

Registration

Q1. What are the advantages of registration to a taxpayer?

Ans- Registration will provide following advantages to a taxpayer:

1. He is legally recognized as supplier of goods or services or both.
2. He is legally authorized to collect taxes from his customers and pass on the credit of the taxes paid on the goods or services supplied to the purchasers/recipients.
3. He can claim input tax credit of taxes paid and can utilize the same for payment of taxes due on supply of goods or services.
4. Seamless flow of input tax credit from suppliers to recipients at the national level.
5. Eligibility to avail various other benefits and privileges under GST laws.

Q2. Who are not liable for registration under GST?

Ans- GST registration need not be obtained in the following cases:

1. Person engaged exclusively in supply of non-taxable or wholly exempt goods or services or both.
2. An agriculturist, to the extent of supply of produce out of cultivation of land.
3. Persons exclusively making taxable supplies of goods or services or both on which tax is liable to be paid by recipient under reverse charge mechanism in accordance with provisions of section 9(3) of the act.
4. Specified category, which may be exempted from obtaining registration, as may be notified by government on the recommendations of the council.

Q3. Explain the cases in which person is required to get mandatorily registered for GST.

Ans- Notwithstanding anything contained in sub-section (1) of section 22, the following categories of persons shall be required to be registered under this Act:

1. The person engaged in the inter-state taxable supply of goods or services or both
2. A casual taxable person engaged in taxable supply
3. Persons liable to pay tax under reverse charge mechanism
4. A non-resident taxable person engaged in providing taxable supply
5. A person liable to pay tax under section 9 (5) of the Act
6. The person liable to deduct tax at source (TDS)
7. Input Service Distributor.
8. E-commerce operator.
9. A person engaged in supplying goods or services or both through e-commerce operator who is required to collect tax at source (TCS)
10. The person engaged in supplying online information and database access or retrieval services from a place outside India to an unregistered person
11. Persons engaged in the taxable supply of goods or services or both on behalf of another registered taxable person, whether as an agent or otherwise.

It must be noted that categories of the person covered under compulsory registration are mandatorily required to obtain registration irrespective of quantum of turnover.

Q4. What is the effective date of registration?

Ans- Where the application for registration has been submitted within thirty days from the date on which the person becomes liable to registration, the effective date of registration shall be date of his liability for registration.

1. Where an application for registration has been submitted by the applicant after thirty days from the date of his becoming liable to registration, the effective date of registration shall be the date of grant of registration.
2. In case of suo-moto registration, i.e. taking registration voluntarily while being within the threshold exemption limit for paying tax, the effective date of registration shall be the date of order of registration.

Q5. List out the cases in which GST registration can be cancelled.

Ans-The proper officer may cancel the registration in following circumstances:

1. Death of registered taxable person; or
2. The business has been discontinued; or
3. The business has been transferred fully for any reason including death of the proprietor; or
4. The business has been amalgamated with other legal entity, demerged or otherwise disposed of; or
5. There is any change in the constitution of the business; or
6. The taxable person, other than the person registered under sub-section (3) of section 25, is no longer liable to be registered under section 22 or 24.

Q6. What is the threshold limit for GST registration?

Ans- The threshold limit for obtaining registration under GST for persons affecting taxable supplies in states other than special category states is Rs 40 lacs whereas threshold limit for obtaining registration under GST for persons affecting taxable supplies in special category states is Rs 20 lacs

Q7. What are the documents to be submitted on cancellation of GST registration?

Ans-In order to cancel a GST registration, following documents are required to be submitted:

1. Application must be submitted on the GST Common Portal in Form GST REG-16. Along with FORM GST REG-16, the following details need to be submitted:
2. Details of inputs held in stock or inputs contained in semi-finished or finished goods held in stock and of capital goods held in stock on the date from which cancellation of registration is sought.
3. Details of any tax liability.

4. Details of any GST payment made against such liability.

If GST registration is cancelled involuntarily, then the above documents along with the application for GST registration cancellation and other relevant documents must be submitted on the GST Common Portal within 30 days. On submission of an application for cancellation of GST registration, the GST officer is required to verify the application and issue an order in Form GST REG-19, within 30 days from the date of application.

Q8. What is the amount paid by registered person whose registration is cancelled?

Ans- Every registered person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to –

1. The credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or
 2. The output tax payable on such goods,
- whichever is higher, calculated in such manner as may be prescribed.

However, in case of capital goods or plant and machinery, the taxable person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery, reduced by such percentage points as may be prescribed or the tax in the transaction value of such capital goods or plant and machinery under section 15 whichever is higher.

Q9. What is procedure of registration?

Ans- Section 25 of the CGST Act, specified the manner of registration by the various taxable person as under:

1. Every person who is liable to be registered under section 22 or section 24 shall apply for registration in every such State or Union territory in which he is also liable within 30 days from the date on which he becomes liable to registration.
2. In case of a casual taxable person or a non-resident taxable person shall apply for registration at least 5 days prior to the commencement of business.
3. In case of any person who makes a supply from the territorial waters of India shall obtain registration in the coastal State or Union territory where the nearest point of the appropriate baseline is located.
4. Any person who is seeking registration under GST shall be granted a single registration in a State or Union territory.

5. In case a person having multiple business verticals in a State or Union territory may be granted a separate registration for each business vertical.
6. A person, though not liable to be registered under section 22 or section 24 of the CGST Act, may get himself voluntarily and comply the all provisions of GST Act as applicable to a registered person.
7. A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of the GST Act.
8. Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of the GST Act.
9. Every person shall have a Permanent Account Number issued under the Income-tax Act, 1961 in order to be eligible for grant of registration.
10. Where an eligible person fails to obtain registration, the proper officer may take suitable action as per law.
11. Any specialized agency of the UNO or any other organisation as notified by the commissioner shall be granted Unique Identity Number for all purposes including refund of taxes.
12. The registration or Unique Identity Number shall be issued as per procedure or shall be deemed to have been granted within period of 7 days.

Q10. Define the term Aggregate turnover

Ans -“Aggregate turnover” means the aggregate value of all taxable supplies which

1. Includes:
2. Exempt supplies
3. Exports of goods or services or both and
4. Inter-state supplies of persons having the same Permanent Account Number

It excludes:

1. Value of inward supplies on which tax is payable by a person on reverse charge basis.
2. Taxes charged under GST like: -central tax, state tax, union territory tax, integrated tax and cess.

Aggregate turnover is to be computed on all India basis.

Q11. Define Export of Services

Ans- “Export of services” means the supply of any service when–

1. the supplier of service is in India;
2. the recipient of service is located outside India;
3. the place of supply of service is outside India;

4. the payment for such service has been received by the supplier of service in convertible foreign exchange
5. the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with explanation 1 in section 8;

Q12.- What is the liability of registration in case of transfer of business?

Ans- Liability of registration in case of transfer of business [Section 22(3) & (4) of CGST Act]

Situation	Date from which transferee is liable to be registered
Where a business carried on by a taxable person registered under this act is transferred, whether on account of succession or otherwise, to another person as a going concern. [Section 22(3)]	The transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.
Where there is transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, demerger of two or more companies pursuant to an order of High Court, Tribunal or otherwise. [Section 22(4)]	The transferee shall be liable to be registered, with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court or Tribunal.

Q13. State the procedure of amendment in GST registration

Ans- Except for the changes in some core information in the registration application, every registered person and a person to whom a Unique Identity Number has been assigned shall be able to make amendments without requiring any specific approval from the tax authority.

1. In case the change is for legal name of the business, or the state of place of business or additional place of business, the taxable person will apply for amendment within 15 days of such change, submit an application, duly signed or verified through EVC, electronically in Form GST REG-14, along with documents relating to such change at the common portal either directly or through a facilitation center notified by the commissioner.
2. The proper officer, then, will approve the amendment within the next 15 days. However, the proper officer may reject the application to the amendment in registration particulars but not without giving the person an opportunity of being heard. Vide, this amendment will be prospective.
3. The amendment will not be effective earlier than the date of application for amendment except with the order of the Commissioner and the conditions as stated in the said order.
4. For other changes like the name of day-to-day functionaries, e-mail IDs, mobile numbers etc. approval of the proper officer is not required. The said amendments can be affected by the taxable person on his own on the common portal.

Q14. Explain the concept of Revocation of cancellation.

Ans- In case where registration is cancelled suo-moto by the proper officer, the taxable person can apply within 30 days of service of cancellation order, requesting the officer for revoking the cancellation ordered by him.

However, before applying, the person must make good the defaults (by filing all pending returns, making payment of all dues and so) for which the registration was cancelled by the officer. If satisfied, the proper officer will revoke the cancellation earlier ordered by him. However, if the officer concludes to reject the request for revocation of cancellation, he will first observe the principle of natural justice by way of issuing notice to the person and hearing him on the issue.

Supply

Q1. What is taxable event under GST?

Ans-Taxable event is an event, the occurrence of which results into tax liability. The taxable event under Goods and Services Tax (GST) is “**Supply**” which is defined under section 7 of CGST/SGST Act. Under GST, the taxable event is “Supply of Goods or provision of Services or both”

Q2. Define the term “Supply” as per section 7 of CGST Act and different types of supply under GST? (CBCS Q2 Dec 2018)

Ans-As per section 7(1) of CGST Act, Supply includes: -

(a) All forms of transaction such as sale, barter, transfer, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.

(b) Import of service for a consideration will be treated as supply irrespective of the fact that it is made in the course or furtherance of business

(c) The activities specified in Schedule I made or agreed to be made without a consideration.

The supply may be classified on various basis:

A) On the basis of movement/flow

- i) Inward supply- It means receipt of goods and services or both, whether by purchase, acquisition or any other means with or without consideration.
- ii) Outward supply- It means a supply of goods or services or both, whether by sale, transfer, barter, exchange, license, rental, lease or disposal or any other mode, made or agreed to be made by such person in the course or furtherance of business.

B) On the basis of continuity

- i) One-time supply-It simply refers to Supply of goods or services which is provided or agreed to be provided on non-current basis as a standalone supply.
- ii) continuous supply- The continuous supply may be as regards Goods as well as for services.

As per section 2(32) of CGST Act,2017 “continuous supply of goods” means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify;

As per Section 2(33) of CGST Act,2017 “continuous supply of services” means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period

Supply

Q1. What is taxable event under GST?

Ans-Taxable event is an event, the occurrence of which results into tax liability. The taxable event under Goods and Services Tax (GST) is “**Supply**” which is defined under section 7 of CGST/SGST Act. Under GST, the taxable event is “Supply of Goods or provision of Services or both”

Q2. Define the term “Supply” as per section 7 of CGST Act and different types of supply under GST? (CBCS Q2 Dec 2018)

Ans-As per section 7(1) of CGST Act, Supply includes: -

(a) All forms of transaction such as sale, barter, transfer, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.

(b) Import of service for a consideration will be treated as supply irrespective of the fact that it is made in the course or furtherance of business

(c) The activities specified in Schedule I made or agreed to be made without a consideration.

The supply may be classified on various basis:

A) On the basis of movement/flow

iii) Inward supply- It means receipt of goods and services or both, whether by purchase, acquisition or any other means with or without consideration.

iv) Outward supply- It means a supply of goods or services or both, whether by sale, transfer, barter, exchange, license, rental, lease or disposal or any other mode, made or agreed to be made by such person in the course or furtherance of business.

B) On the basis of continuity

iii) One-time supply-It simply refers to Supply of goods or services which is provided or agreed to be provided on non-current basis as a standalone supply.

iv) continuous supply- The continuous supply may be as regards Goods as well as for services.

As per section 2(32) of CGST Act,2017 “continuous supply of goods” means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify;

As per Section 2(33) of CGST Act,2017 “continuous supply of services” means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period

exceeding three months with periodic payment obligations and includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify;

A) On the basis of Taxability

- i) Taxable supply- Supply on which tax shall be paid under GST.
- ii) Non-taxable supply-It is the sale of any good or service which attracts nil rate of tax and is similar to exempt supply
- iii) Exempt supply- Any goods or services is one which attracts nil rate of tax or which may be wholly exempt from tax. It includes non-taxable supply. In the case of exempt supply in respect of any goods and/or services, the taxable person shall not be required to pay tax.
- iv) Zero-rated supply- It means export or supply of goods or services to a Special Economic Zone developer or a Special Economic Zone unit

B) On the basis of Geographical location

- i) Intra-state supply- Intra-State is a type of supply of goods or services where the location of the supplier and the place of supply of goods are in the same State or same Union Territory.
- ii) Inter-state supply- It is a supply of goods or services, where the location of the supplier and place of supply are in-
 - Two different States;
 - Two different Union territories; or
 - A State and a Union territory
 It also includes import of goods or services into the territory of India.
- iii) Supplies in territorial waters

C) On the basis of Goods supplied in conjunction

- i) Composite supply- It means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply
- ii) Mixed supply- It means two or more individual supplies of goods or services, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

Q3. List out the activities or transactions which are treated as supply of goods / services under Schedule II?

Ans- As per section 7(1)(d) of Act refers to Schedule II for determining whether a particular transaction is a supply of goods or supply of services. These are as follows: -

Activities to be treated as supply of goods or supply of services:

Supply of Service	Supply of Goods
1. Transfer of rights in goods without transfer of title thereof.	1. Transfer of title of goods.
2. Any lease, tenancy, easement, license to occupy land.	Example: Sale of machinery, books, Bat, lunch box etc. shall be supply of goods.
3. Any lease or letting out of the building including a commercial, industrial or residential complex for	

business or commerce, either wholly or partly.	
4. Any treatment or process which is applied to another person's goods.	
5. Renting of immovable property.	
6. Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation whichever is earlier. Example: Where a builder receives an advance against an under construction flat then it will be treated as supply of service.	2. Agreement to transfer of title of goods on future date upon full payment of consideration. Example: sale of car on instalment for which title will be transfer on last payment of instalment shall be supply of goods.
7. Temporary transfer or permitting the use or enjoyment of any intellectual property right.	
8. Development, design, programming, customization, adaptation, up gradation, enhancement, implementation of information technology software. Example: Sale of accounting software shall be supply of goods but if such accounting software is specifically designed for the recipient then it shall be treated as supply of service.	3. Supply of goods by any unincorporated association or body of persons to a member thereof for a consideration. Example: Where goods are sold by an unincorporated AOP/BOI to its members then it will be treated as supply of goods. However, where goods are sold by a registered AOP/BOI even then it will be treated as supply and tax shall be payable because AOP/BOI and its members are different person.
9. Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act. Example: Where Mr. A give Rs. 10,000/- a month to Mr. B for not selling magazines in areas nearby to shop of Mr. A then it shall be treated as supply of service has been made by Mr. B to Mr. A.	4. Transfer / Disposal of assets of the business whether such transfer is for a consideration or otherwise
10. Transfer of the right to use any goods for any purpose (whether or not for specified period) for cash, deferred payment or other valuable consideration. Example: Machinery given on rent shall be treated as supply of service not supply of goods.	5. A person ceases to be taxable person then goods held at that time shall deemed to be supplied by him in the normal course of business before he ceases to be taxable person.
11. Use of business goods for private purpose or transfer to other person with/ without consideration	
12. Work contract to be treated as supply of services.	
13. Supply of food/other articles for human consumption to be treated as composite services.	

Q4. List out the activities under Schedule I which are to be treated as supply even if made without consideration?

Ans- As per schedule I, in the following four cases, the supplies made even without consideration will be treated as supply under Section 7 of the CGST Act:

1. Sale of business assets (goods) on which ITC has been availed
2. (a) Supplies of goods / services between related persons, except gift up to Rs 50,000 to employee
(b) Supplies of goods / services between distinct persons
3. Agent to principal or vice-versa, if agent supplies / receives goods on behalf of principal
4. Import of services from related persons

Or

Whether supply of goods or services without consideration is liable to tax? (ICAI-BGM)

Ans- The activities enumerated in Schedule I will qualify as supply even if made without consideration. Accordingly, such supplies in the absence of consideration are liable to tax. To illustrate, following are the activities which will qualify as supply in the absence of consideration and eventually would be liable to tax:

1. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
2. Supply of goods or services or both between related persons or between distinct persons as specified in Section 25, when made in the course or furtherance of business:

Provided that gifts not exceeding ` 50,000/-in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

3. Supply of goods—

(a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or

(b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

Further the Board vide Circular No. 57/31/2018-GST dated 4.09.2018 has clarified the Scope of Principal-agent relationship in the context of Schedule I.

4. Import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

Hence, import of services by entities which are not registered under GST (say, they are only making exempted supplies) but are otherwise engaged in business activities is taxed when received from a related person or from any of their establishments outside India.

Q5. List out the activities under Schedule III which are to be neither treated as supply of goods nor services?

Ans- The schedule III specifies the transaction which shall be neither treated as supply of goods nor supply of services. These transactions or activities can be termed as “negative list” under GST regime.

1. Services by an employee to the employer in the course of or in relation to his employment

2. Services by any court or tribunal established under any law for the time being in force

3. The functions performed by the members of parliament, members of state legislature, members of panchayats, members of municipalities and members of other local authorities.

4. The duties performed by any person who holds any post in pursuance of the provisions of the constitution in that capacity;

5. The duties performed by any person as a chairperson or a member or a director in a body established by the central government or a state government or local authority and who is not deemed as an employee before the commencement of this clause.

6. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.

7. Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building

8. Actionable claims, other than lottery, betting and gambling.

9. Supply of goods from non-taxable territory to another place in non-taxable territory without entering into india

10. Supply of warehoused goods to any person before clearance for home consumption.

Q6. If Mr. A imports legal services for a consideration from Mr. B outside India for his proprietorship business, whether this transaction will be covered under the scope of supply? Whether such import of service will be taxable if it is not in the course or furtherance of business?

Ans- As per section 7(1)(b) of CGST Act,2017, Import of services for a consideration is supply. Thus, In above mentioned question, When Mr. A imports legal services for a consideration from Mr. B, such transaction shall be covered under scope of supply.

As per schedule I, import of services without consideration shall be treated as supply only if it is received from related person in course or furtherance of business. In the above case, import of services shall not be taxable as it is meant for personal consumption

Q7. Describe the taxability of free gifts and samples under following circumstances:

- a) Free gifts and sample given to an unrelated person.
- b) Free gifts and sample given to a related person.
- c) Free gifts distributed by the employer to its employees.

Ans- As per schedule I, supply of goods or services or both between related person or distinct person (as specified in section 25) will qualify as supply provided if it is made in course or furtherance of business. Therefore, following is the taxability of cases mentioned

- a) Free gifts and samples given to an unrelated person shall be treated as supply.
- b) Free gifts and samples given to a related person shall be treated as supply
- c) Free gifts distributed by the employer to its employee of value not exceeding Rs 50,000 in a financial year shall not be treated as supply.

Q8. What will be the tax treatment where goods are sold to any other branch of a person having different registration number i.e. to a distinct person?

Ans-As per schedule I, supply of goods or services or both between related person or distinct person (as specified in section 25) even without consideration will qualify as supply provided if it is made in course or furtherance of business.

Thus, when goods are sold to any other branch of a person having different registration number i.e distinct person, such transaction constitutes supply as per schedule I of CGST Act,2017.

Q9. If Mr. Ram imports a service from any of his associate person outside India, then in which of the cases it will be covered under supply? If such import is made:

- a) **Without any consideration in the course or furtherance of business.**
- b) **Without any consideration which is not in the course or furtherance of business.**
- c) **For a consideration in the course or furtherance of business.**
- d) **For a consideration which is not in the course or furtherance of business.**

Ans-As per schedule I, import of services without consideration shall be treated as supply only if it is received from related person in course or furtherance of business.

