

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 31.10.2018 and customs law as amended by the Finance Act, 2018 and notifications and circulars issued till 31.10.2018.
- (2) Questions 1 to 10 are MCQs having one correct answer among the four alternatives. MCQs 1 to 7 have to be answered on the basis of GST law and MCQs 8 to 10 on the basis of customs law.
- (3) The GST rates for goods and services mentioned in various questions are hypothetical and may not necessarily be the actual rates leviable on those goods and services. The rates of customs duty are also hypothetical and may not necessarily be the actual rates. Further, GST compensation cess should be ignored in all the questions, wherever applicable.

1. M/s. Aircool Ltd., a supplier of air conditioners, is registered in the State of Maharashtra. It has a policy to supply two air conditioners at 50% discount to its top employees [residing in Maharashtra] in terms of the employment contract.
- During the month of March, 20XX, the company supplied 150 air conditioners to these employees. The total open market value of such air conditioners is ₹ 52.50 lakh (excluding GST). The tax rate on such air conditioners is 28% (14% CGST, 14% SGST and 28% IGST).
- Compute the GST liability of M/s. Aircool Ltd., if any.
- (a) ₹ 7,35,000 - CGST, ₹ 7,35,000 - SGST
- (b) ₹ 3,67,500 - CGST, ₹ 3,67,500 - SGST
- (c) Nil, since no consideration is received from the employees.
- (d) Nil, since the services rendered by the employees fall under Schedule-III of the CGST Act, 2017.
2. Mr. James Bond is a registered person under GST in the State of Maharashtra who sells footwear to his customers locally within the same State. He has been appointed as an agent by M/s. Toto Shoes Ltd., a company registered under GST in the State of Karnataka. During a financial year, M/s. Toto Shoes Ltd., sends taxable goods worth ₹ 5.00 crore from its Bengaluru store to Mr. James Bond who sells such goods for ₹ 5.00 crore by raising invoices using the GSTIN of M/s. Toto Shoes Ltd. Mr. James Bond receives a commission of ₹ 60.00 lakh from M/s. Toto Shoes (P) Ltd., during the said financial year.

Compute the value of supply of Toto Shoes (P) Ltd. and Mr. James Bond for the financial year.

- (a) M/s. Toto Shoes (P) Ltd.: Nil and James Bond: ₹ 5.6 crore
 - (b) M/s. Toto Shoes (P) Ltd.: ₹ 5 crore and James Bond: ₹ 5.6 crore
 - (c) M/s. Toto Shoes (P) Ltd.: ₹ 5 crore and James Bond: ₹ 60 lakh
 - (d) None of the above
3. M/s. Wanderlust Travels (P) Ltd. purchased a bus chassis from M/s. Krishi Motors Ltd. for a consideration of ₹ 90.00 lakh on 01.10.20XX. M/s. Wanderlust Travels (P) Ltd. sent the bus chassis for body building to M/s. Bhagwant Fabricators and paid in advance the total consideration of ₹ 25.00 lakh on 15.10.20XX. M/s. Bhagwant Fabricators, after completing the bus body, informed M/s. Wanderlust Travels (P) Ltd. for carrying out the inspection of the work done on 05.11.20XX. M/s. Wanderlust Travels (P) Ltd. visited the work shop of M/s. Bhagwant Fabricators on 08.11.20XX and confirmed that the bus body was in accordance with the terms of the contract.
- The last date for issuing the invoice by M/s. Bhagwant Fabricators is:-
- (a) 15.10.20XX
 - (b) 08.11.20XX
 - (c) 08.12.20XX
 - (d) 05.12.20XX
4. Which of the following statements are true with respect to accounts and records?
- (1) All accounts and records are to be retained for 6 years.
 - (2) Stock record is to be maintained by all registered dealers except the dealers registered under composition scheme.
 - (3) Stock record is to be maintained by all registered dealers including composition dealers.
 - (4) Monthly production records are to be maintained by all dealers except the dealers who have taken option for composition.
 - (5) Monthly production records are to be maintained by all dealers including composition dealers.
 - (6) Records are to be maintained at principal place of business.
- (a) 1, 2, 5, 6

- (b) 1, 3, 5
(c) 1, 3, 4
(d) 1, 2, 4, 6
5. Which among the following cannot be a reason for cancellation of registration?
- (a) There is a change in the constitution of business from partnership firm to proprietorship.
(b) The business has been discontinued.
(c) A composition taxpayer has not furnished returns for three consecutive tax periods.
(d) A registered person, other than composition taxpayer, has not furnished returns for three consecutive tax periods.
6. Which of the following persons can opt for the composition scheme?
- (1) Registered person whose aggregate turnover in the preceding financial year did not exceed ₹ 75 lakh.
(2) Registered person whose aggregate turnover in the preceding financial year did not exceed ₹ 1 crore.
(3) A person engaged in business of pan masala, tobacco and manufactured tobacco substitutes.
(4) A person engaged in the business of ice cream, other edible ice, whether or not containing cocoa.
(5) A person engaged exclusively in providing restaurant service.
(6) A person engaged exclusively in supply of medicines.
- (a) 1, 2, 3, 5
(b) 1, 2, 5, 6
(c) 2, 3, 4, 5
(d) 3, 4, 5, 6
7. Mr. Topinath, an unregistered person in Delhi, who has an aggregate turnover of ₹ 16 lakh sells mobile phones to Mr. Gopinath, a person registered under GST in Uttar Pradesh. Whether any penalty is leviable on Mr. Topinath, for such supply and if yes, what is the maximum amount of penalty that can be levied on Mr. Topinath:-

- (a) No penalty since there is no default on part of Mr. Topinath as his turnover is below threshold limit.
- (b) Yes; an amount equivalent to the tax evaded or ₹ 10,000/-, whichever is lower.
- (c) Yes; an amount equivalent to the turnover or ₹ 10,000/-, whichever is higher.
- (d) Yes; an amount equivalent to the tax evaded or ₹ 10,000/-, whichever is higher.
8. Which of the following statements is/are correct for 'similar goods' for valuation purposes under the Customs Act, 1962?
- (i) Similar goods although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable with the goods being valued having regard to the quality, reputation and the existence of trade mark.
- (ii) Similar goods are necessarily produced in the country in which goods being valued were produced.
- (iii) Similar goods are necessarily produced by the same person who produced the goods being valued.
- (a) (i) and (ii)
- (b) Only (i)
- (c) (i) and (iii)
- (d) All of above
9. Which of the following statements is/are correct for safeguard duty under section 8B of the Customs Tariff Act, 1975?
- (i) Safeguard duty is imposed on articles which are imported in increased quantities.
- (ii) Such increased importation is causing or threatening to cause serious injury to domestic market.
- (iii) Safeguard duty can be imposed for a period of 4 years and the period of imposition can be extended. However, in no case the safeguard duty shall continue to be imposed beyond a period of 10 years from the date on which it was first imposed.
- (iv) Safeguard duty can be imposed provisionally also pending final determination of duty.
- (a) (i), (ii) and (iii)
- (b) Only (i) and (iv)

- (c) None of above
(d) All of above
10. Which of the following statements is not correct for pilfered goods under section 13 of the Customs Act, 1962?
- (a) The importer is not required to pay duty on imported goods which are pilfered after unloading but before being cleared for home consumption.
(b) The importer is not required to pay duty on warehoused goods which are pilfered before being cleared for home consumption.
(c) The onus to prove the pilferage does not lie on the importer.
(d) If pilfered goods are restored to the importer, he becomes liable to pay duty.
11. XYZ Pvt. Ltd. is a manufacturing company registered under GST in the State of Uttar Pradesh. It manufactures two taxable products 'Alpha' and 'Beta' and one exempt product 'Gama'. On 1st October 20XX, while product 'Beta' got exempted through an exemption notification, exemption available on 'Gama' got withdrawn on the same date. The turnover (exclusive of taxes) of 'Alpha', 'Beta' and 'Gama' in the month of October, 20XX was ₹ 9,00,000, ₹ 10,00,000 and ₹ 6,00,000.

