

## PAPER – 8 : INDIRECT TAX LAWS

### QUESTIONS

(1) All questions should be answered on the basis of the position of GST law as amended up to 31.10.2019 and customs law as amended by the Finance (No. 2) Act, 2019 and notifications and circulars issued till 31.10.2019.

(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.

- ABC Petroleum Limited is engaged in the business of refining and marketing of petroleum products. It has one refinery each in the States of Tamil Nadu, West Bengal & Maharashtra and numerous administrative and marketing offices spread across the country. The Company has separate marketing cum administrative offices for every major State and common administrative cum marketing offices for a group of small States e.g., all north-eastern States are covered under one marketing cum administrative office. The Company also blends lubricants in its blending plants located in the States of Maharashtra and Tamil Nadu.

As a policy, all the places of business of the Company in a State are registered under one registration.

Imported crude is used as input in the refinery and following major products are extracted after refining process:

Products chargeable to GST (Group A)	Products not chargeable to GST (Group B)
Base oil (An input for blending lubricants)	Petrol
Furnace oil	Diesel
Bitumen (Used for road construction)	Air turbine fuel
LPG (Domestic and Industrial)	

Base oils are further sent to blending plants where they are blended with additives to produce lubricants. The Company provides the following particulars for States of Tamil Nadu, Maharashtra and Kerala for the month of January 20XX:

(Amount in thousands)

Particulars	Tamil Nadu (₹)	Maharashtra (₹)	Kerala (₹)
Value of supply inclusive of all taxes/duties (Group B products)	1,650	3,400	1,575
Value of supply (Group A products) before all taxes/duties	100	200	20
Excise duty leviable on supply of Group B products	500	1,000	110
VAT on supply of Group B products	250	600	65
Tax paid on inputs and input services procured at the blending plant	5	6	0
Tax paid on spares procured at the refinery (Spares are booked in revenue account)	3	8	0
Tax paid on inputs and input services procured at the marketing cum administrative office	2	3	1
Tax paid capital asset procured at the blending plant	0	5	0
Tax paid capital asset procured at the refinery	12	0	0

Assume that all of the Group A products are chargeable to GST @ 18% (including both CGST and SGST or IGST, as the case may be)

The Finance department of ABC Petroleum Limited seeks your professional advice on following questions:

- (i) The value of company's supply in the Union Territory of Puducherry is ₹ 32,34,000 (Group A products) and in the State of Goa is ₹ 18,38,000 (Group A and Group B products) for the year ending March 20XX. GST registration is
  - (a) Not required for both Puducherry and Goa
  - (b) Not required for Goa but required for Puducherry
  - (c) Required for both Puducherry and Goa
  - (d) Not required for Puducherry but required for Goa
- (ii) The eligible ITC available at marketing cum administrative office located in the State of Maharashtra, for the month of January 20XX, is-
  - (a) ₹ 3,000

(b) ₹ 300  
 (c) ₹ 166.67  
 (d) ₹ 1,500

(iii) The eligible ITC in respect of the capital asset procured in the State of Tamil Nadu, for the month of January 20XX:  
 (a) ₹ 12,000  
 (b) ₹ 200  
 (c) ₹ 11,811.11  
 (d) ₹ 11,820

(iv) Lubricant valued at ₹ 10,000 has been stock transferred from the blending plant located in the State of Tamil Nadu to the refinery located in the same State, in the month of January 20XX. The GST (CGST and SGST) payable on such transaction is?  
 (a) Nil as the transaction is not a supply  
 (b) ₹ 900  
 (c) ₹ 1,800  
 (d) Nil as such supply is exempted from GST

(v) Due to sudden fire in the store room of the refinery located in Maharashtra on January 28<sup>th</sup> 20XX, the entire quantity of spares procured in the month of January 20XX gets destroyed. What action is required from ABC Petroleum Limited?  
 (a) No action is required on the part of ABC Petroleum Limited under GST Law.  
 (b) ABC Petroleum Limited should report to jurisdictional GST Department for verification of the loss of inputs on account of fire.  
 (c) ABC Petroleum Limited should not avail ITC of tax paid on the spares.  
 (d) ABC Petroleum Limited should avail ITC and reverse the same.

2. Dum dum Engineering Private Limited (DEPL), Surat (Gujarat), a supplier of heavy machinery, supplied a machine to Gulati Manufacturers from its godown located in Mumbai, Maharashtra, on 1<sup>st</sup> January at a price of ₹ 64,00,000 (excluding all taxes). Gulati Manufacturers has its corporate office in New Delhi. However, the machinery was installed at its manufacturing unit located in Gurugram (Haryana) for which installation and commissioning charges of ₹ 4,80,000 and handling and loading charges of ₹ 1,60,000, were charged by DEPL. For every machinery supplied, DEPL receives a grant of ₹ 3,20,000 from its holding company Dharam Ltd.

Transportation of machinery to the customer's premises is arranged by DEPL through a third-party service provider [Goods Transport Agency (GTA)]. Gulati Manufacturers

entered into a separate service contract with the GTA and paid the freight of ₹ 50,000 directly to it.

DEPL offered a cash discount of 2% on the price of the machinery at the time of supply since Gulati Manufacturers agreed to make the payment within 15 days of the receipt of the machinery at its premises. However, it was agreed that in case Gulati Manufacturers failed to make the payment within the stipulated time, DEPL would-

- recover the discount given; and
- charge interest @ 1% per month or part of the month on the total amount due (including discount recovered) from Gulati Manufacturers (towards the machinery supplied) from the date of making the supply till the date of payment. However, no interest is to be charged on the tax dues.

Gulati Manufacturers paid the consideration for the machine on 31<sup>st</sup> March. Since the payment was made after the stipulated period of 15 days of the receipt of the machinery, discount given was recovered from it and interest was accordingly charged. However, Gulati Manufacturers refused to pay tax on interest and discount recovered.

Assume the rates of taxes to be as under:

Supply	CGST rate	SGST rate	IGST rate
Machinery supplied	6%	6%	12%
Service of transportation of goods	2.5%	2.5%	5%
Other services involved in the above supply	9%	9%	18%

In view of the above information, you are required to answer the following questions:

- (i) The place of supply of the machinery supplied by DEPL is \_\_\_\_\_ and the nature of supply is \_\_\_\_\_.
  - (a) Gujarat, intra-State supply
  - (b) Haryana, inter-State supply
  - (c) New Delhi, inter-State supply
  - (d) Maharashtra, inter-State supply
- (ii) The GST liability of DEPL for the month of January is \_\_\_\_\_ (approx.).
  - (a) 9,46,660
  - (b) 8,67,840
  - (c) 9,06,153
  - (d) 8,29,440

(iii) The GST liability of DEPL for the month of March is \_\_\_\_\_ (approx.).

- (a) 36,343
- (b) 36,504
- (c) 35,314
- (d) Nil

(iv) Supply of machinery and supply of installation and commissioning services is \_\_\_\_\_ supply. Time of supply of interest received by DEPL and cash discount recovered on account of delayed payment of consideration is \_\_\_\_\_.

- (a) composite, 31<sup>st</sup> March
- (b) composite, 1<sup>st</sup> January
- (c) mixed, 1<sup>st</sup> January
- (d) mixed, 31<sup>st</sup> March

(v) If the grant of ₹ 3,20,000 received by DEPL had been received from Central Government instead of its holding company Dharam Ltd., with other facts remaining the same, the GST liability of DEPL for the month of January would have been \_\_\_\_\_ (approx.).

- (a) 9,46,660
- (b) 8,67,840
- (c) 9,06,153
- (d) 8,29,440

3. Shree Ram Seva Trust is a charitable institution registered under section 12AA of the Income-tax Act, 1961. It has organized a skill development programme relating to persons over the age of 65 years residing in a well-planned city, in the month of April. It has received following amounts under the programme:

Particulars	Amount (₹)
Subscription fees for the programme	50,000
Sponsorship fees	1,00,000
Consideration for supply of goods	3,00,000

Besides, the trust has received the donations of ₹ 2,00,000 in April. Hanuman, accountant of Shree Ram Seva Trust, is not able to determine the taxability of the above amounts received under GST law. He seeks your expertise in determining the same.

Determine the value of taxable supply of Shree Ram Seva Trust, for the month of April.