- a) It will qualify supply
- b) It will not qualify supply as it for personal purpose
- c) It will qualify supply as it for consideration
- d) It will not qualify supply as it for personal purpose

Q10. Is it required to distinguish whether a supply involves supply of goods or services or both? (ICAI-BGM)

Ans- Yes, the CGST Act, 2017 specifies certain provisions separately for supply of goods and supply of services viz., Section 12 and Section 13 thereof provides for ascertaining time of supply of goods and time of supply of services respectively. Similarly, separate provisions have been specified for ascertaining place of supply of goods and place of supply of services under the IGST Act, 2017. Further, the rate of tax applicable to supply of goods and supply of services are different. Accordingly, it is important to distinguish whether a particular transaction involves supply of goods or supply of services.

Q11. How to distinguish whether a particular supply involves supply of goods or services or both? (ICAI-BGM)

Ans- The Schedule II appended to the CGST Act, 2017 enlists the activities or transactions which are to be treated as supply of goods or supply of services. One may refer Schedule II with reference to Section 7 of the CGST Act to classify whether the transaction involves supply of goods or supply of services. In other words, where certain activities or transactions constitute a supply as per section 7(1) of the CGST Act, 2017, they shall be treated either as supply of goods or supply of services as referred to in Schedule II.

Q12. Mr. Debashish let out a property for 12 months for monthly rental of Rs. 1,00,000/- and retain a deposit equivalent to 3 month's rental. After 12 months the deposit is refunded to the tenant. Whether such deposit shall be treated as consideration?

Ans- As per proviso to section 2(31) of CGST/SGST Act, a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply.

So, in the given question the amount deposited shall not be treated as consideration against supply.

Q13. If in Illustration 1 Mr. Debashish refunded deposit Rs. 2,00,000/- after forfeiting Rs. 1,00,000/- against non-payment last month rent. Whether such deposit shall be treated as consideration?

Ans- In the given illustration, receipt of deposit shall not be treated as consideration against letting out of property. However, forfeiture of Rs. 1,00,000/- at the time of refunding the money shall be treated as consideration.

Q14. Mr. A, dealer in electronics, approached a mobile phone dealer for purchasing a cell phone against exchange of washing new machine from his own stock. Whether such transaction shall be treated as supply made by Mr. A? {related to section 7(1)(a)}

Ans- As per section 7 of CGST/SGST Act, the term "Supply" includes barter. In the given illustration, Mr. A barter washing machine against a new cell phone therefore, the cell phone shall be treated as consideration in kind received by him against supply of washing machine which is in the course or furtherance of his business.

So, such transaction shall be treated as supply for Mr. A and tax shall be payable by him on value determined under section 15 of CGST/SGST Act.

Q15. Mr. X, a trader, transferred rights to use a machinery to Mr. Y against monthly rent of Rs. 10,000/-. Whether such transaction shall be treated as supply made by Mr. X? {related to section 7(1)(a)}

Ans- As per Section 7 of CGST/SGST Act, the term "Supply" includes leasing or renting. In the given illustration, machine is given for use against monthly rental of Rs. 10,000/-. So, these monthly rentals shall be treated as supply for Mr. X and tax shall be payable by him on Rs. 10,000/- every month.

Q16. Whether any sale of goods or service will be liable to tax if consideration is not involved in such transaction? Whether your answer will change if such transaction is made between related person without any consideration? {related to section 7(1)(a)}

Ans As per section 7(1) of the CGST/SGST Act "supply" includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made **for a consideration** by a person in the course or furtherance of business.

To be a supply there must be a presence of consideration as per section 7(1). However, as per schedule I of the CGST/SGST Act, a transaction between a distinct persons or related persons shall be treated as supply even if such supply is made without any consideration.

Q17. Mr. Sahil took service of interior designing from Mr. Kelvin who resides in Canada for designing his office in Mumbai. Mr. Sahil received drawings of interior designs over E-mail and paid \$ 10,000 to Mr. Kelvin. Whether tax shall be payable by Mr. Sahil on this transaction? Will your answer be different if Mr. Sahil received designs for his home in personal capacity not in the course of Business? {related to section 7(1)(b)}

Ans- As per section 7 of CGST/SGST Act, the term “Supply” includes import of service for a consideration irrespective of the fact that it is made in the course or furtherance of business.

So, in case where Mr. Sahil imports service of from Mr. Kelvin of Canada for designing of his office in Mumbai then it will be treated as supply and tax shall be payable by Mr. Sahil on such transaction.

In second part of the question, where Mr. Sahil imports service of from Mr. Kelvin for designing of his house in Mumbai even then it will be treated as supply as section 7 clearly states that import of service will be treated as supply irrespective of the facts that it is for business purpose or not.

Q18. Whether import of service will be taxable if such import of service made without any consideration? {related to section 7(1)(b)}

Ans- As per section 7(1) of the CGST/SGST Act “supply” includes import of service **for a consideration** whether or not in the course or furtherance of business.

So, an import of service will be treated as supply only if consideration is involved in such transaction. However, as per schedule I of CGST/SGST Act, import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business shall be treated as supply even if it is made without any consideration.

	Case I	Case II	Case III	Case IV
Whether consideration is involved?	Yes	No	Yes	No
Whether import is made from an associate person located outside India?	Yes	Yes	No	Yes
Whether import is made in the course of Business?	Yes	No	Yes	Yes

In case III as the consideration is involved it will be an import of service and it has nothing to do with whether such import of service is from an associate person and whether such import of service is in the course or furtherance of Business.

In case II and IV of the above table as the import of service is made from an associate person outside India without any consideration, it will be a supply only if such import is made in the course or furtherance of business. So, in case II it will not be a supply but in case IV it will be treated as supply as per schedule I because

import of service is made from an associate person outside India without any consideration in the course of business.

Q19. If Mr. X gifts a watch worth Rs.60,000 to one of its employee Mr. Y, then what will be the taxability of such gift whether it will be taxable or not? {related to section 7(1)(c)}

Ans- As per schedule I of the CGST/SGST Act, a transaction between a distinct persons or related persons shall be treated as supply even if such supply is made without any consideration and as per explanation to section 15, Employer and its employees are related person.

However, schedule I exempt all those gifts given by an employer to its employee which do not exceed fifty thousand rupees in a financial year to an employee. Since watch cost more than Rs.50,000 so it will be taxable as gift.

Q20. Whether any sale of goods by an Employee, who is in business also, to its Employer will be covered under the scope of supply?

Ans- As per schedule III of CGST/SGST Act, **services** by an employee to the employer in the course of or in relation to his **employment**. So, salary received by an employee for services rendered in relation to his employment.

Where any goods are sold by an employee to his employer then it will be covered under the scope of supply and tax shall be charged by the employee on such supply. As an employer and employee is related person under GST then it will be treated as supply even if such supply of goods made without any consideration and the valuation of such supply shall be subject to valuation rules.

Q21. Mr Ram Gift one phone to his relative & one phone to distributor (non-relative). You as a GST consultant suggest him GST applicability?

Ans- Gift to relatives shall be covered by Schedule I & the same will attract GST liability. Value shall be determined as per rules & related ITC shall be admissible.

But gift to non- relative not getting covered by Schedule I & the same will not attract GST liability. However related ITC shall not be admissible.

Q22. What will be considered as Out of Scope supply under GST?

Ans- All the activities/ transactions covered under schedule III & Notified activities / transactions undertaken by CG/SG/Local Authority in capacity of Public Authority.

Q23. Mr. X is a supplier of goods located in new Delhi. In July,2018, he has imported 'Business Consultancy Services' from China for a stipulated consideration of \$20,000. Is the transaction being liable to GST?

Ans- The importation of service in given cases shall fall within the ambit of term 'supply' as it is for a consideration and in the course or furtherance of business & shall be liable to IGST.

Q24. Mr. Ram is a supplier of goods located in Punjab. In April,2018, he has imported 'Architecture Services' from his relative from China without any consideration. Is the transaction being liable to GST?

Ans- Since there is no consideration & it is for personal use, importation of service in the given case shall not fall within the ambit of term 'supply' & not liable to IGST.

Q25. Under the finance scheme supplier gives the possession of the bike to the buyer in July,2018, however, agrees to transfer the ownership in July,2019 upon payment of full consideration of Rs. Rs 70,000 in installment as agreed. Whether the same shall be considered as supply?

Ans- The aforesaid transaction shall be considered as supply of goods in accordance with matter 1 (c) of schedule II in accordance to the CGST Act.

Place of supply

Q1. What do you mean by Place of Supply (POS)?

Ans- Place of supply (POS) means the place where a supply of goods or services is made & where the GST may be charged or paid. Determining the location of supply of services may be difficult especially in inter-state services.

Q2. What is the need for determining the Place of supply under the GST law?

Ans- Place of supply provision determines the place i.e. taxable jurisdiction to which the tax should be allocated.

The place of supply determines whether a transaction is intra-state or interstate. In other words, the place of supply of goods or services, is required to determine whether it is an intra-state supply, subject to CGST plus SGST or would it be an interstate supply attracting IGST.

Q3. Difference Between Inter-state and Intra-state supply?

Ans-

Inter-state supply	Intra-state supply
As per Section 7 of IGST Act,2017, Supply of goods or services or both shall be treated as inter-state supply where the location of the supplier and the place of supply (POS) are in: - a) Two different States. b) Two different Union Territories; or c) A state and a Union Territory.	As per Section 8 of IGST Act,2017, Supply of goods or services or both shall be treated as intra-state supply where the location of the supplier and the place of supply (POS) are in: - a) Same State; or b) Same Union Territory.

Q4. What is the Place of Supply (POS) of services related to immovable property?

Ans- If the supply of service is directly related to an immovable property and any services ancillary to the services, POS shall be the location at which it is located or intended to be located.

Q5. What should be the Place of Supply of goods imported into, or exported from India?

Ans- As per section 11 of IGST Act,2017, the place of supply of goods for :-

- Import - shall be the location of the importer.
- Export - shall be the location outside India.

Q6. What would constitute as place of supply if the goods are delivered by the supplier to a person on the directive of a third person?

Ans- The goods shall be deemed to have been delivered to such third person, accordingly the place of supply (POS) shall be the principal place of business of such third person.

Q7. What would constitute as place of supply where goods are removed?

Ans- Place of supply of goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient. In case, if goods are supplied on board a conveyance viz. vessel, aircraft, train or motor vehicle, place of supply shall be the location at which goods are taken on board a conveyance.

Q8. What will be the place of supply of leased line services when the leased circuit is installed at more than one location/State?

Ans- Where the leased circuit is installed in more than one location/State and a consolidated amount is charged for supply of services relating to such circuit, the place of supply of such services shall be taken as being in each of the respective states or union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

Q9. What will be the place of supply where movement of goods does not take place?

Ans- When Supply does not involve movement of goods then Place of Supply shall be the location of such goods at the time of the delivery of the recipient. For example- Mr. A from Haryana goes to Delhi to buy a mobile phone from Delhi stores then the good have not been moved from one place to another then in such a case the POS of mobile phone will be Delhi, moreover in such type of transaction, both CGST and SGST will apply as it is an intra-state supply.

Q10. What is the default presumption for place of supply in respect of unregistered recipients?

Ans- In respect of unregistered recipients, the usual place of supply is location of recipient. However, in many cases, the address of recipient is not available, in such cases, location of the supplier of services is taken as proxy for place of supply.

Q11. What is the need for the Place of Supply of Goods and Services under GST?

Ans- The basic principle of GST is that it should effectively tax the consumption of such supplies at the destination thereof or as the case may be at the point of consumption. So place of supply provision determines the place i.e. taxable jurisdiction where the tax should reach. The place of supply determines whether a transaction is intra-state or inter-state. In other words, the place of Supply of Goods or services is required to determine whether a supply is subject to SGST plus CGST in a given State or union territory or else would attract IGST if it is an inter-state supply.

Q12. Why are place of supply provisions different in respect of goods and services?

Ans. Goods being tangible do not pose any significant problems for determination of their place of consumption. Services being intangible pose problems w.r.t determination of place of supply mainly due to following factors:

(i) The manner of delivery of service could be altered For example, telecom service could change from mostly post-paid to mostly pre-paid; billing address could be changed, billers address could be changed, repair or maintenance of software could be changed from onsite to online; banking services earlier required the customer to go to the bank, now the customer could avail service from anywhere;

(ii) Service provider, service receiver and the service provided may not be ascertainable or may easily be suppressed as nothing tangible moves and there would hardly be a trail;

(iii) For supplying a service, a fixed location of service provider is not mandatory and even the service recipient may receive service while on the move. The location of billing could be changed overnight;

(iv) Sometime the same element may flow to more than one location, for example, construction or other services in respect of a railway line, a national highway or a bridge on a river which originate in one state and end in the other state. Similarly, a copy right for distribution and exhibition of film could be assigned for many states in single transaction or an advertisement or a programme is broadcasted across the country at the same time. An airline may issue seasonal tickets, containing say 10 leafs which could be used for travel between any two locations in the country. The card issued by Delhi metro could be used by a person located in Noida, or Delhi or Faridabad, without the Delhi metro being able to distinguish the location or journeys at the time of receipt of payment;

(v) Services are continuously evolving and would thus continue to pose newer challenges. For example, 15-20 years back no one could have thought of DTH, online information, online banking, online booking of tickets, internet, mobile telecommunication etc.

Q13. What proxies or assumptions in a transaction can be used to determine the place of supply?

Ans- The various element involved in a transaction in services can be used as proxies to determine the place of supply. An assumption or proxy which gives more appropriate result than others for determining the place of supply, could be used for determining the place of supply. The same are discussed below:

- (a) location of service provider;
- (b) the location of service receiver;
- (c) the place where the activity takes place/ place of performance;
- (d) the place where it is consumed; and
- (e) the place/person to which actual benefit flows

Q14. What is the need to have separate rules for place of supply in respect of B2B (supplies to registered persons) and B2C (supplies to unregistered persons) transactions?

Ans- In respect of B2B transactions, the taxes paid are taken as credit by the recipient so such transactions are just pass through. GST collected on B2B supplies effectively create a liability for the government and an asset for the recipient of such supplies in as much as the recipient is entitled to use the input tax credit for payment of future taxes. For B2B transactions the location of recipient takes care in almost all situations as further credit is to be taken by recipient. The recipient usually further supplies to another customer. The supply is consumed only when a B2B transaction is further converted

into B2C transaction. In respect of B2C transactions, the supply is finally consumed and the taxes paid actually come to the government.

Q15. What would be the place of supply where movement of goods is involved?

Ans- The place of supply of goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient. (Section 10 of IGST Act)

Q16. What would be the place of supply wherein the supplier hands over the goods to recipient in his state and further movement is caused by the recipient?

Ans- The movement can be caused by supplier, recipient or any other person. Where the supply involves movement of goods, the place of supply shall be the location where the movement of goods terminates for delivery to the recipient.

Illustration: A person from Gujarat comes to Mumbai and purchases goods. He declared his Gujarat GSTIN, arranges transport himself and takes goods to Gujarat. The place of supply would be Gujarat in this case.

Q17. What is the place of supply wherein movement of goods is not involved?

Ans- Where supply does not involve movement of goods, the place of supply shall be the location of goods at the time of delivery to the recipient.

Illustration: A in Mumbai has given his goods on lease basis to B in Delhi. After some time, the lessee B decides to purchase the goods. The supply takes place by way of change of title and no movement is required as the goods are already with the buyer. The place of supply is Delhi, the location of goods at the time of delivery.

Q18. What will be the place of supply if the goods are delivered by the supplier to a person on the direction of a third person?

Ans. It would be deemed that the third person has received the goods and the place of supply of such goods shall be the principal place of business of such person. (Section 10 of IGST Act)

Such cases are termed as bill to ship to cases wherein the supplier sends the invoice to the buyer and the goods to the recipient on the direction of the buyer. Even though the goods are not received by the buyer, it is presumed that he has received the goods and he is able to take the input tax credit. The buyer may further issue his invoice to the actual recipient of goods. Thus, it is a tripartite arrangement.

Q19. What will be the place of supply where the goods or services are supplied on board a conveyance, such as a vessel, an aircraft, a train or a motor vehicle?

Ans- In respect of goods, the place of supply shall be the location at which such goods are taken on board. (Section 10 (1)(e) of IGST Act). For instance, if goods are taken on board at Vadodara, Gujarat on Rajdhani Express from Mumbai to Delhi. The place of supply shall be Vadodara, Gujarat.

However, in respect of services, the place of supply shall be the location of the first scheduled point of departure of that conveyance for the journey. (Section 12 and 13 of IGST Act)

Q20. What is the place of supply in case of assembly or installation of goods at site?

Ans- The place of supply of goods, where the goods are installed or assembled at the site, will be the place of such installation or assembly. (Section 10(1)(d) of IGST Act)

Q21. What is the place of supply of goods imported into India?

Ans- The place of supply of goods imported into India shall be the location of the importer.

Illustration: An importer from Jaipur, Rajasthan imports goods from China through Mumbai Air Cargo and declared the GSTIN of Rajasthan. The place of supply of goods shall be Rajasthan. Thus, the state tax component of the integrated tax would accrue to Rajasthan.

Q22. What is the place of supply of goods exported from India?

Ans- The place of supply of goods exported from India shall be the location outside India.

Q23. What is the default presumption for place of supply in respect of B2B supply of services?

Ans- The terms used in the IGST Act are registered taxpayers and unregistered person. The presumption in case of supplies to registered person is the location of such person until and unless otherwise specified.

Q24. What is the default presumption for place of supply in respect of unregistered recipients?

Ans- In respect of unregistered recipients, the usual place of supply is the location of the recipient, where the address on records exists. However, in many cases, the address of recipient is not available, in such cases, location of the supplier of services is taken as proxy for place of supply.

Q25. What is the place of supply in case of services in relation to immovable property?

Ans- Any service provided directly in relation to an immovable property including services provided by architects, interior decorators, surveyors, engineers and other

related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or coordination of construction shall be the location at which the immovable property is situated. (Section 12(3) of the IGST Act)

Q26. What is the place of supply in respect of a service of interior decorator in relation to a palace in Nepal by an interior designer from Mumbai to a person from Delhi?

Ans- The place of supply shall be the location of recipient viz Delhi. (Proviso clause to section 12(3) of IGST Act)

Q27. The place of supply in relation to immovable property is the location of immovable property. Suppose a road is constructed from Delhi to Mumbai covering multiple states. What will be the place of supply?

Ans- Where the immovable property is located in more than one State, the supply of service shall be treated as made in each of the States in proportion to the value for services separately collected or determined, in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf. (The Explanation clause to section 12(3) of the IGST Act, for domestic supplies)

Q28. What is the place of supply of services of accommodation services in homestays in Goa?

Ans- The place of supply shall be Goa, the location of the homestay. (Section 12(3) of the IGST Act).

Q29. What would be the place of supply of services provided for organizing an event, say, IPL cricket series which is held in multiple states?

Ans-In case of an event, if the recipient of service is registered, the place of supply of services for organizing the event shall be the location of such person.

However, if the recipient is not registered, the place of supply shall be the place where event is held. Since the event is being held in multiple states and a consolidated amount is charged for such services, the place of supply shall be taken as being in each state in proportion to the value of services so provided in each state. (The Explanation clause to section 12(7) of the IGST Act)

Q30. What will be the place of supply of goods services by way of transportation of goods, including mail or courier?

Ans- In case both location of supplier & location of recipient is in India: If the recipient is registered, the location of such person shall be the place of supply.

However, if the recipient is not registered, the place of supply shall be the place where the goods are handed over for their transportation (section 12(8) of the IGST Act.)

However, where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods (This proviso to section 12(8) has been inserted vide the IGST (Amendment) Act, 2018, however, the notification to bring it into effect is yet to be issued)

In case location of supplier or location of recipient is outside India: The place of supply of services of transportation of goods, other than by way of mail or courier, shall be the place of destination of such goods. For courier, the place of supply of services shall be the location of the recipient of services. Wherever the location of the recipient of services is not available in ordinary course of business, the Place of supply shall be location the supplier of service.

Q31. A film star from Mumbai gets his cosmetic surgery done in a Hospital in Delhi. What should be the place of supply?

