



V'SMART ACADEMY

IDT

ADDITIONAL QUESTIONS (FROM QUESTIONER)

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CA FINAL
CMS FINAL
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Think
GST
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Vishal Sir!

JAN 2026 EXAM





Charge of Tax & Concept of Supply

Q.8.1: ABC Insurance Ltd., a registered insurer in Maharashtra, is engaged in providing insurance services. During the current financial year, the company entered into following transactions:

1. ABC Insurance Ltd. enters into a co-insurance agreement with XYZ Insurance Ltd. where ABC Insurance Ltd. is the lead insurer. The insured – Gyaati Industries- pays a total premium of ₹ 50,00,000 which is apportioned by the lead insurer -ABC Insurance Ltd. between itself and XYZ Insurance Ltd. in the ratio of 60:40 for the insurance services jointly supplied by them to Gyaati Industries. ABC Insurance Ltd. agrees to discharge the entire GST liability on the full amount of premium received from Gyaati Industries.
2. A large industrial plant needs an insurance worth ₹ 500 crore. It approaches ABC Insurance Ltd. for the same. However, since ABC Insurance Ltd. is unable to underwrite the entire risk alone, it enters into a reinsurance agreement with a reinsurer - PQR Insurance Ltd. The total premium charged is ₹ 50 lakh. The insurer - ABC Insurance Ltd. pays a reinsurance premium of ₹ 20 lakh to PQR Insurance Ltd. This allows ABC Insurance Ltd. to manage its risk and financial exposure. While paying this amount to PQR Insurance Ltd., ABC Insurance Ltd. deducts a ceding commission of ₹ 1,00,000 which it has charged for the services it provides to PQR Insurance Ltd. PQR Insurance Ltd. pays GST on the gross reinsurance premium including the ceding commission.

Based on the provisions of Schedule III of the CGST Act, 2017, discuss whether the following activities amount to supply:

- (a) Apportionment of co-insurance premium by ABC Insurance Ltd. to XYZ Insurance Ltd. for the insurance services jointly supplied by them to Gyaati Industries.
- (b) Services by ABC Insurance Ltd. to PQR Insurance Ltd. for which ceding commission is deducted from reinsurance premium paid by ABC Insurance Ltd. to PQR Insurance Ltd. [CA Final RTP Sep 25]

Answer:

1.	<p>Legal Provision: Activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured is neither supply of goods nor supply of services if lead insurer paid GST on entire premium and hence no GST is charged on the apportionment transaction. [Para 9 of Schedule III]</p> <p>Conclusion:</p> <ul style="list-style-type: none">➔ The lead insurer (ABC Insurance Ltd.) is required to pay the entire GST (CGST and SGST or IGST, as applicable) on the full premium amount paid by the insured – Gyaati Industries, of ₹ 50,00,000.➔ The co-insurer, XYZ Insurance Ltd. does not pay GST on its share of the premium separately.
2.	<p>Legal Provision: Services by insurer to the reinsurer for which ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer is neither supply of goods nor supply of services, subject to the condition that the GST is paid by the reinsurer on the gross reinsurance premium payable by the insurer to the reinsurer, inclusive of the said commission. [Para 10 of Schedule III]</p> <p>Conclusion: In the given case, the reinsurer (PQR Reinsurers Ltd.) is liable to pay GST on the gross reinsurance premium payable by the insurer (₹ 20 lakh), inclusive of the ceding commission (₹ 1 lakh).</p>

Q.20: Decide with reason whether following independent transactions amount to supply or not as per the provision, rules, circulars and notification issued under the GST law:

- (i) Satyam has lent securities to Kala Enterprises for a consideration of ₹ 10,000 towards lending of securities under the Securities Lending Scheme, 1997 through an approved intermediary. Ignore the transaction between Satyam and intermediary.
- (ii) Patta Limited made supply of goods to its agent, Romi, without consideration. Romi issued invoice for the further supply of goods to the customers in his own name. Romi also disclosed the name of principal in the invoice issued.
- (iii) Dilasa Limited recruited Miss Chhaya as senior relationship manager. At the time of joining as senior relationship manager, the company paid ₹ 3,00,000 towards "Not joining" Milan Limited, a stiff competitor of Dilasa Limited. [CA Final Nov 24 Exam]

Answer:-

i)	<p>➤ Lending of securities under the Securities Lending Scheme is not a transaction in securities as it does not involve disposal of securities. It is not excluded from the definition of services and amounts to supply.</p> <p>➤ Consequently, lending of securities for consideration to Kala Enterprise amounts to supply.</p>
ii)	<p>➤ Since the invoice for further supply of goods is being issued by the agent – Romi. in his own name, the provision of goods from the principal – Patta Limited. - to the agent – Romi - would fall within the purview of Schedule I of the CGST Act, 2017 and would amount to supply even though made without consideration.</p> <p>➤ Further, supply of goods by Romi to the customer for consideration amounts to supply.</p>
iii)	<p>Since any amount paid by employer to employee for not joining a competing business is paid for providing the service of forbearance to act to refrain cannot be considered for providing services in the course of employment, amount received by Miss Chhaya from Dilasa Limited amounts to supply under the GST law.</p>

Q.12: Discuss the GST implication in the following case study.

It was a busy Monday morning in Mumbai, and Ravi, a software developer, needed a quick ride to the office. He opened an app FastCabs (an ECO) to book a motorcab. The app connected him to Mohan, an independent driver operating his own motorcab.

After a long workday, Ravi needed a place to stay overnight. He found BudgetStay, an unregistered hotel located near his office. BudgetStay had no GST registration but listed its rooms on an online travel platform operated by an ECO called StayEasy. Ravi booked a room through StayEasy and was charged for his stay.

The next morning, Ravi discovered a leaking pipe in his bathroom. In panic, he used the app QuickFix, which connected him to Suresh, an unregistered plumber. QuickFix was an online platform (ECO) that specialized in providing various home services such as plumbing and carpentry.

