

CA/CMA FINAL INDIRECT TAXES



Features

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As per New ICAI SM

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QUESTION BANK

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CA FINAL IDT - QUESTION BANK

INDEX

| CH. NO. | CHAPTER NAME | PAGE |
|--------------------------------------|--|----------------|
| PART I: GOODS AND SERVICE TAX | | 1-395 |
| 1 | SUPPLY UNDER GST | 1-17 |
| 2 | CHARGE OF GST | 18-32 |
| 3 | PLACE OF SUPPLY | 33-51 |
| 4 | EXEMPTIONS FROM GST | 52-82 |
| 5 | TIME OF SUPPLY | 83-94 |
| 6 | VALUE OF SUPPLY | 95-127 |
| 7 | INPUT TAX CREDIT | 128-265 |
| 8 | REGISTRATION | 266-279 |
| 9 | TAX INVOICE; CREDIT AND DEBIT NOTES | 280-286 |
| 10 | ACCOUNTS AND RECORDS; E-WAY BILL | 287-291 |
| 11 | PAYMENT OF TAX | 292-307 |
| 12 | ELECTRONIC COMMERCE TRANSACTIONS UNDER GST | 308-314 |
| 13 | RETURNS | 315-318 |
| 14 | IMPORT AND EXPORT UNDER GST | 319-322 |
| 15 | REFUNDS | 323-332 |
| 16 | JOB WORK | 333-339 |
| 17 | ASSESSMENT AND AUDIT | 340-345 |
| 18 | INSPECTION, SEARCH, SEIZURE AND ARREST | 346-348 |
| 19 | DEMANDS AND RECOVERY | 349-357 |
| 20 | LIABILITY TO PAY IN CERTAIN CASES | 358-361 |
| 21 | OFFENCES AND PENALTIES AND ETHICAL ASPECTS UNDER GST | 362-377 |
| 22 | APPEALS AND REVISION | 378-387 |
| 23 | ADVANCE RULING | 388-391 |
| 24 | MISCELLANEOUS PROVISIONS | 392-395 |
| PART II: CUSTOMS AND FTP | | 396-496 |
| 1 | LEVY OF AND EXEMPTIONS FROM CUSTOM DUTY | 397-408 |
| 2 | TYPES OF DUTY | 409-414 |
| 3 | CLASSIFICATION OF IMPORTED AND EXPORT GOODS | 415-420 |
| 4 | VALUATION UNDER THE CUSTOMS ACT, 1962 | 421-460 |
| 5 | IMPORTATION, EXPORTATION AND TRANSPORTATION OF GOODS | 461-478 |
| 6 | WAREHOUSING | 479-483 |
| 7 | REFUND | 484-489 |
| 8 | FOREIGN TRADE POLICY | 490-496 |

PART – A

GOODS & SERVICE TAX

F.A.S.T.
first attempt success tutorials

CHAPTER - 1

SUPPLY UNDER GST

Q.1 Satyamev Printers is a printing house registered under GST. It receives an order for printing 5000 copies of a book on yoga and meditation authored by a well-known yoga guru. The content of the book is to be provided by the yoga guru to Satyamev Printers. It is agreed that Satyamev Printers will use its own paper to print the said books. You are required to determine the rate of GST applicable on supply of printed books by Satyamev Printers assuming that rate of GST applicable on services is 18% whereas the rate of GST applicable on supply of goods is 12%.

[ICAI SM]

Ans. Section 2(30) provides that a **composite supply** means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

Circular No. 11/11/2017 GST dated 20.10.2017 has clarified that supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc. printed with logo, design, name, address or other contents supplied by the recipient of such printed goods, are composite supplies.

Further, section 8(a) stipulates that a composite supply comprising two or more supplies, one of which is a principal supply, is treated as a supply of such principal supply. Hence, one needs to ascertain what constitutes the principal supply in this supply. As per section 2(90), principal supply is the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

The above circular further clarifies that in the composite supply of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, **supply of printing** (of the content supplied by the recipient of supply) is the **principal supply** and therefore such supplies would constitute supply of service. Accordingly, in the given case, the supply of printed books by Satyamev Printers is a composite supply wherein the principal supply is supply of printing services. Thus, the rate of GST applicable thereon is the rate applicable on supply of printing services, i.e., **18%**.

Q.2 Sudama Associates, a registered supplier, disposes the computers owned by the business without consideration and it has not claimed input tax credit on such computers.

Examine whether the disposal of computers by Sudama Associates qualifies as deemed supply under Schedule I of the CGST Act, 2017.

[ICAI SM]

Ans. As per section 7(1)(c) read with Schedule I of the CGST Act, 2017, permanent transfer or disposal of business assets is treated as supply even though the same is made without consideration. However, this provision would apply only if input tax credit has been availed on such assets.

Therefore, the disposal of computers by Sudama Associates is **not a supply as the input tax credit has not been availed** on the same.

Q.3 Shivaji Pvt. Ltd., a registered supplier, supplies the Following goods and services for construction of buildings and complexes –

- Excavators for required period at a per hour rate
- Manpower for operation of the excavators at a per day rate
- Soil testing and seismic evaluation at a per sample rate

The excavators are invariably hired out along with operators. Similarly, excavator operators are supplied only when the excavator is hired out.

For a given month, the receipts (exclusive of GST) of Shivaji Pvt. Ltd. are as follows:

- Hire charges for excavators – ₹18,00,000
- Service charges for supply of manpower for operation of the excavator – ₹20,000
- Service charges for soil testing and seismic evaluation at three sites – ₹2,50,000

Compute the GST payable by Shivaji Pvt. Ltd. for the given month.

