

CA FINAL

INDIRECT TAXES



Handwritten

Self Study Book

- CA RIDDHI BAGHMAR

Features:

- Relevant for **May/Nov 24**
- As per **New course**
- All Amendments Upto
31 Oct 2023 covered



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Hello all!

Presenting version 3.0 of 'OUR' handwritten book with lots of love. Every effort is made to simplify the concepts and make learning fun. This book will be your guide and friend to make your Indirect Taxes journey smooth and scoring.

The book is fully amended for MAY/NOV 24 exams covering all amendments upto 31/10/2023.

Pictures, Charts, Tables, examples, mnemonics, tricks..... will not just help you understand the concept but also aid you in remembering everything with utmost ease.

Rock the exams!! All the best!!

- CA Riddhi Baglumar

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GST in India - An Introduction

* What is Tax ?

- A Pecuniary burden laid upon individuals or property owners to support the Govt., a payment exacted by legislative authority.
- It is not a voluntary payment or donation, but an enforced contribution.

TAX

DIRECT TAX

- * The person paying the tax to the Government directly bears the incidence of the tax.
- * Progressive in nature - high rate of taxes for people having higher ability to pay.



Burden of Tax borne by the person himself
Eg: Income Tax

INDIRECT TAX

- * The person paying the tax to the Government collects the same from the ultimate consumer. Thus, incidence of the tax is shifted to the other person.
- * Regressive in nature - All the consumers equally bear the burden, irrespective of their ability to pay.



Burden of Tax shifted to another person.
Eg: GST, Custom Duty

* Framework of GST in India : Dual GST

Due to country's federal structure, dual GST model is adopted. i.e. Centre + State/UT Concurrently impose taxes.

* GST is a **destination based tax** on consumption of G/S/B. Tax revenue would accrue to the place of consumption state/UT.

* Genesis of GST in India

GST was launched on "1/7/2017"

- France was the first country to implement GST
- Presently > 160 countries have adopted GST
- **Genesis of GST In India:**

2000:- The then P.M mooted the concept of GST and set up a committee

2006-07:- Union Finance Minister P. Chidambaram announced in budget that GST be introduced from 1 April 2010

December 2014: The **Constitution (122nd Amendment) Bill** was Introduced in Lok Sabha

6th May 2015:- Lok Sabha Passed the Bill

3rd Aug 2016:- Rajya Sabha Passed the Bill

8th Sept 2016:- President Assent

The **Constitution (101st Amendment) Act** was enacted

Sept. 2016:- 1st GST council meeting

April 2017: - GST Council recommends C/S//U/cess bill

April 2017:- CGST/SGST/UTGST/ comp. Cess Act passed

May 2017: - GST Council recommends all the rules

30th June 2017:- All states except J & K passed their SGST Act

8th July 2017:- SGST Act passed by J&K; CGST and IGST ordinances promulgated to extend GST to J & K.

Presently. GST Applicable to **whole of India**

* Concept of GST:

1. Value added Tax
2. Continuous chain of tax credits
3. Burden borne by final consumer
4. No cascading of taxes

* States and UTs for GST Purpose

28 States (+)

3 UTs with legislature

- Delhi
- J&K
- Puducherry



CGST + SGST

5 UTs without

Legislature (ALL CD)

A - Andaman & Nicobar

L - Lakshadweep

L - Ladakh

C - Chandigarh

D - Dadra & Nagar Haveli
and Daman & Diu

Other - Other Territory (Eg: EEZ)



CGST + UTGST

* 11 Special Category States in GST:

(No ASTHMA in Uttarakhand and J&K)

N - Nagaland

A - Assam

S - Sikkim

T - Tripura

H - Himachal Pradesh

M - Manipur, Mizoram, Meghalaya

A - Arunachal Pradesh

U - Uttarakhand

J - Jammu & Kashmir

Classification under GST

Harmonised System of
Nomenclature (HSN)
For Goods

Scheme of Classification
of Services
For Services

* Taxes Subsumed in GST:

Central Taxes

- Excise
- Service Tax
- CVD & Special CVD
- CST
- Surcharges and cesses relating to supply of Goods and Services

