Date of issue of invoice/last date on which the invoice is required to be issued
- Date of receipt of payment
In this case since the invoice has not been issued, the time of supply will be the last date on which the invoice is required to be issued or date of receipt of payment, whichever is earlier.

Q6 - From the following information determine the time of supply if there is continuous supply of goods:

<table>
<thead>
<tr>
<th>S.No</th>
<th>Invoice date</th>
<th>Removal of goods</th>
<th>Statement of accounts</th>
<th>Receipt of payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>01-12-2019</td>
<td>15-11-2019</td>
<td>05-12-2019</td>
<td>02-12-2019</td>
</tr>
<tr>
<td>2.</td>
<td>21-01-2020</td>
<td>18-01-2020</td>
<td>05-01-2020</td>
<td>10-02-2020</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Invoice date</th>
<th>Removal of goods</th>
<th>Statement of accounts</th>
<th>Receipt of payment</th>
<th>Time of supply</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>01-12-2019</td>
<td>15-11-2019</td>
<td>05-12-2019</td>
<td></td>
<td>02-12-2019</td>
<td>TOS is date of invoice since invoice is issued before statement of account.</td>
</tr>
<tr>
<td>2.</td>
<td>21-01-2020</td>
<td>18-01-2020</td>
<td>05-01-2020</td>
<td></td>
<td>10-02-2020</td>
<td>TOS is date of statement of account since invoice is issued after the date of statement of account and payment is also received after that date.</td>
</tr>
</tbody>
</table>
Q7 - From the following information determine the time of supply if goods are supplied on approval basis:

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Removal of goods</th>
<th>Issue of invoice</th>
<th>Accepted by recipient</th>
<th>Receipt of payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>01-12-2019</td>
<td>15-12-2019</td>
<td>05-12-2019</td>
<td>25-12-2019</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Removal of goods</th>
<th>Issue of invoice</th>
<th>Accepted by recipient</th>
<th>Receipt of payment</th>
<th>Time of supply</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>01-12-2019</td>
<td>15-12-2019</td>
<td>05-12-2019</td>
<td>25-12-2019</td>
<td>TOS shall be the date of acceptance by the recipient as invoice was issued after that date.</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>01-12-2019</td>
<td>25-07-2020</td>
<td>25-07-2020</td>
<td>20-07-2020</td>
<td>TOS shall be date after expiry of 6 months from the date of removal, since invoice is not issued within 6 months from the date of removal and payment is also received after such date.</td>
<td></td>
</tr>
</tbody>
</table>

Q8 - 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.

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Date of invoice</th>
<th>Date of receipt of goods</th>
<th>Date of payment in books</th>
<th>Date when payment debited in bank account</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>01-10-2019</td>
<td>05-10-2019</td>
<td>10-10-2019</td>
<td>12-10-2019</td>
</tr>
</tbody>
</table>
Solution: Time of supply of goods in each of the above cases has been given in following table—

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Date of invoice</th>
<th>Date of receipt of goods</th>
<th>Date of payment in books</th>
<th>Date when payment debited in bank account</th>
<th>Time of supply</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>01-10-2019</td>
<td>05-10-2019</td>
<td>10-10-2019</td>
<td>12-10-2019</td>
<td>TOS is date of receipt of goods</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>01-10-2019</td>
<td>15-10-2019</td>
<td>12-10-2019</td>
<td>10-10-2019</td>
<td>TOS is date when payment is debited in bank account.</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>01-10-2019</td>
<td>15-11-2019</td>
<td>18-11-2019</td>
<td>20-11-2019</td>
<td>TOS is the date immediately following 30 days from the date of issue of invoice by the supplier.</td>
<td></td>
</tr>
</tbody>
</table>

Q9 - Determine the time of supply from the given information.

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>04-05-2019</td>
<td>Supplier invoices goods taxable on reverse charge basis to Bridge &amp; Co. (30 days from the date of issuance of invoice elapse on June 3)</td>
</tr>
<tr>
<td>12-05-2019</td>
<td>Bridge &amp; Co receives the goods</td>
</tr>
<tr>
<td>30-05-2019</td>
<td>Bridge &amp; Co makes the payment</td>
</tr>
</tbody>
</table>

Q10 - XYZ Ltd. has purchased for its customers 100 vouchers dated 24-12-2019 worth Rs. 1,000 each from ABC Ltd., a footwear manufacturing company. The vouchers were issued by ABC Ltd. on 25-12-2019. The vouchers can be encashed at retail outlets of ABC Ltd. The employees of XYZ Ltd. encashed the same on 01-01-2020. Determine time of supply of vouchers.

Ans: In case of supply of vouchers by a supplier, the time of supply shall be the date of issue of voucher, if the supply is identifiable at that point.
Q11 - Tasty food meal coupons are sold to a company on 25-08-2019 tor being distributed to the employees of the said company. The coupon's are valid for 6 months and can be used against purchase of food items. The employees use them in various stores for purchases of various edible items on different dates throughout the months.

What is the date of supply of the coupons?

_________________________________________________________________________
_________________________________________________________________________
_________________________________________________________________________

Q12 - Ms. Keema purchased a gift voucher from Shoppers Stop (a departmental store) worth Rs. 1,500 on 30-10-2019 and gifted it to her friend on occasion of her birthday on 04-11-2019. Her friend encashed the same on 01-01-2020 for purchase of a handbag. Determine the time of supply.

_________________________________________________________________________
_________________________________________________________________________
_________________________________________________________________________

Q13 - Special charges : Mr. X, a registered supplier supplied certain goods to Mr. Y on 6 months credit with a penalty clause in the agreement levying a penalty of 5% of the invoice value in case of delayed payment. The invoice was dated 01-11-2019. Mr. Y could not make the payment on the due date due to unavoidable reasons. He however made the payment of the invoice value on 05-05-2020. Mr. X raised a debit note for the penalty amount. There being dispute on this, the matter was in arbitration which was finally resolved with Mr. Y agreeing to pay half of the penalty amount. The amount was paid by Mr. Y on 12-12-2020. Determine the time of Supply in light of the GST law.

Solution: With respect to the goods supplied, the Time of Supply shall be the invoice date (assuming the delivery of goods on the date of invoice) i.e., 01-11-2019. With respect to the penalty amount the TOS shall be the date of payment by Mr. Y towards the penalty charge i.e., 12-12-2020 [as per Section 12(6)].
Q14- Determine the time of supply in each of following independent cases in accordance with provisions of CGST Act, 2017:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Date of actual provision of service</th>
<th>Time [Date] of Invoice, Bill or Challan as the case may be</th>
<th>Date on which payment received</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>10-11-2019</td>
<td>30-11-2019</td>
<td>15-12-2019</td>
</tr>
<tr>
<td>2.</td>
<td>10-11-2019</td>
<td>30-11-2019</td>
<td>15-11-2019 (Part) and 10-12-2019 (remaining)</td>
</tr>
<tr>
<td>3.</td>
<td>10-11-2019</td>
<td>30-11-2019</td>
<td>06-11-2019 (remaining) (Part) and 09-11-2019</td>
</tr>
<tr>
<td>5.</td>
<td>10-11-2019</td>
<td>12-12-2019</td>
<td>30-04-2019</td>
</tr>
<tr>
<td>6.</td>
<td>10-11-2019</td>
<td>12-12-2019</td>
<td>05-11-2019 (remaining) (Part) and 23-12-2019</td>
</tr>
<tr>
<td>7.</td>
<td>10-11-2019</td>
<td>22-12-2019</td>
<td>12-12-2019</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Date of provision of service</th>
<th>Date of Invoice</th>
<th>Date of receipt of payment</th>
<th>Time of Supply</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>10-11-2019</td>
<td>30-11-2019</td>
<td>15-12-2019</td>
<td></td>
<td>Invoice issued within 30 days and before receipt of payment.</td>
</tr>
<tr>
<td>10-11-2019</td>
<td>30-11-2019</td>
<td>15-11-2019</td>
<td></td>
<td>Invoice issued within 30 days but payment received before invoice.</td>
</tr>
<tr>
<td>10-11-2019</td>
<td>30-11-2019</td>
<td>15-11-2019 (Part) and 10-12-2019 (remaining)</td>
<td></td>
<td>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.</td>
</tr>
<tr>
<td>10-11-2019</td>
<td>30-11-2019</td>
<td>06-11-2019 (Part) and 09-11-2019 (remaining)</td>
<td></td>
<td>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 each such advance shall be treated as TOS. As per Explanation (i) The</td>
</tr>
<tr>
<td>Date (Supply)</td>
<td>Date (Invoice)</td>
<td>Date (Completion)</td>
<td>Description</td>
<td></td>
</tr>
<tr>
<td>--------------</td>
<td>----------------</td>
<td>------------------</td>
<td>-------------</td>
<td></td>
</tr>
<tr>
<td>10-11-2019</td>
<td>30-11-2019</td>
<td>06-11-2019</td>
<td>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.</td>
<td></td>
</tr>
<tr>
<td>10-11-2019</td>
<td>12-12-2019</td>
<td>30-04-2020</td>
<td>Invoice not issued within 30 days and payment received after completion of service.</td>
<td></td>
</tr>
<tr>
<td>10-11-2019</td>
<td>12-12-2019</td>
<td>05-11-2019</td>
<td>Invoice not issued within 30 days. Part payment received as advance before completion of service and remaining payment received subsequently. 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.</td>
<td></td>
</tr>
<tr>
<td>10-11-2019</td>
<td>22-12-2019</td>
<td>12-11-2019</td>
<td>Invoice not issued within 30 days and entire payment received after completion of service.</td>
<td></td>
</tr>
</tbody>
</table>

**Q15** - Determine the time of supply from the following particulars:

<table>
<thead>
<tr>
<th>Date</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>25-07-2019</td>
<td>Booking of convention hall, sum agreed Rs. 15,00,000, advance of Rs. 1,01,000 received</td>
</tr>
<tr>
<td>10-11-2019</td>
<td>Event held in convention hall</td>
</tr>
<tr>
<td>20-12-2019</td>
<td>Invoice issued for Rs. 15,00,000, indicating balance of Rs. 13,99,000 payable</td>
</tr>
<tr>
<td>25-12-2019</td>
<td>Balance payment of Rs. 13,99,000 received</td>
</tr>
</tbody>
</table>

**Solution:** As per Section 31 read with Rule 47 of CGST Rules, the tax invoice is to be issued within 30 days of supply of service. In the given case, the invoice is not issued within the prescribed time limit. As per Section 13(2) (b), in a case where the invoice is
not issued within the prescribed time, the time of supply of service is the date of provision of service or receipt of payment, whichever is earlier.

