

tax under any circumstances. Examine whether the view of Mr. Vicky Frankyn is correct. Further, if the view of Mr. Vicky Frankyn is correct, what is the recourse available with Mr. Vicky Frankyn to comply with the requirements of GST law as SBP has completely refused to deposit the tax.

**Answer:-** Yes, the view of Mr. Vicky Frankyn is correct.

**Legal Provision:-** As per section 9(3) of CGST Act, if services are supplied by an **author** by way of **transfer** or permitting the use or enjoyment of a **copyright** covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary works to a **publisher** located in the taxable territory, then GST is payable on **reverse charge** basis by recipient.

**Discussion & Conclusion:-**

- ☞ In the given case, Mr. Vicky temporarily transferred copyright relating to original literary works of his new book to the publisher – SBP.
- ☞ Therefore, the publisher – **SBP** is liable to pay tax under **reverse charge**.
- ☞ However, since **SBP has completely refused to deposit the tax** on the given transaction, Mr. Vicky Frankyn **has an option** to pay tax under **forward charge** provided he fulfils following **conditions:-**
  - i) he has **taken registration** under the GST law.
  - ii) He has **filed a declaration**, in the prescribed form,
    - that he exercises the option to pay tax on the said service under **forward charge** &
    - to **comply with all the provisions** of GST law as they apply to a person liable for paying the tax for supply of any goods &/or services &
    - that he shall **not withdraw** the said option **within a period of 1 year** from the date of exercising such option.
  - iii) He makes a **declaration on the invoice** issued by him in prescribed form to the publisher.

### Services supplied by Individual Direct Selling Agents

CCP 03.02.09.00

Mr. Vishal want a loan ₹10,00,000 & taken a service of individual Mr. Rudra who is a Direct Selling agent of HDFC bank & bank pay the commission to Mr. Rudra 2% of loan granted to Mr. Vishal for giving a customer to the bank. Calculate the amount of GST payable if GST @18% & who is liable to pay GST?

**Answer:- Legal Provision:-**

- ☞ As per **section 9(3)** of CGST Act, if services are provided **by an individual** Direct Selling Agent (DSA) **other than** body corporate, partnership or limited liability partnership firm **to** any banking company or NBFC located in a taxable territory, then the GST is payable on reverse charge basis by recipient.

**Discussion & Conclusion:-**

- ☞ In the given case, Mr. Rudra is **an individual** providing services as direct selling agent to a **banking company** i.e. HDFC Bank.
- ☞ Therefore, the **HDFC bank** (i.e. the recipient) is liable to pay GST under **reverse charge**.
- ☞ **Calculation of GST payable:-**

Particulars	₹ in Lakhs
Loan Amount	10,00,000
Commission paid by bank to Rudra (Rs. 10,00,000 * 2%)	20,000
<b>GST Payable @18% (Rs. 20,000 * 18%)</b>	<b>3,600</b>

## Services of Supplying Security Personnel:-

CCP 03.02.10.00

The Professionals Security-Pune is a firm of security agency providing services by way of supply of security personnel to following categories of persons:-

- i) XYZ Pvt. Ltd. (a company registered under CGST Act, 2017 in Pune), valuing ₹10 lakhs.
- ii) Sindh Co-operative Credit Society, Mumbai, which is unregistered under CGST Act, 2017, ₹ 8 lakhs.
- iii) Department of Central Government located at Bangalore which has taken registration under CGST Act, 2017 only for the purpose of deducting tax u/s 51 and not for making any taxable supply of goods or services, valuing ₹12 lakhs.
- iv) Pune Municipal Corporation registered under CGST Act, 2017 for the purpose of making taxable supply of goods or services. The value of service provided was ₹ 4 lakhs.
- v) Mr. Altaf, from Gujarat (registered under section 10 of CGST Act, 2017), value of ₹2 lakhs.
- vi) Service provided to Star Industries Ltd., USA, value being ₹7 lakhs.

Determine the taxable value as well as the tax liability of The Professionals Security-Pune, assuming CGST @ 9%, SGST @ 9% and IGST @ 18%.

**Answer:- Determination of taxable value of the Professionals Security-Pune:-**

S. No.	Recipient of services	Taxable under	Taxable Value (₹)	Refer Note
i)	XYZ Pvt. Ltd. (Registered person)	Reverse Charge	-	1
ii)	Sindh Co-operative Credit Society (Un-registered person)	Forward Charge	8 Lakh	1
iii)	Department of Central Government, Bangalore (Registered only to deduct TDS & not to make taxable supply)	Forward Charge	12 Lakh	2
iv)	Municipal Corporation (Registered to make taxable Supply)	Reverse Charge	-	3
v)	Mr. Altaf, Gujarat (Registered u/s 10 of CGST Act)	Forward Charge	2 Lakh	2
vi)	Star Industries Ltd., USA	Forward Charge	7 Lakh	4
<b>Total Taxable Value</b>			<b>29 Lakhs</b>	

**Notes:-**

1. As per section 9(3) of CGST Act, 2017, If security services (services provided by way of supply of **security personnel**) are provided by **any person other than a body corporate** to a **registered person** located in the taxable territory, then GST is payable on reverse charge basis by recipient.
2. **The following are the exceptions to the service covered under reverse charge in note 1 above:-**
  - (i) ➤ Department or Establishment of the CG, SG or UT or
    - Local authority or
    - Governmental agencies,
 which has **taken registration** under the CGST Act only **for the purpose of deducting tax u/s 51** and not for making a taxable supply of goods or services.
  - (ii) a registered person paying tax under section 10 of the said Act i.e. composition scheme.
3. Pune municipal corporation is a **local authority** registered under CGST Act for making **taxable supply**. It is not getting covered under exception in note 2 & thus, **reverse charge** is applicable.
4. RCM will apply only if service provided to registered person **located in taxable territory**. As Star Industries is located in USA which falls **outside the taxable territory**, **The Professionals Security-Pune** will be liable to pay tax under **forward charge**.

