



PAPER – 5: INDIRECT TAX LAWS

- (1) All questions have been answered on the basis of position of (i) GST law as amended by the Finance Act, 2023 including significant notifications and circulars and other legislative amendments made, up to 30th April, 2024 and (ii) customs law as amended by the Finance Act, 2023 including significant notifications and circulars and other legislative amendments made, up to 30th April, 2024.**
- (2) Unless otherwise specified, the section numbers and rules referred in questions and answers relating to GST pertain to the Central Goods and Services Tax Act, 2017 and the Central Goods and Services Tax Rules, 2017 respectively.**
- (3) The GST rates for goods and services mentioned in various questions are hypothetical and may not necessarily be the actual rates leviable on those goods and services. The rates of customs duty are also hypothetical and may not necessarily be the actual rates. Further, GST compensation cess should be ignored in all the questions, wherever applicable.**



QUESTIONS

Case scenario - I

Shreyans Ltd. (hereinafter referred as "company") is a conglomerate having diversified businesses including hotels, FMCG (Fast-Moving Consumer Goods), information technology etc. It has its corporate office in Delhi and operations across multiple States in India. As an internal policy, the company has obtained single GST registration in each State irrespective of the diversified business operations being undertaken in the State. During the month of April, the company undertook the following transactions:

- (a) The FMCG division of the company in Jaipur, Rajasthan agreed to use the vacant godown within the premises of Hotel Division in Udaipur, Rajasthan for storage of its goods. The value of such an arrangement was agreed at ₹ 5 lakh per month. Said amount was agreed to be adjusted by way of intra-division book adjustment on a monthly basis.
- (b) The Hotel Division of the company in Maharashtra used the IT platform owned and managed by the IT Division of the company in Delhi. The value of such services was determined as ₹ 12 lakh per month. The IT division treated the same as deemed supply liable to GST as per Schedule I of the CGST Act, 2017 and charged GST on such deemed supply in the invoice issued to Hotel Division on 25th April. The Hotel Division availed the input tax credit of such deemed supplies from its Maharashtra Office in April itself. However, no payment was made for such services by the Hotel Division to the IT Division.
- (c) The Executive Director, as part of his salary and perquisites under the employment agreement, was eligible for a voucher worth ₹ 5 lakh, redeemable at any hotel property of the company in India. The voucher was used by the Executive Director for the stay of his family in a company owned hotel in Udaipur, Rajasthan. The total amount charged from the Executive Director was ₹ 25 lakh. The voucher value of ₹ 5 lakh was deducted from such amount at the time of payment.
- (d) The Hotel Division provided accommodation services to a US citizen and resident for a wedding ceremony organized at its hotel in Udaipur, Rajasthan. The total amount of ₹ 2 crores for such services was paid by an Indian individual residing in Delhi on behalf of the US resident in Indian currency. The amount was received by the Mumbai, Maharashtra Office of Hotel Division.
- (e) The company received long term lease of an industrial plot from Maharashtra Industrial Development Corporation (MIDC) in auction against payment of an upfront amount as lease premium of ₹ 20 crores for a period of 50 years. The company paid location charges of ₹ 5 crores in addition to the said premium.

The rate of GST in case of intra-State supplies, unless otherwise provided shall be 9% CGST and 9% SGST) and for inter-State supplies shall be 18% IGST. All

the divisions of the Company are eligible for 100% input tax credit unless otherwise specified.

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

1. Which of the following statements is correct in respect of the services related to usage of vacant godown?
 - (a) The Hotel Division shall charge CGST and SGST amounting to ₹ 45,000 each in the tax invoice issued to FMCG Division.
 - (b) No GST is chargeable on usage of vacant godown of Hotel Division.
 - (c) The Hotel Division shall charge IGST amounting to ₹ 90,000 in the tax invoice issued to FMCG Division.
 - (d) The Hotel Division, Rajasthan shall charge IGST amounting to ₹ 90,000 in the tax invoice issued to Corporate Office in Delhi.

2. Assuming that the payment for utilization of IT platform has not been made by the Hotel Division to the IT Division till the end of October month of the current financial year, the Hotel Division:
 - (a) should reverse the input tax credit so availed while filing Form GSTR-3B of the October month.
 - (b) need not reverse the input tax credit so availed in Form GSTR-3B of the October month.
 - (c) should have availed the input tax credit only after the end of the current financial year and not in April.
 - (d) should not have availed the input tax credit in respect of said transaction as the same is deemed supply under Schedule I of the CGST Act, 2017.

3. In relation to the stay of Executive Director's family in the company owned hotel in Udaipur, Rajasthan, value of supply of accommodation services provided by the Hotel Division is:
 - (a) ₹ 25 lakh
 - (b) ₹ 20 lakh

- (c) Supply of services by employer to employee is not a taxable supply under GST.
 - (d) ₹ 5 lakh
4. For the accommodation services provided to the US resident and citizen, the place of supply shall be:
- (a) Udaipur
 - (b) Delhi
 - (c) Mumbai
 - (d) USA
5. In respect of the long-term lease of the industrial plot received from Maharashtra Industrial Development Corporation (MIDC),
- (a) upfront lease premium of ₹ 20 crores is exempt. However, the location charges of ₹ 5 crore are liable to GST.
 - (b) GST is payable on the upfront lease premium of ₹ 20 crores. No GST is payable on the location charges.
 - (c) GST is exempt on the entire premium of ₹ 25 crores including location charges.
 - (d) GST is payable on the entire upfront premium of ₹ 25 crores including location charges.