Therefore, the time of supply of service to the extent of Rs. 1,01,000 is 25-07-2019 as the date of payment of Rs. 1,01,000 is earlier than the date of provision of service. The time of supply of service to the extent of the balance Rs. 13,99,000 is 10-11-2019 which is the date of provision of service.

Q16 - Interiors Ltd. receives the order and advance payment on 25-01-2020 for carrying out an architectural design job. It delivers the designs on 30-04-2020. By oversight, no invoice is issued at that time, and it is issued much later, alter the expiry of prescribed period for issue of invoice. When is the time of supply of service?

**Ans:** Since the invoice has not been issued within the prescribed time period, time of supply of service will be the earlier of the following two dates in terms of section 13(2) (b):

- Date of provision of service
- Date of receipt of payment

The payment was received on 25-01-2020 and the service was provided on 30-04-2020. Therefore, the date of payment, *i.e.*, 25-01-2020 is the time of supply of the service in this case.

Q17 - From the following information determine the time of supply of services. The supply is a continuous supply of service where contract provides for monthly payment up to 15th of the succeeding month.

<table>
<thead>
<tr>
<th>Entry of provision of services in books</th>
<th>Invoice date</th>
<th>Due date of payment as per contract</th>
<th>Receipt of payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>30-11-2019</td>
<td>07-12-2019</td>
<td>15-12-2019</td>
<td>20-12-2019</td>
</tr>
<tr>
<td>31-12-2019</td>
<td>22-01-2020</td>
<td>15-01-2020</td>
<td>20-01-2020</td>
</tr>
<tr>
<td>31-01-2020</td>
<td>15-02-2020</td>
<td>15-02-2020</td>
<td>11-02-2020</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Entry of provision of services in books</th>
<th>Invoice date</th>
<th>Due date of payment as per contract</th>
<th>Receipt of payment</th>
<th>Time of supply</th>
</tr>
</thead>
<tbody>
<tr>
<td>30-11-2019</td>
<td>07-12-2019</td>
<td>15-12-2019</td>
<td>20-12-2019</td>
<td></td>
</tr>
<tr>
<td>31-12-2019</td>
<td>22-01-2020</td>
<td>15-01-2020</td>
<td>20-01-2020</td>
<td></td>
</tr>
<tr>
<td>31-01-2020</td>
<td>15-02-2020</td>
<td>15-02-2020</td>
<td>11-02-2020</td>
<td></td>
</tr>
</tbody>
</table>
Q18 - Swacchta & Co. is engaged in supply of cleaning services in residential premises. Investigation shows that Swacchta & Co. carried out service of cleaning and repairs of tanks in Kamal Housing society, for which the Kamal Housing society showed a payment in cash on 25-12-2019 to them against work of this description. The dates of the work are not clear from the records of Swacchta & Co. Swacchta & Co. have not issued invoice or entered the payment in their books of account.

**Ans:** The time of supply cannot be determined *vide* the provisions of Section 13(2) (a)/(b) as neither the invoice has been issued nor the date of provision of service is available as also the date of receipt of payment in the books of the supplier is not available.

Therefore, the time of supply will be determined *vide* Section 13(2) (c) *i.e.*, the date on which the recipient of service shows receipt of the service in his books of account. Thus, time of supply will be 25-12-2019, the date on which the Kamal Housing society records the receipt of service in its books of account.

Q19 - TOS in case of RCM - Services: Golden Industries Ltd. engaged the services of Sandhu transporter for road transport of a consignment on 25-12-2019 and made advance payment for the transport on the same date, *i.e.*, 25-12-2019. However, the consignment could not be sent immediately on account of a strike in the factory, and instead was sent on 20-01-2020. Invoice was received from the transporter on 22-01-2020. What is the time of supply of the transporter's service?

**Note:** Transporter's service is taxed on reverse charge basis.

**Solution:** Time of supply of service taxable under reverse charge is the earlier of the following two dates in terms of Section 13(3):

- Date of payment
- 61st day from the date of issue of invoice

Q20 - Rajesh of Assam received some taxable services from Loreal Enterprises of UK on 1-12-2019 for which an invoice was raised on 1-12-2019. Determine the time of supply of services if Rajesh makes the payment for the said services on :

**Case 1:** 01-01-2020

**Case II:** 05-03-2020

**Solution:** According to Section 13(3) of CGST Act, 2017, the time of supply in respect of persons who are required to pay tax as recipients of service under the Reverse Charge Mechanism shall be the date of payment or the date immediately following 60 days from the date of issue of invoice by the supplier, whichever is earlier.
Q21 - On 4th September, 2019, V.R. Mehman a famous music composer, received Rs. 3 crore of consideration from Zilmil Music Co. Ltd. for sale of copyright of his original music album. He finished his work & made available the CD to the music company on 20th July, 2019 & raised the invoice on 24th July, 2019. What will be the time of supply as per CGST Act, 2017?

Note : Above Service is taxable under reverse charge basis.

Solution: Supply of services by music composer by way of transfer or permitting the use or enjoyment of a copyright covered under Section 13(1)(a) of the Copyright Act, 1957 relating to original musical works to music company is liable to be taxed on reverse charge basis.

As per Section 13(3) of CGST Act, 2017, in case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earlier of the following dates, namely :-

(a) (i) the date of payment as entered in the books of account of the recipient; or
(ii) the date on which the payment is debited in his bank account,
    whichever is earlier; or
(b) the date immediately following 60 days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier.

Q22 - Apte & Apte Ltd. is located in India and holding 51 % of shares of Wilson Ltd., a USA based company. Wilson Ltd. provides Business Auxiliary Services to Apte & Apte Ltd.

From the following details, determine, the time of supply of Apte & Apte Ltd.:

<table>
<thead>
<tr>
<th>Details</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agreed consideration</td>
<td>US $ 1,00,000</td>
</tr>
<tr>
<td>Date on which services are provided by Wilson Ltd.</td>
<td>16-12-2019</td>
</tr>
<tr>
<td>Date on which invoice is sent by Wilson Ltd.</td>
<td>19-12-2019</td>
</tr>
<tr>
<td>Dale of debit in the books of account of Apte &amp; Apte Ltd.</td>
<td>30-12-2019</td>
</tr>
<tr>
<td>Dale on which payment is made by Apte &amp; Apte Ltd.</td>
<td>23-03-2020</td>
</tr>
</tbody>
</table>

Solution: Apte & Apte Ltd. of India and Wilson Ltd. of US are "associated enterprises" as per Section 92A of Income Tax Act, 1961, since Indian Company holds 51% shareholding of US based company. As per Section 13(3) of CGST, Act, 2017, in case of supply by
associated enterprises, where the supplier of service is located outside India, the time of supply shall be—

(a) the date of entry in the books of account of the recipient of supply; or
(b) the date of payment,
whichever is earlier.
Therefore, the time of supply shall be ________________

**Q23** - Determine the time of supply in the following cases assuming that GST is payable under reverse charge:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Date of payment by recipient of services</th>
<th>Date of issue of invoice by supplier of services</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i)</td>
<td>10-10-2019</td>
<td>29-08-2019</td>
</tr>
<tr>
<td>(ii)</td>
<td>10-10-2019</td>
<td>01-08-2019</td>
</tr>
<tr>
<td>(iii)</td>
<td>Part payment made on 30-08-2019 and balance amount paid on 01-11-2019</td>
<td>29-08-2019</td>
</tr>
<tr>
<td>(iv)</td>
<td>Payment is entered in the books of account on 28-08-2019 and debited in recipient's bank account on 30-08-2019</td>
<td>01-08-2019</td>
</tr>
<tr>
<td>(v)</td>
<td>Payment is entered in the books of account on 30-08-2019 and debited in recipient's bank account on 26-08-2019</td>
<td>29-08-2019</td>
</tr>
</tbody>
</table>

**Solution:**

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Date of issue of invoice by supplier of services</th>
<th>Date immediately following 60 days from invoice</th>
<th>Date of payment by recipient of services</th>
<th>Time of supply of services [Earlier of (2) &amp; (3)]</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i)</td>
<td>29-08-2019</td>
<td>29-10-2019</td>
<td>10-10-2019</td>
<td>10-10-2019</td>
</tr>
<tr>
<td>(ii)</td>
<td>01-08-2019</td>
<td>01-10-2019</td>
<td>10-10-2019</td>
<td>10-10-2019</td>
</tr>
<tr>
<td>(iii)</td>
<td>29-08-2019</td>
<td>29-10-2019</td>
<td>Part payment made on 30-08-2019 and balance amount paid on 01-11-2019</td>
<td>29-08-2019</td>
</tr>
<tr>
<td>(iv)</td>
<td>01-08-2019</td>
<td>01-10-2019</td>
<td>Payment is entered in the books of account on 28-08-2019 and debited in recipient's bank account on 30-08-2019</td>
<td>29-08-2019</td>
</tr>
<tr>
<td>(v)</td>
<td>29-08-2019</td>
<td>29-10-2019</td>
<td>Payment is entered in the books of account on 30-08-2019 and debited in recipient's bank account on 26-08-2019</td>
<td>29-08-2019</td>
</tr>
</tbody>
</table>
Q24 - From the following information determine the time of supply of serves where supply is by issue of voucher (for the same nature of service) valid for one year and are issued after supply of first service.