XYZ Pvt. Ltd. has furnished the following details:

S. No.	Particulars	Price (₹)	GST (₹)
(a)	Machinery 'U' purchased on 01.10.20XX for being used in manufacturing all the three products	2,00,000	36,000
(b)	Machinery 'V' purchased on 01.10.20XX for being used in manufacturing product 'Alpha' and 'Gama'	1,00,000	18,000
(c)	Machinery 'W' purchased on 01.10.20XX for being exclusively used in manufacturing product 'Beta'	3,00,000	54,000
(d)	Machinery 'X' purchased on October 1, three years before 01.10.20XX for being exclusively used in manufacturing product 'Gama'. From 01.10.20XX, such machinery will also be used for manufacturing product 'Beta'.	5,00,000	90,000
(e)	Machinery 'Y' purchased on October 1, four years before 01.10.20XX for being exclusively used in manufacturing product 'Beta'. From 01.10.20XX, such machinery will also be used for manufacturing product 'Gama'.	4,00,000	72,000

(f)	Machinery 'Z' purchased on October 1, two years before 01.10.20XX for being used in manufacturing all the three products	3,00,000	54,000
(g)	Raw Material used for manufacturing 'Alpha' purchased on 05.10.20XX	1,50,000	27,000
(h)	Raw Material used for manufacturing 'Beta' purchased on 10.10.20XX	2,00,000	36,000
(i)	Raw Material used for manufacturing 'Gama' purchased on 15.10.20XX	1,00,000	18,000

Compute the following for the month of October, 20XX:

- (i) Amount of input tax credit (ITC) credited to Electronic Credit Ledger
- (ii) Amount of common credit
- (iii) Common credit attributable to exempt supplies
- (iv) GST liability of the company payable through Electronic Cash Ledger

Note: Assume that all the procurements made by the company are from States other than Uttar Pradesh. Similarly, the company sells all its products in States other than Uttar Pradesh. Rate of IGST is 18%. All the conditions necessary for availing the ITC have been complied with. Ignore interest, if any and make suitable assumptions wherever required.

12. B & D Company, a partnership firm, in Nagpur, Maharashtra is a wholesaler of a taxable product 'P' and an exempt product 'Q'. The firm supplies these products only in the eastern part of Maharashtra. All the procurements (both goods and services) of the firm are from the suppliers registered under regular scheme in the State of Maharashtra. The firm pays tax under composition scheme.

B & D Company has furnished the following details with respect to its turnover (exclusive of taxes) and stock (exclusive of taxes):

Particulars	Turnover for the quarter ended 30.06.20XX (₹)	Turnover for the quarter ended 30.09.20XX (₹)
'P'	40,00,000	30,00,000
'Q'	14,65,000	13,00,000

Particulars	Stock as on 30.06.20XX (₹)	Stock as on 30.09.20XX (₹)	Stock as on 31.10.20XX (₹)
'P'	25,00,000	10,00,000	3,60,000
'Q'	10,00,000	2,00,000	1,20,000

The entire stock of the products 'P' and 'Q' available with the firm as on 30.09.20XX is purchased during the said half year except a consignment of product 'P' valuing ₹ 3,00,000, which was purchased in the April month of the preceding financial year. In the month of October, 20XX, no purchases were made, and the products were sold with a profit margin of 20% on sales [exclusive of taxes].

The extract of the only bill book maintained by the firm showed the following details-

Bill No.	Date	Value of products (exclusive of taxes)		
		'P' (₹)	'Q' (₹)	Total (₹)
2306	01.10.20XX	1,00,000	3,000	1,03,000
2307	01.10.20XX	31,250	2,000	33,250
2308	02.10.20XX	43,750	15,000	58,750
2309	03.10.20XX	35,000	10,000	45,000
2310	05.10.20XX	1,00,000	-	1,00,000
2311	06.10.20XX	94,000	6,000	1,00,000
2312	06.10.20XX	-	17,000	17,000
2313	08.10.20XX	50,000	6,000	56,000
2314	09.10.20XX	60,000	9,000	69,000
2315
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The details of services availed by B & D Company is as follows:

S. No.	Particulars	(₹)
(i)	Freight paid to Goods Transport Agency during the period April 20XX – October 20XX. Assume equal amount of freight is paid each month on the 10 th day of each month. Also, assume that the goods for which the freight is paid on 10 th day of the month are transported between 11 th to 20 th day of the month.	1,40,000
(ii)	Special packing charges paid to a Packing Company, having expertise in such specialized packing, during the period January 20XX – October 20XX. The packing charges are paid for the goods which are transported between 11 th to 20 th day of the month (as mentioned in point (i) above). The goods are packed on 10 th day and then transported from 11 th day onwards. Assume equal amount of packing charges are paid each month on the 9 th day of each month.	3,00,000

All the above amounts are exclusive of taxes, wherever applicable.

Compute the net GST liability of B & D Company for the period April, 20XX to October, 20XX under composition scheme showing calculations for each quarter separately.

Note: Make suitable assumptions wherever required. Rate of CGST and SGST on service of transportation of goods by GTA is 2.5% each. Stock is valued at cost price.

13. Keeping all the facts and figures of Q.12 unchanged, compute the ITC credited to the Electronic Credit Ledger of the B & D Company, when it exits composition scheme and becomes liable to pay tax under regular scheme, in accordance with the provisions of section 18(1)(c) of the CGST Act, 2017.

Following additional information is also available:

Particulars relating to capital goods owned by the firm	Date of purchase	Value (₹)	GST (₹)
Computers	01.02.20XX	2,00,000	36,000
Printers	January 1, two years prior to 01.01.20XX	80,000	14,400
Motor cycle used by the staff for collecting payments from the debtors	23.09.20XX	85,000	15,300
Furniture & fixtures	12.06.20XX	4,00,000	72,000
Air conditioner used in the office	15.10.20XX	2,00,000	36,000
Exhaust fan used in the godown	10.03.20XX	50,000	9,000

Note: The company has not claimed depreciation on the tax component of any of the capital goods (mentioned above) under the Income-tax Act, 1961. All the conditions necessary for availing the ITC have been complied with. Rate of CGST and SGST is 9% each.

14. Keeping all the facts and figures of Q.12 and Q.13 unchanged, compute the GST liability of B & D Company payable from Electronic Credit Ledger and/or Electronic Cash Ledger, as the case may be, for the period covered under regular scheme.
15. Musicera Pvt. Ltd., owned by Nitish Daani - a famous classical singer - wishes to organise a 'Nitish Daani Music Concert' in Gurugram (Haryana). Musicera Pvt. Ltd. (registered in Ludhiana, Punjab) enters into a contract with an event management company, Supriya (P) Ltd. (registered in Delhi) for organising the said music concert at an agreed consideration of ₹ 10,00,000. Supriya (P) Ltd. books the lawns of Hotel Dumdum, Gurugram (registered in Haryana) for holding the music concert, for a lump sum consideration of ₹ 4,00,000. Musicera Pvt. Ltd. fixes the entry fee to the music concert at ₹ 5,000. 400 tickets for 'Nitish Daani Music Concert' are sold.

You are required to determine the CGST and SGST or IGST liability, as the case may be, in respect of the supplie(s) involved in the given scenario.

Will your answer be different if the price per ticket is fixed at ₹ 450?

Note: Rate of CGST and SGST is 9% each and IGST is 18%. All the amounts given above are exclusive of taxes, wherever applicable.

16. With reference to the provisions relating to the electronic way bill (E-way bill) as prescribed under the GST laws, answer the following questions:

(i) Sindhi Toys Manufacturers, registered in Punjab, sold electronic toys to a retail seller in Gujarat, at a value of ₹ 48,000 (excluding GST leviable @ 18%). Now, it wants to send the consignment of such toys to the retail seller in Gujarat.

You are required to advise Sindhi Toys Manufacturers on the following issues:

(a) Whether e-way bill is mandatorily required to be generated in respect of such movement of goods?

(b) If yes, who is required to generate the e-way bill?