Ans- The place of supply shall be based on the principle of place of performance and shall be in Delhi. (Section 12(4) of IGST Act)

Other such similar services requiring physical presence of natural person (recipient) like restaurant and catering services, personal grooming, fitness, beauty treatment, health services including cosmetic and plastic surgery shall be the location where the services are actually performed.

Q32. What will be the place of supply in case of training services provided in Goa?

Ans- When provided to a registered person: The place of supply shall be the location of such registered person. If M/s Mahindra & Mahindra Ltd, Mumbai conducts training for its employees at Goa, the place of supply shall be Mumbai.

When provided to a person other than a registered person: The place of supply shall be the location where the services are actually performed viz Goa

Q33. What will be the place of supply of passenger transportation service, if a person travels from Mumbai to Delhi and back to Mumbai?

Ans- If the person is registered, the place of supply shall be the location of recipient. If the person is not registered, the place of supply for the forward journey from Mumbai to Delhi shall be Mumbai, the place where he embarks.

However, for the return journey, the place of supply shall be Delhi as the return journey has to be treated as separate journey. (The Explanation clause to section 12(9) of the IGST Act)

Q34. Suppose a ticket/pass for anywhere travel in India is issued by M/s Air India to a person. What will be the place of supply?

Ans-In the above case, the place of embarkation will not be available at the time of issue of invoice as the right to passage is for future use. Accordingly, place of supply cannot be the place of embarkation. In such cases, the default rule shall apply. (The proviso clause to section 12(9) of the IGST Act)

Q36. What will be the place of supply for mobile connection? Can it be the location of supplier?

Ans-For domestic supplies: The location of supplier of mobile services cannot be the place of supply as the mobile companies are providing services in multiple states and many of these services are inter-state. The consumption principle will be broken if the location of supplier is taken as place of supply and all the revenue may go to a few states where the suppliers are located.

The place of supply for mobile connection would depend on whether the connection is on postpaid or prepaid basis. In case of postpaid connections, the place of supply shall be the location of billing address of the recipient of service.

In case of pre-paid connections, the place of supply shall be the place where payment for such connection is received or such pre-paid vouchers are sold. However, if the recharge is done through internet/e-payment, the location of recipient of service on record shall be taken as the place of service.

For international supplies: The place of supply of telecom services is the location of the recipient of service.

Q37. What is the place of supply in respect of goods that are required to be made physically available for providing the service?

Ans- The place of supply of service in respect of goods that are required to be made physically available by the recipient of service to the supplier of service shall be the location where the services are actually performed. (Section 13 (3) (a) of the IGST Act, 2017)

Q38. What is the place of supply of services provided from a remote location using electronic means on goods?

Ans. The place of supply shall be the location where the goods are actually located at the time of supply of services. (Proviso to Section 13(3) (a) of the IGST Act, 2017)

Illustration: A Laptop at Mumbai is repaired remotely by a software engineer from Bangalore using TeamViewer software. The place of supply shall be Mumbai, the place where the goods are located.

Q39. Whether supplies by a banking company, or a financial institution, or a non-banking financial company, in Mumbai to its account holders in Dubai can be considered as export of service?

Ans-No. The place of supply of such services is location of supplier and therefore these cannot be considered as export of services. In the present case, the supplier being located in Mumbai and place of supply also in Mumbai, these services will be taxed and CGST plus SGST would be levied. [Section 13(8)(a) of IGST Act]

Q40. Who is an intermediary?

Ans- “intermediary” means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account.

Q41. What is the place of supply of an intermediary?

Ans-The place of supply for intermediary services will be the location of supplier of service. It is to be noted that this rule will apply only when either the supplier or recipient is located outside India.

Q42. What would be the place of supply in respect of services pertaining to goods transportation, wherein either the supplier or recipient is located outside India?

Ans. The place of supply of services of transportation of goods, other than by way of mail or courier, shall be the place of destination of such goods. (Section 13(9) of IGST Act)

For goods transportation via mail or courier, the default provision of Section 13(2) will apply i.e. place of supply will be the location of the recipient of service.

Q43. What would be the place of supply in respect of Online Information and Database Access or Retrieval (OIDAR) Services?

Ans. For OIDAR services the place of supply will be the location of recipient of services. In case the recipient of OIDAR services is registered, he will pay Integrated tax on reverse charge basis. However, if the recipient is unregistered, the supplier will be liable to pay the tax. For the purpose of determining place of supply, the location of recipient of service shall be deemed to be in the taxable territory if any two of the following seven non-contradictory conditions are satisfied, namely: –

(a) the location of address presented by the recipient of services through internet is in the taxable territory;

(b) the credit card or debit card or store value card or charge card or smart card or any other card by which the recipient of services settles payment has been issued in the taxable territory;

(c) the billing address of the recipient of services is in the taxable territory;

(d) the internet protocol address of the device used by the recipient of services is in the taxable territory;

(e) the bank of the recipient of services in which the account used for payment is maintained is in the taxable territory;

(f) the country code of the subscriber identity module card used by the recipient of services is of taxable territory;

(g) the location of the fixed land line through which the service is received by the recipient is in the taxable territory.

Q44. What is the place of supply in case of supply of services relating to R&D, technical testing etc. to a person located outside India who sends the goods temporarily into India as the same are required by the supplier to provide the services?

Ans- In such cases, the general principle as per section 13(3)(a) is that the place of supply shall be the location where the services are actually performed. However, following proviso has been inserted to section 13(3)(a) vide the IGST (Amendment) Act, 2018. This amendment is yet to be brought into force.

However, in the case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India, other than that which is required for such repairs or treatment or process, the default rule would be applicable i.e. the place of supply shall be the location of recipient of services.

Thus, in such cases, the place of supply shall be the location of recipient of services (Default provision in section 13(2)) i.e. outside India.

Q45. How will the place of supply be determined wherein the goods are supplied from the premises of job worker?

Ans- The principal may supply, from the place of business/premises of a job worker on payment of tax within India. The place of supply would have to be determined in the hands of the principal irrespective of the location of the job worker's place of business/premises.

Time of Supply

Q1. What is meant by Time of Supply (TOS)?

Ans-Time of Supply (TOS) is the date on which GST needs to be charged on a supply.

Q2. Which section governs the TOS of goods?

Ans-Section 12 of CGST Act, 2017.

Q3. What is TOS of goods as per Section 12?

Ans-The time of supply of goods shall be earlier of the following-

1. Date of issue of invoice or the last date on which he is required to issue the invoice with respect to the supply
2. Date on which supplier receives the payment with respect to the supply (Not relevant for advance payment due to Notification no. 66/2017 dated 15.11.2018) should be 2017

Q5. What is TOS of goods under Reverse Charge Mechanism (RCM)?

Ans-TOS of goods under RCM is earliest of the following:

1. Date of receipt of goods or
2. Date of payment or
3. Invoice issue date + 31 days

In case TOS is **not ascertainable from 1,2,3**, then TOS is date of entry in books of recipient of supply.

Q6. What is the TOS of vouchers issued?

Ans-If the supply against such voucher is identifiable – TOS is date of issue of voucher.

Other Cases - TOS is date of redemption of voucher.

Q7. What is the residuary provision for determining TOS?

Ans- In case TOS is not ascertained as per Section 12(1),(2) & (3) then in such case TOS shall be as follows :

1. Where periodical return to be filed – Due date of filing of such return
2. Any other case – Date on which tax is paid.
3. Interest, late fees or penalty recovered from supplier for delayed payment of consideration – Date of receipt of such payment by supplier.

Q8. What is TOS of services as per Section 13?

Ans-TOS of services shall be earlier of the following:

In case the invoice is issued within time prescribed:

1. Date of issue of invoice or
2. Date of receipt of payment by supplier

In case the invoice is not issued within time prescribed:

1. Date of completion of service or
2. Date of receipt of payment by supplier
If TOS is not ascertainable as per above provisions, then TOS shall be the date on which recipient shows the **receipt of service** in his books of accounts.

Q9. What is the time limit prescribed for issue of invoices in case of supply of services?

Ans-Where Service Provider is Insurance Company, Banking Company, Financial Institution & NBFC Within 45 days of supply of service.

Others – Within 30 days of supply of service.

Q10. Which date will be considered as the date of receipt of payment by supplier?

Ans-The date of receipt of payment by supplier shall be the earlier of the date on which:

1. Payment is entered in his books of accounts or
2. Payment is credited in bank account of the suppliers.

Q11. What is TOS of services under Reverse Charge Mechanism (RCM)?

Ans-TOS of services shall be earlier of the following:

In case the transaction is between associated enterprises & supplier located outside India:

1. Date of entry in books of accounts by recipient or
2. Date of payment by recipient

In Other cases:

1. Invoice / Document issue date + 61 days or
2. Date of payment by recipient

If TOS is not ascertainable as per above provisions, then TOS shall be the date on which recipient records such **supply of services** in his books of accounts.

Q12. What will be time of supply of goods or services or both in case of change in rate of tax?

Ans-If any of the two events out of three events will occur before the change in rate, then tax rate before the change in tax rate will be applicable and if any of the two events will occur after the change in rate in such case new tax rate shall be applicable.

Events:

1. Issue of invoice.
2. Date of receipt of payment.
3. Supply of good or service or both

The date of receipt of payment shall be the date on which amount is credited in the bank account of the recipient if such amount is credited in the bank account after 4 working days from the change in rate of tax even if entry in books of accounts made on earlier date.

Value of supply

Q1. What is the Value of supply of goods or services?

Ans- Value of supply of goods or services or both shall be the transaction value if-

1. The supplier and recipient of supply are not related, and
2. Price is the sole consideration for such supply.

So, in case where supply is made to a related person or where the consideration is partly in kind and partly in money, then transaction value will not be treated as value of supply. In that case taxable value shall be determined with the help of valuation rules.

Transaction value is the price of goods or services or both which is actually paid or payable for said supplies.

Q2. Who are deemed to be the related persons under section 15?

Ans-Persons shall be deemed to be "Related Person" if-

1. Such persons are officers or directors of one another's businesses,
2. Such persons are legally recognised partners in business,
3. Such persons are employer and employee,
4. Any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them,
5. One of them directly or indirectly controls the other,
6. Both of them are directly or indirectly controlled by a third person,
7. Together they directly or indirectly control a third person, or
8. They are members of the same family.

Q3. What is the taxable value as per CGST Rules in case consideration is not wholly in money?

Ans- In case where the consideration for a supply is wholly or partly in kind(Rule 27), then the value of supply shall be:

1. Open market value of the supply made by the supplier,
2. If open market value under (a) is not available, the sum of consideration in money and amount of money equivalent to value of consideration in kind,
3. If value of supply is not determinable under(a) and (b) above then the value of supply shall be the value of supply of goods or services or both of like kind and quality,
4. If value of supply is not determinable by any of the above method, the value of supply shall be the sum total of consideration in money and consideration in kind determined as per Cost method or residual method.

Q4. What is the taxable value as per CGST Rules in case supply is made to a related person or distinct person [Rule 28 of CGST Rule]

Ans- In case where the supply of goods or services or both is made to a related person or a distinct person then the value of supply shall be:

1. Open market value of the supply made by the supplier,
2. If open market value is not determinable under (a) above then the value of supply shall be the value of supply of goods or services or both of like kind and quality,
3. If value of supply is not determinable under (a) and (b) above method, the value of supply shall be determined by cost method or residual method.

In case where the goods are supplied to a related person or distinct person for further supply as such by such person, the value shall be, at the option of the supplier, an amount equivalent to ninety percent of the price charged for the supply of goods of like kind and quality by the recipient to his unrelated customer.

Q5. What all are included in value of supply?

Ans- The value of supply shall include the following:

1. Any taxes, duties, cesses, fees and charges levied under any other law at the time of supply other than this CGST, SGST, UTGST, IGST and compensation cess, if charged separately by the supplier.
2. In case any amount which was payable by the supplier in relation to original supply but which has been paid by the recipient of the supply and such amount is not included in the consideration for the goods or services or both.
3. Any amount charged, or any incidental expenses charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services. For example: packing, loading charges, commission etc.
4. In case, any interest or late fee or penalty for delayed payment of any consideration for any of the original supply then such amount charged will be added in value of supply.
5. Subsidies directly linked to the price excluding subsidies provided by the Central Government and State Government. This amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.
 - a. So, in case where the subsidy is received by recipient of supply directly or where the subsidy is received from Central or State Government, then such subsidy will not form part of value of supply.

Q6. What shall be excluded from the value of supply?

Ans- The value of supply shall not include discount which is extended to the customer:

- 1) Before or at the time of supply if such discount is recorded in the invoice,
- 2) After sale discount if:
 - a) Such discount is as per the terms of agreement entered before or at the time of supply and is specifically linked to invoices issued earlier, and

- b) Input tax credit earlier claimed by the recipient at the time of supply is reversed by such recipient based on credit note raised at the time of extending post sale discount.

Q7. What is the value of supply of goods made or received through an agent?

Ans- Value of supply of **goods** between principal and agent(Rule 29) shall be:

Situations before us	Value of Supply
1. Open Market Value	Shall be open market value
2. Where goods are intended for further supply as such by the recipient	Shall be (at the option of the supplier) an amount equivalent to 90% of the price charged for the supply of goods of like kind and quality by the recipient from his unrelated customer.
3. If the value is not determinable under 1 & 2 above	Shall be determined as per rule 30 or 31 of CGST Rules in that order.

Q8.What is the value of supply of goods or services or both based on cost?(Rule 30)

Ans- In case where it is not possible to determine the value of supply as per Rule 27, 28 and 29 then the value of supply shall be **110% of the cost** of production or manufacture or acquisition of goods or the cost of provision of service to the supplier.

Q9.What is the residual method for determination of value of supply of goods or services or both?

Ans- Where the value of supply of goods or services or both cannot be determined under rules 27 to 30, the same shall be determined using **reasonable means** consistent with the principles and the general provisions of section 15 of CGST/SGST Act and the provisions of other rules under this Chapter.

Where a supplier of service is supplying services which is subject to valuation then he may opt for Rule 31 directly ignoring provisions of Rule 30. However, he can opt Rule 31 only if value of services cannot be determined under Rule 27 to Rule 29

Q10.What is the determination of value of supply in case of lottery?

Ans- A specific valuation rule for these kinds of transactions has been inserted vide Notification no. 3/2018-Central Tax dated 23rd January 2018. The summary of this valuation rule has been given below

- 1.Lottery run by State Government [Rule 31A (2)(a)]-This means a lottery not allowed to be sold in any state other than the organizing state.

Value in this case will be 100/112 of: The face value of ticket or the price as notified in the Official Gazette by the organizing state, whichever is higher.

- 2.Lottery authorized by State Government [Rule 31A (2)(a)]-This refers to a lottery which is authorized to be sold in state other than the organizing state also.

Value in this case will be 100/128 of: face value of ticket or price as notified in the Official Gazette by the organizing state, whichever is higher.

Q10. What is the determination of value of supply in case of actionable claim?

Ans- Value of supply of actionable claim [Rule 31A (3)]

Actionable claim in the form of chance to win in betting, gambling or horse racing in a race club will be:

1. 100% of the face value of the bet or
2. the amount paid into the totalisator

Q11. What is the value of supply of services in relation to purchase or sale of foreign currency?

Ans- The value of supply of services in relation to purchase or sale of foreign currency, including money changing(Rule 32), shall be determined by the supplier of services in the following manner prescribed in (1) or (2) at the option of supplier:

1. Where any of the currency exchanged from or to Indian rupees, then value of supply shall be the difference between buying rate and selling rate, as the case maybe, and reference rate provided by Reserve bank of India for that currency.

In case RBI reference rate is not available then value of supply shall be 1% of the gross amount of Indian Rupees received or paid by the person changing the money.

In case where neither of the currency exchanged is Indian Rupee, then value of supply shall be 1% of the lesser value arrived by converting any of the two currencies in Indian Rupee at

2. The person supplying this service of money exchange may opt valuation for his services under this clause at his option. Under this clause value of supply shall be:

Gross amount of currency exchanged	Value of Service
Upto to Rs. 1,00,000	1% of the gross amount of currency exchanged, Minimum – Rs. 250
From 1,00,000 to Rs. 10,00,000	Rs 1,000 +0.5% of the gross amount of currency exchanged -Rs. 1,00,000)
Above Rs. 10,00,000	Rs. 5,500 + 0.1% of the gross amount of currency exchanged – Rs. 10,00,000) Maximum Rs. 60,000

Q12. What is the value of supply of services in relation to booking of tickets by travel agent for travel by air?

Ans- The value of supply of services in relation to booking of tickets by travel agent for travel by air shall be:

Type of booking	Value of Supply
International bookings	10% of the basic fare
Domestic bookings	5% of the basic fare
“Basic fare” means that part of the air fare on which commission is normally paid to the air travel agent by the airlines	

Q13. What is the value of supply of services in relation to life insurance business?

Ans - The value of supply of services in relation to **life insurance** business shall be-

1. The gross premium charged from a policy holder reduced by the amount allocated for investment, or savings on behalf of the policy holder, if such an amount is intimated to the policy holder at the time of supply of service.
2. In case single premium annuity policy plan other than (a), 10% of the single premium charged from the policy holder.
3. In all other cases, 25% of the premium charged from the policy holder in the first year and 12.5% of the premium charged from the policy holder in subsequent years.

In case where the entire premium charged by the policy holder is only towards risk cover for life insurance then nothing contained in this Rule shall apply.

Q14. What is the value of supply of services in relation to supply of second-hand goods?

Ans- The value of taxable supply in relation to supply of second-hand goods shall be the difference between sale price and purchase price of that second hand good if ITC on purchase of that second hand good is not availed. In case sale price is less than purchase price then it should be ignored, and value of supply shall be zero in that case.

The rule is applicable if the following conditions are satisfied :

1. Supply of second-hand goods means supply of used goods as such or after minor processing on the goods which does not change the nature of goods.
2. No ITC has been availed on the purchase of such goods.

Q15. What is the value of supply inclusive of integrated tax, central tax, state tax, union territory tax?

Ans- In case where the supply is made inclusive of tax then value of supply shall be:

$$\text{Value of Supply} = \frac{\text{Value inclusive of taxes}}{(100 + \text{sum of tax rates, as applicable, in \%})} \times 100$$

Q16. What is the value of supply of services in case of pure agent?(Rule 33)

Ans- The expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely-

1. the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient,
2. the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service,
3. the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

Exemption from GST

Q1. Does GST law empower government to exempt supplies from the levy of GST?

Ans-The central government may exempt goods or services or both of any specified description from the tax by issuing exemption notification after satisfying the following conditions:

1. Exemption is to be granted in public interest only;
2. Exemption is to be granted on the recommendation of the GST Council;
3. Exemption is to be granted by a notification in the official gazette;
4. Exemption to be granted either absolutely or subject to specified conditions;
5. Exemption can be from the whole or any part of the tax leviable thereon;
6. Effective date of exemption may either be from the date of issue of notification or any date subsequent thereto as may be specified in the relevant notification.
7. Further, where an exemption from the whole or part of the tax leviable thereon has been granted absolutely, the supplier shall not collect the tax, in excess of the effective rate.

Q2. Who is eligible to opt for composition levy scheme?

Ans-The following conditions must be satisfied to be eligible for the scheme: -

1. The person opting for composition levy should be a registered person.
2. The threshold limit of aggregate turnover for opting composition scheme under GST in a non-Special Category State was Rs. 1 crore. However, vide Notification no. 14/2019-Central Tax dated 7th Mar,2019 the threshold limit has been revised. The said limit will now be Rs. 1.5 crore in case of a non-special category State and Rs. 75 lakhs in a Special Category State.
3. There should not be any interstate supply of goods that means businesses having only intra state supply of goods are eligible.
4. No Input Tax Credit can be claimed by a dealer opting for composition scheme.
5. Scheme is levied for all business verticals with the same PAN.
6. Taxable person who only deals in supply of goods can opt for this scheme i.e. this provision is not applicable for service providers. However, restaurant service providers can opt for the same & supplier of goods can supply services of up to Rs. 5 lakh.
7. The taxpayer has to mention the words 'composition taxable person' on every bill of supply issued by him.
8. The taxpayer has to mention the words 'composition taxable person' on every notice or signboard displayed prominently at their place of business.

