

## RECENT INDIRECT TAX AMENDMENTS FOR MAY 2020 EXAM

### PART A: GOODS & SERVICES TAX

*Amendments in this section includes relevant notifications and circulars issued between 01.05.2019 to 31.10.2019.*

Note- Relevant amendments made by the Finance (No.2) Act, 2019 except amendment in section 54 are not applicable for May 2020 Exam, as the same have not become effective till 31.10.2019.

### Chapter 1

### RELEVANT AMENDMENTS

#### 1. Supply & chargeability under GST

Nature	Treatment
<ul style="list-style-type: none"> <li>Service by way of grant of alcoholic liquor licence by State Govt.</li> </ul>	<p>Neither a supply of goods nor a supply of service:</p> <p><b>Condition</b> - Such service is undertaken by the State Governments in which they are engaged as public authorities, against consideration in the form of licence fee or application fee or by whatever name it is called. [Section 7(2) read with Notification No.24/2019, dated 30.9.2019]</p>
<ul style="list-style-type: none"> <li>Services by way of grant of other license by Govt. [Such as mining rights, spectrum etc.] against payment of consideration in the form of fee, royalty.</li> </ul>	<p>Treated as Supply.</p> <p>It is clarified that the above special dispensation applies 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 has no applicability or precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable. [Circular No. 121/2019, dated 11.10.2019]</p>
<ul style="list-style-type: none"> <li>Service of display of name or placing of name plates of the donor in the premises of charitable organisations receiving donation or gifts from individual donors</li> </ul>	<p>When the name of the donor is displayed in recipient institution premises, in such a manner, 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. [Circular No. 116/2019, dated 11.10.2019]</p>

#### Question 1: Discuss the taxability of the following -

(a) "Good wishes from Mr. Rajesh" printed underneath a digital blackboard donated by Mr. Rajesh to a charitable Yoga institution.

(b) "Donated by Smt. Malati Devi in the memory of her father" written on the door or floor of a room or any part of a temple complex which was constructed from such donation.

**Answer:** In both the cases, it may be noticed that there is no reference or mention of any business activity of the donor which otherwise would have got advertised. Thus, where all the following three conditions are satisfied GST is not leviable –

- (i) the gift or donation is made to a charitable organization,
- (ii) the payment has the character of gift or donation and
- (iii) the purpose is philanthropic (i.e. it leads to no commercial gain) and not advertisement,

## 2. Applicability of Composition Scheme or Notification No. 2/2019

Scheme	Not applicable to
Composition Scheme	Manufacturer of – <ul style="list-style-type: none"> <li>• Ice cream and other edible ice, whether or not containing cocoa.</li> <li>• Pan masala</li> <li>• Tobacco and manufactured tobacco substitutes.</li> <li>• aerated water (tariff item 2202 1010) w.e.f 1.10.2019</li> </ul>
Alternative Composition scheme (Notification No. 2/2019)	Supplier of – <ul style="list-style-type: none"> <li>• Ice cream and other edible ice, whether or not containing cocoa.</li> <li>• Pan masala</li> <li>• Tobacco and manufactured tobacco substitutes.</li> <li>• aerated water (tariff item 2202 1010) w.e.f 1.10.2019</li> </ul>

## 3. Reverse Charge Mechanism

### 1. Copyright Services (original literary works)

Old provisions	New provisions w.e.f 1.10.2019
Supply of service by author to Publisher was under RCM	Now, it is optional. Author can opt to pay tax under forward charge.
<b>Accordingly, earlier entry is substituted -</b>	
<b>10. Copyright Services (original literary/dramatic/musical/artistic works)</b> Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered u/s. 13(1)(a) of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like.	<b>Author or music composer, photographer, artist, or the like</b>  <b>Publisher, music company, producer or the like, located in the taxable territory.</b>  <b>Upto 30.9.2019</b>
Supply of services by a music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original dramatic, musical or artistic works to a music company, producer or the like	<b>Music composer, photographer, artist, or the like</b>  <b>Music company, producer or the like, located in the taxable territory w.e.f 1.10.2019</b>
Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub -section (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a publisher.  [w.e.f 1.10.2019]	<b>Author</b>  <b>Publisher located in the taxable territory.</b> However, if the author has taken GST registration, he can opt to pay tax under forward charge by giving a declaration.  Option once exercised cannot be changed within 1 year from the date of exercising the option.



**Answer:**

(i) The Statement is not fully correct, w.e.f 1.10.2019 the law has been amended in this regard which provides that if the author is registered under GST then he can opt to pay GST under forward charge by giving a declaration. In such a case, the Publisher has no liability to pay GST.

(ii) The statement is correct. As the said supply is a notified services u/s. 9(3), where there is no option for forward charge.

(iii) w.e.f 1.10.2019

(a) It is a exempted service, hence no GST liability.

(b) Y Pvt. Ltd. shall be liable to pay GST compulsorily u/s. 9(3) and has to get registration if not registered.

(c) X Pvt. Ltd has to pay GST on forward charge basis, if he is registered under GST.

(iv) Upto 31.09.2019: Mr. Lender shall discharge GST payable under Forward Charge.

From 1.10.2019: Mr. Borrower is liable to pay GST under reverse charge u/s. 9(3).

The nature of GST shall be IGST.

(v) A supplier of aerated water (tariff item 2202 1010) cannot opt the scheme w.e.f 1.10.2019.

#### 4. EXEMPTION UNDER GST

#### 1. Threshold limit provided under Exemption is now aligned with the threshold limit applicable for registration:-

Description of Services	Related amendments
1. Services provided by Central Govt/State Govt/UT/local authority to Business entity	Wherever turnover upto ₹20 lakhs/10 lakhs is given, following line shall be substituted –  “turnover upto such amount in the preceding Financial Year as makes it eligible for exemption from registration under GST”.
2. Services provided by Arbitral Tribunal, advocates to business entity	

#### 2. New Entry of exemption –

Category of services	Exemption allowed to - w.e.f 1.10.2019
1. Sports & Entertainment Event Services	<p>1. Services by way of right to admission to the events organised under <b>FIFA U-17 Women's World Cup 2020</b>, is exempted</p> <p>2. Services provided by and to Fédération Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under <b>FIFA U-17 Women's World Cup 2020</b> to be hosted in India, is exempted.</p> <p><b>Condition:</b> Provided that Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under FIFA U-17 World Cup 2020.</p>
2. Storage/warehousing services	Services by way of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea, is exempted.
3. Life Insurance	Services of life insurance provided or agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the concerned Central Armed Police Force, is exempted

<b>4. General Insurance</b>	Services of general insurance business provided under <b>Bangla Shasya Bima Scheme, is exempt.</b>
<b>5. Renting/Hiring Services</b>	Services by way of giving on hire to a local authority, an Electrically operated vehicle meant to carry more than 12 passengers; shall be exempted w.e.f 1.8.2019.  “Electrically operated vehicle” means vehicle falling under Chapter 87 in the First Schedule to the Customs Tariff Act, 1975, which is run solely on electrical energy derived from an external source or from one or more electrical batteries fitted to such road vehicle.

### 3. Amendment/modifications to earlier exemption:

Category of services	Old provisions	New provisions [w.e.f 1.10.2019]
<b>1. Hotel Accommodation services</b>	Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having <b>value of supply</b> of a unit of accommodation below ₹ 1,000 per day or equivalent, is exempt.	Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having <b>value of supply</b> of a unit of accommodation below <b>or equal to ₹1,000</b> per day or equivalent, is exempt.
<b>2. Transportation of goods by aircraft/vessel.</b>	Services by way of transportation of goods by an aircraft/Vessel from customs station of clearance in India to a place outside India <b>upto 30.9.2019, is exempt.</b>	Services by way of transportation of goods by an aircraft/Vessel from customs station of clearance in India to a place outside India <b>upto 30.9.2020, is exempt. [date extended]</b>

### 4. Clarification on certain services

#### 1. Circular No. 109/2019, dated 22.7.2019: Issues related to GST on monthly subscription/contribution charged by a Residential Welfare Association (RWA) from its members:

(i) GST is leviable on the entire amount where the monthly contribution exceeds ₹7500 p.m and not on the difference amount. Further, the aggregate turnover of RWA must exceeds ₹20 lakhs to charge GST. Otherwise nothing shall be taxable even if the monthly contribution exceeds ₹7500 p.m.

**For example**, if the maintenance charges are ₹9000/- per month per member, GST @18% shall be payable on the entire amount of ₹ 9000/- and not on [₹9000 - ₹7500] = ₹ 1500/- [Assuming the aggregate turnover of RWA exceeds ₹20 lakhs]

(ii) If a person owns two residential apartments in a residential complex the exemption from GST shall be available to each apartment and not per person.

(iii) RWAs are entitled to take ITC in accordance with provisions of ITC.

**Question 3:** A Resident Welfare Association (RWA) collects the following amounts from its 100 members for the month of March 2020. Determine the taxability or otherwise of the following amounts and compute Goods and services tax payable by the RWA.

Particulars	Amount in ₹
Contribution from 20 residents of ₹3,500 each	70,000
Contribution from 65 residents of 8,000 each	5,20,000
Collection towards payment of electricity bills of residents for 20 residents as per bills submitted	76,000

Collection in respect of electricity bill issued in the name of RWA towards electricity consumption for common use	48,000
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Provide brief notes and explanations for your answer. Assuming rate of GST is 18% and is separately charged. Assuming he is not availing the benefit of threshold limit.

### **Solution to Question 3:**

Particulars	Amount in ₹
Contribution from 20 residents of ₹3,500 each [Exempt upto Rs. 7,500 p.m per member]	Nil
Contribution from 65 residents of ₹ 8,000 each [fully taxable since exceeds ₹7500]	5,20,000
Collection towards payment of electricity bills of residents for 20 residents as per bills submitted – not taxable being pure agent	Nil
Collection in respect of electricity bill issued in the name of RWA towards electricity consumption for common use – taxable	48,000
<b>Taxable Value</b>	<b>5,68,000</b>
CGST @ 9%	51,120
SGST @ 9%	51,120

**2. Circular No. 117/2019, dated 11.10.2019:** Maritime Training Institutes and their training courses are approved by the Director General of Shipping which are duly recognised under the provisions of the Merchant Shipping Act, 1958 read with the Merchant Shipping (standards of training, certification and watch-keeping for Seafarers) Rules, 2014.

Therefore, the Maritime Institutes are educational institutions under GST Law and the courses conducted by them are exempt from levy of GST subject to satisfaction of other conditions.

### **3. Whether penal interest on late payment of EMI is considered as interest on loan/advances and therefore exempt from GST?**

#### **Circular No. 102/2019, dated 28.6.2019**

Cases	Additional/penal interest on delayed payment of EMI
If such additional /penal interest is charged by the supplier of goods	Included in the value
If such additional /penal interest is charged by a third party providing the finance	Exempted [consider as interest on loan/advances]

**Question 4:** Mr. X sells a mobile phone to Y. The cost of mobile phone is ₹ 40,000/-. However, X gives Y an option to pay in installments, ₹11,000/- every month before 10th day of the following month, over next four months (₹11,000 x 4 = ₹44,000/-). 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 ₹ 500/- per month for the delay.

In some instances, X is charging Y ₹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 ₹500/- per month for each delay in payment. Whether penal interest so charged by Mr. X shall form part of taxable value of supply of goods or not?