(c) What will be the consequences for non-issuance of e-way bill?

(ii) Power Electricals Ltd., a registered supplier of air-conditioners, is required to send from Mumbai (Maharashtra), a consignment of parts of air-conditioner to be replaced under warranty at various client locations in Gujarat. The value of consignment declared in delivery challan accompanying the goods is ₹ 70,000. Power Electricals Ltd. claims that since movement of goods to Gujarat is caused due to reasons other than supply, e-way bill is not mandatorily required to be generated in this case.

You are required to examine the technical veracity of the claim made by Power Electricals Ltd.

(iii) Beauty Cosmetics Ltd. has multiple wholesale outlets of cosmetic products in Mumbai, Maharashtra. It receives an order for cosmetics worth ₹ 1,20,000 (inclusive of GST leviable @ 18%) from Prasanna, owner of a retail cosmetic store in Delhi. While checking the stock, it is found that order worth ₹ 55,000 can be fulfilled from the company's Dadar (Mumbai) store and remaining goods worth ₹ 65,000 can be sent from its Malad (Mumbai) store. Both the stores are instructed to issue separate invoices for the goods sent to Prasanna. The goods are transported to Prasanna in Delhi, in a single conveyance owned by Radhey Transporters.

You are required to advise Beauty Cosmetics Ltd. with regard to issuance of e-way bill(s).

17. Manihar Enterprises, registered in Delhi, is engaged in supply of various goods and services exclusively to Government departments, agencies etc. and persons notified under section 51 of the CGST Act, 2017. It has provided the information relating to the supplies made, their contract values and the payment due against each of them in the month of October, 20XX as under:

S.No.	Particulars	Total contract value (inclusive of GST) (₹)	Payment due in October, 20XX (₹)
(i)	Supply of stationery to Fisheries Department, Kolkata	2,60,000	15,000
(ii)	Supply of car rental services to Municipal Corporation of Delhi	2,95,000	20,000
(iii)	Supply of a heavy machinery to Public Sector Undertaking located in Uttarakhand	5,90,000	25,000
(iv)	Supply of taxable goods to Delhi office of National Housing Bank, a society established by Government of India under the Societies Registration Act, 1860	6,49,000	50,000
(v)	Interior decoration of Andhra Bhawan located in Delhi. Service contract is entered into with the Government of Andhra Pradesh.	12,39,000	12,39,000
(vi)	Supply of printed books and printed post cards to a West Delhi Post Office [Out of total contract value of ₹ 9,72,000, contract value for supply of books (exempt from GST) is ₹ 7,00,000 and for supply of printed post cards (taxable under GST) is ₹ 2,72,000.]	9,72,000	50,000 for books & 20,000 for printed post cards
(vii)	Maintenance of street lights in Municipal area of East Delhi* [The maintenance contract entered into with the Municipal Corporation of Delhi also involves replacement of defunct lights and other spares. However, the value of supply of goods is not more than 25% of the value of composite supply.] *an activity in relation to any function entrusted to a Municipality under article 243W of the Constitution	3,50,000	3,50,000

You are required to determine amount of tax, if any, to be deducted from each of the receivable given above assuming the rate of CGST, SGST and IGST as 9%, 9% and 18% respectively.

Will your answer be different, if Manihar Enterprises is registered under composition scheme?

18. Kailash Global (P) Ltd. supplies various goods in domestic and international markets. It is engaged in both manufacturing and trading of goods. The company is registered under GST in the State of Karnataka. The company exports goods without payment of tax under letter of undertaking in accordance with the provisions of section 16(3)(a) of the IGST Act, 2017.

The company has made the following supplies during a tax period:

S. No.	Particulars	(₹)
(i)	Export of product 'A' to UK for \$ 10,000. Assessable value under customs in Indian rupees. [Export duty is levied on product 'A' at the time of exports]	7,00,000
(ii)	Domestic supplies of taxable product 'B'* during the period [excluding tax @ 5%] [Inputs used in manufacturing of such goods are taxable @18%] <i>*not notified as a product, in respect of which refund of unutilised ITC shall not be allowed under section 54(3)(ii) of the CGST Act, 2017</i>	10,00,000
(iii)	Supply of goods to Export Oriented Unit [excluding tax @ 18%] [ITC has been claimed by the recipient]	5,00,000
(iv)	Export of exempt supplies of goods	6,00,000

The ITC available for the above tax period is as follows:

S. No.	Particulars	(₹)
(i)	On inputs (including ₹ 50,000 on export of exempt supplies)	3,50,000
(ii)	On capital goods	1,20,000
(iii)	On input services (including ₹ 18,000 on outdoor catering)	2,00,000

Determine the maximum amount of refund admissible to Kailash Global (P) Ltd. for the given tax period.

19. Enlist the circumstances for which a show cause notice can be issued by the proper officer under section 73 of the CGST Act, 2017. Specify the time limit for issuance of

such show cause notice as also the time period for issuance of order by the proper officer under section 73.

20. With reference to the provisions of section 121 of the CGST Act, 2017, specify the orders against which no appeals can be filed.
21. Explain the provisions of section 39(9) of the CGST Act, 2017 with reference to rectification of returns.
22. Sphinx Merchandise Ltd. has exported some goods to USA by air. The FOB price of goods exported is US \$ 1,00,000.

Compute the export duty payable by Sphinx Merchandise Ltd. with the help of following details provided.

Particulars	Date	Rate of duty	Rate of exchange notified by CBIC	Rate of exchange prescribed by RBI
Presentation of shipping bill	17.06.20XX	12%	1 US \$ = 65	1 US \$ = 64
Let export order	19.07.20XX	10%	1 US \$ = 64	1 US \$ = 65

23. (i) With reference to section 70 of the Customs Act, 1962, briefly discuss the conditions to be satisfied for remission of duty in case of volatile goods.
(ii) Enumerate the goods specified as volatile for the purposes of remission of duty under the provisions of Customs Act, 1962.
24. Explain rule 3 of the General Rules for the Interpretation of the Import Tariff.
25. (i) A star export house wishes to import goods which are exempt from duty under Foreign Trade Policy (FTP), subject to fulfilment of export obligation. However, Customs Notification giving effect to the FTP is yet to be issued. Can the export house import the goods claiming exemption from duty under FTP in the absence of Customs Notification?
(ii) Give examples of categories of exports/sectors which are ineligible for duty credit scrip entitlement under MEIS.

SUGGESTED ANSWERS

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|----|-----|----|-----|----|-----|----|-----|-----|-----|
| 1. | (b) | 2. | (c) | 3. | (c) | 4. | (a) | 5. | (d) |
| 6. | (b) | 7. | (d) | 8. | (a) | 9. | (d) | 10. | (b) |

11.

S. No.	Particulars	ITC (₹)
(i)	Computation of amount of ITC credited to Electronic Credit Ledger, for the month of October, 20XX	
(a)	Machinery 'U' - 'A' [Note 1]	36,000
(b)	Machinery 'V' [Note 2]	18,000
(c)	Machinery 'W' [Note 3]	-
(d)	Machinery 'X' - [Note 4]	36,000
(e)	Machinery 'Y' [Note 5]	-
(f)	Machinery 'Z' [Note 6]	-
(g)	Raw Material used for manufacturing 'Alpha' [Note 7]	27,000
(h)	Raw Material used for manufacturing 'Beta' [Note 7]	-
(i)	Raw Material used for manufacturing 'Gama' [Note 7]	<u>18,000</u>
	ITC credited to Electronic Credit Ledger, for the month of October, 20XX	1,35,000
(ii)	Computation of common credit for the month of October, 20XX	
(a)	Value of 'A' for Machinery 'U' purchased on 01.10.20XX	36,000
(b)	Value of 'A' for Machinery 'X' purchased 3 years before 01.10.20XX and used for effecting both taxable and exempt supplies from 01.10.20XX	36,000
(c)	Value of 'A' for Machinery 'Y' purchased 4 years before 01.10.20XX and used for effecting both taxable and exempt supplies from 01.10.20XX [Note 8]	14,400
	Total common credit for the month of October, 20XX – T_c [Note 9]	86,400
(iii)	Computation of common credit attributable to exempt supplies, for the month of October, 20XX	
(a)	ITC attributable to a month on common capital goods during their useful life – T _m [Note 10]	1,440
(b)	ITC at the beginning of October, 20XX on all common capital goods whose useful life remains during the tax period - T _r [Note 11]	2,340

