CHAPTER 01

GST IN INDIA

AN INTRODUCTION

Section A – ICAI Study Material Questions

Question 1

List some of the benefits that GST may accrue to the economy.

Answer : GST may accrue following benefits to the economy:

(a) **Creation of unified national market:** GST aims to make India a common market with common tax rates and procedures and remove the economic barriers, thereby paving the way for an integrated economy at the national level.

(b) **Boost to 'Make in India' initiative:** GST may give a major boost to the 'Make in India' initiative of the Government of India by making goods and services produced in India competitive in the national as well as international market. This would make India a manufacturing hub.

(c) **Boost to investments, exports and employment:** Under the GST regime, the principle of exporting only the cost of goods or services and not taxes is being followed. This may boost Indian exports thereby improving the balance of payments position. Exporters are being facilitated by grant of provisional refund of 90% of their claims within 7 days of issue of acknowledgement of their application, thereby resulting in the easing of position with respect to cash flows.

Further, the subsuming of major Central and State taxes in GST, complete and comprehensive set-off of input tax on goods and services and phasing out of Central Sales Tax (CST) may reduce the cost of locally manufactured goods and services. Resultantly, the competitiveness of Indian goods and services in the international market may increase to give boost to investments and Indian exports.

With a boost in exports and manufacturing activity, more employment would be generated and GDP would increase.

Question 2

Explain with the help of examples how a particular transaction of goods and services is taxed simultaneously under Central GST (CGST) and State GST (SGST)?

Answer : The Central GST and the State GST is levied simultaneously on every intra-State supply of goods or services or both made by registered persons except the exempted goods and services as well as



goods and services which are outside the purview of GST. Further, both are levied on the same price or transaction value. The same can be better understood with the help of following examples:

Example I: Suppose that the rate of CGST is 10% and that of SGST is 10%. When a wholesale dealer of steel in Uttar Pradesh supplies steel bars and rods to a construction company which is also located within the same State for, say Rs. 100, the dealer would charge CGST of Rs. 10 and SGST of Rs. 10 in addition to the basic price of the goods. The CGST component will go into a Central Government account while the SGST portion into the account of the concerned State Government (viz. U.P.).

It is important to note that he might not actually pay Rs. 20 (Rs. 10 + Rs. 10) in cash as he would be entitled to set-off this liability against the CGST or SGST paid on his eligible purchases (inputs, input services and capital goods) assuming that all his purchases are intra-State. However, for paying CGST, he would be allowed to use only the credit of CGST paid on his purchases while for SGST he can utilize the credit of SGST alone. CGST credit cannot be used for payment of SGST and vice versa.

Example II : Suppose, again the rate of CGST is 10% and that of SGST is 10%. When an advertising company located in Mumbai supplies advertising services to a company manufacturing soap also located within the State of Maharashtra for, let us say Rs. 100, the ad company would charge CGST of Rs. 10 as well as SGST of Rs. 10 at the basic value of the service. The CGST component will go into a Central Government account while the SGST portion into the account of the Maharashtra Government.

He might not actually pay Rs. 20 (Rs. 10+Rs. 10) in cash as it would be entitled to set-off this liability against the CGST or SGST paid on his eligible purchases (say, of inputs such as stationery, office equipment, services of an artist etc.) assuming that all his purchases are intra-State. However, for paying CGST, he would be allowed to use only the credit of CGST paid on its purchase while for SGST, he can utilise the credit of SGST alone. CGST credit cannot be used for payment of SGST and vice versa.

Question 3

Why was the need to amend the Constitution of India before introducing the GST?

Answer : Earlier, the fiscal powers between the Centre and the States were clearly demarcated in the Constitution with almost no overlap between the respective domains. The Centre had the powers to levy tax on the manufacture of goods (except alcoholic liquor for human consumption, opium, narcotics etc.) while the States had the powers to levy tax on the sale of goods. In the case of inter-State sales, the Centre had the power to levy the Central Sales Tax but the tax was collected and retained entirely by the States. As for services, it was the Centre alone that was empowered to levy service tax.

Introduction of the GST necessitated the amendments in the Constitution so as to simultaneously empower the Centre and the States to levy and collect this tax. The Constitution of India was amended by the Constitution (101st Amendment) Act, 2016 for this purpose. Article 246A of the Constitution introduced thereby empowered the Centre and the States to simultaneously levy and collect the GST.

Question 4



GST is a destination-based tax on consumption of goods or services or both. Discuss the validity of the statement.

Answer : The given statement is valid. GST is a destination-based tax on consumption of goods or services or both. GST is known as destination- based tax since the tax would accrue to the taxing authority which has jurisdiction over the place of consumption which is also termed as place of supply.

For example, if A in Delhi produces the goods and sells the goods to B in Haryana. In this case, the tax would accrue to the State of Haryana and not to the State of Delhi. On the other hand, under pre-GST regime, origin- based taxation was prevailing in such cases.

Under origin-based taxation, the tax used to accrue to the State from where the transaction originated. In the given case, under origin-based taxation, the central sales tax would have been levied by Centre and collected by the State of Delhi and not by the State of Haryana.

Question 5

Discuss the leviability of GST or otherwise on the following:

(a) Alcoholic liquor for human consumption

(b) Petroleum crude, diesel, petrol, Aviation Turbine Fuel (ATF) and natural gas

(c) Tobacco

(d) Opium, Indian hemp and other narcotic drugs and narcotics

Answer :

(a) **Alcoholic liquor for human consumption:** is outside the realm of GST. The manufacture/production of alcoholic liquor continues to be subjected to State excise duty and inter-State/intra-State sale of the same is subject to CST/VAT respectively.

(b) **Petroleum crude, diesel, petrol, ATF and natural gas:** As regards petroleum crude, diesel, petrol, ATF and natural gas are concerned, they are not presently leviable to GST. GST will be levied on these products from a date to be notified on the recommendations of the GST Council.

Till such date, central excise duty continues to be levied on manufacture/production of petroleum crude, diesel, petrol, ATF and natural gas and inter-State/intra-State sale of the same is subject to CST/ VAT respectively.

(c) **Tobacco:** Tobacco is within the purview of GST, i.e. GST is leviable on tobacco. However, Union Government has also retained the power to levy excise duties on tobacco and tobacco products manufactured in India. Resultantly, tobacco is subject to GST as well as central excise duty.

(d) **Opium, Indian hemp and other narcotic drugs and narcotics:** Opium, Indian hemp and other narcotic drugs and narcotics are within the purview of GST, i.e. GST is leviable on them. However, State Governments have also retained the power to levy excise duties on such products manufactured in India. Resultantly, Opium, Indian hemp and other narcotic drugs and narcotics are subject to GST as well as State excise duties.

Question 6



Under Goods and Services Tax (GST), only value addition is taxed and burden of tax is to be borne by the final consumer. Examine the validity of the statement.

Answer : The statement is correct. Goods and Services Tax is a destination-based tax on consumption of goods and services. It is levied at all stages right from manufacture up to final consumption with credit of taxes paid at previous stages available as setoff. Resultantly, only value addition is taxed and burden of tax is to be borne by the final consumer.