**Answer:** As per the provisions of sub-clause (d) of sub-section (2) of section 15 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 i.e. mobile phone. Accordingly, the penal interest would be taxable as it would be included in the value of the mobile, irrespective of the manner of invoicing [ based CBEC Circulars]

**Question 5:** Mr. X sells a mobile phone to Y. The cost of mobile phone is ₹ 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. Whether penal interest so charged by Mr. X shall form part of taxable value of supply of goods or not?

**Answer:** The additional / penal interest is charged for a transaction between Y and M/s ABC Ltd., and the same is exempted supply of service covered under Sl. No. 27 of notification No. 12/2017- Central Tax (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. The value of supply of mobile by X to Y would be ₹ 40,000/- for the purpose of levy of GST. [ based CBEC Circulars]

#### **4. Effective date of explanation inserted in Exemption notification issued u/s. 11**

Section 11(3) of CGST Act provides that the Government may insert an explanation in any notification issued under section 11, for the purpose of clarifying its scope or applicability, at any time within one year of issue of the notification and every such explanation shall have effect as if it had always been the part of the first such notification.

**Question 6:** Determine the effective date of applicability of Explanation inserted by virtue of Sec. 11(3), other information are as under -

- Original Notification No. 11/2017, issued on dated 28.6.2017 but effected from 1.7.2017
- A new entry NO. 3(vi) is inserted w.e.f 21.09.2017
- An Explanation is inserted w.r.t above entry on 26.7.2018.
- Effective date mentioned in the notification inserting this explanation is 27.7.2018

**Answer-** the effective date of explanation is 21.09.2017 and not 27.7.2018

### **5. Input Tax credit**

#### **RESTRICTION OF INPUT TAX CREDIT U/S. 16 READ WITH RULE 36(4)**

**[Notification No. 49/2019, dated 9.10.2019]**

(1) The recipient can avail the eligible input tax credit fully where the details of invoices/debit notes in relation to such eligible credit are uploaded by the Supplier within the due date (i.e 11<sup>th</sup> of the following month).

(2) Where the supplier has not uploaded the details of invoices/debit notes within the due date ( i.e 11<sup>th</sup> of the following month), the ITC for the month shall be restricted to 20% of the eligible credit in respect of invoices or debit notes the details of which have been uploaded by the suppliers. [Rule 36(4) w.e.f 9.10.2019]

Note: The above restriction is not available w.r.t ITC claimed on RCM, ITC received through Input service distributor.

☞ Full ITC can be availed even if total invoices are not uploaded but at least 83.33% (100/120 x100) of eligible tax credit gets uploaded.

**Question 7:** Mr. Kredit receives 100 invoices (for inward supply of goods or services) involving eligible input tax credit of ₹ 10,00,000 from various suppliers during the month of Oct, 2019 and has to claim input tax credit in his GST return of October, to be filed by 20th Nov, 2019. Determine the input tax credit available in the following cases-

Case	Input tax credit available to Mr. Kredit in the month of Oct'2019
<b>Case 1:</b> Suppliers have furnished 80 invoices involving eligible input tax credit of ₹ 6 lakhs within the due date.	₹ 6,00,000 + ₹ 1,20,000 (20% of 6 lakhs) or ₹ 10,00,000; whichever is lower = ₹7,20,000.
<b>Case 2:</b> Suppliers have furnished 75 invoices involving eligible input tax credit of ₹ 8.5 lakhs within the due date.	₹ 8,50,000 + ₹ 1,70,000 (20% of ₹8.5 lakhs) or ₹ 10,00,000; whichever is lower = ₹10,00,000.

[Based on CBEC Circulars]

**Note:** In case 1, The balance input tax credit of ₹2,80,000 [10 lakhs- 7.2 lakhs] can be claimed by 'Mr. Kredit' in any of the succeeding months provided details of requisite invoices are uploaded by the suppliers and the aggregate input tax credit uploaded amounted to at least ₹8,33,333 (10 lakhs/120 x100).

## 6. Registration

### 1. Applying for Registration

1. Bank account details or any other information can be furnished even after obtaining the registration but not later than 45 days from the date of grant of registration or the date on which the return required u/s. 39 is due to be furnished, whichever is earlier. [Rule 10A]

However, in case of failure to furnish required information within the time provided in rule 10A, then registration is liable to be cancelled under rule 21. [Notification No. 31/2019, dated 28.06.2019]

[Earlier, it is required to be submitted at the time of applying for registration]

### 2. Suspension of Registration [Rule 21A]

The registration shall be deemed to be suspended from the date of submission of the application or the date from which the cancellation is sought, whichever is later, pending the completion of proceedings for cancellation of registration under rule 22.

The said person shall not make any taxable supply during the period of suspension and shall not be required to furnish any return under section 39.

*The expression "shall not make any taxable supply" shall mean that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension. [w.e.f 9.10.2019]*

*Further, where any order having the effect of revocation of suspension of registration has been passed, the provisions of revised invoice and First return (section 40) in respect of the supplies made during the period of suspension shall apply [w.e.f 9.10.2019] [Notification No. 49/2019, dated 9.10.2019]*

## 7. Invoicing & E-way Bill

### 1. Special provisions for Issue of Tax Invoice

For person supplying services by way of admission to exhibition of cinematograph films in **multiplex screens** –

(i) Facility of consolidated tax invoice, where value of service is less than ₹200 is not available.

(ii) **e-ticket in multiplex deemed to be tax invoice**, even if such ticket does not contain the details of the recipient of service but contains the other information as mentioned under rule 46:

Further, the supplier of such service in a screen other than multiplex screens may, at his option, follow the above procedure. w.e.f 1.9.2019. [Notification No. 33/2019, dated 18.7.2019]

### 2. Validity of the e-way bill:

Nature of Vehicle	Distance within country	Period of validity
Regular Transport Vehicle	For 100 km or part thereof	1 day
Over Dimensional Cargo	For 20km/part thereof	1 day
Multimodal shipment in which at least one leg involves transport by ship	For 20km/part thereof	1 day

Validity expires on the midnight of last day. E-way bill generated in one State is valid in other State.

**Further, the validity of the e-way bill may be extended within eight hours from the time of its expiry**

[Notification No.31/2019, dated 28.06.2019]

## 8. RETURN UNDER GST

1. Filing of annual return for F.Y. 2017-18 and 2018-19 is optional for small taxpayers whose aggregate turnover is less than ₹ 2 crores and who have not filed the said return before the due date. Provided that the said return shall be deemed to be furnished on the due date if it has not been furnished before the due date.

[Notification No. 47/2019,dated 9.10.2019]

2. Filing of GSTR-3 has been deferred, accordingly necessary amendment has been made to consider GSTR-3B as return u/s. 39(1) and it is also provided that where a return in FORM GSTR-3B is required to be furnished by a person then such person shall not be required to furnish the return in FORM GSTR-3.

[Notification No. 49/2019, dated 9.10.2019]

**Question 8:** Mr. Paul an accountant of Cinopolis (a multiplex) is of the view that since the admission to exhibition of cinematograph films is ₹190 per person. Therefore he is required to issue a consolidated tax invoice at the closing of each business day for the purpose of compliance of GST law. Comment

**Question 9:** Goods transported in road upto 12 KM in a regular cargo at first leg, then transported in a Ship at the last leg to 100 k.m and travelled **through two states** by Mr. GTA. At the time of generation of e-way bill Mr. GTA asked you to know the period of validity of e-way bill and number of e-way bill required to be generated.

**Question 10:** Mr. GSTN fails to submit its annual return for the F.Y 2017-18 within the due date. His aggregate turnover for the said F.Y was ₹ 70 lakhs. Whether he is required to pay any late fee under GST Law?

**Answer to Question 8:** For person supplying services by way of admission to exhibition of cinematograph films in multiplex screens, facility of consolidated tax invoice, where value of service is less than ₹200 is not available. Further, he is required to issue an e-ticket which shall be considered as deemed tax invoice

**Answer to Question 9:** Since it is a case of Multimodal shipment where at least one leg involves transport by ship, therefore E-way bill shall be valid for 6 days [total 112 km/ 1 day per 20km and part thereof]. Further, Mr. GTA is required generate one e-way bill as e-way bill generated in one state is valid in other state.

**Answer to Question 10:** For non-filing of annual return a late fee of ₹ 200 (CGST+SGST) for every day during which such failure continues subject to maximum of 0.50% (CGST+SGST) of his turnover in the State. However, in the given case he is not required to pay any late fee as filling of annual return for F.Y. 2017-18 and 2018-19 is optional for small taxpayers whose aggregate turnover is less than ₹ 2 crores and who have not filed the said return before the due date. **Further, it shall be deemed to be furnished on the due date if it has not been furnished before the due date.**

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## AMENDMENTS IN OTHER PROVISIONS UNDER GST

### (1) TDS & TCS

#### 1. Application for Registration

<p><b>In case of persons required to deduct/collect tax at source [Rule 12/(12A)]</b></p>	<p>(1) File application in Form GST REG-07. Registration certificate in Form GST REG-06 may be granted within 3 days.</p> <p>(2) Proper officer may cancel registration where the said person is no longer liable to deduct/collect tax at source.</p> <p><b>(3) If the person applying for registration in a State, where he does not have physical presence, he shall mention the name of the State or Union territory in PART A of the application and mention the name of the State or Union territory in PART B thereof in which the principal place of business is located which may be different from the State or Union territory mentioned in PART A.</b></p>
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#### 2. Whether TDS/TCS credit is allowed su-moto to the registered person from whom the tax is deducted/collected?

**Answer- NO, he has to claim it and there is no time limit for claiming.**

#### Provisions

- Any amount deducted u/s. 51 or collected u/s. 52 and **claimed** by the registered taxable person from whom the said amount was deducted/ collected shall be credited to his electronic cash ledger.
- The details of TDS/TCS furnished by the deductor /collector is made available electronically to each of the deductee/collectee on the common portal after filing of return in form GSTR-7/GSTR-8 by such deductor/collector and the deductor/collectee shall require to validate the same for claiming TDS/TCS in his e-cash ledger.

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### (2) OIDAR SERVICE FROM A PLACE OUTSIDE INDIA TO A NON-TAXABLE ONLINE RECIPIENT

#### 1. Application for registration

<p>Grant of registration to a person supplying online information and database accessor retrieval (OIDAR)services from a place outside India to a non-taxable online recipient (Rule 14)</p>	<p>(1) File application in Form GST REG-10. Registration in Form GST REG-06 shall be granted subject to satisfaction of notified conditions/restrictions.</p>
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#### 2. E-cash ledger [Rule 89]

1. A person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient shall also require to generate a challan in **FORM GST PMT-06** on the common portal (GSTN)

[Earlier, such person are given an option to generate challan through the Board's payment system namely, Electronic Accounting System in Excise and Service Tax, now done away with]

#### 3. Exemption to file Annual Return:

Suppliers of Online Information Database Access and Retrieval Services (OIDAR services) from a place outside India to a person in India, other than a registered person, are exempted to furnish Annual Return (GSTR-9) and Reconciliation Statement (GSTR-9C) u/s. 44.

**(3) DEMAND AND RECOVERY****Communication before issue of notice [Rule 142(1A)]****w.e.f 9.10.2019**

The proper officer shall, before service of notice to the person chargeable with tax, interest and penalty, u/s. 73(1) or 74(1), shall communicate the details of any tax, interest and penalty as ascertained by him, in prescribed form. Where such person has made partial payment of the amount communicated to him or desires to file any submissions against the proposed liability, he may make such submission in prescribed form.