<table>
<thead>
<tr>
<th>First service</th>
<th>Issue of voucher</th>
<th>Redemption of voucher</th>
<th>Last date for acceptance of voucher</th>
</tr>
</thead>
<tbody>
<tr>
<td>01-01-2020</td>
<td>01-01-2020</td>
<td>31-10-2020</td>
<td>31-12-2020</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Particulars of voucher</th>
<th>First service/delivery of goods</th>
<th>Issue of voucher</th>
<th>Redemption of voucher</th>
<th>Last date for acceptance of voucher</th>
</tr>
</thead>
<tbody>
<tr>
<td>Voucher valid for oik-vcar is issued to a recipient after supply of a service, for any other services or goods across India.</td>
<td>01-01-2020</td>
<td>01-01-2020</td>
<td>14-12-2020</td>
<td>31-12-2020</td>
</tr>
</tbody>
</table>

**Solution:** Time of supply of services in each of the above cases has been given in following table—
Q26 - TOS of services in residuary cases: An income-tax search was carried out at residential premises of Mr. X, working in a multinational company. In course of search large volume of undisclosed assets were found, which he claims as service income. On this basis, the GST authorities investigate the GST liability. Dates of provision of service, whether in the first half or the second half of the financial year being scrutinized by income-tax authorities, are not known. Mr. X voluntarily pays GST during the investigation. What is the time of supply of the services?

Ans: As per provisions of Section 13(5)(b) of the CGST Act, 2017, where it is not possible to determine the time of supply in terms of date of invoice or date of provision of service or date of receipt of payment or date of receipt of services in the books of account of the recipient, and where periodical return is not to be filed (Mr. X, being an employee in a multinational company, is not a registered person), the date of payment of tax is taken as the time of supply. Therefore, the date when Mr. X pays the GST will be the time of supply.

Q27 Determine the time of supply in the following cases. The rate of GST has been increased to 12% w.e.f. 01-10-19, before the said date, the rate of tax was 5%.

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Date of service of Service</th>
<th>Date of Invoice</th>
<th>Date of Payment</th>
<th>Value of service (Rs.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>25-09-2019</td>
<td>05-10-2019</td>
<td>08-10-2019</td>
<td>20,00,000</td>
</tr>
<tr>
<td>2.</td>
<td>25-09-2019</td>
<td>25-09-2019</td>
<td>08-10-2019</td>
<td>10,00,000</td>
</tr>
<tr>
<td>3.</td>
<td>25-09-2019</td>
<td>08-10-2019</td>
<td>30-09-2019</td>
<td>15,00,000</td>
</tr>
<tr>
<td>4.</td>
<td>04-10-2019</td>
<td>28-09-2019</td>
<td>30-09-2019</td>
<td>20,00,000</td>
</tr>
<tr>
<td>5.</td>
<td>04-10-2019</td>
<td>04-10-2019</td>
<td>30-09-2019</td>
<td>10,00,000</td>
</tr>
<tr>
<td>6.</td>
<td>04-10-2019</td>
<td>30-09-2019</td>
<td>08-10-2019</td>
<td>15,00,000</td>
</tr>
</tbody>
</table>

Solution: The time of supply shall be determined as under -

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Value of service (Rs.)</th>
<th>Reason/ Remarks</th>
<th>Time of Supply</th>
<th>Rate of tax</th>
<th>GST (Rs.)</th>
</tr>
</thead>
</table>
| 1.     | 20,00,000              | ➢ Service is supplied before change in rate of tax,  
            ➢ invoice issued after change in rate of tax,  
            ➢ the payment has been received after change in rate of tax,  
            TOS shall be earlier of date of issue of invoice or date of receipt payment.                                                                 | 05-10-2019     | 12%         | 2,40,000 |
| 2.     | 10,00,000              | ➢ Service is supplied before change in rate of tax,  
            ➢ invoice issued prior to such change in rate of tax,  
            ➢ the payment is received after change in rate of tax,                                                                                                                                               | 25-09-2019     | 5%          | 50,000    |
<p>| | | | | |</p>
<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>TOS shall be date of issue of invoice.</strong></td>
<td><strong>TOS shall be date of receipt of payment.</strong></td>
<td><strong>TOS shall be earlier of date of issue of invoice or date of receipt of payment.</strong></td>
<td><strong>TOS shall be the date of issue of invoice.</strong></td>
<td><strong>TOS shall be date of receipt of payment.</strong></td>
</tr>
<tr>
<td><strong>3.</strong></td>
<td><strong>15,00,000</strong></td>
<td>Service is supplied before change in rate of tax,</td>
<td>Service is supplied before change in rate of tax,</td>
<td>Service is supplied after change in rate of tax,</td>
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<td>the payment is received before change in rate of tax,</td>
<td>the payment is received before change in rate of tax,</td>
<td>the payment is received before change in rate of tax,</td>
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<td>invoice issued after change in rate of tax,</td>
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<td>invoice is issued before change in rate of tax,</td>
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<td>TOS shall be date of receipt of payment.</td>
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<td></td>
<td>TOS shall be the date of issue of invoice.</td>
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<td></td>
<td><strong>30-09-2019</strong></td>
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<tr>
<td></td>
<td><strong>5%</strong></td>
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<tr>
<td></td>
<td><strong>75,000</strong></td>
<td></td>
<td></td>
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<tr>
<td><strong>4.</strong></td>
<td><strong>20,00,000</strong></td>
<td>Service is supplied after change in rate of tax,</td>
<td>Service is supplied after change in rate of tax,</td>
<td>Service is supplied after change in rate of tax,</td>
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<td>TOS shall be the date of issue of invoice.</td>
<td>TOS shall be earlier of date of issue of invoice or date of receipt of payment.</td>
<td>TOS shall be the date of issue of invoice.</td>
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<td></td>
<td>TOS shall be date of receipt of payment.</td>
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<tr>
<td></td>
<td><strong>28-09-2019</strong></td>
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<td></td>
<td><strong>5%</strong></td>
<td></td>
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</tr>
<tr>
<td></td>
<td><strong>1,00,000</strong></td>
<td></td>
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</tr>
<tr>
<td><strong>5.</strong></td>
<td><strong>10,00,000</strong></td>
<td>Service is supplied after change in rate of tax,</td>
<td>Service is supplied after change in rate of tax,</td>
<td>Service is supplied after change in rate of tax,</td>
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<td></td>
<td>TOS shall be the date of issue of invoice.</td>
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<td>TOS shall be the date of issue of invoice.</td>
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<td>TOS shall be date of receipt of payment.</td>
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<td></td>
<td><strong>04-10-2019</strong></td>
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<tr>
<td></td>
<td><strong>12%</strong></td>
<td></td>
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<tr>
<td></td>
<td><strong>1,20,000</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>6.</strong></td>
<td><strong>15,00,000</strong></td>
<td>Service is supplied after change in rate of tax,</td>
<td>Service is supplied after change in rate of tax,</td>
<td>Service is supplied after change in rate of tax,</td>
</tr>
<tr>
<td></td>
<td></td>
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</tr>
<tr>
<td></td>
<td></td>
<td>invoice is issued before change in rate of tax,</td>
<td>invoice is issued before change in rate of tax,</td>
<td>invoice is issued before change in rate of tax,</td>
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<td></td>
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<td>TOS shall be date of receipt of payment.</td>
<td>TOS shall be the date of issue of invoice.</td>
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</tr>
<tr>
<td></td>
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<tr>
<td></td>
<td><strong>08-10-2019</strong></td>
<td></td>
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<td></td>
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<tr>
<td></td>
<td><strong>12%</strong></td>
<td></td>
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<tr>
<td></td>
<td><strong>1,80,000</strong></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

**Q28** – A service provider supplied service on 01-12-2019 for a value of Rs. 25,00,000. He issued invoice for the same on 30-11-2019 and received payment by an account payee cheque on 30-11-2019 and the same was entered in the books on the same date 30-11-2019. The cheque was deposited in bank on 04-12-2019 and the same was credited in his bank account on 09-12-2019. The said service was taxable @ 5% prior to 01-12-2019. The rate of GST has been increased to 12% w.e.f. 01-12-2019. On 03-12-2019, (here was a public holiday) Discuss his GST liability.

**Solution:** In case of change in rate of tax, the "date of receipt of payment" shall be the date on which the payment is entered in the books of account of the supplier; or the date on which the payment is credited to his bank account, whichever is earlier.
However, the date of receipt of payment shall be the date of credit in the bank account if such credit in the bank account is after four working days from the date of change in the rate of tax.

In this case, since the payment is credited in bank account after 4 working days from the date of change in rate of tax hence, the date of receipt of payment shall be 09-12-2019 and not the date when the same is entered in books of accounts.

