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CA Inter
INDIRECT TAXES

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Book penned by CA Riddhi Baghmar



Question Bank

Relevant for Jan/May 27

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CHAPTER NO – 1
GST IN INDIA – AN INTRODUCTION

Q.1 List some of the benefits that GST may accrue to the economy. ***[ICAI SM]***

Ans: GST may accrue following benefits to the economy:

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

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

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

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

Q.2 Explain with the help of examples how a particular transaction of goods and services is taxed simultaneously under Central GST (CGST) and State GST (SGST)? ***[ICAI SM]***

Ans: The Central GST and the State GST is levied simultaneously on every intra-State supply of goods or services or both made by registered persons except the exempted goods and services as well as goods and services which are outside the purview of GST. Further, both are levied on the same price or transaction value. The same can be better understood with the help of following examples:

Example I: Suppose that the rate of CGST is 10% and that of SGST is 10%.

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

It is important to note that he might not actually pay ₹20 (₹10 + ₹10) in cash as he would be entitled to set-off this liability against the CGST or SGST paid on his eligible purchases (inputs, input services and capital goods) assuming that all his purchases are intra-State.

However, for paying CGST, he would be allowed to use only the credit of CGST paid on his purchases while for SGST he can utilize the credit of SGST alone. CGST credit cannot be used for payment of SGST and vice versa.

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

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

Q.3	Why was the need to amend the Constitution of India before introducing the GST? ***[ICAI SM]***
Ans:	Earlier, the **fiscal powers between the Centre and the States were clearly demarcated in the Constitution** with almost no overlap between the respective domains. The **Centre had the powers to levy tax** on the manufacture of goods (except alcoholic liquor for human consumption, opium, narcotics etc.) while the **States had the powers to levy tax** on the sale of goods. In the case of inter-State sales, the Centre had the power to levy the Central Sales Tax but the tax was collected and retained entirely by the States. As for services, it was the Centre alone that was empowered to levy service tax. Introduction of the **GST necessitated the amendments in the Constitution so as to simultaneously empower the Centre and the States to levy and collect this tax.** The Constitution of India was amended by the Constitution (1015* Amendment) Act, 2016 for this purpose. Article 246A of the Constitution introduced thereby empowered the Centre and the States to simultaneously levy and collect the GST.
Q.4	GST is a destination-based tax on consumption of goods or services or both. Discuss the validity of the statement. ***[ICAI SM]***
Ans:	The given statement is valid. GST is a destination-based tax on consumption of goods or services or both. GST is known as destination-based tax since the tax would accrue to the taxing authority which has jurisdiction over the place of consumption which is also termed as place of supply. For example, if A in Delhi produces the goods and sells the goods to B in Haryana. In this case, the tax would accrue to the State of Haryana and not to the State of Delhi. On the other hand, under pre-GST regime, origin- based taxation was prevailing in such cases. Under origin-based taxation, the tax used to accrue to the State from where the transaction originated. In the given case, under origin-based taxation, the central sales tax would have been levied by Centre and collected by the State of Delhi and not by the State of Haryana.
Q.5	Discuss the livability of GST or otherwise on the following: (a) Alcoholic liquor for human consumption (b) Petroleum crude, diesel, petrol, Aviation Turbine Fuel (ATF) and natural gas (c) Tobacco (d) Opium, Indian hemp and other narcotic drugs and narcotics ***[ICAI SM]***
Ans.	a) **Alcoholic liquor for human consumption:** is outside the realm of GST. The manufacture/ production of alcoholic liquor continues to be subjected to State excise duty and inter State /intra-State sale of the same is subject to CST/VAT respectively. b) **Petroleum crude, diesel, petrol, ATF and natural gas**: As regards petroleum crude, diesel, petrol, ATF and natural gas are concerned, they are not presently leviable to GST. GST will be levied on these products from a date to be notified on the recommendations of the GST Council. Till such date, central excise duty continues to be levied on manufacture/production of petroleum crude, diesel, petrol, ATF and natural gas and inter-State/intra-State sale of the same is subject to CST/ VAT respectively. c) **Tobacco:** Tobacco is within the purview of GST, i.e., GST is leviable on tobacco. However, Union Government has also retained the power to levy excise duties on tobacco and tobacco products manufactured in India. Resultantly, tobacco is subject to GST as well as central excise duty. d) **Opium, Indian hemp and other narcotic drugs and narcotics:** Opium, Indian hemp and other narcotic drugs and narcotics are within the purview of GST, i.e., GST is leviable on them. However, State Governments have also retained the power to levy excise duties on such products manufactured in India. Resultantly, Opium, Indian hemp and other narcotic drugs and narcotics are subject to GST as well as State excise duties.