Assume the rates of GST to be as under:

Hiring out of excavators- 12%, Supply of manpower services and soil – testing and seismic evaluation services – 18%. [ICAI SM]

Ans. Computation of GST Payable by Shivaji Pvt. Ltd.

| Particulars | Value received (₹) | Rate of GST | GST Payable (₹) |
|--|--------------------|-------------|-----------------|
| Hiring charges for excavators | 18,00,000 | 12% | 2,16,000 |
| Service charges for supply of manpower for operation of excavator [Refer Note 1] | 20,000 | 12% | 2,400 |
| Service charges for soil testing and seismic evaluation [Refer Note 2] | 2,50,000 | 18% | 45,000 |
| GST liability | | | 2,63,400 |

Notes:

1. Since the excavators are invariably hired out along with operators and excavator operators are supplied only when the excavator is hired out, it is a case of **composite supply** under section 2(30) wherein the principal supply is the hiring out of the excavator.
As per section 8(a), the composite supply is treated as the supply of the principal supply.
Therefore, the supply of manpower for operation of the excavators will also be taxed at the rate applicable for hiring out of the excavator (principal supply), which is **12%**.
2. Soil testing and seismic evaluation services being **independent** of the hiring out of excavator will be taxed at the rate applicable to them, which is **18%**.

Q.4 Mr. Kanjilal Adani is an oil exploration & production contractor and is registered under GST in the State of Gujarat. He entered into a Production Sharing Contract (PSC) with Government of Gujarat wherein he gets a license to explore, exploit and sell the petroleum crude and/or natural gas from the Government in Aliabet Oilfield in lieu of royalty and a share in profit petroleum.

In the month of June, Mr. Kanjilal Adani explored the petroleum reserves at Aliabet Oilfield. He got a portion of the petroleum silt (non-taxable under GST) worth ₹3,00,000 as part of

compensation. This petroleum silt is part of cost petroleum as per the contract entered with the Government. Examine the taxability of the petroleum silt received by Mr. Kanjilal Adani under the GST law. **[ICAI SM]**

Ans. Compensation is received by Mr. Kanjilal Adani in the form of petroleum silt which, as per the contract with the Government of Gujarat, is part of cost petroleum.

As per Circular No. 32/06/2018 GST dated 12.02.2018, the cost petroleum is not a consideration received by the oil exploration & production contractors for the services provided to Government under a Production Sharing Contract (PSC) and thus not taxable per se. The reason for the same is that the contractors carry exploration and production of petroleum for themselves and not as a service to Government. They had acquired the right to explore, exploit and sell petroleum in lieu of royalty and a share in profit petroleum. Consequently, the **cost petroleum received by Mr. Kanjilal Adani is not taxable under GST.**

Q.5 **Angad Private Ltd. is engaged in the business of distribution of construction material. As an incentive, Angad Private Ltd. pays an amount of ₹75,000 to its employees upon achieving a specified sales target. The incentive is part of the salary of the employees and applicable tax is deducted at source as per relevant income tax provisions. Angad Private Ltd. is of the view that GST is not leviable on such incentive paid to the employees. Whether the view taken by Angad Private Ltd. is correct?** **[ICAI SM]**

Ans. Yes, Angad Private Ltd.'s **view is correct.** In terms of section 7(2) read with Schedule III, services by an employee to employer in the course of or in relation to his employment shall not be treated as supply under GST. Further, the amount paid as incentive by Angad Private Ltd. is not in the nature of gift, and thus, is not covered under Schedule I. In fact, in the given case, the incentive is part of the salary and is directly linked to the sales target. Therefore, the services provided in course or in relation to employment by the employees for which incentives are given to them shall not be treated as a "supply".

In the light of above discussion, GST is not leviable on the incentive paid by Angad Private Ltd. to employees.

Q.6 **XYZ Consultancy, registered in Bangalore, supplies technical consultancy services to its clients. It has been providing technical services to BA Ltd., Mumbai since past two years. Consideration is settled by BA Ltd. assignment wise. BA Ltd. paid ₹ 37 lakh to XYZ Consultancy on 10th January, 2022 for XYZ Consultancy agreeing not to provide similar technical services to any other business entity in India or abroad for a period of 8 years. XYZ Consultancy is of the view that ₹ 37 lakh is not chargeable to GST. You are required to examine whether the view taken by XYZ Consultancy is valid in law. Calculate GST liability of XYZ Consultancy, in case you feel that GST is chargeable. Round off the tax amount if due in accordance with law. The technical services provided by XYZ Consultancy is otherwise chargeable to IGST at the rate of 18% and XYZ have been discharging the GST**

liability on consultancy charges. It may be noted that BA Ltd. is not ready to pay any further amount to XYZ Consultancy in addition to the amount already agreed. [ICAI SM, PP NOV 22]

Ans. In the given case, XYZ Consultancy is providing the service of agreeing to the obligation to refrain from an act to BA Ltd. against a consideration of ₹37 lakh [Schedule II read with Circular No. 178/10/2022 GST dated 03.08.2022]. Therefore, the same is liable to tax under GST law. Thus, **view taken by XYZ Consultancy is incorrect.**

Since the place of supply of said services is the location of the recipient, viz. Mumbai and supplier is located in Bangalore, said services are inter-State supplies liable to tax @ 18%.

GST liability (IGST) of XYZ Consultancy is:

$$= ₹37,00,000 \times 18/118$$

$$= ₹5,64,407 \text{ (rounded off)}$$

Since GST has not been separately collected for the supply, consideration has been assumed to be inclusive of tax.

