

PAPER-8: INDIRECT TAX LAWS

QUESTIONS

- (1) All questions should be answered on the basis of position of (i) GST law as amended by the provisions of the Finance Act, 2020 and the Finance (No. 2) Act, 2019, which have become effective up to 30th April, 2021, including significant notifications and circulars issued and other legislative amendments made, up to 30th April, 2021 and (ii) customs law as amended by the Finance Act, 2020, including significant notifications and circulars issued and other legislative amendments made, up to 30th April, 2021.
- (2) The GST rates for goods and services mentioned in various questions are hypothetical and may not necessarily be the actual rates leviable on those goods and services. The rates of customs duty are also hypothetical and may not necessarily be the actual rates. Further, GST compensation cess should be ignored in all the questions, wherever applicable.

SR Associates is a partnership firm registered under GST in the State of Rajasthan. In the month of July, following transactions were made by SR Associates:

1. Purchase of commodity X on 1st July for an amount of ₹ 5,00,000 at the rate of ₹ 1000 per tonne from the open market. The said commodity was deposited in the warehouse of NCDEX Ltd. (an agricultural commodity exchange) in Rajasthan as a security against transactions entered by SR Associates on the same day.
2. In order to hedge the aforesaid transaction, on 1st July, SR Associates undertook a derivative sale transaction in futures contract for the month of August at NCDEX at the rate of ₹ 1,100 per tonne.
3. SR Associates took subscription for an AI (Artificial Intelligence) based platform from an unrelated party, ABC Inc (a company based in US) to get real time updates on the pricing of commodity X in the international market. ABC Inc charged ₹ 50,000 for such subscription. The invoice was issued to SR Associates on 1st July, but the payment was made to ABC Inc on 20th August.
4. NCDEX charges rent from SR Associates at the rate of ₹ 10,000 per month and service charges at the rate of ₹ 20,000 per month.
5. On the date of expiry of future contract of the month of August, i.e. 31st August for commodity X, the rate of commodity X was ₹ 900 per tonne. SR Associates squared off the contract for the month of August at the same rate.

6. NCDEX charged brokerage on the transactions (both purchase and sale of derivative contract separately) at the rate of ₹ 5,000 per contract from SR Associates in the month when such transaction was entered and when such transaction was squared off.
7. On the purchase of commodity X, additional levy in form of Mandi Tax was applicable at the rate of ₹ 10 per tonne which is not included in the rate per tonne under point 1 above.

All the amounts given above are exclusive of GST unless otherwise provided. The opening balance of input tax credit for the relevant tax period of SR Associates is Nil. Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.

Assume that there is no other outward or inward supply transaction apart from aforesaid transactions, in the months of July and August.

GST is applicable in the aforesaid case scenario at the following rates unless otherwise specified:

- I. Intra-State supply – 9% CGST and 9% SGST
- II. Inter-State supply – 18% IGST

Based on the facts of the case scenario given above, choose the most appropriate answer to Q. Nos. 1 to 5 as follows:-

1. Compute the taxable value of supply of commodity X procured by SR Associates in the month of July.
 - (a) 5,00,000
 - (b) 5,50,000
 - (c) 5,55,000
 - (d) 5,05,000
2. Compute the value of outward supply made by SR Associates in the month of August.
 - (a) Nil
 - (b) 5,55,000
 - (c) 5,60,000
 - (d) 5,00,000
3. What is the time of supply for subscription of AI based platform by SR Associates?
 - (a) July 1

- (b) August 31
 - (c) August 20
 - (d) July 31
4. Compute the net GST payable in cash by SR Associates for the month of August.
- (a) Nil
 - (b) 2,700
 - (c) 81,000
 - (d) 9,000
5. Compute the input tax credit balance available with SR Associates for the month of July.
- (a) 9,000
 - (b) 16,200
 - (c) 97,200
 - (d) Nil

Mr. Ashok, proprietor of M/s Office-Linc Enterprises, is engaged in trading of office stationery items in its stationery store located at Salt Lake City, Kolkata. The said store is taken on lease from Kolkata Municipal Corporation (KMC).

During the financial year 2019-20, the turnover of M/s Office-Linc Enterprises was ₹ 14 lakh. Mr. Ashok supplies goods within the State of West Bengal only, but purchases stationery items mostly from Delhi & Mumbai. He owns a duplex house in New Town, Kolkata. He stays on the ground floor & has let out the first floor to an employee of IDICI Bank, Delhi for residential purposes. The rent for the same is paid by IDICI Bank to Mr. Ashok.

