

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 Finance Act, 2021, which have become effective up to 30th April, 2022, including significant notifications and circulars issued, up to 30th April, 2022 and (ii) customs law as amended by the Finance Act, 2021, including significant notifications and circulars issued, up to 30th April, 2022.**
- (2) Unless otherwise specified, the section numbers and rules referred herein pertain to the Central Goods and Services Tax Act, 2017 and the Central Goods and Services Tax Rules, 2017 respectively.**
- (3) 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.**

Trent Limited, a supplier of water purifiers, is a company registered with the jurisdictional GST authorities at its principal place of business in Mumbai, Maharashtra. Trent Limited has approached ABC India LLP, a Mumbai based event management company registered under GST in the State of Maharashtra, to undertake following activities in relation to organization of an event to be held on July 21 – 22 in Udaipur, Rajasthan for its employees:

- a. Arrangement of accommodation services for its employees in a hotel in Udaipur, Rajasthan
- b. Arrangement of souvenirs to be distributed to its employees attending the event

Trent Limited has agreed to pay a fixed sum of ₹ 3,00,00,000 exclusive of GST (Rates of tax are: CGST - 9%, SGST - 9% and IGST - 18%) for the aforesaid services provided by ABC India LLP. An amount of ₹ 50,00,000 is paid to ABC India LLP as advance at the time of agreement on June 25. Balance amount is payable on July 21 upon issuance of invoice by ABC India LLP and invoice is duly issued for the full amount in the month of July.

ABC India LLP has entered into an agreement with Dream Hotels, a hotel based in Udaipur, for the aforesaid event to be organized for employees of Trent Limited. Dream Hotels has agreed to provide the services to ABC India LLP which includes accommodation and other ancillary services for the aforesaid event at an agreed amount of ₹ 1,50,00,000 exclusive of GST (Rates of tax are: CGST - 14%, SGST - 14% and IGST - 28%). The consideration is payable by ABC India LLP to Dream Hotels at the time of check in of guests on July 21.

Further, ABC India LLP has also entered into an agreement with Happy Gift House, a well-known gift shop based in Udaipur, Rajasthan for purchase of souvenirs for the employees of Trent Limited. It was agreed that souvenirs would be purchased by ABC India LLP from Happy Gift House at a consideration of ₹ 20,00,000 exclusive of GST (Rates of tax are: CGST - 9%,

SGST - 9% and IGST - 18%) and Happy Gift House would deliver them at the event location, i.e. Dream Hotels, Udaipur. The aforesaid amount includes the cost of packaging the souvenirs (₹ 20,000) and cost of delivering the same (₹ 50,000) at the location. The entire consideration is payable by ABC India LLP to Happy Gift House at the time of delivery of souvenirs on July 21.

In the month of August, Trent Limited gifts each of its employees (total – 150 employees) a water purifier in terms of their employment contract. The total open market value of such water purifiers is ₹ 52.50 lakh exclusive of GST (Rates of tax are: CGST - 9%, SGST - 9% and IGST - 18%). All water purifiers bear the same cost.

Trent Limited and ABC India LLP are not registered under GST in the State of Rajasthan. There is no other taxable supply or taxable procurement apart from Dream Hotels and Happy Gift House as mentioned above in the month of July for ABC India LLP. The opening balance of input tax credit of both Trent Limited and ABC India LLP for the relevant tax periods is nil. All the above amounts are exclusive of GST, wherever applicable.

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

1. In case of the supply of the souvenirs by Happy Gift House to ABC India LLP, the place and value of said supply are _____ and _____.
 - (a) Maharashtra; ₹ 20,00,000
 - (b) Maharashtra; ₹ 19,30,000
 - (c) Rajasthan; ₹ 20,00,000
 - (d) Rajasthan; ₹ 19,30,000
2. The place of supply for the hotel accommodation services provided by Dream Hotels to ABC India LLP is _____ and the nature of supply is _____.
 - (a) Maharashtra, inter-State supply liable to IGST
 - (b) Rajasthan, inter-State supply liable to IGST
 - (c) Maharashtra, intra-State supply liable to CGST and SGST
 - (d) Rajasthan, intra-State supply liable to CGST and SGST
3. The net GST payable in cash by ABC India LLP for the month of July in the State of Maharashtra would be _____. ABC India LLP wishes to keep its CGST liability at a minimum.
 - (a) CGST - ₹ 18,90,000; SGST - ₹ 22,50,000; IGST - Nil
 - (b) CGST - Nil; SGST - Nil; IGST - ₹ 54,00,000
 - (c) CGST - ₹ 27,00,000; SGST - ₹ 27,00,000; IGST - Nil
 - (d) CGST - ₹ 5,40,000; SGST - ₹ 13,50,000; IGST - Nil

4. The finance team is exploring the feasibility of getting ABC India LLP registered as a casual taxable person in the State of Rajasthan with effect from 20th June.

In such a scenario, the invoice to Trent Limited will be issued by ABC India LLP as a casual taxable person registered in Rajasthan. Moreover, the invoice by Dream Hotels and Happy Gift House will be issued to ABC India LLP at its GST registration number as casual taxable person in Rajasthan.

The estimated tax liability of ABC India LLP to be paid in advance at the time of submission of application for registration in the State of Rajasthan in the month of June would be _____.