In this case since services have been supplied after the change in rate of tax and the payment is received after the change in rate of tax but the invoice has been issued prior to the change in rate of tax, the time of supply shall be the date of receipt of payment.

Hence, applicable rate of tax shall be 12%. Amount of GST payable = Rs. 25,00,000 × 12% - Rs. 300000.

Q29 - Mr. X buys a motor car from a car dealer. Mr. X has made payment for the same and car dealer has issued an invoice in respect of the same on 25-10-2019. The car was to be delivered on 01-11-2019 on occasion of his birthday. On 26-10-2019, the rate of tax applicable to motor car was revised upward, and the car dealer is demanding differential amount of tax. Is this correct on dealers part?

Solution: No the car dealer is not correct in demanding differential amount of tax. The revised rate of tax is not applicable to the transaction, as the issuance of invoice as well as receipt of payment occurred before the supply. Therefore, in terms of Section 14(b)(ii), the time of supply is earlier of the two events namely, issuance of invoice or receipt of payment, both of which are before the change in rate of tax, and thus, the old rate of tax remains applicable.

Q30 - An online portal, Online Info, raises invoice for access on 20\textsuperscript{th} March 2020 on XYZ Ltd. The payment is made by XYZ Ltd. by a demand draft sent on 24\textsuperscript{th} March 2020, which is received and entered in the accounts of Online Info on 28\textsuperscript{th} March 2020. Online Info encashes the demand draft and thereafter, gives access to the database to XYZ Ltd from 4\textsuperscript{th} April. In the meanwhile, the rate of tax is changed from 1\textsuperscript{st} April 2020. What is the time of supply of the service of database access by Online Info?

Solution: As issuance of invoice and receipt of payment (entry of the payment in Online Info's accounts) occurred before the change in rate of tax, the time of supply of service by the online portal is earlier of the date of issuance of invoice (20\textsuperscript{th} March 2020) or date of receipt of payment (24\textsuperscript{th} March) i.e., 20\textsuperscript{th} March 2020. This would be so even though the service commences after the change in rate of tax [Section 14(b)(ii)].
CHAPTER 13 - GST: VALUATION – SEC 15

PART 1: VALUATION

Section 15: value of supply

(1) The value of a 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 where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

(2) The value of supply shall include—

(a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;

(b) 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 or services or both;

(c) incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;

(d) interest or late fee or penalty for delayed payment of any consideration for any supply; and

(e) subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.

Explanation: For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.

(3) The value of the supply shall not include any discount which is given—

(a) before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and

(b) after the supply has been effected, if—

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

(4) Where the value of the supply of goods or services or both cannot be determined under sub-section (1), the same shall be determined in such manner as may be prescribed.

Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be notified by the Government on the recommendations of the Council shall be determined in such manner as may be prescribed.

**NOTE 1:**
- Under Section 15(1), the transaction value which is applicable between unrelated persons where price is the sole consideration for the supply is the price actually paid or payable for the said supply of goods or services or both.
- This is the price for the specific supply that is being valued.
- It includes the amount already paid at the time the supply is being valued for tax, as well as the amount payable and not yet paid at that time.
- The word 'payable' refers to price that is agreed to be paid for the goods/services.

**NOTE 2:**
Transaction value under IGST will include taxes other than IGST and the compensation cess in terms of third proviso to Section 20 of IGST Act.

**NOTE 3:**
TCS under Income-tax Act, 1961 not includible in the taxable value for the purpose of GST: The CBIC vide Circular No. 76/50/2018 GST dated 31-12-2018 (amended vide corrigendum dated 07-03-2019) has clarified that for the purpose of determination of value of supply under GST, tax collected at source (TCS) under the provisions of the Income-tax Act, 1961 would not be includible as it is an interim levy not having the character of tax.

**NOTE 4:**
examples of such incidental expenses are —
- **Commission**: This may be paid to an agent and recovered from the buyer of the goods/services; this is part of the value of the supply.
- **Packing**, if charged by the supplier to the recipient, is similarly part of the value of the supply.
- **Inspection or certification charges** are another element that may be added to the value, if billed to the recipient of supply.
- **Installation and testing charges** at the recipient's site will also be added, being an amount charged for something done by the supplier in respect of the supply at the time of making the supply.
• **Outward freight, transit insurance**: Where the supplier agrees to deliver the goods at the buyer's premises and arranges for transport (FOR contract), the contract of supply becomes a composite supply, the principal supply being the supply of goods.

Therefore, outward freight becomes part of the value of the composite supply and GST is payable thereon at the same rate as applicable for the relevant goods. However, if the contract for supply is on ex-factory basis where buyer pays the outward freight, the same will not be included in the value of supply of goods. Similarly, in FOR contracts of supply of goods, transit insurance will also become part of the value of composite supply.

**NOTE 4: RULE 34: EXCHANGE RATE**

Rate of exchange of currency, other than Indian rupees, for determination of value

1. The rate of exchange for determination of value of taxable **goods** shall be the applicable rate of exchange as notified by the Board under section 14 of the Customs Act, 1962 for the date of time of supply of such goods in terms of section 12 of the Act.

2. The rate of exchange for determination of value of taxable **services** shall be the applicable rate of exchange determined as per the generally accepted accounting principles for the date of time of supply of such services in terms of section 13 of the Act.

**NOTE 5: RULE 35: Value of supply inclusive of integrated tax, central tax, State tax, Union territory tax**

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

\[
\text{Tax amount} = \frac{\text{Value inclusive of taxes} \times \text{tax rate in } \% \text{ of IGST or as the case may be CGST, SGST or UTGST}}{(100 + \text{sum of tax rates, as applicable, in } \%)}
\]
PART 2: VALUATION RULES

"Open market value" of a supply of goods or services or both means -

- The full value in money to obtain such supply at the same time when the supply being valued is made.
- Excluding the integrated tax, central tax, State tax, Union territory tax and the cess payable by a person in a transaction,
- Where the supplier and the recipient of the supply are not related; and
- Price is the sole consideration.

Open market value is not comparable price to unrelated customer. The definition of open market value does not allow comparison of supplies in comparable circumstances. It only requires supply 'at the same time'. So, Open market value is not price in another 'comparable' supply at a close proximity in time. This provision does not provide the manner of adjustments to be made to overcome the effect of those disqualifying circumstances present but simply states that OMV 'shall be' the value of the supply.

"Supply of goods or services or both of like kind and quality"

means any other supply of goods or services or both made under similar circumstances that, in respect of the characteristics, quality, quantity, functional components, materials, and reputation of the goods or services or both first mentioned, is the same as, or closely or substantially resembles, that supply of goods or services or both.

RULE 27: Value of supply of goods or services where the consideration is not wholly in money

Where the supply of goods or services is for a consideration not wholly in money, the value of the supply shall,

(a) be the open market value of such supply;

(b) if open market value is not available, be the sum total of consideration in money and any such further amount in money as is equivalent to the consideration not in money if such amount is known at the time of supply;

(c) if the value of supply is not determinable under clause (a) or clause (b), be the value of supply of goods or services or both of like kind and quality;

(d) if value is not determinable under clause (a) or clause (b) or clause (c), be the sum total of consideration in money and such further amount in money that is equivalent to consideration not in money as determined by application of rule 4 or rule 5 in that order.
Illustration:

(1) Where a new phone is supplied for Rs.20000 along with the exchange of an old phone and if the price of the new phone without exchange is Rs.24000, the open market value of the new phone is Rs 24000.

(2) Where a laptop is supplied for Rs.40000 along with a barter of printer that is manufactured by the recipient and the value of the printer known at the time of supply is Rs.4000 but the open market value of the laptop is not known, the value of the supply of laptop is Rs.44000.

RULE 28: Value of supply of goods or services or both between distinct or related persons, other than through an agent

The value of the supply of goods or services or both between distinct persons as specified in sub-section (4) and (5) of section 25 or where the supplier and recipient are related, other than where the supply is made through an agent, shall,-

(a) be the open market value of such supply;

(b) if open market value is not available, be the value of supply of goods or services of like kind and quality;

(c) if value is not determinable under clause (a) or (b), be the value as determined by application of rule 4 or rule 5, in that order:

Provided that where goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to ninety percent of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person:

Provided further that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of goods or services:

RULE 29. Value of supply of goods made or received through an agent

The value of supply of goods between the principal and his agent shall,-

(a) be the open market value of the goods being supplied, or at the option of the supplier, be ninety percent of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person, where the goods are intended for further supply by the said recipient;

Illustration: Where a principal supplies groundnut to his agent and the agent is supplying groundnuts of like kind and quality in subsequent supplies at a price of Rs.5000 per quintal on the day of supply. Another independent supplier is supplying groundnuts of like kind and quality to the said agent at the price of Rs.4550 per quintal. The value of
the supply made by the principal shall be Rs.4550 per quintal or where he exercises the
option the value shall be 90% of the Rs.5000 i.e. is Rs.4500 per quintal.

(b) where the value of a supply is not determinable under clause (a), the same shall be
determined by application of rule 4 or rule 5 in that order.

RULE 30: Value of supply of goods or services or both based on cost

Where the value of a supply of goods or services or both is not determinable by any of
the preceding rules, the value shall be one hundred and ten percent of the cost of
production or manufacture or cost of acquisition of such goods or cost of provision of
such services.

RULE 31: Residual method for determination of value of supply of goods or services or
both

Where the value of supply of goods or services or both cannot be determined under
rules 1 to 4, the same shall be determined using reasonable means consistent with the
principles and general provisions of section 15 and these rules:

Provided that in case of supply of services, the supplier may opt for this rule,
disregarding rule 4.

