

PAPER – 8 : INDIRECT TAX LAWS**QUESTIONS**

- (1) All questions should be answered on the basis of the position of GST law as amended by the Finance (No. 2) Act, 2019, which have become effective till 30.04.2020, and significant notifications and circulars issued upto 30.04.2020.
- (2) The GST rates for goods and services mentioned in various questions are hypothetical and may not necessarily be the actual rates leviable on those goods and services. The rates of customs duty are also hypothetical and may not necessarily be the actual rates. Further, GST compensation cess should be ignored in all the questions, wherever applicable.

Questions 1-5 are based on the case scenario given below

Starkart Limited owns and operates a web portal in the name of “Starkart” and is registered with the jurisdictional GST authorities in Delhi as an electronic commerce operator and is liable to collect tax at source under section 52 of the Central Goods and Services Tax Act, 2017. Starkart provides listing service to various sellers for selling the goods to ultimate customers. Besides this, Starkart also sells its own products through the same web portal.

For the listing services provided to sellers, Starkart charges a listing fee at the rate of 10% of turnover of goods sold by the seller in a particular month. Such listing fee is recovered from the seller irrespective of any return of goods sold through Starkart. The customers can choose from wide range of goods listed on the web portal and place an online order for goods. The payment is made by the customers through the payment gateway in online mode only. At the time of monthly settlement, Starkart makes the payment to the sellers after adjusting the tax collection at source at the applicable rates.

The invoice for goods sold on Starkart is issued by the seller in the name of customers and tax is charged on the basis of location of seller and customer. The goods are shipped directly by the seller to the customer and there is no responsibility of shipping the goods on Starkart for third party sellers. In case of return of goods by the customer, the shipping is arranged by Starkart. It charges a fee equivalent to 20% of the value of goods returned as cancellation charges and refunds the balance amount to the customer. Further, 10% of the value of goods returned is collected from the seller by Starkart as handling charges for return of goods.

In the month of January, Pulkit, a resident of Rajasthan, purchased following goods from Starkart:

- a. Laptop having a value of ₹ 50,000 and a printer having a value of ₹ 10,000. Both the products are sold by Infocom Limited, a seller listed on Starkart and registered under GST in the State of Uttar Pradesh.

- b. Mobile phone having a value of ₹ 30,000 sold by Starkart in its own capacity.
- c. CCTV camera system having a value of ₹ 1,00,000 sold by Secure World, listed on Starkart and registered under GST in the State of Gujarat.

All the above transactions are exclusive of GST, wherever applicable.

There is no input tax credit balance as on 1st January for Starkart, Infocom Limited and Secure World.

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

CGST - 9%, SGST - 9%, IGST - 18%.

Basis the aforesaid case scenario, please answer the following questions:

1. The net tax liability (including amount payable as tax collection at source and after set-off of credits, if any) of Starkart Limited for the month of January is:
 - (a) IGST ₹ 8,280
 - (b) IGST ₹ 5,400
 - (c) CGST ₹ 3,500 and SGST ₹ 3,500
 - (d) IGST ₹ 9,880
2. The net tax liability (after set-off of credits, if any) of Infocom Limited and Secure World for the month of January is:
 - (a) IGST ₹ 10,800 and IGST ₹ 18,000 respectively
 - (b) IGST ₹ 9,720 and IGST ₹ 16,200 respectively
 - (c) IGST ₹ 9,120 and IGST ₹ 15,200 respectively
 - (d) IGST ₹ 10,200 and IGST ₹ 17,000 respectively
3. In case, it is assumed that Secure World's turnover does not exceed the threshold limit for obtaining registration under applicable GST Law:
 - (a) Secure World shall discharge tax only on the sales made through Starkart.
 - (b) Secure World is not required to obtain registration as threshold limit for obtaining registration is not crossed and no tax is payable.
 - (c) Starkart shall be liable to discharge tax liability of sales made by Secure World.
 - (d) Secure World is required to obtain registration and shall be liable to pay tax on all the taxable supplies made through Starkart or on its own.

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4. Assuming that Pulkit returns the printer purchased from Infocom Limited in the month of January. As per the return policy, Starkart charges 20% of the value of the printer as cancellation charges from Pulkit and 10% of the value of the printer as handling charges from Infocom Limited. The net tax liability (including amount payable as tax collection at source and after set-off of credits, if any) of Starkart in such scenario for the month of January would be:
- (a) ₹ 6,900 payable as IGST
 - (b) ₹ 3,450 payable as CGST and ₹ 3,450 payable as SGST
 - (c) ₹ 10,320 payable as IGST
 - (d) ₹ 7,440 payable as IGST
5. Starkart provides a free gift voucher worth ₹ 2,000 to Pulkit on January 31, which can be redeemed against any purchases of goods made in future on Starkart. The supply of voucher in hands of Starkart would become:
- (a) taxable supply of ₹ 2,000 liable to GST in the month of January.
 - (b) taxable supply of ₹ 2,000 liable to GST in the month in which such voucher is redeemed by Pulkit.
 - (c) discount offered to Pulkit on the purchases made in the month of January and no tax would be payable on such voucher.
 - (d) discount offered to Pulkit at the time of redemption of voucher and no tax would be payable on such voucher.