After the long day, Ravi decided to have dinner & ordered food through Zomato from The Royal Dine, located inside a luxury hotel. The hotel had a accommodation value of ₹10,000 per unit per day for its rooms, which qualified it as a specified premises under GST law.

Answer:

a)	If passenger transport service is supplied by motor vehicle or bike through an ECO, then ECO is liable to pay tax. But in case of omnibus where supplier is a company, then supplier is liable to pay tax. In given case: ECO Fast Cab is liable to pay tax.
b)	If accommodation for residential or lodging purposes service is provided through ECO by hotel, inn etc. where it is not liable to register, then ECO is liable to pay tax (Sec 9(5)). In given case: Stay Easy is liable to pay tax.
c)	If housekeeping etc. services supplied by any person through ECO who is not liable to register, then ECO is liable to pay tax. In given case: Quick-Fix is liable to pay tax.
d)	Supply of restaurant services through ECO — then ECO is liable to pay tax. ➡ But, if restaurant is located in a specified premise where room rent is more than ₹7500 per day, then supplier i.e., restaurant is liable to pay tax. ➡ So in given case: Royal Dine is located in a luxury hotel where room rent is more than ₹7500 per day, hence Royal Dine is liable to pay tax.

Q.4 Aakarsha Traders, a registered supplier under GST in Uttar Pradesh, had their GST registration cancelled retrospectively with effect from 1st September of current financial year. The cancellation order was passed on 15th September of current financial year. At the time of cancellation, the supplier had not availed ITC on certain eligible invoices issued in February and March of the preceding financial year for inward supplies of taxable goods on which ITC is otherwise available under GST law.

Subsequently, on filing an application for revocation, the cancellation of registration was revoked by the Proper Officer on 15th December of current financial year.

The firm wishes to file its GSTR-3B return for the month of September on 21st December of current financial year and wishes to claim ITC on the said invoices of February and March of preceding financial year in this return.

You are required to advise Aakarsha Traders whether it is entitled to claim input tax credit (ITC) in respect of invoices issued in February and March of the preceding financial year in terms of provisions of the GST law assuming that annual return for previous year is furnished on 31st December of the current financial year.

[CA Final RTP Sep 25]

Answer:- Legal Provision: As per **section 16(6)**, If the registration of a registered person is cancelled u/s 29, and subsequently cancellation is revoked by any order u/s 30, and availment of ITC was not restricted u/s 16(4) on the date of cancellation, then such person is **entitled to take ITC** on such invoice or debit note in a return u/s 39:

- (i) filed up to 30th November following the financial year to which such invoice or debit note pertains, or date of furnishing annual return, whichever is earlier or
- (ii) for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, where such return is filed within 30 days from the date of order of revocation of cancellation of registration

whichever is later.

Discussion & Conclusion:

➤ In the given case, Aakarsha Traders is entitled to claim ITC in respect of invoices issued in February and March of the preceding financial year in a return u/s 39:

- filed up to 30th November of current financial year or
- (return filed for the period from effective date of cancellation of registration till the date of order of revocation of cancellation of registration, within 30 days of revocation of cancellation i.e., up to 14th January.

whichever is later.

➤ Thus, Aakarsha Traders is **entitled** to claim input tax credit (ITC) in respect of invoices issued in February and March of the preceding financial year in the return for the month of September furnished on 21st December of current financial year.

Q.7 Mr. Divas, a registered person in Agra, Uttar Pradesh purchased a car for ₹ 12,50,000 on 15th October. On 31st October, the car met with an accident resulting in minor damage.

Due to urgency, he got his car repaired in the local garage of a nearby market instead of garage authorized by his general insurance company, i.e. Suraksha Insurance Company, through which his car was insured.

The total cost of repairs was ₹ 54,000 (excluding GST @ 18%). On the instructions of Mr. Divas, the invoice for the entire amount was raised by garage in the name of Suraksha Insurance Company. The insurance company approved the claim amount of only ₹ 40,000 after the survey and reimbursed the same amount

along with GST @ 18% to Mr. Divas. In light of the above facts, you are required to answer the following questions :

1. Whether Suraksha Insurance Company is eligible to avail ITC on the basis of the invoice raised by garage? If yes, what would the amount of eligible input tax credit?
2. Would your answer be different, if garage had issued two different invoices, one for ₹ 40,000 + GST @ 18% to Suraksha Insurance Company and another for ₹ 14000 + GST @ 18% to Mr. Divas?
3. In case, the garage issued the invoice in the name of Mr. Divas, would Suraksha Insurance Company be eligible to avail ITC? [CA Final RTP May 25]

Answer :