Q.7 Mokshabhumi Industries has its manufacturing unit in the State of Maharashtra. It stores the finished goods manufactured by it at a depot located in the State of Gujarat. The depot is owned by Punyabhumi Ltd. -a related person of Mokshabhumi Industries. Punyabhumi Ltd. has not charged any consideration from Mokshabhumi Industries for usage of depot for storage purpose. Whether the storage of goods permitted by Punyabhumi Ltd. to Mokshabhumi Industries qualifies as supply under GST? [ICAI SM]

Ans. As per section 7(1)(c) read with Schedule I, supply of goods or services or both between related persons without consideration when made in the course or furtherance of business qualifies as supply. Thus, the storage services provided by Punyabhumi Ltd. to Mokshabhumi Industries in course or furtherance of business **qualify as supply** under GST even though no consideration has been charged for the same.

Q.8 Rob Shareholding Ltd., an approved intermediary, has entered into an agreement wherein certain securities were to be lent to Dhandhan Bank, under Securities Lending Scheme, 1997. Dhandhan Bank shall pay specified lending fee against such lending of securities to it. Explain the taxability of transactions involved in the Securities Lending Scheme, 1997. [ICAI SM]

Ans. Securities Lending Scheme, 1997 (hereafter referred to as SLS) facilitates the lending and borrowing of securities. Securities are neither covered in the definition of goods nor covered in the definition of services. Therefore, a transaction in securities which involves disposal of securities is not a supply in GST and hence not taxable.

However, SLS doesn't treat lending of securities as disposal of securities and therefore is not excluded from the definition of services. The lending fee charged from the borrowers of securities has the character of consideration and is **taxable under GST.** Apart from above, the activities of the intermediaries facilitating lending and borrowing of securities for commission or fee are also taxable separately (Circular No. 119/38/2019 GST dated 11. 10. 2019).

Q.9 Krishnadev is a trader based in India. Ramakrishna, brother of Krishnadev, is located in China and is also engaged in business of trading of goods. Krishnadev places an order with Ramakrishna for procurement of certain goods from local market in China. Before the shipment of goods from China to India, Krishnadev sold such goods to Christiano, a trader located in Brazil. The goods were subsequently shipped from China to Brazil. Comment on the taxability of transaction between Krishnadev and Christiano under GST in India. *[ICAI SM]*

Ans. The transaction between Krishnadev and Christiano is in the nature of merchant trading. As per Schedule III, transactions involving sale of goods from a place in non-taxable territory to another place in non-taxable territory, without such goods entering into India, shall not be treated as supply under GST. Therefore, the transaction between Krishnadev and Christiano shall not be treated as supply and is thus **not leviable to GST**.

Q.10 Mohandas International entered into a transaction for import of goods from a vendor located in Italy. Due to financial issues, Mohandas International was not in a situation to clear the goods upon payment of import duty. Mohandas International sold the goods to Radhakrishnan Export House by endorsement of title to the goods, while the goods were in high seas. The agreement further provided that Mohandas International shall purchase back the goods in future from Radhakrishnan Export House. Discuss the taxability of transaction(s) involved, under the GST law. *[ICAI SM]*

Ans. As per Schedule III, high seas sale transactions i.e., supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption shall not be considered as supply under GST. Thus, the sale of goods by Mohandas International to Radhakrishnan Export House in high seas shall **not be liable to GST**. Further, the import duty including IGST shall be payable by Radhakrishnan Export House at the time of clearance of goods at port of import. In case the goods are sold back by Radhakrishnan Export House to Mohandas International at a subsequent point of time, the same shall be treated as normal domestic sale transaction and GST shall be applicable on the same subject to other conditions prescribed under GST Law

Q.11 Mr. Happy has a huge residential property located at a prime location in Mumbai, Maharashtra. He has let out the 1st and 2nd floor to Mr. Peace for residential purposes in April. Mr. Peace surrenders his tenancy rights to Mr. Serene for a tenancy premium of ₹10,00,000 on 1st June. Mr. Serene has also paid the applicable stamp duty and registration charges on transfer of tenancy rights. Moreover, Mr. Serene has agreed to pay a monthly rent of ₹1,00,000 to Mr. Happy (unregistered under GST) from June. Determine the taxability of the transaction(s) involved in the given case, for the month of June. *[ICAI SM]*

Ans. Circular No. 44/2018 CT dated 02.05.2018 clarifies that the activity of transfer of tenancy right against consideration [i.e., tenancy premium] is squarely covered under supply of service liable to GST. It is a form of lease or renting of property and such activity is specifically declared to be a service in Schedule II i.e., any lease, tenancy, easement, license to occupy land is a supply of services. Although stamp duty and registration charges have been levied on such transfer of tenancy rights, it shall be still subject to GST. Merely because a transaction/supply involves execution of documents

which may require registration and payment of registration fee and stamp duty, would not preclude them from the 'scope of supply' and from payment of GST.

The transfer of tenancy rights cannot be treated as sale of land/ building in Schedule III. Thus, it is not a non-supply under GST and consequently, a consideration for the said activity shall attract levy of GST. Services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is liable to GST.