Questions 6-10 are based on the case scenario given below.

Advance Traders is a partnership firm in Jaipur, Rajasthan. The firm has obtained GST registration at its Head Office (HO) in Jaipur. Further, the firm is having its depot for storage for goods in other districts in Rajasthan. The depots are added as additional place of business in the GST registration obtained at HO. Following details are provided about the firm for the month of July:

- a. Advance Traders received goods worth ₹ 5,00,000 for which GST is payable on reverse charge basis. The goods were received on 25th July. The supplier issued an invoice dated 24th July and payment for the same was made by Advance Traders on 30th July. Due to the absence of accountant, the transaction was recorded in the books of accounts on 1st August.
- b. In the month of July, Advance Traders issued vouchers worth ₹ 2,00,000 to its customers, which were eligible to be redeemed against identified goods. Also, certain set of customers were issued vouchers worth ₹ 5,00,000. The said

vouchers were eligible to be redeemed against any supply of goods in next 6 months.

- c. Mr. X, a partner in the firm, booked a Hotel in Udaipur, Rajasthan for the wedding of his daughter in the month of October. The advance amount of ₹ 5,00,000 for booking the hotel was paid by way of online payment from the current account of Advance Traders in July. The hotel charged GST on such booking at the rate of 28% (CGST @ 14% and SGST @ 14% or IGST @ 28%, as the case may be) on the amount received as advance and issued a receipt voucher.
- d. Advance Traders made a supply of goods worth ₹ 25,00,000 during the month of July. Out of the aforesaid supply, goods worth ₹ 5,00,000 were not liable to GST. However, Advance Traders inadvertently charged GST on such goods and collected the same from the customers.
- e. Due to clerical error, Advance Traders made a deposit in minor head penalty of the major head IGST for an amount of ₹ 3,00,000. There is no liability of interest on any IGST liability and the amount is lying as unutilized on GST portal.

The balance of input tax credit as on 1st July for the firm is nil for all the registrations.

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

CGST - 9%, SGST - 9%, IGST - 18%.

All the amounts given above are exclusive of GST, wherever applicable.

Basis the aforesaid case scenario, please answer the following questions:

6. Compute the GST liability to be discharged from electronic cash ledger for the month of July by Advance Traders. For computing this liability, consider that there is no adjustment regarding amount provided in point e. above:
 - (a) ₹ 5,76,000
 - (b) ₹ 4,36,000
 - (c) ₹ 3,96,000
 - (d) ₹ 4,86,000
7. Amount of input tax credit available to Advance Traders against the hotel booking expense shall be _____. Would there be any change if the hotel is located outside Rajasthan?
 - (a) Nil. There will be no change even if hotel is located outside Rajasthan

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- (b) ₹ 70,000 as CGST and ₹ 70,000 as SGST. No credit would be available, had the hotel been located outside Rajasthan.
 - (c) ₹ 70,000 as CGST and ₹ 70,000 as SGST. IGST of ₹ 1,40,000 would be available, had the hotel been located outside Rajasthan.
 - (d) Nil. IGST of ₹ 1,40,000 would be available, had the hotel been located outside Rajasthan.
8. What is the time limit for issuance of show cause notice where GST is collected on supplies which are not liable to GST?
- (a) Within 2 years and 9 months from due date of filing annual return for the financial year.
 - (b) Within 4 years and 6 months from due date of filing annual return for the financial year.
 - (c) No time limit to issue the show cause notice
 - (d) No show cause notice to be issued. The tax amount shall be refunded to the customers if the customer demands the same.
9. Advance Traders claimed refund of amount paid erroneously in the minor head penalty of major head IGST. The authorities rejected the refund claim. Advance Traders filed a civil suit before the jurisdictional magistrate. Choose the correct answer:
- (a) The jurisdictional magistrate can direct the authorities to process the refund amount.
 - (b) The jurisdictional magistrate can redirect the matter for fresh assessment of refund claim.
 - (c) The jurisdictional magistrate can order provisional refund and initiate the re-assessment proceedings.
 - (d) The jurisdictional magistrate cannot pass any order regarding the refund claim.
10. Advance Traders wants to utilize the amount paid erroneously in the minor head penalty of the major head IGST against its tax liability to be discharged in cash. Please select the correct option:
- (a) The amount can be utilized only for discharging penalty amount under any head.
 - (b) The amount can be utilized only for discharging liability of IGST under any minor head.
 - (c) The amount can be utilized for discharging liability under any minor head or major head.
 - (d) The amount can be utilized only for discharging penalty amount related to IGST.