Question 7

Which are the commodities which have been kept outside the purview of GST? Examine the status of taxation of such commodities after introduction of GST. **[MTP Sept. 2024, 4 Marks]**

Answer : Article 366(12A) of the Constitution as amended by 101st Constitutional Amendment Act, 2016 defines the Goods and Services tax (GST) as a tax on supply of goods or services or both, except supply of alcoholic liquor for human consumption. Therefore, alcohol for human consumption is kept out of GST by way of definition of GST in the Constitution. Five petroleum products viz. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel have temporarily been kept out of the purview of GST; GST Council shall decide the date from which they shall be included in GST. The erstwhile taxation system (CST/VAT & central excise) still continues in respect of the said commodities.

Question 8

A dual GST has been implemented in India. Elaborate.

Answer : A dual GST has been implemented in India with the Centre and States simultaneously levying it on a common tax base. The GST levied by the Centre on intra-State supply of goods and / or services is called the Central GST (CGST) and that levied by the States/ Union territory is called the State GST (SGST)/ Union GST (UTGST). Similarly, Integrated GST (IGST) is levied and administered by Centre on every inter-State supply of goods and/or services.

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

Question 9

Discuss Article 269A pertaining to levy and collection of GST on inter-State supply.

Answer : Article 269A of the Constitution stipulates that 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.

Here, 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.



The amount so apportioned to a State shall not form part of the Consolidated Fund of India. Where an amount collected as IGST has been used for payment of SGST or vice versa, such amount shall not form part of the Consolidated Fund of India/State respectively. This is to facilitate transfer of funds between the Centre and the States.

Parliament is empowered to 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.

Question 10

Discuss Article 246A which grants the power to make laws with respect to Goods and Services Tax.

Answer : Article 246A stipulates that Parliament, and, 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.

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.

However, in respect to petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel, the aforesaid provisions shall apply from the date to be notified by the Government on the recommendations by the GST Council.

Question 11

Differentiate between direct and indirect taxes. **[CA Inter Nov 2018, 2 Marks]**

Answer : Difference between direct taxes and indirect taxes:

Direct Taxes	Indirect Taxes
The person paying the tax to the Government directly bears the incidence of the tax.	The person paying the tax to the Government collects the same from the ultimate consumer. Thus, incidence of the tax is shifted to the other person.
Progressive in nature - high rate of taxes for people having higher ability to pay.	Regressive in nature - All the consumers equally bear the burden, irrespective of their ability to pay.

Question 12

Explain the salient features of indirect taxes.

Answer : Salient features of indirect taxes are:

(i) **An important source of revenue:** Indirect taxes are a major source of tax revenues for Governments worldwide and continue to grow as more countries move to consumption oriented tax regimes. In India, indirect taxes contribute more than 50% of the total tax revenues of Central and State Governments.

(ii) **Tax on commodities and services:** It is levied on commodities at the time of supply or manufacture or purchase or sale or import/export thereof. Hence, it is also known as commodity taxation. It is also levied on supply of services.



(iii) **Shifting of burden:** There is a clear shifting of tax burden in respect of indirect taxes. For example, GST paid by the supplier of the goods is recovered from the buyer by including the tax in the cost of the commodity.

(iv) **No perception of direct pinch:** Since, value of indirect taxes is generally inbuilt in the price of the commodity, most of the time the tax payer/consumer pays the same without actually knowing that he is paying tax to the Government. Thus, tax payer does not perceive a direct pinch while paying indirect taxes.

(v) **Inflationary:** Tax imposed on commodities and services causes an all- round price spiral. In other words, indirect taxation directly affects the prices of commodities and services and leads to inflationary trend.

(vi) **Wider tax base:** Unlike direct taxes, the indirect taxes have a wide tax base. Majority of the products or services are subject to indirect taxes with low thresholds.

(vii) **Promotes social welfare:** Higher taxes are imposed on the consumption of harmful products (also known as 'sin goods') such as alcoholic products, tobacco products etc. This not only checks their consumption but also enables the State to collect substantial revenue.

(viii) **Regressive in nature:** Generally, the indirect taxes are regressive in nature. The rich and the poor have to pay the same rate of indirect taxes on certain commodities of mass consumption. This may further increase the income disparities between the rich and the poor.

Question 13

Write a short note on various Lists provided under Seventh Schedule to the Constitution of India.

Answer : Seventh Schedule to Article 246 of the Constitution contains three lists which enumerate the matters under which the Union and the State Governments have the authority to make laws.

(i) **List -I (UNION LIST):** It contains the matters in respect of which the Parliament (Central Government) has the exclusive right to make laws.

(ii) **List -II (STATE LIST):** It contains the matters in respect of which the State Government has the exclusive right to make laws.

(iii) **List -II (CONCURRENT LIST):** It contains the matters in respect of which both the Central & State Governments have power to make laws.

Question 14

Discuss the deficiencies in the existing indirect taxes which led to the need for ushering into GST regime.

Answer : Deficiencies in the erstwhile indirect tax regime:

(a) Certain transactions were subject to double taxation and were taxed as both goods and services, since under the earlier regime, distinction between goods and services was often blurred.

(b) CENVAT did not include chain of value addition in the distributive trade after the stage of production. Similarly, in the State-level VAT, CENVAT load on the goods was not removed leading to the cascading of taxes.



(c) Though CENVAT and State-Level VAT were essentially value added taxes, set off of one against the credit of another was not possible as CENVAT was a central levy and State-Level VAT was a State levy.

(d) There were several taxes in the States, such as, Luxury Tax, Entertainment Tax, etc. which were not subsumed in the VAT. Hence for a single transaction, multiple taxes in multiple forms were required to be paid.

(e) VAT on goods was not integrated with tax on services, at the State level, to remove the cascading effect of service tax. With service sector being the fastest growing sector in the economy, the exclusion of services from the tax base of the States potentially eroded their tax- buoyancy.

(f) CST was another source of distortion in terms of its cascading nature since it was non-VATABLE. Being an origin based tax, CST was also against one of the basic principles of consumption taxes that tax should accrue to the jurisdiction where consumption takes place.

Question 15

List the Central and State levies which have been subsumed in GST in India.

[CA Inter Nov. 2018, 2 Marks] [MTP Nov. 2018, 2 Marks][CA Inter May 2018, 3 Marks]

Answer : Central levies that are subsumed in GST are as follows:

- Central Excise Duty & Additional Excise Duties
- Service Tax
- Excise Duty under Medicinal & Toilet Preparation Act
- Countervailing Duty and Special Countervailing Duty (under Customs)
- Central Sales Tax
- Central surcharges & Cesses in so far as they relate to supply of goods & services

State levies that are subsumed in GST are as follows:

- State surcharges and cesses in so far as they relate to supply of goods & services
- Entertainment Tax (except those levied by local bodies)
- Tax on lottery, betting and gambling
- Entry Tax (All Forms) & Purchase Tax
- VAT/ Sales tax
- Luxury Tax
- Taxes on advertisements

Question 16

Discuss the need and functions of the common GST portal.

Answer : GST being a destination-based tax, the inter-State trade of goods and services (IGST) needed a robust settlement mechanism amongst the States and the Centre. A Common Portal was needed which could act as a clearing house and verify the claims and inform the respective Governments to transfer the funds. This was possible only with the help of a strong IT Infrastructure.