(a) Nil  
 (b) ₹ 6,50,000  
 (c) ₹ 6,00,000  
 (d) ₹ 4,50,000

4. Happy Singh is the lawful owner of a residential house situated in Chandigarh. The property has four floors constructed on it. Out of the four floors in his house, first and second floor are self-occupied and third and fourth floor have been let out for residential purposes. Ratanjot Singh, who is a tenant on third floor, has surrendered his tenancy rights to Parminder Singh for a tenancy premium of ₹ 5,00,000 on 1<sup>st</sup> June. Parminder Singh has paid the applicable stamp duty and registration charges on transfer of tenancy rights. Moreover, Parminder Singh will pay a monthly rent of ₹ 50,000 to Happy Singh from June.

Determine the value of taxable supply, in the given case, for the month of June.

(a) Happy Singh: ₹ 5,50,000; Ratanjot Singh: Nil  
 (b) Happy Singh: Nil; Ratanjot Singh: ₹ 5,00,000  
 (c) Happy Singh: ₹ 50,000; Ratanjot Singh: Nil  
 (d) Happy Singh: ₹ 50,000; Ratanjot Singh: ₹ 5,00,000

5. Mr. Kala is a proprietor of M/s. Kala & Associates (registered under GST) which deals in sale/ purchase of second hand cars. During the current financial year, he effected following intra-State transactions:

Particulars	Purchase Price	Sale Price
Car 1	₹ 5,00,000	₹ 7,50,000
Car 2	₹ 3,00,000	₹ 2,75,000
Car 3	₹ 6,00,000	₹ 6,50,000
Car 4	₹ 8,00,000	₹ 9,50,000

Mr. Kala purchased Car 4 from another registered person who charged GST of ₹ 1,30,000 and accordingly, Mr. Kala has availed the input credit of the same.

Determine the GST liability of Mr. Kala assuming the applicable rate of tax as 18%.

(a) ₹ 95,000  
 (b) ₹ 1,08,000  
 (c) ₹ 1,30,500  
 (d) Exempt Supply, No GST

6. Lucky Singh, a resident of Noida, U.P., went to Himachal Pradesh for a family vacation via Delhi-Chandigarh-Himachal Pradesh in his own car. After entering Chandigarh, his car broke down due to some technical issue. He called 'ONROARDS' - an emergency roadside car assistance company (registered under GST in Delhi) to repair the car. The car was repaired by the staff of 'ONROARDS'. The value of supply amounted to ₹ 50,000 (being labour charges ₹ 40,000 and spares ₹ 10,000). The bill was supposed to be generated online through the server, but due to some technical issue, it was not so generated.

Determine the place of supply in the given case.

- (a) Delhi
- (b) Chandigarh
- (c) Noida, U.P
- (d) Himachal Pradesh

7. Outline the stepwise procedure of import of goods into India.

- i. Filing of Import General Manifest
- ii. Arrival of vessel
- iii. Grant of entry inwards to vessel
- iv. Unloading of goods
- v. Assessment of goods
- vi. Filing of Bill of Entry
- vii. Payment of duty

- (a) (i), (ii), (iii), (iv), (v), (vi) and (vii)
- (b) (ii), (iii), (i), (iv), (v), (vi) and (vii)
- (c) (iii), (ii), (i), (vi), (v), (vii) and (iv)
- (d) (ii), (i), (iii), (iv), (vi), (v) and (vii)

8. Which of the following is not correct in relation to claim of duty drawback under section 75 of the Customs Act, 1962?

- i. The upper limit for drawback is one third of market price of export product.
- ii. Countervailing duties and safeguard duties are included in all industry rates of drawback.
- iii. Countervailing duties and safeguard duties are included while determining all industry rates of drawback and thus can be claimed in application for fixing brand rate.

iv. Provisions of section 75 are not applicable on goods exported by post.

- (i), (ii) and (iv)
- (i), (iii) and (iv)
- (ii) and (iv)
- (iii) and (iv)

9. Skylark Pvt. Ltd., Noida (Uttar Pradesh) is engaged in various kinds of commercial activities. It manufactures taxable goods as also provides certain services. The company has branch office in New Delhi. The Head office at Noida and the branch office in New Delhi are registered under GST. The branch office at New Delhi is eligible for full input tax credit.

The company has reported a total turnover of ₹ 256 crore (exclusive of GST) for the month of August 20XX. The following information is provided by the company in relation to such turnover:

- The turnover includes ₹ 45 crore from sale of securities which were purchased for ₹ 30 crore in the month of January last year.
- The company supplied goods worth ₹ 50 crore to ABC Ltd. in UK under a letter of undertaking (LUT). The total export proceeds are received in the month of August 20XX itself; ₹ 30 crore in foreign currency and balance ₹ 20 crore in Indian rupees.
- The company provided consulting services to Sherpa & Sons in Nepal for ₹ 30 crore under a LUT. The entire consideration is received in Indian rupees in the month of August 20XX itself, with the permission of RBI.
- The turnover includes supply of goods worth ₹ 10 crore to Shanghai Jianguo Trading Company Ltd., a company based in China. As per the sale contract, the goods were to be assembled at Shanghai Jianguo Trading Company Ltd.'s office in Gurugram, Haryana. The payment of the goods is received in convertible foreign exchange in the month of August 20XX itself.
- Goods worth ₹ 20 crore are supplied under a LUT to DEF Pvt. Ltd. located in a SEZ in the State of Uttar Pradesh.
- Goods worth ₹ 40 lakh were being procured from a vendor in Japan. While the goods were in transit, the company secured an order for the said goods for ₹ 50 lakh from a buyer in Thailand. Thus, the goods were directly sent to Thailand without entering India.
- The company owns three immovable properties in Noida. The first building is let out for running a printing press at ₹ 10 lakh per month. The second building is let out

for residential purpose at ₹ 5 lakh per month. The third building is let out to a Cold Storage operator at ₹ 5 lakh per month. The cold storage operator sub-lets the building as a warehouse to store potatoes.

(viii) The remaining turnover comprised of taxable goods sold within the State and outside the State in the ratio of 3:2.

Total turnover of ₹ 256 crore includes the turnover referred to in points (i) to (vii) above.

In addition to above –

- (i) the company transferred its stock (taxable goods) from Noida to Delhi branch without any consideration; the value declared in the invoice is ₹ 4.5 crore (exclusive of GST). The cost of production of such goods is ₹ 10 crore. Such stock is sold to independent buyers at ₹ 15 crore (exclusive of GST).
- (ii) the company had sent goods worth ₹ 12 crore (exclusive of GST) to M/s Sharma Traders in Haryana on approval basis on 15<sup>th</sup> January, 20XX, 15<sup>th</sup> February 20XX & 15<sup>th</sup> March 20XX (₹ 4 crore each month). Goods sent during all the three months are approved in the month of September 20XX.

Compute the GST liability [CGST & SGST or IGST, as the case may be] of Skylark Pvt. Ltd., Noida for the month of August 20XX. Make suitable assumptions wherever required.

Assume the rates of taxes to be as under:

	CGST	SGST	IGST
Goods	6%	6%	12%
Services	9%	9%	18%

10. 'PQ', a statutory body, deals with the all the advertisement and publicity of the Government. It has issued a release order to 'Moon Plus' channel (registered in State 'A') for telecasting an advertisement relating to one of the schemes of the Government in the month of September 20XX. The advertisement will be telecasted in the States of 'A', 'B', 'C', 'D' and 'E'. The total value of the service contract entered into between 'Moon Plus' and 'PQ' is ₹ 10,00,000 (exclusive of GST).

You are required to determine the place of supply of the services in the instant case as also the value of supply attributable to the States of 'A', 'B', 'C', 'D' and 'E'.

Further, compute the GST liability [CGST & SGST or IGST, as the case may be] of 'Moon Plus' as also advise it as to whether it should issue one invoice for the entire contract value or separate State-wise invoices.