Q.6	Under Goods and Services Tax (GST), only value addition is taxed and burden of tax is to be borne by the final consumer. Examine the validity of the statement. ***[ICAI SM]***
Ans.	The statement is correct. Goods and Services Tax is a destination-based tax on consumption of goods and services. It is levied at all stages right from manufacture up to final consumption with credit of taxes paid at previous stages available as setoff. Resultantly, only value addition is taxed and burden of tax is to be borne by the final consumer.
Q.7	Which are the commodities which have been kept outside the purview of GST Examine the status of taxation of such commodities after introduction of GST. ***[ICAI SM, MTP-July 24]***
Ans.	Article 366(12A) of the Constitution as amended by 101st Constitutional Amendment Act, 2016 defines the Goods and Services tax (GST) as a tax on supply of goods or services or both, except supply of alcoholic liquor for human consumption. Therefore, alcohol for human consumption is kept out of GST by way of definition of GST in the Constitution. Five petroleum products viz. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel have temporarily been kept out of the purview of GST; GST Council shall decide the date from which they shall be included in GST. The erstwhile taxation system (CST/VAT & central excise) still continues in respect of the said commodities.
Q.8	A dual GST has been implemented in India. Elaborate. ***[ICAI SM]***
Ans.	A dual GST has been implemented in India with the Centre and States simultaneously levying it on a common tax base. The GST levied by the Centre on intra-State supply of goods and I or services is called the Central GST (CGST) and that levied by the States/ Union territory is called the State GST (SGST)/ Union GST (UTGST). Similarly, Integrated GST (IGST) is levied and administered by Centre on every inter-State supply of goods and/or services. India is a federal country where both the Centre and the States have been assigned the powers to levy and collect taxes through appropriate legislation. Both the levels of Government have distinct responsibilities to perform according to the division of powers prescribed in the Constitution for which they need to raise resources. A dual GST, therefore, keeps with the Constitutional requirement of fiscal federalism.
Q.9	Discuss Article 269A pertaining to levy and collection of GST on inter-state supply. ***[ICAI SM]***
Ans.	Article 269A of the Constitution stipulates that Goods and Services Tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council. Here, supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce. The amount so apportioned to a State shall not form part of the Consolidated Fund of 'India. Where an amount collected as IGST has been used for payment of SGST or vice versa, such amount shall not form part of the Consolidated Fund of India/State respectively. This is to facilitate transfer of funds between the Centre and the States. Parliament is empowered to formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.
Q.10	Discuss Article 246A which grants the power to make laws with respect to Goods and Services Tax. ***[ICAI SM]***
Ans.	Article 246A stipulates that Parliament, and, the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State. Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce. However, in respect to petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel, the aforesaid provisions shall apply from the date to be notified by the Government on the recommendations by the GST Council.