Resultantly, Common GST Electronic Portal – www.gst.gov.in – a website managed by Goods and Services Network (GSTN) [a company incorporated under the provisions of section 8 of the Companies Act, 2013] is set by the Government to establish a uniform interface for the tax payer and a common and shared IT infrastructure between the Centre and States.

The functions of the GSTN include facilitating registration; forwarding the returns to Central and State authorities; computation and settlement of IGST; matching of tax payment details with banking network; providing various MIS reports to the Central and the State Governments based on the taxpayer return information; providing analysis of taxpayers' profile.

Question 17

Briefly explain the leviability of GST or otherwise on petroleum crude, diesel, petrol, Aviation Turbine Fuel (ATF) and natural gas.

Answer : Petroleum crude, diesel, petrol, ATF and natural gas are presently not leviable to GST. GST will be levied on these products from a date to be notified on the recommendations of the GST Council. Till such date, central excise duty continues to be levied on manufacture/production of petroleum crude, diesel, petrol, ATF and natural gas and inter-State/intra-State sale of the same is subject to CST/ VAT respectively.

Question 18

Elaborate the principles that were borne in mind while subsuming various central, state and local levies, under GST.

Answer : The various central, state and local levies were examined to identify their possibility of being subsumed under GST. While identifying, the following principles were kept in mind:

(i) Taxes or levies to be subsumed should be primarily in the nature of indirect taxes, either on the supply of goods or on the supply of services.

(ii) Taxes or levies to be subsumed should be part of the transaction chain which commences with import/ manufacture/ production of goods or provision of services at one end and the consumption of goods and services at the other.

(iii) The subsuming of taxes should result in free flow of tax credit in intra and inter-State levels. The taxes, levies and fees that were not specifically related to supply of goods & services should not be subsumed under GST.

(iv) Revenue fairness for both the Union and the States individually would need to be attempted.

Question 19

GST is a simplified tax structure. Justify the statement. **[MTP Nov. 21, 4 Marks] [MTP May 2021]**

Answer : GST is a simplified tax structure. The statement is justified. Simpler tax regime with fewer exemptions along with reduction in multiplicity of taxes under GST has led to simplification and uniformity in tax structure. The uniformity in laws, procedures and tax rates across the country makes doing business easier. Common system of classification of goods and services across the country ensures certainty in tax administration across India.

Question 20

List the advantages that GST accrues to the trade and industry.

Answer : GST accrues following advantages to the trade and industry

(i) **Benefits to industry:** GST has given more relief to trade and industry through a more comprehensive and wider coverage of input tax set- off and service tax set-off, subsuming of several Central and State taxes in the GST and phasing out of CST. The transparent and complete chain of set-offs which results in widening of tax base and better tax compliance also leads to lowering of tax burden on an average dealer in trade and industry.

(ii) **Mitigation of ill effects of cascading:** By subsuming most of the Central and State taxes into a single tax and by allowing a set-off of prior-stage taxes for the transactions across the entire value chain, it helps in mitigating the ill effects of cascading, improving competitiveness and improving liquidity of the businesses.

(iii) **Benefits to small traders and entrepreneurs:** GST has increased the threshold for GST registration for small businesses. Further, single registration is needed in one State. Small businesses have also been provided the additional benefit of composition scheme. With the creation of a seamless national market across the country, small enterprises have an opportunity to expand their national footprint with minimal investment.

Question 21

List the special category States as prescribed in Article 279A of the Constitution of India.

Answer : There are 11 Special Category States, namely, States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand.

Question 22

Discuss the leviabilty of GST or otherwise on tobacco.

Answer : Tobacco is within the purview of GST, i.e. GST is leviable on tobacco. However, Union Government has also retained the power to levy excise duties on tobacco and tobacco products manufactured in India. Resultantly, tobacco is subject to GST as well as central excise duty.

Section B – Additional Questions
Past RTPs, MTPs, And Exams Papers

Question 23

Explain the meaning of the term "recipient of supply of goods and/or services" under the CGST Act, 2017. **[CA Inter May 2018, 5 Marks][MTP Nov. 2020, 5 Marks]**

Answer : Recipient of supply of goods or services or both, means –

(i) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;



(ii) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and

(iii) where no consideration is payable for the supply of a service, the person to whom the service is rendered, and

(i) any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply, and

(ii) shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied.

Question 24

Discuss any two functions of GSTN. [MTP Nov. 2018, 2 Marks]

Answer : The functions of the GSTN include:

- facilitating registration;
- forwarding the returns to Central and State authorities;
- computation and settlement of IGST;
- matching of tax payment details with banking network;
- providing various MIS reports to the Central and the State Governments based on the taxpayer return information;
- providing analysis of taxpayers' profile; and running the matching engine for matching, reversal and reclaim of input tax credit.

(Note: Any two points may be mentioned)

Multiple Choice Questions

Question 1

Various taxes have been subsumed in GST to make one nation one tax one market for consumers. Out of the following, determine which taxes have been subsumed in GST.

(i) Basic customs duty levied under Customs Act, 1962

(ii) Taxes on lotteries

(iii) Environment tax

(a) (ii) (b) (ii) and (iii) (c) (iii) (d) (i), (ii) and (iii)

Question 2

Goods as per section 2(52) of the CGST Act, 2017 includes:

(i) Actionable claims

(ii) Growing crops attached to the land agreed to be severed before supply.

(iii) Money

(iv) Securities

(a) (i) and (iii) (b) (iii) and (iv) (c) (i) and (ii) (d) (ii) and (iii) [RTP May 2021]



Question 3

Alcoholic liquor for human consumption is subjected to

(a) State excise duty

(b) Central Sales Tax/Value Added Tax

(c) Both (a) and (b)

(d) GST

[MTP Nov. 2019, 1 Mark]

Question 4

An exempt supply includes-

(a) Supply of goods or services or both which attracts Nil rate of tax

(b) Non-taxable supply

(c) Supply of goods or services or both which are wholly exempt from tax under section 11 of the CGST Act or under section 6 of IGST Act

(d) All of the above

[MTP Nov. 2019, 1 Marks]

Question 5

_____ provides that no tax shall be levied or collected except by authority of law.

a) Article 269

b) Article 245

c) Article 265

d) Article 246

[MTP Nov. 2023]

Answer Key

01	(a)	02	(c)	03	(c)	04	(d)	05	(c)

"Baccha Kabil Bano, Kabil...
Kamyabi Toh Jhak
Maarke Peeche Bhagegi"



LEVY OF GST

CHAPTER 02

Section A – ICAI Study Material Questions

Question 1

Meghraj & Co. wishes to commence the business of supplying ready-made garments within Punjab and in the neighbouring States of Delhi and Haryana. Kindly state as to what is the taxable event under GST and leviability of CGST, SGST/UTGST and IGST on the same?

Answer : Taxable event under GST is supply of goods or services or both. CGST and SGST/ UTGST will be levied on intra-State supplies. IGST will be levied on inter-State supplies.

Question 2

Damodar Private Ltd., registered in Delhi, has transferred some goods to its branch, registered in West Bengal, so that the goods can be sold from the branch. The goods have been transferred without any consideration. The company believes that the transaction undertaken by it does not qualify as supply as no consideration is involved. Ascertain whether the transfer of goods by Damodar Private Ltd. to its branch office qualifies as supply.