State Taxes

- Luxury Tax
- Tax on lottery, betting and gambling
- Purchase Taxes
- VAT / Sales Tax
- Tax on advertisement
- Entertainment Tax (except by local bodies)
- Surcharges and cesses relating to supply of Goods and Services

* Taxes not subsumed in GST:

Alcoholic liquor for human consumption



Outside GST (Power to tax remains with States)

State excise + $\frac{\text{VAT}}{\text{(intra)}} / \frac{\text{CST}}{\text{(inter)}}$

HM NAP




- High Speed Diesel
- Motor Spirit
- Natural Gas
- Aviation Turbine Fuel
- Petroleum Crude

GST Council to decide the date from which GST will be applicable

Central excise + $\frac{\text{VAT}}{\text{(intra)}} / \frac{\text{CST}}{\text{(inter)}}$

• Entertainment Tax (By Local Bodies)

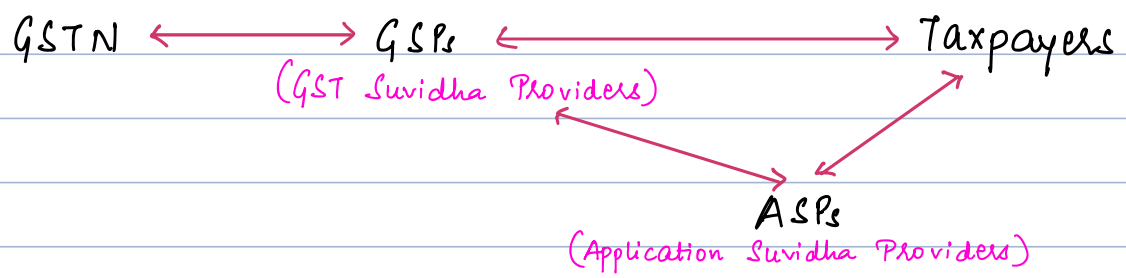
Power still remains with local bodies

<ul style="list-style-type: none"> • Tobacco 	<p>Central excise Duty + GST</p>
<ul style="list-style-type: none"> • Opium, Indian Hemp, Other narcotics 	<p>State excise Duty + GST</p>
<ul style="list-style-type: none"> • Real Estate Sector  <p>(Sale/Purchase of immovable property)</p>	<p>Out of GST (Stamp Duty, Property Tax)</p>

*** GST Common Portal:**

- www.gst.gov.in [Common portal for all services] → Website managed by GSTN (Goods and Services Network) ^{Sec 8 company}
- www.ewaybillgst.gov.in [portal for e-way bill generation] →
 - National Informatics Centre
 - Ministry of Electronics and Information Technology
 - Government of India
- www.einvoice1.gst.gov.in (Invoice generation portal for e-invoices) → Managed by GSTN

*** GSP/ASP:**



GSP is an additional channel being made available for facilitating the tax-payers for performing some of the functions* and use of their services is optional. GSPs may take help of ASPs who act as a link between taxpayers and GSPs.

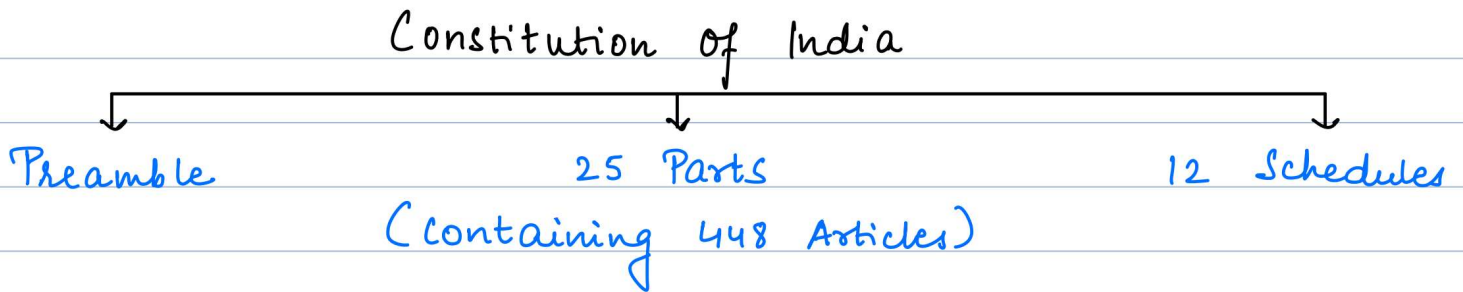
* Functions include:

- Return filing
- Quick monitoring of GST Compliances
- Reconciliation of Purchase Register with auto populated data

* Compensation cess:

To provide for compensation to the states for the loss of revenue arising on account of GST implementation. Imposed on specific luxury items or demerit goods
 Eg: Tobacco, pan masala, motor cars, aerated waters, etc.

* Constitutional Provisions:



Article 246 :- Respective authority to Union and state Government for levying tax.

Seventh Schedule to Article 246:-

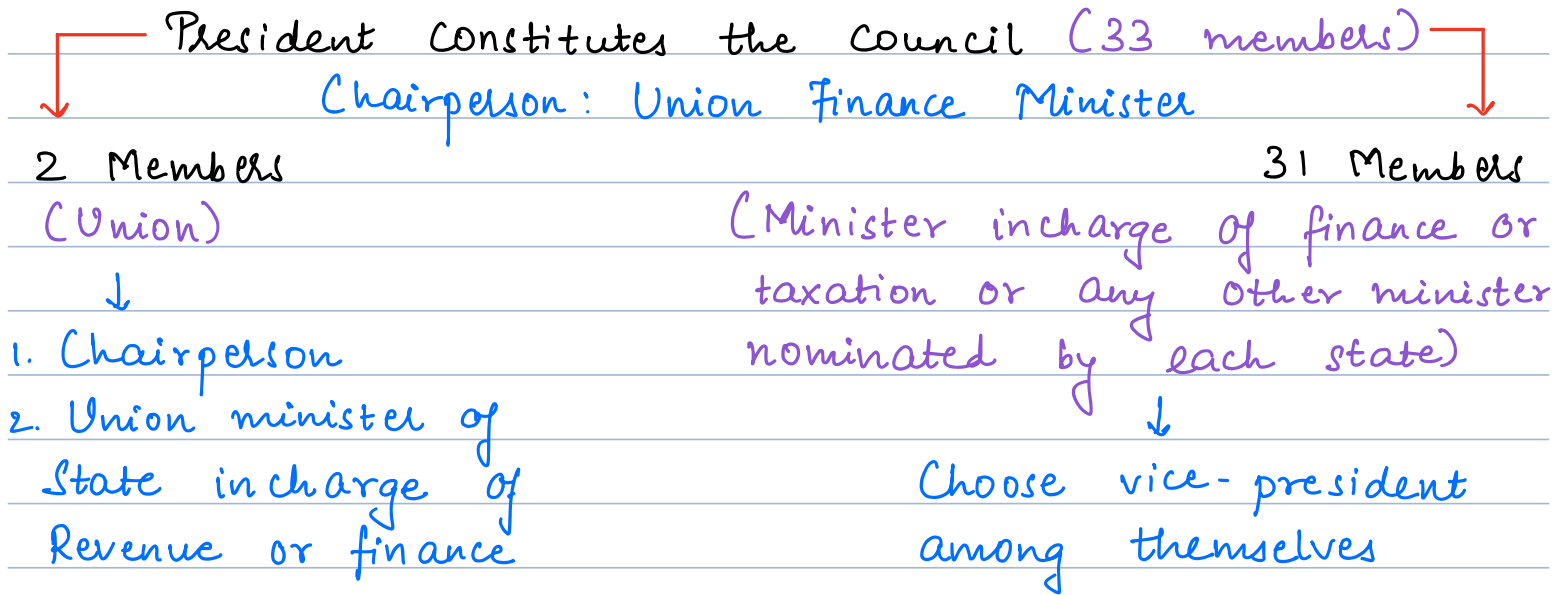
↓	↓	↓
Union List List I	State List List II	Concurrent list List III
<ul style="list-style-type: none"> Income Tax Custom Duty Excise Duty CST Any other Not in II/III 	<ul style="list-style-type: none"> Taxes on agricultural income Excise on alcohol opium & narcotics VAT Luxury entertainment, betting, gambling 	<ul style="list-style-type: none"> Criminal Law Stamp Duties

Need for Constitutional Amendment?