11. In respect of a consignment supplied on 20th August, provisional assessment was resorted to. The assessment was finalized on 20th November and the taxpayer became liable to pay differential IGST of ₹ 10,000/-. The taxpayer paid this amount on 20th February next year. The number of days for which the taxpayer is liable to pay interest are-
- 184 days
 - 153 days
 - 92 days
 - 204 days
12. Which of the following statements is false?
- Anti-dumping duty is imposed when any article is exported from any country to India at more than its normal value.
 - Safeguard duty shall not be applicable on articles imported by a 100% EOU or SEZ unit unless specifically made applicable.
 - Safeguard duty shall not be imposed on articles originating from developing country if the share of imports of that article from that country \leq 3% of the total imports of that article into India.
 - Central Government may exempt notified quantity of any article, when imported from any country into India, from whole/part of the safeguard duty.
13. Which of the following statements is/are incorrect in relation to refund provisions under the Customs Act, 1962?
- Interest on delayed refund is payable to the applicant only if duty ordered to be refunded is not refunded within 3 months from the date of receipt of application.
 - If imports were made by an individual for his personal use, the amount of duty found refundable, is paid to the applicant instead of being credited to the Consumer Welfare Fund.
 - Application for refund has to be made within 1 year of payment of duty where duty is paid under protest.
 - Doctrine of unjust enrichment is applicable if refund of duty is relatable to drawback of duty payable under sections 74 and 75.
- (i) and (iv)
 - (i) and (ii)
 - (iii) and (iv)
 - (ii), (iii) and (iv)

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14. KPI Ltd., registered in the State of Himachal Pradesh (HP), has a manufacturing unit at Baddi (HP). The company manufactures two products: 'Xt' and 'St'. While 'Xt' is taxable, 'St' is exempt from GST.

KPI Ltd. has furnished the following details:

S. No.	Particulars	IGST (₹)
(a)	Machinery 1 purchased on 1 st July for being used in manufacturing Xt and St	72,000
(b)	Machinery 2 purchased on 1 st July for being exclusively used in manufacturing product Xt	36,000
(c)	Machinery 3 purchased on 1 st July for being exclusively used in manufacturing product St	1,08,000
(d)	Machinery 4 purchased on 1 st October last year for being exclusively used in manufacturing product St. From 1 st July, such machinery will also be used for manufacturing product Xt.	1,44,000
(e)	Machinery 5 purchased on 1 st January for being exclusively used in manufacturing product Xt. From 1 st July, such machinery will also be used for manufacturing product St.	18,000
(f)	Machinery 6 purchased on 1 st July two years ago for being used in manufacturing Xt and St	1,08,000

Compute the following:

- Amount of input tax credit (ITC) credited to Electronic Credit Ledger for the month of July
- Amount of ineligible credit (T_{ie}) for the month of July
- Amount of aggregate value of common credit (T_c)
- Common credit for the month of July (T_m)

Note: All the conditions necessary for availing the ITC have been complied with. Make suitable assumptions wherever required.

15. Synotex Pvt. Ltd. manufactures taxable goods, 'Q' and exempt goods 'S'. Product 'S' is sold in international markets without payment of tax under letter of undertaking. The company is registered under GST in the State of Maharashtra.

The company provides the following information in relation to various supplies made by it during a tax period:

- (a) Product 'S' has been exported to UK for £ 12,000
- (b) Product 'Q' has been supplied to Betty Enterprises within India for ₹ 20,00,000

Note: The above amounts are exclusive of taxes, wherever applicable.

The company provides the following information in relation to tax paid on inward supplies received during the said tax period:

- (a) GST of ₹ 5,00,000 has been paid on inputs
- (b) GST of ₹ 2,40,000 has been paid on capital goods
- (c) GST of ₹ 2,00,000 has paid on input services
- (d) All the above inputs, input services and capital goods are used in the manufacturing process

Following additional information is also provided:

- (i) Value of product 'S' exported to UK in Indian rupees is ₹ 12,00,000. However, value of such product when supplied domestically by the company in similar quantities is ₹ 10,00,000.
- (ii) Betty Enterprises is a 100% export-oriented undertaking. It has claimed the ITC on goods supplied to it by Synotex Pvt. Ltd.
- (iii) The balance in the electronic credit ledger of Synotex Pvt. Ltd. at the end of the tax period for which the refund claim is being filed after GSTR-3B for the said period has been filed is ₹ 5,80,000.
- (iv) The balance in the electronic credit ledger of Synotex Pvt. Ltd. at the time of filing the refund application is ₹ 3,00,000.

Compute the amount refundable to Synotex Pvt. Ltd. for the tax period.

16. (i) Examine whether the suppliers are eligible for composition levy under section 10 of the CGST Act, 2017 in the following independent cases in the beginning of the current financial year.
 - (a) Technology Enterprises, registered in Jalandhar, Punjab, is engaged in manufacturing computer systems. Its aggregate turnover in the preceding financial year is ₹ 125 lakh. Technology Enterprises supplies the computer systems manufactured by it within the State of Punjab only. With a view to expand its business operations, it will also start providing the repairing services of computer systems in the current financial year.

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- (b) M/s. Siddharth & Sons, registered in Delhi, owns a restaurant 'Tasty Foods' with a turnover of ₹ 112 lakh in the preceding financial year. In view of the growing customer demand, it will also start intra-State trading of beverages in Delhi.
- (c) Sitaram Associates, registered in Sikkim, is engaged in running a food chain 'Veg Kitchen' in the State. It has a turnover of ₹ 73 lakh in the preceding financial year. In the current financial year, it decides to shut down the food chain owing to huge losses being incurred in the said business. Instead, it will start providing intra-State architect services.
- (d) Deepti Services Ltd., registered in Uttarakhand, is exclusively providing hair styling services. It has turnover of ₹ 34 lakh in the preceding financial year.