Q3. Who are not eligible for composition scheme?

Ans-As per section 10(2), broadly 5 categories of registered persons are not eligible to opt composition scheme:-

1. Supplier of services other than supplies referred to in clause (b) of paragraph 6 of Schedule II. (i.e supplier of food articles)
2. Supplier of goods which are not taxable under CGST Act/ SGST Act/ UTGST Act.
3. Person engaged in making Inter-state outward Supply of goods.(There is no restriction on composition supplier to procure goods from inter-state suppliers)
4. Person supplying goods through an E-Commerce Operator who is required to collect tax at source u/s 52.
5. Manufacturer of certain notified goods
 - Ice-cream and other edible ice, whether or not containing cocoa
 - Pan Masala
 - Aerated waters
 - Tobacco & manufactured tobacco substitutes

Q4.What are rates notified under composition levy scheme?

Ans- Rates specified are as under:

S. No.	Category of Registered person	Rate of Tax (CGST)	Rate of Tax (SGST/UTGST)
1	Manufacturers	0.5%	0.5%
2	Restaurant Services	2.5%	2.5%
3	Traders or any other supplier eligible for composition levy	0.5%	0.5%

Q5. What is the rationale behind the composition levy scheme?

Ans-Composition Scheme under section 10 of CGST Act 2017: -

1. In Indian economy there are large number of small and medium enterprises (SMEs) and start-ups businesses.
2. Small and medium enterprises (SMEs) and start-ups may feel it difficult in complying with these provisions.
3. To lower the burden of compliance for small businesses, a composition scheme has been introduced under GST law where a taxable person has to pay tax at a minimum rate based on their turnover.
4. We can say, this is to bring relief to small businesses so that they need not be burdened with the compliance provisions under the law.

5. Basically, this option has been provided where they can opt to pay a fixed percentage of turnover as fees in lieu of tax and be relieved from the detailed compliance of the provisions of law.

Classification of Goods or Services

Q1. What is the role of HSN under GST Regime?

Ans-Taxpayers whose turnover is above Rs. 1.5 crores but below Rs. 5 crores shall use 2-digit code and the taxpayers whose turnover is Rs. 5 crores and above shall use 4-digit code. Taxpayers whose turnover is below Rs. 1.5 crores are not required to mention HSN Code in their invoices.

Under GST, the classification of goods and services involve determining the chapter/headings/sub-headings based on the description of goods and services.

It is also necessary to determine eligibility to exemptions, most of which are with reference to the Tariff headings or sub-headings.

Q2. What is the concept of composite supply?

Ans-“Composite Supply” means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

Some of the examples are: -

1. 1.Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is principal supply.
2. Supply of software on CD and license to use same, could be liable to GST at rate applicable to software license [treated as service under GST] if agreement is for licensing of software.

Q3. What is the concept of mixed supply?

Ans-“Mixed Supply” means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

Some of the examples are: -

1. A supply of a package consisting of canned food, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately.
2. Supply consisting of taxable coaching class and exempted residential dwelling, could be taxed at highest rate applicable to coaching class.

Q4. Differentiate between “composite supply” and “mixed supply”?

Ans-

Head	Composite supply	Mixed supplies
Time of Supply	<ul style="list-style-type: none">• If it involves supply of services as principal supply, such composite supply will qualify as supply of services and accordingly the provisions relating to time of supply of services would be applicable.• Alternatively, if it involves supply of goods as principal supply, such composite supply will qualify as supply of goods and accordingly, the provisions relating to time of supply of goods would be applicable.	<ul style="list-style-type: none">• If it involves supply of a service liable to tax at higher rates than any other constituent supplies, would qualify as supply of services and accordingly the provisions relating to time of supply of services would be applicable.• Alternatively, if it involves supply of goods liable to tax at higher rates than any other constituent supplies, would qualify as supply of goods and accordingly the provisions relating to time of supply of services would be applicable.
Tax Liability	<ul style="list-style-type: none">• A composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply.	<ul style="list-style-type: none">• A mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

Q5. What are the impacts of wrong classification?

Ans- An improper classification could have serious effect on business and relation with customer. Wrong classification will lead to huge demand from department as rate of tax depends upon HSN only and if HSN finally selected is wrong and attracts lower rate of tax then department will issue demand notice.

Eligible and Ineligible Input tax credit

Q1. What are the conditions for taking input tax credit?

Ans- Section 16(2) says that notwithstanding anything contained in section 16, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods and/or services to him unless—

1. Which are used or intended to be used by him in the course or furtherance of his business
2. The registered person taking credit of input tax must be in the possession of a tax invoice, debit note issued by supplier or any other document as may be prescribed (Rule 36) showing the amount of tax paid by the recipient.
3. The registered person shall be eligible for input tax credit only if goods or services or both are already received by him.
4. Input tax credit in respect to supply shall be available only if tax on supply is paid by the supplier to the government.
5. Input tax credit shall be available on filing of return by the recipient.

Q2. What is the time limit for taking credit?

Ans-A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after

1. Due date of furnishing return for the month of September following the end of financial year to which such invoice, or
2. Invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.

Q3. What do you mean by 'input tax credit'? Describe eligibility of a person for taking input tax credit.

Ans- "Input tax credit" in relation to a registered person means credit of SGST, CGST, UTGST and IGST charged on supply of goods or services or both made to such registered person and includes:

1. IGST paid by him on imports, and
2. IGST, CGST, SGST or UTGST paid by him on reverse charge basis.

Input tax credit is a valuable feature to make GST, a tax on value addition and it removes cascading effect. A registered person may utilize the credit of eligible input tax against his output tax liability chargeable on supplies made by him.

Section 16(1) says that every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

Q4. What will happen if the registered person, who availed input tax credit, fails to pay tax or amount on supply?

Ans- In case where the registered person, who availed input tax credit, fails to pay amount of goods or services or both, and tax on such supplies

1. **Rule 37:** Within a **period of 180 days** from issue of invoice, then amount of input tax credit availed by the registered person shall be added to his output tax liability and he will have to pay interest also on such amount from the date of availing credit till such amount is added in his output tax liability.
2. **Rule 37(4):** However, if after reversal of such input tax credit, the registered person makes payment to the supplier then he shall be eligible to take credit of input tax after making such payment.

Note: This provision regarding reversal of ITC for non-payment to supplier is not applicable where tax is payable by the recipient on reverse charge.

Q5. What are the valid documents for taking input tax credit?

Ans- Following documents shall also be a valid document for taking input tax credit:

1. tax invoice and debit note
2. Invoice issued by Input Service Distributor,
3. Invoice issued by recipient to himself for purchase from unregistered person i.e. Self-invoice
4. Revised invoice
5. Bill of entry prepared under customs act.

Q6. Whether the person availing input tax credit can claim depreciation on such amount? Explain with an example?

Ans- As per section 16(3), where credit of input tax is availed by a person on capital goods or plant and machinery, then he shall not be allowed to claim depreciation under Income Tax Act on such amount of GST.

For example- where a person acquired a machinery worth Rs. 1,00,000 and paid 18,000 GST over it, then he can either take credit of input tax or can claim depreciation under Income Tax Act on such 18,000 i.e. the amount of tax.

Q7. Elaborate the term “Business”

Ans-Business [Section 2(17) of CGST/SGST Act] includes—

1. any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit,
2. any activity or transaction in connection with or incidental or ancillary to sub-clause (1),
3. any activity or transaction in the nature of sub-clause (1), whether or not there is volume, frequency, continuity or regularity of such transaction,

4. supply or acquisition of goods including capital goods and services in connection with commencement or closure of business,
5. provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members,
6. admission, for a consideration, of persons to any premises;
7. services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation,
8. any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities.

Apportionment of Credit and Blocked Credits

Q1. What are the provisions for banking company or financial institutions to take credit?

Ans- Banking company or financial institutions including NBFC, have options to take credit in either of the way:

1. As per provisions of Section 17(2) i.e. proportionate credit or can avail an amount equal to 50% of the eligible input tax credit on inputs, capital goods and input services in a particular month and the balance shall lapse.
2. The option once exercised shall not be withdrawn during the remaining part of the financial year.
3. If the tax paid on supplies by one registered person to another registered person having the same permanent account number, then the restriction of 50% shall not apply.

Q2. How is input tax credit calculated in cases where capital goods are supplied after being used for business?

Ans- As per section 18(6) of CGST/SGST Act, where capital goods are supplied after being used for business purposes and ITC was taken at the time of purchase of such capital goods then the supplier needs to pay tax equivalent to the higher of following:

1. Input tax credit taken on such capital goods reduced by 5% points for each quarter and part thereof for the time it is being used, or
2. Amount of tax calculated on transaction value under section 15.

Q3. List down the cases in which input tax credit on purchase of capital goods is not available?

Ans-Input tax credit shall not be available on purchase of capital goods in the following cases:

1. Where capital goods so purchased wholly for the purpose of affecting exempt supplies.
2. Where the capital goods purchased is a motor vehicle having approved seating capacity of not more than 13 persons (including driver). However, ITC shall be available if:
 - a. It is for further supply of such vehicles e.g. dealer of cars, or
 - b. Making taxable supplies of transportation of passengers e.g. cab services, or
 - c. Imparting training on driving, flying, navigating such vehicles or conveyances e.g. Garg driving school, or
 - d. For transportation of goods e.g. Gupta packers and movers.

3. Goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.
 - a. Explanation–The expression “construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property.
4. Where capital goods purchased is for personal consumption.
5. Works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service.

Q4. What are the steps for reversal of ITC on inputs and input services?

Ans- Reversal of ITC on inputs and input services (Rule 42)

Step 1: Ascertain the common credit in respect of inputs and input services used for taxable as well as exempt supplies:

Particulars	Amount
Total input tax on inputs and input services	A
Less: Input tax on input and input services intended to be used exclusively for purpose other than business	(A1)
Less: Input tax on input and input services intended to be used exclusively for effecting exempt supplies	(A2)
Less: Input tax on inputs on which credit is not available u/s 17(5)	(A3)
Input Tax Credit credited to the Electronic Credit Ledger	B
Less: Input tax attributable to inputs and input services used exclusively or in relation to business (Incl. zero rated supplies)	B1
Common Credit	C

Step 2: Amount of ITC attributable to exempted supplies (D) shall be calculated as follows:

$$D = (E/F)*C$$

Where,

E is the aggregate of exempt supplies i.e. all supplies other than taxable and zero-rated supplies during the tax period, and

F is the total turnover of the registered person during the tax period.

Step 3: If common inputs and input services are used partly for business and partly for non-business purpose, then compute the amount of credit attributable to non-business purpose (D1) as under:

$$D1 = C * 5\%$$

*(points for every quarter or part thereof shall be added to the aggregate value)

ITC attributable to business purpose and taxable supplies to be computed as under:

$$M = C - (D + D1)$$

Q5. Under what circumstances, credit will be eligible in case of Motor vehicles for transportation

Ans-Motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except in the following cases

1. Used for making the taxable supply of:
 - a. Transportation of passengers (e.g. Meru cab etc.) or
 - b. Imparting training or motor driving skills (e.g. Maruti Driving School etc.) or
 - c. Further supply of such vehicles or conveyances (e.g. motor vehicle manufacturers who are supplying to dealers etc.)
2. Transportation of goods.

Q6. What is the manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases?

Ans- In case where a capital asset is partially used for the business purposes and partially for other purposes or where it is partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies shall be determined as follows:

1. Amount of ITC attributable to the use of capital goods exclusively for non-business purpose or for making exempt supply shall not be available to the registered person.
2. Amount of ITC attributable to the use of capital goods exclusively for making supplies other than exempt supply shall be fully available to the registered person.
3. Amount of ITC other than above in respect of such capital goods shall be the common credit and will be denoted as 'Tc' and the life of capital asset shall be taken as five years from the invoice of such capital goods.
4. Provided that where any capital goods earlier covered under (1) and (2) is subsequently covered under clause (3), the value of common credit shall be reduced or increased by the amount reducing the input tax at the rate of 5% points for every quarter or part thereof shall be added to the aggregate value 'Tc'.
5. Amount of ITC attributable to a tax period i.e. a month shall be denoted as 'Tm' and calculated as:
 - a. $Tm = Tc \div 60$
6. ITC attributable towards exempt supplies shall be denoted as 'Te' and amount equivalent to 'Te' shall be added to the output tax liability along with interest for every tax period and shall be calculated as:
 - a. $Te = Tr \times (E \div F)$

Recovery of excess tax credit

Q1. What is the major category in which recovery of tax can be classified?

Ans- Recovery of tax can be classified into two major categories which are as follows:

- (a) Recovery of tax not paid, short paid, erroneously refunded or ITC wrongly availed and utilised (Under Section 73 and 74),
- (b) Non-payment of tax wrongfully collected (Under Section 76).

Q2. What do you mean by Show cause notice?

Ans- Show cause notice means an order issued by a Court, Competent Authorities or an Organization asking an individual or a group of people to explain or to "show cause" in writing as to why the disciplinary action should not be taken against the individual or the group of people involved in certain incidents, misconduct, poor performance and wrongdoing.

Q3. Whether any amount representing as tax is collected from any other person be retained and not paid to Government?

Ans- Every person who has collected from any other person any amount representing as tax under this Act shall forthwith pay the said amount to Government, regardless of whether the supplies in respect of which such amount was collected are taxable or not.

Q4. In case the person does not deposit tax, collected in contravention of Section 76, what is the course of action available to the proper officer?

Ans- The proper officer shall issue notice requiring him to show cause as to why the amount so collected as tax be paid to the Government and a penalty equivalent to the amount so collected be imposed on him under the provisions of the Act. The proper officer shall adjudicate the matter and issue order within one year from the date of issue of the show cause notice.

Q5. Is there any time limit for issue of notice under section 76 in cases where tax collected but not paid to Government?

Ans- No, Notice can be issued on detection of such cases without any time limit. Once show-cause notice is issued, the proper officer shall pass the order within 1 year from the date of issue of such notice.

Q6. What do you mean by Recovery of demand?

Ans- Recovery proceedings shall be initiated in case where order of demand is raised on a person chargeable to tax and he fails to pay the same within 3 months from the date of such order. However, the recovery proceedings may be initiated before 3 months if proper officer opines that it is required to safeguard the interest of revenue.

Q7. What are the modes of recovery of tax available to the proper officer?

Ans- The proper officer may recover the dues in following manner:

- a. Deduction of dues from the amount owned by the tax authorities payable to such person.
- b. Recovery by way of detaining and selling any goods belonging to such person.
- c. Recovery from other person, from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the credit of the Central or a State Government;
- d. Distrain any movable or immovable property belonging to such person, until the amount payable is paid. If the dues not paid within 30 days, the said property is to be sold and with the proceeds of such sale the amount payable and cost of sale shall be recovered.
- e. Through the Collector of the district in which such person owns any property or resides or carries on his business, as if it was an arrear of land revenue.
- f. By way of an application to the appropriate Magistrate who in turn shall proceed to recover the amount as if it were a fine imposed by him.
- g. Through enforcing the bond /instrument executed under this Act or any rules or regulations made there under.
- h. CGST arrears can be recovered as an arrear of SGST and vice-versa.

Q8. What is Recovery of Demand from encashing a Bond?

Ans- In case where a bond or any other instrument has been executed by the person under this Act which provides that such bond or instrument may be encashed for the recovery, then the proper officer shall proceed to recover the amount due from encashing such bond irrespective of whether other recovery methods is available or not.

Q9. What is the manner of distributing the recovered amount?

Ans- In case any amount has been recovered by central or state officer is less than the amount recoverable from the person then the amount so recovered shall be distributed by the governments in proportion of their respective dues.

Q10. Can payment of tax dues be made in installments?

Ans- On receipt of any such request, the Commissioner/Chief Commissioner may extend the time for payment or allow the payment of any amount due under the Act by such person in monthly instalments not exceeding 24, subject to payment of interest under section 50 and with such limitations and conditions as may be prescribed. Nevertheless, where there is a default in the payment of any one instalment on its due date, the whole outstanding balance payable on such date shall become payable and recovered without any further notification.

Q11. What is Transfer of property and Charge on property?

Ans- Under section 81 of CGST Act,2017 which deals with Transfer of property to be void in certain cases provides that where a person, after any amount has become due from him, creates a charge on or parts with the property belonging to him or in his possession by way of sale, mortgage, exchange, or any other mode of transfer whatsoever of any of his properties in favor of any other person with the intention of defrauding the Government revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the said person, and

Under Section 82 of CGST Act,2017 any amount payable by a taxable person or any other person on account of tax, interest or penalty which he is liable to pay to the Government shall be a first charge on the property of such taxable person or such person.

Q12. What is the provisional attachment required to protect revenue in certain case?

Ans. Under Sec-83, in case during the proceedings under:

- Section 62: Assessment of non-filers of returns,
- Section 63: Assessment of unregistered person,
- Section 64: Summary assessment in certain cases,
- Section 67: Inspection, search and seizure,
- Section 73: Determination of tax not paid, short paid, erroneously refunded, ITC wrongly availed or utilized in cases other than fraud or any wilful misstatement or suppression of facts, or
- Section 74: Determination of tax not paid, short paid, erroneously refunded, ITC wrongly availed or utilized by reason of fraud or any wilful misstatement or suppression of facts,

the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, including bank account, belonging to the taxable person in such manner as may be prescribed.

Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order.

Q13. What is the course of recovery in cases where the tax demand confirmed is enhanced in appeal/ revision proceedings?

Ans- The notice of demand is required to be served only in respect of the enhanced dues. In so far as the amount already confirmed prior to disposal of appeal/revision, the recovery proceedings may be continued from the stage at which such proceedings stood immediately before such disposal of appeal/revision.

Availability of Tax Credit in Special Circumstances

Q1. Briefly explain the availability of ITC on capital goods if the same is sold later?

Ans- Where capital goods are supplied after being used for business purposes and ITC was taken at the time of purchase of such capital goods, then the supplier needs to pay tax equivalent to the higher of following:

1. Input tax credit taken on such capital goods reduced by 5% points for each quarter and part thereof for the time it is being used, or
2. Amount of tax calculated on transaction value under section 15.

However, in case where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, then the taxable person may pay tax on transaction value under section 15.

Q2. Discuss the availability of credit in case where a person shifts from regular registration to composition scheme.

Ans- In case where a registered person has availed ITC on inward supplies and later:

1. He opts for composition scheme, or
2. Any taxable supply becomes wholly exempt

then such person will have to pay an amount equivalent to ITC availed in respect of inputs held in stock and inputs contained in semi-finished and finished goods held in stock and on capital goods held on the day immediately preceding the date of when he opts for composition scheme or the date on which the said supply became exempt, as the case maybe.

However, as per CGST Rules credit in respect of capital goods held shall be reduced by 5% points for each quarter and part thereof calculated from the date of purchase to the date when he opts composition scheme or the date on which the said supply became exempt, as the case maybe.

Note: Tax so payable shall be first set off with unutilised tax credit then balance if any shall be payable in cash.

Q3. Whether a person can claim input of GST paid by him on goods held by him when he switches from composition scheme to normal scheme?

Ans- Where a person who earlier opted to pay tax on his turnover under composition scheme as specified in section 10 of CGST/ SGST Act, ceases to pay tax under composition scheme because his turnover exceeds the specified limit or he got engaged in providing services other than specified service under section 10 or got engaged in providing interstate supply or due to any other reason, then such person shall be allowed to take credit in respect to:

1. Inputs held as stock, and
2. Inputs contained in semi-finished goods and finished goods, and

3. Capital goods

held on date immediately preceding the day on which such person ceases to pay tax under composition scheme. However, as per CGST rules credit in respect of capital goods held, shall be reduced by 5% points for each quarter and part thereof calculated from the date of purchase to the date on which such person ceases to pay tax under composition scheme, for the reason that the capital goods have been partially used for the period in which such person was paying tax under composition scheme.