Where any person makes payment of tax, interest, penalty or any other amount due in accordance with the provisions of the Act whether on his own ascertainment or, as **communicated by the proper officer**, he shall inform the proper officer of such payment in FORM GST DRC-03 and the proper officer shall issue an acknowledgement, accepting the payment made by the said person in FORM GST DRC-04.

*[N.B- This will help to take advantages of nil/reduced penalty u/s. 73(5)/74(5)]*

**(4) PLACE OF SUPPLY**

**1. Determination of place of supply for services provided by the port authorities to its clients in relation to cargo handling** [such as services in respect of arrival of wagons at port, haulage of wagons inside port area up-to place of unloading, siding of wagons inside the port, unloading of wagons, movement of unloaded cargo to plot and staking hereof, movement of unloaded cargo to berth, shipment/loading on vessel etc.]

**Clarification:** It is hereby clarified that such services are ancillary to or related to cargo handling services and are not related to immovable property. Accordingly, the place of supply of such services will be determined as per the provisions contained in sub-section (2) of Section 12 or sub-section (2) of Section 13 of the IGST Act, as the case may be, depending upon the terms of the contract between the supplier and recipient of such services. **[Circular No. 103/2019, dated 28.6.2019]**

**2. Section 13(13) of the IGST Act, 2017 provides that, in order to prevent double taxation or non-taxation of the supply of a service, or for the uniform application of rules, the Government shall have the power to notify any services for which the place of supply shall be the place of effective use and enjoyment of a service. Accordingly following services are notified -**

<b>Notified Services</b>	<b>Place of supply w.e.f 1.10.2019</b>
Supply of research and development services related to pharmaceutical sector (as referred to in Note 1), by a person located in taxable territory to a person located in the non-taxable territory	The place of supply of service shall be the location of the recipient of services subject to fulfillment of the following conditions:- (i) Supply of services from the taxable territory are provided as per a contract between the service provider located in taxable territory and service recipient located in non-taxable territory. (ii) Such supply of services fulfills all other conditions in the definition of export of services, except the condition that the place of supply is outside India.

Note 1: Notified services [Notification No. 04/2019, IT dated 30.09.2019]

Sl. No.	Nature of supply	Description of services
1	Integrated discovery and development	This process involves discovery and development of molecules by pharmaceutical sector for medicinal use. The steps include designing of compound, evaluation of the drug metabolism, biological activity, manufacture of target compounds, stability study and long-term toxicology impact.
2	Integrated development	
3	Evaluation of the efficacy of new chemical/ biological entities in animal models of disease	This is in vivo research (i.e. within the animal) and involves development of customized animal model diseases and administration of novel chemical in doses to animals to evaluate the gene and protein expression in response to disease. In nutshell, this process tries to discover if a novel chemical entity that can reduce or modify the severity of diseases. The novel chemical is supplied by the service recipient located in non-taxable territory
4	Evaluation of biological activity of novel chemical/ biological entities in in-vitro assays	This is in vitro research (i.e. outside the animal). An assay is first developed and then the novel chemical is supplied by the service recipient located in non-taxable territory and is evaluated in the assay under optimized conditions
5	Drug metabolism and pharmacokinetics of new chemical entities	This process involves investigation whether a new compound synthesized by supplier can be developed as new drug to treat human diseases in respect of solubility, stability in body fluids, stability in liver tissue and its toxic effect on body tissues. Promising compounds are further evaluated in animal experiments using rat and mice
6	Safety Assessment/ Toxicology	Safety assessment involves evaluation of new chemical entities in laboratory research animal models to support filing of investigational new drug and new drug application. Toxicology team analyses the potential toxicity of a drug to enable fast and effective drug development
7	Stability Studies	Stability studies are conducted to support formulation, development, safety and efficacy of a new drug. It is also done to ascertain the quality and shelf life of the drug in their intended packaging configuration.
8	Bio-equivalence and Bioavailability Studies	Bio-equivalence is a term in pharmacokinetics used to assess the expected in vivo biological equivalence of two proprietary preparations of a drug. If two products are said to be bioequivalent it means that they would be expected to be, for all intents and purposes, the same. Bioavailability is a measurement of the rate and extent to which a therapeutically active chemical is absorbed from a drug product into the systemic circulation and becomes available at the site of action
9	Clinical trials	The drugs that are developed for human consumption would undergo human testing to confirm its utility and safety before being registered for marketing. The clinical trials help in collection of information related to drugs profile in human body such as absorption, distribution, metabolism, excretion and interaction. It allows choice of safe dosage
10	Bio analytical studies	Bio analysis is a sub-discipline of analytical chemistry covering the quantitative measurement of drugs and their metabolites, and biological molecules in unnatural locations or concentrations and macromolecules, proteins, DNA, large molecule drugs and metabolites in biological systems.

### **3. Determination of place of supply in case of supply of software/design services by a supplier located in taxable territory to a service recipient located in nontaxable territory by using the sample hardware kits provided by the service recipient**

#### **Facts:**

A number of companies that are part of the growing Electronics Semiconductor and Design Manufacturing (ESDM) industry in India are engaged in the process of developing software and designing integrated circuits electronically for customers located overseas.

The client/customer electronically provides Indian development and design companies with design requirements and Intellectual Property blocks (“IP blocks”, reusable units of software logic and design layouts that can be combined to form newer designs).

Based on these, the Indian company digitally integrates the various IP blocks to develop the software and the silicon or hardware design. These designs are communicated abroad (in industry standard electronic formats) either to the customer or (on behest of the customer) a manufacturing facility for the manufacture of hardware based on such designs

In addition, the software developed is also integrated upon or customized to this hardware. On some occasions, samples of such prototype hardware are then provided back to the Indian development and design companies to test and validate the software and design that has been developed to ensure that it is error free

**Issue: Whether provision of hardware prototypes and samples and testing thereon lends these services the character of performance-based services in respect of “goods required to be made physically available by the recipient to the provider”.**

#### **Clarification:**

In contracts where service provider is involved in a composite supply of software development and design for integrated circuits electronically, testing of software on sample prototype hardware is often an ancillary supply, whereas, chip design/software development is the principal supply of the service provider.

The service provider is not involved in software testing alone as a separate service. The testing of software/design is aimed at improving the quality of software/design and is an ancillary activity. The entire activity needs to be viewed as one supply and accordingly treated for the purposes of taxation. Artificial vivisection of the contract of a composite supply is not provided in law. These cases are fact based and each case should be examined for the nature of supply contracted.

Therefore, it is clarified that the place of supply of software/design by supplier located in taxable territory to service recipient located in non-taxable territory by using sample prototype hardware / test kits in a composite supply, where such testing is an ancillary supply, is the location of the service recipient as per Section 13(2) of the IGST Act. Provisions of Section 13(3)(a) of IGST Act do not apply separately for determining the place of supply for ancillary supply in such cases

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**(5) CLARIFICATION IN RESPECT OF GOODS SENT/TAKEN OUT OF INDIA FOR EXHIBITION OR ON CONSIGNMENT BASIS FOR EXPORT PROMOTION [CIRCULAR NO. 108, DATED 18.07.2019/Circular No. 21/2019 Cus dated 24.7.2019]**

**Issue 1: Whether goods sent/taken out of India for exhibition or on consignment basis for export promotion amounted to “zero rated supply”?**

**Answer:** As per section 7 of the CGST Act, for any activity or transaction to be considered a supply, it must satisfy twin tests namely –

- (i) it should be for a consideration by a person; and
- (ii) it should be in the course or furtherance of business.

The exceptions to the above are the activities enumerated in Schedule I of the CGST Act which are treated as supply even if made without consideration.

Further, sub-section (21) of section 2 of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the “IGST Act”) defines “supply”, wherein it is clearly stated that it shall have the same meaning as assigned to it in section 7 of the CGST Act.

As per section 16 “zero rated supply” means any of the following supplies of goods or services or both, namely:—

- (a) export of goods or services or both; or
- (b) supply of goods or services or both to a SEZ developer or a SEZ unit.

Therefore, it can be concluded that only such “supplies” which are either “export” or are “supply to SEZ unit / developer” would qualify as zero-rated supply.

It is accordingly clarify that, the activity of sending / taking the goods out of India for exhibition or on consignment basis for export promotion, except when such activity satisfy the tests laid down in Schedule I of the CGST Act, do not constitute supply as the said activity does not fall within the scope of section 7 of the CGST Act as there is no consideration at that point in time.

Since such activity is not a supply, the same cannot be considered as “Zero rated supply” as per the provisions contained in section 16 of the IGST Act.

**Issue 2: What is the documentation required for sending / taking the specified goods out of India?**

**Answer:** The said activity is in the nature of “sale on approval basis”, accordingly it should be either sold or brought back within the period of 6 months as provided u/s. 31(7). ]

At the time of sending of goods- it should be accompanied with a delivery challan. Further, since it is not zero rated supply, therefore **execution of a bond or LUT, as required under section 16 of the IGST Act, is not required.**

**(i) If the specified goods are sold abroad, fully or partially, within the specified period of six months, the supply is effected, in respect of quantity so sold, on the date of such sale.** Accordingly, the sender shall issue a tax invoice in respect of such quantity of specified goods which has been sold abroad, in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules

**(ii) The supply would be deemed to have been taken place on the expiry of 6 months, if specified goods are neither sold nor brought back within 6 months.** Accordingly, the sender shall issue a tax invoice on

the date of expiry of six months from the date of removal, in respect of such quantity of specified goods which have neither been sold nor brought back, in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules.

**Example 1:** M/s ABC sends 100 units of specified goods out of India. The activity of merely sending / taking such specified goods out of India is not a supply. No tax invoice is required to be issued in this case but the specified goods shall be accompanied with a delivery challan issued in accordance with the provisions contained in rule 55 of the CGST Rules.

In case the entire quantity of specified goods is brought back within the stipulated period of six months from the date of removal, no tax invoice is required to be issued as no supply has taken place in such a case.

In case, however, the entire quantity of specified goods is neither sold nor brought back within six months from the date of removal, a tax invoice would be required to be issued for entire 100 units of specified goods in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules within the time period stipulated under sub-section (7) of section 31 of the CGST Act.

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**Issue 3: Whether the refund claims can be preferred in respect of specified goods sent / taken out of India but not brought back?**

(a) Since the activity of sending / taking specified goods out of India is not a zero-rated supply, therefore the sender of goods cannot prefer any refund claim when the specified goods are sent / taken out of India.

(b) The supply would be deemed to have taken place:

- (i) on the date of expiry of six months from the date of removal, if the specified goods are neither sold nor brought back within the said period; or
- (ii) on the date of sale, in respect of such quantity of specified goods which have been sold abroad within the specified period of six months.

It is clarified accordingly that the sender can prefer refund claim even when the specified goods were sent / taken out of India without execution of a bond or LUT, if he is otherwise eligible for refund as per the provisions contained in sub-section (3) of section 54 the CGST Act read with sub-rule (4) of rule 89 of the CGST Rules, in respect of zero rated supply of goods after he has issued the tax invoice on the dates. It is further clarified that refund claim cannot be preferred under rule 96 of CGST Rules as supply is taking place at a time after the goods have already been sent / taken out of India earlier

**Example 2:** M/s ABC sends 100 units of specified goods out of India. The activity of sending / taking such specified goods out of India is not a supply. No tax invoice is required to be issued in this case but the specified goods shall be accompanied with a delivery challan issued in accordance with the provisions contained in rule 55 of the CGST Rules.