Q.11	List the deficiencies in the erstwhile value-added taxation which led to evolution of Goods and Services Tax. ***[PP-May 25]***
Ans.	List of deficiencies in the erstwhile value-added taxation which led to evolution of GST: a. Certain transactions were being double taxed as both goods and services due to unclear distinction between goods and services. b. There was cascading of taxes because CENVAT excluded value addition in distribution stage and in the State-level VAT, CENVAT load on the goods was not removed. c. Credit of CENVAT and State-Level VAT could not be set-off against each other. d. For a single transaction, multiple taxes in multiple forms were required to be paid. Several State taxes like Luxury Tax, Entertainment Tax, etc. were not subsumed in the VAT. e. State-level VAT and service tax were not integrated, thereby causing tax cascading. f. CST, being non-VATable, caused tax cascading. Being origin- based, it violated the consumption tax principles.
Q.12	No act or proceedings of the Goods and Services Tax Council shall be invalid merely by certain reasons. What are they? ***[PP-Sept 24]***
Ans.	No act or proceedings of the Goods and Services Tax Council shall be invalid merely by reason of— (a) any vacancy in, or any defect in, the constitution of the Council; or (b) any defect in the appointment of a person as a Member of the Council; or (c) any procedural irregularity of the Council not affecting the merits of the case.
Q.13	List any six State taxes that were subsumed in the GST regime. ***[PP-Jan 25]***
Ans.	Following are the State taxes that were subsumed in the GST regime: (a) State surcharges and cesses in so far as they relate to supply of goods & services. (b) Entertainment Tax (except those levied by local bodies) (c) Tax on lottery, betting and gambling (d) Entry Tax (All Forms) (e) Purchase Tax (f) VAT/ Sales tax (g) Luxury Tax (h) Taxes on advertisements

STUDENT NOTES

Q.1	Meghraj & Co. wishes to commence the business of supplying ready-made garments within Punjab and in the neighboring states of Delhi and Haryana. Kindly state as to what is the taxable event under GST and leviability of CGST, SGST/UTGST and IGST on the same? ***[ICAI SM]***
Ans:	Taxable event under GST is the supply of goods or services or both made for consideration in the course or furtherance of business. CGST and SGST will be levied on intra-State supplies. IGST will be levied on inter-State supplies.
Q.2	Damodar Private Ltd., registered in Delhi, has transferred some goods to its branch, registered in West Bengal, so that the goods can be sold from the branch. The goods have been transferred without any consideration. The company believes that the transaction undertaken by it does not qualify as supply as no consideration is involved. Ascertain whether the transfer of goods by Damodar Private Ltd. to its branch office qualifies as supply. ***[ICAI SM]***
Ans:	As per Schedule I, supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business, is deemed as supply <u>even if made</u> <u>without consideration</u>. In the given case, since the Damodar Private Ltd. and its branch located in another State are distinct persons, supply of goods between them qualifies as supply.
Q.3	Prithvi Associates is engaged in supply of taxable goods. It enquires from its tax advisor as to whether any activity can be treated as supply even if made without consideration in accordance with the provisions. You are required to enumerate such activities, if any. ***[ICAI SM, PP-May 25]***
Ans:	Section 7(1)(a) stipulates that the supply should be for a consideration and should be in the course or furtherance of business. However, section 7(1)(c) read with Schedule I enumerates the cases where an activity is treated as supply, even if the same is without consideration. These are as follows: (i) **Permanent transfer or disposal** of business assets where input tax credit has been availed on such assets. (ii) Supply of goods or services or both between **related persons or between distinct persons** as specified in section 25, when made in the course or furtherance of business. However, **gifts not exceeding fifty thousand rupees** in value in a financial year by an employer to an employee shall **<u>not</u>** be treated as supply of goods or services or both. (iii) Supply of goods - a) by a **principal to his agent** where the agent undertakes to supply such goods on behalf of the principal; or b) by **an agent to his principal** where the agent undertakes to receive such goods on behalf of the principal. (iv) **Import of services** by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business.
Q.4	Composite supply is treated as supply of that particular goods or services which attracts the highest rate of tax. Examine the validity of the statement. ***[ICAI SM]***
Ans:	The statement is **<u>not correct</u>**. For considering tax liability, composite supply is treated as supply of the principal supply. It is the mixed supply that is treated as supply of that particular goods or services which attracts the highest rate of tax.
Q.5	Transfer of title and/or possession is necessary for a transaction to constitute supply of goods. Examine. ***[ICAI SM]***
Ans:	Title as well as possession both need to be transferred for a transaction to be considered as a supply of goods. In case title is not transferred, the transaction would be treated as supply of service in terms of Schedule II(1)(b). In some cases, possession may be transferred immediately, but title may be transferred at a future