Answer : As per Schedule I of the CGST Act, 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, is deemed as supply even if made without consideration. In the given case, since the Damodar Private Ltd. and its branch located in another State are distinct persons, supply of goods between them qualifies as supply.

Question 3

Prithvi Associates is engaged in supply of taxable goods. It enquires from its tax advisor as to whether any activity can be treated as supply even if made without consideration in accordance with the provisions of the CGST Act. Enumerate such activities, if any.

OR

List the activities to be treated as supply under CGST Act, 2017 even if made without consideration.

[CA Inter Exams May 2018, 5 Marks]

Answer : Section 7 stipulates that the supply should be for a consideration and should be in the course or furtherance of business. However, Schedule I of the CGST Act enumerates the cases where an activity is treated as supply, even if the same is without consideration. These are as follows:



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

(ii) 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.

However, 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.

(iii) 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.

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

Question 4

Composite supply is treated as supply of that particular goods or services which attracts the highest rate of tax. Examine the validity of the statement.

Answer : The statement is not correct. Composite supply is treated as supply of the principal supply. It is the mixed supply that is treated as supply of that particular goods or services which attracts the highest rate of tax.

Question 5

Transfer of title and/or possession is necessary for a transaction to constitute supply of goods. Examine.

Answer : Title as well as possession both have to be transferred for a transaction to be considered as a supply of goods. In case title is not transferred, the transaction would be treated as supply of service in terms of Schedule II(1)(b) of the CGST Act. In some cases, possession may be transferred immediately, but title may be transferred at a future date like in case of sale on approval basis or hire purchase arrangement. Such transactions will also be termed as supply of goods.

Question 6

Examine whether the following activities would amount to supply under section 7 read with Schedule I of the CGST Act:

(a) Sulekha Manufacturers have a factory in Delhi and a depot in Mumbai. Both these establishments are registered in respective States. Finished goods are sent from factory in Delhi to the Mumbai depot without consideration so that the same can be sold.

(b) Raman is an architect 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.

(c) Would your answer be different if in the above case, Raman has taken advice in respect of his business unit in Chennai? **[MTP Nov. 2019, 6 Marks]**

Answer :



(a) Schedule I of CGST Act, inter alia, stipulates that supply of goods or services or both between related persons or between distinct persons as specified in section 25, is supply even without consideration provided it is made in the course or furtherance of business. Further, a person who has obtained more than one registration, whether in one State/Union territory or more than one State/Union territory shall, in respect of each such registration, be treated as distinct persons [Section 25(4) of the CGST Act].

In view of the same, factory and depot of Sulekha Manufacturers are distinct persons. Therefore, supply of goods from Delhi factory of Sulekha Manufacturers to Mumbai Depot without consideration, but in course/furtherance of business, is supply under section 7 read with Schedule I of the CGST Act.

(b) Schedule I of CGST Act, inter alia, stipulates that import of services by a person from a related person located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business. Explanation to section 15, inter alia, provides that persons shall be deemed to be "related persons" if they are members of the same family. Further, as per section 2(49) of the CGST Act, 2017, family means, —

(i) the spouse and children of the person, and

(ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.

In the given case, Raman has received free of cost legal services from his brother. However, in view of section 2(49)(ii) above, Raman and his brother cannot be considered to be related as Raman's brother is a well- known lawyer and is not wholly/mainly dependent on Raman. Further, Raman has taken legal advice from him in personal matter and not in course or furtherance of business. Consequently, services provided by Raman's brother to him would not be treated as supply under section 7 read with Schedule I of the CGST Act.

(c) In the above case, if Raman has taken advice with regard to his business unit, services provided by Raman's brother to him would still not be treated as supply under section 7 of the CGST Act read with Schedule I as although the same are provided in course or furtherance of business, such services have not been received from a related person.

Question 7

State whether the following supplies would be treated as supply of goods or supply of services as per Schedule II of the CGST Act:

(a) Renting of immovable property.

(b) Goods forming part of business assets are transferred or disposed of by/under directions of person carrying on the business.

(c) Transfer of right in goods without transfer of title in goods.

(d) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date.

Answer : (a) Supply of services (b) Supply of goods (c) Supply of services (d) Supply of goods



Question 8

Determine whether the following supplies would be treated as supply of goods or supply of services as per Schedule II of the CGST Act:

(a) Temporary transfer or permitting use or enjoyment of any intellectual property right.

(b) Supply of goods by an unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.

(c) Any treatment or process which is applied to another person's goods.

(d) Transfer of title in goods.

Answer :

(a) Supply of services

(b) Supply of goods [as per Sec. 7(1)(aa) of the CGST Act, 2017]

(c) Supply of services

(d) Supply of goods

Question 9

The goods supplied on hire purchase basis will be treated as supply of services. Examine the validity of the statement. **[MTP May 2023, 2 Marks]**

Answer : The statement is not correct. Supply of goods on hire purchase shall be treated as supply of goods as there is transfer of title, albeit at a future date.

Question 10

Examine whether the activity of import of service in the following independent cases would amount to supply under section 7 of the CGST Act, 2017:

(i) Miss Shriniti Kaushik received interior decoration services for her residence located at Bandra, Mumbai from Mr. Racheal of Sydney (Australia). The amount paid for the said service is 5,000 Australian dollar.

(ii) Miss Shriniti Kaushik received interior decoration services for her residence located at Bandra, Mumbai from her brother, Mr. Varun residing in Sydney (Australia) [wholly dependent on Miss Shriniti]. Further, Miss Shriniti did not pay any consideration for the said service.

(iii) Will your answer change if in the above case, if Miss Shriniti has taken interior decoration services with regard to her business premises and not her residence?

Note: Any specific exemption by way of notification needs to be ignored.

Answer :

(i) Supply, under section 7 of the CGST Act, 2017, inter alia,

- includes import of services for a consideration
- even if it is not in the course or furtherance of business.

Thus, although the import of service for consideration by Miss. Shriniti Kaushik is not in course or furtherance of business [as the interior decoration services have been availed in respect of residence], it would amount to supply.



(ii) Schedule I of CGST Act, inter alia, stipulates that import of services by a person from a related person located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business. Explanation to section 15, inter alia, provides that persons shall be deemed to be "related persons" if they are members of the same family. Further, as per section 2(49) of the CGST Act, 2017, family means, —

(i) the spouse and children of the person, and

(ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.

In the given case, Miss Shriniti Kaushik has received interior decoration services from her brother. In view of section 2(49)(ii) above, Miss Shriniti and her brother shall be considered to be related as Miss Shriniti's brother is wholly dependent on her.

However, Miss Shrinti has taken interior decoration services for her residence and not in course or furtherance of business. Consequently, services provided by Miss Shrinti's brother to her would not be treated as supply under section 7 read with Schedule I of the CGST Act.

(iii) In the above case, if Miss Shriniti has taken interior decoration services with regard to her business premises, services provided by Miss Shriniti's brother to her would be treated as supply under section 7 of the CGST Act read with Schedule I of the CGST Act, 2017.

Question 11

Dumdum Electronics has sold the following electronic items to Akbar Retail Store.