RULE 31A. Value of supply in case of lottery, betting, gambling and horse racing.

(1) Notwithstanding anything contained in the provisions of this Chapter, the value in
respect of supplies specified below shall be determined in the manner provided
hereinafter.

(2) (a) The value of supply of lottery run by State Governments shall be deemed to be
100/112 of the face value of ticket or of the price as notified in the Official Gazette
by the organising State, whichever is higher.

(b) The value of supply of lottery authorised by State Governments shall be deemed
to be 100/128 of the face value of ticket or of the price as notified in the Official
Gazette by the organising State, whichever is higher.

Explanati—For the purposes of this sub-rule, the expressions
(a) “lottery run by State Governments” means a lottery not allowed to be sold in any
State other than the organizing State;
(b) “lottery authorised by State Governments” means a lottery which is authorised to
be sold in State(s) other than the organising State also; and
(c) “Organising State” has the same meaning as assigned to it in clause (f) of sub-rule
(1) of rule 2 of the Lotteries (Regulation) Rules, 2010.

(3) The value of supply of actionable claim in the form of chance to win in betting,
gambling or horse racing in a race club shall be 100% of the face value of the bet
or the amount paid into the totalisator.¹
RULE 32: Determination of value in respect of certain supplies

(1) Notwithstanding anything contained in these rules, the value in respect of supplies specified below shall, at the option of the supplier, be determined in the manner provided hereinafter.

(2) **FOREX**

The value of supply of services in relation to purchase or sale of foreign currency, including money changing, shall be determined by the supplier of service in the following manner:-

(a) For a currency, when exchanged from, or to, Indian Rupees (INR), the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency:

Provided that in case where the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received by the person changing the money:

Provided further that in case where neither of the currencies exchanged is Indian Rupee, the value shall be equal to 1% of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at the reference rate provided by RBI.

Provided also that a person supplying the services may exercise option to ascertain value in terms of clause (b) for a financial year and such option shall not be withdrawn during the remaining part of that financial year.

(b) At the option of supplier of services, the value in relation to supply of foreign currency, including money changing, shall be deemed to be

(i) one per cent. of the gross amount of currency exchanged for an amount up to one lakh rupees, subject to a minimum amount of two hundred and fifty rupees;

(ii) one thousand rupees and half of a per cent. of the gross amount of currency exchanged for an amount exceeding one lakh rupees and up to ten lakh rupees; and

(iii) five thousand and five hundred rupees and one tenth of a per cent. of the gross amount of currency exchanged for an amount exceeding ten lakh rupees, subject to maximum amount of sixty thousand rupees.
(3) **AIR TRAVEL AGENT**

The value of supply of services in relation to booking of tickets for travel by air provided by an air travel agent, shall be deemed to be an amount calculated at the rate of five percent. of the basic fare in the case of domestic bookings, and at the rate of ten per cent. of the basic fare in the case of international bookings of passage for travel by air.

*Explanation* - For the purposes of this sub-rule, the expression “basic fare” means that part of the air fare on which commission is normally paid to the air travel agent by the airline.

(4) **LIFE INSURANCE BUSINESS**

The value of supply of services in relation to life insurance business shall be:

(a) the gross premium charged from a policy holder reduced by the amount allocated for investment, or savings on behalf of the policy holder, if such amount is intimated to the policy holder at the time of supply of service;

(b) in case of single premium annuity policies other than (a), ten per cent. of single premium charged from the policy holder; or

(c) in all other cases, twenty five per cent. of the premium charged from the policy holder in the first year and twelve and a half per cent. of the premium charged from policy holder in subsequent years:

*Provided* that nothing contained in this sub-rule shall apply where the entire premium paid by the policy holder is only towards the risk cover in life insurance

(5) **SECOND HAND DEALER**

Where a taxable supply is provided by a person dealing in buying and selling of second hand goods i.e. used goods as such or after such minor processing which does not change the nature of the goods and where no input tax credit has been availed on purchase of such goods the value of supply shall be the difference between the selling price and purchase price and where the value of such supply is negative it shall be ignored:

Provided that the purchase value of goods repossessed from a defaulting borrower, who is not registered, for the purpose of recovery of a loan or debt shall be deemed to be the purchase price of such goods by the defaulting borrower reduced by five percentage points for every quarter or part thereof, between the date of purchase and the date of disposal by the person making such repossession.
(6) **VOUCHER**

The value of a token, or a voucher, or a coupon, or a stamp (other than postage stamp) which is redeemable against a supply of goods or services or both shall be equal to the money value of the goods or services or both redeemable against such token, voucher, coupon, or stamp.

(7) The value of taxable services provided by such class of service providers as may be notified by the Government on the recommendations of the Council as referred to in paragraph 2 of Schedule I between distinct persons as referred to in section 25, where input tax credit is available, shall be deemed to be NIL.

**RULE 33: Value of supply of services in case of pure agent**

Notwithstanding anything contained in these rules, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely:-

(i) the supplier acts as a pure agent of the recipient of the supply, when he makes payment to the third party on authorization by such recipient;

(ii) the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and

(iii) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

*Explanation*. - For the purposes of this rule, “pure agent” means a person who - (a) enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both; (b) neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply; (c) does not use for his own interest such goods or services so procured; and (d) receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account. *Illustration*. Corporate services firm A is engaged to handle the legal work pertaining to the incorporation of Company B. Other than its service fees, A also recovers from B, registration fee and approval fee for the name of the company paid to Registrar of the Companies. The fees charged by the Registrar of the companies registration and approval of the name are compulsorily levied on B. A is merely acting as a pure agent in the payment of those fees. Therefore, A’s recovery of such expenses is a disbursement and not part of the value of supply made by A to B.
PART 3: CIRCULARS

Circular No. 47/21/2018-GST

Whether moulds and dies owned by Original Equipment Manufacturers (OEM) that are sent free of cost (FOC) to a component manufacturer is leivable to tax and whether OEMs are required to reverse input tax credit in this case?

- Moulds and dies owned by the original equipment manufacturer (OEM) which are provided to a component manufacturer (the two not being related persons or distinct persons) on FOC basis does not constitute a supply as there is no consideration involved.
- Further, since the moulds and dies are provided on FOC basis by the OEM to the component manufacturer in the course or furtherance of his business, there is no requirement for reversal of input tax credit availed on such moulds and dies by the OEM.
- It is further clarified that while calculating the value of the supply made by the component manufacturer, the value of moulds and dies provided by the OEM to the component manufacturer on FOC basis shall not be added to the value of such supply because the cost of moulds/dies was not to be incurred by the component manufacturer and thus, does not merit inclusion in the value of supply in terms of section 15(2)(b) of the Central Goods and Services Tax Act, 2017 (CGST Act for short).

However, if the contract between OEM and component manufacturer was for supply of components made by using the moulds/dies belonging to the component manufacturer, but the same have been supplied by the OEM to the component manufacturer on FOC basis, the amortised cost of such moulds/dies shall be added to the value of the components. In such cases, the OEM will be required to reverse the credit availed on such moulds/ dies, as the same will not be considered to be provided by OEM to the component manufacturer in the course or furtherance of the former’s business.

Circular No. 73/47/2018-GST (DCA – SCH I)

DCA - OPERATION

- In commercial trade parlance, a DCA is a selling agent who is engaged by a principal to assist in supply of goods or services by contacting potential buyers on behalf of the principal.
- The factor that differentiates a DCA from other agents is that the DCA guarantees the payment to the supplier.
- In such scenarios where the buyer fails to make payment to the principal by the due date, DCA makes the payment to the principal on behalf of the buyer (effectively providing an insurance against default by the buyer), and for this reason the commission paid to the DCA may be relatively higher than that paid to a normal agent.
- In order to guarantee timely payment to the supplier, the DCA can resort to various methods including extending short-term transaction-based loans to the buyer or
paying the supplier himself and recovering the amount from the buyer with some interest at a later date.

- This loan is to be repaid by the buyer along with an interest to the DCA at a rate mutually agreed between DCA and buyer. Concerns have been expressed regarding the valuation of supplies from Principal to recipient where the payment for such supply is being discharged by the recipient through the loan provided by DCA or by the DCA himself.

- **Issues arising out of such loan arrangement have been examined and the clarifications on the same are as below:**

<table>
<thead>
<tr>
<th><strong>Whether a DCA falls under the ambit of agent under Para 3 of Schedule I of the CGST Act?</strong></th>
<th>As already clarified vide circular No. 57/31/2018-GST dated 4th September, 2018,</th>
</tr>
</thead>
<tbody>
<tr>
<td>In case where the invoice for supply of goods is issued by the supplier to the customer, either himself or through DCA, the DCA does not fall under the ambit of agent.</td>
<td></td>
</tr>
<tr>
<td>In case where the invoice for supply of goods is issued by the DCA in his own name, the DCA would fall under the ambit of agent.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Whether the temporary short-term transaction based loan extended by the DCA to the recipient (buyer), for which interest is charged by the DCA, is to be included in the value of goods being supplied by the supplier (principal) where DCA is not an agent under Para 3 of Schedule I of the CGST Act?</th>
<th>In such a scenario following activities are taking place:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Supply of goods from supplier (principal) to recipient;</td>
<td></td>
</tr>
<tr>
<td>2. Supply of agency services from DCA to the supplier or the recipient or both;</td>
<td></td>
</tr>
<tr>
<td>3. Supply of extension of loan services by the DCA to the recipient.</td>
<td></td>
</tr>
<tr>
<td>It is clarified that in cases where the DCA is not an agent under Para 3 of Schedule I of the CGST Act, the temporary short-term transaction based loan being provided by DCA to the buyer is a supply of service by the DCA to the recipient on Principal to Principal basis and is an independent supply.</td>
<td></td>
</tr>
<tr>
<td>Therefore, the interest being charged by the DCA would not form part of the value of supply of goods supplied (to the buyer) by the supplier.</td>
<td></td>
</tr>
<tr>
<td>It may be noted that vide notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017 (S. No. 27), services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) has been exempted.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Where DCA is an agent under Para 3 of Schedule I of the CGST Act and makes payment to the principal</th>
<th>In such a scenario following activities are taking place:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Supply of goods by the supplier (principal) to the DCA;</td>
<td></td>
</tr>
<tr>
<td>2. Further supply of goods by the DCA to the recipient;</td>
<td></td>
</tr>
<tr>
<td>3. Supply of agency services by the DCA to the supplier or</td>
<td></td>
</tr>
</tbody>
</table>
on behalf of the buyer and charges **interest** to the buyer for delayed payment along with the value of goods being supplied, **whether** the interest will form a part of the value of supply of goods also or not?