Hence, in the given case, the tenancy premium of **₹10,00,000 received by Mr. Peace for surrendering his tenancy rights to Mr. Serene is liable to GST.**

The circular further clarifies that since renting of residential dwelling for use as a residence to an unregistered person is exempt [Entry 12 of Notification No. 12/2017 CT (R) dated 28.06.2017], grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both to an unregistered person is exempt. Consequently, monthly rent **₹1,00,000 received by Mr. Happy from Mr. Serene is exempt.**

- Q.12 (a) Rudraksh Kapoor, owner of Rudraksh Publishing House, Ghaziabad, U. P., donated some money to Divyaprakash Charitable Trust in the memory of his late Father. The Divyaprakash Charitable Trust constructed a room in the school run by it from such donation and wrote "Donated by Rudraksh Kapoor in the memory of his Father" on the door of the room so constructed. Examine whether the money donated by Rudraksh Kapoor is leviable to GST.
- (b) In the above question, if Divyaprakash Charitable Trust had written on the door of the room constructed from the money donated by Rudraksh Kapoor in the school run by it- "Donated by Rudraksh Publishing House, Ghaziabad, U.P.", would the given transaction/activity qualify as supply? [ICAI SM]

Ans. Circular No. 116/35/2019 GST dated 11.10.2019 has clarified that in case of donations received by a charitable institution, when the name of the donor is displayed in recipient institution's premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the Form of donation). Donations received by the charitable organizations are treated as consideration only if there exists, quid pro quo, i.e., there is an obligation on part of recipient of the donation or gift to do anything (supply a service).

Thus, GST is not leviable where all the following three conditions are satisfied namely

- Gift or donation is made to a charitable organization
 - Payment has the character of gift or donation
 - Purpose is philanthropic (i.e., it leads to no commercial gain) and not advertisement.
- (a) In the backdrop of the above discussion, since in the given case, the way the name of Rudraksh Kapoor is displayed on the door of the room constructed in the school run by Divyaprakash Charitable Trust, it is only an expression of gratitude and public recognition of Rudraksh's act of philanthropy and is not aimed at advertising or promoting his business. There is no reference/mention of his publishing house which otherwise would have got advertised. Thus, the money donated by Rudraksh Kapoor is **not leviable to GST.**
- (b) In the given case, since the name of Rudraksh Publishing House has been displayed on the door of the room constructed in the school run by Divyaprakash Charitable Trust, it might be aimed at advertising or promoting his business. There is a direct mention of his publishing house

which is being advertised. In such a case, **it is a supply of service** by Divyaprakash Charitable Trust for a consideration received in the form of donation.

Q.13 Mrs. Kajal, a registered supplier of Jaipur (Rajasthan), has made the following supplies in the month of January:

- (i) Supply of a laptop along with the laptop bag to a customer of Mumbai for ₹ 55,000 (exclusive of GST).
- (ii) Supply of 10,000 kits (at ₹ 50 each) amounting to ₹ 5,00,000 (exclusive of GST) to Ram Fancy Store in Kota (Rajasthan). Each kit consists of 1 hair oil, 1 beauty soap and 1 hair comb.
- (iii) 100 kits are given as free gift to Jaipur customers (all unrelated) on the occasion of Mrs. Kajal's birthday. Each kit consists of 1 hair oil and 1 beauty soap. Cost of each kit is ₹ 35. Input tax credit has not been taken on the goods contained in the kit.
- (iv) Event management services provided free of cost to her brother (wholly dependent on her) for his son's marriage function in Indore (Madhya Pradesh). Cost of providing said services is ₹ 80,000.
- (v) 1,400 chairs and 100 coolers hired out to function garden, Ajmer (Rajasthan) for ₹ 3,30,000 (exclusive of GST) including cost of transporting the chairs and coolers from Mrs. Kajal's godown at Jaipur to Function Garden, Ajmer. Since Mrs. Kajal is not a GTA, transportation services provided by her are exempt vide Notification No. 12/2017 CT (R) dated 28. 06. 2017.

Assume rate of GST as under: -

| Sr. No. | Particular | Rate of GST (%) |
|---------|--|-----------------|
| 1 | Laptop | 18 |
| 2 | Laptop Bag | 28 |
| 3 | Hair Oil | 18 |
| 4 | Beauty Soap | 28 |
| 5 | Hair Comb | 12 |
| 6 | Event Management Service | 5 |
| 7 | Service of renting of chairs and coolers | 12 |
| 8 | Transportation service | 5 |

From the above information, examine each of the above supplies made by Mrs. Kajal for the month of January and determine the rate of GST applicable on the same. [ICAI SM]

Ans.

| S. No. | Particulars | Rate |
|--------|---|------|
| (i) | Supply of laptop bag along with laptop to Mumbai customer (Being naturally bundled, supply of laptop bag along with the laptop is a composite supply which is treated as the supply of the principal supply (viz. laptop) in terms of section 8(a). Accordingly, rate of principal supply, i. e. laptop will be charged.) | 18% |
| (ii) | Supply of kits to Ram Fancy Store (It is a mixed supply and is treated as supply of that particular supply which attracts highest tax rate (viz. beauty soap) in terms of section 8(b)) | 28% |

| | | |
|-------|--|-----|
| (iii) | Free gifts to customers (Cannot be considered as supply under section 7 read with Schedule I is the gifts are given to unrelated customers without consideration.) | Nil |
| (iv) | Event management services provided free of cost to her brother for his son's marriage shall be considered as supply as the services are being provided to a related person. Since it is an individual supply, it will be taxed at the rate applicable on said service. | 5% |
| (v) | Chairs and coolers hired out to Function Garden (Transportation services provided by Mrs. Kajal is exempt. However, since chairs and coolers are hired out along with their transportation, it is a case of composite supply | 12% |

Note: As per section 2(30), composite supply means a supply made by a taxable person to a recipient consisting of two or more taxable supplies. Since in point (v), service of hiring out of chairs & coolers is taxable while transportation service is exempt, it is possible to take a view that this is not a case of composite supply. In that case, the two services will be treated as independent services and taxed accordingly.

Q.14 Chandragupta Maurya is an artist who makes contemporary paintings. He is registered in the State of Kolkata. Chandragupta Maurya appoints Dhruv Kumar to auction his painting in Maharashtra. Dhruv Kumar arranges for the auction and identifies the potential bidders. The highest bid is accepted and the painting is sold to the highest bidder. The invoice for the supply of the painting is issued by Dhruv Kumar on the behalf of Chandragupta Maurya but in his own name and the painting is delivered to the successful bidder.