Refrigerator (500 litres) taxable @ 18%

Stabilizer for refrigerator taxable @ 12%

LED television (42 inches) taxable @ 12%

Split air conditioner (2 Tons) taxable @ 28%

Stabilizer for air conditioner taxable @12%

Dumdum Electronics has issued a single invoice, indicating price of each of the above items separately in the same. Akbar Retail Store has given a single cheque of Rs. 1,00,000/- for all the items as a composite discounted price. State the type of supply and the tax rate applicable in this case.

Answer : In the given case, the items supplied by Dumdum Electronics are not naturally bundled in the ordinary course of business. Therefore, such supply is not a composite supply. Further, although Akbar Retail Store has paid a composite discounted price for these goods, Dumdum Electronics has not charged a single price for the said supply. Therefore, said supply is also not a mixed supply.

Supply of these goods is, therefore, supply of individual items which are taxable at the respective rates applicable to them.

Question 12

Manikaran, a registered supplier of Delhi, has supplied 20,000 packages at Rs. 30 each to Mukhija Gift Shop in Punjab. Each package consists of 2 chocolates, 2 fruit juice bottles and a packet of toy



balloons. Determine the rate(s) of GST applicable in the given case assuming the rates of GST to be as under:

Goods/services supplied	GST rate
Chocolates	18%
Fruit juice bottles	12%
Toy balloons	5%

Answer : As per section 2(74) of the CGST Act, 2017, mixed supply means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

Supply of a package containing chocolates, fruit juice bottles and a packet of toy balloons is a mixed supply as each of these items can be supplied separately and is not dependent on any other. Further, as per section 8(b) of the CGST Act, 2017, the mixed supply is treated as a supply of that particular supply which attracts the highest rate of tax. Thus, in the given case, supply of packages is treated as supply of chocolates [since it attracts the highest rate of tax] and the rate of GST applicable on the package of Rs. 6,00,000 (20,000 X Rs. 30) is 18%.

Question 13

Gagan Engineering Pvt. Ltd., registered in Haryana, is engaged in providing maintenance and repair services for heavy steel machinery. For carrying out the repair work, Gagan Engineering Pvt. Ltd. sends its container trucks equipped with items like repair equipments, consumables, tools, parts etc. from Haryana workshop to its own repairing centres (registered under GST law) located in other States across India where the clients' machinery are being brought and are being repaired.

Discuss the leviability of GST on the inter-State movement of trucks from the workshop of Gagan Engineering Pvt. Ltd. in Haryana to its own repairing centres located in other States across India.

[MTP Nov. 2023, 4 Marks]

Answer : As per section 25(4), a person who has obtained 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'.

Schedule I to the CGST Act specifies situations where activities are to be treated as supply even if made without consideration. Supply of goods and/or services between 'distinct persons' as specified in section 25, when made in the course or furtherance of business is one such activity included in Schedule I under para 2.

However, in view of the GST Council's recommendation, it has been clarified that the inter-State movement of various modes of conveyance between 'distinct persons' as specified in section 25(4), not involving further supply of such conveyance, including trucks carrying goods or passengers or both; or for repairs and maintenance, may be treated 'neither as a supply of goods nor supply of service' and therefore, will not be leviable to IGST [Circular No. 1/1/2017 IGST dated 07.07.2017].



Thus, in the given case, inter-State movement of trucks from the workshop of Gagan Engineering Pvt. Ltd. located in Haryana to its repair centres located in other States is 'neither a supply of goods nor supply of service'.

Question 14

Sarvanna & Sons wishes to start supplying liquor in the State of Tamil Nadu. Therefore, it applies for license for selling liquor to the Tamil Nadu Government. The Tamil Nadu Government has charged specified fee for it. Examine whether the grant of alcoholic liquor license by the Tamil Nadu Government to Sarvanna & Sons qualifies as supply.

Answer : Services by way of grant of alcoholic liquor license by the State Governments have been notified to be treated neither as a supply of goods nor as a supply of service. Such licence is granted against consideration in the form of licence fee or application fee or by whatever name it is called. This special dispensation is applicable only to supply of service by way of grant of liquor licenses by the State Governments as an agreement between the Centre and States and is not applicable/has no precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable.

Thus, in the given case, the grant of alcoholic liquor license by the Tamil Nadu Government to Sarvanna & Sons is neither a supply of goods nor a supply of service.

Question 15

Determine whether the following supplies amount to composite supplies:

(i) A hotel provides 4 days – 3 nights package wherein the facility of breakfast and dinner is provided alongwith the room accommodation.

(ii) A toothpaste company has offered the scheme of free soap alongwith the toothpaste.

Answer : Under composite supply, two or more taxable supplies of goods or services or both, or any combination thereof, are naturally bundled and supplied in conjunction with each other, in the ordinary course of business, one of which is a principal supply. In view of the same,

(i) Since, supply of breakfast and dinner with the accommodation in the hotel are naturally bundled, said supplies qualify as 'composite supply'.

(ii) Since supply of soap alongwith the toothpaste are not naturally bundled, said supplies do not qualify as 'composite supply'.

Question 16

PTL Pvt. Ltd. is a retail store of merchandise located in 25 States/UTs in the country. For the purpose of clearance of stock of merchandise and to attract consumers, PTL Pvt. Ltd. launched scheme of "Buy One Get One Free" for the same type of merchandise, for instance, one shirt to be given free with purchase of one shirt. Determine how the taxability of the goods supplied under "Buy One Get One Free" scheme is determined.

Answer : As per section 7(1)(a), the goods or services which are supplied free of cost (without any consideration) are not treated as "supply" except in case of activities mentioned in Schedule I of the



CGST Act. Under "Buy One Get One Free" scheme, it may appear at first glance that in case of offers like "Buy One, Get One Free", one item is being "supplied free of cost" without any consideration. However, it is not an individual supply of free goods, but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.

Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined accordingly.

Section B – Additional Questions
Past RTPs, MTPs, And Exams Papers

Question 17

Examine the existence of "consideration" for donation received by charitable institutions from individual donors, without quid pro quo an important feature as defined in section 2(31) of the CGST Act, 2017.

[CA Intermediate May 24, 5 Marks]

Answer: Donations received by the charitable institutions from individual donors are treated as consideration only if there exists, quid pro quo, i.e., there is an obligation on part of recipient of the donation or gift to do anything.

If the name of the donor is displayed in charitable institution's premises as an expression of gratitude and public recognition of his act of philanthropy and is not aimed at advertising or promotion of his business, there is no supply for the payment in the form of donation.

Question 18

Examine whether the following activities would be treated as supply under GST law?

(i) Mr. Sonu from Chandigarh purchased a water cooler from Malhotra Bros. of Hoshiarpur for Rs.25,000 to donate it to a temple situated in Hoshiarpur. Mr. Sonu directed Malhotra Bros. to engrave the words on the water cooler- "Donated by Mr. Sonu from Chandigarh" and dispatch the water cooler directly to the temple. [CA Intermediate Nov. 2023,2 Marks]

(ii) Wesco Ltd, a registered person in Ahmedabad (Gujarat) having head office located in Singapore, received management consultancy services free of cost from its head office.