To enable integration of various taxes in GST and to empower both Centre and State to levy and collect it.

* **Article 246A**: Simultaneous power with Parliament and State legislature to make laws with respect to GST.
Exception: Parliament has exclusive powers with respect to interstate supplies

* **Article 279A**: GST Council



- For Quorum: Half (i.e. 17) members
 - Decision: Majority not less than $\frac{3}{4}^{\text{th}}$ of members present and voting
- weights $\left\{ \begin{array}{l} \rightarrow \frac{1}{3}^{\text{rd}} \text{ Centre} \\ \rightarrow \frac{2}{3}^{\text{rd}} \text{ State} \end{array} \right\} \therefore \text{No Decision unless CG Assents}$

* Council shall make recommendation to Union/States on:

- Taxes/cesses/surcharge to be subsumed in GST.
- Goods/service to be subject to/exempted from GST.
- Model laws, principles of levy, apportionment of IGST
- Threshold limits
- Rates of GST
- Special provisions with respect to SCS.
- Special Rates to raise additional resources during calamities/disaster.
- Any other matter as Council may decide
- Council shall also recommend the date from which GST to be levied on HM NAP .

Important Terms

- Taxable event: Any transaction or occurrence that results in a tax consequence.

In GST, one comprehensive taxable event: SUPPLY

• Person:



• Sec 2(12) : Goods



Means

Other than

But includes

every kind of movable property

Money & Securities

Actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply



* Money:

- (i) Indian legal tender, foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order
- (ii) Any other instrument recognised by RBI.
- (iii) But shall not include currency held for its numismatic value.

[Circular: Money includes commercial paper and certificate of deposit].



- * Securities
- shares, stock, bond, debentures, Mutual Fund
 - Govt. securities
 - Rights / Interest in securities



Securities Include: Derivatives }
Forward } But, GST leviable if
Futures } settled by delivery

* Actionable Claim:

means a claim to any debt (other than a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property, or to any beneficial interest in movable property not in the possession, either actual or constructive, of the claimant) which the civil courts recognise as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent.



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Clear CA with
Riddhi Baghmar

- Cleared all levels of CA in first attempt
- Passed all 3 levels of CFA in first attempt
- 82 marks in CA Final IDT
- B.Com with Gold Medal & All Gujarat Rank 3
- Merit and All Gujarat Rank 4 in Hsc

Highlights of Book

- Includes ICAI SM, MTP, RTP, Past Exam Questions
- Topic Wise Sorted Questions
- Updated as per latest ICAI SM Questions
- Logically sequenced questions for better flow of understanding
- Amendments till 31/10/2023 covered along with relevant explanations



CA FINAL INDIRECT TAXES



Features:

- Relevant for **May24/ Nov 24**
- As per Latest ICAI SM
- All amendments upto **31/10/2023 covered**

QUESTION BANK **3.0**

Book By
CA Riddhi Baghmar



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PREFACE

Hello all!

Presenting version 3.0 of CA Final Indirect Taxes Question Bank relevant for MAY/NOV24 as per new ICAI Syllabus. Every effort has been made to make sure that there are no errors in the Question Bank and questions from all relevant sources have been incorporated. This book contains a compilation of ICAI SM Questions, Revision test papers, Mock test papers and Past Exam questions. Repeated questions are eliminated to make sure there is no unnecessary duplication of questions.

Highlighted key words will help you revise faster and cover more questions on the exam day. Logically sequenced questions enable a better flow.

All amendments till 31/10/2023 have been incorporated in the book and answers have been updated accordingly.

Special thanks to Seema Avadhani and my amazing Nov23 students for whole heartedly contributing in the making of this wonderful book.

Happy learning

All the best for exams!