Examine whether Dhruv Kumar can be considered as an agent of Chandragupta Maurya under Para 3 of Schedule I of the CGST Act, 2017. [ICAI SM]

Ans. 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 Para 3 of Schedule I of the CGST Act, 2017].

Circular No. 57/31/2018 GST dated 04.09.2018 provides that where the invoice for further supply of goods is being issued by the agent in his name then, any provision of goods from the principal to the agent would fall within the fold of Para 3 of Schedule I.

In the given case, Dhruv Kumar is not merely providing auctioneering services to Chandragupta Maurya, but is also supplying the painting on behalf of Chandragupta Maurya to the successful bidder and has the authority to transfer the title of the painting on behalf of Chandragupta Maurya. Dhruv Kumar issued the invoice in his own name for supply of the painting on the behalf of Chandragupta Maurya. Thus, **Dhruv Kumar can be considered as an agent of Chandragupta Maurya under Para 3 of Schedule I.**

Q.15 Mr. Rajesh Surana has a proprietorship firm in the name of Surana & Sons in Jaipur. The firm, registered under GST in the State of Rajasthan, manufactures taxable products. The firm also provides taxable consultancy services.

Mr. Rajesh Surana has provided the consultancy service to his brother - Mr. Akhilesh Surana (located in USA) without any consideration. The products manufactured by Mr. Akhilesh are

similar to the ones manufactured by Mr. Rajesh Surana. Mr. Surana charges ₹ 3,00,000 for providing similar consultancy services to other independent customers located in USA. Compute the GST liability, if any, in the given case assuming the rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively.

Ans. Consultancy service to Mr. Akhilesh Surana (located in USA) has been provided without any consideration. Activity without consideration is not a supply in terms of section 7(1)(a) of the CGST Act, 2017. However, Schedule I to the CGST Act, 2017 enlists the activities to be treated as supply even if made without consideration. Accordingly, Para 2 of Schedule I treat: 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 as a supply even if made without consideration. However, a brother who is not dependent on the person supplying the service, does not come within the purview of term family as defined under section 2(49) of the CGST Act, 2017 and hence, is not a related person. Therefore, the export of service to an independent brother without any consideration will not fall under para 2. of the Schedule I to CGST Act, 2017. Hence, the activity is **not a supply** and is thus, not liable to any tax.

Q.16 Examine whether the following activities would amount to supply under section 7 read with Schedule I of the CGST Act:

- (a) Sulekha Manufacturers have a factory in Delhi and a depot in Mumbai. Both these establishments are registered in respective States. Finished goods are sent from factory in Delhi to the Mumbai depot without consideration so that the same can be sold.
- (b) Raman is an architect in Chennai. His brother who is settled in London is a well-known lawyer. Raman has taken legal advice from him free of cost with regard to his family dispute.
- (c) Would your answer be different if in the above case, Raman has taken advice in respect of his business unit in Chennai?

Ans. (a) Schedule I of CGST Act, stipulates that supply between related or distinct person in course or furtherance of business is treated as supply even without consideration. Therefore, in the given case of supply of finished goods between Delhi factory and Mumbai Depot will be considered as **supply under GST**.

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

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

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

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

Q.17 Mangesh Enterprises, Goa, a registered supplier, has made the following supplies in the month of February 20XX:

- (i) Supply of guest house accommodation with facilities of cooling, heating, internet and parking to customers on daily rentals of ₹1,500. Mangesh Enterprises has 20 guest suites. During the month, there was 50% occupancy. Catering and food service were supplied separately to those who opted for it at a cost of ₹500 per day of occupancy. Total amount collected for catering and food service was ₹ 70,000.
- (ii) Supplied monthly air-conditioner maintenance services (intra-State) to a software company a contract effective 1st February, 20XX for six months. According to the terms of service in the contract, the software company is liable to pay service charges of ₹12,000 for the entire period plus cost of spares and replacements at actuals. Taxes are separate and payable in accordance with statute. Mangesh Enterprises is yet to raise an invoice, though service was provided for February, 20XX. During the month, the company has not provided any spares or replacements as part of maintenance service. Further, the concern has not received any amount towards above services.

| Sr. No. | Particulars | Rate of CGST (CGST + SGST) |
|---------|--------------------------------|----------------------------|
| 1 | Air conditioner maintenance | 18% |
| 2 | Food catering service | 5% |
| 3. | Renting of guest house service | 18% |
| 4. | Parking service | 18% |

With the help of the above information, examine each of the above supplies made by Mangesh Enterprises for the month of February, 20XX and determine the rate and the amount of GST applicable on the supplies made. *[PP - May 22]*

Ans. (i) Determination of rate and amount of GST

| Particulars | Rate of GST | GST [CGST + SGST] (₹) |
|--|------------------------------------|--|
| Composite supply of renting of guest house with other facilities [Renting of guest house being principal supply] | 18 % (Rate of principal supply) | 75,600 [37,800 + 37,800] [₹1,500 × 20 suites × 50% × 28 days × 18%] |
| Separate supply of catering and food services | 5% | 3,500 [1,750 + 1,750] [₹70,000 × 5%] |

- (ii) Rate of GST applicable in the given case is 18%, i.e., the rate of GST applicable on air conditioner maintenance service. Since the given supply is a continuous supply of service where in terms of contract, due date is not ascertainable, the time of supply of said services does not fall in February 20XX and thus, no GST is payable for said month.