He applied for GST registration on voluntary basis on 2nd April, 2020 and the registration was granted to him on 9th April, 2020.

The details of his stock position is as under:

Particulars	2 nd April, 2020	8 th April, 2020
Office stationery items purchased from a registered dealer	₹ 1 lakh	₹ 1 lakh
Books, periodicals, journals, newspaper, maps etc.	₹ 0.20 lakh	₹ 0.30 lakh

The details of transactions carried out by Mr. Ashok during the financial year 2020-21 is furnished hereunder:

Particulars	1 st April, 2020 to 8 th April, 2020 (₹ in lakh)	9 th April, 2020 to 31 st March, 2021 (₹ in lakh)
Sale of office stationery items (Intra-State supply to registered person)	3	84
Sale of office stationery items (Intra-State supply to unregistered person)	2	14
Legal fee paid to advocate	-	0.10
Purchase of stationery items (Intra-State supply received from registered person)	3	74
Purchase of furniture for use in own office (from an unregistered dealer of Kolkata)	-	1
Purchase of stationery items from a registered dealer of Delhi	1	18
Lease rent of the stationery store paid to Kolkata Municipal Corporation (KMC)	-	1.20
Transportation charges paid to M/s Gati Transporters, a GTA (tax is not payable @ 12%)	0.10	1.50
Interest paid on borrowings from BBI Bank	0.20	1.80
Accrued interest on Fixed deposit with BBI Bank	-	0.16
Rent received from IDICI Bank for its employee	-	2.40

Mr. Ashok went to Mumbai, Maharashtra for a business meeting in February, 2020 and stayed in Hotel Blue Pines for a week. Hotel charged ₹ 1,00,000 (taxable value) for the stay.

All the amounts given above are exclusive of GST, wherever applicable, unless otherwise provided. Assume that there is no other outward or inward supply transaction apart from aforesaid transactions in the financial year 2020-21.

GST is applicable on all inward and outward supplies, except on services of transportation of goods, at the following rates:

- I. Intra-State supply – 6% CGST and 6% SGST
- II. Inter-State supply – 12% IGST

Based on the facts of the case scenario given above, choose the most appropriate answer to Q. Nos. 6 to 10 below:-

6. The value of outward supply which shall be subject to GST for the financial year 2020-21 is _____.
 - (a) ₹ 98 lakh
 - (b) ₹ 100 lakh
 - (c) ₹ 102.40 lakh
 - (d) ₹ 108 lakh
7. Which of the following statements is correct in terms of the facts of the case scenario given above?
 - (a) Mr. Ashok cannot opt to pay tax in the financial year 2021-22 under composition scheme under section 10(1) and 10(2) of the CGST Act, 2017.
 - (b) Mr. Ashok is entitled to take the ITC of inputs held in stock on 1st April, 2020.
 - (c) Mr. Ashok shall be liable to pay GST under reverse charge under section 9(4) of the CGST Act during the financial year 2020-21 in respect of purchases made from unregistered persons.
 - (d) Mr. Ashok is entitled to take the ITC of inputs held in stock on 8th April, 2020.
8. The value of supply on which Mr. Ashok is liable to pay GST under reverse charge for the financial year 2020-21 is _____.
 - (a) ₹ 1,60,000
 - (b) ₹ 2,80,000
 - (c) ₹ 1,30,000
 - (d) ₹ 2,70,000
9. Which of the following inward supply is not subject to payment of tax under reverse charge mechanism?
 - (i) Shop rent paid to KMC
 - (ii) Legal fee paid to advocate
 - (iii) Purchase of stationery items from unregistered person
 - (iv) Transportation charges paid to M/s Gati Enterprises
 - (a) (i) and (ii)