(c)	<p>Common credit attributable to exempt supplies, for the month of October 20XX – T_e</p> $= T_r \times \frac{\text{Turnover of exempt supplies during October 20XX}}{\text{Total turnover of XYZ Pvt. Ltd. during October 20XX}}$ $= 2,340 \times \frac{10,00,000}{25,00,000}$	936
(iv)	<p>Computation of GST liability of the company for October 20XX payable through Electronic Cash Ledger</p>	
	IGST payable on 'Alpha' [₹ 9,00,000 x 18%]	1,62,000
	IGST payable on 'Beta' [Exempt]	Nil
	IGST payable on 'Gama' [₹ 6,00,000 x 18%]	<u>1,08,000</u>
	Total IGST payable on outward supply	2,70,000
	Common credit attributable to exempt supplies for the month of October, 20XX [Note 12]	<u>936</u>
	Total output tax liability of October, 20XX	2,70,936
	Less: ITC available in the Electronic Credit Ledger	<u>1,35,000</u>
	IGST payable from Electronic Cash Ledger	1,35,936

Notes:

- (1) ITC in respect of capital goods used commonly for effecting taxable supplies and exempt supplies denoted as 'A' shall be credited to the electronic credit ledger [Rule 43(1)(c) of the CGST Rules, 2017].
- (2) ITC in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies but including zero rated supplies shall be credited to the electronic credit ledger [Rule 43(1)(b) of the CGST Rules, 2017].
- (3) ITC in respect of capital goods used or intended to be used exclusively for effecting exempt supplies shall not be credited to electronic credit ledger [Rule 43(1)(a) of the CGST Rules, 2017].
- (4) Where any capital goods earlier used exclusively for effecting exempt supplies is subsequently **also** used for effecting taxable supplies, the value of 'A' shall be arrived at by reducing the ITC at the rate of 5% for every quarter or part thereof and the amount 'A' shall be credited to the electronic credit ledger [Proviso to rule 43(1)(c) of the CGST Rules, 2017].

Thus, 'A' shall be computed as under-

$$= ₹ 90,000 - ₹ 54,000 (₹ 90,000 \times 5\% \times 12 \text{ quarters})$$

$$= ₹ 36,000$$

- (5) Machinery 'Y' is being used for effecting both taxable and exempt supplies from 01.10.20XX. Prior to that it was exclusively used for effecting taxable supplies. Therefore, ITC in respect of such machinery would have already been credited to the electronic credit ledger.
- (6) Machinery 'Z' is being used for effecting both taxable and exempt supplies from October 1, two years prior to 01.10.20XX. Therefore, ITC in respect of such machinery would have already been credited to the electronic credit ledger.
- (7) ITC in respect of inputs used for effecting taxable supplies will be credited in Electronic Credit Ledger. ITC in respect of inputs used for effecting exempt supplies will not be credited in the electronic credit ledger [Rule 42 of CGST Rules, 2017].
- (8) Where any capital goods earlier used exclusively for effecting taxable supplies is subsequently **also** used for effecting exempt supplies, the value of 'A' arrived at by reducing the input tax at the rate of 5% for every quarter or part thereof shall be added to the common credit (aggregate value 'T_c' – Refer Note 9 below) [Proviso to rule 43(1)(d) of the CGST Rules, 2017].

Thus, 'A' shall be computed as under-

$$= ₹ 72,000 - ₹ 57,600 (₹ 72,000 \times 5\% \times 16 \text{ quarters})$$

$$= ₹ 14,400$$

- (9) The aggregate of the amounts of 'A' credited to the electronic credit ledger, to be denoted as 'T_c', shall be the common credit in respect of capital goods for a tax period [Rule 43(1)(d) of the CGST Rules, 2017].

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

$$= T_c \div 60$$

$$= ₹ 86,400 \div 60$$

$$= ₹ 1,440$$

- (11) Useful life of capital goods used commonly for effecting taxable supplies and exempt supplies shall be taken as five years from the date of the invoice for such goods [Rule 43(1)(c) of the CGST Rules, 2017]. Machinery 'Z' is used commonly for effecting taxable and exempt supplies from October 1, two years before 01.10.20XX. Hence, its useful life remains in the month of October 20XX and therefore, T_r will be aggregate of T_m (ITC pertaining to a month) for Machinery 'Z' and T_m for other machineries computed under point 3.(a).

T_m for machinery 'Z' will be computed as under:

$$₹ 54,000 \div 60 = ₹ 900$$

$$T_r = T_m \text{ for machinery 'Z' } + T_m \text{ for other machineries}$$

$$T_r = ₹ 900 + ₹ 1,440 = ₹ 2,340$$

- (12) Common credit attributable to the exempt supplies (T_e) along with the applicable interest (which is to be ignored in this case) shall, during every tax period of the useful life of the concerned capital goods, be added to the output tax liability of the person making such claim of credit [Rule 43(2)(h) of the CGST Rules, 2017].

**Note: In the above solution, common credit of capital goods whose remaining useful life is less than 5 years has also been divided by 60 to compute the T_m on the basis of strict interpretation of rule 43(1)(e). Owing to such an interpretation, the time period for reversal of credit increases and the amount of reversal every month decreases. However, an alternative view can be to compute T_m by dividing the common credit pertaining to capital goods whose remaining useful life is less than 5 years with the number of months in their remaining useful life. If such view is adopted, the time period for reversal of credit will decrease and the amount of reversal to be made every month will increase.*

12. As per section 10(3) of the CGST Act, 2017 read with Notification No. 8/2017 CT dated 27.06.2017 as amended, the option availed of by a registered person to pay tax under composition scheme shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds ₹ 1 crore [₹ 75 lakh in case of Special Category States except Uttarakhand and Jammu and Kashmir].

As per section 2(6) of the CGST Act, 2017, aggregate turnover means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same PAN, to be computed on all India basis but excludes CGST, SGST/UTGST, IGST and GST Compensation Cess.

In the given case, the firm is registered under the composition scheme in the State of Maharashtra. The aggregate turnover of the firm exceeds ₹ 1 crore on 03.10.20XX [aggregate of both taxable and exempt turnover from 01.04.20XX to 03.10.20XX, i.e. ₹ 1,00,05,000 (₹ 97,65,000 + ₹ 1,03,000 + ₹ 33,250 + ₹ 58,750 + ₹ 45,000)]

The inward supplies of goods transportation services in respect of which the firm has to pay tax under reverse charge have not been included in the aggregate turnover in terms of section 2(6) of the CGST Act, 2017. The tax is payable under reverse charge on such services as the applicable rate of tax on such services is given as 5% and not 12%, in which case the GTA would have been liable to pay tax under forward charge [Notification No. 13/2017 CT (R) dated 28.06.2017 as amended].

Thus, the firm will have to pay tax under regular scheme (Section 9 of the CGST Act, 2017) from 03.10.20XX.

Output tax liability of B & D Company under composition scheme

During the period when the firm pays tax under composition scheme, i.e. from 01.04.20XX to 02.10.20XX, tax will be payable on quarterly basis and no ITC will be available [Section 10(4) read with sub-sections (2) and (7) of section 39 of the CGST Act, 2017]. Further, since the firm is trading in goods, tax will be payable @ ½% [Effective rate - 1% (½% CGST + ½% SGST)] of the turnover of **taxable** supplies of goods (i.e. 'P') in the State [Section 10(1) read with rule 7 of CGST Rues, 2017].