	date like in case of sale on approval basis or hire purchase arrangement. Such transactions will also be termed as supply of goods in terms of Schedule II.
Q.6	Examine whether the following activities would amount to supply under section 7 read with Schedule I: (a) Sulekha Manufacturers have a factory in Delhi and a depot in Mumbai. Both these establishments are registered in respective States. Finished goods are sent from factory in Delhi to the Mumbai depot without consideration so that the same can be sold. (b) Raman is an architect in Chennai. His brother who is settled in London is a well-known lawyer. Raman has taken legal advice from him free of cost with regard to his family dispute. (c) Would your answer be different if in the above case, Raman has taken advice in respect of his business unit in Chennai? ***[ICAI SM]***
Ans:	**(a)** Schedule I read with section 7(1)(c), *inter alia*, stipulates that supply of goods or services or both between related persons or between distinct persons as specified in section 25, is supply even without consideration provided it is made in the course or furtherance of business. Further, a person who has obtained more than one registration, whether in one State/Union territory or more than one State/Union territory shall, in respect of each such registration, be treated as **distinct persons** [Section 25(4)]. In view of the same, factory and depot of Sulekha Manufacturers are distinct persons. Therefore, supply of goods from Delhi factory of Sulekha Manufacturers to Mumbai Depot without consideration, but in course/furtherance of business, is supply under section 7 read with Schedule I. **(b)** Schedule I read with section 7(1)(c), *inter alia*, stipulates that import of services by a taxable person from a **related person** located outsideIndia, without consideration is treated as supply if it is provided in the course or furtherance of business. Explanation to section 15, *inter alia,* provides that persons shall be deemed to be **"related persons"** if they are **members of the same family**. Further, as per section 2(49), family means, **—** (i) The spouse and children of the person, and (ii) The parents, grand-parents, brothers and sisters of the person **if they are wholly or mainly dependent on the said person**. In the given case, Raman has received free of cost legal services from his brother. However, in view of section 2(49)(ii) above, Raman and his brother cannot be considered to be related as Raman's brother is a well- known lawyer and so, not wholly/mainly dependent on Raman. Further, Raman has taken legal advice from him in personal matter and not in course or furtherance of business. Consequently, services provided by Raman's brother to him would not be treated as supply under section 7 read with Schedule I. **(c)** In the above case, if Raman has taken advice with regard to his business unit, services provided by Raman's brother to him would still not be treated as supply under section 7 read with Schedule I as although the same are provided in course or furtherance of business, but are provided without consideration and such services have not been received from a related person.
Q.7	State whether the following supplies would be treated as supply of goods or supply of services as per Schedule-II: (a) Renting of immovable property. (b) Goods forming part of business assets are transferred or disposed of by/under directions of person carrying on the business. (c) Transfer of right in goods without transfer of title in goods. (d) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date. ***[ICAI SM]***
Ans:	Supply of services (a) Supply of goods