Note: A registered person shall not be entitled to take input tax credit in respect of any supply of goods or services or both to him after the expiry of one year from the date of issue of tax invoice.

Q4. Whether a person who was not registered earlier under GST, can claim input of GST paid on stock held by him in case where he became liable to registration and applied for the same after 30 days from the date when he became liable for registration?

Ans- Availability of credit in case where a person becomes liable to take registration [Section 18(1) (a)]

In case where a person becomes liable to take registration under GST and applies for registration within 30 days from the date on which he become liable to take registration then, he shall be allowed to take credit in respect of:

1. Inputs held in stock, and
2. Inputs contained in semi-finished goods and finished goods

held as stock on the day immediately preceding the day on which such person become liable to take registration as per the provisions of GST.

Note: A registered person shall not be entitled to take input tax credit in respect of any supply of goods or services or both to him after the expiry of one year from the date of issue of tax invoice.

Q5. Whether a person can claim input of GST paid by him on goods held by him when any of his exempt supply became taxable later on?

Ans- Where a person who was engaged in supply of any goods or service which was exempted under GST and becomes taxable thereafter then such person shall be allowed to take credit in respect to:

1. Inputs held as stock relatable to such exempt supply, and
2. Inputs contained in semi-finished goods and finished goods held as stock relatable to such exempt supply, and
3. Capital goods exclusively used for such exempt supply

held on date immediately preceding the day on which such supply becomes taxable. However, as per CGST Rules credit in respect of capital goods held shall be reduced by 5% points for each quarter and part thereof calculated from the date of purchase to the date on which such supply becomes exempt for the reason that the capital goods have been partially used for the period in which such supply was exempt.

Note: A registered person shall not be entitled to take input tax credit in respect of any supply of goods or services or both to him after the expiry of one year from the date of issue of tax invoice.

Q6. Discuss the availability of credit in case of change in constitution of the business [Section 18(3)].

Ans- In case where sale, merger, demerger, amalgamation, lease or transfer of the business has resulted into change in constitution of the business then, the said person shall be allowed to transfer the unutilised input tax credit to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as prescribed in CGST Rules.

Distribution of credit as per CGST Rules [Rule 41 of CGST Rules]	
Cases	ITC that can be transferred
Sale, merger, amalgamation, lease or transfer of the business	Whole of the unutilised input tax credit.
Demerger of business	ITC apportioned in ratio to value of assets transferred to demerged unit in demerger scheme.

ITC distributed by ISD

Q1. What do you understand by the term Input Service Distributor? Is registration under GST is compulsory for ISD?

Ans- As per Section 2(61) of CGST Act, 2017, Input Service Distributor (ISD) is an office of a business which receives tax invoices for input services and distributes the available input tax credit to other branch offices of the same business.

An ISD is required to obtain a separate registration. The registration is mandatory and there is no threshold limit for registration for an ISD. Businesses who are already registered as an ISD under the existing regime (i.e. under Service Tax), will be required obtain a new ISD registration under GST.

Q2. Does ISD mechanism is applicable on Input and capital goods?

Ans- ISD mechanism is meant only for distributing the credit on common invoices pertaining to input services. It is not applicable when input or capital goods are involved.

Q3. What is the manner of distribution of credit by Input Service Distributor?

Ans- Input Service Distributor shall distribute the credit of ITC with respect to the transactions being intra-state or inter-state as: -

- For intra-state transaction- IGST can be distributed as IGST, CGST as CGST and SGST as SGST only.
- For inter-state transaction-IGST can be distributed as IGST, whereas CGST and SGST will be transferred as IGST only.

Q4. Does Input Service Distributor need to file a separate statement of outward and inward supplies with their return?

Ans- No, the ISDs need to file only a return in Form GSTR- 6 and the return has the details of credit received by them from the service provider and the credit distributed by them to the recipient units. Since their return itself covers these aspects, there is no requirement to file a separate statement of inward and outward supplies.

Q5. What are the provisions for recovery of excess/ wrongly distributed credit by ISD?

Ans- Sections 18(1) and 18(2) provide for recovery of excess/wrongly distributed credit by initiating action against the ISD itself or against the recipient of credit so distributed under section 51.

Q6. Can an ISD distribute the input tax credit to all suppliers?

Ans- No. The input tax credit of input services shall be distributed only amongst those registered persons who have used the input services in the course or furtherance of business.

Q7. What are the documents required for distribution of credit by ISD?

Ans- The distribution of credit would be done through an Input Service Distributor invoice or Input Service Distributor credit note or any document issued by an Input Service Distributor in accordance with the provisions of rule 54(1) of the CGST Rules, 2017. The said document would contain the amount of input tax credit being distributed.

Q8. What are the details required on ISD invoice?

Ans- Credit to be distributed under cover of ISD invoice containing the following details:

- Name, address and GSTIN of the ISD
- Consecutive serial number
- Date of issue
- Name, address and GSTIN of the recipient
- Amount of credit distributed
- Signature or digital signature of the ISD

Q9. What are the items which are excluded from turnover of an ISD?

Ans- The turnover for the purpose of ISD does not include any duty or tax levied under entry 84 and 92A2 of List I and entry 51 and 54 of List II of the Seventh Schedule to the Constitution.

Q10. Whether ISD can distribute ITC received in subsequent months?

Ans- As per Rule 39(1) (a) of the CGST Rules, 2017, the Input available for distribution by an ISD should be distributed to the recipients in the same month itself.

Q11. Whether ineligible credit should be distributed by an ISD?

Ans- The Input Service Distributor has to separately distribute the amount of ineligible input tax credit, under the provisions of section 17(5) or otherwise and the amount of eligible input tax credit.

Q12. Whether the distributor and the recipient situated in different states can have different PAN number?

Ans- No, It is mandatory that the Input Service Distributor and the recipient of credit are persons having the same PAN, whether or not located in the same State.

Payment of Taxes

Q1. What are the types of E-ledgers to be maintained under GST by every taxpayer?

Ans-There are three type of ledger will be maintained under GST regime on GST portal: -

1. Electronic cash ledger: -Whenever any registered person adds money in this ledger, the same shall be utilized to make payment of tax. It is used for making payment towards tax, interest, penalty, fees or any amount to be debited. Balance after payment may be refunded. PMT-05 reflects electronic cash ledger
2. Electronic credit ledger: -Credit as SGST/UTGST, CGST or IGST shall be reflected here on the basis of self-assessed ITC in monthly return. The taxpayer will be able to utilize the balance shown in this account only for payment of output tax. Output tax does not include tax payable on reverse charge basis therefore tax payable on reverse charge basis shall be paid through Electronic cash ledger only. PMT-02 basically reflects electronic credit ledger
3. Electronic tax liability ledger: -All liabilities of a taxable person under SGST/CGST/IGST/UTGST Act shall be recorded and maintained in electronic liability register in FORM GST PMT-01. It will be debited with the amount of tax, interest, penalty and other payable amounts. On the other hand, the same will be credited with amount of tax, interest, penalty and another paid amount.

Q2. What are the different modes of payments under GST?

Ans-Deposit of amount by way of:

1. Internet banking
2. Credit/ Debit card
3. National Electronic Fund Transfer (“NEFT”)
4. Real Time Gross Settlement (“RTGS”)
5. Over the Counter (“OTC”) payment for deposits up to Rs. 10,000 per challan per tax period, by cash, cheque or demand draft.

Also, Challan for deposit to be generated in FORM GST PMT – 06 and same shall be valid for period of 15 days and credit of amount deposited to electronic cash ledger to be maintained in GST PMT-05

Q3-Write a short note on Form DRC 03 ?

Ans- DRC-03 is a payment form in which a taxpayer can pay the tax by raising its liability voluntarily or in response to the show cause notice (SCN) raised by the Department

All the payments need to be made either from input tax credit available in electronic credit ledger or cash balance available in the electronic cash ledger. But, in case of interest and penalties ITC utilisation is not available. It has to be compulsorily paid in cash.

Q4. What are provisions of TDS under GST?

Ans- TDS is to be deducted under GST as per the provisions of Section 51 of the CGST Act, 2017: -

1. The Government may mandate, the following persons “deductor”, to deduct TDS at the rate of 2% (1% CGST & 1% SGST) from payment made/ credited to supplier “deductee”, where value of supply exceeds Rs. 2,50,000:
 - a. A department or establishment of the Central/ State government; or
 - b. Local authority; or
 - c. Government Agencies; or
 - d. Such persons or category of persons as may be notified by the Government on the recommendations of the Council.
2. A TDS deductor has to compulsorily register itself without any threshold limit. He can obtain registration without PAN.
3. TDS to be deducted only if place of supply is within state of registration: No deduction shall be made if location of supplier and Place of Supply is different from the State of registration of the recipient.
4. Time limit: TDS shall be deposited within 10 days from end of the month in which deduction is made.
5. Failure to deposit TDS: If deductor fails to deposit TDS with government within prescribed time limit, interest shall be payable at 18% for the period such tax remains unpaid.
6. TDS certificate: Deductor to furnish TDS certificate mentioning the contract value, rate of deduction, amount deducted, and amount paid to government and other prescribed particulars.
7. In case deductor fails to issue certificate then, he shall be liable to pay late fee at the rate of Rs. 100 per day from day after expiry of such 5 days period until failure is rectified, subject to maximum amount of Rs.5,000.
8. No refund shall be granted if the amount deducted has been credited to cash ledger of deductee.

Q5. Discuss the meaning of E-FPB

Ans- E-FPB stands for Electronic Focal Point Branch.

1. These are branches of authorized banks which are authorized to collect payment of GST.
2. Each authorized bank will nominate only one branch as its E-FPB for pan India transactions.
3. The E-FPB will have to open accounts under each major head for all governments.
4. Any amount received by such E-FPB towards GST will be credited to the appropriate account held by such E-FPB. For NEFT/RTGS transactions, RBI will act as E-FPB.

Q6. What are provisions of TCS under GST?

Ans- Under Section 52, an Electronic Commerce Operator is liable to collect TCS only if the supply has been made through such Operator by other suppliers and the consideration is collected by the Electronic Commerce Operator. Supplies made by the electronic commerce operator on its own account are not subject to TCS requirements.

1. An electronic commerce operator (not being an agent) shall collect an amount calculated at not exceeding 1% of net value of taxable supplies made through it by other suppliers, where consideration with respect to such supplies has to be collected to by such operator.
2. Time Limit: TCS shall be deposited within 10 days from end of the month in which collection is made.
3. Monthly Statement: Every operator who collects "TCS" shall furnish a statement [GSTR -8] containing the details of outward supplies of goods and services or both effected through it, including the supplies returned through it, and the amount collected during a month, within 10 days after the end of such month.
4. Annual Statement: Every operator who collects the amount specified shall furnish an annual statement containing the details of outward supplies of goods and services or both affected through it, including the supplies returned through it, and the amount collected during the FY, before the 31st December following the end of such FY.
5. Details of monthly outward supplies furnished by every operator shall be matched with the corresponding details of outward supplies furnished by the concerned registered supplier.
6. In case the operator or the supplier does not initiate corrective action in his statement for the month, where value of outward supplies furnished by the operator is more than value of outward supplies furnished by the supplier in his monthly return, the amount in respect of which discrepancy is

communicated shall be added to output tax liability of said supplier his return for the succeeding month. Also, supplier shall be liable to pay interest.

Q7. What is the manner of utilization of ITC?

Ans- Provisions inserted vide section 49A along with Rule 88A(vide notification no. 16/2019 – Central Tax dated 29th March, 2019.), states that input tax credit of CGST / SGST or UTGST can be utilized towards payment of IGST / CGST / SGST or UTGST only and only after fully utilizing the input tax credit of IGST. The effect of the said provisions is reflected in the below table –

TAX PAYMENT OF	UTILISATION OF INPUT TAX CREDIT		
	FIRST	SECOND	THIRD
IGST	IGST	CGST	SGST
CGST	IGST	CGST	–
SGST	IGST	SGST	–

Q8. What are the various instances under which the taxpayer is liable to pay interest or to be paid interest by the government?

Ans- The taxpayer is liable to pay interest or to be paid interest by the government under the following cases: -

1. Person liable to pay tax but fails to pay shall for the period for which the tax remains unpaid pay interest, on his own, at rate to be prescribed but not exceeding 18%.
2. Taxable person who makes undue or excess claim of ITC or reduction in output tax liability shall pay interest at the rate to be prescribed but not exceeding 24%.
3. Where a refund is withheld, a taxable person shall be entitled to interest if as a result of an appeal (or further processing) he becomes entitled to refund with 6% interest
4. If any tax ordered to be refunded is not refunded within 60 Days of the refund application made by the taxpayer, 6% interest will be paid by the government
5. Where any claim of refund arises from appellate order and the same is not refunded within 60 days from the date of receipt of application filed consequent to such order , interest will be paid by the government after the expiry of 60 days at the rate of 9%.

Q9. State the order of discharge of GST liability.

Ans- Every taxable person to discharge his tax and other dues [interest, penalty, fee or any other amount payable] in following order:

1. Self-assessed tax and other dues of previous tax periods
2. Self-assessed tax and other dues of current tax periods
3. Any other amount payable including demand determined under Section 73 and Section 74.

REFUND

Q1. List out the various situation where a taxable person can apply for refund?

Ans- Situations for refund:

- 1. REFUND ON ACCOUNT OF INVERTED DUTY STRUCTURE:** 'Inverted Tax Structure' refers to a situation where the rate of tax on inputs purchased is more than the rate of tax Payable on outward supplies. A registered person may claim a refund of unutilized ITC on account of Inverted Duty Structure at the end of any tax period where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies.
- 2. REFUND ON ACCOUNT OF ZERO-RATED SUPPLIES:** A person can claim for refund on account of exports. All exports as well as supplies to SEZs have been categorised as Zero-Rated Supplies in the IGST Act, 2017. Every person making claim of refund on account of zero-rated supplies has two options. Either he can export under Bond/ LUT and claim refund of accumulated Input Tax Credit or he may export on payment of integrated tax and claim refund thereof.
- 3. GRANT OF PROVISIONAL REFUND IN CASE OF ZERO-RATED SUPPLIES:** GST law also provides for grant of provisional refund of 90% of the total refund claim in case the claim relates for refund arising on account of zero-rated supplies. The provisional refund would be paid within 7 days after giving the acknowledgement. The acknowledgement of refund application is normally issued within a period of 15 days. The provisional refund would not be granted to such supplier who was, during any period of five years immediately preceding the refund period, was prosecuted.
- 4. REFUND ON ACCOUNT OF WRONG TAX PAID:** Sometimes the taxable person may pay integrated tax instead of central tax plus state tax and vice versa because of incorrect application of the place of supply provisions. In such cases, while making the appropriate payment of tax, interest will not be charged, and the refund claim of the wrong tax paid earlier will be entertained without subjecting it to the provision of unjust enrichment.
- 5. CLAIM BY A PERSON WHO HAS BORNE THE INCIDENCE OF TAX:** Any tax collected by the taxable person more than the tax due on such supplies must be credited to the Government account. The law makes explicit provision for the person who has borne the incidence of tax to file refund claim in accordance with the provisions of Section 54 of the CGST Act, 2017
- 6. REFUNDS TO CASUAL/NON-RESIDENT TAXABLE PERSONS:** As per the provision of the Act , A casual/Non-resident taxable person has to pay tax in advance at the time of registration. Refund may become Refunds under GST due to such persons at the end of the registration period because the tax paid in advance may be more than the actual tax liability on the supplies made by them during the period of validity of registration period. The law envisages refund to such categories of taxable persons also.

- 1. REFUND TO UN BODIES AND OTHER NOTIFIED AGENCIES:** Supplies made to UN bodies and embassies may be exempted from payment of GST as per international obligations. However, this exemption is being operationalized by way of a refund mechanism. So, a taxable person making supplies to such bodies would charge the tax due and remit the same to government account.
- 2. REFUND TO INTERNATIONAL TOURIST:** An enabling mechanism has been introduced in Section 15 of the IGST Act, 2017 whereby an international tourist procuring goods in India, may while leaving the country seek refund of integrated tax paid by them

Q2. Whether principle of unjust enrichment will be applicable in case of refund?

Ans- Unjust enrichment means when a person unfairly gets a benefit by chance, mistake, or another's misfortune for which the one enriched has not paid or worked and morally. There is a presumption that the businessman will shift the incidence of tax to the final consumer as GST is a consumption-based tax. Because of this reason, every claim of refund needs to pass the test of Unjust enrichment i.e., to satisfy the departmental officer that the incidence of tax/duty has not been passed on to another person.

Principle of unjust enrichment will apply to all cases of refund except:

1. Refund of tax paid on zero-rated supplies
2. Unutilized input tax credit in respect of (a) zero rated supplies made without payment of tax
3. Unspent balance in PLA.
4. such other class of persons who has borne the incidence of tax as the Government may notify.

Q3. Briefly discuss the process of Scrutiny of the refund application.

Ans-As per norms, it would take about 30 days to process a refund application. Where the refund claim exceeds a prescribed amount, then the same shall be subjected to an audit process. If the same qualifies for a refund, then an order shall be passed to that extent, or if it meets the criterion for being “unjustly enriching” the taxpayer, then the amount shall be transferred to the Consumer Welfare Fund. The above declaration may be required to be certified by a Chartered Accountant.

The refund application shall be processed within 60 days from the application date. Once the authorised officer adjudges the refund to be true, then he will issue a final order **in Form RFD-05** within a period of 60 days from the application date. If the officer fails to pass an order within the said 60 days, then the taxpayer shall receive

an interest @ 6% p.a. for the period exceeding the expiry of 60 days until the receipt of refund.

When the refund has to be adjusted against the taxable amount, then Form RFD-06 shall be passed.

Other forms that are important for refund claims:

1. RFD-07: this is a show cause notice for complete rejection of a refund application
2. RFD-08: Payment advice
3. RFD-09: In case of delayed payments, this is an order for interest on late payments.

Q4. What is the time limit for filing GST Refund Request?

Ans- Under GST, the applicant should file GST refund claims within 2 years from the relevant date. If the claim is in order, the refund has to be sanctioned within a period of 60 days from the date of receipt of the claim. Interest on the withheld refund shall apply at the rate of 6%. An interest rate of 9% per annum shall apply on the delayed refund (beyond 60 days, arising from the order of authority/ court).

Q5. What are the relevant dates in different scenarios of refund?

Ans- Relevant date can be different in different scenarios: -

1. Relevant date in case of export of goods
 - a. In case if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India.
 - b. In case if the goods are exported by land, the date on which such goods pass the frontier.
 - c. In case if the goods are exported by post, the date of dispatch of goods by the Post Office concerned to a place outside India.
2. Relevant date in case of deemed exports
 - a. In the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is filed.
3. Relevant date in case of export of Services for refund of GST
 - a. In the case of services exported out of India and where a refund of tax paid is available to the applicant in respect of services themselves or, as the case may be, the inputs or input services used in such services,
 - b. The relevant date in the case of services exported out of India, is the inputs or input services used in such services
 - c. The relevant date of issue of invoice, where payment for the service had been received in advance prior to the date of issue of the invoice.

4. Relevant date in case of GST refund due to consequence of judgement
 - a. In case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any Court, the date of communication of such judgment, decree, order or direction.
5. Relevant date in case of refund of unutilized input tax credit
 - a. In the case of refund of unutilized input tax credit, the relevant date is the end of the financial year in which such claim for refund arises.
6. Relevant date in case of refund of tax paid provisionally
 - a. In the case where tax is paid provisionally under this Act or the rules made there under, the relevant date is the date of adjustment of tax after the final assessment thereof
7. Relevant date in case of refund claimed by person other than supplier
 - a. In the case of a person, other than the supplier, the relevant date is the date of receipt of goods or services by such person.
8. In any other cases
 - a. In any other case, the relevant date for refund of tax is the date of payment of tax.