The tax liability for the quarters ended June, 20XX, September, 20XX and December, 20XX under composition scheme will be computed as under-

Particulars	Quarter ended 30.06.20XX (₹)	Quarter ended 30.09.20XX (₹)	Quarter ended 31.12.20XX (₹)
Turnover of 'P' (Taxable supplies)	40,00,000	30,00,000	1,75,000 [1,00,000 + 31,250 + 43,750]
CGST @ 0.5% [A1]	20,000	15,000	875
SGST @ 0.5% [B1]	20,000	15,000	875
Inward supply on which tax is payable under reverse charge [Service of goods transportation availed from a GTA @ 5%]	60,000 [(1,40,000/7) x 3]	60,000 [(1,40,000/7) x 3]	Nil [Paid on 10 th day for goods transported between 11 th to 20 th day of the month, so the same will be assessed under regular scheme]
CGST @ 2.5% [A2]	1,500	1,500	-
SGST @ 2.5% [B2]	1,500	1,500	-
Total CGST [A1 + A2]	21,500	16,500	875
Total SGST [B1 + B2]	21,500	16,500	875
Total CGST liability for the period from 01.04.20XX to 02.10.20XX		38,875 [21,500 + 16,500 + 875]	
Total SGST liability for the period from 01.04.20XX to 02.10.20XX		38,875 [21,500 + 16,500 + 875]	

13. As per section 18(1)(c) of the CGST Act, 2017 read with rule 40 of CGST Rules, 2017, where any registered person ceases to pay tax under section 10, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished

or finished goods held in stock and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax under section 9. However, the credit on capital goods shall be reduced by 5% per quarter of a year or part thereof from the date of invoice.

Further, ITC on supplies of inputs and capital goods shall not be available after the expiry of one year from the date of issue of tax invoice [Section 18(2) of the CGST Act, 2017].

In the light of the above-mentioned provisions, the ITC credited to the Electronic Credit Ledger of the B & D Company on inputs held in stock and capital goods on 02.10.20XX will be computed as under:

Particulars		Amount (₹)
A. ITC on inputs		
Stock of taxable inputs as on 30.09.20XX [Since no tax is paid on exempt purchases, there does not arise any question of availing ITC on the same. Hence, stock of only taxable inputs are considered]		10,00,000
Add: Purchases [No purchases are made in October, 20XX]		Nil
Less: Cost of taxable goods sold from 01.10.20XX to 02.10.20XX [(₹ 1,00,000 + ₹ 31,250 + ₹ 43,750) x 80%]		<u>1,40,000</u>
Stock of taxable inputs as on 02.10.20XX [Since the bill numbers are in continuation, it can be concluded that no sales are missing from the extract]		8,60,000
Less: More than one year old stock		<u>3,00,000</u>
Stock of inputs on which ITC can be claimed		5,60,000
ITC of CGST @ 9%	[Since all purchases are intra-State and from the suppliers registered under regular scheme]	50,400
ITC of SGST @ 9%		50,400
B. ITC on capital goods		
Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)
Computers [₹ 36,000 – (5% x 4 quarters)] ÷ 2	14,400	14,400
Printers [Being more than one year old, no ITC is available]	-	-
Motor cycle	-	-

[Section 17(5)(a) of CGST Act, 2017 allows ITC on motor vehicles only when the same are used: (1) for making taxable supply of- (i) further supply of such vehicles, (ii) transportation of passengers, (iii) imparting training on driving, flying, navigating such vehicles and (2) for transportation of goods. Since B & D Company is a trader and it does not use the motor cycle for transportation of goods, ITC thereon will not be available]		
Furniture and Fixtures [₹ 72,000 – (5% x 3 quarters)] ÷ 2	30,600	30,600
Air conditioner used in the office [Since purchased after 03.10.20XX, full ITC will be available and will be computed separately]	-	-
Exhaust fan used in the godown [₹ 9,000 – (5% x 4 quarters)] ÷ 2	<u>3,600</u>	<u>3,600</u>
<i>ITC to be claimed on capital goods</i>	<i>48,600</i>	<i>48,600</i>
Total ITC on inputs and capital goods credited to Electronic Credit Ledger on 02.10.20XX	99,000 [50,400 + 48,600]	99,000 [50,400 + 48,600]

14. Output tax liability of B & D Company under regular scheme

From 03.10.20XX, firm will pay tax under regular scheme on monthly basis in terms of sub-sections (1) and (7) of section 39 of the CGST Act, 2017 and will be eligible to avail ITC on inputs held in stock and capital goods as on 02.10.20XX in terms of section 18 of the CGST Act, 2017 as also on goods and services procured on or after 03.10.20XX and used in the course or furtherance of business in accordance with section 16 of the CGST Act, 2017. However, since common input services and capital goods are used in effecting taxable supplies as well as exempt supplies, ITC attributable to the exempt supplies will need to be added to the output tax liability of the month of October, 20XX in terms of section 17(2) read with rules 42 and 43 of the CGST Rules, 2017 respectively. Further, since all the sales are made within the State (eastern part of Maharashtra), CGST and SGST @ 9% each will be payable on the outward supplies.

The tax liability for the month of October, 20XX under regular scheme will be computed as under-

Particulars	Value (₹)	CGST (₹)	SGST (₹)
Tax on outward supply of 'P' Taxable supplies from 03.10.20XX to 31.10.20XX chargeable to CGST and SGST 9% each [₹ 8,00,000 (Refer Working Note 4)]	6,25,000	56,250	56,250
Tax on inward supplies attracting reverse charge GTA services availed chargeable to CGST and SGST @ 2.5% each (₹ 1,40,000 / 7)	20,000	500	500
ITC reversal on input services [Refer Working Note 1 below]		363	363
ITC reversal on capital goods [Refer Working Note 2 below]		126	126
Total GST liability		57,239	57,239
Less: ITC [Refer Working Note 3 below]		56,739	56,739
Less: Tax paid in cash 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.		500	500

Working Note 1

Particulars	Value (₹)	CGST (₹)	SGST (₹)
CGST & SGST @ 2.5% each paid under reverse charge on freight paid to GTA on 10.10.20XX (for the goods transported between 11.10.20XX & 20.10.20XX) will be available as ITC under regular scheme	20,000	500	500
CGST & SGST @ 9% each paid to Packing Agency on 09.10.20XX (for specialized packing to be carried out on 10.10.20XX on goods to be transported between 11.10.20XX & 20.10.20XX) will be available as ITC under regular scheme.	30,000	2,700	2,700

Total common credit		3,200	3,200
Common credit on input services attributable to exempt supplies (rounded off)		363	363
Common credit on input services availed during the period under regular scheme x (Exempt turnover made during the period under regular scheme / Total turnover during the period under regular scheme) = ₹ 3,200 x ₹ 80,000 / ₹ 7,05,000			
Turnover of 'Q' (exempt turnover) from 03.10.20XX to 31.10.20XX - ₹ 80,000 [Refer Working Note 4]			
Total turnover from 03.10.20XX to 31.10.20XX - ₹ 7,05,000 [Refer Working Note 4]			

Working Note 2

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)
ITC claimed on capital goods on 02.10.20XX [Refer Ans. 13]	48,600	48,600
Air conditioner used in the office purchased on 15.10.20XX	<u>18,000</u>	<u>18,000</u>
Common ITC [Since all the capital goods are used for effecting both taxable and exempt supplies, the entire ITC on capital goods is common]	66,600	66,600
Common credit for a tax period [Common credit = 60] (rounded off)	1,110	1,110
Common credit on capital goods attributable to exempt supplies (rounded off)	126	126
Common credit on capital goods during the period under regular scheme x (Exempt turnover made during the period under regular scheme / Total turnover during the period under regular scheme) = ₹ 1,110 x ₹ 80,000 / ₹ 7,05,000		

Working Note 3

Particulars	CGST (₹)	SGST (₹)
ITC on inputs and capital goods claimed on 02.10.20XX [Refer Ans. 13]	99,000	99,000
ITC on air conditioner used in the office purchased on 15.10.20XX	18,000	18,000

ITC on freight paid to GTA	500	500
ITC on packing charges	<u>2,700</u>	<u>2,700</u>
Total ITC available with the firm	1,20,200	1,20,200