	(b) Supply of services (c) Supply of goods
Q.8	Determine whether the following supplies would be treated as supply of goods or supply of services as per Schedule II: (a) Temporary transfer or permitting use or enjoyment of any intellectual property right. (b) Any treatment or process which is applied to another person's goods. (c) Transfer of title in goods. ***[ICAI SM]***
Ans:	(a) Supply of services (b) Supply of services (c) Supply of goods
Q.9	The goods supplied on hire purchase basis will be treated as supply of services. Examine the validity of the statement. ***[ICAI SM, MTP-May23]***
Ans:	The statement is **not correct**. Supply of goods on hire purchase shall be treated as supply of goods as there is transfer of title, albeit at a future date.
Q.10	Examine whether the activity of import of service in the following independent cases would amount to supply under section 7: (i) Miss Shriniti Kaushik received interior decoration services for her residence located at Bandra, Mumbai from Mr. Racheal of Sydney (Australia). The amount paid for the said service is 5,000 Australian dollar. (ii) Miss Shriniti Kaushik received interior decoration services for her residence located at Bandra, Mumbai from her brother, Mr. Varun residing in Sydney (Australia) [wholly dependent on Miss Shriniti]. Further, Miss Shriniti did not pay any consideration for the said service. (iii) Will your answer change if in the above case, if Miss Shriniti has taken interior decoration services with regard to her business premises and not her residence? ***[ICAI SM]***
Ans:	(i) Supply, under section 7, inter alia, ➢ includes import of services for a consideration ➢ even if it is not in the course or furtherance of business. Thus, although the import of service for consideration by Miss. Shriniti Kaushik is not in course or furtherance of business [as the interior decoration services have been availed in respect of residence], it would amount to supply. (ii) Schedule I, *inter alia*, stipulates that import of services by a taxableperson from a **related person** located outside India, without consideration is treated as supply only if it is provided in the course or furtherance of business. Explanation to section 15, *inter alia,* provides that persons shall be deemed to be **"related persons"** if they are **members of the same family**. Further, as per section 2(49), family means, **—** (i) the spouse and children of the person, and (ii) the parents, grand-parents, brothers and sisters of the person **if they are wholly or mainly dependent on the said person**. In the given case, Miss Shriniti Kaushik has received interior decoration services from her brother. In view of section 2(49)(ii) above, Miss Shriniti and her brother shall be considered to be related as Miss Shriniti's brother is wholly dependent on her. However, Miss Shrinti has taken interior decoration services for her residence and not in course or furtherance of business. Consequently, services provided by Miss Shrinti's brother to her would not be treatedas supply under section 7 read with Schedule I. In the above case, if Miss Shriniti has taken interior decoration services with regard to her business premises, services provided by Miss Shriniti's brother to her would be treated as supply under section 7 read with Schedule I, as the same are provided in course or furtherance of business.

Q.11 Dumdum Electronics has sold the following electronic items to Akbar Retail Store.

(i) Refrigerator (500 liters) taxable @ 18%
(ii) Stabilizer for refrigerator taxable @ 12%
(iii) LED television (42 inches) taxable @ 12%
(iv) Split air conditioner (2 Tons) taxable @ 28%
(v) Stabilizer for air conditioner taxable @12%

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

[ICAI SM]

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

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

Q.12 Manikaran, a registered supplier of Delhi, has supplied 20,000 packages at ₹30 each to Mukhija Gift Shop in Punjab. Each package consists of 2 chocolates, 2 fruit juice bottles and a packet of toy balloons. Determine the rate(s) of GST applicable in the given case assuming the rates of GST to be as under:

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

[ICAI SM]

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

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

Q.13 Gagan Engineering Pvt. Ltd., registered in Haryana, is engaged in providing maintenance and repair services for heavy steel machinery. For carrying out the repair work, Gagan Engineering Pvt. Ltd. sends its container trucks equipped with items like repair equipment, consumables, tools, parts etc. from Haryana workshop to its own repairing centers (registered under GST law) located in other States across India where the clients' machinery are being brought and are being repaired.

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

[ICAI SM, MTP-Oct 23]

Ans: As per section 25(4), a person who has obtained more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as 'distinct persons.'