Lots of Love

Riddhi Baghmar

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CHAPTER NO - 1

SUPPLY UNDER GST

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

[ICAI SM]

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

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

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

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

- Q. 2** Sudama Associates, a registered supplier, disposes the computers owned by the business without consideration and it has not claimed input tax credit on such computers. Examine whether the disposal of computers by Sudama Associates qualifies as deemed supply under Schedule I of the CGST Act, 2017.

[ICAI SM]

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

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

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

- excavators for required period at a per hour rate
- manpower for operation of the excavators at a per day rate
- soil testing and seismic evaluation at a per sample rate

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

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

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

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

Assume the rates of GST to be as under: Hiring out of excavators- 12% Supply of manpower services and soil – testing and seismic evaluation services – 18%.

[ICAI SM]

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

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

Notes:

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

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

In the month of June, Mr. Kanjilal Adani explored the petroleum reserves at Aliabet Oilfield. He got a portion of the petroleum silt (non-taxable under GST) worth ₹3,00,000 as part of compensation. This petroleum silt is part of cost petroleum as per the contract entered with the Government. Examine the taxability of the petroleum silt received by Mr. Kanjilal Adani under the GST law.

[ICAI SM]

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

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

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

[ICAI SM]

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

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

Q. 6 XYZ Consultancy, registered in Bangalore, supplies technical consultancy services to its clients. It has been providing technical services to BA Ltd., Mumbai since past 2 years. Consideration is settled by BA Ltd. assignment-wise.

BA Ltd. paid ₹37 lakh to XYZ Consultancy on 10th January for XYZ Consultancy agreeing not to provide similar technical services to any other business entity in India or abroad for a

period of next 8 years. XYZ Consultancy is of the view that ₹37 lakh is not chargeable to tax under GST law.

You are required to examine whether the view taken by XYZ Consultancy is valid in law. It may be noted that BA Ltd. is not ready to pay any further amount to XYZ Consultancy in addition to the amount already agreed.

[PP – Nov 22]

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

Since the place of supply of said services is the location of the recipient, viz. Mumbai and supplier is located in Bangalore, said services are inter-State supplies liable to tax @ 18%10.

GST liability (IGST) of XYZ Consultancy is:

$$= ₹37,00,000 \times 18/118$$

$$= ₹5,64,407 \text{ (rounded off)}$$

Rate of tax applicable on service of agreeing to the obligation to refrain from an act.

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

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

[ICAI SM]

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

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

[ICAI SM]

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

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

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

[ICAI SM]

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

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

[ICAI SM]

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

Q.11 Mr. Happy has a huge residential property located at a prime location in Mumbai, Maharashtra. He has let out the 1st and 2nd floor to Mr. Peace for residential purposes in April. Mr. Peace surrenders his tenancy rights to Mr. Serene for a tenancy premium of ₹10,00,000 on 1st June. Mr. Serene has also paid the applicable stamp duty and registration

charges on transfer of tenancy rights. Moreover, Mr. Serene has agreed to pay a monthly rent of ₹1,00,000 to Mr. Happy (unregistered under GST) from June.

Determine the taxability of the transaction(s) involved in the given case, for the month of June.

[ICAI SM]

- Ans.** Circular No. 44/2018 CT dated 02.05.2018 clarifies that the activity of transfer of tenancy right against consideration [i.e., tenancy premium] is squarely covered under supply of service liable to GST. It is a form of lease or renting of property and such activity is specifically declared to be a service in Schedule II i.e., any lease, tenancy, easement, license to occupy land is a supply of services. **Although stamp duty and registration charges have been levied on such transfer of tenancy rights, it shall be still subject to GST.** Merely because a transaction/supply involves execution of documents which may require registration and payment of registration fee and stamp duty, would not preclude them from the 'scope of supply' and from payment of GST. The transfer of tenancy rights cannot be treated as sale of land/ building in Schedule III. Thus, it is not a non-supply under GST and consequently, **a consideration for the said activity shall attract levy of GST.** Services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is liable to GST. Hence, in the given case, the tenancy premium of ₹10,00,000 received by Mr. Peace for **surrendering his tenancy rights to Mr. Serene is liable to GST.** The circular further clarifies that since **renting of residential dwelling for use as a residence to an unregistered person is exempt** [Entry 12 of Notification No. 12/2017 CT (R) dated 28.06.2017], grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both to an unregistered person is exempt. Consequently, monthly rent ₹1, 00,000 received by Mr. Happy from Mr. Serene is exempt.