4. Extension of credit by the DCA to the recipient.
   - It is clarified that in cases where the DCA is an agent under Para 3 of Schedule I of the CGST Act, the temporary short-term transaction based credit being provided by DCA to the buyer **no longer retains its character of an independent supply** and is **subsumed** in the supply of the **goods** by the DCA to the recipient.
   - It is emphasised that the activity of extension of credit by the DCA to the recipient would **not be considered** as a **separate supply** as it is in the context of the supply of goods made by the DCA to the recipient.
   - It is further clarified that the value of the interest charged for such credit would be required to **be included in the value of supply of goods** by DCA to the recipient as per clause (d) of sub-section (2) of section 15 of the CGST Act.

**Circular No. 102/21/2019 GST dated 28-06-2019**

Clarification regarding applicability of GST on additional/penal interest

(1) **EMI**: An EMI is a fixed amount paid by a borrower to a lender at a specified date every calendar month. EMIs are used to pay off both interest and principal every month, so that over a specified period, the loan is fully paid off along with interest. In cases where the EMI is not paid at the scheduled time, there is a levy of additional/penal interest on account of delay in payment of EMI.

(2) **Issue under Consideration**: Whether GST on additional/penal interest on the overdue loan would be exempt from GST in terms of SI. No. 27 of notification No. 12/2017-CT (Rate) dated 28-6-2017 or such penal interest would be treated as consideration for liquidated damages [**amounting to a separate taxable supply of services under GST covered under entry 5(e) of Schedule II of the CGSTAct**] i.e. "agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act"

(3) **Generally, following two transaction options involving EMI are prevalent in the trade:-**

<table>
<thead>
<tr>
<th>Case</th>
<th>Nature of Transaction</th>
<th>Clarification</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>X sells a mobile phone to Y. The cost of mobile phone is Rs. 40,000. However, X gives Y an option to pay in installments, Rs. 11,000 every month before 10(^{th}) day of the following month, over next four months (Rs. 11,000 × 4 =</td>
<td>As per the provisions of Section 15(2)(d) of the CGST Act, the amount of penal interest is to be included in the value of supply. The transaction between X and Y is for supply of taxable goods <em>i.e.</em> mobile phone.</td>
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<td></td>
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<tr>
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<td></td>
</tr>
<tr>
<td><strong>Rs. 44,000.</strong> Further, as per the contract, if there is any delay in payment by Y beyond the scheduled date, Y would be liable to pay additional/penal interest amounting to Rs. 500 per month for the delay. Income instances, X is charging Y Rs. 40,000 for the mobile and is separately issuing another invoice for providing the services of extending loans to Y, the consideration for which is the interest of 2.5% per month and an additional/penal interest amounting to Rs. 500 per month for each delay in payment.</td>
<td>Accordingly, the penal interest would be taxable as it would be included in the value of the mobile, irrespective of the manner of invoicing.</td>
<td></td>
</tr>
</tbody>
</table>

2. **Case 2:** X sells a mobile phone to Y. The cost of mobile phone is Rs. 40,000. Y has the option to avail a loan at interest of 2.5% per month for purchasing the mobile from M/s. ABC Ltd. The terms of the loan from M/s. ABC Ltd. allows Y a period of four months to repay the loan and an additional/penal interest @ 1.25% per month for any delay in payment. The additional/penal interest is charged for a transaction between Y and M/s. ABC Ltd., and the same is getting covered under Sl. No. 27 of Notification No. 12/2017-CT (Rate) dated 28-06-2017. Accordingly, in this case the 'penal interest' charged thereon on a transaction between Y and M/s. ABC Ltd. would not be subject to GST, as the same would be covered under Notification No. 12/2017-CT (Rate) dated 28-06-2017. The value of supply of mobile by X to Y would be Rs. 40,000 for the purpose of levy of GST. |

(4) **Additional/Penal Interest not a consideration for liquidated damages:** It is further clarified that the transaction of levy of additional/penal interest does not fall within the ambit of entry 5(e) of Schedule II of the CGST Act *i.e.* "agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act," as this levy of additional/penal interest satisfies the definition of "interest" as contained in notification No. 12/2017-CT (Rate) dated 28-06-2017.

(5) **Service charges - leviable to GST:** It is further clarified that any service fee/charge or any other charges that are levied by M/s. ABC Ltd. in respect of the transaction related to extending deposits, loans or advances does not qualify to be interest as defined in notification No. 12/2017-CT (Rate) dated 28-06-2017, and accordingly will not be exempt.
PART 4: PROBLEMS

Q1 From the following information determine the value of table supply as per provisions of Section 15 of the CGST Act, 2017?

<table>
<thead>
<tr>
<th>Contracted value of supply of goods (including GST @ 18%)</th>
<th>11,00,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>The contracted value of supply includes the following :</td>
<td></td>
</tr>
<tr>
<td>(1) Cost of primary packing</td>
<td>25,000</td>
</tr>
<tr>
<td>(2) <strong>Cost</strong> of protective packing at recipient's request for safe transportation</td>
<td>10,000</td>
</tr>
<tr>
<td>(3) Design and engineering charges</td>
<td>7,500</td>
</tr>
</tbody>
</table>

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.

Q2 From the following information determine the value of taxable supply as per provisions of Section 15 of the CGST Act, 2017?

(Rs.)
Value of machine (including GST @ 12%) 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 31,000
(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

Give reasons with suitable assumptions where necessary.

Q3 - Comfort footwear, a registered supplier of Agro, has a non-moving stock worth Rs. 8,00,000 of a particular variety of shoes that are out of fashion. It has not been able to find market despite of huge discounts offered. Subsequently, it was able to sell this
stock at a very low price of Rs. 5,00,000 to a retailer in Madhya Pradesh with a condition that the retailer would display hoardings of Comfort Footwear in all their retail outlets in the State. Determine the value of supply.

**Q4** Determine the value of taxable supply as per Section 15 of the CGST Act, 2017 and the Rules thereof:

(Rs.)

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%.

**Q5** Kaya Trade Links Pvt. Ltd. is a registered manufacturer of premium ceiling fans. It sells its fans exclusively through distributors appointed across the country. The maximum retail price (MRP) printed on the package of a fan is Rs. 10,000. The company sells the ceiling fans to distributors at Rs. 7,000 per fan (exclusive of applicable taxes). The applicable rate of GST on ceiling fans is 18%.

The stock is dispatched to the distributors on quarterly basis - stock for a quarter being dispatched in the second week of the month preceding the relevant quarter. However, additional stock is dispatched at any point of the year if the company receives a requisition of that effect from any of its distributors. The company charges Rs. 1,000 per fan from distributors towards packing expenses.

The company has a policy of offer a discount of 10% (per fan) on fans supplied to the distributors for a quarter, if the distributors sell 500 fans in the preceding quarter. The discounts is offered on the price at which the fans are sold to the distributors (excluding all charges and taxes).

The company appoints Prakash Sales as a distributor on 1st April and dispatches 750 fans on 8th April as stock for the quarter April-June. Prakash Sales place a purchase order of 1,000 fans with the company for the quarter July-September. The order is dispatched by the company on 10th June and the same is received by the distributor on 18th June. The distributor makes the payment for the fans on 26th June and avails applicable input tax credit. The distributor reports sales of 700 fans for the quarter April-June and 850 fans for the quarter July-September.

Examine the scenario with reference to Section 15 of the CGST Act, 2017 and compute the taxable value of fans supplied by Kaya Trade Links Pvt. Ltd. to Prakash Sales during the quarter July-September.

**Note**: Make suitable assumptions, wherever necessary. *(MTP May, 2018)*
Q 6 - XYZ Pvt. Ltd. has provided the following particulars relating to goods sold by it to ABC Pvt. Ltd.

**Particulars** | **Rs.**
--- | ---
List price of the goods (exclusive of taxes and discounts) | 1,25,000
Tax levied by Municipal Authority on the sale of such goods | 15,000
CGST and SGST chargeable on the goods | 19,200
Packing charges (not included in price above) | 15,500

XYZ Pvt. Ltd. received Rs. 9,500 as a subsidy from a Non profit making organisation in respect of timely supply of such goods. The price of Rs. 1,25,000 of the goods is after considering such subsidy. XYZ Ltd. offers 4% discount on the list price of the goods which is recorded in the invoice for the goods.

Determine the value of taxable supply made by XYZ Pvt. Ltd.