Q6. What is the process of applying for the Refund?

Ans- Process of Refund

1. Refund Application Process Under GST. The refund application/ has to be made in Form RFD – 01 within a period of 2 years from the “relevant date”. This relevant date can be different in different scenarios.
2. Once an application has been filed, it would be forwarded to the GST officer, the GST officer will scrutinise the application for its completeness within a period of 15 days from the date of filing and if the application is found to be complete in all aspects, an acknowledgement in Form GST RFD 02 shall be made available to the applicant through GST website.
3. In case any discrepancy are found in the GST Refund application, the GST officer shall communicate the deficiencies to the applicant in Form GST RFD 03 through the GST website.
4. When the person filing refund claim is a United Nations’ body, Consulate or a foreign embassy, then the application for refund has to be filed within 90 days from the end of the quarter for which the goods or services were procured. The application should be made in Form RFD-10.

Note: There shall be no refunds where the amount of refund is less than Rs. 1,000/-.

Q7. What are the documents required for filing GST Refund?

Rule 89(2) read with Section 54 (4) of CGST Act, refund application shall be accompanied by documentary evidence in Annexure I in FORM RFD-01. Documentary evidences may vary from following cases: –

1. Export of goods: – A statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices.
2. Export of services: – A statement containing the number and date of invoices and the relevant bank realization certificates or foreign inward remittance certificates.
3. Deemed Exports: – A statement containing the number and date of invoices along with such other evidence as may be notified in this behalf.
4. Inverted Duty: A statement containing the number and the date of the invoices received and issued during a tax period in a case where the claim pertains to refund of any unutilized input tax credit and credit has accumulated on account of the rate of tax on the inputs being higher than the rate of tax on output supplies, other than nil-rated or fully exempt supplies.
5. Difference in Supply Nature: A statement showing the details of transactions considered as intra-State supply but which is subsequently held to be inter-State supply.
6. Excess Payment of tax: A statement showing the details of the amount of claim on account of excess payment of tax.

Q8. State the provisions of Grant of provisional refund for zero rated supply

Ans- As per Rule 91 of CGST Act read with section 54(6) of CGST Act, proper officer is required to sanction provisional refund of ninety percent of the amount of GST Refund within 7 days of application if prima facie refund is accordance with provision of section 54 of CGST Act. Proper officer shall issue FORM RFD 04 for the grant of provisional refund. The aforesaid provision is applicable subject to the following conditions: –

1. The person claiming refund has, during any period of five years immediately preceding the tax period to which the claim for refund relates, not been prosecuted for any offence under the Act or under an existing law where the amount of tax evaded exceeds two hundred and fifty lakh rupees;
2. The GST compliance rating, where available, of the applicant is not less than five on a scale of ten;
3. No proceedings of any appeal, review or revision are pending on any of the issues which form the basis of the refund and if pending, the same has not been stayed by the appropriate authority or court.

Reverse charge mechanism

Q1. What do you mean by Reverse Charge Mechanism?

Ans- Under Normal Scenario, tax is paid by a supplier who makes supply of goods or services or both. However, under Reverse Charge Mechanism, liability to pay tax would not be on the supplier of goods or services or both but on the recipient of such goods or services or both.

Q2. What is the need of reverse charge mechanism under indirect tax structure?

Ans- The need for Reverse charge mechanism because of following reasons: -

- Supplier of the goods or services or both located in non-taxable territory.
- Registered person is buying from unregistered supplier:
- Service through an e-commerce operator:
- If the assessee (E-com operator) has no physical presence in the taxable area, then his representative will be liable to pay tax. If there is no representative, then the assessee must appoint one who will be liable to pay GST.
- All other categories of supplies will be notified by Central or State government that will fall under reverse charge.

Q3. What is the Time of Supply under Reverse Charge Mechanism (RCM)?

Ans- In the case of Goods: Time of supply in case of supplying goods when tax payable under Reverse Charge, whichever is earliest from the following dates: -

- the date of the receipt of goods.
- the date of payment as entered in the books of account of the recipient.
- the date on which the payment is debited in his bank account, whichever is earlier.
- the date immediately following thirty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier.

In the case of services: Time of supply in case of supplying services when taxes payable under reverse charge mechanism, whichever is earliest from the following dates: -

- the date of payment; or
- the date immediately after the expiry of sixty days from the date of issue of the invoice by the supplier; whichever is earlier.

Q.4 Who is liable to pay tax under RCM?

Ans Person would be liable to pay tax under reverse charge under two categories: -

1. Category of suppliers of goods or service or both notified by the Government under section 9(3), and
2. Category of registered buyer made supply to an unregistered person under section 9(4).

Q.5 How to avail input tax credit under RCM?

Ans. The service recipient can avail Input tax credit on the tax amount that is paid under reverse charge on goods and services. The only condition is that the goods and services are used or will be used for business or furtherance of business.

If the composite dealer falls under reverse charge mechanism, then the dealer is ineligible to claim any credit of tax paid. The tax will be paid at the normal applicable rates and not at the composition rates.

Q.6 What are the registration requirement under Reverse Charge Mechanism (RCM)?

Ans. As per Section 24 of CGST Act,2017, A person paying tax under the reverse charge mechanism has to compulsorily get registered even if the turnover is below the threshold limit.

Q.7 What is Self-Invoicing under Reverse charge mechanism?

Ans In Reverse charge, self-invoicing is the process when a purchaser transacts with someone who is unregistered under the GST Portal.

Self-Invoicing needs to take place because the supplier is unregistered and hence cannot issue an invoice for the purchaser. While the purchaser needs an invoice because he is liable to pay the tax he needs to make his own invoice. This gives rise to the process of self-invoicing. There is an exemption from the process of self-invoicing when the value of goods/services does not exceed Rs. 5000 per day.

Q.8 What are the details that are mandatorily required to be mentioned on the Self- Invoice?

Ans. The details mandatory to be mentioned on the Self- Invoice are as follows:

- Invoice date (date must be mentioned according to the date of supply), invoice number or reference number.
- Due Date – The date by which the payment is to be made to the supplier.
- Vendor Name – Name of the supplier providing the goods or services.
- Description of the goods or services.
- Total amount/ value of the goods/services provided.
- Invoice must mention that it includes payment of tax under the RCM – Reverse Charge Mechanism Method.

Job Worker

Q1. What are the registration requirements under the concept of Job Work?

Ans-The requirements for registration include: -

1. The registered person (Principal) has to declare the place of business of the job worker as his additional place of business except where job worker is registered.
2. Where a job worker provides service of value greater than (Rs. 40 Lakh / Rs.20 lakh / Rs.10 lakh as the case may be), he is required to register under section 22 of CGST Act 2017. When there is inter-State supply of goods or services, the registration under GST is mandatory. However, the government has provided exemption from registration for job workers making inter-state supply of services unless they are covered under the following:
 - i. Job worker is registered under GST voluntarily/ or is registered as limit of 20 lakh is crossed, or
 - ii. Job worker provides services in relation to goods such as – Jewellery, goldsmiths and silversmiths wares and other articles of Chapter 71 of Customs Tariff.
3. To avail the benefits under GST, a job worker may also voluntarily register as provided under section 25(3) of CGST Act 2017.

Q2. Explain the concept of job work

Ans-The definition of job work has been defined in the Section 2(68) of CGST Act which means

1. Any treatment or process undertaken by a person on goods belonging to another registered person. 'Principal' would be the registered person who sends the goods for job work.
2. Treatment or process include packing, labelling, testing, re-conditioning, re-packing, inspection etc. After job work, nature of the product is may not be changed. Resultant goods could be with same characteristics or with variation of the product.
3. In terms of clause 3 of Schedule II to CGST Act 2017, any treatment or process applied to another person goods are to be treated as supply of services.
4. The ownership of the goods is not transferred to the job-worker, but it rests with the principal. The job worker is required to carry out the process specified by the principal on the goods

Q3. What are the relevant procedures and compliances of Job Work?

Ans- The relevant procedures and compliances of Job Work includes: -

1. According to Section 143(1) of CGST Act read with CGST Rule 45, principal can under intimation to the department through Form ITC-04 (based on Circular 38/2018), send any inputs or capital goods, without payment of tax, to a job worker for job work. Movement of goods without payment of tax from job worker to another job worker and likewise is permitted.
2. Time within which the goods sent to job-worker for job-work should be returned to principal in order to be eligible for removal without paying tax:

Goods	Time within which goods shall be returned to principle under GST
Inputs	1 Year
Capital Goods	3 Years

The period of 1 year and three years may, on sufficient cause shown be extended by the commissioner for a further period not exceeding one and two years respectively.

3. If the above timeline is not followed, it would be treated as deemed supply by principal to job-worker.

Relevant date from which it would be included in supply of principal	
In case inputs/capital goods are sent by principal to job-worker	Date from which such goods were sent out
In case inputs/capital goods are sent directly to job-worker's premises	Date on which they were originally received by job-worker

4. Deeming provision doesn't apply to moulds and dies, jigs and fixtures, or tools sent out to a job-worker for job-work. Therefore, there is no requirement for these goods to come back within above said period of capital goods.

Q3. How can the principal avail ITC on goods sent for job work?

Ans- According to Section 19(2) of CGST Act, the principal can avail the ITC where goods are sent to job worker premises directly from the vendor location without coming to the principal's premises.

Principal can avail ITC on such goods sent to job worker, provided the vendor mentions -customer as the principal and consignee as the job worker on the face of the invoice. In case of goods imported and directly sent to the job worker from the custom station, the principal requires to raise a delivery challan under Rule 55. Note principal would be eligible for the ITC on imported goods.

Q4. Goods sent to job worker is on Delivery Challan and no separate invoice is required. Justify the statement?

Ans- The following documents are to be issued by manufacturer or Job worker: -

1. The principal has to raise triplicate challan when sending goods to job work, one challan should be retained and remaining two challan will be sent to the job worker. One copy of challan for outward movement (principal to job worker) and the other copy of challan for return (job worker to principal).
2. Other types of Documentation:
 - a) One job worker to another job worker: -Goods may move under the cover of challan issued either by job worker or principal (vide Notification no. 14/2018-Central Tax, dt. 23-03-2018).
 - b) In piecemeal by job worker: -Goods returned by job worker in instalments cannot be endorsed in the delivery challan issued by the principal, job worker requires to raise a fresh challan.
3. Delivery Challan under GST has been provided under Rule 55, contents are listed below:
 - a) Date & number of delivery challan,
 - b) Name, Address & GSIN of consigner & consignee,
 - c) HSN code & description of goods,
 - d) Quantity,
 - e) Taxable value,
 - f) Tax rate & Tax amount,
 - g) Place of supply

Q5. What are the advantages of Job worker?

Ans- Few advantages of Job worker are discussed below:

1. This helps the manufacturers to get the job done faster and more efficiently.
2. Reduction and to keep check of operational costs
3. Improves focus on core business of manufacturers
4. Gain access to efficient facilities
5. Streamlining and increasing efficiency for time-consuming processes

Q6. What is the turnover limit to file ITC-04?

Ans- When principal sends inputs or capital goods for job work, he is required to file ITC-04, it will act as a timely intimation to the department of goods sent for job work. The job worker need not file ITC-04. It is applicable to all registered under GST, conducting job work procedure without any turnover limit.

TAX INVOICE

Q1. What are the various invoices and vouchers issued as per Section 31(3) of CGST/SGST Act?

Ans- Invoices and vouchers [Section 31(3) of CGST/SGST Act] to be issued are: -

1. Tax Invoice- Every registered person who is making any taxable supplies shall issue a tax invoice which shall contain all the particulars as prescribed in CGST/SGST Act and CGST Rules
2. Revised invoice - A registered person shall issue revised invoices against the invoices which are already issued by him during the period starting from date of registration till the date of issuance of registration certificate to him. He shall issue revised invoices within 30 days from the issuance of registration certificate.
3. Bill of supply – A registered person making exempt supply or a person registered under composition scheme, shall issue a bill of supply instead of tax invoice. However, a consolidated bill of supply can be raised at the end of the day for all the supplies made during that day.

However, as per Rule 49 of CGST Rules, he has to issue a bill of supply even if the value of supply is less than Rs. 200/- in case where:

- a. The recipient of supply is a registered person, or
 - b. The recipient requires such invoice.
4. Receipt voucher – A registered person shall issue a receipt voucher on receipt of advance payment in respect of any supply.
 - a. Where rate of tax is not known at the time of receipt of advance, tax shall be paid @18%
 - b. Where nature of supply is not known, it shall be treated as interstate supply.
 5. Refund voucher- A registered person shall issue a refund voucher against an advance receipt voucher in case where the advance money so received is refunded because of no supply is made against that advance.
 6. Self-invoice – A registered person shall issue an invoice to himself where he takes any inward supply which is liable for payment under reverse charge and the supplier is not registered. However, a person may issue a consolidated invoice for the month at the end of the month.
 7. Payment Voucher - A registered person shall issue a payment voucher at the time of making payment to the supplier where the recipient is liable to pay GST on such supplies.

Q2. What is the time limit for issuance of tax invoice?

Ans- Time limit for issue of invoice depends upon the nature of supply, whether it is supply of goods or services. Law provides the last date by when a tax invoice needs to be issued. However, a tax invoice may be raised at any time before the last date of issue of invoice.

1. Time limit for issue of invoice in case of supply of goods. [Section 32(1)]
 - i) Where movement of goods is involved – Before or at the time of removal of goods for supply to the recipient.
 - ii) Where movement of goods is not involved – Before or at the time of delivery of goods or making available thereof to the recipient.
 - iii) For example: Mr. A, a registered carpenter, got a contract to make a bed from a customer at customer's home. Mr. A completed the construction of bed on 10th October 2018 and made it available for use of the customer on the same date. Although the bed is movable, but this transaction does not involve movement of goods. In this case last date of issue of invoice shall be the date on which such bed is made available for the use of customer i.e. 10th October 2018.
2. Time limit for issue of invoice in case of supply of services. [Rule 47 of CGST Rules, 2017]
 - i) In case of supply of taxable services, tax invoice shall be issued within a period of 30 days from the date of supply i.e. 30 days from the completion of service. However, where taxable services are supplied by an insurer or a banking company or a financial institution, including a non-banking financial company, then invoice shall be issued within 45 days instead of 30 days.

Q3. What is the time limit for issuance of invoice in case of continuous supply of services?

Ans- In case of continuous supply of services, invoice shall be issued within the time as under: -

Situation	Time limit for issue of Invoice
Where due date of payment can be identified in the contract.	On or before due date of payment.
Where due date of payment cannot be identified in the contract.	On or before the date on which supplier received the payment.
Where the payment is linked with completion of a milestone.	On or before the date of completion of the event.

- 2) In case where a contract for supply of services ceases in between the completion of service then the last date for issue of invoice shall be the date on which such contract for supply of services ceases and such invoice shall be issued to the extent of the supply made before such cessation.
- 3) For Example: If Mr. A, a chartered accountant, providing consultancy to Mr. B under contractual agreement of two years entered on 12th October 2018. After 3 months Mr. B rescinded the contract on 31st December, then the last date of issue of invoice shall be the date on which contract is rescinded.

Q4. List out some particulars of tax invoice.

Ans- An invoice generally contains all the relevant information of a transaction of supply. However, a tax invoice shall mandatorily contain all the following, namely-

1. Name, address and Goods and Services Tax Identification Number of the supplier.
2. A consecutive serial number not exceeding 16 characters
3. Date of its issue.
4. Name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient.
5. Name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is un-registered and where the value of the taxable supply is Rs. 50,000/- or more.
6. Harmonised System of Nomenclature (HSN)
7. Description of goods or services.
8. Quantity
9. Total value of supply of goods or services or both.
10. Taxable value of the supply of goods or services or both considering discount or abatement, if any.
11. Rate of tax (central tax, state tax, integrated tax, Union territory tax or cess).
12. Amount of tax charged in respect of taxable goods or services (central tax, state tax, integrated tax, union territory tax or cess).
13. Place of supply along with the name of the state, in the case of a supply in the course of inter-State trade or commerce.
14. Address of delivery where the same is different from the place of supply.
15. Whether the tax is payable on reverse charge basis, and
16. Signature or digital signature of the supplier

Q5. What is the manner of issuing Tax Invoice?

Ans- A tax invoice shall be in issued in triplicate in case of supply of goods and in duplicate in case of supply of service. Each copy shall be marked as:

Copy	Supply of Goods	Supply of Services
Original Copy	“ORIGINAL FOR RECIPIENT”	“ORIGINAL FOR RECIPIENT”
Duplicate Copy	“DUPLICATE FOR TRANSPORTER”	“DUPLICATE FOR SUPPLIER”
Triplicate Copy	“TRIPLICATE FOR SUPPLIER”	NOT REQUIRED

Q6. Write a short note on credit note under GST.

Ans- After issuing a tax invoice or bill of supply there could be some cases where the amount charged from the recipient is higher than the amount that needs to be charged. In all these cases ledger of the recipient shows an excess balance than actual amount

recoverable and a credit note needs to be issued for the reversal of the excess amount charged.

1. Where a tax invoice has been issued for supply of any goods or services or both and
 - a. Taxable value in that tax invoice is found to exceed the taxable value that needs to be charged, or
 - b. Tax charged in the invoice is found to exceed the tax payable in respect of such supply, or
 - c. Where the goods supplied are returned by the recipient, or
 - d. Where goods or services or both supplied are found to be deficient,Then the registered person, who has supplied such goods or services or both, may issue to the recipient a credit note.
2. The registered person, who issues a credit note[Section 34(2)], shall declare the particulars of that credit note in the return for the month during which such credit note has been issued but not later than September following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted and tax amount shall stand reduced from output tax liability subject to equivalent reduction of input tax credit by recipient.

Q7. Write a short note on debit note under GST.

Ans- After issuing a tax invoice or bill of supply there could be some cases where the amount charged from the recipient is lower than the amount that needs to be In all these cases ledger of the recipient shows a balance which is lesser than the actual amount recoverable and a debit note needs to be issued in this respect.

1. Where a tax invoice has been issued for supply of any goods or services or both and the supplier has erroneously declared the:
 - a. Taxable value in that tax invoice is less than the taxable value that needs to be charged, or
 - b. Tax charged in the invoice is less than the tax payable in respect of such supply,then the registered person, who has supplied such goods or services or both, may issue to the recipient a debit note.
2. The registered person, who issues a debit note, shall declare the particulars of that debit note in the return for the month during which such debit note has been issued.

Q8. Write a short note on Delivery challan [Rule 55 of CGST Rules]

Ans- In case where invoice cannot be issued at the time of removal of goods or where invoice is not required then for the transportation of goods a delivery challan may be issued. A delivery challan generally contains all the relevant information that an invoice includes and shall be issued in the same manner of invoice i.e. in three copies.

A delivery challan may be issued in following cases:

1. Supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known,
2. Transportation of goods for job work,
3. Transportation of goods for reasons other than by way of supply, or
4. Transportation of goods in semi knocked down and completely knocked down condition. In SKD or CKD delivery, a complete invoice is issued before dispatch of first consignment and all the subsequent consignments shall be accompanied with delivery challan and a certified copy of original invoice. The original invoice shall be sent at the time of last consignment.

Q9. What are the particulars of revised invoice, debit note and credit note?