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

[ICAI SM]

- Ans.** Circular No. 116/35/2019 GST dated 11. 10. 2019 has clarified that in case of donations received by a charitable institution, when the name of the donor is displayed in recipient institution's premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner **that it would be an advertising or promotion of his business**, then it can be said that **there is no supply of service for a consideration** (in the Form of donation). Donations

received by the charitable organizations are treated as consideration only if there exists, quid pro quo, i.e., there is an obligation on part of recipient of the donation or gift to do anything (supply a service).

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

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

Thus, the money donated by Rudraksh Kapoor is **not leviable to GST.**

- (b) In the given case, since the name of Rudraksh Publishing House has been displayed on the door of the room constructed in the school run by Divyaprakash Charitable Trust, it **might be aimed at advertising or promoting his business.** There is a direct mention of his publishing house which is being advertised. In such a case, **it is a supply of service by Divyaprakash Charitable Trust For a consideration received in the Form of donation.**

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

- (i) Supply of a laptop along with the laptop bag to a customer of Mumbai for ₹ 55,000 (exclusive of GST).
- (ii) Supply of 10,000 kits (at ₹ 50 each) amounting to ₹ 5,00,000 (exclusive of GST) to Ram Fancy Store in Kota (Rajasthan). Each kit consists of 1 hair oil, 1 beauty soap and 1 hair comb.
- (iii) 100 kits are given as free gift to Jaipur customers (all unrelated) on the occasion of Mrs. Kajal's birthday. Each kit consists of 1 hair oil and 1 beauty soap. Cost of each kit is Rs 35. Input tax credit has not been taken on the goods contained in the kit.
- (iv) Event management services provided Free of cost to her brother (wholly dependent on her) for his son's marriage Function in Indore (Madhya Pradesh). Cost of providing said services is ₹ 80,000.
- (v) 1,400 chairs and 100 coolers hired out to Function Garden, Ajmer (Rajasthan) for Rs 3,30,000 (exclusive of GST) including cost of transporting the chairs and coolers from Mrs. Kajal's godown at Jaipur to Function Garden, Ajmer. Since Mrs. Kajal is not a GTA, transportation services provided by her are exempt vide Notification No. 12/2017 CT (R) dated 28.06.2017.

Assume rate of GST as under: -

Sr. No.	Particular	Rate of GST (%)
1	Laptop	18
2	Laptop Bag	28

3	Hair Oil	18
4	Beauty Soap	28
5	Hair Comb	12
6	Event Management Service	5
7	Service of renting of chairs and coolers	12
8	Transportation service	5

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

[ICAI SM]

Ans.

S. No.	Particulars	Rate
(i)	Supply of laptop bag along with laptop to Mumbai customer (Being naturally bundled, supply of laptop bag along with the laptop is a composite supply which is treated as the supply of the principal supply (viz. laptop) in terms of section 8(a). Accordingly, rate of principal supply, i. e. laptop will be charged.)	18%
(ii)	Supply of kits to Ram Fancy Store (It is a mixed supply and is treated as supply of that particular supply which attracts highest tax rate (viz. beauty soap) in terms of section 8(b)	28%
(iii)	Free gifts to customers (Cannot be considered as supply under section 7 read with Schedule is the gifts are given to unrelated customers without consideration.)	Nil
(iv)	Event management services provided free of cost to her brother for his son's marriage shall be considered as supply as the services are being provided to a related person. Since it is an individual supply, it will be taxed at the rate applicable on said service.	5%
(v)	Chairs and coolers hired out to Function Garden (Transportation services provided by Mrs. Kajal is exempt. However, since chairs and coolers are hired out along with their transportation, it is a case of composite supply	12%

Note: As per sect1on 2(30), composite supply means a supply made by a taxable person to a recipient consisting of two or more taxable supplies. Since in point (v), service of hiring out of chairs & coolers is taxable while transportation service is exempt, it is possible to take a view that this is not a case of composite supply. In that case, the two services will be treated as independent services and taxed accordingly.