Vlook Smart Ltd. (hereinafter referred as "company") is a leading retail chain of India. It has retail stores in multiple States with its corporate office located in Mumbai, Maharashtra. The company has GST registrations across all States from where it operates its retail stores. The company undertook following transactions during the month of April:

- (a) Supplied goods worth ₹ 100 crores through its retail store in Jaipur, Rajasthan and offered a cash discount of ₹ 2 crores to the customers in the State of Rajasthan during the month.
- (b) Ghanshyam Das, a retailer in Gujarat, purchased goods worth ₹ 5 lakh in the month of January of the preceding financial year. Subsequently, the company offered an incentive on such purchases to Ghanshyam Das by issuing a commercial credit note of ₹ 50,000 in the month of April.

- (c) The company also charges slotting fee from the manufacturers of goods to keep their products on the shelf for sale. The company received ₹ 5 crores from a manufacturer located in West Bengal for keeping its products on shelf of its store for sale in the State of Haryana. The payment for the same was received at Mumbai Head Office of the company. The invoice for the same was issued by the Haryana registration of the company.
- (d) The company received an amount of ₹ 2 crores in April as penalty for delayed receipt of consideration from its customers for sale of goods made in the month of January of the preceding financial year in the retail store of Jaipur, Rajasthan.
- (e) The company entered into a rental agreement with a registered person for an upcoming retail store (a commercial property) in Ahmedabad, Gujarat. The said store location is outside the municipal limits of Ahmedabad. The rental per month payable from April is ₹ 50 lakh which is paid to the owner registered in Ahmedabad, Gujarat, by the Mumbai Head Office of the company as the company follows a centralized rental agreement policy for all stores. The invoice for the same is issued to the respective registered office in Gujarat.
- (f) The company incurred an expense of ₹ 50 lakh in transportation of empty cargo containers to its centralized warehouse in Mumbai from all the States through a Goods Transport Agency.

The rates of GST, unless otherwise specified, shall be 9% CGST, 9% SGST and 18% IGST. All the divisions of the company are eligible for 100% input tax credit unless otherwise specified.

Based on the facts of the case scenario given above, choose the most appropriate answer to Q. Nos. 6 to 11 below:-

6. The value of supply on which GST is payable for the month of April for the Rajasthan State is:
- (a) ₹ 96 crores
- (b) ₹ 100 crores
- (c) ₹ 98 crores
- (d) ₹ 102 crores

7. In relation to the incentive paid to Ghanshyam Das in Gujarat,
- (a) the company shall reverse proportionate input tax credit.
 - (b) there is no GST implication on the company and Ghanshyam Das.
 - (c) Ghanshyam Das shall reverse the input tax credit availed on the purchase.
 - (d) the company shall reduce the tax liability and Ghanshyam Das shall increase the tax liability for the month of April.
8. In relation to the slotting fee charged,
- (a) tax is payable by the company in Haryana.
 - (b) tax is payable by the manufacturer in West Bengal.
 - (c) tax is payable by the company in Maharashtra.
 - (d) slotting fee is exempted from GST.
9. The tax on penalty received on account of delayed payment of consideration is payable at the time of filing return of _____.
- (a) April
 - (b) January
 - (c) Either April or January at the option of the company
 - (d) No tax is payable on the penalty received on account of delayed payment of consideration.
10. The GST on rental amount of upcoming store near Ahmedabad shall be:
- (a) ₹ 4.5 lakh CGST and ₹ 4.5 lakh SGST, payable by owner in Gujarat.
 - (b) ₹ 9 lakh IGST, payable by owner in Gujarat.
 - (c) nil since store is located outside the municipal limits.
 - (d) ₹ 9 lakh IGST, payable under reverse charge mechanism by Mumbai Head Office, Maharashtra.
11. For the empty cargo containers transported to Mumbai warehouse,:
- (a) e-way bill shall be issued by respective dispatch locations of the company.

- (b) e-way bill shall be issued by the warehouse location in Mumbai.
- (c) no e-way bill is required to be issued.
- (d) e-way bill shall be issued by the Goods Transport Agency.
12. Mr. Mota Lal is engaged in the wholesale business of dry fruits. He imported 5,150 kg of almonds from California. Post importation, he did not clear them for home consumption but kept the imported almonds in a customs warehouse due to the renovation work going on in his retail store. Mr. Banshi Lal, the warehouse keeper, is of the view that titular rights of the almonds vest with him and Mr. Mota Lal has no access to them. However, Mr. Mota Lal wishes to inspect the goods and ensure that goods do not deteriorate during storage in the warehouse and thereafter, show them for sale to Mr. Manohar Lal.
- Which of the following statement(s) is correct in the given case as per the provisions of the Customs Act, 1962?
- (a) The view taken by Mr. Banshi Lal is correct.
- (b) The view taken by Mr. Banshi Lal is incorrect. However, Mr. Mota Lal can only inspect the goods.
- (c) The view taken by Mr. Banshi Lal is incorrect. However, Mr. Mota Lal can only inspect the goods and ensure that goods do not deteriorate during storage in the warehouse but thereafter he cannot show them in warehouse for sale to Mr. Manohar Lal.
- (d) The view taken by Mr. Banshi Lal is incorrect. Further, Mr. Mota Lal can inspect the goods and ensure that goods do not deteriorate during storage in the warehouse and also thereafter, he can show them in warehouse for sale to Mr. Manohar Lal.
13. Mr. Dinkar is the owner of Dinkar Associates which is registered in Ahmedabad, Gujarat. He is engaged in supply of various goods and services in the domestic market and exporting the same outside India. During the month of February, he has undertaken the following transactions:

Outward Supplies

- (i) Transferred the tenancy rights of a commercial complex (taken on rent) located in Vadodra for a tenancy premium of ₹ 8,00,000 to DB Morgan Ltd. of Ahmedabad, Gujarat. Stamp duty and registration fee have already been paid on the tenancy premium.
- (ii) Hired out excavators and dumpers alongwith operators to mining lease holders of Kuchchh, Gujarat for extracting and transporting minerals within the mining area for a period of 5 years. The excavators/dumpers are invariably hired out along with operators. Similarly, operators are supplied only when the excavators/dumpers are hired out. Hire charges for excavators and dumpers are ₹ 10,00,000 and service charges for supply of manpower for operation of the excavators/dumpers - ₹ 2,00,000.
- (iii) Supplied goods of value of ₹ 35,00,000 to Choksi Ltd. Jamnagar, Gujarat (including goods worth ₹ 10,00,000 supplied to SEZ unit of Choksi Ltd. in Gujarat).
- (iv) Agreed to provide consultancy services to Mr. Krishna of Surat, Gujarat who is an unregistered person in connection with his newly commenced business for a consideration of ₹ 6,80,000. An advance of ₹ 1,50,000 has been received for the same on 10th February.
- (v) Exported the goods to George Inc. of the USA. FOB value of the goods is ₹ 8,40,000.
- (vi) Sold a heavy printing machinery purchased from Japan for ₹ 5,10,000 in high sea to Dhoomketu Printers, Mumbai, Maharashtra on 10th February.
- (vii) Supplied goods to Timahi Corporation, China for ₹ 12,00,000 on 15th February. These goods were purchased for ₹ 10,00,000 from Jamsam Corporation, Japan on 5th February and were supplied in China without bringing them to India.

Inward Supplies

- (i) The goods exported to George Inc., USA, were purchased by Mr. Dinkar as a merchant exporter for ₹ 7,00,000 from Shravan Ltd., a manufacturer registered in Bengaluru, Karnataka.
- (ii) The heavy printing machinery sold in high sea to Dhoomketu Printers was originally imported by Mr. Dinkar from Japan on 2nd February, with CIF value of ₹ 5,00,000 and FOB value of ₹ 4,50,000.
- (iii) Mr. Dinkar paid a sales commission of ₹ 5,00,000 to Mr. Kenzo of Japan, his agent in connection with all the imports from Japan.
- (iv) Imported raw materials from Italy under a CIF contract. CIF value of the goods for the purpose of customs included ₹ 2,00,000 as ocean freight paid by the exporter on transport of goods through vessel from port of shipment to port of import. The value for the purpose of levy of IGST worked out by the customs was ₹ 9,00,000.
- (v) Purchased raw cotton for manufacture of garments for ₹ 12,00,000 from Mr. Poonawala, an agriculturist of Kuchch, Gujarat.
- (vi) Monthly rent of ₹ 35,00,000 payable to Dharam Ltd., Gujarat, for the retail outlet (a commercial property) in Ahmedabad, Gujarat (one third of total space available is used by Mr. Dinkar for personal residential purposes).

Compute the net GST payable in cash [CGST and SGST or IGST, as the case may be], by Mr. Dinkar for February.

Notes:

- A. Rates of CGST, SGST and IGST for hiring out of excavators and dumpers are 6%, 6% and 12%. As regards the supply received as a merchant exporter, Mr. Dinkar paid GST at the concessional rates by fulfilling all requisite conditions thereof. Rates of CGST, SGST and IGST for all the other supplies of goods and services including supply of manpower services are 9%, 9% and 18%. Ignore GST compensation cess.
- B. Mr. Dinkar had an opening balance of ITC of CGST of ₹ 35,000 and SGST of ₹ 35,000 for the relevant period. In respect of all the inward supplies, suppliers have uploaded their invoices in

respective Form GSTR-1 and the supplies are reflected in Form GSTR 2B.

- C. All the figures given above are exclusive of GST, wherever applicable. The amounts given in respect of import and export transactions in rupees have been arrived after conversion thereof, though transactions were undertaken in convertible foreign currency.
- D. Mr. Dinkar always makes zero-rated supplies under a bond or letter of undertaking (LUT).

Provide supporting explanatory notes for your conclusion wherever required.

14. Mr. Jignesh of Delhi books accommodation, through an e-commerce operator - Plan My Trip Ltd. (PMTL), registered under GST in Uttarakhand, in a newly established budget hotel – Paras Resorts Ltd. (PRL) located in Nainital, Uttarakhand. The turnover of PRL in the current financial year is ₹ 18 lakh.

PRL raises an invoice for ₹ 1,00,000 to Mr. Jignesh. PMTL collects the payment from Mr. Jignesh and after deducting its fees and other charges from the same, remits the balance amount to PRL.

Advise PRL as to whether it is required to obtain GST registration. Also, whether tax is required to be collected at source by PMTL under section 52 on the services provided by PRL to Mr. Jignesh through electronic commerce operator – PMTL. If yes, determine the amount of tax to be collected at source.