Will your answer be different, if Deepti Services Ltd. also start supplying beauty products alongwith providing hair styling services in the current financial year?

- (ii) Varun & Arun Associates started a partnership firm of architects in Bhopal (Madhya Pradesh) on 01.04.2020. The firm provides architecture services, in Madhya Pradesh. It provided the following details of its turnover:

April - June	₹ 20 lakh
July - Sept	₹ 30 lakh
Oct - Dec	₹ 20 lakh

The firm has obtained the registration under section 22 of the CGST Act, 2017 and pays tax under composition scheme. Determine the tax liability of Varun & Arun Associates for the quarters: Apr-Jun, Jul-Sept and Oct-Dec.

Note: The rates of tax on architectural services are CGST- 9% and SGST-9%.

- 17. Binaca Electronics Ltd. (hereinafter referred to as BEL) is engaged in manufacturing televisions. It is registered in the State of Haryana. It has appointed distributors across the country who sell the televisions manufactured by it. The maximum retail price (MRP) printed on the package of a television is ₹ 12,000. The applicable rate of GST on televisions is 18%. BEL dispatches the stock of televisions to its distributors ordered by them on a quarterly basis.

In order to promote its sales, the Sales Head of BEL has formulated a sales promotion scheme. Under this scheme, BEL offers a discount of 10% (per television) on televisions supplied to the distributors, if the distributors sell 500 televisions in a quarter. The discount is offered on the price at which the televisions are sold to the distributors (excluding all charges and taxes).

It appoints Shah Electronics (an unrelated party as per GST Law) as its distributor in Haryana on 1st April and dispatches 750 televisions on 8th April as stock for the quarter

April-June. BEL has sold the televisions to distributor - Shah Electronics at ₹ 8,400 per television (exclusive of applicable taxes). Shah Electronics has requested BEL for a special packing of the televisions delivered to it for which BEL has charged ₹ 1,200 per television.

Shah Electronics places a purchase order of 1,000 televisions with BEL for the quarter July-September. The distributor reports sales of 700 televisions for the quarter April-June and 850 televisions for the quarter July-September. The discount policy offered by BEL as explained above is also available to Shah Electronics as per the distributorship agreement.

While Shah Electronics reverses the input tax credit availed for the quarter July-September, it has failed to reverse the input tax credit availed for the quarter April-June.

Examine the scenario with reference to section 15 of the CGST Act, 2017 and compute the taxable value of televisions supplied by BEL to Shah Electronics during the quarters April-June and July-September assuming the rate of tax applicable on the televisions as 18%.

18. Answer the following questions:

- (i) Subhashini Ltd. agreed to provide consultancy services to Madhu Enterprises in the month of May for which it received an advance of ₹1,00,000 on 20th April from Madhu Enterprises. Subsequently, in the month of May, before supply of service, the said service contract has to be cancelled owing to some inadvertent circumstances. However, Subhashini Ltd. has issued the invoice for the advance received in April itself and has paid the GST thereon.

You are the tax consultant of Subhashini Ltd. Please advise whether it can claim refund of tax paid or is it required to adjust its tax liability in its returns?

- (ii) Narmada Enterprises, a registered person, pays CGST and SGST on a transaction considered by it to be an intra-State supply. However, subsequently said transaction is held to be an inter-State supply. Examine the recourse available with Narmada Enterprises.

19. Rudraksh Manufacturers, Kolkata, is engaged in manufacturing the textile articles. It has decided to enhance its production capacity in the current year. Therefore, it imports a machine through vessel from George Inc., USA at a price of \$ 31,650 (including transport charges from the factory of George Inc. upto US port of \$ 2,500 and handling charges at US port of \$ 1,750). Rudraksh Manufacturers has provided the following additional information in respect of machine imported:

S.No.	Particulars	Amount
(i)	Charges for design and engineering work undertaken for	US \$ 1,750

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	the machine in US	
(ii)	Buying commission paid by Rudraksh Manufacturers	US \$ 150
(iii)	Freight charges from USA to India	US \$ 3,000
(iv)	Unloading and handling charges paid at the place of importation	₹ 2,250
(v)	Exchange rate to be considered: 1\$ = ₹ 60	

The actual insurance charges paid are not ascertainable. You are required to determine the assessable value of the imported machine under the Customs Act, 1962 from the given particulars.

20. With reference to drawback on re-export of duty paid imported goods under section 74 of the Customs Act, 1962, answer in brief the following questions:
- What is the time limit for re-exportation of goods as such?
 - What is the rate of duty drawback if the goods are exported without use?
 - Is duty drawback allowed on re-export of wearing apparel without use?

SUGGESTED ANSWERS/HINTS

- (d)
- (c)
- (d)
- (c)
- (b)
- (d)
- (a)
- (c)
- (d)
- (c)
- (b)
- (a)
- (c)

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FINAL (OLD) EXAMINATION: NOVEMBER, 2020

14.