The other relevant information is given hereunder:

Table 1

States	Viewership figures of 'Moon Plus' channel in the last week of June 20XX as provided by the Broadcast Audience Research Council
A	50,000
B + C	1,00,000
D + E	50,000

Table 2

States	Population as per latest census (in crores)
A	50
B	180
C	20
D	100
E	25

The applicable rate of tax is as under:

CGST	SGST	IGST
9%	9%	18%

11. Pethalal has obtained registration in the current financial year in Uttar Pradesh. His turnover in the preceding financial year was ₹ 19,90,000. He has received the following amounts in respect of the activities undertaken by him in the month of September:

S. No.	Particulars	Amount (₹)
(i)	Funeral services	8,80,000
(ii)	Services of warehousing of jaggery	50,000
(iii)	Electrically operated buses given on hire to Municipal Corporation	5,00,000
(iv)	Service provided to recognized sports body as commentator	2,00,000
(v)	Commission received as an insurance agent from insurance company	65,000
(vi)	Commission received as business facilitator for the services provided to the urban branch of a nationalized bank with respect to savings bank accounts	15,000

(vii)	Security services (supply of security personnel) provided to Damodar Engineering College (DEC)* [registered under GST] for the security of the college premises  *All the engineering courses run by DEC are recognised by the law [The All India Council for Technical Education (AICTE)]	28,000
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Further, he has received following services in the month of September:

S. No.	Particulars	Amount (₹)
(a)	Freight paid to unregistered goods transport agency for his business activities relating to serial number (i) above	1,00,000
(b)	Legal advice received from M/s Kanoon Associates, a partnership firm, seeking advice in relation to a tax dispute of the business	50,000

All the transactions stated above are intra-State transactions and amounts given are exclusive of GST, wherever applicable.

You are required to calculate net GST payable by Pethalal for the month of September. There was no opening balance of input tax credit. Rate of CGST and SGST is 9% each for all the outward supplies made by Pethalal.

12. Arise India Pvt. Ltd., a company engaged in manufacturing of various goods, has its corporate office at Mumbai and manufacturing units in Pune and Chennai and service centres in Kolkata and Bengaluru. The manufacturing units at Pune and Chennai and service centres at Kolkata and Bengaluru are registered in Maharashtra, Tamil Nadu, West Bengal and Karnataka respectively. The corporate office is registered as an input service distributor. All the units and centres of Arise India Pvt. Ltd. are operational in the current year. The corporate office intends to distribute input tax credit (ITC) for the month of October 20XX. The following details are available for such distribution:

**Table 1**

Unit/centre	Turnover for the quarter ending September 20XX* (₹)	Eligible ITC on input services attributable to a specific unit/centre, for the month of October 20XX (₹)
Pune	20,00,000	IGST – ₹ 3,00,000; CGST- ₹ 30,000; SGST- ₹ 30,000
Chennai	30,00,000	IGST – ₹ 24,000; CGST – ₹ 6,000; SGST – ₹ 6,000
Kolkata	10,00,000	Nil
Bengaluru	40,00,000	Nil

\*Note: Turnover excludes all taxes and duties

Table 2

S. No.	Particulars		CGST	SGST	IGST
(i)	Input services used by all units and centres				
	(a) Eligible ITC under the provisions of the GST law		1,20,000	1,20,000	2,40,000
	(b) Ineligible ITC in terms of section 17(5) of the CGST Act, 2017		40,000	40,000	80,000
(ii)	Inputs used by Pune unit and Kolkata centre		60,000	60,000	
(iii)	Input services used by Chennai unit and Bengaluru centre (ITC pertaining to such invoices is eligible ITC under the provisions of the GST law)		30,000	30,000	10,000

Chennai unit manufactures exempted products.

Compute the amount of ITC to be distributed to each of the units and centres.

13. Dushyant rents out a commercial building owned by him to Bharat for the month of December, for which he charges a rent of ₹19,50,000. Dushyant pays the maintenance charges of ₹ 1,00,000 (for the December month) as charged by the local society. These charges have been reimbursed to him by Bharat. Further, Bharat had given ₹ 2,50,000 to Dushyant as interest free refundable security deposit. Further, Dushyant has paid the municipal taxes of ₹ 2,85,000 which he has not charged from Bharat. You are required to determine the value of supply and the GST liability of Dushyant for the month of December assuming CGST and SGST rates to be 9% each.

Note: All the amounts given above are exclusive of GST.

14. Sacrosant Manufacturers Ltd., a manufacturer of bottle caps, is registered in Dhanbad (Jharkhand). It imports a bottle caps making machine from Japan.

Sacrosant Manufacturers Ltd. avails the services of Jhumroo Logistics, a licensed customs broker in Kolkata (West Bengal), in meeting all the legal formalities for getting the said machine cleared from the customs station.

Sacrosant Manufacturers Ltd. also authorises Jhumroo Logistics to incur, on its behalf, the expenses in relation to clearance of the imported machine from the customs station and bringing the same to its warehouse at Dhanbad. These expenses would be reimbursed by Sacrosant Manufacturers Ltd. to Jhumroo Logistics on actual basis. In addition, Sacrosant Manufacturers Ltd. will also pay the agency charges to Jhumroo Logistics for the services rendered by it.

Jhumroo Logistics raised an invoice in July as follows:

S.No.	Particulars	Amount* (₹)
(i)	Agency charges	5,00,000
(ii)	Customs duty on machine	3,80,000
(iii)	Port charges	33,000
(iv)	Dock dues	56,000
(v)	Charges for transport of machine from Kolkata port, West Bengal to Jhumroo Logistics' godown in Asansol, West Bengal	48,000
(vi)	Charges for transport of machine from Jhumroo Logistics' Asansol godown to the warehouse of Sacrosant Manufacturers Ltd. in Dhanbad, Jharkhand	67,000
(vii)	Unloading of machine at Kolkata port, West Bengal	83,000
(viii)	Hotel expenses	45,000
(ix)	Travelling expenses	50,000
(x)	Telephone expenses	2,000

\*exclusive of GST, wherever applicable

Compute the value of supply made by Jhumroo Logistics with the help of given information. Would your answer be different if Jhumroo Logistics charges ₹ 13,00,000 as a lump sum consideration for clearing the imported machine from the customs station and bringing the same to the warehouse of Sacrosant Manufacturers Ltd.?

15. Inoba Bhave is engaged in supply of taxable services. He supplies some services in the month of April and collects IGST of ₹ 15,50,000 on said supply on 18th April. However, he fails to pay the tax so collected within 30 days from the due date of payment of such tax.

No Show Cause Notice (SCN) has been issued to him so far. Inoba Bhave decides to discharge his tax liability, before the SCN is issued to him. He is of the view that no penalty is leviable if the payment of tax is made before issue of SCN.

Therefore, he self-assesses his tax liability at ₹ 15,50,000 and pays the same on 26<sup>th</sup> June. Determine the interest and penalty, if any, payable by Inoba Bhave.

16. Examine whether the offences committed in each of the following independent cases are bailable. Further, determine the quantum of punishment on prosecution under the CGST Act, 2017, in each of these cases:

(i) 'Homi Gabha' collects ₹ 240 lakh as tax from its clients and deposits ₹ 150 lakh with the Central Government. Balance amount of tax is not paid to the Central

Government. It is found that he has falsified financial records and has not maintained proper records, to evade the tax.

(ii) 'Datukeshwar Dutt' collects ₹ 630 lakh as tax from its clients, but deposits only ₹ 120 lakh with the Central Government. Balance amount of tax is not paid to the Central Government.

What would be the implications in above cases if 'Homi Gabha' and 'Datukeshwar Dutt' repeat the offences?

Note - It may be assumed that offences are proved in the court.

17. An international trade exhibition is going to be held in United States of America in January. Aayaat Niryat Export House (ANEH) has participated in it. It intends to send 100 units of taxable goods manufactured by it to USA for display in the said exhibition.

ANEH is of the view that the activity of sending the goods out of India for exhibition is a zero-rated supply. However, its tax advisor does not concur with its view. Examine whether the view of ANEH is correct.

Assuming that ANEH could not sell any goods at the exhibition and brings back entire 100 units to India (i) in February, (ii) in August,

Discuss the requirement to issue invoice, if any, in each of the above independent cases.

Would your answer be different if ANEH sells an aggregate of 65 units of the taxable goods in USA exhibition on different dates in January and remaining 35 units are brought back on 31<sup>st</sup> January. The tax advisor of ANEH advises ANEH that the export of 65 units qualify as zero-rated supply and it should apply for refund of the unutilized ITC in respect of the same. Examine the technical veracity of the tax advisor's advice.

18. Kankan Corp had imported a machine from USA for ₹ 365 lakh on payment of appropriate customs duty in February. However, in July, the machine had to be sent back to the supplier for repair (not amounting to manufacture) from the factory of Kankan Corp. This machine was repaired and thereafter, re-imported by Kankan Corp in November next year. The supplier has agreed to provide discount of 60% of the fair cost of repairs, resulting in Kankan Corp paying USD 12,000.