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

	However, as per CBIC circular, the **inter-State movement of various modes of conveyance** including, inter alia, trucks, carrying goods or passengers or both or for repairs and maintenance, **between 'distinct persons'** as specified in section 25(4), **not involving further supply of such conveyance, may be treated 'neither as a supply of goods nor supply of service' and therefore, will not be leviable to IGST**. Applicable CGST/SGST/IGST, however, shall **be leviable on repairs and maintenance** done for such conveyance [Circular No. 1/1/2017 IGST dated 07.07.2017]. Thus, in the given case, inter-State movement of trucks from the workshop of Gagan Engineering Pvt. Ltd. located in Haryana to its repair centers located in other States is 'neither a supply of goods nor supply of service'.
Q.14	Sarvanna & Sons wishes to start supplying alcoholic liquor in the State of Tamil Nadu. Therefore, it applies for license to the Tamil Nadu Government for selling liquor for which the State Government has charged specified fee from it. Examine whether the grant of alcoholic liquor license by the Tamil Nadu Government to Sarvanna & Sons qualifies as supply. ***[ICAI SM]***
Ans:	Services by way of **grant of alcoholic liquor license** by the State Governments have been notified to be treated **neither as a supply of goods nor as a supply of service**. Such license is granted against consideration in the form of license fee or application fee or by whatever name it is called. Thus, in the given case, the grant of alcoholic liquor license by the Tamil Nadu Government to Sarvanna & Sons is neither a supply of goods nor a supply of service.
Q.15	Examine whether the following activities would amount to "supply" under GST law? (i) Glory Ltd. is engaged in manufacturing and selling of cosmetic products. Seva Trust, a charitable organization, approached Glory Ltd. to provide financial assistance for its charitable activities. Glory Ltd. donated a sum of ₹2 lakh to Seva Trust with a condition that Seva Trust will place a hoarding at the entrance of the trust premises displaying picture of products sold by Glory Ltd. (ii) Mr. Swamy of Chennai is working as a manager with ABC Bank. He consulted M/s. Jacobs and Company of London and took its advice for buying a residential house in Mumbai and paid them consultancy fee of 200 UK Pound for this import of service. ***[PP – May 22]***
Ans:	(i) An activity qualifies as supply under GST **only if it is for a consideration and is in course/furtherance of business**. Donations received by the charitable organizations are **treated as consideration only when there's an obligation on part of the recipient of the donation to do anything**. Since in the given case, the display of products sold by the donor **–** Glory Ltd. - in charitable organization's premises aims at advertising/promotion of its business, it is supply for consideration in course/furtherance of business and thus, qualifies as supply under GST law. (ii) Supply includes **importation of services, for a consideration whether or not in the course/furtherance of business**. Thus, in the given case, the import of services by Mr. Swamy amounts to supply although it is not in course/furtherance of business.
Q.16	Charm Limited, registered under GST in the State of Jharkhand, manufactures cosmetic products and appointed Mr. Handsome of Mumbai, who is registered under GST in the State of Maharashtra, as their Del-credere agent (DCA) to sell their products. Being a DCA, he agrees to raise invoices in his own name and also guarantees for the realization of payments from customers to Charm Limited. In order to realize the payments from customers on time, he extends short term transaction-based loans to them and charges interest for the same. Mr. Handsome provides you the following details of transactions carried out during the month of March 2024:

Sl. No.	Particulars	Amount in (₹)
	Outward Supply:	
1	Goods sold by Mr. Handsome in his DCA capacity (intra - State transaction)	2,80,000

2	Interest earned from the above customers for short term credit facility provided for timely payment of dues. (intra- State transaction)	20,000
3	Commission bill raised on Charm Limited (inter-State transaction) in respect of DCA services provided.	30,000
	Inward supply:	
4	Inter-State supply of goods received from Charm Limited. Being a DCA, no consideration was paid. Value under section 15 - ₹2,00,000	Nil
5	Received training in marketing and distribution from Charm Limited as per DCA agreement, free of cost. Company charges ₹75,000 for such training when it provides the same to others.	Nil

Applicable rate of tax on both inward and outward supplies is 9% each for CGST and SGST and 18% for IGST. Amounts given above are exclusive of taxes wherever applicable. Subject to the information given above, necessary conditions are complied with for availment of input tax credit.

You are required to calculate the gross GST liability and eligible input tax credit for the month of March 2024 of Mr. Handsome. Brief notes should form part of your answer for treatment of items in Sl. No. (i) to (v). ***[PP – Nov 22]***

Ans: **Computation of gross GST liability of Mr. Handsome for the month of March 2024:**

Particulars		**CGST**	**SGST**	**IGST**
Goods sold by Mr. Handsome in his DCA capacity	2,80,000	27,000 [3,00,000*9%]	27,000 [3,00,000*9%]	
Add: Interest earned for short term credit facility provided to above customers [Interest included in the value of supply of the goods sold since where DCA is an agent under Schedule - I of the CGST Act, short term credit facility provided by DCA to the buyer is subsumed in the supply of the goods by the DCA to the buyer.]	20,000			
Commission charged for DCA services [Being taxable supply of services.]				5,400 [30,000*18%]
Gross GST Liability		**27,000**	**27,000**	**5,400**
Note: Since the invoice for goods sold is issued by the DCA – Mr. Handsome in his own name, he would fall under the ambit of an agent under Schedule – I of the CGST Act.				