- (a) CGST - ₹ 27,00,000; SGST - ₹ 27,00,000; IGST - Nil
 - (b) CGST - Nil; SGST - Nil; IGST - ₹ 8,40,000
 - (c) CGST - ₹ 4,20,000; SGST - ₹ 4,20,000; IGST - Nil
 - (d) CGST - Nil; SGST - Nil; IGST - Nil
5. Compute the outward GST payable, if any, on the water purifiers gifted by Trent Limited to its employees in the month of August.
- (a) CGST - ₹ 7,35,000; SGST - ₹ 7,35,000; IGST - Nil
 - (b) CGST - Nil; SGST - Nil; IGST - ₹ 14,70,000
 - (c) CGST - Nil; SGST - Nil; IGST - Nil
 - (d) CGST - Nil; SGST - Nil; IGST - ₹ 7,35,000
6. Nivedita Foundation, a charitable trust registered under section 12AB of the Income-tax Act, 1961, owns and manages a newly constructed Dharamshala "GOVINDAM" in the precincts of a temple in Haridwar. GOVINDAM has 50 rooms, a huge party lawn and other amenities. Nivedita Foundation has received following receipts during the period from April to September:
- 1. Rent of ₹ 25,00,000 from renting of rooms @ ₹ 1,000/- per day.
 - 2. Rent of ₹ 9,00,000 from renting of party lawns for marriage and social functions @ ₹ 9,000/- per day.
 - 3. Donations of ₹ 20,00,000 (including one donation of ₹ 15,00,000 received with specific direction to advertise the business activity of the donor).

You are required to determine the value of taxable supply of GOVINDAM during the period from April to September:

- (a) ₹ 55,00,000
- (b) ₹ 50,00,000

- (c) ₹ 25,00,000
 - (d) ₹ 40,00,000
7. Which of the following statements is/are not correct for 'similar' goods' for valuation purposes under the Customs Act, 1962?
- (i) Similar goods although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable with the goods being valued having regard to the quality, reputation and the existence of trade mark.
 - (ii) Similar goods must necessarily be produced in the country in which goods being valued were produced.
 - (iii) Similar goods must always be produced by the same person who produced the goods being valued.
- (a) (i) and (ii)
 - (b) Only (iii)
 - (c) (i) and (iii)
 - (d) (ii) and (iii)
8. Which of the following supplies, items or categories are ineligible for the scheme of Remission of Duties and Taxes on Exported Products (RoDTEP) under Foreign Trade Policy? Choose the most correct option.
- (i) Export of imported goods in same or substantially the same form.
 - (ii) Export products which are subject to minimum export price or export duty.
 - (iii) Products which are restricted/prohibited under Foreign Trade Policy.
 - (iv) Goods which have been taken into use after manufacture.
- (a) (i), (ii) and (iii)
 - (b) (ii) and (iii)
 - (c) (i) and (iv)
 - (d) (i), (ii), (iii) and (iv)
9. Motopower Pvt. Ltd., registered under GST, is engaged in the manufacture of 5-seater luxury cars at its factories located in the States of Rajasthan, Uttar Pradesh and Gujarat. The company has obtained registration in each of these States. It also enters into contracts for providing these cars on rent to corporate clients wherein the cost of fuel is included in the value of supply.

The company reports the following details for a tax period pertaining to its factory located in Gujarat:

Payments	(₹) (in lakh)	Receipts	(₹) (in lakh)
Raw material	4.50	Sales	30
Rent paid	1.00	Car rental income	0.50
Consumables	1.50	Income from services provided to Gujarat Government administration	2.50
Security services	0.70		
General insurance of cars manufactured	2.50		
Works contract services	1.60		
Audit fee	0.50		
Bank charges	0.10		
Membership of Automobile Association	0.10		

All the above amounts are exclusive of all kinds of taxes, wherever applicable. However, the applicable taxes have also been paid by the company.

Further, following additional details are furnished by the company in respect of the payments and receipts reported by it:

- (i) Raw materials worth ₹ 0.50 lakh, purchased from a registered supplier located in Gujarat, were destroyed due to fire in the factory and thus, could not be used in the manufacturing process. Remaining raw material has been procured from various vendors located in Maharashtra.
- (ii) Rent has been paid for the factory building located in Gujarat to its owner registered in Gujarat.
- (iii) Payment for security services (services provided by way of supply of security personnel) for the tax period has been made to Safe and Secure Solutions Pvt. Limited, a company located in Gujarat and not registered under GST.
- (iv) General insurance services have been availed from Divided Insurance Company Ltd. registered in Gujarat.
- (v) Works contract services, availed from Chitra Builders, Gujarat, have been used by the company for construction of a foundation on which machinery to be used in the production process is to be mounted permanently.

- (vi) Audit fee is paid to a firm of Chartered Accountants - M/s Pandya & Associates (registered in West Bengal with an aggregate turnover of ₹ 30 crores in the preceding financial year) - for conducting the statutory audit of the company in the preceding financial year. The firm raises an e-invoice without IRN (Invoice Reference Number) for said services.
- (vii) Bank charges are towards various services availed by the company during a month with regard to its current account maintained with Manimani Bank, registered in Gujarat. The bank issued a consolidated tax invoice for all such services at the end of the month containing the details of tax charged, description of services, total value, GSTIN of the bank and Motopower Pvt. Ltd.
- (viii) Automobile Association is registered in the State of Gujarat.
- (ix) The breakup of sales is as under:
 - Sales in Gujarat – ₹ 14 lakh
 - Sales in States other than Gujarat – ₹ 6 lakh
 - Exports under Letter of Undertaking (LUT) – ₹ 10 lakh
- (x) Car rental income pertains to renting of cars to Jamaze Travels Ltd., registered in Gujarat and cost of fuel is included in the value of said supply. Further, consumables, procured from registered suppliers located in Gujarat, include diesel (excise and VAT paid) worth ₹ 0.75 lakh used for running the cars so rented out to Jamaze Travels Ltd. Assume that except diesel, no other input/input services is used in providing car renting service.
- (xi) Services provided to Gujarat Government administration are under a Health Training programme. 51% of the total expenditure for said programme is borne by Gujarat Government.
- (xii) The opening balance of ITC with the company for the tax period is:
 - CGST - ₹ 0.50 lakh
 - SGST - ₹ 0.26 lakh
 - IGST - ₹ 0.35 lakh