If 10 units of specified goods are sold abroad say after one month of sending / taking out and another 50 units are sold say after two months of sending / taking out, a tax invoice would be required to be issued for 10 units and 50 units, as the case may be, at the time of each of such sale in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules.

If the remaining 40 units are not brought back within the stipulated period of six months from the date of removal, a tax invoice would be required to be issued for 40 units in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules.

Further, M/s ABC may claim refund of accumulated input tax credit in accordance with the provisions contained in subsection (3) of section 54 of the CGST Act read with sub-rule (4) of rule 89 of the CGST Rules in respect of zero-rated supply of 60 units.

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**Issue 4: Applicability of customs duty, IGST and Cess on re-import of goods sent/taken outside India for exhibition/on consignment basis within 6 months from the date of delivery challan**

Clarification: Duty payable under customs is exempted vide Notification No. 45/2017, Cus. (under residual category).

The above clarification also applicable, even in cases where exports have been made to related or distinct persons or to principals or agents, as the case may be, for participation in exhibition or on consignment basis, but, such goods exported are returned after participation in exhibition or the goods are returned by such consignees without approval or acceptance, as the case may be, the basic requirement of 'supply' as defined cannot be said to be met as there has been no acceptance of the goods by the consignees.

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**(6) GST ON AIRPORT LEVIES**  
**[Circular NO. 115/2019, dated 11.10.2019]**

**Question 1: Whether GST is levied on following levies made by airport operator from the passenger through the airlines-**

1. Passenger Service Fee (PSF)
2. User Development Fee (UDF)

The airport operators (licensee) shall pay GST on the PSF and UDF collected by them from the passengers through the airlines.

Here, Airlines are acted as pure agent of the passenger for supply of airport services in accordance with rule 33 and airlines are not liable to pay GST.

Accordingly, airlines acting as pure agent should separately indicate the actual amount of PSF and UDF and GST payable on such PSF and UDF by the airport licensee (operator), in the invoice issued by airlines to its passengers. The airline shall not take ITC on GST paid on PSF and UDF. The PSF and UDF so recovered shall not form part of value of supply of airlines.

The registered passengers, who are the ultimate recipient of the airport services, may take ITC of GST paid on PSF and UDF on the basis of pure agent's invoice issued by the airline to them.

The collection charges paid by airport operator to airlines are a consideration for the services provided by the airlines to the airport operator (AAI, DAIL, MAIL etc) and airlines shall be liable to pay GST on the same under forward charge. ITC of the same will be available with the airport operator.

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## (7) REFUND UNDER GST

1. The Government may disburse the refund of the State tax in such manner as may be prescribed [Section 54(8A)w.e.f 1.09.2019]

### 2. REFUND TO AGENCIES OF UNO, EMBASIES ETC.

(1) **Section 54(2)**: A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Consulate or Embassy of foreign countries or any other person or class of persons, **as notified under section 55**, entitled to a refund of tax paid by it on inward supplies of goods or services or both.

(2) **Section 55**: The Government may, on the recommendations of the Council, by notification, specify any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries and any other person or class of persons as may be specified in this behalf, who shall, subject to such conditions and restrictions as may be prescribed, be entitled to claim a refund of taxes paid on the notified supplies of goods or services or both received by them.

Category	Notified Persons u/s 55
<b>(A) <u>Notified persons/class of persons</u></b>	<p>(i) The Canteen Stores Department (CSD), under the Ministry of Defence, as a person who shall be entitled to claim a refund of <b>50%</b> of the applicable central/integrated tax paid by it on all inward supplies of goods received by it for the purposes of subsequent supply of such goods to the Unit Run Canteens of the CSD or to the authorized customers of the CSD.</p> <p><b>(ii) retail outlets established in the departure area of an international airport, beyond the immigration counters, making tax free supply of goods to an outgoing international tourist, as class of persons who shall be entitled to claim refund of applicable central tax paid on inward supply of such goods, subject to the conditions specified in rule 95A of the Central Goods and Services Tax Rules, 2017.</b></p> <p><b>Explanation. - For the purposes of this notification, the expression “outgoing international tourist” shall mean a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes [w.e.f 1.7.2019]</b></p>
<b>B. <u>Notified Agency of UNO etc.</u></b>	<p>(1) <b>United Nations or a specified international organisation</b>: United Nations or a specified international organisation shall be entitled to claim refund of central tax paid on the supplies of goods or services or both received by them.  <b>“specified international organisation”</b> means an international organisation declared by the Central Government in pursuance of section 3 of the United Nations (Privileges and Immunities Act) 1947, to which the provisions of the Schedule to the said Act apply.  <u>Such as</u> – (1) International Civil Aviation Organisation. (2) World Health Organisation (WHO). (3) International Labour Organisation. (4) Food and Agriculture Organisation of the United Nations. (5) United Nations Educational, Scientific and Cultural Organisation (UNESCO). (6) International Monetary Fund (IMF). (7) International Bank of Reconstruction and Development. (8) Universal Postal Union. (9) International Telecommunication Union. (10) World Meteorological Organisation. (11) Permanent Central Opium Board (12) World Bank Group.</p> <p>(2) Foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein shall be entitled to claim refund of central tax paid on the supplies of goods or services or both received by them.</p> <p><b>Note- These agencies are eligible to get refund of IGST paid on imported goods also. [Circular NO. 23/2019, dated 1.8.2019]</b></p>

**REFUND PROCEDURE [SECTION 54(2) READ WITH RULE 95]**

- (1) Shall apply for refund in Form GST RFD-10- once in **every quarter**, electronically or otherwise on the common portal, along with a statement of the inward supplies of goods and/or services in Form GSTR-11.
- (2) Application must be filed before the expiry of **6 months (extended to 18 months in exercise of power granted u/s. 148) from the last day of the quarter in which such supply was received.**
- (3) Refund of tax paid by the applicant would be available if the inward supplies of goods and/or services were received from a registered person against a tax invoice. Such tax invoice must contain name and GSTIN/UIN of the applicant.
- (4) **Treaty will prevail in case of inconsistency:** Where an express provision in a treaty or other international agreement, to which the President or the Government of India is a party, is inconsistent with the provisions of this Chapter, such treaty or international agreement shall prevail
- (5) Other procedures are same as discussed in rule 92.

**Refund of taxes paid on inward supply of indigenous goods by retail outlets established at departure area of the international airport beyond immigration counters when supplied to outgoing international tourist against foreign exchange [Rule 95A read with Circular No.106, dated 25.6.2019]**

- (1) **Exemption on outward supply:** Any supply of goods by a retail outlet established in the departure area of an international airport, beyond the immigration counters, to an outgoing international tourist i.e. to a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes against foreign exchange (hereinafter referred to as the “eligible passengers”), is exempt from IGST w.e.f 1.7.2019 vide Notification No. 11/2019, IGST (Rate).
- (2) **Refund of tax paid on inward supply:** Such Retail outlet are eligible to claim refund of tax paid on inward supply of indigenous goods which are supplied to such eligible passengers without charging any tax.
- (3) **Who is eligible for refund?**
- (i) The retail outlets applying for refund must be registered person and must have valid GSTIN.
- (ii) Such retail outlets shall be established at departure area of the international airport beyond immigration counters and shall be entitled to claim a refund of all applicable Central tax, State tax, Integrated tax, Union territory tax and Compensation cess paid by them on all inward supplies of indigenous goods received for the purposes of subsequent supply of such goods to the eligible passengers.
- (4) **Application for refund** - Application in prescribed form shall be furnished on a monthly or quarterly basis along with a self-certified compiled information of invoices issued for the supply made during the month or the quarter, as the case may be, along with concerned purchase invoice.
- (5) **Condition for refund:** The refund of tax paid by the said retail outlet shall be available if-
- (a) the inward supplies of goods were received by the said retail outlet from a registered person against a tax invoice;
- (b) the said goods were supplied by the said retail outlet to an outgoing international tourist against foreign exchange without charging any tax;
- (c) name and Goods and Services Tax Identification Number of the retail outlet is mentioned in the tax invoice for the inward supply; and
- (d) such other restrictions or conditions, as may be specified, are satisfied.

*The provisions of rule 92 shall, mutatis mutandis, apply for the sanction and payment of refund under this rule.*

**For your information:** International airports, are following types of retail outlet -

(i) Duty Free Shops (DFS) are point of sale for goods sourced from a warehoused licensed under Section 58A of the Customs Act, 1962, and duty paid indigenous goods

(ii) Duty Paid Shops (DPS) retailing duty paid indigenous goods.

All indigenous goods would have to be procured by DFS or DPS on payment of applicable tax when procured from the domestic market. The sale of indigenous goods procured from domestic market by retail outlets to an eligible passenger is a “supply” under GST law and is subject to levy of Integrated tax but the same has been exempted. Therefore, retail outlets will supply such indigenous goods without collecting any taxes from the eligible passenger and may apply for refund.

It is clarified that the refund to be granted to retail outlets is not on account of the accumulated input tax credit but is refund based on the invoices of the inward supplies of indigenous goods received by them. Since the supply made by such retail outlets to eligible passengers has been exempted and therefore such retail outlets will not be eligible for input tax credit of taxes paid on such inward supplies and the same will have to be reversed in accordance the provisions. **It is also clarified that no refund of tax paid on input services, if any, will be granted to the retail outlets.**

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**(3) With effect from 24.9.2019 the Proper officer shall issue payment order instead of payment advice for refund under GST [Rule 91,92,94 amended accordingly]**

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**(8) ANTI-PROFITEERING MEASURE [SECTION 171]**

(1) Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.

(2) The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

(3) The Authority referred to in sub-section (2) shall exercise such powers and discharge such functions as may be prescribed.

***w.e.f 1.1.2020 – Penalty @ 10% of the profiteered amount, if not paid in 30 days***

***(3A) Where the Authority referred to in sub-section (2), after holding examination as required under the said sub-section comes to the conclusion that any registered person has profiteered under sub-section (1), such person shall be liable to pay penalty equivalent to 10% of the amount so profiteered:***

***Provided that no penalty shall be leviable if the profiteered amount is deposited within 30 days of the date of passing of the order by the Authority.***

***Explanation.—For the purposes of this section, the expression “profiteered” shall mean the amount determined on account of not passing the benefit of reduction in rate of tax on supply of goods or services or both or the benefit of input tax credit to the recipient by way of commensurate reduction in the price of the goods or services or both.’***

**PROCEDURES [RULE 122 TO 137]****1. Constitution of the Authority**

(i) The National Anti-Profiteering Authority shall be a five-member committee consisting of a Chairman who holds or has held a post equivalent in rank to a Secretary to the Government of India; and four Technical Members who are or have been Commissioners of State tax or central tax or have held an equivalent post under existing laws.

(ii) An officer not below the rank of Additional Commissioner (working in the Directorate General of Anti-profiteering) shall be the Secretary to the Authority

(iii) The Authority shall cease to exist after the expiry of **2 4 years** from the date on which the Chairman enters upon his office unless the Council recommends otherwise

(iv) The Authority can determine the methodology and procedure for determination as to whether the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit has been passed on by the registered person to the recipient by way of commensurate reduction in prices

**2. Duties of the Authority**

The Authority would have the following duties:

(i) to determine whether any reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit has been passed on to the recipient by way of commensurate reduction in prices;

(ii) to identify the registered person who has not passed on the benefit of reduction in the rate of tax on supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices;

(iii) pass such order (separately covered).