Computation of eligible ITC for the month of March 2024:

Particulars	**CGST**	**SGST**	**IGST**
Inward supply of goods from Charm Limited free of cost [Supply of goods by principal – Charm Limited to the agent – Mr. Handsome qualifies as supply even though it is made without consideration.]			36,000 [2,00,000 *18%]
Training in marketing and distribution received from Charm Limited free of cost [Since no consideration is charged for the services provided, said services do not qualify as supply. As no GST is paid on the same, ITC is not available]	-	-	-
Total ITC Available	**Nil**	**Nil**	**36,000**

Q.17	Determine whether GST is payable in the following transaction: Dhruv Developers sold a plot of land in Greater Noida after levelling, laying down of drainage lines, water lines and electricity lines. ***[RTP–May 23]***
Ans:	**GST is not payable by Dhruv Developers on sale of plot of land.** Circular No. 177/09/2022 GST dated 03.08.2022 clarifies applicability of GST on sale of land after levelling, laying down of drainage lines etc**.** As per Para 5 of Schedule III of the CGST Act, 2017, '**sale of land' is neither a supply of goods nor a supply of services**. Therefore, the sale of land does not attract GST. Land may be sold either as it is or after some development such as levelling, laying down of drainage lines, water lines, electricity lines, etc. It is clarified that sale of such developed land is also sale of land and is covered by Para 5 of Schedule III and accordingly, does not attract GST.
Q.18	List any 5 (five) activities/transactions specified under Schedule III of the CGST Act, 2017 which shall be neither treated as supply of goods nor as supply of services. Detailed explanations are not required. ***[RTP-Nov 18, PP-May 23]***
Ans:	Activities or transactions which **shall be treated neither as a supply of goods nor a supply of services** are as under: 1) Services by an **employee** to the employer in the course of or in relation to his employment. 2) Services by any **court** or Tribunal established under any law for the time being in force. 3) Functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities. 4) Duties performed by any person who holds any post in pursuance of the provisions of the **Constitution** in that capacity. 5) Duties performed by any person as a chairperson or a member or a director in a body established by the **Central Government or a State Government** or local authority and who is not deemed as an employee before the commencement of this clause. 6) Services of **funeral,** burial, crematorium or mortuary including transportation of the deceased. 7) **Sale of land** and, subject to paragraph 5(b) of Schedule II, **sale of building**. (i.e., in case, where entire consideration for sale of building received after issuance of completion certificate or after its first occupation, whichever is earlier). 8) **Actionable claims**, other than specified actionable claims. 9) Apportionment of **co-insurance premium** by the lead insurer to the co-insurer for jointly supplied insurance services in co-insurance agreements, subject to condition that lead insurer pays C/S/U/IGST on entire premium paid by insured. 10) Services by insurer to re-insurer, for which **ceding commission or re-insurance commission** is deducted from re-insurance premium paid by insurer to reinsurer, subject to condition that C/S/U/IGST paid by re-insurer on gross reinsurance premium payable by insurer to reinsurer, inclusive of said ceding commission or re-insurance commission.
Q.19	Happy Constructions Ltd., a registered builder under GST in Bengaluru, Karnataka has got permission to build five floors from the Municipal Projects for one of its projects at Suraj Nagar. Aditya Constructions, a neighbouring housing project approached Happy Constructions Limited to discuss regarding blockage of sun light issue arising out of construction of five floors and asked it to build only three floors for which ₹ 20 lakh was offered as compensation. Happy Constructions Limited agreed to the offer. It may be noted that Aditya Constructions is not ready to pay any further amount to Happy Constructions Ltd. in addition to the amount already agreed. Briefly explain with correct legal provision whether the above amount received as compensation is liable to GST or not? And if considered as taxable, then calculate the total GST payable by Happy Constructions Ltd. Assume the applicable rate of CGST and SGST is 9% each. Also state the conditions to be complied with. ***[RTP-May 24]***
Ans:	Agreeing to obligation to refrain from an act, or to tolerate an act or situation, or to do an act has been specifically declared to be a supply of service vide para 5(e) of Schedule II of the CGST Act, 2017 if the same constitutes a supply as per the CGST Act, 2017.

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