Compute the total ITC available with Motopower Pvt. Ltd. for the given tax period and net GST payable [CGST, SGST or IGST, as the case may be] from Electronic Cash Ledger by Motopower Pvt. Ltd. for the given tax period.

Notes-

- (A) CGST, SGST & IGST rates on all inward and outward supplies are 9%, 9% and 18% respectively, except on renting of cars wherein CGST, SGST & IGST rates are 2.5%, 2.5% and 5% respectively.

It is important to note that credit of input tax charged on goods and services used in supplying the service of transport of passengers by any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, is not available except the credit of the input service in the same line of business.

- (B) The necessary conditions for availing ITC have been complied with by Motopower Pvt. Ltd., wherever applicable.

You are required to make suitable assumptions, wherever necessary.

10. Adinath Private Limited, registered under GST in the State of Uttar Pradesh, instructed Ashok Transporters to deliver certain taxable goods to Mahavir Enterprises in Uttar Pradesh on 10th January 2022. The value of the goods is ₹ 6,80,000 which are chargeable to CGST & SGST@ 9% each. While the goods were in transit, proper officer intercepted the goods and the truck in which goods were being transported, under section 68. However, the driver of the truck failed to tender any document in relation to the goods in movement. The proper officer, after conducting the physical verification of the goods and the truck, decided to seize the goods and the truck and issued a notice under section 129(3) specifying the penalty payable by Adinath Private Limited after giving it an opportunity of being heard.

You are required to determine the amount of penalty payable under CGST Act if Adinath Private Limited does not come forward for the payment of penalty. Further, discuss the suitable course of action for Ashok Transporters if it intends to get its truck released.

11. Super Lever Limited is engaged in manufacture of taxable electronic goods. Its two manufacturing units are located in Mumbai and Nagpur and both the units are registered under GST in the State of Maharashtra. The company has another manufacturing unit in Bangalore, registered under GST in the State of Karnataka and a retail showroom located in Ahmedabad, registered under GST in the State of Gujarat.

The company has provided the following details of the activities/transactions undertaken in a tax period:

S. No.	Particulars	Mumbai unit (₹)	Nagpur unit (₹)
(i)	Sale of taxable goods	12,50,000	13,50,000
(ii)	Interest received on fixed deposits with a nationalised bank		1,08,000
(iii)	Sale of securities [Such securities were purchased for ₹ 2,75,000]	4,50,000	
(iv)	Sale of agricultural land in the vicinity of the manufacturing plant [Stamp duty was paid on ₹ 1,85,00,000]		1,85,00,000
(v)	Sale of old factory building which was not used anymore [Stamp duty was paid on ₹ 75,00,000]	90,00,000	
(vi)	Transfer of actionable claims (other than lottery, betting and gambling)		2,00,000

With the help of above information, you are required to determine the value of exempt supply under GST law as provided by Nagpur unit and Mumbai unit. Will your answer be different if the value of exempt supply provided by Nagpur unit and Mumbai unit is to be determined, for the purpose of apportionment of ITC under section 17(3)?

12. In the above question, all other things remaining the same, compute the value of supply (most beneficial) made by Bangalore unit as well as the value of supply (most beneficial) made by Ahmedabad Retail Showroom, with respect to transfer of goods by these units to M/s. Equilibrium Sales, M/s. Paridhi Sales and M/s. Dhara Enterprises, if Super Lever Limited furnishes the following additional information for the month of October:
- Bangalore unit has appointed M/s. Equilibrium Sales as its sole selling agent. M/s. Equilibrium Sales sells the electronic goods of Bangalore unit under the invoice issued in its own name. The Bangalore unit transferred the goods costing ₹ 7,25,000 to M/s. Equilibrium Sales on 20th October which were sold by M/s. Equilibrium Sales on 31st October at ₹ 7,65,000. On 20th October, another electronic goods' manufacturer supplied the goods of like kind and quality to M/s. Equilibrium Sales as the one supplied by the Bangalore unit at a price of ₹ 7,75,000.
 - The Retail Showroom at Ahmedabad transfers goods costing ₹ 85,000 to its agent, M/s. Paridhi Sales on 12th October. M/s. Paridhi Sales sells such goods on 18th October at ₹ 5,00,000 under the invoice issued in the name of Retail Showroom

at Ahmedabad. On 17th October, M/s Paridhi Sales has sold goods of like kind and quality as the one supplied by the Retail Showroom at Ahmedabad to an unrelated customer at ₹ 4,70,000.