Suppose in the above case, other facts remaining same, if PRL, supplying accommodation services, is also an e-commerce operator (registered in Uttarakhand as TCS collector as well as a regular tax payer since its aggregate turnover exceeds the threshold limit) and PMTL has an agreement with PRL for booking the accommodation at the time when Mr. Jignesh booked the accommodation, ascertain whether tax is required to be collected at source under section 52 on the services provided by PRL to Mr. Jignesh through electronic commerce operator – PMTL. If yes, determine the amount of tax to be collected at source and since two e-

commerce operators are involved in the said transaction, who is required to collect the tax at source under section 52?

Note – Amounts given above are exclusive of GST. Assume applicable rate of CGST and SGST to be 9% each and IGST to be 18%.

15. A notice for audit under section 65 is served by the proper officer on the basis of risk assessment to Ghoomghoom Pvt. Ltd. on 02.12.2023 for audit of financial years 2021-22 and 2022-23. The tax authorities visited its place of business on 20.12.2023 and requested for certain records, documents and books of accounts, from the company. The required records, documents and books of accounts are provided by Ghoomghoom Pvt. Ltd. on 30.12.2023. After in-depth checking of records, documents and books made available by Ghoomghoom Pvt. Ltd. during audit, the audit was completed on 25.03.2024 and audit findings were communicated to the taxpayer in prescribed form by said date. However, the accountant of Ghoomghoom Pvt. Ltd. is of the view that-
- (i) the tax authorities have completed the audit of Ghoomghoom Pvt. Ltd. after the lapse of the maximum time-period permitted by the GST law and
 - (ii) the tax authorities cannot conduct the audit of two financial years at a time.

Ghoomghoom Pvt. Ltd. has approached you to advise you on the said issues. You are required to determine the technical veracity of the above views of the accountant of Ghoomghoom Private Ltd. on the same with reference to the relevant provisions of the GST law.

16. Agora Ltd. exported certain goods to its customer located in Germany against which a refund of IGST amounting to ₹ 50 lakh was claimed and received by Agora Ltd. The sale proceeds covering 50% of the value of exports were immediately received by Agora Ltd. However, due to financial constraints, the customer failed to pay the balance amount of sale proceeds within the permissible time limits under regulatory provisions prevailing in India.

In view of the aforesaid scenario:

- (a) Determine the amount of refund, if any, which Agora Ltd. is required to deposit back. Also, discuss the time limit which is permissible under law within which the sale proceeds in respect of exported goods should have been realized by Agora Ltd.
- (b) Will your answer to sub-part (a) differ if the Reserve Bank of India writes off the requirement of realisation of sale proceeds on merits?
- (c) Whether Agora Ltd. can claim the refund back in case sale proceeds are realised at a later date?
17. Discuss the cases where a registered person is not allowed to furnish the details of outward supplies under section 37 in Form GSTR-1 or using invoice furnishing facility, as enumerated in rule 59.
18. Paramjit Ltd. imported a machine from Oliver Equipments, UK. The FOB price of the machine was settled at 6,000 UK Pound. The machine was shipped on 01.10.2023. Meanwhile, Paramjit Ltd. re-negotiated the price of the machine with Oliver Equipments which agrees on the reduced price of 5000 UK pound on 10.10.2023. The machine arrived in India on 18.10.2023. Other details pertaining to machine are as under:
- (i) License fee that the buyer was required to pay in UK as a condition of sale was 500 UK Pound
- (ii) Buying commission paid in India was ₹ 20,000
- (iii) Cost of transport from UK port to Indian port is ₹ 40,000. Apart from this, due to deep draught at the port, machine was not taken to the jetty in the port but was unloaded at the outer anchorage. The additional charges incurred for such unloading and transport of machine from outer anchorage to the jetty in barges (small boats) were ₹ 10,000.
- (iv) Date of presentation of bill of entry was 15.10.2023 and the rate of exchange notified by CBIC on this date was ₹ 100 per pound. Rate of basic customs duty was 10%.
- (v) Date of entry inwards was 18.10.2023 and the rate of exchange notified by CBIC on this date was ₹ 105 per pound. Rate of basic customs duty was 15%.

(vi) Insurance premium details were not ascertainable.

Compute the assessable value and basic customs duty payable (rounded off to nearest one rupee) by Paramjit Ltd.

19. Aayaat Enterprises imported goods vide a bill of entry presented before the proper officer on 15th April. The proper officer decided that the goods should be subject to a chemical test and therefore, the same were to be provisionally assessed. You are required to advise Aayaat Enterprises regarding the conditions which are to be complied with before payment of duty is made for the purpose of provisional assessment.

Subsequently, the goods imported by Aayaat Enterprises were provisionally assessed at a value of ₹ 24,00,000 on 16th April and Aayaat Enterprises paid the provisional duty of ₹ 2,40,000 on the same date after fulfilling the requirements for provisional assessment. Further, the chemical test report was received on 5th May. Advise Aayaat Enterprises regarding the maximum time limit upto which its provisional assessment should be finalized.

Determine the amount of interest payable, if any, under section 18 of the Customs Act, 1962 (considering a year of 365 days) assuming that the provisional assessment was finalized on 30th June finally assessing the customs duty at ₹ 2,80,000 and the differential duty was paid on the same day.

20. With reference to the Foreign Trade Policy 2023, explain in brief the objectives and salient features of Remission of Duties and Taxes on Exported Products (RoDTEP) scheme.