- (b) (iii)
 - (c) (ii) and (iii)
 - (d) (i) and (iii)
10. Whether input tax credit is available on the GST paid by Mr. Ashok on the taxable value of ₹ 1,00,000 charged by Hotel Blue Pines located in Mumbai, Maharashtra, for his stay? If yes, please specify the amount of input tax credit available.
- (a) Yes, ₹ 3,000 - CGST and ₹ 3,000 - SGST
 - (b) Yes, ₹ 12,000 - IGST
 - (c) Yes, ₹ 6,000 - CGST and ₹ 6,000 - SGST
 - (d) No input tax credit is available.
11. Pyarelal Singh, registered under GST in Lucknow, Uttar Pradesh, is appointed as a del-credre agent by Sunnykart Co. (P) Ltd. He sells eye opticals to his customers locally within the same State. Sunnykart Co. (P) Ltd. is also registered under GST in the State of Uttar Pradesh.
- During the current financial year, Sunnykart Co. (P) Ltd. supplied taxable goods worth ₹ 10 crore whose open market value is ₹ 10.05 crore, from its Allahabad unit to Pyarelal Singh. Pyarelal Singh has further sold these goods for ₹ 10.10 crore by raising invoices using his own GSTIN. Pyarelal Singh has received a commission of ₹ 75 lakh from Sunnykart Co. (P) Ltd. during the year and has guaranteed the payment of the value of such goods from the customers to Sunnykart Co. (P) Ltd.
- Pyarelal Singh has also provided financial assistance in the form of larger credit period to his customers, on which he has also earned interest of ₹ 15 lakh.
- Compute the value of supply of Sunnykart Co. (P) Ltd. and Pyarelal Singh for the current financial year assuming that both of them wish to adopt minimum value of supply to the extent possible.
- (a) Sunnykart Co. (P) Ltd.: ₹ 9.09 crore and Pyarelal Singh: ₹ 11.00 crore
 - (b) Sunnykart Co. (P) Ltd.: ₹ 10.05 crore and Pyarelal Singh: ₹ 10.85 crore
 - (c) Sunnykart Co. (P) Ltd.: ₹ 10.15 crore and Pyarelal Singh: ₹ 10.85 crore
 - (d) Sunnykart Co. (P) Ltd.: ₹ 10.15 crore and Pyarelal Singh: ₹ 75.00 lakh
12. Which of the following statements is false?
- (a) No duty drawback shall be allowed under customs in respect of the goods the market price of which is less than the amount of drawback thereon.

- (b) Duty drawback shall not be allowed under customs where the amount of drawback in respect of any goods is ₹ 100 or less.
 - (c) Where the claim of duty drawback is not paid to claimant within 1 month from the date of filing such claim, interest @ 6% p.a. is payable to the claimant.
 - (d) Interest is payable by the claimant of duty drawback on erroneous refund of duty drawback @ 15% p.a.
13. Sapphire Enterprises imported some goods through vessel from USA in the month of April. The value of goods imported was ₹ 6,50,000.

The date of entry inwards was 21st April (basic customs duty on said date was 10%). Further, Sapphire Enterprises filed bill of entry for home consumption on 25th April (basic customs duty on said date was 20%). Applicable rate of integrated tax was 12% and social welfare surcharge was 10%. Ignore GST compensation cess.

However, before inspection and clearance for home consumption, Sapphire Enterprises found that the goods had been damaged owing to negligence on part of proper officer of customs. The proper officer accepted that due to said damage, the value of the goods has come down to ₹ 4,00,000.

Compute the total customs duty payable in the given case.

- (a) ₹ 97,280
 - (b) ₹ 2,38,160
 - (c) ₹ 1,58,080
 - (d) ₹ 1,46,560
14. Kaushal Manufacturers Ltd., registered in Delhi, is a manufacturer and supplier of electronic home appliances. It is paying tax under regular scheme. It supplies the electronic home appliances in the domestic as well as overseas market. For supplies in other States of India, the company has appointed consignment agents in each such State, except Gurgaon, Haryana and Noida, Uttar Pradesh, where the goods are supplied directly from its Delhi warehouse.

In the month of January, consignments of electronic home appliances were sent to Cardinal Electricals Pvt. Ltd. and Rochester Technos – agents of Kaushal Manufacturers Ltd. in Punjab and Madhya Pradesh respectively. Cardinal Electricals Pvt. Ltd. and Rochester Technos supplied these electronic home appliances under their invoices to the stores located in their respective States for ₹ 40,00,000 and ₹ 70,00,000 respectively. Open market value of such appliances is not available.

Further, in January, electronic home appliances have been supplied to Ronn Technomart - a wholesale dealer of electronic home appliances in Noida, Uttar Pradesh for consideration of ₹ 23,00,000, from its Delhi warehouse. Kaushal Manufacturers Ltd. owns 75% shares of Ronn Technomart. Open market value of the electronic home appliances supplied to Ronn Technomart is ₹ 30,00,000. Further, Ronn Technomart is not eligible for full input tax credit.

Kaushal Manufacturers Ltd. also provides repair and maintenance services to electronic appliance manufacturers located in India.