S. No.	Particulars	ITC (₹)
(i)	Amount of ITC credited to Electronic Credit Ledger, for the month of July	
	Machinery 1 – 'A' [Note 1]	72,000
	Machinery 2 [Note 2]	36,000
	Machinery 3 [Note 3]	-
	Machinery 4 – 'A' [Note 4]	1,44,000
	Machinery 5 [Note 5]	-
	Machinery 6 – 'A' [Note 6]	<u> </u>
	ITC credited to Electronic Credit Ledger, for the month of July	2,52,000
(ii)	Amount of ineligible credit (T_{ie}) for the month of July [Note 7]	21,600
(iii)	Aggregate value of common credit (T_c) [Note 8]	
	Value of 'A' for Machinery 1 purchased on 1 st July and used for effecting both taxable and exempt supplies	72,000
	Value of 'A' for Machinery 4 purchased on 1 st October last year for being used for effecting exclusively exempt supplies and used for effecting both taxable and exempt supplies from 1 st July	1,44,000
	Value of 'A' for Machinery 6 purchased on 1 st July two years ago and used for effecting both taxable and exempt supplies	1,08,000
	Input tax claimed on Machinery 5 purchased on 1 st January for being used for effecting exclusively taxable supplies and used for effecting both taxable and exempt supplies from 1 st July [Note 9]	<u>18,000</u>
	Aggregate value of common credit (T_c) for the month of July – T_c [Note 9]	3,42,000
(iv)	Common credit for the month of July (T_m) [Note 10]	5,700

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Notes:

- (1) ITC in respect of capital goods used commonly for effecting taxable supplies and exempt supplies denoted as 'A' shall be credited to the electronic credit ledger [Rule 43(1)(c) of the CGST Rules, 2017].
- (2) ITC in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies but including zero rated supplies shall be credited to the electronic credit ledger [Rule 43(1)(b) of the CGST Rules, 2017].
- (3) ITC in respect of capital goods used or intended to be used exclusively for effecting exempt supplies shall not be credited to electronic credit ledger [Rule 43(1)(a) of the CGST Rules, 2017].
- (4) When capital goods which were initially used exclusively for exempt supplies are subsequently used commonly for exempt supplies as well as taxable supplies, input tax in respect of the same denoted as 'A' shall be credited to the electronic credit ledger [Rule 43(1)(c) of the CGST Rules, 2017].
- (5) Machinery 5 is used for effecting both taxable and exempt supplies since 1st July. Prior to that, it was exclusively used for effecting taxable supplies. Therefore, ITC in respect of such machinery would have already been credited to the electronic credit ledger.
- (6) Machinery 6 is being used for effecting both taxable and exempt supplies from 1st July two years ago. Therefore, ITC in respect of such machinery would have already been credited to the electronic credit ledger.
- (7) When capital goods which were used exclusively for exempt supplies are subsequently used commonly for exempt supplies as well as taxable supplies, input tax in respect of the same is credited in the electronic credit ledger. The ineligible credit 'T_{ie}' attributable to the period during which such capital goods were used for making exempt supplies is computed @ 5% per quarter or part thereof and added to the output tax liability of the tax period in which such credit is claimed [Rule 43(1)(c) of the CGST Rules, 2017].

Thus, 'T_{ie}' shall be computed as under-

$$= ₹ 1,44,000 \times 5\% \times 3 \text{ quarters}$$

$$= ₹ 21,600$$

- (8) The aggregate of the amounts of 'A' credited to the electronic credit ledger in respect of common capital goods whose useful life remains during the tax period, to be denoted as 'T_c', shall be the common credit in respect of such capital goods [Rule 43(1)(d) of the CGST Rules, 2017].
- (9) Where any capital goods which were used exclusively for effecting taxable supplies are subsequently also used for effecting exempt supplies, the input tax credit

claimed in respect of such capital goods shall be added to arrive at the aggregate value of common credit 'Tc' [Proviso to rule 43(1)(d) of the CGST Rules, 2017].

- (10) ITC attributable to a month on common capital goods during their useful life (T_m) shall be computed in accordance with rule 43(1)(e) of CGST Rules, 2017 as under:

$$\begin{aligned} &= T_c \div 60 \\ &= ₹ 3,42,000 \div 60 \\ &= ₹ 5,700 \end{aligned}$$

The useful life of any capital goods shall be considered as five years from the date of invoice and the said formula shall be applicable during the useful life of the said capital goods.

15. Export of product 'S'

Export of goods is a zero rated supply in terms of section 16(1)(a) of the IGST Act, 2017. Section 16(2) of the IGST Act, 2017 stipulates that subject to the provisions of section 17(5) of the CGST Act, 2017, ITC may be availed for making zero-rated supplies even if such supply may be an exempt supply. As per section 54(3)(i) of the CGST Act, 2017, a registered person may claim refund, of any unutilised ITC at the end of any tax period in the case of zero rated supply made without payment of tax.

Therefore, in the given case, Synotex Pvt. Ltd. will be eligible to claim ITC for export of exempt product 'S' in terms of section 16(2) of the IGST Act, 2017 and will thus, be able to claim refund of unutilised ITC in terms of section 54(3)(i) of the CGST Act, 2017.

As per rule 89(4) of the CGST Rules, 2017, refund of unutilized ITC in case of zero rated supply without payment of tax under letter of undertaking is granted in accordance with the following formula:

$$\text{Refund Amount} = \frac{(\text{Turnover of zero rated supply of goods} + \text{Turnover of zero rated supply of services})}{\text{Adjusted Total Turnover}} \times \text{Net ITC}$$

Here,

Net ITC = ₹ 7,00,000 [Net ITC includes ITC on inputs and input services but not ITC on capital goods].