SUGGESTED ANSWERS

Question No.	Answer	
1	(b)	No GST is chargeable on usage of vacant godown of Hotel Division
2	(b)	need not reverse the input tax credit so availed in GSTR-3B

		of the October month.
3	(a)	₹ 25 lakh
4	(a)	Udaipur
5	(c)	GST is exempt on the entire premium of ₹ 25 crores including location charges.
6	(b)	₹ 100 crores
7	(b)	there is no GST implication on the company and Ghanshyam Das.
8	(a)	tax is payable by the company in Haryana.
9	(a)	April
10	(a)	₹ 4.5 lakh CGST and ₹ 4.5 lakh SGST, payable by owner in Gujarat
11	(c)	no e-way bill is required to be issued.
12	(d)	The view taken by Mr. Bansi Lal is incorrect. Further, Mr. Mota Lal can inspect the goods and ensure that goods do not deteriorate during storage in the warehouse and also thereafter, he can show them for sale to Mr. Manohar Lal.

13. Computation of net GST payable in cash, by Mr. Dinkar

Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
GST payable on outward supplies				
Transfer of tenancy rights [Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable even though stamp duty and registration fee have been paid on the same (Circular No. 44/2018 CT dated 02.05.2018). It is	8,00,000	72,000 (8,00,000 x 9%)	72,000 (8,00,000 x 9%)	

an intra-State supply since place of supply is location of immovable property being Ahmedabad, Gujarat.]				
Hiring out excavators and dumpers including operators [Taxable since renting of trucks and other freight vehicles with driver for a period of time is a service of renting of transport vehicles (with operator) and not service of transportation of goods by road. Further, since the excavators and dumpers are invariably hired out along with operators and the operators are supplied only when the excavators/ dumpers are hired out, it is a case of composite supply under section 2(30) wherein the principal supply is the hiring out of the excavators and dumpers. As per section 8(a), the composite supply is treated as the supply of the principal supply.]	12,00,000 [10,00,000 + 2,00,000]	72,000 (12,00,000 x 6%)	72,000 (12,00,000 x 6%)	

Therefore, the supply of manpower for operation of the excavators/ dumpers will also be taxed at the rate applicable for hiring out of the excavator and dumpers (principal supply). Further, it is a taxable intra-State supply since place of supply is location of recipient being Kuchchh, Gujarat.]				
Goods supplied to SEZ unit of Choksi Ltd. [Supply to SEZ unit is a zero-rated supply in terms of section 16(1)(b) of the IGST Act, 2017. No IGST is payable since Mr. Dinkar makes all zero-rated supplies under LUT/bond.]	10,00,000			Nil
Supply of goods to Choksi Ltd., Gujarat [It is a taxable intra-State supply since place of supply is location of goods when movement of such goods terminates, viz., Jamnagar, Gujarat.	25,00,000 [35,00,000 - 10,00,000]	2,25,000 [25,00,000 × 9%]	2,25,000 [25,00,000 × 9%]	
Advance received for	1,50,000	13,500	13,500	

<p>the consultancy services to be provided to Mr. Krishna [Tax on the services to be provided is payable at the time of receipt of advance. Since the place of supply is location of recipient, i.e. Gujarat, it is an intra-State supply.]</p>		[1,50,000 × 9%]	[1,50,000 × 9%]	
<p>Export of goods to USA under LUT/bond [Export of goods outside India is a zero-rated supply in terms of section 16(1)(b) of the IGST Act, 2017. No IGST is payable since Mr. Dinkar makes all zero-rated supplies under LUT/bond.]</p>	8,40,000			Nil
<p>High sea sales of heavy printing machinery imported from Japan [High sea sales is neither treated as supply of goods nor as supply of services in terms of para 8(b) of Schedule III of the CGST Act, 2017.]</p>	Nil	--	--	--
<p>Goods purchased from Japan sold in China without bringing them</p>	Nil	--	--	--

into India [Third country shipments or triangular trade is neither treated as supply for goods nor as supply of services in terms of para 7 of Schedule III of the CGST Act, 2017.]				
Total output tax		3,82,500	3,82,500	Nil
Less: ITC [Refer working note below]		81,350 (IGST)	81,350 (IGST)	
[IGST credit has been utilized for payment of CGST and SGST liability in equal proportion. Thereafter, CGST credit and SGST credit have been utilized to pay the CGST liability and SGST liability respectively.]		3,01,150 (CGST)		
			3,01,150 (SGST)	
Net GST payable		Nil	Nil	Nil
Add: GST payable on inward supplies				
Imported raw material from Italy	9,00,000			1,62,000 [9,00,000 × 18%]
Raw material purchased from Mr. Poonawala, Gujarat [Tax on the raw cotton purchased by any registered person from an agriculturist is payable under reverse	12,00,000	1,08,000 [12,00,000 × 9%]	1,08,000 [12,00,000 × 9%]	

charge vide <i>Notification No. 4/2017 IT (R) dated 28.06.2017.</i>]				
Total net GST payable in cash (CGST and SGST of ₹ 1,08,000 each will be paid in cash through GSTN portal and IGST of ₹ 1,62,000 will be paid in cash through ICEGATE portal while making customs clearance.)		1,08,000	1,08,000	1,62,000