The company has also furnished the following information for the month of January:

Particulars	₹
Supply of electronic home appliances to wholesale dealers of such appliances in Delhi	84,00,000
Electronic home appliances supplied to Anchor Electricals Inc., USA under LUT [Consideration received in convertible foreign exchange]	1,26,00,000
Repair and maintenance services provided to Unitech Ltd., an electronic appliance manufacturer, located in Delhi	8,40,000
Advance received towards repair and maintenance services to be provided to Orelec Ltd., an electronic appliance manufacturer, located in Delhi [Repair and maintenance services have been provided in February and invoice is issued on 28 th February]	7,00,000
Advance received for electronic home appliances to be supplied to Novick Electricals, a wholesale dealer of such appliances in Gurgaon, Haryana [Invoice for the goods is issued at the time of delivery of the electronic appliances in March]	8,40,000

You are required to determine the gross GST liability [CGST & SGST and/or IGST] of Kaushal Manufacturers Ltd. for the month of January.

Note:

- (i) All the given amounts are exclusive of GST, wherever applicable.
- (ii) Assume the rates of GST to be as under:

Goods/services supplied	CGST	SGST	IGST
Electronic home appliances	2.5%	2.5%	5%
Repair and maintenance services	9%	9%	18%

You are required to make suitable assumptions, wherever necessary.

15. Dobriyal Technocrats Ltd., registered in Gurgaon, Haryana, is engaged in manufacturing heavy steel machinery. It enters into an agreement with Mindsharp Associates, registered in Delhi, for imparting motivational training to the top management of Dobriyal Technocrats Ltd. in a 5-day residential motivational training programme at an agreed consideration of ₹ 20,00,000.

Mindsharp Associates books the conference hall alongwith the rooms of Hotel Chumchum, Neemrana (registered in Rajasthan) for the training programme, for a lump sum consideration of ₹ 12,00,000.

You are required to determine the place of supply in respect of the supply(ies) involved in the given scenario.

16. Answer the following questions:

- (i) Nirmal Private Limited, registered in Vasai, Maharashtra, is engaged in supply of taxable goods and services. In the month of April, it sold goods worth ₹ 5,00,000 (excluding GST) to Suraksha Enterprises and collected tax @ 28% on said goods from the buyer. However, the actual rate of tax applicable in the given case was 18%.

Nirmal Private Limited deposited the tax @ 18% on these goods to the Government on the due date and retained the remaining tax collected. Determine the amount of penalty, if any, that may be imposed on Nirmal Private Limited in the month of October in the given case ignoring interest payable, if any.

- (ii) Bindusar, Chief Executive Officer of Ashoka Solutions Ltd., is issued a summon to appear before the central tax officer to produce the books of accounts of Ashoka Solutions Ltd. in an inquiry conducted on said company. Determine the amount of penalty, if any, that may be imposed on Bindusar, if he fails to appear before the central tax officer.

17. Answer the following questions:

- (i) Prithviraj Ltd., registered under GST in Uttar Pradesh, is served a notice for audit by the tax authority under GST law on 10th July. The records and other documents as sought by the tax authority have been made available by Prithviraj Ltd. on 25th July. The tax authority visits the office of Prithviraj Ltd. located in Noida, Uttar Pradesh on 8th August for conducting audit.

Determine the time-limit within which the audit under section 65 of the CGST Act, 2017 is required to be completed assuming that no extension is permitted in the given case.

- (ii) Dhruv & Co. sends certain textile products for dyeing to Bhanushali Manufacturers on job work basis on 16th August. On 18th August, Dhruv & Co. credited 100% of the job work charges to the bank account of Bhanushali Manufacturers in advance and

recorded it in its books of accounts on the same date. Bhanushali Manufacturers issues the invoice for the same in first week of September.

Assuming that inputs are received back by Dhruv & Co. after job work in the month of October (i.e. within time limit prescribed under section 143 of the CGST Act, 2017), determine the time of supply for such job work done by Bhanushali Manufacturers.

- (iii) Mr. Vijay, a registered supplier, receives 100 invoices (for inward supply of goods/services) involving GST of ₹ 10 lakh, from various suppliers during the month of October.

Compute the ITC that can be claimed by Mr. Vijay in his GSTR-3B for the month of October to be filed by 20th November in the following independent cases assuming that GST of ₹ 10 lakh is otherwise eligible for ITC:

Case I: Out of 100 invoices, 80 invoices involving GST of ₹ 6 lakh have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor.

Case II: Out of 100 invoices, 95 invoices involving GST of ₹ 9.8 lakh have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor.

18. Padmavati Traders, registered in Karnataka, is engaged in supply of taxable goods. Its turnover in the preceding financial year was ₹ 230 lakh and was furnishing its GST return on monthly basis.