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### 3. Procedures

(i) All applications from interested parties forwarded by on issues of local nature or those forwarded by the standing committee shall first be examined by the **State level Screening Committee** constituted in each State by the State Governments consisting of an officer of the State Government, to be nominated by the Commissioner, and an officer of the Central Government, to be nominated by the Chief Commissioner

(ii) The Screening Committee shall **within 2 months from the date of receipt of a written application, or within such extended period not exceeding a further period of one month for reasons to be recorded in writing** as may be allowed by the Authority on being satisfied, will forward the application with its recommendations to the **Standing Committee on Anti-profiteering**, which shall consist of such officers of the State Government and Central Government as may be nominated by the GST council, for further action

(iii) On being satisfied, the Standing committee **within a period of 2 months from the date of the receipt of a written application or within such extended period not exceeding a further period of one month for reasons to be recorded in writing** as may be allowed by the Authority, shall examine the matters and if satisfied with the prima-facie shall refer the matter to the Director General of **Anti-profiteering** for a detailed investigation.

(iv) **Investigation:** The Director General of **Anti-profiteering** shall conduct investigation and collect evidence necessary to determine undue profiteering and before initiation of the investigation, issue a notice to the interested parties (and to such other persons as deemed fit for a fair enquiry into the matter) containing, inter alia, information on the following, namely:

- (a) the description of the goods or services in respect of which the proceedings have been initiated;
- (b) summary of the statement of facts on which the allegations are based; and
- (c) the time limit allowed to the interested parties and other persons who may have information related to the proceedings for furnishing their reply

The evidence or information presented to the Director General of **Anti-profiteering** by one interested party can be made available to the other interested parties, participating in the proceedings. The evidence provided will be kept confidential and the provisions of section 11 of the Right to Information Act, 2005, shall apply mutatis mutandis to the disclosure of any information which is provided on a confidential basis

The Director General of **Anti-profiteering** can seek opinion of any other agency or statutory authorities in the discharge of his duties. The Director General of **Anti-profiteering**, or an officer authorised by him will have the power to summon any person necessary either to give evidence or to produce a document or any other thing. He will also have same powers as that of a civil court and every such inquiry will be deemed to be a judicial proceeding.

The Director General of **Anti-profiteering** will complete the investigation within a period of **6** ~~three~~ months or within such extended period not exceeding a further period of three months for reasons to be recorded in writing as allowed by the Standing Committee and, upon completion of the investigation, furnish to the Authority, a report of its findings along with the relevant records.

(v) The Authority, Director General of Anti-profiteering , or an officer authorised by him in this behalf, shall be deemed to be the proper officer to exercise the power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing under section 70 and shall have power in any inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908.

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### **Order of the Authority**

(1) The Authority shall, within a period of ~~three~~ **six** months from the date of the receipt of the report from the Director General of **Anti-profiteering** determine whether a registered person has passed on the benefit of the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices.

(2) An opportunity of hearing shall be granted to the interested parties by the Authority where any request is received in writing from such interested parties.

**(2A) The Authority may seek the clarification, if any, from the Director General of Anti-Profiteering on the report submitted during the process of determination**

(3) Where the Authority determines that a registered person has not passed on the benefit of the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices, the Authority may order-

(a) reduction in prices;

(b) return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of eighteen per cent. from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount including interest not returned, as the case may be;

(c) the deposit of an amount equivalent to 50% of the amount determined under the above clause **along with interest @ 18%** from the date of collection of the higher amount till the date of deposit of such amount in the Fund constituted under section 57 and the remaining 50% of the amount in the Fund constituted under

section 57 of the Goods and Services Tax Act, 2017 of the concerned State, where the eligible person does not claim return of the amount or is not identifiable;

(d) imposition of penalty as specified under the Act; and

(e) cancellation of registration under the Act.

Explanation: For the purpose of this sub-rule, the expression, “concerned State” means the **State/UT** in respect of which the Authority passes an order.

(4) If the report of the Director General of **Anti-profiteering** recommends that there is contravention or even non contravention of the provisions of section 171 or these rules, but the Authority is of the opinion that further investigation or inquiry is called for in the matter, it may, for reasons to be recorded in writing, refer the matter to the Director General of **Anti-profiteering** to cause further investigation or inquiry in accordance with the provisions of the Act and these rules.

**However, where upon receipt of the report of the Director General of Anti-profiteering, the Authority has reasons to believe that there has been contravention of the provisions of section 171 in respect of goods or services or both other than those covered in the said report, it may, for reasons to be recorded in writing, within 6 months, direct the Director General of Anti-profiteering to cause investigation or inquiry with regard to such other goods or services or both, in accordance with the provisions of the Act and these rules.**

**Further, such investigation or enquiry shall be deemed to be a new investigation or enquiry and all the provisions shall mutatis mutandis apply to such investigation or enquiry**

(5) If the Members of the Authority differ in opinion on any point, the point shall be decided according to the opinion of the majority.

(6) Any order passed by the Authority shall be immediately complied with by the registered person failing which action shall be initiated to recover the amount in accordance with the provisions of the Integrated Goods and Services Tax Act or the Central Goods and Services Tax Act or the Union territory Goods and Services Tax Act or the State Goods and Services Tax Act of the respective States, as the case may be.

(7) The Authority can direct any authority of central tax, State tax or Union territory tax to monitor the implementation of the order passed by it.

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## PART B: AMENDMENTS IN CUSTOMS & FTP 2015-20

*Amendment made by the Finance Act(No.2) 2019 and Notification and circulars issued between 1.5.2019 to 31.10.2019*

### AMENDMENTS UNDER CUSTOMS

#### 1. Export General Manifest or Departure manifest [Section 41 and 41A]:

The person-in-charge of a conveyance carrying export goods or imported goods or any other person as may be specified by the Central Government, by notification, shall, before departure of the conveyance from a customs station, deliver to the proper officer in the case of a vessel or aircraft, a departure manifest or an export manifest by presenting electronically, and in the case of a vehicle, an export report, in such form and manner as may be prescribed and in case, such person-in-charge or other person fails to deliver the departure manifest or export manifest or the export report or any part thereof within such time, and the proper officer is satisfied that there is no sufficient cause for such delay, such person-in charge or other person shall be liable to pay penalty not exceeding ₹50,000/-.

However, in cases where it is not feasible to deliver the export manifest by presenting electronically, the Principal Commissioner of Customs/ Commissioner of Customs may allow the same to be delivered in any other manner.

The person in charge of a conveyance shall also deliver to the proper officer –

(i) the passenger and crew departure manifest

(ii) the passenger name record information of arriving passenger.

note- in case of delay, without sufficient reasons a maximum penalty of ₹ 50,000 can be imposed. [Section 41A]

#### 2. Goods re-imported after exportation [Section 20]

Where the goods have been imported in to India after exportation therefrom, -

(i) they shall be liable to such duty as the goods of like kind and value are liable; and

(ii) they shall subject to such restrictions & conditions as apply to like goods of same kind and value.

However, the following notifications have provided certain concession in this regard.

**(i) “Notification No. 94/96” replaced by Notification No. 45/2017, Cus.:** (There is no significant change in the provisions)

The Notification No. 45/2017 is summarized hereunder-

SL No.	Description of goods re-imported within 3 years/(extended period of 5 years)	Amount of duty payable at the time import.
1	Goods exported under – (i) claim of drawback, (ii) without payment of IGST under Bond, (iii) refund of IGST on export, (iv) under duty exemption scheme	Amount of benefit availed at the rime of export.
2	Goods, other than those falling under Sl. No. 1 exported for repairs abroad and reimport  [ownership of goods should not be changed]	Duty of customs on value [Value = fair cost of repairs carried out including cost of materials used in repairs (whether such costs are actually incurred or not) + insurance and freight charges (both ways)].
3	Goods (other than (1) &(2)]	Nil

**Conditions:**

(a) The exported goods and re-imported goods must be same.

Note- The goods shall not be deemed to be the same if these are re-imported after being subjected to re-manufacturing or reprocessing through melting, recycling or recasting abroad.

(b) The said concession is not applicable if re-imported goods -

(i) has been exported by EOU/ a unit in FTZ

(ii) has been exported from a public/private warehouse

(iii) fall under Fourth Schedule to the Central Excise Act, 1944

**(ii) No change in Notification No. 158/95, Cus**

### AMENDMENTS UNDER FTP 2015-20

#### 1. Deemed Export [FTP 2015-20]

**Duty Drawback:** Basic customs duty paid on inputs used in manufacture and supply under deemed export category shall be allowed as drawback in the form of refund on brand rate or on **All industry Rate** basis. [Earlier, drawback in the form of refund was given only on brand rate basis]

### CHAPTER EXCLUDED FROM THE SYLABUS

#### 1. CUSTOMS & FTP

<p>1. Warehousing 2. Demand and recovery 3. Searches, seizure and arrest; offences; penalties; confiscation and prosecution 4. Appeals and revision; advance rulings; settlement commission 5. Provisions relating to prohibited goods, notified goods, specified goods, illegal importation/exportation of goods</p>	<p>6. Officers of customs; appointment of customs ports, airports etc. 7. Provisions relating to coastal goods and vessels carrying coastal goods 8. Miscellaneous</p>
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#### 2. GST

<p>(1) Rate of tax prescribed for supply of goods and services (2) Exemptions for supply of goods, (3) Categories of supply of goods, tax on which is payable on reverse charge basis</p>	<p>(6) Value of supply in cases where Kerala Flood Cess is applicable.</p>
<p>(4) Manner of determination of input tax credit in respect of inputs, input services and capital goods and reversal thereof in respect of real estate projects (5) Manner of reversal of credit of additional duty of customs in respect of Gold dore bar</p>	<p>(7) Furnishing of GSTR-2, GSTR-1A, GSTR-3 (8) Matching, reversal &amp; reclaim of input tax credit (9) Matching, reversal &amp; reclaim of reduction in output tax liability. (10) Transitional Provisions</p>

**Chapter 2****Integrated Case Scenario (ICS) Based MCQs**

- ✘ Integrated case scenarios should comprise of a case scenario followed by a 5 to 6 MCQs based on the said case scenario.
- ✘ The length of the case scenario (including MCQs) should be for 1 to 2 pages.
- ✘ Each MCQ should have four options out of which there should be only one correct option.
- ✘ The MCQs should be application-oriented and should arise from the case scenario [i.e., they should be framed in such a manner that the relevant provisions of laws /concepts and principles would need to be applied to the facts of the case scenario to choose the correct option]

**Integrated Case Study 1:**

Mrs. Nancy, GST-Manager of Mirza Group of Companies, operated in wide range of business manufacturing, retailing, fashion, hotel, NGO (Ch. Trust) etc. provides you the following information–