Turnover of zero-rated supply of goods (Product 'S') = ₹ 12,00,000 [Lower of the value of zero rated supply of goods (₹ 12,00,000) or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier (₹ 15,00,000)].

Adjusted total turnover = ₹ 32,00,000 [₹ 20,00,000 + ₹ 12,00,000]

Thus, refund amount under rule 89(4)

$$= ₹ 7,00,000 \times ₹ 12,00,000 / ₹ 32,00,000 = ₹ 2,62,500.$$

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Circular No. 125/44/2019 GST dated 18.11.2019 provides that amount refundable to the applicant is least of the following amounts:

- (a) Maximum refund amount as per the formula in rule 89(4) of the CGST Rules [₹ 2,62,500]
- (b) Balance in the electronic credit ledger at the end of the tax period for which the refund claim is being filed after GSTR-3B for the said period has been filed [₹ 5,80,000]
- (c) Balance in the electronic credit ledger at the time of filing the refund application [₹ 3,00,000]

Thus, amount refundable to Synotex Pvt. Ltd. of unutilized ITC is ₹ 2,62,500.

Supply of product 'R' to Betty Enterprises, a 100% EOU

Supplies to EOU is notified as deemed export under section 147 vide *Notification No. 48/2017 CT dated 18.10.2017*. In respect of supplies regarded as deemed exports, the application of refund can be filed by the supplier of deemed export supplies only in cases where the recipient does not avail of ITC on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund [Third proviso to rule 89(1) of the CGST Rules, 2017]. Therefore, since in the given case, Betty Enterprises (recipient) is claiming ITC, Synotex Pvt. Ltd. (supplier of deemed exports) cannot claim refund of ITC.

Therefore, amount refundable to Synotex Pvt. Ltd. is ₹ 2,62,500.

16. (i) As per section 10(1) of the CGST Act, 2017, the following registered persons, whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5 crore, may opt to pay tax under composition levy:
- (i) Manufacturer,
 - (ii) Persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II (restaurant services), and
 - (iii) Any other supplier eligible for composition levy.

The composition scheme under sub-sections (1) and (2) of section 10 can essentially be availed in respect of goods and only one service namely, restaurant service. However, the scheme permits supply of other marginal services for a specified value along with the supply of goods and restaurant service, as the case may be. Such marginal services can be supplied for a value up to 10% of the turnover in the preceding year or ₹ 5 lakh, whichever is higher. Further, the registered person should not be engaged in making any inter-State outward supplies of goods.

Furthermore, newly inserted section 10(2A) of the CGST Act, 2017 provides an option to a registered person, who is not eligible to pay tax under section 10(1) and

10(2), of paying tax @ 6% (CGST-3% and SGST/UTGST-3%) provided his aggregate turnover in the preceding financial year is upto ₹ 50 lakh. Said person can pay tax @ 6% of the turnover in State or turnover in Union territory up to an aggregate turnover of ₹ 50 lakh, subject to specified conditions. One of such condition is that the registered person should not be engaged in making any inter-State outward supplies of goods or services.

In view of the above-mentioned provisions, the answer to the given independent cases is as under:-

- (a) The turnover limit for being eligible for composition scheme under sub-sections (1) and (2) of section 10 of the CGST Act, 2017 for Jalandhar (Punjab) is ₹ 1.5 crore in the preceding financial year. Thus, Technology Enterprises can opt for said composition scheme as its aggregate turnover is less than ₹ 1.5 crore in the preceding financial year and it is making intra-State supplies. Further, since the registered person opting for composition scheme can also supply services (other than restaurant services) for a value up to 10% of the turnover in the preceding year or ₹ 5 lakh, whichever is higher. Thus, Technology Enterprises can supply repair services up to a value of ₹ 12.5 lakh [10% of ₹ 125 lakh] in the current financial year.

- (b) In the given case:-

- (i) the turnover in the preceding year is less than the eligible turnover limit under composition scheme under sub-sections (1) and (2) of section 10 of the CGST Act, 2017 for Delhi, i.e. ₹ 1.5 crore.
- (ii) the supplier is engaged in providing restaurant service which is an eligible supply under said composition scheme.
- (iii) the supplier wants to engage in trading of goods which is also an eligible supply under said composition scheme.

Thus, M/s. Siddharth & Sons is eligible for composition scheme under sub-sections (1) and (2) of section 10 of the CGST Act, 2017.

- (c) The turnover limit for being eligible for composition scheme under sub-sections (1) and (2) of section 10 of the CGST Act, 2017 for Sikkim is ₹ 75 lakh in the preceding financial year. However, a registered person who is exclusively engaged in supplying services other than restaurant services are not eligible for said composition scheme. Thus, Sitaram Associates cannot opt for composition scheme under sub-sections (1) and (2) of section 10.

However, the benefit of composition scheme under section 10(2A) of the CGST Act, 2017 is available in case of a registered person who is not eligible to pay tax under sub-sections (1) and (2) of section 10 provided its aggregate turnover in the preceding financial year does not exceed ₹ 50 lakh.