Working Note - Computation of admissible ITC for February

Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
Opening balance		35,000	35,000	
Goods purchased as merchant exporter [It is an inter-State supply since the place of supply is Gujarat, i.e. location where the movement of goods terminates. Shravan Ltd. would have supplied the goods to merchant exporter – Mr. Dinkar - at concessional rate of IGST of 0.1% prescribed under <i>Notification Nos. 41/2017 IT(R) dated 23.10.2017.</i> Further, the merchant	7,00,000	--	--	700

exporter is eligible to take ITC of concessional IGST so paid ¹ .]				
Heavy printing machinery imported from Japan [No ITC is available since tax is not payable by Mr. Dinkar on the same since in case of high sea sales, IGST is paid by the last high sea sales buyer who clears the goods for home consumption by filing the bill of entry.]	Nil	--	--	--
Goods purchased from Jamsam Corporation, Japan [No ITC is available since tax is not payable by Mr. Dinkar on the same as goods do not become part of the landmass of the country.]	Nil	--	--	--
Sales commission paid to agent - Mr. Kenzo [Since service provider - Mr. Kenzo - is an intermediary in the given transaction, place of supply is location of supplier - Mr. Kenzo, i.e. outside India (Japan), in terms of section 13(8)(b)	5,00,000	--	--	--

¹ Circular No. 125/44/2019 GST dated 18.11.2019

of the IGST Act, 2017. Since location of supplier and place of supply are outside India, tax is not payable on said transaction under reverse charge on said services.]				
Imported raw material from Italy [Input tax, <i>inter alia</i> , includes IGST charged on import of goods, in terms of section 2(62). No separate levy of IGST will be there on the component of ocean freight paid by the foreign exporter to the foreign shipping line in the CIF contract by virtue of <i>Union of India vs. Mohit Minerals Pvt. Ltd. 2022 (61) G.S.T.L. 257 (SC)</i> since the Indian importer is liable to pay IGST on the 'composite supply', comprising of supply of goods and supply of services of transportation, insurance, etc. in a CIF contract.	9,00,000			1,62,000 [9,00,000 × 18%]
Raw cotton purchased from Mr. Poonawala, Gujarat [It is an intra-State	12,00,000	1,08,000 [12,00,000 × 9%]	1,08,000 [12,00,000 × 9%]	

supply since the place of supply is location where movement of goods terminates, i.e. Gujarat, in terms of section 10(1)(a) of the IGST Act, 2017. ITC on goods used in course or furtherance of business is allowed in terms of section 16.]				
GST paid on monthly rent [In case of services used partly for the business purpose and partly for other purposes, ITC is restricted to so much of ITC as is attributable to the purposes of business. Thus, ITC for GST paid on only 2/3 rd of monthly rent is available since GST paid on monthly rent attributable to personal purposes (one-third) is not allowed. Further, it is an intra-State supply since the place of supply of services provided in relation to an immovable property is location of immovable property, i.e. Gujarat in terms of section 12(3) of the IGST Act, 2017.]	35,00,000	2,10,000 [35,00,000 × 9%×2/3]	2,10,000 [35,00,000 × 9%×2/3]	--

Total ITC available		3,53,000	3,53,000	1,62,700
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Note – Since as per section 49(5) read with rule 88A, ITC of IGST can be utilised towards payment of CGST and SGST in any proportion and in any order, the ITC of IGST of ₹ 1,62,700 can be set off against the CGST and SGST liability in any proportion and in any order. In above answer, ITC of IGST has been set off in equal proportion against the payment of CGST and SGST liability. However, multiple answers are possible to given question owing to multiple ways of utilizing the ITC of IGST for payment of CGST and SGST liability.

- 14.** As per section 22, every supplier of goods or services or both is required to obtain registration in the State/ Union territory from where he makes the taxable supply if his aggregate turnover exceeds threshold limit in a financial year. However, section 24, *inter alia*, provides that persons who supply goods or services or both through an electronic commerce operator (hereinafter referred as ECO), who is required to collect tax at source under section 52, are required to obtain registration mandatorily. However, said mandatory registration is not applicable, *inter alia*, to the suppliers of the services which are notified under section 9(5) or section 5(5) of the IGST Act, 2017; such suppliers are entitled for threshold exemption.

In case where services are notified under section 5(5) of the IGST Act, 2017, the ECO is liable to pay the entire tax on behalf of the suppliers of services. *Notification No. 14/2017 IT (R) dated 28.06.2017* issued under said section notifies services by way of providing accommodation in hotels, provided the person supplying such service through ECO is not liable for registration under section 22(1), as one such service where the ECO is liable to pay tax on behalf of the suppliers.

In the given case, PRL provides services by way of providing accommodation in hotel through an ECO. Services by way of providing accommodation in hotels provided by a supplier - PRL - which is not liable for registration under section 22(1) as its turnover is less than the threshold limit for registration, [viz. ₹ 20 lakh], is a service notified under section 5(5). Thus, PRL will be entitled for threshold exemption for

registration and will not be required to obtain registration even though it supplies services through ECO.

As per section 52, ECO is not required to collect tax at source (TCS) in cases where the service is notified under section 9(5) of the CGST Act, 2017/section 5(5) of the IGST Act, 2017. The applicable tax on such services is to be paid by the ECO as if he is the supplier liable to pay tax on the supply of such services.

Thus, in the given case, no tax is required to be collected at source under section 52. Further, the supply of accommodation services by PRL to Mr. Jignesh is an intra-State supply liable to CGST and SGST since the place of supply of services by way of lodging accommodation by a hotel is the location at which the immovable property is located in terms of section 12(3) of the IGST Act, 2017. Accordingly, in the given case, place of supply is Uttarakhand and location of supplier – PRL - is also Uttarakhand.