Following further particulars are available:

Particulars	Date	Rate of Duty	Inter Bank Exchange rate	Rate notified by CBEC
Bill of Entry	21 <sup>st</sup> February	12%	61.40	62
Aircraft arrival	26 <sup>th</sup> February	15%	62.50	63.25

Integrated tax is leviable @ 12%.

	Outwards (Amt. in ₹)	Inwards (Amt. in ₹)
Insurance	23,000	27,000
Air Freight	93,500	1,06,500

Determine total duty payable with appropriate notes for your computation assuming that Kankan Corp is not an EOU.

19. Mr. Samuel, a US resident aged 35 years, has come to India on a tourist visa for a month-long vacation. He carries with him, as part of baggage, the following:

Particulars	Value in ₹
Travel souvenirs	85,000
Other articles carried on in person	1,50,000
80 sticks of cigarettes of ₹ 100 each	8,000
30 cartridges of fire arms valuing ₹ 500 each	15,000
One litre wine	15,000

With reference to the Baggage Rules, 2016, determine whether Mr. Samuel will be required to pay any customs duty?

20. Whether all types of exports categories/sectors are eligible for duty credit scrip entitlement under Merchant Export from India Scheme (MEIS)? If your answer is no, give few examples of the export categories/sectors which are ineligible for duty credit scrip entitlement under MEIS.

Saksham exports a consignment of handicraft items through courier using e-commerce of free on board (FOB) value of ₹ 4,48,000. Determine whether the export consignment of Saksham is eligible for the MEIS benefit.

#### SUGGESTED ANSWERS

1. (i) (c); (ii) (b); (iii) (d); (iv) (a); (v) (c)
2. (i) (b); (ii) (b); (iii) (a); (iv) (a); (v) (d)
3. (d)
4. (b)
5. (a)
6. (a)
7. (d)
8. (c)

## 9. Computation of GST liability of Skylark Pvt. Ltd. for the month of August 20XX

S. No.	Particulars	Value (₹ in crores)	CGST @ 6% (₹ in crores)	SGST @ 6% (₹ in crores)	IGST@ 12% (₹ in crores)
<b>Goods</b>					
(i)	Export of goods to ABC Ltd. in UK under a letter of undertaking (LUT) [Note 1]	50			Nil
(ii)	Supply of goods to Shanghai Jianguo Trading Company Ltd. [Note 2]	10			1.20
(iii)	Goods supplied to DEF Pvt. Ltd. located in a SEZ [Note 3]	20			Nil
(iv)	Sale within the State [Note 4]	60.18	3.6108	3.6108	-
(v)	Sale outside the State [Note 4]	40.12			4.8144
(vi)	Stock transfer from Noida to Delhi [Note 5]	4.5			0.54
(vii)	Goods sent for sale on approval basis on 15 <sup>th</sup> February, 20XX [Note 6]	<u>4.00</u>			<u>0.48</u>
Total tax liability on goods [A]			3.6108	3.6108	7.0344
<b>Services</b>					
(i)	Export of services to Nepal under a LUT [Note 7]	30			Nil
(ii)	Receipts from renting of buildings [Note 8]	<u>0.15</u>	<u>0.0135</u>	<u>0.0135</u>	
Total tax liability on services [B]			0.0135	0.0135	
<b>Neither goods nor services</b>					
(i)	Sale of securities [Note 9]	45	Nil	Nil	Nil
(ii)	Goods procured from vendor in Japan and supplied to buyer in Thailand [Note 10]	0.50			Nil
Total tax liability on goods and services [(A) + (B)]			3.6243	3.6243	7.0344

**Notes:**

- (1) As per section 2(5) of the IGST Act, 2017, export of goods means taking goods out of India to a place outside India. Receipt of consideration in foreign exchange is not a pre-requisite for export of goods. Export of goods is a zero rated supply in terms of section 16(1)(a) of the IGST Act, 2017. A zero rated supply is supplied without payment of tax under a LUT in terms of section 16(3)(a) of that Act.
- (2) As per section 2(5) of the IGST Act, 2017, export of goods means taking goods out of India to a place outside India. Since, in the given case, the goods are being assembled in India (Gurugram, Haryana), the same are not exported.

Hence, the place of supply thereof will be governed by section 10 of the IGST Act, 2017 which prescribes the provisions for determining the place of supply of goods other than supply of goods imported into or exported from India. As per section 10(1)(d) of the IGST Act, 2017, where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly. Therefore, in the given case, the place of supply will be Gurugram, Haryana.

Since the location of the supplier (Uttar Pradesh) and the place of supply (Haryana) are in two different States, the same is an inter-State supply liable to IGST [Section 7(1)(a) of the IGST Act, 2017 read with section 5(1) of that Act].

- (3) As per section 7(5)(b) of the IGST Act, 2017, supply of goods and/or services to a special economic zone (SEZ) unit is treated to be a supply of goods and/or services in the course of inter-State trade or commerce. Therefore, supply of goods to a SEZ unit located within the same State shall be liable to IGST [Section 5(1) of the IGST Act, 2017].

Supply of goods and/or services to a SEZ unit is a zero rated supply in terms of section 16(1)(b) of the IGST Act, 2017. A zero rated supply is supplied without payment of tax under a LUT in terms of section 16(3)(a) of that Act.

- (4) Remaining turnover will be calculated as under

₹ 256 crore – (₹ 45 crore + ₹ 50 crore + ₹ 30 crore + ₹ 10 crore + ₹ 20 crore + ₹ 0.50 crore + ₹ 0.10 crore + ₹ 0.05 crore + ₹ 0.05 crore) = ₹ 100.30 crore

Supply within the State - ₹ 100.30 crore x 3/5 = ₹ 60.18

Supply outside the State - ₹ 100.30 crore x 2/5 = ₹ 40.12

Supply within the State is intra-State supply in terms of section 8(1) of IGST Act, 2017 and thus, chargeable to CGST and SGST. Supply outside the State is inter-State supply chargeable to IGST [Section 7(1) of IGST Act, 2017 read with section 5(1) of the said Act].

- (5) As per section 25(4) of the CGST Act, 2017, a person who has obtained more than one registration, whether in one State or Union territory or more than one State or

Union territory shall, in respect of each such registration, be treated as 'distinct persons'.

Schedule I to the CGST Act, 2017 specifies situations where activities are to be treated as supply even if made without consideration. Supply of goods and/or services between 'distinct persons' as specified in section 25 of the CGST Act, 2017, when made in the course or furtherance of business is one such activity included in Schedule I under para 2.

In the given case-

- the location of the supplier is in Noida (Uttar Pradesh); and
- the place of supply is the location of such goods at the time at which the movement thereof terminates for delivery to the recipient i.e., Delhi, in terms of section 10(1)(a) of the IGST Act, 2017.

Therefore, the stock transfer by Noida office to Delhi branch is an inter-State supply as the location of the supplier and the place of supply are in two different States [Section 7(1)(a) of IGST Act, 2017]. Thus, the supply is liable to IGST in terms of section 5(1) of the IGST Act, 2017.

Rule 28 of the CGST Rules, 2017 prescribes the provisions to determine the value of supply of goods or services or both between distinct or related persons, other than through an agent. Second proviso to the said rule lays down that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services. Therefore, the value of supply in this case will be ₹ 4.5 crore and open market value and cost of production of the goods will be irrelevant.

(6) As per section 31(7) of the CGST Act, 2017, where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.

In the given case, the time period of six months for goods sent on 15<sup>th</sup> February, 20XX expires on 15.08.20XX. Therefore, the invoice for the said goods shall be issued on 15.08.20XX and in terms of section 12(2)(a) of the CGST Act, 2017 read with *Notification No. 66/2017 CT dated 15.11.2017*, this date would also be the time of supply of such goods. Thus, such goods will be liable to tax in the month of August 20XX. Goods sent in the month of January would have been taxed in the month of July and goods sent in the month of March would be taxed in the month of September.

Here,

- the location of the supplier is in Noida (Uttar Pradesh); and

- the place of supply is the location of the goods at the time at which the movement thereof terminates for delivery to the recipient i.e., Haryana in terms of section 10(1)(a) of the IGST Act, 2017.

Since the location of the supplier (Uttar Pradesh) and the place of supply (Haryana) are in two different States, the same is an inter-State supply liable to IGST [Section 7(1)(a) of the IGST Act, 2017 read with section 5(1) of that Act].