Q.18 Jaskaran, a registered supplier of Delhi, has made the following supplies in the month of January, 20XX:

| S. No. | Particulars | Amount (₹) |
|--------|---|------------|
| (i) | Supply of 20,000 packages at ₹30 each to Sukhija Gift Shop in Punjab [Each package consists of 2 chocolates, 2 fruit juice bottle and a packet of toy balloons] | 6,00,000 |
| (ii) | 10 generators hired out to Morarji Banquet Halls, Chandigarh [Including cost of transporting the generators (₹1,000 for each generator) from Jaskaran's warehouse to the Morarji Banquet Halls] | 2,50,000 |
| (iii) | 500 package each consisting of 1 chocolate and 1 fruit juice bottle given as free gift to Delhi customers on the occasion of Diwali [Cost of each package is ₹12, but the open market value of such package of goods and of goods of like kind and quality is not available. Input tax credit has not been taken on the items contained in the package] | |
| (iv) | Catering services provided free of cost for elder brother's (wholly dependent on Jaskaran) business inaugural function in Delhi [Cost of providing said services is ₹55,000, but the open market value of such services and of services of like kind and quality is not available.] | |

* excluding GST

You are required to determine the GST liability [CGST & SGST and/ or IGST, as the case may be] (ignoring ITC provisions) of Jaskaran for the month of January, 20XX with the help of the following additional information furnished by him for the said period:

- Penalty of ₹10,000 was collected from Sukhija Gift Shop for the payment received with a delay of 10 days.
- The transportation of the generators from Jaskaran's warehouse to the customers' premises is arranged by Jaskaran through a Registered Goods Transport agency (GTA) who opts to pay GST @ 12% under forward charge.
- Assume the rates of GST to be as under:

| Goods/services supplied | CGST | SGST | IGST |
|----------------------------------|------|------|------|
| Chocolates | 9% | 9% | 18% |
| Fruit juice bottles | 6% | 6% | 12% |
| Toy balloons | 2.5% | 2.5% | 5% |
| Service of renting of generators | 9% | 9% | 18% |
| Catering service | 9% | 9% | 18% |

[RTP - Nov 18]

Ans. Computation of IGST liability of Jaskaran for the month of January, 20XX

| Particulars | CGST(₹) | SGST (₹) | IGST (₹) |
|---|------------------------|------------------------|------------------------------|
| Supply of 20,000 packages to Sukhija Gift Shop, Punjab [Note-1] | | | 1,09,526 [6,08,475 × 18%] |
| Renting of 10 generators to Morarji Banquet Halls, Chandigarh [Note -2] | | | 45,000 [2,50,000 × 18%] |
| 500 packages given as free gift to the customers [Note -3] | Nil | Nil | Nil |
| Catering services provided free of cost for elder brother's business inaugural function in Delhi [Note 3] | 5,445 [60,500 × 9%] | 5,445 [60,500 × 9%] | |
| Total GST liability (rounded off) | 5,445 | 5,445 | 1,54,526 |

Notes:

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

Supply of a package containing chocolates, fruit juice bottle and packet of toy balloons is a mixed supply as each of these items can be supplied separately and is not dependent on any other.

Further, as per section 8 (b) of the CGST Act, 2017, the mixed supply is treated as a supply of that particular supply which attracts the highest rate of tax. Thus, in the given case, supply of packages is treated as supply of chocolates [Since it attracts the highest rate of tax]. Consequently, being an inter-state supply of goods, supply of packages to Sukhija Gift Shop of Punjab is subject to IGST @ 18% each.

Further, **value of supply includes interest or late fee or penalty charged for delayed penalty of any consideration of any supply** in terms of section 15 (2)(d) of the CGST Act, 2017. Thus, penalty of ₹10,000 [considered as inclusive of GST] collected from Sukhija Gift Shop for the delayed payment will be included in the value of supply. **The total value of supply is ₹6,08,475 [₹6,00,000 + (₹10,000 × 100/118)]**

2. **Services by way to transportation of goods by road except the services of a Goods transportation Agency (GTA) are exempt** vide Notification No. 9/2017 IT (R) dated 28.06.2017. Since Jaskaran is not a GTA, transportation services provided by him are exempt from GST. However, since the generators are invariably hired out along with their transportation till customer's premises, it is a case of composite supply under section 2 (30) of the CGST Act, 2017 wherein the principal supply is the renting generator.

As per section 8 (a) of the CGST Act, 2017, the composite supply is treated as the supply of the principal supply. Therefore, the service of transportation of generators will also be **taxed at the rate applicable for renting of the generator (principal supply)**.

Consequently, being an inter-State supply for service, service of hiring out the generators to Morarji Banquet Hall of Chandigarh is subject to IGST @ 18% each.

3. As per section 7 (1) (c) of the CGST Act, 2017, an activity made without consideration can be treated as supply only when it is specified in Schedule I of the CGST Act, 2017. Para 2. of Schedule I provides that supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course of furtherance of business, are to be treated as supply even if made without consideration.

However, since the question does not provide, that customers are related to Jaskaran, free gifts given to the customers cannot be considered as a supply under section 7. Consequently, not tax is leviable on the same.

Further, the **catering services provided by Jaskaran to his elder brother without consideration will be treated as supply** as Jaskaran and his elder brother (wholly dependent on Jaskaran), being members of same family, are related persons in terms of explanation (a) (viii) to section 15 of the CGST Act, 2017 and said services have been provided in course/furtherance of business. Value of supply of services between related persons, other than through an agent is determined as per rule 28 of the CGST Rules, 2017. Accordingly, the value of supply is the open market value of such supply; if open market value is not available, the value of supply of goods or services of like kind and quality. However, if value cannot be

determined under said method, it must be worked out based on the **cost of the supply plus 10% mark-up**. Thus, in the given case, value of catering services provided to the elder brother of Jaskaran is ₹60,500 [₹55,000 × 110%]. Further, being an intra-state supply of services, catering services are subject to CGST and SGST @ 2.5% each.