As discussed above, entire tax of ₹ 9,000 (each under CGST and SGST) on ₹ 1,00,000 will be paid by the ECO – PMTL.

In case where PRL is registered under GST, service by way of providing accommodation in hotels provided by it through ECO will no longer be a service notified under section 5(5). The reason for the same is that services by way of providing accommodation in hotels are notified under section 5(5) only where the person supplying such service through ECO is not liable for registration under section 22(1). Consequently, said services shall be subject to the TCS provisions under section 52.

Further, in a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and the supplier-side ECO is himself the supplier of the said supply, *Circular No. 194/06/2023 GST dated 17.07.2023* clarifies that the buyer-side ECO will be required to collect TCS, as applicable, pay the same to the Government in accordance with section 52 and also make other compliances under said section.

As discussed above, the supply of accommodation services by PRL to Mr. Jignesh is an intra-State supply liable to CGST and SGST.

Accordingly, in the given case, buyer side ECO – PMTL - is required to collect TCS on ₹ 1,00,000 @ 0.5% each under CGST and SGST as follows:

$$= ₹ 1,00,000 \times 0.5\%$$

= ₹ 500 each under CGST and SGST

15. As per section 65, audit of any registered person may be undertaken by:

- the Commissioner; or
- any officer authorized by him, by way of a general or a specific order.

The audit shall be completed within a period of 3 months from the date of commencement of the audit. However, where the Commissioner is satisfied that audit in respect of such registered person cannot be completed within 3 months, he may, for the reasons to be recorded in writing, extend the period by a further period not exceeding six months.

For the purposes of this sub-section, the expression "commencement of audit" shall mean:

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

or

- (b) the actual institution of audit at the place of business, whichever is later.

In the given case, the date of commencement of audit shall be determined as follows:

- (a) The date on which requisite information is made available by Ghoomghoom Private Ltd., i.e., on 30.12.2023.
- (b) The date of the actual institution of audit at the place of business, i.e., on 20.12.2023

whichever is later.

Therefore, the date of commencement of the audit shall be 30.12.2023

Accordingly, the audit has to be completed within 3 months from the date of commencement of the audit, i.e., by 30.03.2024.

Thus, in the given case, the audit was completed by the tax authorities within 3 months from the date of commencement of the audit, i.e., before 30.03.2024. Resultantly, the view of the accountant of Ghoomghoom Pvt. Ltd. that the audit by the tax authorities was completed after the maximum time period prescribed by law for the same, is not correct.

Further, as per section 65 read with rule 101(1), the period of audit to be conducted under said section shall be a financial year or part thereof or multiples thereof. Thus, the view of the accountant that audit cannot be conducted for two financial years is also not correct.

16. (a) As per proviso to section 16(3) of the IGST Act, 2017 read with rule 96B(1) of the CGST Rules, 2017, in the given case, Agora Ltd. shall deposit the amount of refund proportionate to the sale proceeds not realized i.e. 50% of the value of exports. The amount of such refund is ₹ 25 lakh alongwith applicable interest under section 50. Further, such amount is required to be deposited by Agora Ltd. within 30 days of the expiry of the time period allowed under Foreign Exchange Management Act, 1999, including any extension of such time period permitted.
- (b) As per proviso to rule 96B, where sale proceeds, or any part thereof, in respect of such export goods are not realised by the applicant within the time period allowed under the Foreign Exchange Management Act, 1999, but the Reserve Bank of India writes off the requirement of realisation of sale proceeds on merits, the refund paid to the applicant shall not be recovered. Thus, if the RBI writes off the requirement of realisation of sale proceeds by Agora Ltd., the refund amount received by Agora Ltd. is not liable to be recovered.
- (c) As per rule 96B(2), where the sale proceeds are realised by the applicant, in full or part, after the amount of refund has been recovered from him under rule 96B(1) and the applicant produces evidence about such realisation within a period of 3 months from the date of realisation of sale proceeds, the amount so recovered shall be refunded by the proper officer, to the applicant to the extent of realisation of sale proceeds, provided the sale proceeds

have been realised within such extended period as permitted by the Reserve Bank of India.

In case the refund amount is deposited by Agora Ltd. alongwith interest as per rule 96B(1) on account of non-realization of sale proceeds from the customer, which is realized on a later date, Agora Ltd. can claim the refund within 3 months from the date of realization of sale proceeds in proportion of the sale proceeds recovered. However, in order to claim such refund, the sale proceeds should have been realized within such extended period as may be permitted by the RBI.

17. Rule 59(6) provides that:

- (i) a registered person shall not be allowed to furnish the details of outward supplies in Form GSTR-1, if he has not furnished the return in Form GSTR-3B for the preceding month.
- (ii) a registered person, opting for QRMP scheme, shall not be allowed to furnish the details of outward supplies in Form GSTR-1 or using Invoice Furnishing Facility (IFF), if he has not furnished the return in Form GSTR-3B for preceding tax period.
- (iii) a registered person, to whom an intimation has been issued on the common portal under the provisions of rule 88C(1) in respect of a tax period, shall not be allowed to furnish the details of outward supplies in Form GSTR-1 or using IFF for a subsequent tax period, unless he has either deposited the amount specified in the said intimation or has furnished a reply explaining the reasons for any amount remaining unpaid, as required under the provisions of rule 88C(2).
- (iv) a registered person, to whom an intimation has been issued on the common portal under the provisions of rule 88D(1) in respect of a tax period/periods, shall not be allowed to furnish Form GSTR-1/IFF for a subsequent tax period, unless he has either paid the amount equal to the excess ITC as specified in the said intimation or has furnished a reply explaining the reasons in respect of the amount of excess ITC that still remains to be paid, as required under the provisions of rule 88D(2);

- (v) a registered person shall not be allowed to furnish Form GSTR-1/IFF, if he has not furnished the details of the bank account as per the provisions of rule 10A.