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Thus, in view of the above-mentioned provisions, Sitaram Associates cannot avail the benefit of composition scheme under section 10(2A) also as its aggregate turnover in the preceding financial year is more than ₹ 50 lakh.

- (d) A service provider can opt for the composition scheme under sub-sections (1) and (2) of section 10 of the CGST Act, 2017 only if he is engaged in supply of restaurant services. Said scheme permits supply of marginal services for a specified value, but only when the same are supplied along with goods and/ or restaurant service.

Since Deepti Services Ltd. is exclusively engaged in supply of services other than restaurant services, it is not eligible for composition scheme sub-sections (1) and (2) of section 10 even though its turnover in the preceding year is less than ₹ 75 lakh, the eligible turnover limit for Uttarakhand.

However, since Deepti Services Ltd. is not eligible to opt for composition scheme under sub-sections (1) and (2) of section 10 and its aggregate turnover in the preceding financial year does not exceed ₹ 50 lakh, Deepti Services Ltd. is entitled to avail benefit of composition scheme under section 10(2A) of the CGST Act, 2017 in the current financial year.

Further, the answer will remain the same even if Deepti Services Ltd. also start supplying beauty products along with providing hair styling services in the current financial year since it fulfils the conditions laid down for availing the benefit of composition scheme under section 10(2A) of the CGST Act. It can avail the benefit of composition scheme under section 10(2A) till the time its aggregate turnover in the current year doesn't exceed ₹ 50 lakh.

- (ii) The composition scheme under sub-sections (1) and (2) of section 10 of the CGST Act, 2017 is available in case of goods and restaurant service. Further, marginal services upto specified limit can be provided along with the supply of goods or restaurant service, as the case may be. Since, in the given case, Varun & Arun Associates is supplying services other than restaurant services, it is not eligible to pay tax under sub-sections (1) and (2) of section 10. However, section 10(2A) of the CGST Act, 2017 provides an option to a registered person, who is not eligible to pay tax under sub-sections (1) and (2) of section 10, of paying tax @ 6% (CGST-3% and SGST/UTGST-3%) provided his aggregate turnover in the preceding financial year is upto ₹ 50 lakh. Said person can pay tax @ 6% of the turnover in State or turnover in Union territory up to an aggregate turnover of ₹ 50 lakh, subject to specified conditions.

In the given case, Varun & Arun Associates has started the supply of services in the current financial year. Therefore, its aggregate turnover in the preceding financial year is Nil. Consequently, it is eligible to avail the benefit of composition scheme under section 10(2A) of the CGST Act in the current financial year. It becomes eligible for the registration when its aggregate turnover exceeds ₹ 20 lakh. While

registering under GST, it has to opt for composition scheme under section 10(2A).

For determining its turnover of the State for payment of tax under composition scheme for services, turnover of April-June quarter [₹ 20 lakh] shall be excluded as the value of supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act are to be excluded for this purpose.

On next ₹ 30 lakh [turnover of July-Sept quarter], it shall pay tax @ 6% [3% CGST and 3% SGST], i.e. CGST ₹ 90,000 and SGST ₹ 90,000.

By the end of July-Sept quarter, its aggregate turnover reaches ₹ 50 lakh*.

Consequently, its option to avail composition scheme under section 10(2A) shall lapse by the end of July-Sept quarter and thereafter, it is required to pay tax at the normal rate. Thus, the tax payable for Oct-Dec quarter is ₹ 20 lakh × 9%, i.e. CGST - ₹ 1,80,000 and SGST - ₹ 1,80,000.

*Note - While computing aggregate turnover for determining Varun & Arun Associates' eligibility to pay tax under composition scheme, value of supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act (i.e. turnover of April-June quarter), are included.

17. Section 15(3)(a) of the CGST Act, 2017 allows discounts to be deducted from the value of taxable supply if the same is given before or at the time of the supply and if such discount has been duly recorded in the invoice issued in respect of such supply. In other words, pre-supply discounts recorded in invoices are allowed as deduction.

Further, post supply discounts are also allowed as deduction from the value of supply under section 15(3)(b) of the CGST Act if-

- (i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and
- (ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

In the given case, Shah Electronics is entitled for 10% discount on televisions supplied by BEL for the quarters April-June as well as July-September as it has sold more than 500 televisions in each of these quarters. However, since the sales targets are achieved after the entire stock for the respective quarters of April-June and July-September has been dispatched, the discounts on the televisions supplied to Shah Electronics for the quarters of April-June and July-September is a post-supply discount.

Such post-supply discount will be allowed as a deduction from the value of supply since the discount policy was known before the time of such supply and the discount can be specifically linked to relevant invoices (invoices pertaining to televisions supplied to Shah Electronics for the quarters of April-June and July-September) provided Shah Electronics

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reverses the input tax credit attributable to the discount on the basis of document issued by BEL.