<b>Name of the Unit</b>	<b>Particulars</b>
Mirza Hotel Pvt. Ltd.	1. Actual declared value of single deluxe room is ₹1200. Rs. 200 discount passed to client on occasion of New Year. Total no. of room booked of similar category booked on 1.1.2020 is 50. Assuming rate of GST 5% (without ITC). Input GST available related to particular transaction ₹ 5,000.
Mirza Ch. Trust	2. Donation received from Mr. Samuel, an Industrialist of ₹5,00,000 for organizing free educational programme for Orphaned. The name of donor is printed in the catalogue as “Good wishes from Mr. Samuel”.
Mirza Retail Pvt. Ltd.	Newly incorporated to open retail chain in various metro cities. File an application for registration under GST but forget to to submit details of bank a.c .
Mirza Chemicals Pvt. Ltd.	<ul style="list-style-type: none"> <li>i. Intra State supply made to a Registered person Mr. Anuj ₹ 3,00,000</li> <li>ii. Inter State supply made to a registered a person Mr. Bhanu ₹ 10,000</li> <li>iii. Inter State supply made to an unregistered person Mr. Chandu ₹20,000</li> <li>iv. Intra State supply to an unregistered person Mr. Daga ₹4,00,000</li> <li>v. Inter State supply made to an unregistered person Mrs. Ekta ₹2,80,000</li> </ul>
Mirza Cold Storage Pvt. Ltd.	Rental charges collected in a month for storage of Apple ₹ 5,00,000. Assuming rate of GST 18%. Input GST available related to particular transaction ₹ 10,000.
Mirza Goods Transport Agency Services Pvt. Ltd.	Goods Transported in road 12 KM in a regular cargo, then transported in a Ship 100 k.m and travelled through two states. E-way bill is generated. Hire charges received ₹ 10 lakhs for renting of goods carriage to another registered GTA. Input GST available related to particular transaction ₹ 20,000.
	Hire charges received ₹ 1 lakh for renting of e-vehicle meant to carry 13 passenger to a local authority. Input GST available related to particular transaction ₹ 10,000.
Mirza Cement Pvt. Ltd.	Self- assessed tax payable for the month of March, 2020 ₹ 1 crores. Dues of tax for the month of Feb 2020 ₹ 10 crores on account of ITC reversal.

On the basis of above information, you are required to answer the following queries raised by Mrs. Nancy, which she faced during the course of performing her duties as GST Manager:-

**(1) The amount of GST payable and ITC to be claimed w.r.t transaction referred to in Mirza Hotel Pvt. Ltd. would be –**

- (a) GST payable Nil, as the actual tariff does not exceed ₹1000. ITC available Nil, as used wholly for exempted outward supply.
- (b) GST payable ₹ 2500, since the actual value is not below ₹1000, ITC not available, as 5% rate is applicable with the condition that no ITC is allowed.
- (c) GST payable ₹ 2500, Total ITC available ₹ 5000.
- (d) GST payable ₹ 2500, since the declared value exceeds ₹1000, ITC not available, as 5% rate is applicable with the condition that no ITC is allowed.

**(2) Whether donation received by Mirza Ch. Trust amounted to supply and therefore liable for GST?**

- (a) Not amounted to supply, as the display of name is only an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at advertising or promotion of his business. Further, there is no oblation (*quid pro quo*) on the part of the Trust to do anything (supply a service). Hence, GST is not leviable.
- (b) Amounted to supply, as the term business under GST includes non-profit making activities. Hence, liable for GST.
- (c) Amounted to supply, as GST laws does not provide specific dispensation to a charitable trust.
- (d) Amounted to supply, as the term consideration also includes donation/gift.

**(3) Whether application filed by Mirza Retail Pvt. Ltd. is valid in GST Law or a fresh application needs to be filed?**

- (a) The application is not valid, as the law requires to submit bank account details at the time of applying for registration, hence a fresh application needs to be filed.
- (b) The application is valid, as the law requires that bank account details can be furnished within 45 days after obtaining the registration or within the due date of return u/s. 39, whichever is earlier, therefore no fresh application required, bank account details should be submitted within the time prescribed.
- (c) The application is not valid, as all the relevant information are not submitted.
- (d) The application is valid, as there is no such requirement under GST to submit bank details unlike income tax Act.

**(4) In relation to supply made by Mirza Chemicals Pvt. Ltd. which are the supplies required to submitted under invoice wise details in GSTR-1 and which are required to be submitted under consolidated details in GSTR-1.**

- (a) Invoice wise details for point (i),(ii) and (v); State Wise Consolidated details for point(iii) and (iv)
- (b) Invoice wise details for point (i) and (ii); State Wise Consolidated details for point(iii), (iv) and (v)
- (c) Invoice wise details for point (i), (ii) and (v); Consolidated details for point(iii) and (iv) without any State
- (d) Invoice wise details for point (i) and (v); State Wise Consolidated details for point (ii), (iii), (iv) and (v)

**(5) The amount of GST payable and ITC to be claimed w.r.t supply made by Mirza Cold Storage Pvt. Ltd. would be –**

- (a) Storage or warehousing of fruits is an exempted supply, therefore neither GST payable nor ITC available.
- (b) Storage of rice is exempted and not fruits therefore GST payable is 90,000 and ITC available ₹ 10,000.
- (c) GST not payable as fruits is an agricultural produce, also ITC not available.
- (d) GST not payable, as it is not a supply and also ITC not available.

**(6) In relation to transaction referred to in Mirza Goods Transport Agency Services Pvt. Ltd., What should be the GST liability and period of validity of e-way bill and number of e-way bill required?**

- (a) GST liability is Nil, as both the supplies are exempted. E-way bill shall be valid for 6 days and one e-way bill is required to be generated as e-way bill generated in one state is valid in other state.
- (b) GST liability is Nil, as both the supplies are exempted. E-way bill shall be valid for 2 days and one e-way bill is required to be generated as e-way bill generated in one state is valid in other state.
- (c) GST liability is Nil, as both the supplies are exempted. E-way bill shall be valid for 6 days and two e-way bill is required to be generated for two different State.
- (d) GST liability is Nil, as the same is payable by the recipient under RCM E-way bill shall be valid for 6 days and one e-way bill is required to be generated as e-way bill generated in one state is valid in other state.

**(7) There is debit balance of ₹ 1 crores in the e-cash ledger of Mirza Cement Pvt. Ltd, the said amount shall be first utilised towards payment of –**

- (a) Self-assessed tax of March,2020
- (b) Tax dues of Feb, 2020
- (c) any current month tax or pad dues without any order
- (d) current month tax and past month tax on proportionate basis.

## Integrated Case Study 2

Mr. Paul Managing Director of M/s. Shalimar Industries, a registered taxable person of West Bengal at the time preparation of filing annual return for the 2017-18 in form GSTR-9, has noticed that the company has set off excess ITC of IGST ₹9,00,000 and SGST ₹2,00,000 in its monthly return GSTR-3B for the month of March 2018. The Return for the March 2018 was filed on 20.4.2018. The excess claim of ITC is not covered u/s. 42(10). He want to pay such amount voluntarily u/s.73(5) of the CGST Act, 2017 on 7<sup>th</sup> February 2020. The Due date of filing annual return for 2017-18 is 7.2.2020.

The e-cash ledger of the company as on 7/2/2020 shows as under –

Heading	IGST	CGST	SGST	Cess
Tax	-	2,00,000	-	-
Interest	-	-	-	-
Penalty	-	-	-	-
Fee	-	-	-	-

The e-credit ledger of the company as on 7/2/2020 shows as under –

Heading	IGST	CGST	SGST	Cess
Tax	-	10,00,000	-	-
Interest	-	-	-	-
Penalty	-	-	-	-
Fee	-	-	-	-

In view of the above answer the following queries of Mr. Paul –

**(1) Whether the company is liable to pay any interest, if yes, then what should be the rate of interest to be charged?**

- (a) Yes, @ 18% p.a
- (b) Yes, @ 24% p.a
- (c) NO
- (d) Yes, @ 18% p.a for IGST and 9% p.a for SGST

**(2) What should be the amount of interest liability to be payable?**

- (a) Interest on IGST ₹ 2,92,044 and Interest on SGST ₹64,899  
 (b) Interest on IGST ₹ 2,92,044 and Interest on SGST ₹32,449  
 (c) Interest on IGST ₹ 3,89,392 and Interest on SGST ₹86,532  
 (d) Nil

**(3) Can the company off set the Credit balance of e-credit ledger under CGST against the tax and interest payable under the head IGST u/s. 73(5) of the CGST Act, 2017 ?**

- (a) No, full amount to be paid in cash  
 (b) Yes, only for tax payment and not for interest payment.  
 (c) Yes, can be set off against both tax and interest  
 (d) NO, since it is payable u/s. 73(5).

**(4) Can the amount lying in the e-cash ledger under the head CGST be used for payment of IGST, SGST and interest thereon, if yes what is the amount to be adjusted?**

- (a) No, balance in one major head/minor head cannot be used for payment of tax or interest with other head/sub-head.  
 (b) Yes, Set off against IGST tax ₹2,00,000.  
 (c) Yes, Set off against SGST tax ₹ 2,00,000  
 (d) Yes, Set off against interest on IGST ₹ 2,00,000.

**(5) Determine the manner of set off of liability and the amount of challan to be created for discharge of tax and interest liability through e-cash ledger, the company wants to use ITC balance as maximum?**

- (a) ITC on CGST of ₹9,00,000 shall be set off against payment of IGST of ₹9,00,000.

Challan to be created-

Heading	IGST	CGST	SGST	Cess
Tax	0	0	2,00,000	-
Interest	2,92,044	-	64,899-	-
Penalty	0	0	0	0
Fee	0	0	0	0
Total	2,92,044	0	2,64,899	

- (b) ITC on CGST of ₹9,00,000 shall be set off against payment of IGST of ₹9,00,000 and ITC of CGST of ₹ 1,00,000 shall be set off against payment of SGST.

Challan to be created-

Heading	IGST	CGST	SGST	Cess
Tax	0	0	1,00,000	-
Interest	2,92,044	-	64,899-	-
Penalty	0	0	0	0
Fee	0	0	0	0
Total	2,92,044	0	1,64,899	

- (c) ITC on CGST of ₹9,00,000 shall be set off against payment of IGST of ₹9,00,000. Cash balance under GCST of ₹ 2,00,000 shall be set off against SGST payable.

Challan to be created-

Heading	IGST	CGST	SGST	Cess
Tax	0	0	0	-
Interest	2,92,044	-	64,899-	-
Penalty	0	0	0	0

Fee	0	0	0	0
Total	2,92,044	0	64,899	

(d) ITC on CGST of ₹9,00,000 shall be set off against payment of IGST of ₹9,00,000. Cash balance of ₹2,00,000 under CGST shall be set off against interest under IGST payable.