The Retail Showroom at Ahmedabad also transfers goods costing ₹ 95,000 to its agent, M/s. Dhara Enterprises on 15th October. M/s. Dhara Enterprises sells such goods on 20th October at ₹ 1,00,000 under the invoice issued in its own name. On 19th October, M/s Dhara Enterprises has sold goods of like kind and quality as the one supplied by the Retail Showroom at Ahmedabad to an unrelated customer at ₹ 98,000.

Note: M/s. Equilibrium Sales, M/s. Paridhi Sales and M/s. Dhara Enterprises are not eligible for full input tax credit. Further, open market value of the goods is not available in any of the above cases.

13. Sanmati Industries, registered in the State of Maharashtra, receives a machinery for repair in its workshop located in Mumbai, Maharashtra from Titsubishi Ltd., an automobile manufacturing company based in Japan. The repair work was carried out by Sanmati Industries for which it was to be paid in convertible foreign exchange and goods were returned to Titsubishi Ltd. after being used for some time in India.

While raising the invoice for the said consideration, the accountant of Sanmati Industries approaches you as to whether the Dynamic Quick Response (QR) code is mandatorily required on said invoice? You are required to advise him on the same.

Note - Titsubishi Ltd. is not registered in India. Further, the aggregate turnover of Sanmati Industries was ₹ 550 crores in the preceding financial year.

14. Briefly answer the following questions with reference to the provisions of rectification of mistakes/errors apparent on the face of record by any authority, under section 161?
- Which documents are covered under section 161?
 - Who can rectify the errors apparent on the face of record?
 - What type of mistakes or errors can be rectified?
 - What is the time limit for rectification?
15. Elaborate the difference between zero rated supplies and exempt supplies.
16. John Biden, aged 32, is a tourist of US origin. He has come to India on a travel visa and carries with him the following articles as part of baggage:

Particulars	Value in ₹
Used personal effects	50,000
Travel souvenirs	50,000

Laptop	1,20,000
200 gms tobacco [Valued @ ₹ 5 per gram]	1,000
50 cigars [Valued @ ₹ 100 each]	5,000
Fire-arms	80,000
80 cartridges of fire-arms [Valued @ ₹ 500 per cartridge]	40,000
1.5 litres wine	5,000
Mobile phone	80,000

With reference to the Baggage Rules, 2016, determine customs duty payable. Ignore agriculture infrastructure and development cess.

17. BCG Ltd. imports goods from Japan and intends to avail the benefit of an exemption notification issued under section 25(1) of the Customs Act, 1962 with regard to said goods. However, since it does not have a manufacturing facility at all, it needs to send the goods so imported for job work to a job worker. Its accountant advised it that as per the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017, BCG Ltd. is not permitted to send such goods for job work. You are required to advise BCG Ltd. on the said issue elaborating the relevant legal provisions under the customs law.
18. Niryaat Exporters imported some goods on 1st January. The goods were not meant for being used in an 100% EOU, STP unit, EHTP unit. The goods were cleared from the Mumbai port for warehousing on 8th January by presenting an 'into Bond' Bill of Entry. The assessable value of the goods was US \$ 10,000. On 8th January, the exchange rate was ₹ 66 per US \$ and the rate of basic customs duty was 15%. The order permitting the deposit of goods in warehouse for 4 months was issued under section 60 of the Customs Act, 1962 on 15th January. The goods were thereafter deposited in a warehouse at Pune and were cleared from Pune warehouse on 31st May. The rate of basic customs duty was 15% and exchange rate was ₹ 68.75 per 1 US \$ on 31st May. IGST @ 10% is applicable on said goods. Further, the rate of basic customs duty was 12% and exchange rate was ₹ 67 per 1 US \$ on 15th May. Ignore IGST and agriculture and infrastructure development cess.

You are required to compute: (a) total customs duty payable and (b) interest, if any, payable.

ANSWERS

1. (a)
2. (d)
3. (a)
4. (b)
5. (c)
6. (d)
7. (b)
8. (d)
9. Computation of ITC available with Motopower Pvt. Ltd. for the given tax period

S. No.	Particulars	Value of supply ₹	ITC			
			CGST* ₹	SGST* ₹	IGST* ₹	Total ₹
1.	Opening balance of ITC		50,000	26,000	35,000	1,11,000
2.	Raw Materials [₹ 4,50,000 – ₹ 50,000] [Refer Note 1]	4,00,000	--	--	72,000	72,000
3.	Rent paid for the factory building [Refer Note 2]	1,00,000	9,000	9,000	--	18,000
4.	Consumables procured from suppliers in Gujarat [₹ 1,50,000 – ₹ 75,000] [Refer Note 3]	75,000	6,750	6,750	--	13,500
5.	Security services [Refer Note 4]	70,000	Nil	Nil	Nil	Nil
6.	General insurance of cars manufactured [Refer Note 5]	2,50,000	22,500	22,500	--	45,000
7.	Works contract services [Refer Note 6]	1,60,000	14,400	14,400	--	28,800
8.	Audit fee [Refer Note 7]	50,000	Nil	Nil	Nil	Nil
9.	Bank charges [Refer Note 8]	10,000	900	900	--	1,800

10.	Membership of Automobile Association [Refer Note 9]	10,000	900	900	--	1,800
Total ITC available for the tax period			1,04,450	80,450	1,07,000	2,91,900