1.	<p>⇒ Section 17(5) provides that ITC of services of repair of motor vehicles shall be available where received by a taxable person engaged in the supply of general insurance services in respect of motor vehicles insured by him.</p> <p>⇒ CBIC has clarified that in reimbursement mode of claim settlement, the payment is made by the insurance company for the approved cost of repair services through reimbursement to the insured.</p> <p>⇒ Further, irrespective of the fact that the payment of the repair services to the garage is first made by the insured, which is then reimbursed by the insurance company to the insured to the extent of the approved claim cost, the liability to pay for the repair service for the approved claim cost lies with the insurance company, and thus, the insurance company is covered in the definition of recipient in respect of the said supply of services of vehicle repair provided by the garage, to the extent of approved repair liability.</p> <p>⇒ Moreover, availment of ITC paid on motor vehicle repair services received by the insurance company for outward supply of insurance services for such motor vehicles is not blocked u/s 17(5).</p> <p>⇒ Accordingly, it is clarified that ITC is available to insurance companies in respect of motor vehicle repair expenses incurred by them in case of reimbursement mode of claim settlement.</p> <p>⇒ It is further clarified that if the invoice for full amount for repair services is issued to the insurance company while the insurance company makes reimbursement to the insured only for the approved claim cost, then the ITC may be available to the insurance company only to the extent of reimbursement of the approved claim cost to the insured, and not on the full invoice value.</p> <p>⇒ In the given case, although the invoice for the full amount of repair services (₹ 54,000 + GST) is raised in the name of Suraksha Insurance Company, it is liable to pay the repair service to the extent of the approved claim cost (₹ 40,000 + GST). Thus, it is covered in the definition of 'recipient' to the extent of approved claim cost.</p> <p>⇒ Hence, it is eligible to avail the ITC to the extent of the GST paid on the amount of ₹ 40,000 (approved claim cost). Thus, ITC of ₹ 7,200 (₹ 40,000 × 18%) is available to Suraksha Insurance Company.</p>
2.	<p>⇒ The circular further clarifies that in cases where the garage issues two separate invoices in respect of the repair services, one to the insurance company in respect of approved claim cost and second to the customer for the amount of repair service in excess of the approved claim cost, ITC may be available to the insurance company on the said invoice issued to the insurance company subject to reimbursement of said amount by insurance company to the customer.</p> <p>⇒ Thus, in the given case, if the garage has issued two different invoices, the answer would remain the same because the approved claim of service cost which was reimbursed by Suraksha Insurance Company to Mr. Diwas was ₹ 40,000 only.</p> <p>⇒ Thus, ITC of ₹ 7,200 (₹ 40,000 × 18%) is available to Suraksha Insurance Company.</p>
3.	<p>⇒ The circular also clarifies that where the invoice for the repair of the vehicle is not in name of the insurance company, condition of section 16(2)(a) & (aa) is not satisfied and accordingly, ITC will not be available to the insurance company in respect of such an invoice.</p> <p>⇒ Thus, in the given case, if the invoice has been raised in the name of Mr. Diwas, then Suraksha Insurance Company would not be eligible to avail the ITC.</p>

Q.29 Vijay Pvt. Ltd. of Chennai, Tamil Nadu, exclusively manufactures and sells product 'V2Z' which is exempt from GST vide notifications with certain taxable supplies. The company sells product 'V2Z' only within Tamil Nadu and it is registered under GST under regular scheme. Further, all the inward supplies of the company are taxable under forward charge. The company expects the sales to grow in the current year. Owing to the growing demand for the product, the company decided to increase its production capacity and purchased additional machinery exclusively used for manufacturing 'V2Z' on 1st August, 20XX. The purchase price of such machinery was ₹ 45 lakh (exclusive of GST @ 18%).

However, with effect from 1st December, 20XX, exemption available on 'V2Z' was withdrawn by the Central Government and GST @ 12% was imposed thereon. Can Vijay Pvt. Ltd take input tax credit on additional machinery purchased exclusively for manufacturing 'V2Z'? If yes, then when and how much credit can be availed? Advise Vijay Pvt. Ltd. on the above issues with reference to the provisions of GST law. Correct provisions of law should form the part of your answer. [CA Final Nov 24 Exam]

Answer:

- Where an exempt supply of goods by a registered person becomes a taxable supply, such person shall be entitled to take ITC, in respect of capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable i.e. Nov 30, 20XX.
- ITC on capital goods can be claimed after reducing the tax paid on such capital goods by **5% per quarter of a year or part thereof** from the date of the invoice.
- Thus, Vijay Pvt. Ltd. can take following amount of ITC on additional machinery purchased exclusively for manufacturing "V2Z" by making an electronic declaration in prescribed form specifying the details of capital goods on the day immediately preceding the date from which such supply becomes taxable within 30 days of becoming eligible to avail ITC:

$$= (\text{₹ } 45 \text{ lakh} \times 18\%) - (\text{₹ } 45 \text{ lakh} \times 18\% \times 5\% \times 2 \text{ quarters})$$

$$= \text{₹ } 8,10,000 - \text{₹ } 81,000$$

$$= \text{₹ } 7,29,000$$

08

Place of Supply

Q.34 Smith Inc., a company located in USA, charges subscription fee from its unregistered customers in India at its online money gaming portal. The Department contends that GST should be charged on the subscription fees which Smith Inc. receives from Indian customers.

Smith Inc. opposes the above view stating that since online money gaming are intangible goods and do not cross customs frontiers physically in this case, GST is not leviable thereon.

Considering the above facts, you are required to answer the following questions:

(i) What would be the place of supply in this case?

(ii) Whether GST is leviable on the subscription fee charged by Smith Inc. from unregistered customers? If yes, who is required to pay said GST? [CA Final RTP May 25]

Answer:

(i) Legal Provision: As per section 11 of IGST Act, **Place of Supply of goods:-**

- a) imported into India shall be the location of importer,
- b) exported from India shall be the location outside **india**.

Discussion & Conclusion:

- In the given case, Online money gaming being specified actionable claim is covered in goods, as per

	<p>2(52) read with section 2(102A)</p> <p>➤ Thus, the POS would be location of the recipient of specified actionable claim of online money gaming, i.e., India.</p>
(ii)	<p>The contention of department is correct.</p> <p>➤ As per proviso to section 5(1) of the IGST Act, 2017, IGST on goods imported into India is levied and collected as per section 3 of the Customs Tariff Act, 1975 on the determined value at the point when duties of customs are levied on the said goods u/s 12 of the Customs Act, 1962.</p> <p>➤ However, in case of intangible goods, it is not possible to levy and collect IGST on imports in said manner, as the goods do not cross the customs frontiers physically.</p> <p>➤ Resultantly, the Government has notified certain goods for whom proviso to section 5(1) of the IGST Act, 2017 will not be applicable for levy and collection of IGST, in such cases, IGST shall be levied and collected in the manner specified in section 5(1) only. Supply of online money gaming has been notified for the said purpose.</p> <p>➤ So, import of specified actionable claims of online money gaming will be taxed under IGST as import of goods.</p> <p>➤ As per section 14A of the IGST Act, 2017, a supplier of online money gaming, not located in the taxable territory, shall in respect of the supply of online money gaming by him to a person in the taxable territory, be liable to pay IGST on such supply.</p> <p>➤ Section 24(xia) makes it mandatory for a every person supplying online money gaming from a place outside India to a person in India to obtain registration irrespective of quantum of aggregate turnover. A supplier of online gaming services is required to take a single registration under a Simplified Registration Scheme.</p> <p>➤ However, if the supplier has a representative in India for any purpose, such person (representative in India) shall get registered and pay IGST on behalf of the supplier.</p> <p>➤ In case, the overseas supplier neither has a physical presence nor has any representative for any purpose in India, he may appoint a person in India for the purpose of paying IGST and such person shall be liable for payment of such tax.</p> <p>➤ Accordingly, in the given case, Smith Inc. is liable to pay IGST on subscription fees that it charges from Indian customers, it is required to pay the IGST in the manner specified above.</p>