Q 7 - Floral Advertisers conceptualised and designed the advertising campaign for a new product launched by Jupiter Stampings Pvt. Ltd. for a consideration of Rs. 25,00,000. Floral Advertisers owed Rs. 4,50,000 to one of its vendors in relation to the advertising service provided by it to Jupiter Stampings Pvt. Ltd. Such liability of Floral Advertisers was discharged by Jupiter Stampings Pvt. Ltd. Jupiter Stampings Pvt. Ltd. delayed the payment of consideration and thus, paid Rs. 50,000 as interest. Assume the rate of GST to be 18%.

Determine the value of taxable supply made by Floral Advertisers.

Q 8 - Value of taxable supply - Section 15: Supreme Foods Pvt. Ltd. gets an order for supply of processed food from Hotelia Ltd.. Hotelia Ltd. wants the consignment tested for gluten or specified chemical residues. Supreme Foods Pvt. Ltd. does the testing and charges a testing fee of Rs. 15,000 from the Hotelia Ltd.. Supreme Foods Pvt. Ltd. argues that such testing fees should not form part of the consideration for the sale as it is a separate activity. Is its argument correct in the light of Section 15?

Q 9 - Vikash Charitable Institution makes a substantial donation each year to a reputed private management institution to subsidise the education of low income group students who have gained admission there. The fee for these individuals is reduced thereby, coming to Rs. 1 lakh a year compared to Rs. 4 lakh a year for other students. What would be the taxable value of the service of coaching and instruction provided by the institution?

Q 10 - Floral advertising, an advertising firm, gives an interest-free credit period of 30 days for payment by the customer. One of its customer paid for the supply 40 days after the supply of service. Floral advertising waived the interest payable for delay of ten days. The Department wants to add interest for ten days as per contract. Should notional interest be added to the taxable value?

Q 11: Leather Products Ltd. sells shoes its dealers, to whom it charges the list price minus standard discount and pays GST accordingly. When such shoes remain unsold with the dealers, it offers additional discounts on the stock as an incentive to push the sales. Can
this additional discount be reduced from the price at which the goods were sold and concomitant tax adjustments made?

Q 12  M/s. ILP Ltd. is a manufacturer of sharbat. It sells sharbat in bottles to various retail shop-keepers and gives 25 bottles free along with purchase of every 100 bottles. The MRP indicated on each bottle is Rs. 200 per bottle. The transaction value is Rs. 160 per bottle. During a month, M/s. ILP Ltd. sold 1,00,000 bottles and gave away 25,000 bottles free to the retail shop-keepers. Compute the amount of GST payable by M/s. ILP Ltd. GST rate is 18%.

Q 13 - M/s. Dental Care Ltd. has introduced a new product 'CLOVE toothpaste. Determine the GST payable if rate of tax is 18% on tooth paste and tooth brush :

(i) 1,000 pieces having retail sale price (RSP) Rs. 70 per piece are sold in retail packages to wholesale dealer at Rs. 50 per piece.
(ii) 2,500 pieces having RSP Rs. 70 per piece are sold in retail packages, but buyer is charged for 2,400 pieces only at Rs. 50 per piece (100 pieces have been given free as quantity discount).
(iii) 50 pieces were given away as free samples, without any RSP on the pack.
(iv) 200 multi-packs were cleared at Rs. 90 per pack, each containing two toothpaste tubes and one tooth-brush free (without any RSP on it).

The amount charged from the dealer/ buyers are exclusive of GST.

Q 14 - Mr. X purchases an Apple i-phone open market value Rs. 80,000 from registered mobile dealer, in exchange of his existing mobile phone. The registered mobile dealer agreed to accept Rs. 72,000 instead of his quote of Rs. 73,000, as he would still be in a profitable position (the old mobile phone phone can be sold for Rs. 10,000). Determine GST implications of such transaction.

Q 15  Mr. S supplied goods 'X' to Mr. R for consideration of Rs. 5,00,000 (excluding taxes). Mr. R also gave some material to Mr. S as consideration for such supply whose value was Rs. 20,000 (excluding taxes). Mr. S has supplied the same goods to another person at price of Rs. 5,71,200 (including GST @ 12%). Determine the value of supply.

What would your answer be if price of Rs. 5,71,200 is not available at the time of supply of goods to Mr. R.

What would your answer be in above case if open market value of supply is also not available but at the time of supply of goods by Mr. S, identical goods have been supplied at value of Rs. 5,25,000 (excluding taxes).

Q 16 - Compute the value of taxable supply and GST payable from the following information : ABC' Ltd. manufactured school bags. During the month of August 2019, XYZ. Ltd. purchased 500 bags at the contracted price of Rs. 1,000 per bag (excluding GST and discount) from ABC Ltd. XYZ. Ltd. supplied chains used in the manufacturing of the bags to ABC Ltd. without consideration as per instruction of ABC Ltd. The open
market value of the chains so supplied was Rs. 50 per chain. Also a discount of Rs. 20 per bag was given by the supplier at the time of the supply and same has been duly recorded in the invoice issued in respect of such supply. GST rate is 18%.

Give reasons with suitable assumptions.

Q 17- Somesh & Co. provides technical consultancy to a group of companies for an annual retainership fee of Rs. 25 lakh. It is given a room in the head office of the group for its exclusive use. Somesh & Co. pays GST on the amount of Rs. 25 lakh. Is the value for the service provided by Somesh & Co., correct under GST laws? If not, please elaborate.

Q 18 - Mr. X located in Jaipur purchases 2,000 drawing boxes for Rs. 2,00,000 from M/s. Stationers Ltd. (wholesalers) located in Delhi. Mr. X’s son is an employee in M/s. Stationers Ltd. The price of each drawing box in the open market is Rs. 120. The supplier additionally charges Rs. 5,000 for delivering the goods to the recipient’s place of business.

Q 19 - Jagatguru textiles transfers stock of 15,000 metres of cloth (costing Rs. 15,00,000) requiring further processing before sale, from Bellary in Karnataka to its Bhilwara branch in Rajasthan. The Bhilwara branch, apart from processing its own goods, engages in processing of similar goods by other persons who supply the same variety of goods, and thereafter sells these processed goods to wholesalers there are no other factories in the neighbouring area which are engaged in the same business as that of its Rajasthan unit. Goods of the same kind and quality are supplied in lots of 15,000 metres each time, by another manufacturer located in Rajasthan. The price of such goods is Rs. 14,00,000.

Q 20 - M/s. Solid Fabricators owned by Kalyan is popularly known for assembly of large machines. M/s. SS Fabricators (also owned by Kalyan) is engaged in fabrication of small machines. A factory contracts M/s. Solid Fabrieditors for fabrication of its machinery, for a fee of Rs. 5,00,000. M/s. Solid fabricators sub-contracts the work to M/s. SS Fabricators for Rs. 4,00,000, and ensures supervision of the work performed by them. Generally, M/s. SS Fabricators charges a fixed sum of Rs. 1,200 per man hour to its clients; it spends 400 hours on this project. Determine value of supply.

Q 21 - GG Ltd. supplied printers from its establishment located in Maharashtra to its computer manufacturing unit in Rajasthan @ Rs. 10,000 per unit. GG Ltd. supplied such printers during the same period to independent recipient @ Rs. 14,160 in market (including CGST and SGST 18%). Determine the value of supply for GG Ltd. in accordance with the CGST Act, 2017 and the rules made therefor.

Q 22 - SS Ltd. manufactures a customized product ‘A’ at its unit in Madhya Pradesh and supplies it to its another establishment, located in Rajasthan. The Contracted sales price is Rs. 9,00,000. The cost of production of Product ‘A’ is Rs. 10,00,000. SS Ltd.
is the sole manufacturer of this product. Determine taxable value of supply and calculate CGST and SGST payable @ 5%.

Would your answer be different if the establishment in Jaipur is eligible to avail Input tax credit of GST payable by SS Ltd.

Q 23 - Grasim Private Ltd. was the only Indian company making and selling a fibre 'A' to companies, who used this as a raw material. However, the international prices of 'A' dropped, and the companies began to import it rather than buying from Grasim Private Ltd. The promoters then set up another company, which had a manufacturing unit that could use 'A', with common directors and senior management for better integration of functionality. Grasim Private Ltd. began to supply 'A' to this related concern at low margins. The related concern was not eligible for full ITC. GST was paid on the price charged. Was the value adopted by Grasim Private Ltd. for supply of 'A' to its related concern, correct? Elaborate.

Q 24 - Home Appliances Ltd. (Faridabad) has 15 agents located across the State of Haryana (except Faridabad). The stock of vacuum cleaners is dispatched on Just-In-Time basis from Home Appliances Ltd. to the locations of the agents, based on receipt of orders from various dealers, on a fortnightly basis. Home Appliances Ltd. is also engaged in the wholesale supply of vacuum cleaners in Faridabad. An agent places an order for dispatch of 20 vacuum cleaners on 10-12-2019. Home Appliances Ltd. had sold 20 vacuum cleaners to a retailer in Faridabad on 8-12-2019 for Rs. 1,30,000. The agent effects the sale of the 20 units to a dealer who would effect the sales on MRP basis (i.e., @ Rs. 7,000/unit).