Computation of net GST payable

Particulars	Value of supply	CGST* ₹	SGST* ₹	IGST* ₹	Total ₹
Intra-State sales in Gujarat	14,00,000	1,26,000	1,26,000	--	2,52,000
Inter-State sales other than Gujarat	6,00,000	--	--	1,08,000	1,08,000
Exports under LUT [Note 10]	10,00,000	Nil	Nil	Nil	Nil
Car rental income (Taxable @ 2.5% CGST and SGST each) [Note 11]	50,000	1,250	1,250	--	2,500
Income from services provided to Gujarat Government [Note 12]	2,50,000	22,500	22,500	--	45,000
Total output tax liability		1,49,750	1,49,750	1,08,000	4,07,500
Less: ITC available for being set off [Note 13, Note 14 and Note 15]		(1,04,450)	(80,450)	(1,07,000)	(2,91,900)
Net GST payable from Electronic Cash Ledger		45,300	69,300	1,000	1,15,600

Notes:

1. Credit of input tax paid on raw materials used in the course or furtherance of business is available in terms of section 16(1). However, ITC is not available on destroyed inputs in terms of section 17(5)(h).
2. ITC on rent paid is available as the said service is used in the course or furtherance of business in terms of section 16(1).
3. ITC on consumables, being inputs used in the course or furtherance of business, is available in terms of section 16(1). However, levy of GST on diesel has been deferred till such date as may be notified by the Government on recommendations of the GST Council [Section 9(2)]. Hence, there being no levy of GST on diesel, there cannot be any ITC since VAT & excise paid are not covered in the definition of input tax under

section 2(62). Moreover, credit of input tax charged on goods and services used in supplying the service of transport of passengers by any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, is not available except the credit of the input service in the same line of business. Thus, ITC on diesel will not be available.

4. Tax on security services (services provided by way of supply of security personnel) provided by a non-body corporate to a registered person is payable under reverse charge. Since in the given case, security services have been provided by a body corporate - Safe and Secure Solutions Pvt. Limited to a registered person - Motopower Pvt. Ltd., GST on the same is payable under forward charge. However, since Safe and Secure Solutions Pvt. Limited is not registered under GST, it would not have charged GST on the said services and hence, no ITC is available.
5. ITC on motor vehicles for transportation of persons is allowed in terms of section 17(5)(a) provided such vehicles are further supplied by the supplier. ITC is allowed on general insurance services relating to motor vehicles, ITC on which is allowed [Section 17(5)(ab)].
6. Section 17(5)(c) blocks ITC in respect of works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service. Further, the term "plant and machinery" means, *inter alia*, machinery fixed to earth by foundation or structural support that are used for making outward supply and includes such foundation/structural support. Thus, in view of the above-mentioned provisions, ITC is available in respect of works contract service availed by Motopower Pvt. Ltd. as the same is used for construction of plant and machinery which is not blocked under section 17(5)(c).
7. Audit fee are the services used in the course/ furtherance of business and thus, credit of input tax paid on such service will be available in terms of section 16(1). M/s Pandya & Associates is required to issue an e-invoice for audit services as e-invoicing is mandatory for the registered persons whose aggregate turnover in any of the preceding financial years from 2017-18 onwards exceed ₹ 20 crores. However, an e-invoice without IRN is not treated as an invoice as per rule 48(5) and hence, without a valid document, ITC cannot be claimed on such input services.
8. Bank charges are services used in the course/ furtherance of business and thus, credit of input tax paid on such service will be available in terms of section 16(1). However, ITC can be claimed only on the basis of valid documents. In case of a banking company, as per rule 54(2), a consolidated tax invoice issued for supply of services made during a month at the end of the month containing the details of tax charged, description of services, total value, GSTIN of the supplier and the recipient is deemed to be a tax invoice. Thus, ITC pertaining to the banking services received is allowed.

9. As per section 17(5)(b)(ii), ITC is blocked on membership of a club, health and fitness centre. The membership fee paid by a automobile company to Automobile Association is not covered under said section as it is distinct from membership of a club. Hence, ITC thereon is available.
10. Export of goods is a zero-rated supply in terms of section 16(1)(a) of the IGST Act. A zero rated supply under LUT is made without payment of integrated tax [Section 16(3)(a) of the IGST Act].
11. Tax on services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient is payable under reverse charge only when said service is provided by a non-body corporate to a body corporate and & an invoice charging GST @ 12% is not issued to service recipient. Since in the given case, said services are provided by a body corporate - Motopower Pvt. Ltd. to another body corporate – Jamaze Travels Ltd., GST is payable under forward charge by Motopower Pvt. Ltd. on the same.
12. Services provided to the Central Government, State Government, Union territory administration under any training programme for which 75% or more of the total expenditure is borne by the Central Government, State Government, Union territory administration are exempt from GST. However, in the given case, since the total expenditure borne by the Gujarat Government is less than 75%, services provided to it by Motopower Pvt. Ltd. are liable to GST.
13. Since export of goods is a zero-rated supply, apportionment of ITC is not required and instead, full credit will be available [Section 16 of the IGST Act read with section 17(2) of the CGST Act].
14. As per section 49(5) read with rule 88A, ITC of-
 - (i) IGST is utilised towards payment of IGST first and then CGST and SGST in any proportion and in any order.
 - (ii) CGST is utilised towards payment of CGST and IGST in that order. ITC of CGST shall be utilized only after ITC of IGST has been utilised fully.
 - (iii) SGST is utilised towards payment of SGST and IGST in that order. ITC of SGST shall be utilized only after ITC of IGST has been utilised fully.
15. Since the value of taxable supply other than zero-rated supply in the given tax period (₹ 14 lakh + ₹ 6 lakh+ ₹ 0.50 lakh+ ₹ 2.50 lakh) does not exceed ₹ 50 lakh, provisions of rule 86B are not applicable and Motopower Ltd. can discharge its entire output tax liability for said period from the electronic credit ledger.
- *16. CGST and SGST are chargeable on intra-State inward and outward supplies and IGST is chargeable on inter-State inward and outward supplies. Rate of CGST, SGST

and IGST applied is 9%, 9% and 18% except in case of renting of cars wherein the rate of CGST and SGST applied is 2.5% and 2.5% respectively.