The value of supply for the quarters of April-June and July-September will thus, be computed as under:

Computation of value of supply for the quarter - April-June

Particulars	Amount (₹)
Price at which the televisions are supplied to Shah Electronics [Note 1]	8,400
Add: Packing expenses [Note 2]	1,200
Less: Discount [Note 3]	<u>Nil</u>
Value of taxable supply of one unit of television	9,600
Value of taxable supply of televisions for the quarter April-June [₹ 9,600 x 750]	72,00,000

Notes:

- (1) The value of a supply is the transaction value, which is the price actually paid or payable for the said supply, in terms of section 15(1) of the CGST Act, 2017 presuming that the supplier and the recipient of supply are not related and price is the sole consideration for the supply as the supplier and recipient are not related parties.
- (2) The value of supply includes incidental expenses like packing charges in terms of section 15(2)(c) of the CGST Act.
- (3) Since Shah Electronics has not reversed the input tax credit attributable to such discount on the basis of document issued by BEL, the conditions specified in section 15(3)(b) of the CGST Act have not been fulfilled. Thus, the post-supply discount will not be allowed as deduction from the value of supply.

Computation of value of supply for quarter - July-September

Particulars	Amount (₹)
Price at which the televisions are supplied to Shah Electronics [Note 1]	8,400
Add: Packing expenses [Note 2]	1,200
Less: Discount [Note 3]	<u>(840)</u>
Value of taxable supply of one unit of television	8,760

Value of taxable supply of televisions for the quarter July-September [₹ 8,760 x 1,000]	87,60,000
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Notes:

- (1) The value of a supply is the transaction value, which is the price actually paid or payable for the said supply, in terms of section 15(1) of the CGST Act presuming that the supplier and the recipient of supply are not related and price is the sole consideration for the supply as the supplier and recipient are not related parties.
 - (2) The value of supply includes incidental expenses like packing charges in terms of section 15(2)(c) of the CGST Act.
 - (3) Since all the conditions specified in section 15(3)(b) of the CGST Act have been fulfilled, the post-supply discount will be allowed as deduction from the value of supply. The input tax credit to be reversed will work out to be ₹1,51,200 [1,000 x (8,400 x 10%) x 18%].
18. (i) In case GST is paid by the supplier on advances received for a future event which got cancelled subsequently and for which invoice is issued before supply of service, the supplier is required to issue a "credit note" in terms of section 34 of the CGST Act, 2017. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to conditions of section 34. There is no need to file a separate refund claim.

However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a refund claim [Circular No. 137/07/2020 GST dated 13.04.2020].

Therefore, in the given case, Subhashini Ltd. is required to issue a credit note, declare its details in the return for the month during which such credit note has been issued and adjust the tax liability. However, if there is no output liability of Subhashini Ltd. against which the said credit note can be adjusted, it may proceed to file a refund claim.

- (ii) Section 77(1) of the CGST Act, 2017 stipulates that a registered person who has paid the Central tax and State tax or, as the case may be, the Central tax and the Union territory tax on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall be refunded the amount of taxes so paid.

Further, section 19(2) of the IGST Act, 2017 provides that a registered person who has paid central tax and State tax or Union territory tax, as the case may be, on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall not be required to pay any interest on the amount of integrated tax payable.

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Thus, in the given case, Narmada Enterprises shall be refunded the amount of taxes so paid and it shall not be required to pay any interest on the amount of IGST payable by it on the transaction wrongly considered by it earlier as intra-State transaction.

19.

Computation of assessable value of imported goods

Particulars	Amount (US \$)
Price of the machine (including transport charges from the factory of George Inc. upto US port and handling charges at US port) [Note-1]	31,650
Add: Charges for design and engineering work undertaken for the machine in USA [Note 2]	1,750
Buying commission [Note 3]	<u>Nil</u>
FOB value	33,400.00
Add: Freight charges up to India [Note-1]	3,000.00
Insurance charges @ 1.125% of FOB [Note 4]	375.75
CIF value	36,775.75
Add: Unloading and handling charges paid at the place of importation [Note 5]	<u>Nil</u>
Assessable value	36,775.75
Assessable value in Indian rupees @ ₹ 60/ per \$	₹ 22,06,545

Notes:

- (1) The cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation are includible in the assessable value [Rule 10(2)(a) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR)].
- (2) Design and engineering work undertaken elsewhere than in India and necessary for the production of the imported goods is includible in the assessable value [Rule 10(1)(b)(iv) of the CVR].
- (3) Buying commission is not included in the assessable value [Rule 10(1)(a)(i) of the CVR].
- (4) If insurance cost is not ascertainable, the same shall be added @ 1.125% of FOB value of the goods [Third proviso to rule 10(2) of the CVR].
- (5) By virtue of rule 10(2) of the CVR, only charges incurred for delivery of goods "to" the place of importation are includible in the transaction value. The loading,

unloading and handling charges associated with the delivery of the imported goods at the place of importation are not to be added to the CIF value of the goods. [Circular No. 39/2017 Cus. dated 26.09.2017].

20. (i) As per section 74 of the Customs Act, 1962, the duty paid imported goods are required to be entered for export within 2 years from the date of payment of duty on the importation. This period can be extended by CBIC if the importer shows sufficient reason for not exporting the goods within 2 years.
- (ii) If duty paid imported goods are exported without use, then 98% of such duty is re-paid as drawback.
- (iii) Yes, duty drawback is allowed when wearing apparels are re-exported without being used. However, *Notification No. 19/65 Cus dated 06.02.1965* as amended provides that if wearing apparels have been used after their importation into India, drawback of import duty paid thereon shall not be allowed when they are exported out of India.