In the beginning of April month in the current financial year, it sought advice from its tax consultant, Dua Consultants, whether it can furnish its GST returns on quarterly basis from now onwards. Dua Consultants advised Padmavati Traders that it cannot furnish its return on quarterly basis as the GST law does not provide for quarterly return under any circumstances. Discuss the technical veracity of the advice given by Dua Consultants.

19. Rishabh Traders is engaged in trading of cast iron moulds. It imported a total of 600 units of cast iron moulds in two consignments of 200 and 400 units which has been valued at ₹ 1,500 per unit. The customs duty on the imported moulds has been assessed at ₹ 250 per unit. Rishabh Traders sells the moulds for ₹ 2,030 per unit after adding its profit margin of ₹ 280 per unit.

After one month of selling the entire consignment of cast iron moulds, Rishabh Traders found that there had been an error in payment of amount of duty, in which duty for the consignment of 200 units was paid as if it was 400 units, resulting in excess payment of duty. Rishabh Traders files an application for refund for ₹ 50,000 (200 X 250). You are required to determine whether the unjust enrichment is attracted in the given case?

20. Sambhav Industries imported a machine for manufacturing steel equipment from George Inc., USA through vessel. The cost of the said machine at the factory of George Inc. is US \$ 10,000. George Inc. incurred the cost of US \$ 500 for transporting the said machine

from its factory to the port of New York and New Jersey from which the machinery was shipped for export to Mumbai port, India. It further paid US \$ 50 as handling charges for loading the machine in the ship.

You are required to determine the assessable value of the machine imported by Sambhav Industries under the Customs Act, 1962 taking into account the following additional information:

- | | |
|--|-------------|
| (i) Buying commission paid by Sambhav Industries | US \$ 50 |
| (ii) Freight charges from port of New York and New Jersey to Mumbai port | US \$ 1,000 |
| (iii) Exchange rate to be considered: 1\$ = ₹ 70 | |
| (iv) Actual insurance charges paid are not ascertainable | |
| (v) Lighterage charges paid by Sambhav Industries at Mumbai port | ₹ 12,000 |
| (vi) Unloading and handling charges paid at Mumbai port | ₹ 24,000 |

SUGGESTED ANSWERS

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

14. Computation of gross GST Liability of Kaushal Manufacturers Ltd. for the month of January

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Supply of electronic home appliances to consignment agents - Cardinal Electricals Pvt. Ltd. and Rochester Technos of Punjab and Madhya Pradesh [Note - 1]			4,95,000 [99,00,000 × 5%]
Supply of electronic home appliances to Ronn Technomart of Noida, Uttar Pradesh [Note - 2]			1,50,000 [30,00,000 × 5%]
Supply of electronic home appliances to wholesale dealers of such appliances in Delhi [Note - 3]	2,10,000 [84,00,000 × 2.5%]	2,10,000 [84,00,000 × 2.5%]	
Electronic home appliances supplied to Anchor Electricals Inc., USA under LUT [Note - 4]			Nil
Supply of repair and maintenance services to Unitech Ltd., an electronic appliance manufacturer, located in Delhi [Note - 5]	75,600 [8,40,000 × 9%]	75,600 [8,40,000 × 9%]	
Advance received for repair and maintenance services supplied to Orelec Ltd., a electronic appliances manufacturer, located in Delhi [Note - 6]	63,000 [7,00,000 × 9%]	63,000 [5,00,000 × 9%]	
Advance received for electronic home appliances to be supplied to Novick Electricals, a wholesale dealer of electronic appliances in Gurgaon, Haryana [Note - 7]			Nil
Total GST liability	3,48,600	3,48,600	6,45,000

Notes:

- Value of supply of goods made through an agent is determined as per rule 29 of the CGST Rules, 2017. Accordingly, the value of supply of goods between the principal and his agent is the open market value of the goods being supplied, or at the option of the supplier, is 90% of the price charged for the supply of goods of like kind and quality by the recipient to his unrelated customer, where the goods are intended for further supply by the said recipient.

In the given case, since open market value is not available, value of electronic home appliances supplied to consignment agents - Cardinal Electricals Pvt. Ltd. and

Rochester Technos – will be ₹ 99,00,000 [90% of (40,00,000 + 70,00,000)]. Further, being an inter-State supply of goods, supply of electronic home appliances to the consignment agents is subject to IGST @ 5%.