(7) The given case is an export of service as per section 2(6) of the IGST Act, 2017, as-

- the supplier of service is located in India (Noida);
- the recipient of service is located outside India (Nepal);
- the place of supply of service is outside India (Place of supply of consulting service will be the location of recipient, i.e. Nepal);
- the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India (Receipt of export consideration in Indian rupees is permitted by RBI in the given case); and
- the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8.

Export of services is a zero rated supply in terms of section 16(1)(a) of the IGST Act, 2017. A zero rated supply is supplied without payment of tax under a LUT in terms of section 16(3)(a) of that Act.

(8) Letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of service in terms of para 2(b) of the Schedule II to the CGST Act, 2017. Services by way of renting of residential dwelling for use as residence is exempt from tax [*Notification No. 12/2017 CT (R) dated 28.06.2017*]. Therefore, rent of ₹ 10 lakh received from letting out of building for printing press will be liable to tax and rent of ₹ 5 lakh received from letting out of building for residential purposes will be exempt from tax.

Further, services by way of loading, unloading, packing, storage or warehousing of agricultural produce is exempt from tax [*Notification No. 12/2017 CT (R) dated 28.06.2017*]. However, in the given case, the Cold Storage Operator and not Skylark Pvt. Ltd. is engaged in warehousing of agricultural produce. Therefore, the Cold Storage Operator providing warehousing services for potatoes, being an agricultural produce, will be eligible for such exemption and services provided by Skylark Pvt. Ltd., being services of renting of immovable property (₹ 5 lakh), will be liable to tax.

In case of letting out of first and third buildings,

- the location of the supplier is in Noida (Uttar Pradesh); and
- the place of supply is the location of the immovable property, i.e. Noida in terms of section 12(3)(a) of the IGST Act, 2017.

Since the location of the supplier (Uttar Pradesh) and the place of supply (Noida) are in the same State, the same is an intra-State supply in terms of section 8(1) of the IGST Act, 2017 and is thus, liable to CGST and SGST.

- (9) GST is leviable on supply of goods and/or services [Section 9(1) of the CGST Act, 2017]. Securities are specifically excluded from the definition of goods and services as provided under clause (52) and clause (102) respectively of section 2 of the CGST Act, 2017. Therefore, sale of securities will not be liable to GST.
- (10) Paragraph 7 of the Schedule III to CGST Act, 2017 provides that supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India (third country shipments) is treated neither as a supply of goods nor a supply of services. Thus, there is no GST liability on such sales. Further, since such goods do not enter India at any point of time, customs duty and IGST leviable on imported goods will also not be leviable on such goods.
10. As per section 12(14) of the IGST Act, 2017, the place of supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for the States or Union territories identified in the contract or agreement is taken as being in each of such States or Union territories (where the advertisement is broadcasted/ run /played/disseminated).

Therefore, in the given case, the place of supply of advertisement service is in the States of 'A', 'B', 'C', 'D' and 'E'.

The value of the supply of such advertisement services specific to each State/Union territory is in proportion to the amount attributable to the services provided by way of dissemination in the respective States/Union territories determined in terms of the contract or agreement entered into in this regard.

In the absence of such a contract or agreement between the supplier and recipient of services, the proportionate value of advertisement services attributable to different States/Union territories (where the advertisement is broadcasted/run/played/disseminated) is computed in accordance with rule 3 of the IGST Rules, 2017.

As per rule 3(f) of the IGST Rules, 2017, in the case of advertisement on television channels, the amount attributable to the value of advertisement service disseminated in a State shall be calculated on the basis of the viewership of such channel in such State, which in turn, shall be calculated in the following manner, namely: -

- (i) the channel viewership figures for that channel for a State or Union territory shall be taken from the figures published in this regard by the Broadcast Audience Research Council;
- (ii) the figures published for the last week of a given quarter shall be used for calculating viewership for the succeeding quarter;
- (iii) where such channel viewership figures relate to a region comprising of more than one State or Union territory, the viewership figures for a State or Union territory of that region, shall be calculated by applying the ratio of the populations of that State or Union territory, as determined in the latest Census, to such viewership figures;
- (iv) the ratio of the viewership figures for each State or Union territory as so calculated, when applied to the amount payable for that service, shall represent the portion of the value attributable to the dissemination in that State or Union territory.

Therefore, value of supply attributable to 'A', 'B', 'C', 'D' and 'E', will be computed as under:

States	Viewership figures of 'Moon Plus' channel as provided by the Broadcast Audience Research Council in the last week of June 20XX	Viewership ratio of 'Moon Plus' channel in the States 'A', ('B' + 'C') and ('D' + 'E')	Proportionate value of advertisement services for States A', ('B' + 'C') and ('D' + 'E')
A	50,000	50,000: 1,00,000: 50,000 = 1:2:1	₹ 10,00,000 x 1/4 = ₹ 2,50,000
B + C	1,00,000		₹ 10,00,000 x 2/4 = ₹ 5,00,000
D + E	50,000		₹ 10,00,000 x 1/4 = ₹ 2,50,000

States	Population as per latest census (in crores)	Population ratio in the States 'B' & 'C' and 'D' & 'E'	Proportionate value of advertisement services in the States 'A', 'B', 'C', 'D' & 'E'
A	50		₹ 2,50,000
B	180	B:C = 180:20 = 9:1	₹ 5,00,000 x 9/10 = ₹ 4,50,000
C	20		₹ 5,00,000 x 1/10 = ₹ 50,000
D	100	D:E = 100:25 = 4:1	₹ 2,50,000 x 4/5 = ₹ 2,00,000
E	25		₹ 2,50,000 x 1/5 = ₹ 50,000

Since, there are five different places of supply in the given case, 'Moon Plus' channel will have to issue five separate invoices for each of the States namely, 'A', 'B', 'C', 'D' & 'E' indicating the value pertaining to that State. The GST liability of 'Moon Plus' channel will, therefore, be worked out as under:

**Computation of GST liability of 'Moon Plus'**

States	Proportionate value of advertisement services (₹)	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)
A	2,50,000	22,500	22,500	
B	4,50,000			81,000
C	50,000			9,000
D	2,00,000			36,000
E	50,000			9,000

Only in case of supply of services in State 'A', the location of supplier (State 'A') and the place of supply are in the same State, hence the same is an intra-State supply in terms of section 8(1) of the IGST Act, 2017 and is thus, liable to CGST and SGST. In all the remaining cases of supply of services, the location of the supplier (State 'A') and the places of supply (States 'B', 'C', 'D' & 'E') are in two different States, hence the same are inter-State supplies liable to IGST [Section 7(1)(a) of the IGST Act, 2017 read with section 5(1) of that Act].

**11. Computation of net GST payable by Pethalal**

Particulars	Amount (₹)	CGST (₹)	SGST (₹)
<b><u>Supplies on which Pethalal is liable to pay GST under forward charge</u></b>			
Funeral services [Note 1]	8,80,000		
Services of warehousing of jaggery [Note 2]	50,000		
Services by way of giving on hire electrically operated buses to Municipality [Note 3]	5,00,000		
Service provided to recognized sports body as commentator [Note 4]	2,00,000	= 2,00,000 × 9% = 18,000	= 2,00,000 × 9% = 18,000
Commission received as an insurance agent from insurance company [Note 5]	65,000		
Commission received as business facilitator	15,000		

for the services provided to the urban branch of a nationalised bank with respect to savings bank accounts [Note 6]				
Security services (supply of security personnel) provided to DEC for the security of the college premises [Note 7]	28,000			
<b>Value of taxable supply</b>	<b>2,00,000</b>			
Total tax liability on outward supplies (A)		18,000	18,000	
<b><u>Supplies on which Pethalal is liable to pay GST under reverse charge</u></b>				
Services received from GTA [Note 8]	1,00,000	= 1,00,000 × 2.5% = 2,500	= 1,00,000 × 2.5% = 2,500	
Legal services received [Note 9]	50,000			
<b>Value of taxable supply</b>	<b>1,00,000</b>			
Total tax liability on inward supplies under reverse charge (B) - payable in cash [Note 10]		2,500	2,500	
ITC available on input services [Note 8]		Nil	Nil	
<b>Net GST payable (A) + (B)</b>	<b>20,500</b>		<b>20,500</b>	

**Notes:**

- (1) Funeral services being covered in entry 4 of Schedule III to the CGST Act, 2017 are not a supply and thus, are outside the ambit of GST.
- (2) Services by way of storage/ warehousing of, *inter alia*, jaggery are exempt from GST vide Exemption Notification No. 12/2017 CT(R) dated 28.06.2017 (hereinafter referred to as exemption notification). Thus, services of warehousing of jaggery are exempt.
- (3) Services by way of giving on hire to a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers are exempt vide exemption notification. Buses are EOVs meant to carry more than 12 passengers. Hence, services of giving electrically operated buses on hire to Municipal Corporation are exempt from GST.
- (4) Services provided to a recognized sports body by an individual only as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body are exempt from GST vide exemption notification. Thus, service provided as commentator is liable to GST.
- (5) Though commission for providing insurance agent's services to any person carrying on insurance business is liable to GST, the tax payable thereon is to be paid by the

recipient of service i.e., insurance company, under reverse charge in terms of *Notification No. 13/2017 CT(R) dated 28.06.2017* (hereinafter referred to as reverse charge notification). Thus, Pethalal will not be liable to pay GST on such commission.