Ans- A revised invoice/debit note/credit note generally contains all the relevant information that an invoice includes. However, a revised invoice/debit note/credit note shall mandatorily contain all the following, namely-

1. The word “Revised Invoice”, wherever applicable.
2. Name, address and Goods and Services Tax Identification Number of the supplier.
3. A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters
4. Date of its issue of the document.
5. Nature of document, whether it is a “Debit Note” or “Credit Note”.
6. Name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient.
7. Name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is un-registered.
8. Serial number and date of the original tax invoice or bill of supply against which the document is issued.
9. Value of taxable supply of goods or services, rate of tax and the amount of the tax credited or debited to the recipient.
10. Signature or digital signature of the supplier or his authorised representative.

Returns

Q1. What is the due date of filing return of outward supply i.e. GSTR-1?

Ans- A registered person shall furnish details of outward supplies in a return Form GSTR-1 by 11th day of month succeeding tax period to which such outward supplies pertain.

Q2. Who are not required to file Form GSTR-1?

Ans- Form GSTR-1 need not be filed by below mentioned persons:

1. An input service distributor,
2. A non-resident taxable person,
3. A person opted for composition scheme,
4. A person required to deduct or collect tax.

Q3. Who is a GST Practitioner?

Ans- GST Practitioner is a kind of consultant who provides services to other taxpayers through online mode. A GST Practitioner must be registered on GSTN Portal.

Q4. What do you mean by First Return?

Ans- As per Section 40, CGST Act, 2017, every registered person shall declare the outward supplies made by him from the date on which he was liable to get registration till the date on which registration is granted to him in his first return after the grant of registration.

Q5. What is Form GSTR-10?

Ans- GSTR 10 is a return to be filed by taxpayers whose GST registration has either been surrendered by the taxpayer or has been canceled by authorities. This return is also called as Final Return.

Taxpayers who have opted to surrender their GST registration or whose registration has been canceled have to file GSTR-10 within three months of cancellation or date of cancellation order, whichever is later.

Q6. What is Annual return and which section of the GST Act elaborating the provisions of annual return?

Ans- As per Section 44 of the GST Act, 2017, states that every registered person is required to furnish an annual return for every Financial Year.

Q7. Who are not required to furnish Annual Return?

Ans. The below mentioned person will not be required to furnish annual return-

- Input service distributor,
- A non-resident taxable person,
- A person liable to deduct/collect tax,
- A casual taxable person.

Q8. What is Notice to return defaulters?

Ans- As per Section 47 of CGST Act,2017, where a registered person fails to furnish a return under section 39 or section 44 or section 45, a notice shall be issued requiring him to furnish such return within fifteen days in such form and manner as may be prescribed by government.

Q9. What do you mean by GSTR-7?

Ans- GSTR 7 is a return to be filed by the persons who is required to deduct TDS (Tax deducted at source) under GST.

- It contains the details of TDS deducted, TDS liability payable and paid, TDS refund claimed if any etc.
- The due date to file GSTR-7 is 10th of every next month in a particular tax period.
- GSTR 7 form is only for the deductors of TDS and not for regular taxpayers.

Q10. What is GSTR 2A?

Ans- GSTR 2A is an auto-populated GST Return that takes the information from the filed GSTR 1 of the seller. It shows the information regarding the purchased good and/or services from the supplier. Moreover, the data in GSTR 2A will be available on the GST Portal as soon as your supplier files his GSTR 1.

Q11. What is E challan?

Ans- E Challan is the challan generated through GSTN portal. The dealer has to enter his challan details in the portal and take the printout of the challan for payment of GST.

Q12. Is there any GST Return which is to be filed on a half-yearly basis?

Ans- No, there is no such return in GST structure which is required to be filed on a half-yearly basis.

Q13. What are the provisions regarding levy late fees for delay in filing of returns?

Ans- Late fees for delay in filing of GSTR-3B is Rs. 20 (Rs. 10 for CGST and Rs. 10 for SGST) per day for NIL returns and Rs. 50 (Rs. 25 for CGST and Rs. 25 for SGST) in other cases. Late fees for GSTR-3B for a month is required to be paid in the next month.

Late fees for GSTR-1 is Rs. 200 (Rs. 100 for CGST and Rs. 100 for SGST) per day. Currently government is not taking late fees related to GSTR-1.

Q14. What are the late fees on GSTR9 and GSTR9A?

Ans- Late fees for GSTR-9 and GSTR-9A is Rs. 200 (Rs. 100 for CGST and Rs. 100 for SGST) per day up to a maximum of 0.50% (0.25% for CGST and 0.25% for SGST) of turnover.

Audit under GST

Q1. What is the meaning of audit under GST?

Ans- Audit under GST is the examination of records maintained by the taxable person to verify the correctness of information declared, taxes paid and to assess the compliance with the provisions of GST.

Q2. What are the documents to be maintained by registered person?

Ans-> Every registered person shall keep and maintain at his principal place of business a true and correct account of:

1. production or manufacture of goods;
2. inward and outward supply of goods or services or both;
3. stock of goods;
4. input tax credit availed;
5. output tax payable and paid; and,
6. any other document as may be prescribed

-> These records can be kept in electronic form.

-> If taxpayer makes supplies from different business places, then each business place should have its accounting records.

Q3. What is the threshold limit for the GST Audit?

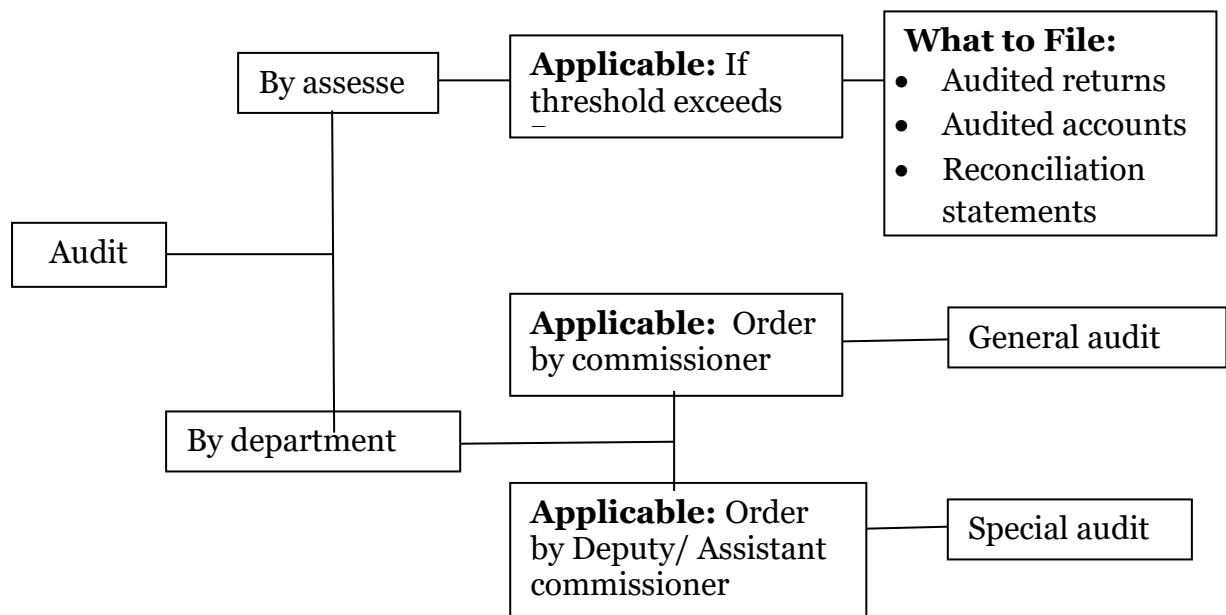
Ans- As per section 35(5), Every registered taxable person whose turnover during a financial year exceeds Rs 5 crore shall get his accounts audited by a chartered accountant or a cost accountant. He shall electronically file:

1. An annual return using the Form GSTR 9,
2. Audited annual accounts,
3. Reconciliation statement i.e, GSTR-9C,
4. Other particulars as prescribed

Q4. What are the types of Audit under GST?

Ans- There are three types of audit prescribed in the GST Act:

1. **Audit when turnover exceeds prescribed limit [section 35(5)]** – The section 35(5) stipulates that every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered Accountant or a cost accountant.
2. **Audit by tax authorities [section 65]**- The section 65 authorise the conduct of audit by the commissioner or any other officer authorized by him in respect of registered person. The audit may be conducted at the place of business of the registered person and/or in their office. For that purpose, a general or specific order is required by commissioner.
3. **Special audit [section 66]**- The section 66 facilitates the ranked officers to avail the services of a chartered accountant or cost accountant to conduct a detailed examination of specific areas of operations of a registered person. The audit conducted by such nominated chartered/ cost accountants, as per the provisions of section 66, is called as special audit.



Q5. what is the time limit for special audit?

Ans- The auditor will have to submit the report within 90 days, which on application by taxable person or by the auditor may be extended for further 90 days.

Q6. What are the findings of special audit?

Ans- The finding of special audit:

1. On principal of natural justice every taxable person will be given an opportunity of being heard in findings of the special audit.
2. If the audit results in detection of unpaid/shortpaid tax or wrong refund or input tax credit wrongly availed then demand and recovery actions will be initiated.

Q7. Explain the provisions of special audit.

Ans- If assistant commissioner is of the opinion, during any stage of scrutiny/enquiry/investigation that the value has not been correctly declared or the wrong credit has been availed, he may initiate special audit, considering the nature and complexity of the case and interest of revenue.

1. Special audit can be conducted irrespective of books that have already been audited before.
2. The assistant commissioner can order, in writing, for special audit with the prior approval of the commissioner.
3. Once a special audit has been ordered and directions are issued in FORM GST ADT-03 to the registered person, the nominated chartered accountant is required to carry out the same.

4. The special audit will be undertaken by a qualified CA (Chartered Accountant) or a (Cost & Management Accountant) nominated by the Commissioner.
5. The auditor appointed for conducting the special audit shall submit the report within 90 days. However, this period can be extended by the proper officer by a further period not exceeding 90 days on an application made by the registered person or the auditor.
6. The remuneration of the auditor (conducting the special audit) and the allied cost of the special audit will be determined and paid by the Commissioner.
7. The officer will give his direction in Form GST ADT-03 to the taxable person in this regard. Once the special audit is concluded, the taxable person shall be informed by the department about the findings of the **special audit** in FORM GST ADT-04.

Q8. What is the requirement of GST audit?

Ans- GST Audit is required for the following reasons-

1. GST is the self-assessment tax regime so GST audit is required for ensuring that tax payer has correctly assessed hi liability.
2. It involves examination and evaluation of records, GST returns and other related documents.
3. To obtain reasonable assurance and ensure that financial statements are free from any material misstatements.

Q9. What are the types of GST audit?

Ans- Under section 35 (5) of GST law, three types of GST audit is being specified-

Sr. No.	Name of Audit	Prescribed Authority	Condition
1.	Based on Turnover	Chartered Accountant/Cost Accountant	Turnover Exceeds Rs 5 Cr.
2.	General Audit	GST Commissioner or any other officer authorized by him	On order passed by Commissioner, giving prior notice of 15 days.
3.	Special Audit	Chartered Accountant/Cost Accountant nominated by Commissioner	On order passed by Deputy/Assistant Commissioner with prior permission of Commissioner.

Assessment

Q1. What do you understand by the term assessment? What does assessment include?

- Ans- 1. It is the process of determination of the tax liability of a taxpayer.
2. It is an integral part of GST as without assessment it is very much difficult to determine tax liability of a taxable person.
3. assessment includes the following:
- ❖ Whose liability is to be recorded.
 - ❖ Who has the Authority to make the assessment?
 - ❖ How should the tax liability be determined?
 - ❖ What procedure should be followed?

Q2. What are the different types of assessment?

Ans- To calculate the tax liability, different kinds of assessment prescribed under GST are as follows:

1. Self-assessment (Section – 59)
2. Provisional assessment (Section – 60)
3. Scrutiny assessment (Section – 61)
4. Assessment of non-filers of return (Section – 62)
5. Assessment of unregistered dealer (Section – 63)
6. Summary assessment in special cases (Section – 64)

Q3. What do you understand by the term self-assessment?

Ans- Self-assessment means an assessment by a taxable person himself. Every taxpayer shall himself assess the tax liability by utilizing available input credit and pay the balance amount and file tax return for each period. Proper officer has no role to play in this type of assessment. Self-assessment is the first stage for all assessments. The department shall accept such self-assessed returns and declarations, subject to scrutiny and other modes of assessment. The return is required to primarily contain inward supplies in Form GSTR 2, outward supplies in Form GSTR-1 of goods or services or both and summary of all Input Tax Credit, tax payable and tax paid in GSTR-3.

Q4. Under what circumstances Provisional assessment can be conducted and state its procedure?

Ans- Provisional assessment would be conducted on request of registered person in the following cases:

1. Unable to determine the value of goods or services or both.
2. Unable to determine the rate of tax applicable on the goods or services or both.

The procedure of provisional assessment is stated below:

1. Application shall be filed in Form GST ASMT-01 along with documents in support of paying tax on provisional basis.

2. Proper officer may issue notice in Form GST ASMT-02, requiring additional details.
3. Applicant will reply in GST ASMT -03.
4. Proper officer shall pass, within 90 days, an order in Form GST ASMT-04.
5. Proper officer may reject the application specifying ground of rejection.
6. Bond: If proper officer ask for bond or sureties, then applicant shall execute the bond in GST ASMT-05.
7. Form GST ASMT-06: Proper Officer shall issue a notice, calling for information and records for final assessment.
8. Form GST ASMT-07: The proper officer shall pass the final assessment order within six months from the date of passing the order, specifying the amount payable or refundable.
9. Provisional assessments will be followed by final assessments. The proper officer can ask for information before final assessment.

Time limit for final assessments

1. Final assessment will be done within 6 months of the provisional assessment.
2. This can be extended for 6 months by the Joint/Additional Commissioner. However, the Commissioner can extend it for further 4 years as he seems fit.

Interest on additional tax payable and refunds

1. If the tax as per final assessment is more than provisional assessment, then the taxable person will have to pay interest on tax payable. Interest period will be calculated from the day when tax was first due till the actual payment date, irrespective of payment being before or after final assessment. Rate of interest will be maximum 18% p.a.
2. If the tax as per final assessment is less than provisional assessment, then the taxable person will get a refund. He will also get interest on refund. Rate of interest will be maximum 6% p.a.

Q4. Explain the assessment conducted under Section 61.

Ans- Under section 61, scrutiny assessment is conducted to verify correctness of information furnished in the return. The proper officer can scrutinize return to verify correctness of the return and inform about any discrepancies noticed and seek explanations.

- ❖ If the explanations are satisfactory, no further actions shall be taken.
- ❖ If the explanations are unsatisfactory, proper officer has the authority to act if
 1. There is no satisfactory explanation within 30 days by the taxpayer
 2. The taxpayer does not rectify the discrepancies within the reasonable given time. Following actions can be taken:
 - ❖ Conduct audit of the taxpayer u/s 65
 - ❖ Start special audit procedure u/s 66
 - ❖ Inspect and search the places of business of the taxpayer
 - ❖ Start demand and recovery provisions
- ❖ The proper officer has power to notice a registered person in any discrepancies. Any shortfall will be notified by the Proper Officer in FORM GST ASMT-10 and assessee

must give reply in FORM GST ASMT-11 within 15 days from the date of scrutiny. The notice contains amount of tax, interest and any other amount of discrepancy.

Q5. Explain the assessment under section 62 and 63.

Ans. Assessment of non-filers of return (Section 62)

If a registered taxable person does not file his return even after getting a notice, the proper officer will assess the tax liability to the best of his judgement using the available relevant material.

Assessment of unregistered persons (Section 63)

In the following cases, officer may pass best judgment assessment within five years:

1. If a person who is liable to obtain the registration fails to obtain.
2. Person whose registration has been cancelled by officer but who is liable to pay tax.
3. The taxable person will receive a show cause notice and an opportunity of being heard.

The Procedure for assessment under section 63 is as follows:

Issue of Notice (GST ASMT-14)

- Step-1

Give 15 days time to reply

- Step-2

Pass the order (GST ASMT-15)

- Step-3

Q6. Explain summary assessment under section 64.

Ans- Summary Assessment is used in a tax legislation to denote “fast track assessment” based on return filed by the assessee. Summary assessment under CGST Act can therefore be construed in some sense as a ‘protective assessment’. This is done when proper officer believes some suspicious grounds for delay in filing returns which may impact the revenue. Proper officer passes summary assessment with the following conditions:

1. The proper officer must have evidence that there may be a tax liability.
2. The proper officer has obtained prior permission of Additional / Joint Commissioner to assess the tax liability summarily.
3. The proper officer must have sufficient ground to believe that any delay in passing assessment order would result in loss of revenue.
4. The summary assessment order should be in FORM GST ASMT-16. Person who is assessed may make an application in FORM GST ASMT-17 to the Additional / Joint Commissioner, which will then be examined and if

Additional/ Joint Commissioner is satisfied, the summary assessment order
will be withdrawn.

Procedure:

Proper officer issue order (GST ASMT-16)

- Step -1

Person may file GST ASMT-17 within 30 days for withdrawal

- Step-2

Application may be rejected or allowed by proper officer in GST ASMT-18

- Step -3

Taxability of E commerce

Q1. Is it mandatory for e-commerce operator to obtain registration? & Whether a supplier of goods/services supplying through e-commerce operator would be entitled to threshold exemption?

Ans- Every electronic commerce operator shall be required to take registration under GST i.e. no threshold exemption has been provided to the electronic commerce operator.

Every person who is supplying goods or services through electronic commerce operator shall be required to take registration under GST from his first rupee of supply i.e. no threshold exemption has been provided to them.

Q2. Who is an electronic commerce operator?

Ans- As per section 2(45) of CGST Act, 2017, Electronic Commerce Operator (ECO) means any person who owns, operates, or manages digital or electronic facility or platform for electronic commerce.

Ex:- Flipkart, Amazon, Paytm, Uber, Ola, Freecharge etc.

Q3. Who is an aggregator?

Ans- The latest model is known as aggregator or suppliers of goods and services. The person owning the site or platform displays the products/services of other persons. The payment is made to the site owner while the delivery of goods is directly provided by the seller to the buyer. The site owner makes the payment of the goods to the seller after deducting his margin or commission.

Q4. What are the different types of model in electronic commerce?

Ans- There are different types of model in electronic commerce; we have compiled here two important models as under:-

- ❖ **The traditional model** of online sale of goods or services or both which was displayed to the customer, wherein the customer could choose desired goods/services and make payment.
- ❖ The purchased goods/ services are then delivered to the customer.
- ❖ **The latest model** is known as aggregator or suppliers of goods and services.
- ❖ The person owning the site or platform displays the products/services of other persons. The payment is made to the site owner while the delivery of goods is directly provided by the seller to the buyer. The site owner makes the payment of the goods to the seller after deducting his margin or commission.

Q5. What is Tax Collection at Source for Ecommerce operator in GST(TCS)?

Ans- E-commerce operator is required to collect (i.e. deduct) an amount out of the consideration paid or payable to the actual supplier of goods or services in respect of supplies of goods and / or services made through such operator. The amount so deducted/collected is called as Tax Collection at Source (TCS).

Q6. At what time/intervals should the e-commerce operator make such deductions?

Ans- The timings for such collection/deduction are earlier of the two events:

1. At the time of credit of any amount to the account of the actual supplier of goods or services or both;
2. At the time of payment of any amount in cash or by any other mode to such supplier.

TCS which is deposited by the operator to government will be reflected in the cash ledger of the actual registered supplier (on whose account such collection has been made) on the basis of the statement filed by the operator. The same can be used at the time of discharge of tax liability in respect of the supplies by the actual supplier.

Q7. How can actual suppliers claim credit of this TCS?

Or

What is the concept of matching in e-commerce provisions and how it is going to work?