2. If any person directly or indirectly controls another person, such persons are deemed as related persons. [Clause (a)(v) of explanation to section 15 of the CGST Act]. In the given case, since Kaushal Manufacturers Ltd. owns 75% shares of Ronn Technomart, both are related persons.

Value of supply of goods between related persons (other than through an agent) is determined as per rule 28 of the CGST Rules, 2017. Accordingly, the value of supply of goods between related persons is the open market value of such goods and not the invoice value. Furthermore, since Ronn Technomart is not eligible for full input tax credit, value declared in the invoice cannot be deemed to be the open market value of the goods.

Thus, open market value of the electronic home appliances supplied to Ronn Technomart, i.e. ₹ 30,00,000 is the value of supply of such goods. Further, being an inter-State supply of goods, supply of electronic home appliances to Ronn Technomart is subject to IGST @ 5%.

3. Being an intra-State supply of goods, supply of electronic home appliances to wholesale dealers of said appliances in Delhi is subject to CGST and SGST @ 2.5 % each.
4. Section 2(5) of the IGST Act defines export of goods as taking goods out of India to a place outside India. In view of the said definition, supply of the electronic home appliances to Anchor Electricals Inc. of USA under LUT is export of goods.

Export of goods is a zero-rated supply [Section 16(1) of the IGST Act]. A zero-rated supply under LUT is made without payment of integrated tax [Section 16(3)(a) of IGST Act].

5. Being an intra-State supply of services, supply of repair and maintenance services to Unitech Ltd. of Delhi is subject to CGST and SGST @ 9% each.
6. Being an intra-State supply of services, supply of repair and maintenance services to Orelec Ltd. of Delhi is subject to CGST and SGST @ 9% each. Further, in terms of section 13(2) of the CGST Act, the time of supply of services is the earlier of the date of invoice or date of receipt of payment, if the invoice is issued within 30 days of the supply of service. In the given case, invoice is issued within 30 days of the supply of service. Therefore, time of supply of services will be date of receipt of advance and hence, GST is payable on the advance received in January.

7. Being an inter-State supply of goods, supply of electronic home appliances to Novick Electricals of Gurgaon, Haryana is subject to IGST @ 5%. Further, in terms of section 12(2) of the CGST Act, the time of supply of goods is the earlier of the date of issue of invoice/last date on which the invoice is required to be issued or date of receipt of payment.

However, *Notification No. 66/2017 CT dated 15.11.2017* specifies that time of supply of goods for the purpose of payment of tax is the date of issue of invoice/last date when the invoice ought to have been issued under section 31.

Thus, GST is not payable at the time of receipt of advance against supply of goods. The time of supply of the advance received for electronic home appliances to be supplied to Novick Electricals is the time of issue of invoice, which is in March. Thus, said advance will be taxed in March and not in January.

15. In the given situation, two supplies are involved:

- (i) Services provided by Mindsharp Associates to Dobriyal Technocrats Ltd. by way of providing motivational training to its top management.
- (ii) Services provided by Hotel Chumchum to Mindsharp Associates by way of accommodation in said hotel for organizing the training programme.

The place of supply in respect of each of the above supplies is determined as under:

- (i) As per the provisions of section 12(5)(a) of the IGST Act, 2017, the place of supply of services provided in relation to training and performance appraisal to a registered person, shall be the location of such person.

Therefore, the place of supply of services supplied by Mindsharp Associates to the registered recipient - Dobriyal Technocrats Ltd. by way of providing motivational training to its top management is the location of Dobriyal Technocrats Ltd., i.e. Gurgaon, Haryana.

- (ii) As per the provisions of section 12(3)(c) of the IGST Act, 2017, the place of supply of services, by way of accommodation in any immovable property for organizing, *inter alia*, any official/ business function including services provided in relation to such function at such property, shall be the location at which the immovable property is located.

Therefore, the place of supply of services supplied by Hotel Chumchum to Mindsharp Associates by way of accommodation of conference hall alongwith the rooms of Hotel Chumchum for the training programme shall be the location of the Hotel Chumchum, i.e. Neemrana, Rajasthan.

16. (i) Section 122(1)(iv) of the CGST Act, 2017 stipulates that a taxable person who collects any tax in contravention of the provisions of the CGST Act, but fails to pay the same to the Government beyond a period of 3 months from the date on which such payment becomes due shall be liable to pay a penalty of:

(a) ₹ 10,000

or

(b) an amount equivalent to the tax evaded

whichever is higher.