10. As per section 129(1)(b), when owner of goods does not come forward for the payment of penalty, detained/seized goods and conveyance (used as a means of transport for carrying said goods) and related documents are released on payment of penalty equal to higher of the following:

- (i) 50% of value of goods or
- (ii) 200% of the tax payable on such goods.

In view of the same, the amount of penalty payable under the CGST Act if Adinath Private Limited does not come forward for the payment of penalty is as follows:

- (i) 50% of value of goods [₹ 3,40,000 (50% of ₹ 6,80,000)]

or

- (ii) 200% of the tax payable on such goods [₹ 1,22,400 (200% of ₹ 6,80,000 × 9%)]

whichever is higher, i.e. ₹ 3,40,000.

As per first proviso to section 129(6), conveyance shall be released on payment by the transporter the penalty as mentioned in the order or ₹ 1 lakh, whichever is less.

In the given case, since the owner - Adinath Private Limited has failed to come forward to make payment of penalty, penalty of ₹ 3,40,000 under CGST Act shall be levied. Further, the transporter of goods can get its truck released upon payment of the lower of the following under CGST Act:

- (i) penalty as mentioned in the order [₹ 3,40,000]
- (ii) ₹ 1,00,000

Hence, Ashok Transporters can get its truck released upon payment of ₹ 1,00,000.

11. As per section 2(47), exempt supply means supply of any goods or services or both which attracts nil rate of GST or which may be wholly exempt from GST and includes non-taxable supply. An activity or transaction which is not a supply *per se* is not an exempt supply.

In view of the same, the value of exempt supply by Nagpur unit and Mumbai unit has been computed as under:

Particulars	Mumbai unit (₹)	Nagpur unit (₹)
Sale of taxable goods	--	--
Interest received on fixed deposits [Services by way of extending deposits, loans or advances in so far as the consideration is	--	1,08,000

represented by way of interest are exempt vide <i>Notification No. 12/2017 CT (R) dated 28.06.2017</i>]		
Sale of securities [Securities are neither goods nor services in terms of sections 2(52) and 2(102). Hence, sale of securities is neither a supply of goods nor a supply of services. Thus, the same is not an exempt supply.]	--	--
Sale of agricultural land [Sale of land is neither a supply of goods nor a supply of services in terms of para 5 of Schedule III to the CGST Act, 2017. Hence, the same is not an exempt supply.]	--	--
Sale of old factory building [Sale of building is neither a supply of goods nor a supply of services in terms of para 5 of Schedule III to the CGST Act, 2017, provided the entire consideration has been received after issue of completion certificate by the competent authority or after its occupation, whichever is earlier. Hence, the same is not an exempt supply.]	--	--
Transfer of actionable claims (other than lottery, betting and gambling) [Transfer of actionable claims (other than lottery, betting and gambling) is neither a supply of goods nor a supply of services in terms of para 6 of Schedule III to the CGST Act, 2017. Hence, the same is not an exempt supply.]	--	--
Total value of exempt supply	Nil	1,08,000

However, value of exempt supply by Nagpur unit and Mumbai unit for the purpose of apportionment of ITC under section 17(3) is not same and is determined as follows:

As per section 17(3), value of exempt supply includes supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building. As per explanation to section 17(3), the expression "value of exempt supply" shall not include the value of activities or transactions specified in Schedule III, except sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building. Further, as per explanation to Chapter V (Input Tax Credit) of the CGST Rules, 2017, for determining the value of an exempt supply as referred in section 17(3), the value of exempt supply in respect of land

and building is the value adopted for paying stamp duty and for security is 1% of the sale value of such security.

Further, as per explanation 1 to rule 43, the aggregate value of exempt supplies for the purpose of rules 42 and 43, *inter alia*, excludes the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances.

In view of the aforesaid provisions, value of exempt supply by Nagpur unit and Mumbai unit for the purpose of apportionment under section 17(3) is as follows:

Particulars	Mumbai unit (₹)	Nagpur unit (₹)
Sale of taxable goods	--	--
Interest received on fixed deposits [Excluded from value of exempt supply by virtue of explanation 1 to rule 43]	--	--
Sale of securities [1% of ₹ 4,50,000] [Includible as per section 17(3). Value of exempt supply in respect for security is 1% of the sale value of such security.]	4,500	--
Sale of agricultural land [Includible as per section 17(3). Value of exempt supply in respect of land is the value adopted for paying stamp duty.]	--	1,85,00,000
Sale of old factory building [Includible as per section 17(3). Value of exempt supply in respect of building is the value adopted for paying stamp duty.]	75,00,000	--
Transfer of actionable claims (other than lottery, betting and gambling) [Excluded from value of exempt supply by virtue of explanation to section 17(3).]	--	--
Total value of exempt supply	75,04,500	1,85,00,000

12. (i) As per clause (c) of explanation to section 15, persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

Thus, in the given case, since M/s. Equilibrium Sales is a sole selling agent of Bangalore unit, both are related persons.