Answer : [CA Intermediate Nov. 2023,2 Marks]

(i) Donations received by the charitable organisations are treated as consideration only if there exists, quid pro quo, i.e., there is an obligation on part of recipient of the donation or gift to do anything (supply a service).

Since the name of the donor, Mr. Sonu is displayed in temple as an expression of gratitude and public recognition of his act of philanthropy and is not aimed at advertising or promotion of his business, hence, donation of water cooler by Mr. Sonu to temple is without quid pro quo and is, thus, not a supply under GST law.



However, supply of water cooler by Malhotra Bros. to Mr. Sonu is supply as it is made for consideration in course or furtherance of business.

(ii) As per schedule I, in case of import of services by a person from a related person or from his establishments located outside India, without consideration, in the course or furtherance of business shall be treated as "supply".

Hence, services received by Wesco Ltd. qualify as supply even though such services have been provided free of cost by the head office.

Question 19

List any 5 (Five) activities/transactions specified under Schedule III of the CGST Act, 2017 which shall be neither treated as supply of goods nor as supply of services. Detailed explanations is not required.

[CA Intermediate May 2023,5 Marks]

Answer: Activities or transactions which shall be treated neither as a supply of goods nor a supply of services are as under:-

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) Functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities.
4) Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity.
5) 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.
6) Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
7) Sale of land and, subject to paragraph 5(b) of Schedule II, sale of building. (i.e. in case, where entire consideration for sale of building received after issuance of completion certificate or after its first occupation, whichever is earlier).
8) Actionable claims, other than specified actionable claims ("specified actionable claim" means the actionable claim involved in or by way of betting, casinos, gambling, horse racing, lottery or online money gaming.)

Question 20

Examine whether the following activities would amount to "supply" under GST law?

(i) Glory Ltd. is engaged in manufacturing and selling of cosmetic products. Seva Trust, a charitable organisation, approached Glory Ltd. to provide financial assistance for its charitable activities. Glory Ltd. donated a sum of Rs. 2 lakh to Seva Trust with a condition that Seva Trust will place a hoarding at the entrance of the trust premises displaying picture of products sold by Glory Ltd.

[CA Inter Exams May 2022, 2 Marks]



(ii) Mr. Swamy of Chennai is working as a manager with ABC Bank. He consulted M/s. Jacobs and Company of London and took its advice for buying a residential house in Mumbai and paid them consultancy fee of 200 UK Pound for this import of service. [CA Inter Exams May 2022, 2 Marks]

Answer :

(i) An activity qualifies as supply under GST only if it is for a consideration and is in course/furtherance of business. Donations received by the charitable organizations are treated as consideration only when there's an obligation on part of the recipient of the donation to do anything.

Since in the given case, the display of products sold by the donor – Glory Ltd. – in charitable organization's premises aims at advertising/promotion of its business, it is supply for consideration in course/furtherance of business and thus, qualifies as supply under GST law.

(ii) Supply includes importation of services, for a consideration whether or not in the course/furtherance of business. Thus, in the given case, the import of services by Mr. Swamy amounts to supply although it is not in course/furtherance of business.

Question 21

Explain the composite supply and mixed supply. If a trader launches a package sales for marriage containing double bed, refrigerator, washing machine, wooden wardrobe at a single rate. He is issuing invoice showing value of each goods separately. Whether this is case of mixed supply or composite supply. Explain. [CA Inter Exams July 2021, 4 Marks]

Answer : Composite supply comprises of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply. Mixed supply means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply. Items such as double bed, refrigerator, washing machine and wooden wardrobe are not naturally bundled and also the invoice for the supply shows separate values for each item i.e., the package is not supplied for a single price. Therefore, supply of such items as a package will neither constitute a composite supply nor a mixed supply. Thus, the various items of the package will be treated as being supplied individually.

Note: The question specifies that the various items are supplied at a 'single rate'. The "single rate" expression is construed as single rate of tax in the above answer. Further, the "single rate" may also be construed as single price as given in the below mentioned answer. Items such as double bed, refrigerator, washing machine and wooden wardrobe are not naturally bundled. Therefore, supply of such items as a package will not constitute composite supply. Further, a single price has been charged for the package. Consequently, supply of such items as a package will be treated as mixed supply.

Question 22

With reference to provisions of the CGST Act, 2017 discuss in brief, when "Importation of services" is to be considered as supply and when it is not to be considered as supply. [CA Inter Exams Nov. 2020, 5 Marks]

Answer : Importation of services for a consideration whether or not in the course or furtherance of business is to be considered as supply.



Importation of services by a person without consideration is deemed as supply provided the following two conditions are satisfied:-

(a) such import is from related person or from his establishments located outside India, and

(b) such import is in the course or furtherance of business.

In case any or both of the above two conditions is/are not satisfied, the import of services without consideration shall not be deemed as supply.

Question 23

Explain the services provided by way of tolerating non-performance of a contract and its chargeability under the provisions of the CGST Act, 2017. [CA Inter Exams May 2019, 4 Marks] [MTP May 2020, 5 Marks]

Answer : Non-performance of a contract is the failure to fulfill the obligations under a contract. It is generally one of the conditions stipulated in any contract for supply of goods/services.

The agreement entered into between the parties stipulates that both the service provider and service recipient abide by the terms and conditions of the contract. In case any of the parties breach the contract for any reason including non-performance of the contract, then such person is liable to pay damages in the form of fines or penalty to the other party.

As per Circular issued by CBIC, fines or penalty paid for non-performance of the contract is not a consideration for any supply at all. It's merely flow of money. Therefore, tolerating non-performance of a contract is not supply at all. So, it will not be chargeable to GST.

Question 24

State whether the following supplies would be treated as supply of goods or supply of services as per Schedule II of CGST Act:

(i) Works contract services

(ii) Sale of personal car to dealer. [CA Inter Exams Nov. 18, 5 Marks]

Answer :

(i) As per Schedule-II of CGST Act, 2017, works contract services would be treated as supply of services.

(ii) As per Schedule-II of CGST Act, 2017, sale of personal car to dealer would be treated as supply of goods as any transfer of the title in goods is a supply of goods.

However, it is also possible to take view that sale of personal car to dealer is not a supply per se as supply is not made by the individual in the course or furtherance of business – in terms of CBIC FAQs.

Note: The question may be answered on the basis of either of the two views.

Question 25

Explain the meaning of supply as per provisions of Section 7(1) of Central Goods and Service Tax Act, 2017. [CA Inter Exams Nov. 2018, 5 Marks]

Answer : As per section 7(1) of CGST Act, 2017, the term 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;



(aa)the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.

(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;.

Question 26

Mrs. Pragati received legal advice for her personal problems & paid 1,000 pound as a legal fees to Miss Unnati of U.K. (London).

Explain whether the above activity of import of service would amount to supply u/s 7 of the CGST Act, 2017? If in above case both of them are real sisters & no consideration is paid then will it change your answer? Further in the above case if both of them are real sisters & Mrs. Pragati receives legal advice for her business & she doesn't pay any consideration then what will be your answer?

[CA Inter Exams May 2018, 5 Marks]

Answer : Supply, under section 7 of the CGST Act, 2017, inter alia,

- includes import of services for a consideration
- even if it is not in the course or furtherance of business.