4. In the given case, Jaskaran has received services from a registered **GTA who has paid GST @ 12%. Reverse charge provisions will not be applicable.**

Q.19 M/s Diva Fashions (Proprietor Ms. Diva), a registered supplier in Ludhiana (Punjab) under GST law, has made the following supplies in the month of February 2024:

- (i) Supply of designer silk dresses packed in designer boxes to a boutique in Mumbai, (Maharashtra) as per contract entered with the boutique amounting to ₹25,00,000.
- (ii) Supply of 600 kits (at ₹1,000 each kit) amounting to ₹6,00,000 to Mrs. Arora in Amritsar (Punjab). Each kit consisted of 1 silk dupatta, 1 sari brooch and 1 lipstick.
- (iii) M/s Diva Fashions organizes a fashion show in Chandigarh. Zion Exports Ltd, a registered entity in Jaipur (Rajasthan) has sponsored the show for which M/s Diva Fashions received ₹7,50,000 from it.
- (iv) 200 kits are given as free gifts to customers on the occasion of 5th anniversary of M/s Diva Fashions. Each kit consists of 1 silk dupatta and 1 sari brooch. Cost of each kit is ₹350. The open market value of such kit of goods and of goods of like kind and quality is not available. Input tax credit has not been taken on the goods contained in the kit.
- (v) Professional services provided free of cost by Ms. Diva to her independent married sister to set up her own boutique in Delhi. Cost of providing such services is ₹1,00,000, but the open market value of such services and of services of like kind and quality is not available.
- (vi) M/s Diva Fashions enters into a contract on 1st February, 2023 for 3 years with Miss Shikha, a local model to act as a brand ambassador for their products for ₹1 lakh (exclusive of GST - 18% IGST, 9% CGST and SGST each) per annum. Miss Shikha terminated the contract on 2nd February 2024. As per the contract, M/s Diva Fashions received 25% of the total contract fees paid to Miss Shikha as the contract is terminated before 3 years, on 15th February, 2024. Miss Shikha had received the contract fee for 2 years at the time of termination of the contract.

Other information is given below -

- (a) All above amounts are exclusive of GST.
- (b) Mrs. Arora paid interest of ₹8,850 (inclusive of GST) for delay in making payment to M/s Diva Fashions.
- (c) Assume rates of GST as under:

| S. No. | Particulars | Rate of IGST | Rate of CGST | Rate of SGST |
|--------|---|--------------|--------------|--------------|
| 1 | Silk Dresses | 18% | 9% | 9% |
| 2 | Designer Boxes | 28% | 14% | 14% |
| 3. | Silk Dupatta | 12% | 6% | 6% |
| 4. | Sari Brooch | 18% | 9% | 9% |
| 5. | Lipstick | 5% | 2.5% | 2.5% |
| 6. | Sponsorship received from Zion Exports Ltd. | 28% | 14% | 14% |
| 7. | Professional services | 18% | 9% | 9% |

From the above information, compute the total GST liability of M/s Diva Fashions for the month of February 2024. Working notes should form part of your answer. [PP – May23]

Ans. Computation of total GST liability of M/s Diva Fashions for the month of February, 2024

| | Amount (₹) | CGST (₹) | SGST (₹) | IGST (₹) |
|---|-------------------------------|------------------------------|------------------------------|---------------------------------|
| Supply of silk dresses in designer boxes [Since supply of silk dresses in designer boxes is naturally bundled, it is a composite supply which is treated as the supply of the principal supply (viz. silk dresses). Accordingly, rate of principal supply, i.e., silk dresses will be charged] | 25,00,000 | | | 4,50,000 [25,00,000 ×18%] |
| Supply of kits of silk dupatta, sari brooch and lipstick [Since supplies are not naturally bundled and a single price is being charged, it is a mixed supply. It is treated as supply of that particular supply which attracts highest tax rate (i.e., sari brooch)] | 6,00,000 | 54,000 [6,00,000 × 9%] | 54,000 [6,00,000 × 9%] | |
| Since sponsorship services are provided by a person other than Body Corporate to a Body Corporate (Zion Exports Ltd) – Tax is payable under Reverse Charger by recipient. | 7,50,000 | | | Nil |
| Free gifts to customers [Not a supply as it is made without consideration and is also not covered in Schedule I because customers are not related persons.] | Nil | | | |
| Professional services provided free of cost [Not a supply as it is made without consideration and is also not covered in Schedule I because sister being independent is not a related person.] | Nil | | | |
| Fee received for termination of contract [Being 'liquidated damages', they are merely compensation for loss due to breach of the contract and not the consideration for tolerating non-performance of contract.] | Nil | | | |
| Interest received for delayed payment (excluding GST) [Includible in value of original supply. Further, since it is received in February itself, time of supply is when it is received i.e., February.] | 7,500 [8,850 × 100/118] | 675 [7,500 × 9%] | 675 [7,500 × 9%] | |
| GST liability | | 54,675 | 54,675 | 4,50,000 |

Q.20 Mouny Ltd. entered into a high sea sale transaction with Fuji Ltd. for certain goods. Mouny Ltd. wishes to understand the taxability of the high sea sales under GST law and Customs Act, 1962.

[RTP – Nov 23]

Ans. Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption (high sea sale) is neither treated as supply of goods nor supply of services in terms of paragraph 8(b) of Schedule III to the CGST Act. Thus, **GST is not leviable** on high sea sales at the time of making such sales.