Working Note 4

Particulars	Total turnover for the month of October, 20XX* (₹)	Turnover in the month of October under regular scheme [03.10.20XX-31.10.20XX] (₹)
'P'	8,00,000 [(10,00,000 – 3,60,000) × 125%]	6,25,000 [8,00,000 – 1,00,000 – 31,250 – 43,750]
'Q'	1,00,000 [(2,00,000 – 1,20,000) × 125%]	80,000 [1,00,000 – 3,000 – 2,000 – 15,000]
Aggregate turnover	9,00,000	7,05,000

Note - Turnover for October, 20XX will be computed as under:

*Turnover = Cost of goods sold** × 125% (20% margin on sales = 25% margin on cost)

**Cost of goods sold = Stock as on 30.09.20XX less stock as on 31.10.20XX (since no purchases are made after September, 20XX)

15. In the given situation, three supplies are involved:

- (i) Services provided by Musicera Pvt. Ltd. to audiences by way of admission to music concert.
- (ii) Services provided by Supriya (P) Ltd. to Musicera Pvt. Ltd. by way of organising the music concert.
- (iii) Services provided by Hotel Dumdum to Supriya (P) Ltd. by way of accommodation in the Hotel lawns for organising the music concert.

The CGST and SGST or IGST liability in respect of each of the above supplies is determined as under:

- (i) As per the provisions of section 12(6) of the IGST Act, 2017, the place of supply of services provided by way of admission to, *inter alia*, a cultural event shall be the place where the event is actually held.

Therefore, the place of supply of services supplied by Musicera Pvt. Ltd. to audiences by way of admission to the music concert is the location of the Hotel Dumdum, i.e. Gurugram, Haryana.

Since the location of the supplier (Ludhiana, Punjab) and the place of supply (Gurugram, Haryana) are in different States, IGST will be leviable. Therefore, IGST leviable will be computed as follows:

Consideration for supply (400 tickets @ ₹ 5,000 per ticket) = ₹ 20,00,000

IGST @ 18% on value of supply = ₹ 20,00,000 x 18% = ₹ 3,60,000.

- (ii) Section 12(7)(a)(i) of IGST Act, 2017 stipulates that the place of supply of services provided by way of organization of, *inter alia*, a cultural event to a registered person is the location of such person.

Therefore, the place of supply of services supplied by Supriya (P) Ltd. to Musicera Pvt. Ltd. (Ludhiana, Punjab) by way of organising the music concert is the location of the recipient, i.e. Ludhiana (Punjab).

Since the location of the supplier (Delhi) and the place of supply (Ludhiana, Punjab) are in different States, IGST will be leviable. Therefore, IGST leviable will be computed as follows:

Consideration for supply = ₹ 10,00,000

IGST @ 18% on value of supply = ₹ 10,00,000 x 18% = ₹ 1,80,000

- (iii) As per the provisions of section 12(3)(c) of the IGST Act, 2017, the place of supply of services, by way of accommodation in any immovable property for organizing, *inter alia*, any cultural function shall be the location at which the immovable property is located.

Therefore, the place of supply of services supplied by Hotel Dumdum (Gurugram, Haryana) to Supriya (P) Ltd. by way of accommodation in Hotel lawns for organising the music concert shall be the location of the Hotel Dumdum, i.e. Gurugram, Haryana.

Since the location of the supplier (Gurugram, Haryana) and the place of supply (Gurugram, Haryana) are in the same State, CGST and SGST will be leviable. Therefore, CGST and SGST leviable will be computed as follows:

Consideration for supply = ₹ 4,00,000

CGST @ 9% on value of supply = ₹ 4,00,000 x 9% = ₹ 36,000

SGST @ 9% on value of supply = ₹ 4,00,000 x 9% = ₹ 36,000

If the price for the entry ticket is fixed at ₹ 450, answer will change in respect of supply of service provided by way of admission to music concert, as mentioned in point (i) above. There will be no IGST liability if the consideration for the ticket is ₹ 450 as the inter-State services by way of right to admission to, *inter alia*, musical performance are exempt from IGST vide *Notification No. 9/2017 IT (R) dated 28.06.2017*, if the consideration for right to admission to the event is not more than ₹ 500 per person. However, there will be no change in the answer in respect of supplies mentioned in point (ii) and (iii) above.

16. (i) (a) Rule 138(1) of the CGST Rules, 2017 provides that e-way Bill is mandatorily required to be generated if the goods are moved, *inter alia*, in relation to

supply and the consignment value exceeds ₹ 50,000. Further, explanation 2 to rule 138(1) stipulates that the consignment value of goods shall be the value, determined in accordance with the provisions of section 15, declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and also includes CGST, SGST/UTGST, IGST and cess charged, if any, in the document and shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

Accordingly, in the given case, the consignment value will be as follows:

$$= ₹ 48,000 \times 118\%$$

$$= ₹ 56,640.$$

Since the movement of goods is in relation to supply of goods and the consignment value exceeds ₹ 50,000, e-way bill is mandatorily required to be issued in the given case.

- (b) An e-way bill contains two parts namely, Part A to be furnished by the registered person who is causing movement of goods of consignment value exceeding ₹ 50,000/- and part B (transport details) is to be furnished by the person who is transporting the goods.

Where the goods are transported by the registered person as a consignor or the recipient of supply as the consignee, whether in his own conveyance or a hired one or a public conveyance, by road, the said person shall generate the e-way bill on the common portal after furnishing information in Part B [Rule 138(2)].

Where the goods are transported by railways or by air or vessel, the e-way bill shall be generated by the registered person, being the supplier or the recipient, who shall, either before or after the commencement of movement, furnish, on the common portal, the information in Part B [Rule 138(2A)].

Where the goods are handed over to a transporter for transportation by road, the registered person shall furnish the information relating to the transporter on the common portal and the e-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in Part A [Rule 138(3)].

Where the consignor or the consignee has not generated the e-way bill and the aggregate of the consignment value of goods carried in the conveyance is more than ₹ 50,000/-, the transporter, except in case of transportation of goods by railways, air and vessel, shall, in respect of inter-State supply, generate the e-way bill on the basis of invoice or bill of supply or delivery challan, as the case may be, and may also generate a consolidated e-way bill on the common portal prior to the movement of goods [Rule 138(7)].

- (c) It is mandatory to generate e-way bill in all cases where the value of consignment of goods being transported is more than ₹ 50,000/- and it is not otherwise exempted in terms of rule 138(14) of CGST Rules, 2017. If e-way bills, wherever required, are not issued in accordance with the provisions contained in rule 138, the same will be considered as contravention of rules. As per section 122(1)(xiv) of CGST Act, 2017, a taxable person who transports any taxable goods without the cover of specified documents (e-way bill is one of the specified documents) shall be liable to a penalty of ₹ 10,000/- or tax sought to be evaded (wherever applicable) whichever is greater. Moreover, as per section 129(1) of CGST Act, 2017, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the Rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure.
- (ii) The goods to be moved to another State for replacement under warranty is not a 'supply'. However, rule 138(1) of the CGST Act, 2017, *inter alia*, stipulates that every registered person who causes movement of goods of consignment value exceeding ₹ 50,000:
- (i) in relation to a supply, or
 - (ii) for reasons other than supply; or
 - (iii) due to inward supply from an unregistered person,
- shall, generate an electronic way bill (E-way Bill) before commencement of such movement.

CBIC *vide* Q 9. of FAQs on E-way Bill has also clarified that even if the movement of goods is caused due to reasons others than supply [including replacement of goods under warranty], e-way bill is required to be issued.

Thus, in the given case, since the consignment value exceeds ₹ 50,000, e-way bill is required to be mandatorily generated. Therefore, the claim of Power Electricals Ltd. that e-way bill is not mandatorily required to be generated as the movement of goods is caused due to reasons other than supply, is not correct.