- (6) Services provided by a business facilitator to a banking company with respect to accounts in its rural area branch are exempt from GST vide exemption notification. Thus, services provided by him in respect of urban area branch of the bank will be taxable. However, the tax payable thereon is to be paid by the recipient of service i.e., banking company, under reverse charge in terms of reverse charge notification. Hence, Pethalal will not liable to pay GST on commission received for said services.
- (7) Services provided to an educational institution, by way of security services performed in such educational institution are exempt from GST only when said services are provided to an institution providing services by way of pre-school education and education up to higher secondary school or equivalent, vide exemption notification. Thus, in the given case, security services provided to DEC are not exempt. Further, the tax on security services (supply of security personnel) provided by any person other than a body corporate to a registered person is payable by the recipient of service under reverse charge in terms of reverse charge notification. Hence, Pethalal will not be liable to pay GST in the given case.
- (8) GST on services provided by a GTA (not paying tax @ 12%) to, *inter alia*, a registered person is payable by the recipient of service i.e., the registered person, under reverse charge in terms of reverse charge notification. Since in the given case, GTA is unregistered, Pethalal is liable to pay tax under reverse charge @ 5% (CGST @ 2.5% and SGST @ 2.5%). Further, since said input services are being exclusively used for effecting non-taxable supplies [funeral services], input tax credit of the GST paid on the same will not be available.
- (9) Legal services provided by a partnership firm of advocates to a business entity (with an aggregate turnover up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017) are exempt from GST vide exemption notification. Since the aggregate turnover of Pethalal did not exceed ₹ 20 lakh [the applicable threshold limit for registration for Pethalal being a supplier of services] in the preceding FY, legal services received by him are exempt from GST.
- (10) As per section 49(4) of the CGST Act, 2017, amount available in the electronic credit ledger may be used for making payment towards output tax. However, tax payable under reverse charge is not an output tax in terms of section 2(82) of the CGST Act, 2017. Therefore, tax payable under reverse charge cannot be set off against the input tax credit and thus, will have to be paid in cash.
- (11) Since all the transactions given hereunder are intra-State, CGST and SGST are payable in terms of section 9(1) of the CGST Act, 2017

12.

## Computation of ITC to be distributed by ISD

S. No.	Particulars	Pune unit (₹)	Chennai unit (₹)	Kolkata centre (₹)	Bengaluru centre (₹)
(i)	IGST credit of ₹ 3,00,000, CGST credit of ₹ 30,000 and SGST credit of ₹ 30,000 specifically attributable to Pune unit [Note 1]	3,00,000 (IGST) 30,000 (CGST) 30,000 (SGST)			
(ii)	IGST credit of ₹ 24,000, CGST credit of ₹ 6,000 and SGST credit of ₹ 6,000 specifically attributable to Chennai unit [Note 2]		36,000 (IGST)		
(iii)	Eligible ITC pertaining to input services used by all units and centres [Note 3]	24,000 (CGST) 24,000 (SGST) 48,000 (IGST)	1,44,000 (IGST)	48,000 (IGST)	1,92,000 (IGST)
(iv)	Ineligible ITC pertaining to input services used by all units and centres [Note 4]	8,000 (CGST) 8,000 (SGST) 16,000 (IGST)	48,000 (IGST)	16,000 (IGST)	64,000 (IGST)
(v)	Inputs used by Pune unit and Kolkata centre [Note 5]	Nil	Nil	Nil	Nil
(vi)	Input services used by Chennai unit and Bengaluru centre [Note 6]		30,000 (IGST)		40,000 (IGST)

**Notes:**

(1) IGST credit of ₹ 3,00,000, CGST credit of ₹ 30,000 and SGST credit of ₹ 30,000 specifically attributable to Pune unit will be distributed as IGST credit of ₹ 3,00,000, CGST credit of ₹ 30,000 and SGST credit of ₹ 30,000 respectively, only to Pune

unit, since recipient is located in the same State in which ISD is located [Section 20(2)(c) of the CGST Act, 2017 read with clauses (e) & (f)(i) of sub-rule (1) of rule 39 of the CGST Rules, 2017].

- (2) Total GST credit (CGST+ SGST + IGST) of ₹ 36,000 specifically attributable to Chennai unit will be distributed as IGST credit of ₹ 36,000, only to Chennai unit, since recipient and ISD are located in different States [Section 20(2)(c) of the CGST Act, 2017 read with clauses (e) & (f)(ii) of sub-rule (1) of rule 39 of the CGST Rules, 2017].
- (3) Eligible ITC of CGST [₹ 1,20,000], SGST [₹ 1,20,000] and IGST [₹ 2,40,000] will be distributed among the units and centres in the ratio of their turnover of the last quarter [Section 20(2)(e) of the CGST Act, 2017 read with clause (a)(ii) of the explanation to the said section and rule 39(1)(b) of the CGST Rules, 2017].

Ratio of the turnover of the units and centres in last quarter, previous to the month during which ITC is to be distributed:

$$\begin{aligned}
 &= 20 \text{ lakh} : 30 \text{ lakh} : 10 \text{ lakh} : 40 \text{ lakh} \\
 &= 2: 3: 1: 4
 \end{aligned}$$

Therefore,

Pune unit will get - ₹ 24,000 [1,20,000 x (2/10)] as CGST credit, ₹ 24,000 [1,20,000 x (2/10)] as SGST credit and ₹ 48,000 [2,40,000 x (2/10)] as eligible IGST credit [Clauses (e) & (f)(i) of sub-rule (1) of rule 39 of the CGST Rules, 2017].

Chennai unit will get - ₹ 1,44,000 [₹ 4,80,000<sup>1</sup> x (3/10)] as IGST credit [Clauses (e) & (f)(ii) of sub-rule (1) of rule 39 of the CGST Rules, 2017]. The credit attributable to a recipient is distributed even if such recipient is making exempt supplies [Clause (d) of sub-rule (1) of rule 39 of the CGST Rules, 2017].

Kolkata centre will get - ₹ 48,000 [₹ 4,80,000 x (1/10)] as IGST credit [Clauses (e) & (f)(ii) of sub-rule (1) of rule 39 of the CGST Rules, 2017].

Bengaluru will get - ₹ 1,92,000 [₹ 4,80,000 x (4/10)] as IGST credit [Clauses (e) & (f)(ii) of sub-rule (1) of rule 39 of the CGST Rules, 2017].

- (4) Ineligible ITC of CGST [₹ 40,000], SGST [₹ 40,000] and IGST [₹ 80,000] will also be distributed among the units and centres in the ratio of their turnover of the last quarter [Section 20(2)(e) of the CGST Act, 2017 read with clause (a)(ii) of the explanation to the said section and rule 39(1)(b) of the CGST Rules, 2017].

Ratio of the turnover of the units and centres in last quarter, previous to the month during which ITC is to be distributed:

$$= 20 \text{ lakh} : 30 \text{ lakh} : 10 \text{ lakh} : 40 \text{ lakh}$$

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<sup>1</sup> ₹ 1,20,000 + ₹ 1,20,000 + ₹ 2,40,000

= 2: 3: 1: 4

Therefore,

Pune unit will get - ₹ 8,000 [₹ 40,000 x (2/10)] as CGST credit, ₹ 8,000 [₹ 40,000 x (2/10)] as SGST credit and ₹ 16,000 [₹ 80,000 x (2/10)] as eligible IGST credit.