As per section 14 of the Customs Act, 1962, the value for the purpose of charging customs duty on imported goods is the value at the time of importation, i.e., at the time of filing of the bill of entry. Further, IGST on imported goods is also levied at the time of filing of bill of entry. In case of high sea sales, the assessable value of imported goods for levying customs duty and IGST is determined on the basis of the price paid by the last high sea sales buyer who files the bill of entry for home consumption.

Q.21 Mr. Sharma, director of VEE Ltd., provides personal guarantee on 31.10.2023 to a nationalized bank for sanctioning the cash credit facility of ₹ 100 lakh sanctioned in favour of VEE Ltd. Mr. Sharma was not paid any consideration for the same by VEE Ltd.

Whether the said activity undertaken by Mr. Sharma will be considered as supply? If yes, what will be the value of such services? Explain in brief the relevant provisions of GST law.

[PP - May 24]

Ans. Since director and company are related persons in terms of Schedule I of the CGST Act, 2017, the activity of providing personal guarantee by a director to the banks/ financial institutions for securing credit facilities for their companies is to be treated as a supply of service, even when made without consideration.

Thus, the activity of providing personal guarantee by Mr. Sharma to the nationalized bank will qualify as supply.

Value of such supply will be the open market value (OMV) in terms of rule 28 of the CGST Rules, 2017. However, as per RBI Guidelines, no consideration by way of commission, brokerage fees or any other form, can be paid to the director by the company, directly or indirectly, in lieu of providing personal guarantee to the bank for borrowing credit limits, except in exceptional cases.

Thus, it is clarified that OMV of said supply may be treated as zero / Nil and therefore, no tax is payable on such supply of service by Mr. Sharma to VEE Ltd.

Q.22 Decide with reason whether following independent transactions amount to supply or not as per the provision, rules, circulars and notification issued under the GST law:

(i) Satyam has lent securities to Kala Enterprises for a consideration of ₹ 10,000 towards lending of securities under the Securities Lending Scheme, 1997 through an approved intermediary. Ignore the transaction between Satyam and intermediary.

(ii) Patta Limited made supply of goods to its agent, Romi, without consideration. Romi issued invoice for the further supply of goods to the customers in his own name. Romi also disclosed the name of principal in the invoice issued.

(iii) Dilasa Limited recruited Miss Chhaya as senior relationship manager. At the time of joining as senior relationship manager, the company paid ₹ 3,00,000 towards "Not joining" Milan Limited, a stiff competitor of Dilasa Limited.

[PP-Nov 24]

- Ans.** (i) Lending of securities under the Securities Lending Scheme is not a transaction in securities as it does not involve disposal of securities. It is not excluded from the definition of services and amounts to supply.
Consequently, lending of securities for consideration to Kala Enterprise amounts to supply.
- (ii) Since the invoice for further supply of goods is being issued by the agent – Romi. in his own name, the provision of goods from the principal – Patta Limited. - to the agent – Romi - would fall within the purview of Schedule I of the CGST Act, 2017 and would amount to supply even though made without consideration.
Further, supply of goods by Romi to the customer for consideration amounts to supply.
- (iii) Since any amount paid by employer to employee for not joining a competing business is paid for providing the service of forbearance to act to refrain cannot be considered for providing services in the course of employment, amount received by Miss Chhaya from Dilasa Limited amounts to supply under the GST law.

Q.23 ABC Insurance Ltd., a registered insurer in Maharashtra, is engaged in providing insurance services. During the current financial year, the company entered into following transactions:

- (i) ABC Insurance Ltd. enters into a co-insurance agreement with XYZ Insurance Ltd. where ABC Insurance Ltd. is the lead insurer. The insured – Gyaati Industries- pays a total premium of ₹ 50,00,000 which is apportioned by the lead insurer - ABC Insurance Ltd. between itself and XYZ Insurance Ltd. in the ratio of 60:40 for the insurance services jointly supplied by them to Gyaati Industries. ABC Insurance Ltd. agrees to discharge the entire GST liability on the full amount of premium received from Gyaati Industries.
- (ii) A large industrial plant needs an insurance worth ₹ 500 crore. It approaches ABC Insurance Ltd. for the same. However, since ABC Insurance Ltd. is unable to underwrite the entire risk alone, it enters into a reinsurance agreement with a reinsurer - PQR Insurance Ltd. The total premium charged is ₹ 50 lakh. The insurer - ABC Insurance Ltd. pays a reinsurance premium of ₹ 20 lakh to PQR Insurance Ltd. This allows ABC Insurance Ltd. to manage its risk and financial exposure. While paying this amount to PQR Insurance Ltd., ABC Insurance Ltd. deducts a ceding commission of ₹ 1,00,000 which it has charged for the services it provides to PQR Insurance Ltd. PQR Insurance Ltd. pays GST on the gross reinsurance premium including the ceding commission.

Based on the provisions of Schedule III of the CGST Act, 2017, discuss whether the following activities amount to supply:

- (a) Apportionment of co-insurance premium by ABC Insurance Ltd. to XYZ Insurance Ltd. for the insurance services jointly supplied by them to Gyaati Industries.
- (b) Services by ABC Insurance Ltd. to PQR Insurance Ltd. for which ceding commission is deducted from reinsurance premium paid by ABC Insurance Ltd. to PQR Insurance Ltd.

[RTP-Sept 25]

- Ans.** (a) As per para 9 of Schedule III of the CGST Act, 2017, activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured is neither supply of goods nor supply of services and hence no GST is charged on the apportionment transaction.
However, the lead insurer (ABC Insurance Ltd.) is required to pay the entire GST (CGST and SGST or IGST, as applicable) on the full premium amount paid by the insured – Gyaati Industries, of

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