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

the supply of the painting is issued by Dhruv Kumar on the behalf of Chandragupta Maurya but in his own name and the painting is delivered to the successful bidder. Examine whether Dhruv Kumar can be considered as an agent of Chandragupta Maurya under Para 3 of Schedule I of the CGST Act, 2017.

[ICAI SM]

Ans. An activity/transaction qualifies as supply under GST only if it is undertaken for a consideration and is in course/furtherance of business. However, supply of goods by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal is considered as supply even if made without consideration provided the invoice for further supply is issued by the agent in his own name [Section 7(1)(c) read with Para 3 of Schedule I of the CGST Act, 2017].

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

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

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

Mr. Rajesh Surana has provided the consultancy service to his brother - Mr. Akhilesh Surana (located in USA) without any consideration. The products manufactured by Mr. Akhilesh are similar to the ones manufactured by Mr. Rajesh Surana. Mr. Surana charges ₹ 3,00,000 for providing similar consultancy services to other independent customers located in USA. Compute the GST liability, if any, in the given case assuming the rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively.

Ans. Consultancy service to Mr. Akhilesh Surana (located in USA) has been provided without any consideration. Activity without consideration is not a supply in terms of section 7(1)(a) of the CGST Act, 2017. However, Schedule I to the CGST Act, 2017 enlists the activities to be treated as supply even if made without consideration. Accordingly, Para 2 of Schedule I treat: supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business as a supply even if made without consideration.

However, **a brother who is not dependent** on the person supplying the service, **does not come within the purview of term family** as defined under section 2(49) of the CGST Act, 2017 and hence, is not a related person. Therefore, the **export of service to an independent brother without any consideration will not fall under para 2. of the Schedule I to CGST Act, 2017.** Hence, the activity is **not a supply** and is **thus, not liable to any tax.**

- Q.16 Examine whether the Following activities would amount to supply under section 7 read with Schedule I of the CGST Act:**
- (a) Sulekha Manufacturers have a Factory in Delhi and a depot in Mumbai. Both these establishments are registered in respective States. Finished goods are sent From Factory in Delhi to the Mumbai depot without consideration so that the same can be sold.**
 - (b) Raman is an architect in Chennai. His brother who is settled in London is a well-known lawyer. Raman has taken legal advice from him Free of cost with regard to his Family dispute.**
 - (c) Would your answer be different if in the above case, Raman has taken advice in respect of his business unit in Chennai?**

- Ans.**
- (a)** Title as well as possession both have to be transferred for a transaction to be considered as a supply of goods. In case title is not transferred, the transaction would be treated as supply of service in terms of Schedule II (1)(b) of the CGST Act. In some cases, possession may be transferred immediately but title may be transferred at a Future date like in case of sale on approval basis or hire purchase arrangement. Such transactions will also be termed as supply of goods.
 - (b)** Schedule I of CGST Act, inter alia, stipulates that import of services by a taxable person from a related person located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business. Explanation to section 15, inter alia, provides that persons shall be deemed to be "related persons" if they are members of the same family. Further, as per section 2(49) of the CGST Act, 2017, family means, -
 - (i) The spouse and children of the person, and**
 - (ii) The parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.**In the given case, Raman has received free of cost legal services from his brother. However, in view of section 2(49)(ii) above, **Raman and his brother cannot be considered to be related as Raman's brother is a well-known lawyer and is not wholly/mainly dependent on Raman.** Further, Raman has taken legal advice from him in personal matter and not in course or furtherance of business. Consequently, services provided by Raman's brother to him would not be treated as supply under section 7 of the CGST Act read with Schedule.
 - (c)** In the above case, **if Raman has taken advice with regard to his business unit, services provided by Raman's brother to him would still not be treated as supply under section 7 of the CGST Act read with Schedule I as although the same are provided in course or furtherance of business, such services have not been received from a related person.**

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