Challan to be created-

Heading	IGST	CGST	SGST	Cess
Tax	0	0	2,00,000	-
Interest	92,044	-	64,899-	-
Penalty	0	0	0	0
Fee	0	0	0	0
Total	92,044	0	2,64,899	

(6) The liability shall be discharged through -

- (a) Form No. GSTR-3B
- (b) Form No. GSTR-9
- (c) Form No. GST DRC-03
- (d) For No. GSTR-1

### **Integrated Case Study 3**

Mr. Walia, a native of Tripura, came to Kolkata for study purpose and has completed his Diploma in Food and Beverages (F&B) Services from the Institute of Hotel Management, Kolkata on 1.5.2019. Thereafter, he joined 'The Dark' a 3-star hotel under a placement programme. On 1.8.2019 he applied for a retail liquor license to the State Excise Department of Tripura. On 20.11.2019 he got the license to open a retail wine shop in the State of Tripura. He paid license fee of ₹1 crores to the State Govt. On the same day he left his job and shifted to his hometown. During his internship he got total salary of ₹1,20,000. On 1.12.2019 he started his retail wine shop in his home town. From 10.1.2020 he started an ice-cream and soft drink parlour in his home town. His turnover from both the business are as under:

Period	Wine Shop	Ice Cream and Soft drink parlour
1.12.2019 to 31.12.2019	20 lakhs	-
1.1.2020 to 9.1.2020	7 lakhs	-
10.1.2020 to 10.1.2020	1 lakh	2 lakhs
Total	28 lakhs	2 lakhs

Based on the information given above, choose the most appropriate You are required to answer the following queries raised by Mr. Walia in order to comply the GST Laws: -

**1. Which of the following shall be considered for determining aggregate turnover for the purpose of registration?**

- (i) Salary received by him from hotel The Dark
  - (ii) Sale of Shares and Securities
  - (iii) Sale of Industrial land
  - (iv) interest on bank deposits
- (a) i
  - (b) ii
  - (c) ii and iv
  - (d) iv

**2. What would be the aggregate turnover u/s. 2(6) of the CGST Act, 2017?**

- (a) 33 lakhs
- (b) 83 lakhs
- (c) 80 lakhs
- (d) 2 lakhs

**3. What is the threshold limit for registration for him and whether he is liable for registration under GST?**

- (a) ₹10 lakhs and Yes
- (b) ₹40 lakhs and No
- (c) ₹20 lakhs and Yes
- (d) ₹10 lakhs and No

**4. From which date he is liable for registration and the last date of filing application and in which Form?**

- (a) From 1.1.2020, by 31.1.2020, in Form GST REG-01
- (b) From 10.1.2020, by 9.2.2020, in Form GST REG-01
- (c) From 1.12.2019, by 31.1.2020, in Form GST REG-01
- (d) From 10.1.2020, by 9.2.2020, in Form GSTR-01

**5. What document he is required to prepare and issue to his customer for supply of ice cream and soft-drink product and in how many copies and the due date of issue?**

- (a) Tax Invoice; in triplicate, before or at the time of removal of goods
- (b) Tax Invoice; in duplicate, before or at the time of removal of goods
- (c) bill of supply or any other commercial invoice
- (d) Tax Invoice; in triplicate, within 30 days from the date of supply

**6. Whether he is required to furnish any return under GST? If yes, in which form and the period covered in his first monthly return and the due date of furnishing the return, if order of registration certificate is issued on 05.02.2020?**

- (a) Yes, in GSTR-3B, From 10.01.2020 to 28.02.2020, by 20<sup>th</sup> March 2020
- (b) No
- (c) Yes, GSTR-3B, 10.01.2020 to 05.02.2020, by 20<sup>th</sup> Feb 2020
- (d) Yes, GSTR-3B, 05.02.2020 to 28.02.2020, by 20<sup>th</sup> March 2020

**7. Can he opt composition Scheme u/s. 10 or alternative composition scheme Notification No.2/2019 Central Tax (Rate) dated 07.03.2019 to discharge his GST liability?**

- (a) Yes, since turnover does not exceed ₹ 75 lakhs
- (b) No, engaged in supply of non-taxable or services
- (c) Yes, since not engaged in manufacture of ice-cream
- (d) Yes, since value of service does not exceed ₹ 5 lakhs

**8. Is he liable to pay GST on reverse charge basis for license fee paid to State Govt.?**

- (a) Yes, as it amounts to supply and services from Govt. is notified u/s. 9(3)
- (b) No, since it is neither supply of goods nor a supply of services
- (c) NO, since it is not covered u/s. 9(3)
- (d) NO, since supply of alcohol is outside the scope of GST

**Answer to Integrated Case Study 1:**

Q. No.	Correct Option	Hints
1.	(a)	Refer Amendment notes
2.	(a)	Refer Amendment notes
3.	(b)	Refer Amendment notes
4.	(a)	Refer chapter Return page NO. 13.1 in our Study Mat for manner of furnishing of details in GSTR-1
5.	(a)	Refer Amendment notes
6.	(a)	Refer amendment notes
7.	(b)	Refer section 49(8) page 9.7 point (3) of our MAT.

**Answer to Integrated Case Study 2:**

Q. No.	Correct Option	Hints
1.	(a)	
2.	(a)	Working – NO of days of delay after due date [From 21.4.2018 to 7.2.2020] [345 days+313 days =658 days ] Interest on IGST =9,00,000x 18%/365*658 = 292044 Interest on SGST = 2,00,000 x 18%/365*658 = 64,899
3.	(b)	ITC can be utilised for payment of tax and not interest. Further, ITC on CGST can be set off with IGST payable and not with SGST payable.
4.	(a)	Cash balance in major head CGST can only be used for set off of liability of CGST and therefore cannot be used for payment of other liability.
5.	(a)	CGST ITC balance of ₹ 9,00,000 set off against IGST. Balance in CGST ITC cannot be used for payment of interest under IGST or tax/interest under SGST. CGST cash balance cannot be set off. Therefore, challan to be created for interest payable on IGST and tax and interest payable under SGST.
6.	(c)	GSTR-3B for 17-18 already filed. GSTR-1 and GSTR-9 has no option for payment of tax due. It can be paid through DRC-03.

**Answer to Integrated Case Study 3:**

Q. No.	Correct Option	Hints
1.	(d) interest on bank deposit (exempted supply)	(i),(ii),(iii) are neither supply of goods nor supply of services, therefore will not form part of aggregate turnover.
2.	(a) 33 lakhs	As per section 2(6) aggregate turnover = taxable + exempted + non-taxable supply of goods or services = 2 + 3 + 28 =33 lakhs
3.	(a) ₹10 lakhs and Yes	The limit for the State of Tripura is ₹10 lakhs

4.	(b) From 10.1.2020, by 9.2.2020, in Form GST REG-01	For the period between 1.12.2019 to 09.01.2020, he shall not be required to be registered as he is engaged in exclusively non-taxable and exempted supplies. [ Refer Section 23] From 10.1.2020, he shall be required apply for registration within the 30 days, as his engaged in supply of taxable goods and his aggregate turnover exceeds ₹10 lakhs.
5.	(a) Tax Invoice; in triplicate, before or at the time of removal of goods	
6.	(a) Yes, in GSTR-3B, From 10.01.2020 to 29.02.2020, by 20 <sup>th</sup> March 2020	
7.	(b) NO	Since engaged in supply of non-taxable or services
8.	(b) NO	Since it is neither a supply of goods nor a supply of service -notified u/s. 7(2).

**Revisionary Test Paper**

[The question given here also can be asked in integrated case study based MCQs patterns]

**Question 1:** M/s. Petro Refinery & Co. provides you the following information to compute eligible ITC for the month of March 20X1 –

Particulars	West Bengal (₹)	Odisha (₹)
Value of supply of Petrol and Diesel for the month including Excise duty and VAT	3500 crores	1900 crores
Excise Duty and VAT on Petrol and Diesel	1500 crores	900 crores
Value of supply of LPG (for Domestic use and Industrial use) excluding taxes/duties	1000 crores	500 crores
Tax paid on inputs and input services procured at the Accounts and administrative Unit	90,000	60,000
Tax paid on capital assets purchased at refinery Unit	1,80,000	36,000
Tax paid on spare parts (not capitalized) procured at the refinery Unit.	50,000	10,000
[entire stock gets destroyed due to fire in the store room on 30 <sup>th</sup> March 20X1]		

**Answer:**

Particulars	West Bengal (₹)	Odisha (₹)
Exempted turnover [Excluding excise and VAT]	2000 crores	1000 crore
Taxable turnover [excluding taxes]	1000 crores	500 crores
Total turnover in a State (excluding taxes)	3000 crores	1500 crores
(A) Tax paid on inputs and input services procured at the Accounts and administrative Unit [As per Section 17(2) read with rule 42]	$90,000 \times 1000/3000$ crores = ₹ 30,000	$60,000 \times 500/1500$ crores = ₹20,000
(B) Tax paid on capital assets purchased at refinery Unit [As per section 17(2) read with rule 43]	$1,80,000 (-) [(1,80,000/60) \times 1000/3000$ crores] = ₹1,79,000	$30,000 (-) [(36,000/60) \times 500/1500$ crores] = ₹ 29,800
(C) Tax paid on spare parts (not capitalized) procured at the refinery Unit. [ ITC not allowed since goods destroyed u/s. 17(5)]	Nil	Nil
<b>Total eligible ITC for the month of March 20X1 (A+B+C)</b>	<b>2,09,000</b>	<b>49,800</b>

**Question 2:** M/s. Oswini Suppliers & Co, provides you the following information to determine –

- The place of supply, the type of supply, the nature of supply and the time of supply
- The GST liability for the month of Dec,20XX
- The GST liability for the month of Jan,20X1

**Facts**

- Sale price of machine ₹ 50,00,000 on 31.12.20XX
- Installation and handling charges ₹ 1,00,000
- Location of the Supplier Odisha
- Location of the recipient West Bengal
- Machine supplied from Gowdown located in Andhra Pradesh
- Machine installed at Telangana
- Cash Discount allowed 2% if payment made within 15 days
- Subsidy received from Holding company ₹ 2,00,000 on sale of one machine

8. Transportation charges to be incurred by recipient. However, supplier will arrange a GTA. The freight charges amounted to ₹ 20,000 paid by the recipient.

9. Cash discount shall be recovered and also Interest @ 1% p.m or part of the month shall be charged on total amount due from the date of supply to the date of payment, in case payment is made by the recipient after 15 days.

10. Payment made by the recipient in 25<sup>th</sup> Jan 2020.

11. The Rate of GST (hypothetical)-

For Machine -12%

For installation, handling and other services – 18%

For Freight – 5%

**Answer:**

(i) (a) The place of supply is – Telangana

(b) The type of supply is – Composite supply

(c) The nature of supply is – Inter-State Supply

(d) the time of supply for supply of machine is – Dec, 20XX

The time of supply for recovery of discount and interest is – Jan, 20X1

(ii) The GST liability for the month of Dec,20XX

Particulars	₹
Price of the Machine	50,00,000
Less: Cash Discount @ 2% of 50,00,000	(1,00,000)
Add: Installation and handling charges	1,00,000
Add: Subsidy from holding company	2,00,000
Value of supply	52,00,000
IGST @ 12%	6,24,000

(iii) The GST liability for the month of Jan,20X1

Particulars	₹
Recovery of cash discount	1,00,000
Interest on delayed payment [1% x ₹51,00,000]	51,000
Taxable Value	1,51,000
IGST @ 12%	18,120

**Question 3:** M/s. S. M Agarwal & Associates, a firm of Chartered Accountants, has following issues raised by its client:-

Sl. No	Facts	Issues
1.	A public charitable trust registered u/s. 12AA has received the following amount (A) From an educational programme for senior citizen in a smart -city – (i) Subscription fees ₹10,000 (ii) Price for supply of materials ₹ 5,000 (iii) Sponsorship fees from an Individual ₹2,00,000 (B) Anonymous donation received for the month ₹ 10,00,000	What should be the taxable value for the month?
2.	Mr. Andolan an owner of two floored residential house in Kolkata. 1 <sup>st</sup> Floor is self-occupied and ground floor was let out to Mr. Dada since 15 years. On Jan 2020 Mr. Dada surrender his tenancy right to Mrs. Didi for ₹ 25,00,000 and From Jan 2020 Mrs. Didi pay rent of ₹ 20,000 p.m to Mr. Andol.	What is the taxable value of Mr. Andolan, and Mr. Dada
3	Mr. Madhyam a dealer in second hand car has effected the following transaction –	Determine