Q.34.1 Determine the 'place of supply' along with explaining the correct provision of law for the following independent cases:

- (i) Mr. Prakash Kumar (unregistered person under GST law) is a resident of Surat, Gujarat. He places an order on 'E-SHOPPE' (an e-commerce platform) for supply of laptop, which is to be delivered to his sister Ms. Ridhima at Mumbai, Maharashtra. Mr. Prakash, while placing the order on the above e-commerce platform, provides the billing address of his residence located in Surat, Gujarat,
- (ii) Ms. Ritu is proprietor of 'G n F Center', situated at Lucknow and registered under GST law in Uttar Pradesh. Her client Ms. Neha (unregistered person under GST law) located at Delhi, requests her to provide personal grooming & fitness services at her home at Delhi. Ms. Ritu provides her grooming & fitness services at client's home at Delhi.
- (iii) Decor n Décor, an interior decorator firm located at Dehradun, Uttarakhand, enters into a contract with Mr. Diego of Italy to provide interior decoration services in respect two immovable properties of Mr. Diego, one located at Dehradun, Uttarakhand and another located at Italy.
- (iv) SQR Mills Private Limited of Kolkata, registered under GST law in West Bengal, gives a contract to LQR Private Limited of Varanasi, registered under GST law in Uttar Pradesh to supply a machine which is required to be assembled at a printing plant of SQR Mills Private Limited located at Bhopal, Madhya Pradesh. [CA Final May 25 Exam]

Answer:-

1.	➡ In cases involving supply of goods to an unregistered person, where the billing address and delivery address are different, the delivery address shall be the place of supply. [Sec 10(1)(ca)] ➡ Thus, place of supply is Mumbai, Maharashtra .
2.	➡ The place of supply of personal grooming and fitness services is the location where the services are actually performed. [Sec 12(4)] ➡ Thus, place of supply is Delhi .
3.	➡ Where any services directly in relation to an immovable property are supplied at more than one location, including a location in the taxable territory, its place of supply shall be the location in the taxable territory. [Sec 13(4) read with Sec 13(6)] ➡ Thus, place of supply is Dehradun, Uttarakhand in respect of interior decoration services provided in relation to the immovable properties located in Dehradun and Italy.
4.	➡ Where the goods are assembled at site, place of supply shall be the place of such assembly. [Sec 10(1)(d)] ➡ Thus, place of supply is Bhopal, Madhya Pradesh .



Payment of Tax & TDS-TCS

Q.4 M/S MN Ltd has a balance of ₹ 30,000 as CGST and ₹ 30,000 SGST in the electronic credit ledger in the beginning of April 2024. During the month of April 20XX, M/S MN Ltd has following liabilities:-

Particulars	CGST (₹)	SGST(₹)
GST Payable on outward supplies	10,000	10,000
GST payable as a consequence of proceeding instituted under the provision of GST law	5,000	5,000
GST payable on reverse charge supplies	6,000	6,000
Interest for default in late filing of GSTR-3B	500	500
Penalty	500	500
Total	22,000	22,000

There is no input tax credit for the month of April 20XX.

M/S MN Ltd is of the view that since opening balance in the electronic credit ledger is sufficient to discharge the whole liability for the month of April 20XX, it is not required to deposit any tax for the above month.

Explain with reasons whether the contention of M/S MN Ltd is correct in view of the applicable provisions of the CGST Act, 2017.

If not, what would be the amount payable in cash for the month of April 20XX?

Also discuss in brief, the relevant provision of GST law. [CA Final Nov 24 Exam]

Answer:

- ➡ The electronic credit ledger can be used for making payment of only output tax which is the tax chargeable on taxable outward supply, but excludes tax payable on reverse charge mechanism. It cannot be used for making payment of any interest, penalty, fees or any other amount payable under the GST law.
- ➡ Accordingly, electronic credit ledger can be used for any payment towards output tax, whether self-assessed in

the return or payable as a consequence of any proceeding instituted under the GST law.

➔ Thus, in view of the above-mentioned provisions, the contention of **MN Ltd. is not correct.**

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DEMAND & RECOVERY

Q.9 Arnav Enterprises, a registered supplier located in Madhya Pradesh, has duly filed its monthly GST returns for the financial year 2024–25. During the scrutiny of its returns for the said financial year in August 2025, the proper officer noticed an inadvertent short payment of CGST and SGST totalling ₹ 4,60,000 in the month of October 2024, on account of a Bonafide error. Before issuance of the show cause notice by the proper officer, Arnav Enterprises paid the tax of ₹ 1,00,000 (₹ 50,000 CGST and ₹ 50,000 SGST) on the basis of its own ascertainment along with applicable interest and with penalty, if any, on 15th September 2025 and informed the proper officer in writing of such payment.

Based on the facts above, answer the following:

1. Ascertain the last date by which show cause notice can be issued by the proper officer for the amount of tax short paid by Arnav Enterprises.
2. Determine the amount of penalty, if any, payable on the payment of tax of ₹ 1,00,000 by Arnav Enterprises on the basis of its own ascertainment along with applicable interest on 15th September 2025.
3. Assuming that the proper officer decides to issue a show cause notice under section 74A on 10th October 2025, determine the maximum amount of tax for which he can issue the show cause notice. Ascertain the last date by which the proper officer should issue order under section 74A assuming that show cause notice is issued by proper officer on said date.
4. In continuation of sub-part (3) above, if proper officer issues a show cause notice under section 74A on 10th October 2025 for the amount of tax so allowed and Arnav Enterprises decides to pay said tax along with applicable interest, on 5th December 2025, you are required to determine penalty, if any, payable by Arnav Enterprises.