Further, an activity/transaction qualifies as supply under GST only if it is undertaken for a consideration and is in course/furtherance of business. However, supply of goods between 'related persons' made in the course or furtherance of business qualifies as supply even if made without consideration [Section 7(1)(c) read with Schedule I].

Furthermore, value of supply of goods between related persons (other than through an agent) is determined as per rule 28. Accordingly, the value of supply of goods between related persons will be determined as follows:

- (a) the open market value of such supply;
- (b) if open market value is not available, the value of supply of goods or services of like kind and quality;
- (c) if value cannot be determined under the above methods, it must be worked out based on the cost of the supply plus 10% mark-up or by other reasonable means, in that sequence.

However, where the goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to 90% of the price charged for the supply of goods of like kind and quality by the recipient to his unrelated customer.

Further, where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods.

Open market value of the goods is not available in the given case. Further, since M/s. Equilibrium Sales 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. Since M/s. Equilibrium Sales further supplies the goods, value of the goods will be lower of:

- (i) value of supply of goods or services of like kind and quality, i.e. ₹ 7,75,000 or
- (ii) 90% of the price charged for the supply of goods of like kind and quality by M/s. Equilibrium Sales to its unrelated customer, i.e. ₹ 6,88,500 [₹ 7,65,000 × 90%].

Thus, the value of supply, in the given case, will be ₹ 6,88,500.

- (ii) An activity/transaction qualifies as supply under GST only if it is undertaken for a consideration and is in course/furtherance of business. However, supply of goods by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal is considered as supply even if made without consideration provided the invoice for further supply is issued by the agent in his own name [Section 7(1)(c) read with Schedule I to the CGST Act, 2017]. Where the invoice is issued by the

agent to the customer in the name of the principal, such agent is not an agent in terms of Schedule I.

Since M/s. Paridhi Sales sells the goods under the invoice issued in the name of Retail Showroom at Ahmedabad, it is not an agent in terms of Schedule I. Resultantly, transfer of goods by Retail Showroom at Ahmedabad to M/s. Paridhi Sales does not qualify as supply since it is made without consideration.

Further, since M/s. Dhara Enterprises sells the goods under the invoice issued in its own name, it falls within the purview of an agent in terms of Schedule I. Resultantly, transfer of goods by Retail Showroom at Ahmedabad to M/s. Dhara Enterprises qualifies as supply even though it is made without consideration.

Value of supply of goods made through an agent is determined as per rule 29. 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 the goods supplied to M/s. Dhara Enterprises will be ₹ 88,200 [90% of ₹ 98,000].

Thus, value of supply of Bangalore unit is ₹ 6,88,500 and of Retail Showroom at Ahmedabad is ₹ 88,200.

13. The place of supply for the services provided by Sanmati Industries to Titsubishi Ltd. is as follows:

As per section 13(3)(a) of the IGST Act, 2017, in case where the services are supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, the place of supply of such services shall be the location where the services are actually performed. In the given case, for carrying out the repair work, machinery was required to be made physically available by Titsubishi Ltd. to Sanmati Industries. Thus, the place of supply of services in this case is the location where the services are actually performed i.e., Maharashtra, India.

Further, sixth proviso to rule 46 read with *Notification No. 14/2020 CT dated 21.03.2020* provides that all invoices issued by a registered person whose aggregate turnover in any preceding financial year from 2017-18 onwards exceeds ₹ 500 crores, in respect of B2C supplies (supply of goods or services or both to an unregistered person) will mandatorily have a Dynamic QR code. Thus, the invoices issued by Sanmati Industries to unregistered persons are mandatorily required to have a Dynamic QR Code. Accordingly, since Titsubishi Ltd. is not registered in India, invoice to be raised by Sanmati Industries to it should mandatorily have a Dynamic Quick Response (QR) code.

However, *Circular No. 165/21/2021 GST dated 17.11.2021* has clarified that wherever an invoice is issued to a recipient located outside India, for supply of services, for which the

place of supply is in India, as per the provisions of IGST Act 2017, and the payment is received by the supplier in convertible foreign exchange, such invoice may be issued without having a Dynamic QR Code, as such dynamic QR code cannot be used by the recipient located outside India for making payment to the supplier.

Thus, the Dynamic Quick Response (QR) code is NOT mandatorily required on the invoice to be issued by Sanmati Industries to Titsubishi Ltd.

14. (a) Following documents are covered under section 161:

- Decision
- Order
- Any notice
- Certificate
- Any other document

(b) Any authority who has passed or issued any decision or order or notice or certificate or any other document may rectify any error which is apparent on the face of record in such documents.

(c) Errors or mistakes which are apparent on the face of record may be rectified. Rectification can only be of error apparent from record. It is a settled law that a decision on a debatable point of law is not a mistake apparent from the record.

(d) No rectification can be made after a period of 6 months from the date of issue of such decision, order, notice, certificate or any other document.

However, such time limit does not apply in cases where the rectification is purely in the nature of correction of a clerical or arithmetical error or mistake, arising from any accidental slip or omission.