Q 25 - M/s. Money Express Ltd., Jaipur is an authorised money changer registered under FEMA, 1999. It enters into the following transactions of money changing:

(1) Sold 10,000 US $ @ 1 US $ = Rs. 71
(2) Purchased 1,000 Euro @ 1 Euro = Rs. 70
(3) Purchased 1,000 GBP @ 1 GBP = Rs. 99
(4) Sold 50,000 units of currency ABC @ 1 ABC = Rs. 15
(5) RBI reference rate for the various currencies at the relevant lime:

\[
\begin{align*}
1 \text{ US $} & = \text{Rs. 70} \\
1 \text{ Euro} & = \text{Rs. 71} \\
1 \text{ GBP} & = \text{Rs. 100}
\end{align*}
\]
(6) Sold 9680 US $ for 6,800 GBP

You are required to calculate value of taxable supply of service and tax thereon if all charges are exclusive of GST.

Applicable GST rate-18%.
Q 26 - M/s. MNO Ltd., Delhi is an authorised money changer registered under [FEMA, 1999. It has entered the following transaction of supply of money changing:

1. 600 transactions of conversion of Dollar into Indian Rupees of Rs. 20,000 per transaction;
2. 500 transactions of conversion of Dollar into Indian Rupees of Rs. 1 lakh per transaction;
3. 200 transactions of conversion of Indian Rupee in Dollar of Rs. 5 lakhs per transaction;
4. 100 transactions of conversion of Euro into Indian Rupee of Rs. 500 lakhs per transaction;
5. 300 transactions of conversion of Dollar into Euro of Rs. 100 lakhs per transaction;

Compute the value of taxable supply and GST payable where M/s. MNO Ltd. opted for option u/r 32(2)(b) of CGST Rules, 2017. Applicable GST rate -18%.

Q 27 - M/s. Airlines Associates has sold tickets for transport of passengers to Singapore, and other foreign countries during the month of January, 2020. The total amount charged is Rs. 30 lakhs on the flight (100 tickets) of which Rs. 10 lakhs is towards passenger taxes. Determine the Value of taxable supply of services of M/s. Airlines Associates and tax thereon if applicable rate of GST is 18%. Amounts are exclusive of tax.

Q 28 - M/s. Kamal Associates has sold tickets for transport of passengers from various domestic flights during the month of January 2020. The total amount charged is Rs. 90 lakhs on the flight (500 tickets) of which Rs. 10 lakhs is towards passenger taxes. Determine the value of taxable supply of services and GST payable thereon if rate of GST is 18%. Amounts are exclusive of CGST and SGST.

Q 29 - LIC of India provides you the following information for the month of Journey 2020. You are required to compute value of taxable Supply of services under Rule 32(4) of Determination of value of supply Rules, 2017.

1. General policies: Total premiums collected Rs. 12,000 lakhs (Out of which 1st year premium is Rs. 5,000 lakhs)
2. Single premium annuity policies: Premiums collected Rs. 850 lakhs.
4. Life micro-insurance policies where insured amount does not exceed Rs. 2,00,000: Premium collected Rs. 10 lakhs.
5. Variable Insurance Policies: Premiums collected Rs. 8,000 lakhs. (80% of the amount in allocated for investments on behalf of policy holder for which policy holder it given separate break up in premium receipts)
**Q 30** - Mr. Rohan is engaged in buying and selling of second hand cars in Jaipur. During the month of December, 2019 he supplied a used car after some processing at Rs. 6,00,000 which he purchased from customer at Rs. 5,40,000 and no input tax credit has been availed on such purchase. Compute the value of taxable Supply. What would your answer be if purchase price of used car is Rs. 6,20,000.

**Q 31** - Mr. X purchased a motor car on 1st October 2019 for Rs. 20,00,000. 80% of the purchase price of car was financed by Easy Finance Ltd. The loan was payable in 60 monthly instalments beginning with 01-11-2019. Mr. X defaulted in repayment of loan and Easy Finance Ltd. repossessed the car on 15-05-2020. The car was disposed on 10-12-2020 for Rs. 15,50,000. Determine the value of taxable supply as per Rule 32(5) of CGST Rules, 2017.

**Q 32** - Mr. & Ms. Bhargava purchase 5 gift vouchers for Rs. 1,000 each from Raymonds and give them as return gifts to children and their parents on their son's birthday. Determine the value of supply.

**Q 33** - Easy Coupons Ltd. sells coupons that are redeemable against specified cosmetic products at retail outlets. Each coupon has a face value of Rs. 1,500 but is redeemable for supplies worth Rs. 1,750. What is the value of supply of such coupon under GST laws?

**Q 34** - Rolly Polly Manufacturers Ltd., registered in Mumbai (Maharashtra), is a manufacturer of footwear. It imports a footwear making machine from USA. Rolly Polly Manufacturers Ltd. avails the services of Rudra Logistics, a licensed customs broker with its office at Ahmedabad (Gujarat), in meeting all the legal formalities for getting the said machine cleared from the customs station.

Rolly Polly Manufacturers Ltd. also authorises Rudra Logistics to incur, on its behalf, the expenses in relation to clearance of the imported machine from the customs station and bringing the same to its warehouse at Mumbai. These expenses would be reimbursed by Rolly Polly Manufacturers Ltd. to Rudra Logistics on actual basis. In addition, Rolly Polly Manufacturers Ltd. will also pay the agency charges to Rudra Logistics for the services rendered by it.

Rudra Logistics raised an invoice in July, 2019 as follows:

<table>
<thead>
<tr>
<th>Particulars</th>
<th>(Rs.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) Agency charges</td>
<td>5,00,000</td>
</tr>
<tr>
<td>(ii) Unloading of machine at Kandla port, Gujarat</td>
<td>50,000</td>
</tr>
<tr>
<td>(iii) Charges for transport of machine from Kandla port, Gujarat to Rudra</td>
<td>25,000</td>
</tr>
<tr>
<td>Logistics' godown in Ahmedabad, Gujarat</td>
<td></td>
</tr>
<tr>
<td>(iv) Charges for transport of machine from Rudra Logistics' Ahmedabad</td>
<td>28,000</td>
</tr>
<tr>
<td>godown to the warehouse of Roily Polly Export Import House in Mumbai</td>
<td></td>
</tr>
<tr>
<td>Maharashtra</td>
<td></td>
</tr>
<tr>
<td>(v) Customs duty on machine</td>
<td>5,00,000</td>
</tr>
<tr>
<td>(vi) Dock dues</td>
<td>50,000</td>
</tr>
<tr>
<td>(vii) Port charges</td>
<td>50,000</td>
</tr>
</tbody>
</table>

13.21
Compute the value of supply made by Rudra Logistics with the help of given information. Would your answer be different if Rudra Logistics charges Rs. 13,00,000 as a lump sum consideration for clearing the imported machine from the customs station and bringing the same to the warehouse of Rolly Polly Manufacturers Ltd.?

Q 35 – ABC Ltd., Noida (Uttar Pradesh) is a supplier of machinery used for making bottle caps. The supply of machinery is effected as under:

(1) The wholesale price of the machinery (excluding all taxes and other expenses) at which it is supplied in the ordinary course of the business to various customers is Rs. 42,00,000. However, the actual price at which the machinery is supplied to an individual customer varies within a range of ± 10% depending upon the terms of contract of supply with the particular customer.

(2) Apart from the price of the machinery, ABC Ltd. charges from the customer the following incidental expenses:
   (a) associated handling and loading charges of Rs. 10,000
   (b) installation and commissioning charges of Rs. 1,00,000

   The machinery can be dismantled and erected at another site, if required. The above charges are compulsorily levied in every case of supply of machinery.

(3) Transportation of machinery to the customer’s premises is arranged by ABC Ltd. through a third-party service provider [Goods Transport Agency (GTA)]. The customer enters into a separate service contract with the GTA and pays the freight directly to it.

(4) The company provides one year free warranty for the machinery. However, the company also provides an extended two-year warranty on payment of additional charge of Rs. 3,00,000.

(5) A cash discount of 2% on the price of the machinery is offered at the time of supply, if the customer agrees to make the payment within 15 days of the receipt of the machinery at his premises. In the event of failure to make the payment within the stipulated time, the company —
   (a) recovers the discount given; and
   (c) charges interest @ 1% per month or part of the month on the total amount due from the customer (towards the machinery supplied) from the date of making the supply till the date of payment. However, no interest is charged on the tax dues.

(6) For every machinery supplied, ABC Ltd. receives a grant of Rs. 2,00,000 from its holding company DEF Ltd.

ABC Ltd. has supplied a machinery to D Pvt. Ltd. on August 1, 2019 at a price of Rs. 40,00,000 (excluding all taxes). D Pvt. Ltd has its corporate office in New Delhi. However,
the machinery has been installed at its manufacturing unit located in Gurugram (Haryana). D Pvt. Ltd. has paid the freight directly to the GTA and opted for two year warranty. Discount @ 2% was given to D Pvt. Ltd. as it agreed to make the payment within 15 days. However, D Pvt. Ltd. paid the consideration on 31st October, 2019.

**Assume the rates of taxes to be as under:**

<table>
<thead>
<tr>
<th>Goods/ Services supplied</th>
<th>CGST</th>
<th>SGST</th>
<th>IGST</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) Bottle cap making machine</td>
<td>6%</td>
<td>6%</td>
<td>12%</td>
</tr>
<tr>
<td>(ii) Service of transportation of goods</td>
<td>2.5%</td>
<td>2.5%</td>
<td>5%</td>
</tr>
<tr>
<td>(iii) Other services involved in the above supply</td>
<td>9%</td>
<td>9%</td>
<td>18%</td>
</tr>
</tbody>
</table>

You are required to make suitable assumptions, wherever necessary.

Calculate the CST payable [CGST & SGST or IGST, as the case may be] on the machinery and support your conclusions with legal provisions in the form of explanatory notes.

Make suitable assumptions, wherever needed.

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