In the given case, since Nirmal Private Limited has collected tax at a wrong rate (i.e. 28%), but fails to deposit the full tax collected to the Government i.e. it deposits only tax @ 18% thereby retaining the remaining tax collected, the amount of penalty that can be imposed on Nirmal Private Limited is as follows:

(a) ₹ 10,000

or

(b) an amount equivalent to the tax evaded [₹ 50,000 (₹ 5,00,000 × 28%) - (₹ 5,00,000 × 18%)],

whichever is higher, i.e. ₹ 50,000.

- (ii) Section 122(3)(d) of the CGST Act, 2017 stipulates that any person who fails to appear before the officer of central tax, when issued with a summon for appearance to give evidence or produce a document in an inquiry is liable to a penalty which may extend to ₹ 25,000. Therefore, penalty upto ₹ 25,000 can be imposed on Bindusar, in the given case.

17. (i) As per section 65(4) of the CGST Act, 2017, audit shall be completed within a period of 3 months from the date of commencement of the audit. Further, commencement of audit means the later of the following:

(a) the date on which the records and other documents, called for by the tax authorities, are made available by the registered person, or

(b) the actual institution of audit at the place of business of the taxpayer.

Accordingly, in the given case, date of commencement of audit is later of:

(a) the date on which the records and other documents, are made available by Prithviraj Ltd., i.e. 25th July, or

(b) the actual institution of audit at the place of business of Prithviraj Ltd., i.e. 8th August.

Thus, date of commencement of audit is 8th August.

Hence, audit shall be completed within 3 months from the date of commencement of the audit (8th August).

- (ii) As per Schedule II of the CGST Act, 2017, the activity by way of any treatment or process which is applied to another person's goods is a supply of services. Hence, job work is squarely covered within the purview of supply of services. Accordingly, the time of supply shall be determined as per section 13 of the CGST Act, 2017.

As per section 13, time of supply of services where invoice has been issued within 30 days of provision of services is:

- (a) date of issuance of invoice, or
 - (b) date of recording the payment in the books of accounts of the supplier, or
 - (c) date on which payment is credited in the bank account of the supplier,
- whichever is earlier.

In the present case, the service charges for job work are paid as advance at the time of sending inputs to job worker. Hence the time of supply of job work services shall be triggered at the time of payment of advance by Dhruv & Co., i.e. 18th August.

- (iii) Section 16(2) of the CGST Act, 2017 provides certain conditions for availing ITC wherein one of the conditions is that the taxpayer must be in possession of the tax invoice or other tax paying document in respect of which he is claiming the ITC. Rule 36 of the CGST Rules, 2017 lays down the documents and other conditions basis which the registered person can claim ITC. Sub-rule (4) of rule 36 of the CGST Rules, 2017 stipulates that ITC to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers in GSTR-1, cannot exceed 5% of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers in GSTR-1. In accordance with the aforesaid provisions, given two cases have been analysed as under:

Case I

ITC to be claimed by Mr. Vijay in his GSTR-3B for the month of October to be filed by 20th November will be computed as under-

Invoices	Amount of ITC involved in the invoices (₹)	Amount of ITC that can be availed (₹)
In respect of 80 invoices uploaded in GSTR-1	6 lakh	6 lakh [Refer Note 1 below]
In respect of 20 invoices not uploaded in GSTR-1	4 lakh	0.3 lakh [Refer Note 2 below]
Total	10 lakh	6.3 lakh

Notes:

- (1) In respect of invoices uploaded by the suppliers in their GSTR-1, full ITC can be availed.
- (2) The ITC in respect of invoices not uploaded has to be restricted to 5% of eligible ITC in respect of invoices uploaded in GSTR-1. Thus, in respect of 20 invoices not uploaded in GSTR-1s, the ITC has been restricted to ₹ 0.3 lakh [5% of ₹ 6 lakh].

Case II

ITC to be claimed by Mr. Vijay in his GSTR-3B for the month of October to be filed by 20th November will be computed as under-

Invoices	Amount of ITC involved in the invoices (₹)	Amount of ITC that can be availed (₹)
In respect of 95 invoices uploaded in GSTR-1	9.8 lakh	9.8 lakh [Refer Note 1 below]
In respect of 5 invoices not uploaded in GSTR-1	0.2 lakh	0.2 lakh [Refer Note 2 below]
Total	10 lakh	10 lakh

Notes:

- (1) In respect of invoices uploaded by the suppliers in their GSTR-1, full ITC can be availed.
 - (2) The ITC in respect of invoices not uploaded has to be restricted to 5% of eligible ITC in respect of invoices uploaded in GSTR-1. However, since in this case, the actual ITC [₹ 0.2 lakh] in respect of 5 invoices not uploaded in GSTR-1 does not exceed 5% of the eligible ITC in respect of invoices uploaded in GSTR-1s [₹ 0.49 lakh (5% of ₹ 9.8 lakh)], actual amount of ITC can be availed.
- 18.** No, the advice given by Dua Consultants is not valid in law. With effect from 01.01.2021, a quarterly return has been introduced under GST law where the payment of tax is to be made on monthly basis. The scheme is known as Quarterly Return Monthly Payment (QRMP) Scheme.