15. The difference between zero rated supplies and exempted supplies is as follows:

Exempted Supplies	Zero rated supplies
Exempt supply means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax and includes non-taxable supply.	Zero-rated supply means (i) export of goods and/or services or (ii) supply of goods and/or services to SEZ unit/SEZ developer.
No tax is payable on the outward exempted supplies, however, the input supplies used for making exempt supplies are to be taxed	No tax is payable on the outward supplies; Input supplies are also to be tax free (by way of refund of ITC)
Credit of input tax needs to be reversed, if taken. No ITC is allowed on the exempted	Credit of input tax may be availed for making zero-rated supplies, even if such supply is an exempt supply.

supplies.	ITC is allowed on zero rated supplies.
Value of exempt supplies, for apportionment of ITC, shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.	Value of zero rated supplies shall be added along with the taxable supplies for apportionment of ITC.
Any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under the CGST or IGST Act shall not be liable to registration.	A person exclusively making zero rated supplies needs to register as refund of unutilized ITC or IGST paid shall have to be claimed.
A registered person supplying exempted goods and/or services shall issue, instead of a tax invoice, a bill of supply.	Normal tax invoice shall be issued.

16. As per rule 3 of the Baggage Rules, 2016, tourist of foreign origin, excluding infant, is allowed duty free clearance of:

- (i) used personal effects and travel souvenirs; and
- (ii) Articles up to the value of ₹ 15,000 (excluding, *inter alia*, fire-arms, cartridges of fire arms exceeding 50, wine in excess of 2 litres, tobacco exceeding 125 gms and cigars exceeding 25), if carried on in person or in the accompanied baggage of the passenger.

In view of the said provisions, customs duty shall be computed as follows

Particulars	₹
Used personal effects	Nil
Travel souvenirs	Nil
Laptop [One laptop computer is exempt when imported into India by a passenger ≥ 18 years of age]	Nil
Tobacco [₹ 5 × 125 gm] [125 gms tobacco can be accommodated in General Free Allowance (GFA)]	625
Cigars [₹ 100 × 25]	2,500

[25 cigars can be accommodated in GFA]	
Fire-arms' cartridges [₹ 500 × 50] [50 fire-arms' cartridges can be accommodated in GFA]	25,000
1.5 litres wine [Wine upto 2 litres can be accommodated in GFA]	5,000
Mobile phone [Can be accommodated in GFA]	<u>80,000</u>
Total value	1,13,125
Less: GFA	<u>15,000</u>
Baggage on which duty is payable	<u>98,125</u>
Duty payable on baggage @ 38.50% (including 10% Social welfare surcharge) [rounded off]	<u>37,778</u>

Note: Firearms, cartridges of firearms exceeding 50, cigars exceeding 25 and tobacco exceeding 125 gms are not chargeable to rate applicable to baggage [Notification No. 26/2016 Cus. dated 31.03.2016]. These items are charged @ 100% applicable to baggage under Heading 9803 of the Customs Tariff.

17. As per rule 6A of the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017, the importer is permitted to send the imported goods for job work. The said rule stipulates that the importer shall maintain a record of the goods sent for job work during the month and mention the same in the prescribed monthly statement. The importer shall send the goods to the premises of the job worker under an invoice or wherever applicable through an e-way bill, mentioning the description and quantity of the goods. The maximum period for which the goods can be sent to the job worker shall be 6 months from the date of the invoice/e-way bill.

In case the importer is not able to establish that the goods sent for job work have been used as per the particulars mentioned under rule 4 of the said rules, the Jurisdictional Custom Officer shall take prescribed necessary action against the importer.

The job worker shall -

- (i) maintain an account of receipt of goods, manufacturing process undertaken thereon and the waste generated, if any, during such process;
- (ii) produce the account details before the Jurisdictional Custom Officer as and when required by the said officer; and

- (iii) after completion of the job work, send the processed goods to the importer or to another job worker as directed by the importer for carrying out the remaining processes, if any, under the cover of an invoice or an e-way bill.

18. Computation of import duty payable by Niryaat Exporters

Particulars	Amount (US \$)
Assessable value	10,000
Particulars	Amount (₹)
Value in Indian currency (US \$ 10,000 x ₹ 66) [Note 1]	6,60,000
Customs duty @ 12% [Note 2]	79,200
Add: Social welfare surcharge @ 10% on ₹ 79,200	<u>7,920</u>
Total customs duty payable	<u>87,120</u>

Notes:

- As per third proviso to section 14(1) of the Customs Act, 1962, assessable value has to be calculated with reference to the rate of exchange prevalent on the date on which the into bond bill of entry is presented for warehousing under section 46 of the Customs Act, 1962.
- Goods which are not removed from warehouse within the permissible period are deemed to be improperly removed in terms of section 72 of the Customs Act, 1962 on the day they should have been removed [*Kesoram Rayon v. CC 1996 (86) ELT 464 (SC)*]. The applicable rate of duty in such a case is the rate of duty prevalent on the last date on which the goods should have been removed.

Computation of interest payable by Niryaat Exporters

As per section 61 of the Customs Act, 1962, if goods (not meant for being used in an 100% EOU, STP unit, EHTP unit) remain in a warehouse beyond a period of 90 days from the date on which the order permitting deposit of goods in warehouse under section 60 of the Customs Act, 1962 is made, interest is payable [@ 15% p.a.], on the amount of duty payable at the time of clearance of the goods, for the period from the expiry of said 90 days till the date of payment of duty on the warehoused goods.

Therefore, interest payable will be computed as under:

Period of 90 days commencing from the date of order made under 60 expires on	16 th April
No. of days for which interest shall be payable [14 days of April + 31 days of May]	45 days
Interest payable = ₹ 87,120 × $\frac{15}{100} \times \frac{45}{365}$ (rounded off)	₹ 1,611