**Note:-** If supplier satisfies conditions of section 16 of IGST Act, then it can avail benefit of zero-rated supply for export to Star Industries Ltd. USA & no GST would be payable.

**Determination of Tax liability of The Professionals Security - Pune is as follows:-**

S.No.	Particulars	₹ in Lakhs	IGST @ 18%	CGST @ 9%	SGST @ 9%
1)	Intra State Supply	8	-	72,000	72,000
2)	Inter State Supply	14	2,52,000	-	-
3)	Export	7	1,26,000	-	-
	<b>Total Tax Liability</b>		<b>3,78,000</b>	<b>72,000</b>	<b>72,000</b>

**Services provided by way of renting of any motor vehicle**

**CCP 03.02.11.00**

Amco India Ltd. a trader engaged in supply of goods & services at the intra state level. Its aggregate turnover for the PFY was ₹ 12.75 lakhs. In CFY upto the month of September 20XX the aggregate turnover of outward supply of Amco Ltd. was ₹ 10.35 lakhs.

Amco Ltd. does not get itself registered under GST as the threshold limit does not crosses the limit of ₹ 20 lakhs.

In the meanwhile, it has availed the service by way of renting of motor vehicle from Mr. Poonawala for the total consideration of ₹ 1.5 lakhs on 5th October 20XX (including cost of fuel).

Mr. Poonawala opted for paying tax @ 5% (i.e. 2.5% CGST & 2.5% SGST) and avail input tax credit of input service received from supplier who is also engaged in same line of business. Examine the tax liability in this case and the person who is liable to pay such tax.

Would your answer differ, if such service by way of renting of motor vehicle was provided by Mr. Poonawala to Mr. Ayush instead of Amco India Ltd.?

**Answer:-**

**Legal Provision:**

⇒ As per **section 9(3) of CGST Act 2017**, Service provided by Renting of any motor vehicles, designed to carry passengers, (where the cost of fuel is included in the consideration charged from the service recipient), by any person other than body corporate (paying tax @ 2.5%CGST & 2.5% SGST, with limited ITC), to a body corporate (located in TT), the liability to pay tax shall be upon recipient (i.e. Body corporate)

⇒ As per **section 24** of CGST Act, any person who is required to pay tax under reverse charge shall be liable for compulsory registration even though the aggregate turnover is below the threshold limit.

**Discussion & Conclusion:**

⇒ In the given case, Amco Ltd. shall be liable to get register under GST & pay tax on ₹ 1.5 lakhs at the rate as may be specified under **reverse charge**. Also, Amco Ltd. need to apply for **compulsory registration**.

⇒ However, if such service was provided to any person other than a body corporate say Mr. Ayush in the above case, then the provision of above said notification will not apply and such service would fall under forward charge and Mr. Poonawala will be liable for payment of tax at the rate of 2.5% CGST & 2.5% SGST.

### 03. Combined Questions for all services u/s 9(3):-

CCP 03.03.12.00

M/s All-in-One, a partnership concern and a registered supplier under GST, is engaged in providing various services under one roof. It is engaged in paying tax under regular scheme under GST law. The concern provides the following information pertaining to supply made/input services availed by it during the month of March:

S.No	Particulars	₹
i)	Provided Direct Selling Agent service to Y Bank Ltd.	4,00,000
ii)	Provided security services (by way of supply of security personnel) to ABC P. Ltd., a registered person under GST	60,000
iii)	Provided security services (by way of supply of security personnel) to PSR Trust, an unregistered person under GST	1,00,000
iv)	Provided renting of motor vehicle for transportation of passengers to Amaze Tours Ltd. and value of supply included cost of fuel	75,000
v)	Provided renting of motor vehicle for transportation of passengers to Priti & Co., CA firm and value of supply included cost of fuel	40,000
vi)	Availed representational service from PB and Co., a law firm towards a Consumer Court case	70,000

Determine the GST liability of M/s All-in-One for the month of March by giving necessary explanations for treatment of various items. Rates of GST for both inward and outward supply is CGST/SGST@ 9% each except renting a vehicle, for which CGST/SGST @ 2.5% each is applicable. M/s All-in-One commenced its business from February. All the supplies are intra-State only. Ignore the provisions relating to input tax credit. [Study Mat]

**Answer: GST liability of M/s All-in-One**

S. No.	Particulars	Value (₹)	CGST payable (₹)	SGST payable (₹)
<b>A.</b>	<b>GST liability on outward supply</b>			
i)	Direct selling agent service to Y Bank Ltd. [Tax is payable under <b>forward charge</b> since the supplier of such service is a partnership firm and not an individual]	4,00,000	36,000 [4,00,000 x 9%]	36,000 [4,00,000 x 9%]
ii)	Security services to ABC P. Ltd., a registered person [Tax is payable under <b>reverse charge</b> by recipient since security services are provided by a non-body corporate to a registered person.]	-		
iii)	Security services to PSR Trust, an unregistered person [Tax is payable under <b>forward charge</b> since security services are provided by a non-body corporate to an unregistered person.]	1,00,000	9,000 [1,00,000 x 9%]	9,000 [1,00,000 x 9%]
iv)	Renting of motor vehicle to Amaze Tours Ltd. where value included cost of fuel [Tax is payable under <b>reverse charge</b> by recipient since such services are provided by a non-body corporate to a body corporate and GST is payable @ 5%.]	-		