The scheme has been introduced as a trade facilitation measure and in order to further ease the process of doing business. It is an optional return filing scheme, introduced for small taxpayers having aggregate annual turnover (PAN based) of upto ₹ 5 crore in the current and preceding financial year to furnish their Form GSTR-1 and Form GSTR-3B on a quarterly basis while paying their tax on a monthly basis through a simple challan. Thus, the taxpayers need to file only 4 GSTR-3B returns instead of 12 GSTR-3B returns in a year. Similarly, they would be required to file only 4 GSTR-1 returns since Invoice Filing Facility (IFF) is provided under this scheme.

Opting of QRMP scheme is GSTIN wise. Distinct persons can avail QRMP scheme option for one or more GSTINs. It implies that some GSTINs for a PAN can opt for the QRMP scheme and remaining GSTINs may not opt for the said scheme.

Since the aggregate turnover of Padmavati Traders does not exceed ₹ 5 crores in the preceding financial year, it is eligible for furnishing the return on quarterly basis till the time its turnover in the current financial year does not exceed ₹ 5 crore. In case its aggregate turnover crosses ₹ 5 crore during a quarter in the current financial year, it shall no longer be eligible for furnishing of return on quarterly basis from the first month of the succeeding quarter and needs to opt for furnishing of return on a monthly basis, electronically, on the common portal, from the first month of the quarter, succeeding the quarter during which its aggregate turnover exceeds ₹ 5 crore.

19. As per section 27 of the Customs Act, 1962, the importer or his agent, or the buyer who has been charged the duty by the importer, has to establish that he has not passed the burden of duty to another person, in order to be given refund of duty. Otherwise, the refund amount is credited to the Consumer Welfare Fund.

First proviso to section 27(2) of the Customs Act, 1962, *inter alia*, provides that the amount of refund shall be paid to the applicant instead of being credited to the fund in case where such amount is relatable to the duty paid by the importer/exporter, if he had not passed on the incidence of such duty and interest to any other person and in case where such amount is relatable to the duty paid in excess by the importer before an order permitting clearance of goods for home consumption is made where such excess payment of duty is evident from the bill of entry in the case of self-assessed bill of entry.

Rishabh Traders' invoices establish that it collected ₹ 250 per unit (duty amount) on 600 moulds from the buyer(s). However, it paid the extra import duty on 200 moulds. This payment, in the normal course, was made before the order permitting the clearance of the goods and excess payment of duty on 200 units would be evident from the bill of entry. Thus, Rishabh Traders' case falls within the exceptions to unjust enrichment as discussed above. Hence, it will be able to refute the charge of unjust enrichment.

20. **Computation of assessable value of the imported machine**

		US \$
(i)	Cost of the machine at the factory	10,000.00
(ii)	Transport charges up to port	500.00
(iii)	Handling charges at the port	<u>50.00</u>
	FOB value in US \$	10,550.00
		₹
	FOB value in Indian rupees @ ₹ 70 per \$	7,38,500.00
(iv)	Freight charges up to India [US \$ 1,000 × ₹ 70]	70,000.00

(v)	Insurance charges @ 1.125% of FOB [Note 1]	8308.13
(vi)	Lighterage charges paid by the importer [Note 2]	12,000
(vi)	Unloading and handling charges paid at Mumbai port [Note-3]	<u>Nil</u>
	CIF/Assessable value	8,28,808.13
	Assessable value (rounded off)	8,28,808

Notes:

- (1) Insurance charges have been included @ 1.125% of FOB value of goods [Third proviso to rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].
- (2) Cost of transport of the imported goods includes lighterage charges [Explanation to rule 10(2) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].
- (3) As per rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, only charges incurred for delivery of goods “to” the place of importation are includible in the transaction value. Thus, loading, unloading and handling charges associated with the delivery of the imported goods at the place of importation are not to be added to the assessable value of the goods.
- (4) Buying commission is not included in the assessable value [Rule 10(1)(a)(i) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].