In each of the above cases, will your answer be different if the short payment of tax is on account of fraud, other facts remain the same?

Note : Assume that the due date for furnishing annual return has not been extended and limitation period for issuance of order under section 74A has not been extended by the Commissioner. Ignore computation of interest in the above question. [CA Final RTP Sep 25]

Answer :

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|----|--|
| 1) | <ul style="list-style-type: none">➔ The proper officer can issue a show cause notice within 42 months from the due date of furnishing the annual return for the relevant financial year to which short payment relates to [Section 74A(2)].➔ For the financial year 2024–25, the due date for furnishing the annual return is 31st December 2025. Therefore, the last date by which show cause notice can be issued by the proper officer for the amount of tax short paid by Arnav Enterprises is 30th June 2029.➔ Further, section 74A stipulates the same limitation period for issuance of show cause notice whether the short payment is on account of fraud or on account of a Bonafide error.➔ Thus, the answer will remain same if the short payment of tax is on account of fraud. |
|----|--|

2)	<ul style="list-style-type: none"> ➤ The person chargeable with tax where any tax has been short paid, may, <ul style="list-style-type: none"> ➤ before service of show cause notice, ➤ pay the amount of tax along with interest payable u/s 50 of such tax ➤ on the basis of his own ascertainment of such tax and ➤ inform the proper officer in writing of such payment, and ➤ the proper officer, on receipt of such information shall not serve any show cause notice in respect of the tax so paid or any penalty payable under the provisions of the CGST Act or the rules made thereunder [Section 74A(8)(i)]. ➤ Thus, no penalty is payable by Arnav Enterprises in respect of payment of tax of ₹ 1,00,000 before issuance of show cause notice. No show cause notice will be issued by proper officer for tax of ₹1,00,000 so paid. ➤ However, in case where the short payment of tax is on account of fraud, the person chargeable with tax, may <ul style="list-style-type: none"> ➤ before service of show cause notice, ➤ pay the amount of tax along with interest payable u/s 50 and a penalty equivalent to 15% of such tax ➤ on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and ➤ inform the proper officer in writing of such payment, and ➤ the proper officer, on receipt of such information, shall not serve any show cause notice, in respect of the tax so paid or any penalty payable under the provisions of the CGST Act or the rules made thereunder. [Section 74A(9)(i)]. ➤ Thus, a penalty of ₹ 15,000 [₹ 1,00,000 × 15%] is payable by Arnav Enterprises along with payment of tax of ₹ 1,00,000 with applicable interest, before issuance of show cause notice. No show cause notice will be served by the proper officer after payment of tax along with interest and penalty, in respect of the tax so paid.
3)	<ul style="list-style-type: none"> ➤ Since Arnav Enterprises has paid the tax of ₹ 1,00,000 alongwith interest before issuance of show cause notice, no show cause notice will be issued by the proper officer in respect of the tax so paid [Section 74A(8)(i)]. ➤ However, where the proper officer is of the opinion that the amount paid under section 74A(8)(I) falls short of the amount actually payable, he shall proceed to issue the show cause notice in respect of such amount which falls short of the amount actually payable [Section 74A(10)]. ➤ Thus, in the given case, the proper officer will issue the notice for the remaining tax of ₹ 3,60,000 [₹ 4,60,000 - ₹ 1,00,000]. ➤ In case where the short payment is on account of fraud, answer will be as follows: <ul style="list-style-type: none"> - Since Arnav Enterprises has paid the tax of ₹ 1,00,000 along with applicable interest and penalty before issuance of show cause notice, no show cause notice will be issued by the proper officer in respect of the tax so paid [Section 74A(9)(i)]. - However, where the proper officer is of the opinion that the amount paid under section 74A(9)(I) falls short of the amount actually payable, he shall proceed to issue the show cause notice in respect of such amount which falls short of the amount actually payable [Section 74A(10)]. - Thus, in the given case, the proper officer will issue the notice for the remaining tax of ₹ 3,60,000 [₹ 4,60,000 - ₹ 1,00,000]. ➤ Further, the proper officer is required to issue the order within 12 months from the date of the issuance of show cause notice, in both fraud and non-fraud cases [Section 74A(7)]. ➤ Thus, in the given case, the proper officer has to issue the order on or before 10th October 2026, whether the short payment is on account of fraud or on account of a Bonafide error.

- 4) ➤ Where the person chargeable with tax, where any tax has been short paid, pays the said tax along with interest payable u/s 50 **within 60 days of issue of show cause notice**, and on doing so, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded [Section 74A(8)(ii)].
- Thus, in given case, since Arnav Enterprises has paid the tax of ₹ 3,60,000 along with applicable interest within 60 days of issuance of show cause notice, i.e. on or before 9th December 2025, **no penalty** shall be payable and **all proceedings** in respect of the said notice shall be deemed to be **concluded**.
- In case where the short payment is **on account of fraud, the answer will be as follows:**
- Where the person chargeable with tax, where any tax has been short paid, pays the said tax along with interest payable under section 50 and a **penalty equivalent to 25%** of such tax within 60 days of issue of the notice, and on doing so, all proceedings in respect of the said notice shall be deemed to be concluded [Section 74A(9)(ii)].
 - Thus, in the given case, Arnav Enterprises has to pay penalty of ₹ 90,000 [₹ 3,60,000 × 25%]. If Arnav Enterprises has paid the tax of ₹ 3,60,000 along with applicable interest and penalty of ₹ 90,000 [₹ 3,60,000 × 25%] on **5th December 2025, which is within 60 days** of issuance of show cause notice, i.e. on or before 9th December 2025, **all proceedings** in respect of the said notice shall be deemed to be **concluded**.