Chennai unit will get – ₹ 48,000 [₹ 1,60,000 x (3/10)] as IGST credit.

Kolkata centre will get - ₹ 16,000 [₹ 1,60,000 x (1/10)] as IGST credit.

Bengaluru will get - ₹ 64,000 [₹ 1,60,000 x (4/10)] as IGST credit.

- (5) ISD mechanism is meant only for distributing the credit on common invoices pertaining to input services only and not goods (inputs or capital goods).
- (6) Eligible ITC of CGST [₹ 30,000], SGST [₹ 30,000] and IGST [₹ 10,000] will be distributed among the Chennai unit and Bengaluru centre in the ratio of their turnover of the last quarter [Section 20(2)(d) of the CGST Act, 2017 read with clause (a)(ii) of the explanation to the said section and rule 39(1)(b) of the CGST Rules, 2017].

Ratio of the turnover of the Chennai unit and Bengaluru centre in last quarter, previous to the month during which ITC is to be distributed:

= 30 lakh : 40 lakh

= 3 : 4

Therefore,

Chennai unit will get – ₹ 30,000 [₹ 70,000 x (3/7)] as IGST credit.

Bengaluru unit will get – ₹ 40,000 [₹ 70,000 x (4/7)] as IGST credit.

**13. Computation of the value of supply and the GST liability of Dushyant for the month of December**

Particulars	Amount (₹)
Rent of the commercial building	19,50,000
Maintenance charges paid to the local society, reimbursed by Bharat [Being reimbursed by the tenant - Bharat, such charges ultimately form part of the rent paid by Bharat to Dushyant and thus, will form part of the value]	1,00,000
Interest free refundable security deposit [Being refundable, the security deposit does not constitute consideration in terms of section 2(31) of the CGST Act, 2017 and thus, is not includable in the value]	Nil
Municipal taxes paid by Dushyant	Nil

[Being an expenditure incurred by the supplier, the same is not includable in the value since such taxes are not charged to the recipient.]	
<b>Value of supply</b>	<b>20,50,000</b>
<b>CGST @ 9%</b>	<b>1,84,500</b>
<b>SGST @ 9%</b>	<b>1,84,500</b>

14. As per explanation to rule 33 of the CGST Rules, 2017, a “**pure agent**” means a person who-

- enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;
- neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;
- does not use for his own interest such goods or services so procured; and
- receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

The supplier needs to fulfil **ALL** the above conditions in order to qualify as a pure agent.

In the given case, Jhumroo Logistics has been authorised by the recipient of supply - Sacrosant Manufacturers Ltd. - to incur, on its behalf, the expenses incurred in relation to clearance of the imported machine from the customs station and bringing the same to the warehouse of the recipient, i.e. expenses mentioned in S.No. (ii) to (vii). Further, Jhumroo Logistics does not hold any title to said services and does not use them for his own interest.

Lastly, Jhumroo Logistics receives only the actual amount incurred to procure such services in addition to agency charges. Thus, Jhumroo Logistics qualifies as a pure agent.

Further, rule 33 of the CGST Rules, 2017 stipulates that notwithstanding anything contained in the provisions of Chapter IV – Determination of Value of Supply, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely-

- the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;
- the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and

(III) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

Since conditions (I) to (III) mentioned above are satisfied in the given case, expenses (ii) to (vii) incurred by Jhumroo Logistics as a pure agent of Sacrosant Manufacturers Ltd. shall be excluded from the value of supply.

Accordingly, value of supply made by Jhumroo Logistics will be computed as under:

Particulars	Amount (₹)
Agency charges	5,00,000
<i>Add: Customs duty</i>	Nil
<i>Add: Port charges</i>	Nil
<i>Add: Dock charges</i>	Nil
<i>Add: Charges for transport of machine from Kolkata port, West Bengal to its Jhumroo Logistics' godown in Asansol, West Bengal</i>	Nil
<i>Add: Charges for transport of machine from Jhumroo Logistics' Asansol godown to the warehouse of Sacrosant Manufacturers Ltd. in Dhanbad, Jharkhand</i>	Nil
<i>Add: Unloading of machine at Kolkata port, West Bengal</i>	Nil
<i>Add: Hotel expenses</i>	45,000
<i>Add: Travelling expenses</i>	50,000
<i>Add: Telephone expenses</i>	2,000
<b>Value of supply</b>	<b>5,97,000</b>

However, if Jhumroo Logistics charges ₹ 13,00,000 as a lump sum consideration for getting the imported machine cleared from the customs station and bringing the same to the warehouse of Sacrosant Manufacturers Ltd., Jhumroo Logistics would incur expenses (ii) to (vii) for its own interest (as the agreement requires it to get the imported machine cleared from the customs station and bring the same to the Sacrosant Manufacturers Ltd.'s warehouse). Thus, Jumroo Logistics would not be considered as a pure agent of Sacrosant Manufacturers Ltd. for said services.

Consequently, in that case, value of supply will be ₹ 13,00,000 in terms of section 15 of the CGST Act, 2017.

15. Due date for payment of tax collected on 18<sup>th</sup> April is 20<sup>th</sup> May. However, since tax is actually paid on 26<sup>th</sup> June, interest @ 18% p.a. is payable for the period for which the tax remains unpaid [37 days] in terms of section 50 of CGST Act, 2017 read with *Notification No. 13/2017 CT dated 28.06.2017*. Amount of interest is:

$$= ₹ 15,50,000 \times 18\% \times 37/365 = ₹ 28,282 \text{ (rounded off)}$$

As per section 73(11) of the CGST Act, 2017, where self-assessed tax/any amount collected as tax is not paid within 30 days from due date of payment of tax, then, *inter alia*, option to pay such tax before issuance of SCN to avoid penalty, is not available.

Consequently, penalty equivalent to

- (i) 10% of tax, viz., ₹ 1,55,500 or
- (ii) ₹ 10,000,

whichever is higher,

is payable in terms of section 73(9) of the CGST Act, 2017. Therefore, penalty of ₹ 1,55,500 will have to be paid by Inoba Bhave.

16. (i) As per section 132(1)(d)(iii) of the CGST Act, 2017, failure to pay any amount collected as tax beyond 3 months from due date of payment is punishable with specified imprisonment and fine provided the amount of tax evaded exceeds at least ₹ 100 lakh. Therefore, failure to deposit ₹ 90 lakh (₹ 240 lakh - ₹ 150 lakh) collected as tax by 'Homi Gabha' will not be punishable with imprisonment.

However, falsification of financial records by 'Homi Gabha' is punishable with imprisonment up to 6 months or with fine or both vide section 132(1)(f)(iv) of the CGST Act, 2017 and the said offence is bailable in terms of section 132(4) of the CGST Act, 2017.

(ii) Failure to pay any amount collected as tax beyond 3 months from due date is punishable with imprisonment upto 5 years and with fine, if the amount of tax evaded exceeds ₹ 500 lakh in terms of section 132(1)(d)(i) of the CGST Act, 2017.

Since the amount of tax evaded by 'Datukeshwar Dutt' exceeds ₹ 500 lakh (₹ 630 lakh - ₹ 120 lakh = ₹ 510 lakh), 'Datukeshwar Dutt' is liable to imprisonment upto 5 years and with fine. Further, the imprisonment shall be minimum 6 months in the absence of special and adequate reasons to the contrary to be recorded in the judgment [Section 132(3) of the CGST Act, 2017]. Such offence is non-bailable in terms of section 132(5) of the CGST Act, 2017.

If 'Homi Gabha' and 'Datukeshwar Dutt' repeat the offence, they shall be punishable for second and for every subsequent offence with imprisonment upto 5 years and with fine in terms of section 132(2) of the CGST Act, 2017. Such imprisonment shall also be for minimum 6 months in the absence of special and adequate reasons to the contrary to be recorded in the judgment.

17. No, the view of ANEH that the activity of sending the goods out of India for exhibition is a zero-rated supply, is not correct. As per section 7 of the CGST Act, for any activity or transaction to be considered a supply, it must satisfy twin tests namely-

- (i) it should be for a consideration by a person; and
- (ii) it should be in the course or furtherance of business.

The exceptions to the above are the activities enumerated in Schedule I of the CGST Act which are treated as supply even if made without consideration. Further, section 2(21) of the IGST Act defines “supply”, wherein it is clearly stated that it shall have the same meaning as assigned to it in section 7 of the CGST Act.