- (iii) Beauty Cosmetics Ltd. would be required to prepare two separate e-way bills since each invoice value exceeds ₹ 50,000 and each invoice is considered as one consignment for the purpose of generating e-way bills.

The FAQs on E-way Bill issued by CBIC clarify that if multiple invoices are issued by the supplier to one recipient, that is, for movement of goods of more than one invoice of same consignor and consignee, multiple e-way bills have to be generated. In other words, for each invoice, one e-way bill has to be generated, irrespective of the fact whether same or different consignors or consignees are involved. Multiple invoices cannot be clubbed to generate one e-way bill. However,

after generating all these e-way bills, one consolidated e-way bill can be prepared for transportation purpose, if goods are going in one vehicle.

17. As per section 51 of the CGST Act, 2017 read with section 20 of the IGST Act, 2017 and Notification No. 50/2018 CT 13.09.2018, with effect from 01.10.2018, following persons are required to deduct CGST @ 1% [Effective tax 2% (1% CGST + 1% SGST/UTGST)] or IGST @ 2% from the payment made/credited to the supplier (deductee) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds ₹ 2,50,000:
- a department or establishment of the Central Government or State Government; or
 - local authority; or
 - Governmental agencies; or
 - an authority or a board or any other body, -
 - set up by an Act of Parliament or a State Legislature; or
 - established by any Government, with 51% or more participation by way of equity or control, to carry out any function; or
 - Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860, or
 - Public sector undertakings.

Further, for the purpose of deduction of tax, the value of supply shall be taken as the amount excluding CGST, SGST/UTGST, IGST and GST Compensation Cess indicated in the invoice.

Since in the given case, Manihaar Enterprises is supplying goods and services exclusively to Government departments, agencies etc. and persons notified under section 51 of the CGST Act, 2017, applicability of TDS provisions on its various receivables is examined in accordance with the above-mentioned provisions as under:

S. No.	Particulars	Total contract value (₹)	Payment due (₹)	Tax to be deducted		
				CGST (₹)	SGST (₹)	IGST (₹)
(i)	Supply of stationery to Fisheries Department, Kolkata (Note-1)	2,60,000	15,000	--		
(ii)	Supply of car rental services to Municipal Corporation of Delhi (Note-2)	2,95,000	20,000	--		

(iii)	Supply of a heavy machinery to Public Sector Undertaking located in Uttarakhand (Note-3)	5,90,000	25,000			500
(iv)	Supply of taxable goods to Delhi office of National Housing Bank, a society established by Government of India under the Societies Registration Act, 1860 (Note-4)	6,49,000	50,000	500	500	
(v)	Interior decoration of Andhra Bhawan located in Delhi (Note-5)	12,39,000	12,39,000	--		
(vi)	Supply of printed books and printed post cards to a West Delhi Post Office (Note-6)	9,72,000		--		
(vi)	Maintenance of street lights in Municipal area of East Delhi (Note-7)	3,50,000	3,50,000	--		

Notes:

1. Being an inter-State supply of goods, supply of stationery to Fisheries Department, Kolkata is subject to IGST @ 18%. Therefore, total value of taxable supply [excluding IGST] under the contract is as follows:

$$= ₹ 2,60,000 \times 100 / 118$$

$$= ₹ 2,20,339 \text{ (rounded off)}$$

Since the total value of supply under the contract does not exceed ₹ 2,50,000, tax is not required to be deducted.

2. Being an intra-State supply of services, supply of car rental services to Municipal Corporation of Delhi is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

$$= ₹ 2,95,000 \times 100 / 118$$

$$= ₹ 2,50,000$$

Since the total value of supply under the contract does not exceed ₹ 2,50,000, tax is not required to be deducted.

3. Being an inter-State supply of goods, supply of heavy machinery to PSU in Uttarakhand is subject to IGST @ 18%. Therefore, total value of taxable supply [excluding IGST] under the contract is as follows:

$$= ₹ 5,90,000 \times 100 / 118$$

$$= ₹ 5,00,000$$

Since the total value of supply under the contract exceeds ₹ 2,50,000, PSU in Uttarakhand is required to deduct tax @ 2% of ₹ 25,000, i.e. ₹ 500.

4. Being an intra-State supply of goods, supply of taxable goods to National Housing Bank, Delhi is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

$$= ₹ 6,49,000 \times 100 / 118$$

$$= ₹ 5,50,000 \text{ (rounded off)}$$

Since the total value of supply under the contract exceeds ₹ 2,50,000, National Housing Bank, Delhi is required to deduct tax @ 2% (1% CGST + 1% SGST) of ₹ 50,000, i.e. ₹ 1,000.

5. Proviso to section 51(1) of the CGST Act, 2017 stipulates that no tax shall be deducted if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.

Section 12(3) of the IGST Act, 2017, *inter alia*, stipulates that the place of supply of services, directly in relation to an immovable property, including services provided by interior decorators, shall be the location at which the immovable property is located or intended to be located. Accordingly, the place of supply of the interior decoration of Andhra Bhawan shall be Delhi.

Since the location of the supplier (Manihar Enterprises) and the place of supply is Delhi and the State of registration of the recipient - Government of Andhra Pradesh is Andhra Pradesh, no tax is liable to be deducted in the given case.

6. If the contract is made for both taxable supply and exempted supply, tax shall be deducted if the total value of taxable supply in the contract exceeds ₹ 2,50,000. Being an intra-State supply of goods, supply of printed post cards to a West Delhi Post Office is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

$$= ₹ 2,72,000 \times 100 / 118$$

$$= ₹ 2,30,509 \text{ (rounded off)}$$

Since the total value of taxable supply under the contract does not exceed ₹ 2,50,000, tax is not required to be deducted.

7. Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply provided to, *inter alia*, local authority by way of any activity in relation to any function entrusted to a Municipality under article 243W of the Constitution is exempt from GST. Thus, maintenance of street lights (an activity in relation to a function entrusted to a Municipality) in Municipal area of East Delhi involving replacement of defunct lights and other spares where the value of supply of goods is not more than 25% of the value of composite supply is a service exempt from GST. Since tax is liable to be deducted from the payment made or credited to the supplier of taxable goods or services or both, no tax is required to be deducted in the given case as the supply is exempt.

The answer will remain unchanged even if Manihar Enterprises is registered under composition scheme. Tax will be deducted in all cases where it is required to be deducted under section 51 of the CGST Act, 2017 including the scenarios when the supplier is registered under composition scheme.

18. Computation of maximum amount of refund admissible to Kailash Global (P) Ltd.

Particulars	(₹)
Exports of product 'A' to UK [Note 1]	Nil
Domestic supplies of taxable product 'B' during the period [Note 2]	75,000
Supply of goods to Export Oriented Unit [Note 3]	Nil
Export of exempt supplies [Note 4]	<u>1,14,000</u>
Total refund claim admissible	1,89,000

Notes:

1. Export of goods is a zero rated supply in terms of section 16(1)(a) of the IGST Act, 2017. Further, Kailash Global (P) Ltd. exports goods without payment of tax under letter of undertaking in accordance with the provisions of section 16(3)(a) of the IGST Act, 2017. Therefore, as per clause (i) of first proviso to section 54(3) of the CGST Act, 2017, a registered person may claim refund, of any unutilised ITC in the case of zero rated supply at the end of any tax period. However, second proviso to section 54(3) lays down that refund of unutilized ITC is not allowed if the goods exported out of India are subjected to export duty.
2. Refund of unutilised ITC is allowed in case of inverted duty structure, i.e. where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies) except

supplies of goods or services or both as may be notified by the Government on the recommendations of the GST Council [Clause (ii) of the first proviso to section 54(3) of the CGST Act, 2017].

Rule 89(5) of the CGST Rules, 2017 stipulates that in the case of refund on account of inverted duty structure, refund of ITC is granted as per the following formula -

$$\text{Maximum Refund Amount} = \frac{\text{Turnover of inverted rated supply of goods and services} \times \text{Net ITC}}{\text{Adjusted Total Turnover}} - \text{Tax payable on such inverted rated supply of goods and services}$$

where-

“Net ITC” means ITC availed on inputs during the relevant period other than the ITC availed for which refund is claimed under sub-rules (4A) or (4B) or both.