20

LIABILITY TO PAY CERTAIN CASES

Q.4 TFT Private Ltd. has been declared insolvent by the order of court and the same company is going under liquidation process. Advise the directors of that company about the provisions relating to liability for GST in case of company in liquidation. [Study Mat] [CA Final MTP 2 May 25]

Answer :- Provisions relating to liability for GST in case of company in liquidation as per section 88 of CGST Act are:

- If any company is being wound up whether under the orders of a court or Tribunal or otherwise, every person appointed as a **liquidator/receiver** of assets of a company shall give the intimation of his appointment to the Commissioner **within 30 days** of his appointment.
- The commissioner may make inquiry and call for such information as it deems fit.
- **Commissioner shall notify the liquidator an amount** that would be sufficient in his opinion to provide for any tax, interest or penalty payable or likely to be payable by the company, **within 3 months** of the receipt of intimation of appointment of liquidator.
- When any **private company is wound up** and any tax, interest or penalty determined under CGST Act on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered, then **every person who was a director** of such company at any time during the period for which the tax was due shall, **jointly and severally**, be liable for the payment of such tax, interest or penalty.
- However, **director shall not be liable if he proves** to the satisfaction of the Commissioner that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

Q.12: In an appeal filed with the High Court by Prateek Ltd., on the question whether activity undertaken by Prateek Ltd. amounts to supply, the appeal was decided in favour of Prateek Ltd. The amount of tax, interest and penalty involved were IGST of ₹ 1.2 crore, interest of ₹ 60 lakh and penalty of ₹ 50 lakh.

However, the Department does not agree with the order passed by the High Court and contends that the said activity amounts to supply under GST. The Department wants to file an appeal before the Supreme Court relating to the dispute pertaining to the demand of tax, interest and penalty. You are required to examine whether an appeal can be filed by the Department in the given case. Will your answer change, in case matter is related to valuation of services instead of determining whether the said activity amounts to supply? [CA Final RTP May 25]

Answer :

- As per **Section 120** of the CGST Act, 2017, the Board may, on the recommendations of the Council, from time to time, issue orders or instructions or directions fixing such monetary limits, as it may deem fit, for the purposes of regulating the filing of appeal or application by the officer of the central tax under the provisions of this Chapter.
- **CBIC** has fixed the following monetary limits for filing appeals/ applications/ Special Leave Petition by the Department before GSTAT, High Courts and Supreme Court subject to specified exclusions:

Appellate forum	Monetary limit (Amount involved in ₹)
GSTAT	20 Lakhs
High Court	1 Crore
Supreme Court	2 Crores

- Further, where the dispute pertains to demand of tax (with or without penalty and/or interest), the aggregate of the amount of tax in dispute (including CGST, SGST/UTGST, IGST and Compensation Cess) only shall be considered while applying the monetary limit for filing appeal, viz. ₹ 1.2 crore (amount of tax only) in the given case.
- **Thus, appeal cannot be filed by the Department to Supreme Court in the given case as the amount involved as per the circular does not exceed the monetary limit of ₹ 2 crore.**
- However, the Circular further provides that the monetary limits specified above for filing appeal or application by the Department before GSTAT or High Court and for filing Special Leave Petition or appeal before the Supreme Court shall not be applicable in the following circumstances where the decision to file appeal shall be taken on merits irrespective of the said monetary limits:
 - (i) Where any provision of the CGST Act or SGST/UTGST Act or IGST Act or GST (Compensation to States) Act has been held to be ultra vires to the Constitution of India or
 - (ii) Where any rules or regulations made under the CGST Act or SGST/UTGST Act or IGST Act or GST (Compensation to States) Act have been held to be ultra vires the parent Act or
 - (iii) Where any order, notification, instruction, or circular issued by the Government or the Board has been held to be ultra vires of the CGST Act or SGST/UTGST Act or IGST Act or GST (Compensation to States) Act or the rules made thereunder or
 - (iv) Where the matter is related to -
 - a) valuation of goods or services or
 - b) classification of goods or services or
 - c) refunds or
 - d) place of supply or
 - e) any other issue,
 which is recurring in nature and/or involves interpretation of the provisions of the GST law/ the Rules/ notification/ circular/ order/ instruction etc. or

- (v) Where strictures/adverse comments have been passed and/or cost has been imposed against the Government/Department or their officers or
- (vi) Any other case or class of cases, where in the opinion of the Board, it is necessary to contest in the interest of justice or revenue.

➡ **In view of the above, if in the given case the matter is related to valuation of services, appeal can be filed by the Department to the Supreme Court based on the merits irrespective of the monetary limits.**

CUSTOMS ACT, 1962



Chapter 3

ASSESSMENT & DATE FOR DETERMINATION OF RATE & TARIFF VALUE

Q.8 Aayaat Enterprises imported goods vide a bill of entry presented before the proper officer on 15th April. The proper officer decided that the goods should be subject to a chemical test and therefore, the same were to be provisionally assessed. You are required to advise Aayaat Enterprises regarding the conditions which are to be complied with before payment of duty is made for the purpose of provisional assessment.

Subsequently, the goods imported by Aayaat Enterprises were provisionally assessed at a value of ₹ 24,00,000 on 16th April and Aayaat Enterprises paid the provisional duty of ₹ 2,40,000 on the same date after fulfilling the requirements for provisional assessment. Further, the chemical test report was received on 5th May. Advise Aayaat Enterprises regarding the maximum time limit upto which its provisional assessment should be finalized. Determine the amount of interest payable, if any, under section 18 of the Customs Act, 1962 (considering a year of 365 days) assuming that the provisional assessment was finalized on 30th June finally assessing the customs duty at ₹ 2,80,000 and the differential duty was paid on the same day. [CA Final RTP Nov 24]

Answer: Legal Provision:

- As per **section 18** of the Customs Act, 1962, if duty is to be assessed provisionally, the importer shall:
 - a. execute a bond in the prescribed form, for the purposes of undertaking to pay on demand the deficiency, if any, between the duty as may be finally assessed and the duty provisionally assessed; and
 - b. furnish prescribed amount of security for the payment of the duty deficiency. The security to be obtained shall be in the form of a bank guarantee or a cash deposit, as convenient to the importer.
- The proper officer can finalize the provisional assessment within 2 years of receipt of a chemical or other test report, where the provisional assessment is ordered for that reason. The Commissioner of Customs may allow a further time period of 1 year in case the proper officer is not able to finalize the provisional assessment within the period of 2 months.
- As per **section 18(3) of the Customs Act 1962**, an importer is liable to pay **interest @ 15% p.a.** on any amount payable consequent to the reassessment order from the first day of the month in which the duty is provisionally assessed till the date of payment.