Thus, although the import of service for consideration by Mrs. Pragati is not in course or furtherance of business, it would amount to supply.

Further, import of services by a person from a related person located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business.

In the given case, import of service without consideration by Mrs. Pragati from her real sister - Miss Unnati [real sister (It has been most logically assumed that Miss Unnati is not wholly/mainly dependent on Mrs. Pragati), although being member of the same family, is not a related person] will not be treated as supply as both of them are not related persons and further, the service is also not in course or furtherance of business.

However, import of service without consideration by Mrs. Pragati from her sister - Miss Unnati (unrelated person) will not be treated as supply even if she receives legal advice for her business, i.e. in course or furtherance of business, because both of them are not related persons.

Question 27

Examine the implications of GST on supply of food and beverages at cinema halls. [RTP May 2024]

Answer : Eating joint is a wide term which includes refreshment or eating stalls/ kiosks/ counters or restaurant at a cinema also.

The cinema operator:

(i) may run these refreshment/eating stalls/kiosks/counters/ restaurant themselves

or

(ii) they may give it on contract to a third party.



The customer may like to avail the services supplied by these refreshment/snack counters or choose not to avail these services. Further, the cinema operator can also install vending machines, or supply any other recreational service such as through coin- operated machines etc. which a customer may or may not avail.

It is hereby clarified vide Circular No. 201/13/2023 GST dated 01.08.2023 that:

(i) supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as:

  (a) the food or beverages are supplied by way of or as part of a service, and

  (b) supplied independent of the cinema exhibition service.

(ii) where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

Question 28

Happy Constructions Ltd., a registered builder under GST in Bengaluru, Karnataka has got permission to build five floors from the Municipal Projects for one of its projects at Suraj Nagar. Aditya Constructions, a neighbouring housing project approached Happy Constructions Limited to discuss regarding blockage of sun light issue arising out of construction of five floors and asked it to build only three floors for which Rs. 20 lakh was offered as compensation. Happy Constructions Limited agreed to the offer. It may be noted that Aditya Constructions is not ready to pay any further amount to Happy Constructions Ltd. in addition to the amount already agreed.

Briefly explain with correct legal provision whether the above amount received as compensation is liable to GST or not? And if considered as taxable, then calculate the total GST payable by Happy Constructions Ltd. Assume the applicable rate of CGST and SGST is 9% each.

Also state the conditions to be complied with. **[RTP May 2024]**

Answer: Agreeing to obligation to refrain from an act, or to tolerate an act or situation, or to do an act has been specifically declared to be a supply of service vide para 5(e) of Schedule II of the CGST Act, 2017 if the same constitutes a supply as per the CGST Act, 2017.

In the given case, Happy Constructions Limited has agreed to build only three floors, even though it is permitted to construct five floors by the Municipal Authorities, for a compensation of Rs. 20 lakh. This results in supply of service.

The conditions to be complied with for the above supply will be

(a) There must be an expressed or implied agreement or contract must exist.

(b) Consideration must flow in return to this contract/ agreement.

Since, Aditya Constructions is not ready to pay any further amount to Happy Constructions Limited in addition to the amount already agreed, the amount received Rs. 20 lakh shall be treated as inclusive of



GST and the GST payable will be Rs. 20,00,000 x 9/118 = Rs. 1,52,542.37 or Rs. 1,52,542 (rounded off) as CGST and SGST each.

Question 29

The temple of ancestral deity of Mr. Aman goel and his family is located at Beri, Haryana. The temple is run by a charitable organisation registered under section 12AA of the Income Tax Act, 1961. The family has got unshakeable faith in their ancestral deity. Mr. Aman is a big entrepreneur having flourishing business of tiles in Gurugram. Upon the birth of their first child, he donated Rs. 10 lakh to the said temple for construction of a sitting hall in the temple. On the main door of the sitting hall, a name plate was placed stating "Donated by Mr. Aman Goel upon birth of his first child". You are required to examine the leviability of GST on the donation received from Mr. Aman Goel? **[RTP May 2020]**

Answer : It has been clarified by CBIC vide Circular that when the name of the donor is displayed in the religious institution premises, by placing a name plate or similar such acknowledgement, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation). There is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration.

In the given case, there is no reference or mention of any business activity of the donor which otherwise would have got advertised. Thus, since the gift or donation is made to a charitable organization, the payment has the character of gift or donation and the purpose is philanthropic (i.e., it leads to no commercial gain) and not advertisement, hence GST is not leviable.

Question 30

Mr. Priyam, director of Sun Moon Company Private Limited, provided service to the company for remuneration of Rs. 1,25,000. Briefly answer whether GST is applicable in the below mentioned independent cases? If yes, who is liable to pay GST?

(i) Mr. Priyam is an independent director of Sun Moon Company Private Limited and not an employee of the company.

(ii) Mr. Priyam is an executive director, i.e. an employee of Sun Moon Company Private Limited. Out of total remuneration amounting to Rs. 1,25,000, Rs. 60,000 has been declared as salaries in the books of Sun Moon Company Private Limited and subjected to TDS under section 192 of the Income-Tax Act (IT Act). However, Rs. 65,000 has been declared separately other than salaries in the Sun Moon Company Private Limited's accounts and subjected to TDS under section 194J of the IT Act as professional services. **[RTP May 2021, MTP May 2024, 6 Marks]**

Answer :

(i) As per Para I of Schedule III of the CGST Act, services by an employee to the employer in the course of or in relation to his employment are non-supplies, i.e. they are neither supply of goods nor supply of services. Services provided by the independent directors who are not employees of the said company to such company, in lieu of remuneration as the consideration for the said services, are clearly outside the scope of Schedule III of the CGST Act and are therefore taxable. Further, such remuneration paid to the directors is taxable in hands of the company, on reverse charge basis.

Thus, GST is applicable in this case and Sun Moon Company Private Limited is liable to pay GST.



(ii) The part of director's remuneration which is declared as salaries in the books of a company and subjected to TDS under section 192 of the Income-tax Act (IT Act), is not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment in terms of Schedule III.

Further, the part of employee director's remuneration which is declared separately other than salaries in the company's accounts and subjected to TDS under section 194J of the IT Act as fees for professional or technical services are treated as consideration for providing services which are outside the scope of Schedule III and is therefore, taxable. The recipient of the said services i.e. the company, is liable to discharge the applicable GST on it on reverse charge basis.

In lieu of the above provisions, Rs. 60,000 declared as salaries in the books of Sun Moon Company Private Limited and subjected to TDS under section 192 of the Income-Tax Act (IT Act), is not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment in terms of Schedule III.

Further, Rs. 65,000 declared separately other than salaries in the Sun Moon Company Private Limited's accounts and subjected to TDS under section 194J of the IT Act as professional services is treated as consideration for providing services which is outside the scope of Schedule III and is therefore, taxable. The recipient of the said services i.e. the Sun Moon Company Private Limited, is liable to discharge the applicable GST on it on reverse charge basis.

Question 31

Discuss taxability of shares held in a subsidiary company by holding company? [MTP May 2024, 5 Marks]

Answer : It has been clarified vide a circular that securities are considered neither as goods nor as services in terms of definition of goods and the definition of services. Further, securities include 'shares' as per definition of securities.