Section 16 of the IGST Act defines “zero rated supply” as any of the following supplies of goods or services or both, namely:-

- (a) export of goods or services or both; or
- (b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

Thus, only such “supplies” which are either “export” or are “supply to SEZ unit/developer” would qualify as zero-rated supply.

In view of the above provisions, *Circular No. 108/27/2019 GST dated 18.07.2019* clarified that the activity of sending/ taking the goods out of India for exhibition or on consignment basis for export promotion, except when such activity satisfy the tests laid down in Schedule I of the CGST Act, do not constitute supply as the said activity does not fall within the scope of section 7 of the CGST Act as there is no consideration at that point in time. Since such activity is not a supply, the same cannot be considered as “zero rated supply” as per the provisions contained in section 16 of the IGST Act.

The said circular further clarified that the activity of sending/taking goods out of India for exhibition is in the nature of **“sale on approval basis”** wherein the goods are sent/ taken outside India for the approval of the person located abroad and it is only when the said goods are approved that the actual supply from the exporter located in India to the importer located abroad takes place.

The activity of sending/ taking specified goods is covered under the provisions of section 31(7) of the CGST Act, 2017 read with rule 55 of CGST Rules, 2017. As per said provisions, in case of the goods being sent or taken on approval for sale, the invoice shall be issued before/at the time of supply or 6 months from the date of removal, whichever is earlier. The goods which are taken for supply on approval basis can be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery challan.

In view of the said provisions, ANEH is not required to issue invoice at the time of taking the goods out of India since the activity of merely sending/ taking the taxable goods out of India is not a supply. However, the goods shall be accompanied with a delivery challan. Further,

- (i) In case the entire quantity of goods (100 units) sent to USA is not sold but brought back by ANEH in February, i.e. within the stipulated period of 6 months from the date of removal, no tax invoice is required to be issued as no supply has taken place in such a case.

(ii) In case, the entire quantity of goods (100 units) sent to USA is not sold and brought back by ANEH in August, i.e. after 6 months from the date of removal, a tax invoice is required to be issued for entire 100 units of taxable goods in accordance with the provisions contained in section 12 [determining time of supply of goods] and section 31 [tax invoice] of the CGST Act, 2017 read with rule 46 [tax invoice] of the CGST Rules, 2017 within the time period stipulated under section 31(7) of the CGST Act, 2017.

However, if an aggregate of 65 units of the goods are sold in USA exhibition by ANEH on different dates in January (i.e. within the stipulated period of 6 months), a tax invoice would be required to be issued for these units, at the time of each of these sales, in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules. When the goods are sold in exhibition, actual supply from the exporter in India to the importer located abroad takes place and this supply qualifies as export. Export of goods is a zero-rated supply in terms of section 16(1)(a) of the IGST Act, 2017.

If the remaining 35 units are brought back on 31st January, i.e. within the stipulated period of 6 months from the date of removal, no tax invoice is required to be issued as no supply has taken place in such a case.

Further, tax advisor's advice is technically correct. Since the activity of sending / taking specified goods out of India is not a zero-rated supply, execution of a bond/Letter of Undertaking (LUT), as required under section 16 of the IGST Act, is not required.

However, the sender can prefer refund claim even when the specified goods were sent / taken out of India without execution of a bond/LUT, if he is otherwise eligible for refund as per the provisions contained in section 54(3) of the CGST Act, 2017 read with rule 89(4) of the CGST Rules, 2017 in respect of zero-rated supply of 65 units.

18. *Notification No. 45/2017 Cus. dated 30.06.2017* stipulates that in case of re-importation of goods exported for repairs, duty is payable on fair cost of repairs carried out, insurance and freight charges - both ways, subject to fulfillment of following conditions:-

- (a) The time limit for re-importation is 3 years
- (b) The exported goods and the re-imported goods must be the same.
- (c) The ownership of the goods should not have changed.

Since all the specified conditions are fulfilled in the given case, total duty payable will be computed as under:-

**Computation of total duty payable by Kankan Corp.**

Particulars	
Fair cost of repairs (in dollars) = \$12,000/40%	\$ 30,000
Fair cost of repairs (in rupees)	₹ 18,60,000.00

= \$30,000 × ₹ 62 [Note-1]	
Add: Inward and outward insurance [₹ 23,000 + ₹ 27,000]	50,000.00
Add: Inward and outward air freight [₹ 93,500 + ₹ 1,06,500]	<u>2,00,000.00</u>
Assessable Value	21,10,000.00
Add: Basic customs duty (BCD) @15% [Note-2]	3,16,500.00
Add: Social Welfare Surcharge @ 10% of BCD	<u>31,650.00</u>
Value for computing IGST	24,58,150.00
IGST @ 12%	2,94,978.00
<b>Total duty and tax payable</b>	<b>6,43,128</b>
= [₹ 3,16,500 + ₹ 31,650 + ₹ 2,94,978]	

**Notes:-**

1. Rate of exchange notified by the CBEC on date of presentation of bill of entry would be the applicable rate in terms of third proviso to section 14(1) of the Customs Act, 1962.
2. Rate of duty is the rate in force on date of presentation of bill of entry or arrival of aircraft, whichever is later in terms of proviso to section 15(1) of the Customs Act, 1962.

19. As per rule 3 of Baggage Rules, 2016, tourist of foreign origin, excluding infant, is allowed duty free clearance of

- (i) travel souvenirs; and
- (ii) Articles up to the value of ₹ 15,000 (excluding, inter alia, cigarettes exceeding 100 sticks, cartridges of fire arms exceeding 50 and alcoholic liquor or wines in excess of two litres), if carried on in person.

Further, any article the value of which exceeds the duty free allowance admissible to such passenger or member under the Baggage Rules, 2016, is chargeable to customs duty @ 35% [Notification No. 26/2016 Cus. dated 31.03.2016]. The effective rate of duty becomes 38.5% after including social welfare surcharge @ 10% on customs duty.

Accordingly, the customs duty payable by Mr. Samuel will be calculated as under:

Computation of customs duty payable	₹
Travel souvenir	Nil
Articles carried on in person	1,50,000
Cigarettes [Since the number of cigarettes does not exceed 100, the same will be covered within the scope of rule 3 of Baggage Rules, 2016 and thus, be eligible for general free allowance (GFA) or concessional rate of duty applicable to baggage vide Notification No. 26/2016 Cus. dated 31.03.2016, as the case may be.]	8,000

Fire arms cartridge [Since the number of fire arms cartridge does not exceed 50, the same will be covered within the scope of rule 3 of Baggage Rules, 2016 and thus, be eligible for GFA or concessional rate of duty applicable to baggage vide <i>Notification No. 26/2016 Cus. dated 31.03.2016</i> , as the case may be.]	<u>15,000</u>
One litre of wine [Since the quantity of wine does not exceed 2 litres, the same will be covered within the scope of rule 3 of Baggage Rules, 2016 and thus, be eligible for GFA or concessional rate of duty applicable to baggage vide <i>Notification No. 26/2016 Cus. dated 31.03.2016</i> , as the case may be.]	<u>15,000</u>
Baggage within the scope of rule 3 of Baggage Rules, 2016	1,88,000
Less: GFA	<u>15,000</u>
Baggage on which duty is payable	1,73,000
<b>Customs duty payable @ 38.5%</b>	<b><u>66,605</u></b>

20. No, all types of exports categories/sectors are not eligible for duty credit scrip entitlement under Merchant Export from India Scheme (MEIS).

A few of the ineligible exports categories/sectors under MEIS are listed below:

- (i) Supplies made from domestic tariff area (DTA) units to special economic zone (SEZ) units
- (ii) Exports through transshipment, i.e., exports that are originating in third country but transshipped through India
- (iii) Deemed exports
- (iv) SEZ /export oriented undertaking (EOU) /electronic hardware technology park (EHTP) /bio technology park (BTP) /free trade warehousing zone (FTWZ) products exported through domestic tariff area units
- (v) Export products which are subject to minimum export price or export duty
- (vi) Exports made by units in FTWZ.

Export of handicraft items through courier, using e-commerce, of free on board (FOB) value up to ₹ 5,00,000 per consignment is entitled for rewards under MEIS.

Therefore, the entire consignment of handicraft items exported by Saksham (FOB value ₹ 4,48,000) is eligible for MEIS benefit.