Discussion & Conclusion:

- In the given case, provisional assessment will be finalized by 5th July within 2 years of receipt of test report (5th May)]. However, if the proper officer is not able to finalize the provisional assessment by 5th July, the Commissioner may allow a further period of 1 year, i.e., till 5th October to the proper officer to finalize the provisional assessment.
- Provisional assessment had been finalized on 30th June and differential duty been paid on same day, the importer would have been liable to pay interest, from the first day of the month in which the duty is provisionally assessed till the date of payment thereof.
- Accordingly, amount of interest payable will be:
$$= ₹ 40,000 \times 15\% \times 91/365$$
$$= ₹ 1,496 \text{ (rounded off)}$$



Chapter 4

VALUATION

Q.13 Paramjit Ltd. imported a machine from Oliver Equipments, UK. The FOB price of the machine was settled at 6,000 UK Pound. The machine was shipped on 01.10.20XX. Meanwhile, Paramjit Ltd. re-negotiated the price of the machine with Oliver Equipments which agrees on the reduced price of 5,000 UK pound on 10.10.20XX. The machine arrived in India on 18.10.20XX. Other details pertaining to machine are as under:

1. License fee that the buyer was required to pay in UK as a condition of sale was 500 UK Pound
2. Buying commission paid in India was ₹ 20,000
3. Cost of transport from UK port to Indian port is ₹ 40,000. Apart from this, due to deep draught at the port, machine was not taken to the jetty in the port but was unloaded at the outer anchorage. The additional charges incurred for such unloading and transport of machine from outer anchorage to the jetty in barges (small boats) were ₹ 10,000.
4. Date of presentation of bill of entry was 15.10.20XX and the rate of exchange notified by CBIC on this date was ₹ 100 per pound. Rate of basic customs duty was 10%.
5. Date of entry inwards was 18.10.20XX and the rate of exchange notified by CBIC on this date was ₹ 105 per pound. Rate of basic customs duty was 15%.
6. Insurance premium details were not ascertainable.

Compute the assessable value and basic customs duty payable (rounded off to nearest one rupee) by Paramjit Ltd. [CA Final RTP Nov 24]

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

Particular	Amount (£)
FOB value of machine	5,000
Add: License fee required to pay in UK [Note 1] [Licence fee relating to imported goods payable by the buyer as a condition of sale is includible in the assessable value]	500
Customs FOB	5,500
	Amount (₹)
Value in rupees (5,500 x ₹ 100) Rate of exchange as notified by CBIC on the date on which bill of entry is presented u/s 46 of the Customs Act, 1962 is to be considered [Explanation to section 14] [Note 2]	5,50,000
Add: Buying commission [Note 4] (Buying commission is not included in the assessable value)	Nil
Add: Cost of transport including barge charges [In case where the big mother vessels cannot enter the harbour for any reason and goods are brought to the docks by smaller vessels like barges, small boats, etc., the cost incurred by the importer for bringing the goods to the landmass, such as lighterage charges, barge charges will be included in the cost of transportation]	50,000
Add: Insurance [If insurance cost is not ascertainable, the same shall be added @ 1.125% of FOB value of the goods.] [Note 3]	6,187.50
CIF value / Assessable value	6,06,187.50

Basic customs duty @ 15% (₹ 6,06,187.50X 15%) (Rounded off)

[Section 15 of the Customs Act, 1962 provides that rate of duty shall be the rate in force on the date of presentation of bill of entry or on the date of entry inwards, whichever is later.] **[Note 5]**

90,928

Notes:-

1. Licence fee paid as a condition of sale is includible in assessable value [Rule 10(1)(c), Customs Valuation Rules 2007].
2. CBIC exchange rate on bill of entry date is to be applied [Third proviso to Sec 14, Customs Act 1962].
3. If insurance not known, include at 1.125% of FOB [Third proviso to Rule 10(2), Valuation Rules 2007].
4. Buying commission not includible [Rule 10(1)(a)(i), Valuation Rules 2007].
5. **Duty rate is based on later of:** bill of entry date or aircraft arrival [Proviso to Sec 15, Customs Act 1962].
IGST is levied on assessable value + customs duties + social welfare surcharge.

Q.15 Mr. Fedrick imported second-hand goods from a supplier in the United Kingdom by air under a CIF contract. As part of the transaction, vendor inspection charges amounting to £ 600 were incurred. This inspection is carried out by the foreign supplier on his own and were neither contractually agreed nor essential for making the goods ready for shipment. Additionally, a commission is payable to a local agent in India, calculated at 1% of the FOB (Free on Board) value in Indian currency.

The bill of entry was filed on 18th February, on which date the basic customs duty rate was 10%, and the exchange rate notified by CBIC was ₹ 102 per UK Pound. The aircraft carrying the goods arrived on 15th February, when the customs duty rate was 15%, and the CBIC- notified exchange rate was ₹ 98 per UK Pound. The inter-bank exchange rate prevailing on both dates was ₹ 106 per UK Pound.