“Adjusted total turnover” means the sum total of the value of:

- (a) the turnover in a State/ Union territory, as defined under section 2(112), excluding turnover of services; &
- (b) the turnover of zero-rated supply of services determined in terms of specified manner and non-zero-rated supply of services,

excluding:

- (i) the value of exempt supplies other than zero-rated supplies; and
- (ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any,

during the relevant period.

Tax payable on inverted rated supply of goods = ₹ 10,00,000 × 5% = ₹ 50,000

Here, Net ITC = ₹ 3,50,000, Adjusted Total Turnover = ₹ 28,00,000 [₹ 7,00,000 + ₹ 10,00,000 + ₹ 5,00,000 + ₹ 6,00,000] and Turnover of inverted rated supply of goods = ₹ 10,00,000

Thus, maximum refund amount under rule 89(5) = (₹ 10,00,000 × ₹ 3,50,000) / ₹ 28,00,000 - ₹ 50,000 = ₹ 75,000

3. As per section 2(39) of the CGST Act, 2017, deemed exports means such supplies of goods as may be notified under section 147 of the CGST Act, 2017. Supplies to EOU is notified as deemed export under section 147 vide *Notification No. 48/2017 CT dated 18.10.2017*. In respect of supplies regarded as deemed exports, the application of refund can be filed by the supplier of deemed export supplies only in cases where the recipient does not avail of ITC on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund [Third proviso to rule 89(1) of the CGST Rules, 2017]. Therefore, since in the given case, the recipient is

claiming ITC, Kailash Global (P) Ltd. (supplier of deemed exports) cannot claim refund of ITC.

4. Section 16(2) of the IGST Act, 2017 stipulates that subject to the provisions of section 17(5) of the CGST Act, ITC may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply. Section 54(3) of the CGST Act, 2017 allows refund of ITC in the case of zero rated supply made without payment of tax.

Rule 89(4) of the CGST Rules, 2017 stipulates that in the case of zero-rated supply of goods or services or both without payment of tax under bond/LUT in accordance with the provisions of section 16(3) of the IGST Act, 2017, refund of ITC shall be granted as per the following formula:

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

where-

“Net ITC” means ITC availed on inputs and input services during the relevant period other than the ITC availed for which refund is claimed under sub-rules (4A) or (4B) or both.

“Turnover of zero-rated supply of goods” means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond/LUT, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both.

“Adjusted total turnover” means the same as explained in point 2 above.

Here, Turnover of zero rated supply of goods = ₹ 6,00,000, Net ITC = ₹ 5,32,000 (ITC on outdoor catering disallowed under section 17(5) of CGST Act, 2017) and Adjusted Total Turnover = ₹ 28,00,000 (as computed in point 2 above)

Thus, maximum refund amount under rule 89(4) = ₹ 6,00,000 × ₹ 5,32,000 / ₹ 28,00,000 = ₹ 1,14,000.

19. As per section 73 of the CGST Act, 2017, a show cause notice can be issued by the proper officer if it appears to him that:
- tax has not been paid; or
 - tax has been short paid; or
 - tax has been erroneously refunded; or
 - input tax credit has been wrongly availed or utilized,

for any reason other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax.

The notice should be issued at least 3 months prior to the time limit specified for passing the order determining the amount of tax, interest and any penalty payable by defaulter [Sub-section (2) of section 73].

The order referred herein has to be passed within three years from the due date for furnishing the annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund [Sub-section (10) of section 73].

Thus, the time-limit for issuance of show cause notice is 2 years and 9 months from the due date of filing annual return for the financial year to which the demand pertains or from the date of erroneous refund. As per section 44(1) of the CGST Act, 2017, the due date of filing annual return for a financial year is 31st day of December following the end of such financial year.

20. As per section 121 of the CGST Act, 2017, no appeal shall lie against any decision taken or order passed by a CGST officer if such decision taken or order passed relates to any one or more of the following matters, namely:—
- an order of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer; or
 - an order pertaining to the seizure or retention of books of account, register and other documents; or
 - an order sanctioning prosecution under the CGST Act, 2017; or
 - an order passed under section 80 of the CGST Act, 2017 (payment of tax in instalments).
21. As per section 39(9) of the CGST Act, 2017, if any registered person after furnishing a return discovers any omission or incorrect particulars therein, he shall rectify such omission or incorrect particulars in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed, subject to payment of interest.

However, section 39(9) does not permit rectification of error or omission discovered on account of scrutiny, audit, inspection or enforcement activities by tax authorities. Further, no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of return for the month of September or second quarter following the end of the financial year, or the actual date of furnishing of relevant annual return, whichever is earlier.

22. **Computation of export duty**

Particulars	Amount (US \$)
Assessable value [Note 1]	1,00,000
	Amount (₹)
Assessable value = US \$ 1,00,000 x ₹ 65 [Note 2]	65,00,000
Export duty @ 10% [Note 3]	6,50,000

Notes:-

1. The transaction value, i.e. FOB price of export goods, is considered as assessable value in terms of section 14(1) of the Customs Act, 1962.
 2. As per third proviso to section 14(1) of the Customs Act, 1962, assessable value has to be calculated with reference to the rate of exchange notified by CBEC on date of presentation of shipping bill of export.
 3. The rate of duty prevalent on the date of let export order is considered for computing export duty in terms of section 16(1)(a) of the Customs Act, 1962.
23. (i) As per section 70 of the Customs Act, 1962, the conditions to be satisfied for remission of duty in case of volatile goods are:
- (a) The goods should be found deficient in quantity at the time of delivery from the warehouse;
 - (b) The deficiency should be on account of natural loss, i.e. evaporation etc. and not due to pilferage or thefts.
- (ii) The following goods have been specified as volatile for the purpose of remission of duty vide *Notification No. 03/2016 Cus. (NT) dated 11.01.2016*:
- (a) aviation fuel, motor spirit, mineral turpentine, acetone, methanol, raw naphtha, vaporizing oil, kerosene, high speed diesel oil, batching oil, diesel oil, furnace oil and ethylene dichloride, kept in tanks;
 - (b) wine, spirit and beer, kept in casks
 - (c) liquid helium gas kept in containers
 - (d) crude stored in caverns
24. Rule 3 of the General Rules for the Interpretation of the Import Tariff is used when the goods consists of more than one material or substance which are classifiable under two or more headings. The rule provides as under:
- (i) **Rule 3(a) - Specific over general:** The heading that provides a more specific description should be preferred over the heading that provides a general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.
 - (ii) **Rule 3(b) – Essential character principle:** Sub-rule (b) would apply only if the goods cannot be classified under sub-rule (a). This sub-rule provides that composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, should be classified on the basis of that material or substance that gives it its essential character.

- (iii) **Rule 3(c) – Latter the better:** If both sub-rules (a) and (b) fail to classify the goods in question, then resort may be had to sub-rule (c), which provides that composite goods shall be classified on the basis of the heading that occurs last in numerical order among those which equally merit consideration.
25. (i) No. The exemptions extended by Foreign Trade Policy can be taken only when the exemption notification is issued under the relevant tax laws. The provisions of FTP cannot override tax laws.
- (ii) Some of the categories of exports/sectors which are ineligible for duty credit scrip entitlement under MEIS are listed below:
- (a) Supplies made from DTA units to SEZ units
 - (b) Exports through trans-shipment, i.e. exports that are originating in third country but trans-shipped through India
 - (c) Deemed Exports
 - (d) SEZ/EOU/EHTP/BPT/FTWZ products exported through DTA units
 - (e) Export products which are subject to Minimum export price or export duty
 - (f) Exports made by units in FTWZ.

Note: GST law is in its nascent stage and has been subject to frequent changes. Although many clarifications are continually being issued by way of FAQs or otherwise, many issues continue to arise on account of varying interpretations on several of its provisions. Therefore, alternate answers may be possible for the above questions depending upon the view taken.