18. As per section 14 of the Customs Act, 1962, the value of the imported goods is the transaction value, which means the price actually paid or payable for the goods at the time and place of importation. Further, the Supreme Court in case of *Garden Silk Mills v. UOI 1999 (113) E.L.T. 358* held that importation gets complete only when the goods become part of mass of goods within the country.

Since in the instant case, the price of the goods was reduced when the goods were in transit, i.e. before the goods arrived in India, the goods should be valued as per the revised reduced price of 5,000 UK pound, which was the price payable at the time of importation.

Computation of assessable value and basic customs duty payable by Paramjit Ltd

Particulars	Amount
FOB value of machine	5,000 UK Pound
<i>Add:</i> License fee required to pay in UK (Licence fee relating to imported goods payable by the buyer as a condition of sale is includible in the assessable value)	500 UK Pound
Customs FOB	5,500 UK Pound
	Amount (₹)
Value in rupees (5500 x ₹ 100) Rate of exchange as notified by CBIC on the date on which bill of entry is presented under section 46 of the Customs Act, 1962 is to be considered [Explanation to section 14 of the Customs Act, 1962].	5,50,000
<i>Add:</i> Buying commission (Buying commission is not included in the assessable value)	Nil
<i>Add:</i> Cost of transport including barge charges (In case where the big mother vessels cannot enter	50,000

the harbour for any reason and goods are brought to the docks by smaller vessels like barges, small boats, etc., the cost incurred by the importer for bringing the goods to the landmass, such as lighterage charges, barge charges will be included in the cost of transportation. In other words, the cost of transport of the imported goods includes ship demurrage charges on chartered vessels, lighterage charges or barge charges.)	
<i>Add: Insurance</i> [If insurance cost is not ascertainable, the same shall be added @ 1.125% of FOB value of the goods.]	6187.50
CIF value / Assessable value	6,06,187.50
Basic customs duty @ 15% (₹ 6,06,187.50X 15%) (Rounded off) [Section 15 of the Customs Act, 1962 provides that rate of duty shall be the rate in force on the date of presentation of bill of entry or on the date of entry inwards, whichever is later.]	90,928

19. As per section 18 of the Customs Act, 1962 read alongwith *Circular No. 38/2016 Cus. dated 22.08.2016*, wherever, duty is to be assessed provisionally, the importer shall:
- execute a bond in the prescribed form, for the purposes of undertaking to pay on demand the deficiency, if any, between the duty as may be finally assessed and the duty provisionally assessed; and
 - furnish prescribed amount of security for the payment of the duty deficiency. The security to be obtained shall be in the form of a bank guarantee or a cash deposit, as convenient to the importer.

As per the Customs (Finalisation of Provisional Assessment) Regulations, 2018, the proper officer has to finalise the provisional assessment within 2 months of receipt of a chemical or other test report, where the provisional assessment was ordered for that reason.

The proper officer can finalize the provisional assessment within 2 months of receipt of a chemical or other test report, where the provisional assessment is ordered for that reason. The Commissioner of Customs may allow a further time period of 3 months in case the proper officer is not able to finalize the provisional assessment within the period of 2 months.

Thus, in the given case, provisional assessment will be finalized by 5th July [within 2 months of receipt of test report (5th May)]. However, if the proper officer is not able to finalize the provisional assessment by 5th July, the Commissioner may allow a further period of 3 months, i.e., till 5th October to the proper officer to finalize the provisional assessment.

Had provisional assessment been finalized on 30th June and differential duty been paid on same day, as per section 18(3) of the Customs Act, 1962, the importer would have been liable to pay interest, on any amount payable consequent to the final assessment order @ 15% p.a. from the first day of the month in which the duty is provisionally assessed till the date of payment thereof.

Accordingly, amount of interest payable will be:

$$= ₹ 40,000 \times 15\% \times 91/365$$

$$= ₹ 1,496 \text{ (rounded off)}$$

- 20.** Remission of Duties and Taxes on Exported Products (RoDTEP) scheme is based on the globally accepted principle that taxes and duties should not be exported, and taxes and levies borne on the exported products should be either exempted or remitted to exporters. RoDTEP scheme aims to refund such duties and taxes on exported products, as are otherwise not being refunded under other provisions of law. The rebate under the Scheme shall not be available in respect of duties and taxes already exempted or remitted or credited.

The objective of the scheme is to refund, currently unrefunded:-

- (i) Duties/taxes/levies, at the Central, State & local level, borne on the exported product, including prior stage cumulative indirect taxes on goods & services used in production of the exported product, and

- (ii) Such indirect duties/taxes/levies in respect of distribution of exported products.

Salient features of the scheme: -

- (i) Rebate amount is issued in the form of a transferable duty credit/electronic scrip (e-scrip), which will be maintained in an electronic ledger by the CBIC.
- (ii) Such duty credit shall be used only to pay basic customs duty on imported goods.
- (iii) The duty credit scrips are freely transferable, i.e. credits can be transferred to other importers.
- (iv) The rebate under the scheme shall not be available in respect of duties and taxes already exempted or remitted or credited.