However, the transaction underwent multiple price revisions due to fluctuations in international market rates between the date of contract and actual importation. Eventually, both parties settled on a negotiated price payable as follows:

Particulars	Contract Price (£)	Changed Price (£)	Negotiated Price (£)
CIF Value	5,200	5,900	5,500
Air Freight	400	600	500
Insurance	450	750	600

Compute the assessable value of second - hand goods. [CA Final RTP Sep 25]

Answer: Computation of custom duty payable:

Particulars	Amount (\$)
CIF value (negotiated price) [Note-1]	5,500 £
Less: Air freight	500 £
Less: Insurance	600 £
FOB value	4,400 £
	(₹)
FOB Value (in ₹) [4,400 £ x ₹ 102] [Note-2]	4,48,800
Add: Vendor inspection charges [Note-3]	Nil
Add: Commission payable to local agent [1% of FOB value] [Note-4] = (US \$ 4,400 × ₹ 102) × 1%	4,488
FOB value as per Customs	4,53,288
Freight [Note-5] [500 £ x ₹ 102]	51,000
Insurance [Note-6] [600 £ x ₹ 102]	61,200
Assessable value	5,65,488
Add: Basic custom duty @ 10% [Note-7] – rounded off	56,548.80
Social Welfare Surcharge (10% of ₹ 56,548.80) [rounded off]	5,655
Customs duty payable [rounded off]	62,204



Notes:

1.	➡ As per section 14 of the Customs Act, 1962, the value of the imported goods is the transaction value, which means the price actually paid or payable for the goods. ➡ In this case, since the contract was re-negotiated and the importer paid the re-negotiated price, the transaction value would be such re-negotiated price and not the contract price.
2.	Rate of exchange notified by CBIC on the date of filing of bill of entry will be considered as per third proviso to section 14 of the Customs Act, 1962.
3.	➡ Only the payments actually made as a condition of sale of the imported goods by the buyer to the seller are includible in the assessable value u/r 10(1)(e) of the CVR ➡ Charges of vendor inspection on the goods carried out by foreign supplier on his own and not required for making the goods ready for shipment, are not includible in the assessable value of the imported goods.
4.	Commission paid to local agent (since it is not buying commission) is includible in the assessable value on the presumption that local agent has been appointed by the exporter [Rule 10(1)(a)(i) of the CVR] .
5.	Actual amount incurred towards freight will be considered since freight is not more than 20% of FOB value [5th proviso to rule 10(2) of CVR] .
6.	Actual insurance charges paid are includible in the assessable value.
7.	As per proviso to section 15 of the Customs Act, 1962, rate of duty will be the rate in force on the date of presentation of bill of entry or on the date of arrival of the aircraft, whichever is later.



Chapter 7

WAREHOUSING

Q.1.1: Mr. Ankush imported the goods from France and applied for warehousing of the said goods. The Proper officer made an order permitting the deposit of the goods on 21st May 20XX. Mr. Ankush deposited goods in warehouse on the same day. These goods were re-exported without payment of duty on 15th October 20XX.

The Custom Department wants to levy interest @ 15% per annum on duty deferred as goods remain in a warehouse beyond a period of 90 days from the date on which the order permitting deposit of goods in a warehouse under section 60(1) was made. With reference to the Customs Act, 1962 and relevant case law, discuss whether any interest is payable by Mr. Ankush in such case. [CA Final May 25 Exam]

Answer :

- ➡ If goods remain in a warehouse beyond a **period of 90 days** from the date on which the order permitting deposit in warehouse is made, interest is payable @ **15%** on the amount of duty payable at the time of clearance of the goods, for the period from the expiry of the said 90 days till the date of payment of duty on the warehoused goods.
- ➡ Further, the facts of the given case are similar to the landmark judgement of **Pratibha Processors v. UOI 1996 (88) ELT 12 by Supreme Court**. In this case, the Apex Court observed that:
 - (i) if the warehoused goods are cleared beyond specified time, interest is payable on the amount of duty “payable or due” on the warehoused goods.
 - (ii) In this case, on the date of clearance of the goods, no duty is payable. Thus, the goods are not exigible or eligible to duty at the time of clearance.
- ➡ In view of the above observations, the Supreme Court held that since the principal amount for computing interest is the amount of duty payable on clearance of goods, which is nil, interest payable is also nil. The interest is necessarily linked to the duty payable and if no duty is payable, there will be no liability of interest. The liability to pay interest is solely dependent upon the exigibility or actual liability to pay duty. Thus, in case where the liability to pay duty is nil, the interest will also be nil.
- ➡ Thus, in view of the above, since in given case, Mr. Ankush has exported the goods from warehouse without payment of duty, **no interest is payable** by him.



Chapter 9

AUDIT AND REFUND

Q.8 Mr. Sahil, an importer, had made provisional payment of customs duty of ₹ 2,00,000 under section 18 of the Customs Act, 1962 on 17th July 2023, along with a security of ₹ 1,00,000 towards provisional release of goods. Final assessment was completed on 15th October 2023 with a duty assessed as ₹ 50,000. The refund order of ₹ 50,000 and the order of release of security of ₹ 1,00,000 was issued on the same day (15th October 2023).

Mr. Sahil had filed a refund application on 20th October 2023 along with necessary documents. On perusal of the refund application, proper officer had found some deficiencies which were communicated to Mr. Sahil. Mr. Sahil had submitted the required additional documents, and proper officer had issued an acknowledgement on 5th November 2023. Refund was paid to him on 25th March 2024.

You are required to compute interest receivable by Mr. Sahil under section 27A of the Customs Act, 1962 on amount of duty and on amount of security if any.

Calculation should be nearest to one rupee and assume 366 days in the year. [CA Final Nov 24 Exam]

Answer :

- In case of provisional assessment of duty, if any amount refundable upon finalization of assessment to the importer is not refunded within 3 months from the date of final assessment of duty, **interest @ 6% per annum** shall be paid on such unrefunded amount till the date of refund of such amount.
- No interest is payable on security deposits for provisional release of goods, etc.
- **Thus**, in the given case, the amount of interest receivable by Mr. Sahil is as under:-
16th January 2024 to 25th March 2024 (Both inclusive)
Period of delay = 70 days
Thus, interest = ₹ 50,000 × 6% × 70/366
= ₹ 574 (rounded off)

Note: Please read 'section 27A in the question as section 18.