	(i) Car-X: Purchase price ₹ 1,00,000 and Sale Price ₹1,20,000 (ii) Car- Y: Purchase price ` 1,20,000 and Sale Price ₹1,00,000 (iii) Car- Z: Purchase price ₹2,00,000 and sale price ₹3,00,000 (ITC availed on GST paid on purchase of Car-Z ₹24,000)	his GST payable, assuming rate of GST is 18%.
4	M/s. WHAT- NOT Pvt. Ltd. of West Bengal entered into following transactions during the month – (i) Supply of Goods to China under LUT ₹5 crores. Out of this ₹2 crores received in convertible foreign currency and balance received in INR.  (ii) Supply of services to NEPAL under LUT, entire consideration of ₹2 crores received in INR as per RBI permission.  (iii) Supply of parts to the assembly unit of M/s. Expo of Telangana for ₹2 crores and after assembling, the final goods is exported by M/s. Expo to China for ₹5 crore.  (iv) Stock transfer to Branch in Odisha (eligible to claim full credit), The invoice value ₹ 10 lakhs. The cost of production ₹ 20 lakhs. Goods sold to unrelated person ₹ 25 lakhs.  (v) Renting of commercial building to a shop keeper for ₹ 1 lakh per month. Renting of residential property for residential use of an employee ₹ 50000 per month. Renting of building to Mr. X for ₹ 80,000 p.m, who sub-let it for storing of agricultural produce. [All the properties are located in the State of West Bengal]  (vi) Goods imported from Japan but before it reached Indian ports sold it to a person of Thailand for ₹ 1 crores.	What should be GST payable for the month, assuming the rate of GST on Goods is 12 % and on services is 18%.

You are being an article assistance in the said firm is required to answer the issues raised by clients.

### Answer to Question 3:

Sl No.	Answers								
1.	Taxable Value = 10,000 + 5000 + 2,00,000 = 2,15,000 (donation is not a consideration for supply) Further, the above services is not exempted since it is provided in a Smart-City and not in a rural area. Sponsorship fee shall be payable under forward charge as the recipient is not a firm/body corporate.								
2.	Mr. Andolan – NIL (as renting of residential house is exempted) Mr. DADA - ₹ 25,00,000								
3.	Margin Scheme ( Car-X: 20,000 + Car- Y: Nil ) @18% = ₹3600 Normal Scheme: Car Z – 18% of 3,00,000 (-) 24,000 = ₹ 30,000 Total GST payable ₹33,600								
4.	<table border="1"> <tr> <td>(i) Supply of Goods to China under – Export of Goods, zero rated supply [received of foreign currency not relevant]</td> <td>Nil</td> </tr> <tr> <td>(ii) Supply of services to NEPAL – Export of services as INR is permitted by RBI, zero rated supply]</td> <td>Nil</td> </tr> <tr> <td>(iii) Supply of parts to the assembly unit of M/s. Expo of Telangana for ₹2 crores [not an export supply therefore taxable and the place of supply is Telangana, hence IGST leviable] @ 12% on ₹ 2 crores</td> <td>IGST 24,00,000</td> </tr> <tr> <td>(iv) Stock transfer to Branch in Odisha (eligible to claim full credit). The invoice value shall be considered as taxable value as per rule 28 [IGST @ 18% on ₹10 lakhs]</td> <td>IGST 1,80,000</td> </tr> </table>	(i) Supply of Goods to China under – Export of Goods, zero rated supply [received of foreign currency not relevant]	Nil	(ii) Supply of services to NEPAL – Export of services as INR is permitted by RBI, zero rated supply]	Nil	(iii) Supply of parts to the assembly unit of M/s. Expo of Telangana for ₹2 crores [not an export supply therefore taxable and the place of supply is Telangana, hence IGST leviable] @ 12% on ₹ 2 crores	IGST 24,00,000	(iv) Stock transfer to Branch in Odisha (eligible to claim full credit). The invoice value shall be considered as taxable value as per rule 28 [IGST @ 18% on ₹10 lakhs]	IGST 1,80,000
(i) Supply of Goods to China under – Export of Goods, zero rated supply [received of foreign currency not relevant]	Nil								
(ii) Supply of services to NEPAL – Export of services as INR is permitted by RBI, zero rated supply]	Nil								
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(iv) Stock transfer to Branch in Odisha (eligible to claim full credit). The invoice value shall be considered as taxable value as per rule 28 [IGST @ 18% on ₹10 lakhs]	IGST 1,80,000								

(v) Renting of commercial building – taxable @ 9% of ₹ 1 lakhs	CGST ₹9000 SGST ₹9000
Renting of residential property for residential use – exempt	Nil
Renting of building to Mr. X for commercial use [Here Mr. X is engaged in storage, warehousing of agri-produce and not by the company, therefore taxable] @ 9% of ₹ 80,000	CGST ₹ 7200 SGST ₹ 7200
(vi) Goods imported from Japan but before it reached Indian ports sold it to a person of Thailand for ₹ 1 crores- It is neither supply of goods nor supply of services as per Schedule III.	Nil
Total GST payable for the month	IGST ₹25,80,000 CGST ₹16200 WBGST ₹16200

**Question 4: Answer the following with respect to the provisions of GST Laws**

- (i) Mr. L (a registered person of West Bengal) charged rent of ₹12,00,000 p.a on his commercial building located in Kolkata which is let out to Mr. T. Mr. T has also incurred following –
- annual maintenance charges of ₹3,00,000 p.a paid to building society.
  - Annual municipal tax paid ₹ 1,00,000 but reimbursed from Mr. L.
  - interest free refundable security deposit paid to Mr. L ₹12,00,000

Compute the GST liability of Mr. L. Assuming rate of GST 18%

- (ii) Mr. Sudhakar, a clearing and forward agent has provided the clearing and forwarding services to M/s. Arun Trading Industries in relation to import of raw materials from Hongkong for which he charged ₹ 2,00,000 as his consideration. He also incurred following expenses during the course of providing his services –

**(A) On authorization and behalf of Arun Trading Industries and subsequently reimbursed the same on cost to cost basis:-**

- Custom Duty ₹2,00,000
- Port charges ₹20,000
- Ship demurrage charges ₹30,000
- transport charges from the port to the warehouse ₹ 25,000
- loading and unloading charges ₹5,000

**(B) on his own account -**

- Travelling and accommodation expenses ₹ 20,000
- Other administrative Exp. ₹5000

Determine his value of supply if-

- he has raised an invoice of lumpsum amount of ₹5,05,000 (excluding GST)
- he has raised an invoice of ₹5,05,000 (excluding GST) indicating each and every charges incurred separately.

**Answer:**

(i) Annual rent	₹ 12,00,000
Maintenance chg.	<u>₹ 3,00,000</u>
	₹ 15,00,000
CGST @ 9%	1,35,000
SGST @ 9%	1,35,000

Note-

- Municipal tax is not charged from the tenant hence does not form part of taxable value.
- interest free refundable security deposit is not a consideration u/s. 2(31).

**(ii) Write the provisions of Rule 33 in relation to Pure Agent**

(a) Since one of the relevant condition that is payment made by pure agent on behalf of the recipient of supply has not been separately indicated in the invoice, therefore the entire amount of ₹5,05,000 shall be considered as Value of supply.

(b) Since all the relevant conditions of rule 33 is satisfied therefore amount reimbursed on behalf of the client as pure agent shall not be included in his taxable value. The value of supply is computed as under-

(i) Agency charges	₹2,00,000
(ii) Travelling and accommodation expenses	₹ 20,000
(iii) Other administrative Exp.	<u>₹5000</u>
Taxable value of supply	₹2,25,000

**Question 5:** Total eligible ITC on purchase ₹10,00,000 each for the month of Oct'2019 and Nov'2019. The details of eligible ITC uploaded by the Supplier within the Due Date of filing GSTR-1 and reflected in GSTR 2A of the recipient as under –

Month in which reflected in GSTR-2A	ITC for the month	Amount (₹)
Oct'2019	Oct,2019	₹ 6,00,000
Nov'2019	Oct,2019	₹ 2,00,000
Nov'2019	Nov,2019	₹ 8,00,000
Dec'2019	Oct,2019	₹ 2,00,000
Dec,2019	Nov,2019	₹ 2,00,000

Determine how credit is to be claimed by the recipient for the month of Oct, 2019 and Nov,2019.

**Answer:**

ITC allowable for the month of -	Eligible to claim in the month of -	Workings	Amount (₹)
Oct, 2019	Oct,2019	120% of 6,00,000	7,20,000
Oct,2019	Nov,2019	120% of 8,00,000 (6,00,000+2,00,000)= 9,60,000 – 7,20,000	1,40,000
Oct,2019	Dec,2019	120% of 10,00,000 or 10,00,000, lower = 10,00,000 – 9,60,000	40,000
Nov,2019	Nov, 2019	120% of 8,00,000	9,60,000
Nov,2019	Dec,2019	120% of 10,00,000 or 10,00,000, lower = 10,00,000 – 9,60,000	40,000

Hence,

ITC claimed in the Month of Oct,2019 = ₹ 7,20,000

ITC claimed in the month of Nov,2019 = ₹11,00,000

ITC claimed in the months of Dec,2019 = ₹ 80,000

**Question 6:** Maxiline Corp, not being an EOU, had imported technical instruments from USA for ₹ 180 lakh on payment of duty. It had to subsequently send back the same to the supplier for repair. The supplier has agreed to provide discount of 50% of the fair cost of repairs, resulting in Maxiline Corp paying USD 15,000. Following further particulars are available:

Particulars	Date	Rate of Duty	Inter Bank Exchange rate	Rate notified by CBEC
Bill of Entry	21-02-20X1	20%	60	62
Aircraft arrival	26-02-20X1	15%	62	61

IGST u/s 3(7) of Customs Tariff Act, 1975 -12%.

	Outwards (Amt. in ₹)	Inwards (Amt. in ₹)
Insurance	20,000	30,000
Air Freight	80,000	1,20,000

Other details available on records:

- Goods are reimported within 3 years of despatch for repair .
  - Both the exported and imported goods are the same.
  - There is no change in the ownership of technical instruments.
  - The export is not from a public/private warehouse and repairs does not amount to manufacture.
- Determine total duty payable with appropriate notes for your computation.

**Answer:** Refer Notification No. 45/2017,Cus., Since all the conditions has been satisfied therefore it has been assume that the importer has opted the benefit provided under said notification. Accordingly, the custom duty is to be computed as under –

Particulars	
Fair cost of repairs (in US\$) = \$15,000/50%	\$ 30,000
Fair cost of repairs (in INR) [ \$30,000 × ₹ 62 ]	₹18,60,000
Add: Inward and outward insurance [₹ 20,000 + ₹ 30,000]	₹50,000
Add: Inward and outward air freight [₹ 80,000 + ₹ 1,20,000]	<u>₹2,00,000</u>
CIF Value/ Assessable Value	A <u>₹21,10,000</u>
Basic customs duty @15% of 'A'	B ₹3,16,500
Social Welfare Surcharge @ 10% of 'B'	C ₹31,650
IGST @ 12% on A+B+C	D ₹2,94,978
Total Customs Duty [B+C+D]	₹6,43,128