This implies that the securities held by the holding company in the subsidiary company are neither goods nor services. Further, purchase or sale of shares or securities, in itself is neither a supply of goods nor a supply of services. For a transaction/activity to be treated as supply of services, there must be a supply as defined under section 7 of the CGST Act, 2017. It cannot be said that a service is being provided by the holding company to the subsidiary company, solely on the basis that there is a specific SAC entry in the scheme of classification of services, unless there is a supply of services by the holding company to the subsidiary company in accordance with section 7 of the CGST Act, 2017.

Therefore, the activity of holding of shares of subsidiary company by the holding company per se cannot be treated as a supply of services by a holding company to the said subsidiary company and cannot be taxed under GST.

Question 32

Briefly explain the leviability of GST or otherwise on petroleum crude, diesel, petrol, Aviation Turbine Fuel (ATF) and natural gas. [MTP May 2021, 5 Marks]

Answer : Petroleum crude, diesel, petrol, ATF and natural gas are presently not leviable to GST. GST will be levied on these products from a date to be notified on the recommendations of the GST Council. Till



such date, central excise duty continues to be levied on manufacture/production of petroleum crude, diesel, petrol, ATF and natural gas and inter-State/intra-State sale of the same is subject to CST/ VAT respectively.

Multiple Choice Questions

Question 1

M.H. Husain, a famous painter, Delhi, sends his latest art work to Indian Classic gallery, Delhi, for exhibition. However, no consideration has flown from Indian Classic gallery to M. H. Husain when the art work is sent to the gallery for exhibition. M. H. Husain is in dilemma whether GST is payable on said transfer of art work. What would be your advice on the same? [RTP May 2019]

(a) GST is payable as the same amounts to taxable supply of goods.

(b) GST is payable as the same amounts to taxable supply of services.

(c) GST is not payable as the same is an exempt supply.

(d) GST is not payable as the same does not amount to supply at all.

Question 2

Which is not considered as supply under GST Law? [RTP Nov. 2019]

(a) Stock transferred from one establishment in Delhi to another establishment in Gurgaon, Haryana registered under same PAN.

(b) CA Ram supplies accounting services to CA Radha in lieu of taxation services received from CA Radha.

(c) A Health club supplies lunch to its members at its annual meeting against a nominal charge.

(d) Mr. A sells a flat to Mr. B

(i) Date of completion certificate - 31/01/20XX

(ii) Date of agreement with buyer - 01/02/20XX

(iii) Consideration received - 05/02/20XX

Question 3

Which of the following activity shall be treated neither as a supply of goods nor a supply of services? [RTP Nov. 2019]

(i) Permanent transfer of business assets where input tax credit has been availed on such assets

(ii) temporary transfer of intellectual property right

(iii) transportation of deceased

(iv) services by an employee to the employer in the course of employment

(a) (i) & (iii) (b) (ii) & (iv)

(c) (i) & (ii) (d) (iii) & (iv)

Question 4

Mr. Avishkar is a painter registered under GST in Delhi. He sends his artwork for exhibition in Mumbai. At what point of time, supply is considered to have been made under GST? [RTP May 2020]



(a) When painting is completed.

(b) When painting is sent for exhibition in Mumbai.

(c) When painting is displayed at the exhibition in Mumbai.

(d) When painting is purchased by one of the visitors in the exhibition.

Question 5

Which of the following is not covered under Schedule III of CGST Act, 2017? [RTP May 20]

(a) Director's monthly salary under employment agreement

(b) Sitting fees to independent directors for attending AGMs

(c) Payment to employee for providing broking services to the employer for purchase of commercial property. Such services do not form part of the employment contract entered into by the employer with the employee.

(d) Both (b) and (c)

Question 6

Which of the following services received, in the course or furtherance of business, without consideration amount to supply? [MTP May 2020, 2 Marks]

(i) Import of services by a person in India from his son well-settled in USA
(ii) Import of services by a person in India from his brother well- settled in Germany
(iii) Import of services by a person in India from his brother (wholly dependent on such person in India) in France
(iv) Import of services by a person in India from his daughter (wholly dependent on such person in India) in Russia

(a) i, iii and iv (b) ii, iii and iv (c) ii and iii (d) i and ii

Question 7

Assuming that all the activities given below are undertaken for a consideration, state which of the following is not a supply of service? [MTP Nov. 2019]

(a) Renting of Commercial Office Complex
(b) An employee agreeing to not work for the competitor organization after leaving the current employment
(c) Repairing of Mobile Phone
(d) Provision of services by an employee to the employer in the course of employment

Question 8

Which of the following activities is a supply of services?

(i) Transfer of right in goods/ undivided share in goods without transfer of title in goods
(ii) Transfer of title in goods
(iii) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date upon payment of full consideration as agreed.

(a) (i) (b) (iii) (c) (i) and (iii) (d) (i), (ii) and (iii)

Question 9



Which of the following statements is true under GST law?

(a) Grand-parents are never considered as related persons to their grand-son/grand-daughter

(b) Grand-parents are always considered as related persons to their grand-son/grand-daughter

(c) Grand-parents are considered as related persons to their grand- son/grand-daughter only if they are wholly dependent on their grand-son/grand-daughter

(d) Grand-parents are considered as related persons to their grand- son/grand-daughter only if they are not dependent on their grand-son/grand-daughter

Question 10

Which of the following is not considered as 'goods' under the CGST Act, 2017?

(i) Ten-paisa coin having sale value of Rs. 100.

(ii) Shares of unlisted company

(iii) Lottery tickets

(a) (i) (b) (ii) (c) (ii) and (iii) (d) (i), (ii) and (iii)

Question 11

Determine which of the following independent cases will be deemed as supply even if made without consideration in terms of Schedule I of the CGST Act, 2017? [RTP Nov. 2021]

(i) AB & Associates transfers stock of goods from its Mumbai branch to Kolkata depot for sale of such goods at the depot.

(ii) Mr. Raghuveer, a dealer of air-conditioners permanently transfers the motor vehicle free of cost. ITC on said motor vehicle was blocked and therefore, was not availed.

(iii) Mrs. Riddhi, an employee of Sun Ltd., received gift from her employer on the occasion of Diwali worth Rs. 21,000.

(a) (i) (b) (ii) (c) (iii) (d) Both (i) and (ii)

Question 12

M/s. Sahni & Co., a partnership firm imported the following services during February, 2025:

(i) Architect services from Mr. Vipul, a partner of the firm, who resides in France for Rs. 1,00,000. The said service was paid but not used for the furtherance of the business.

(ii) Management consultancy services from Mr. Kishore, a renowned lawyer in Sydney, who was an ex-employee of the firm. The value of the said service was Rs. 3,00,000. Even though it was used in the furtherance of the business, no consideration was paid by the firm.

Compute the amount of import of services by Sahni & Co. that will be treated as supply.

(a) Nil (b) Rs.1,00,000 (c) Rs.3,00,000 (d) Rs.4,00,000

Answer Key

01	(d)	02	(d)	03	(d)	04	(d)	05	(d)	06	(a)	07	(d)	08	(a)	09	(c)	10	(b)	11	(a)	12	(b)