Ans- Supplier can claim the Credit of TCS in the following manner:

1. The amount of TCS paid by the operator to the government will be reflected in the electronic cash ledger of the actual registered supplier (on whose account such collection has been made) based on the statement filed by the operator.
2. The same can be used at the time of discharge of tax liability in respect of the supplies made by the actual supplier.
3. The details of supplies furnished by every operator in his statement for the month will be matched with the corresponding details of outward supplies furnished by the concerned supplier in his valid return for the same month or any preceding month.
4. Where the details of outward supplies declared by the operator in his statement do not match with the corresponding details declared by the supplier, the discrepancy shall be communicated to both persons.
5. The amount in respect of which any discrepancy is communicated and which is not rectified by the supplier in his valid return or the operator in his statement for the month in which discrepancy is communicated shall be added to the output liability of the said supplier in his return for the month succeeding the month in which the discrepancy is communicated.
6. The concerned supplier in whose output tax liability any amount has been added, shall be liable to pay the same in respect of such supply along with interest on the amount so added from the date such tax was due till the date of its payment.

Q8. Is the e-commerce operator required to submit any statement? What are the details that are required to be submitted in the statement?

Ans- Every electronic commerce operator shall furnish a statement containing the details of outward supplies of goods or services including the supplies of goods or services returned and the detail of tax collected at source during the month within 10 days from the end of the month.

Q9. Will an e-commerce operator be liable to pay tax in respect of supply of goods or services made through it, instead of actual supplier?

Ans- Yes, electronic commerce operator shall discharge GST on the commission or margin earned by him. Moreover, they are also required to pay GST on specified categories of services which is notified under section 8(4)

Q10. Who will levy tax on supplies effected made through electronic commerce?

Ans- Person who supplies goods or services through electronic commerce operator shall levy GST on all supplies effected through electronic commerce. However, central government or state government specify the categories of services under section 8(4) on which tax shall be paid by electronic commerce operator not the person who supplies goods or services through electronic commerce.

Q11. What are the types of e-commerce sellers?

Ans- There are 2 types of e-commerce sellers:

1. **E-commerce operator/ marketplace (e.g. Flipkart, Amazon etc):** It is an entity which owns, operates or manages digital or electronic facility or platform for e-commerce.
2. **Suppliers on E-commerce platform:** It is an entity which supplies goods or services on/through an e-commerce platform.

Q12. Is e-commerce operator or suppliers on e-commerce platform eligible to get registration under composition scheme?

Ans-

1. E-commerce operators are not allowed to register under the composition scheme.
2. If the person's aggregate turnover does not cross Rs. 1.5 cr, he/she does not have the option to become a composition tax payer as they are using e-commerce operator platform. In other words, person who supplies goods or services through an e-commerce operator **will not be eligible for registration under composition scheme.**

Anti-profiteering Clause

Q1. What is the meaning of anti-profiteering?

Ans- GST is expected to bring benefit to businesses by way of increased credits and elimination of cascading effect, that is, tax on tax.

The anti-profiteering provisions provide that 'any reduction in rate of tax, any supply of goods or services or the benefit of input tax credit shall be passed on by way of commensurate reduction in prices

Clause 171 has been inserted in CGST Act, which provides that it is mandatory to pass on the benefit due to reduction in rate of tax or from input tax credit to the consumer by way of commensurate reduction in prices.

Q2 Write a short note on Anti-profiteering Authority (APA)

Ans- Government has notified Anti-Profiteering Authority (APA) which will check any undue increase in prices of products of companies under GST.

1. APA will work to check any undue increase in prices of products by suppliers under GST regime.
2. It will work in a three-tier structure- a Standing Committee on anti-profiteering as well as State-level Screening Committees.
3. National Anti-Profiteering Authority would consist of five members, including a Chairman. The four technical members other than the chairman should have been the Commissioner of State Tax or Central Tax or have held the equivalent post under previous law

Q3. What are the functionalities of APA?

Ans-

1. Does not cover state of J and K
2. Director General of Safeguards shall be secretary to the authority
3. To determine methodology and procedure
4. Cooperation with other agencies (income tax, police, revenue and intelligence)
5. Power to summon
6. Order monitoring by IGST / SGST / CGST authority
7. Tenure of 2 years

Q4. What are the duties and power of APA?

Ans- The duties and power of APA include-

1. Determine whether the reduction in tax rate or the benefit of input tax credit has been passed on by the seller to the buyer by reducing the prices.
2. Identify the taxpayer who has not passed on the benefit
3. Authority will exist for 4 years from the date on which the Chairman enters upon his office unless the Council recommends otherwise.

4. The orders passed by the APA shall follow the principles of natural justice and as such, opportunity of being heard shall be provided.
5. The rules are silent on further appeal against orders of APA. Nor does it stipulate that such orders shall be final.
6. It provides that orders passed by APA have to be complied with immediately by the registered person.
7. To furnish a performance report to the Council by the tenth day of the close of each quarter.
8. APA can order price reduction, refund of profit, recovery, imposition of penalty or even cancellation of GST registration.
- 9.

Q4. What is the time limit of passing an order of APA?

Ans- The Authority will pass order within 3 months from the date of the receipt of the report and such period may further be extended by 3 months.

However, earlier the extension was allowed, with reasons recorded in writing, by the Standing Committee but now the extension can only be allowed by the Authority. [Vide Notification no. 14/2018- Central Tax dated 23-03-2018]

Q5. What are the eligibility criteria for chairman and members of the authority?

Ans- Council will constitute a Standing Committee and a state level Screening Committee on Anti-profiteering.

1. Chairman and Members of the Authority will be appointed by Central Government on the recommendations of a selection committee.
2. Chairman shall be paid a monthly salary of Rs. 2,25,000 (fixed) and other allowances and benefits if a retired officer is selected as a Chairman, he will receive a monthly salary of Rs. 2,25,000 minus amount of pension.
3. Technical member shall be paid a monthly salary of Rs. 2,05,400 (fixed) and along with allowances of a group 'A' officer. A retired person will have his monthly salary equal to his last drawn salary reduced by the pension amount.
4. The Chairman and technical members will hold office for two years from the date on which he enters upon his office, or until he becomes 65 years old. He will be eligible for reappointment.
5. A person cannot be a Chairman if he is 62 years or above.
6. Council will constitute a Standing Committee and a state level Screening Committee on Anti-profiteering.
7. No officer below the rank of Additional Commissioner shall be the secretary to the authority. [Vide Notification no. 14/2018- Central Tax dt. 23-03-2018]

Q6. What are the problems in implementation of anti-profiteering clause?

Ans-

1. No clear cut mechanism for determining anti-profiteering
2. Rules only outline the procedure to be followed for investigation and enquiry

3. Discretionary powers to bureaucracy to arrive at commensurate reduction
under the CGST Act.

4. Vulnerable to legal challenge questioning 'excessive delegation' by Parliament.
5. No clarity on whether de-registered firms can re-commence business.

Q7. What are some of the instances in which the statutory provisions of antiprofitteering will kick in?

Ans- The different situations in which Section 171 of CGST Act, 2017 & the identical provision in State/ UT GST Act will get attracted include:

1. reduction in tax rate;
2. benefit of Input Tax Credit (ITC) available to the registered person/ supplier.

Q8. In cases of profiteering in the name of GST, what is the complaint redressal mechanism available to the consumer?

Ans- The CGST Act, SGST Acts & the CGST/ SGST Rules framed thereunder provide for the following complaint redressal mechanism-

1. The aggrieved persons may file an application, in the prescribed format, before the Standing Committee on Anti-profitteering or before the State Level Screening Committee. (If the issue involved is of local nature).
2. The State Level Screening Committee constituted in every State/UT with legislature examines it & forwards it to the Standing Committee constituted at the national level, if a prima facie case of profiteering is made out against the registered person.
3. Thereafter, the Standing Committee shall refer the matter to the Director General of Anti-Profitteering (erstwhile DG, Safeguards) for a detailed investigation, if prima facie evidence of profiteering exists.
4. The DG, Anti-Profitteering shall conduct the investigation and submit its report to the National Anti-Profitteering Authority (NAA) constituted by the Central Government under section 171 (2) of the CGST Act, 2017 for taking appropriate action

Q9. What is the methodology to identify cases of profiteering?

Ans- Rule 126 of the CGST Rules, 2017 vests the power to determine the methodology & procedure with the National Anti-Profitteering Authority constituted by the Central Government under Section 171 (2) of the CGST Act, 2017. The guiding principle mentioned in the said Rule states that the reduction in tax rate on supply of goods or services or benefit of input tax credit has to be passed on to the recipient by way of commensurate reduction in prices. The methodology and procedure adopted to identify cases of profiteering may vary from case to case, depending upon the facts of the case and the nature of goods or services supplied.

Avoidance of Dual control

Q1. What is dual control and what is the possible issue in dual control and its solution?

Ans- A taxable person should be under one authority-either center or state. Thus, principle of taxable persons having multi-state businesses, they may be assessed by state government authorities in some states and by central government authorities in some other states. Thus, persons having multi-state businesses (including telecom, insurance) and those predominantly will lead to different authorities taking different view on same transaction.

1. In order to mitigate the problems faced by taxpayers for adhering to compliance in GST environment and safeguarding them from undue harassment having to deal with two administrative bureaucracies for the same tax, GST council was effortful to bring both centre and state governments on attaining consensus on the vexed issue of cross – empowerment.
2. The solution was achieved in the form of dual GST model as India is a federal country. In other words, centre accommodated states on administration issues, revenue sharing on percentage basis, rights of taxation in high seas.

Q2. Describe the turnover based method agreed by central and state government to avoid the dual control?

Ans- The win-win formula was devised as under:

1. States to oversee administration or undertake scrutiny and audit of 90% of taxpayers with a turnover under Rs 1.5 crore, with the remaining 10% under the Centre's purview but the procedure of such division of taxpayers is not yet clarified.
2. For entities with a turnover of over Rs 1.5 crore, centre and the states will share control equally.
3. Administration of IGST to be on the same basis as defined above.
4. States will have right to tax on economic activity up-to 12 nautical miles in the sea.

E-way Bill

Q1. What is an E-way bill?

Ans- E-way bill is an electronic way bill for movement of goods which can be generated on the GSTN (common portal). Movement of goods of more than Rs. 50,000 in value cannot be made by a registered person without an e-way bill. The document is required to be generated online for transport of goods irrespective of movement being inter-state or intra-state. Following key points must be noted:

1. Mandatory generation of E-way bill:
 - For inter-state movement: w.e.f from 1st April, 2018
 - For intra-state movement: All states except Delhi w.e.f. 03rd June, 2018 (In Delhi w.e.f. 16th June,2018).
2. The official website for generation of E-Way bills is www.ewaybillgst.gov.in.
3. E-way bill can also be generated or cancelled through SMS.
4. When an E-way bill is generated a unique E-way bill number (EBN) is allocated and is available to the supplier, recipient, and the transporter.

Q2. State the list of goods on which an E-way bill is not required?

Ans- Following is the list of goods on which e-way bill is not required:

1. Where the goods being transported are specified in notification 27/2017 dated 30th August,2017;
2. Where the goods being transported are exempted under notification no. 7/2017 – Central Tax (rate) dated 28th June, 2017.
3. Transportation of goods including Liquefied petroleum gas for supply to household and non domestic exempted category (NDEC) customers, Jewellery, goldsmiths' and silversmiths' wares and other articles, Kerosene, Used personal and household effects etc
4. Where the goods are being transported by a non-motorised conveyance
5. Goods being transported are alcoholic liquor for human consumption, petroleum crude, high-speed diesel, petrol, natural gas or aviation turbine fuel.
6. Goods being transported are not treated as supply under Schedule III of the Act.
7. Where the goods are being transported from the port, airport, air cargo complex and land customs station to an inland container depot(ICD) or a container freight station (CFS) for clearance by customs or from ICD or CFS to a customs port, airport, air cargo etc. under
8. From one customs port/station to another one under customs bond
9. Goods transported under the customs supervision or customs seal.
10. In respect of movement of goods within such areas as are notified under clause (d) of sub-rule (14) of rule 138 of the Goods and Services Tax Rules of the concerned State.

11. Where the goods being transported are transit cargo from or to Nepal or Bhutan.

12. Any movement of goods caused by defence formation under Ministry of defence as a consignor or consignee.
13. Where the consignor of goods is the Central Government, Government of any State or a local authority for transport of goods by rail.
14. Where empty cargo containers are being transported.
15. Where the goods are being transported up-to a distance of twenty kilometres from the place of the business of the consignor to a weighbridge for weighment or from the weighbridge back to the place of the business of the said consignor subject to the condition that the movement of goods is accompanied by a delivery challan issued in accordance with rule 55.
16. Where empty cylinders for packing of liquefied petroleum gas are being moved for reasons other than supply.

Q3. Describe the procedure as to how one can generate an E-way bill?

Ans-To generate GST E-way bill, the person initiating the transport must provide details of the goods being transported on the GST common portal. GST E-way bill can be generated from the GST portal of the taxpayer by logging into their GST account. The following details must be provided in GST EWB-01 for generating GST E-Way bill on GST Portal:

The bill comprises of 2 parts – Part A and Part B.

- 1) Part A of the form is to collect the details of the consignment, usually about the invoice.
 - i) GSTIN of Recipient: The recipient of the goods needs to provide the GST Identification No.
 - ii) Place of Delivery: The Pin Code of the place where goods are to be delivered needs to be filled in.
 - iii) Invoice or Challan Number: The Invoice or Challan number of the supplied goods, needs to be filled in.
 - iv) Value of Goods: The total consignment value of the goods.
 - v) HSN Code: The HSN (Harmonized System of Nomenclature) code of the transported goods is required. If the turnover is up to INR 5 crores, then the first two digits need to be mentioned. For a turnover more than INR 5 crores, four digits of HSN code are required.
 - vi) Reason for Transportation: One needs to select the most appropriate option from the list of reasons which is pre-defined.
 - vii) Transport Document Number: One needs to enter the Goods Receipt Number/ Railway Receipt Number/ Airway Bill Number/ Bill of Loading Number.
- 2) In Part B of this form, one needs to fill in the vehicle number of the transported goods. The transporter will complete this information in the common portal.

Q4. What is the Validity of GST an E-way bill?

Ans-The Validity of E Way Bill is depends upon 2 factors i.e. Cargo Type and Distance

- 1) In Case of Normal Cargo:-
 - i) Up to 100 KM-1 Day
 - ii) After that for every 100 KM or Part thereof-1 Day
- 2) In Case of Over Dimensional Cargo:-
 - i) Up to 20 KM-1 Day
 - ii) After that for every 20 KM or part thereof-1 Day

Q5. How can we cancel an E-way bill?

Ans- Generated E-way bill can be cancelled within 24 hours due to non-transportation or modification in consignment. However, an E-Way Bill cannot be cancelled if it has been verified by in transit by the commissioner or an officer empowered by him in this behalf.

Q6. Who can we generate an E-way bill?

Ans- E-way bill must be generated when there is movement of goods of more than Rs. 50,000 in value to or from a registered person. A registered person or the transporter may voluntarily choose to generate and carry e-way bill even if the value of goods is less than Rs. 50,000.

Unregistered person or their transporters may also choose to generate an e-way bill. This means that an e-way bill can be generated by both registered and unregistered person. However, where a supply is made by an unregistered person to a registered person, the receiver will have to ensure that all the compliances are met as if they were the supplier.

Q7. How can validity of an E-way bill be extended?

Ans-Extension of Validity of E-way Bill can be done in following 2 Ways.

- 1) The Commissioner can extend the validity period of GST e-way bill through issue of notification for certain categories of goods alone however, this extension only given in rare circumstances.
- 2) E Way Bill generator can take a extension in case the goods cannot be transported within the validity period of the e-way bill, the transporter can produce another e-way bill for the same consignment after updating the details in the "Part B" section of form "GST EWB-01"

Q8. State the provisions for acceptance and rejection of an e-way bill

Ans-

- 1) On the common portal, and the supplier or the recipient, as the case may be, shall communicate his acceptance or rejection of the consignment covered by the e-way bill.
- 2) Where the person to whom the information specified has been made available does not communicate his acceptance or rejection within 72 hours of the details being made available to him on the common portal, or the time of delivery of goods whichever is earlier, it shall be deemed that he has accepted the said details.

Q9. Who is required to generate an E-way bill?

Ans- Following person is required to generate E-way bill:

- 1) Consignor is required to generate e-way bill before movement of goods.
- 2) Consignee is required to generate, if consignor is unregistered.
- 3) Transporter on authorization received from the registered person.
- 4) E Commerce operator on authorization received from the consignor.
- 5) Courier Agency on authorization received from the consignor.
- 6) Job worker (if registered) for interstate movement.
- 7) A person (though exempted from registration under sec 24 of CGST Act 2017) causing movement of handicraft goods.

Q10. How consignment Value can be calculated for an E-way bill generation?

Ans- Following items are included or excluded for computation of consignment value:

- 1) Consignment value includes CGST, SGST, IGST and cess, if any.
- 2) It shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods. (Explanation 2 to Rule 138(1) of CGST Rules).
- 3) In case of material sent for job work, the value should be total value of goods. When goods are returned after job work, the value should be inclusive of value of goods
- 4) In case of equipment sent for leasing, value of equipment should be full value & not merely leasing charges

Zero Rated Supply

Q1. What is the meaning of Zero-Rated Supply?

Ans- Zero rated supply means any of the following taxable supply of goods or services or both, namely-Export of goods or services or both; or Supply of goods or services or both to a SEZ developer or an SEZ unit.

The meaning of zero-rated supply is very restricted and limited to normal exports and supply to SEZ or SEZ developer. The supplies made to EOUs, EHTP, STP etc are not covered under the concept of zero-rated supply.

Provisions relating to GST:

1. GST is not applicable in India for exports. Hence, all export supplies of a taxpayer registered under GST would be classified as zero- rated supply.
2. Credit of input tax may be availed for making zero rated supplies notwithstanding that such supply may be an exempt supply.

Q2. Define the following terms- Zero Rated, NIL, Exempted and Non-GST Supply

Ans- Above mentioned terms are defined as below:

1. Nil Rate

This type of supply attracts a GST of 0%. Input tax credit cannot be claimed on such supplies. Some items which are nil rated include grains, salt, jaggery, etc.

2. Exempted

This supply includes items which are used for everyday purposes. Since they are essentials, they do not attract any GST at all. You will not be able to claim any ITC on such supplies. Some examples are, bread, fresh fruits, milk, curd, etc.

3. Zero-Rated

Supplies made overseas and to Special Economic Zones (SEZs) or SEZ Developers come under the zero-rated supplies. This supply attracts a GST of 0%. For such supplies, the ITC can be claimed.

4. Non-GST

Supplies which don't come under the scope of the GST are termed as Non-GST supplies. However, they might attract other applicable taxes which are as per the jurisdiction of the state or the country other than the GST. Some examples of such supplies include petrol, alcohol, etc.

Q3. As exports are zero rated supply, the supplier will be eligible to claim input tax credit, even though they might be non-taxable or even exempt supplies? Please explain if the statement is correct.

Ans-

1. The input tax credit is available for zero- rated supplies.

2. This means that export without payment of tax and supply to SEZ will be considered as zero-rated supply and credit will be available.
3. Consequently, there will be no requirement to reverse credit even when the supplies are made without payment of tax in cases of exports and supply made to SEZ.

Q4. Whether Zero rated supply shall be eligible for refund under GST?

Ans- As exports are zero-rated supply, the supplier will be eligible to claim input tax credit in respect of goods or services used for the supplies even though they might be non-taxable or even exempt supplies.

To claim GST refund for exports, the taxpayer can export under bond or LUT and claim refund of unutilised ITC or export on payment of IGST and claim refund of IGST paid on export.

Offences and Penalties

Q1. What are the offences prescribed under section 122(1)?

Ans- There are 21 offences prescribed under this section on which penalty shall be levied. These offences are, where the person who—

Clause	Offence	Example
(i)	Invoice not issued or incorrect invoice issued	Quantity and rate not mentioned in invoice.
(ii)	Issued invoice or bill of supply without actual supply	Issued an invoice to person to whom no supplies are made.
(iii)	Fails to deposit the amount collected as tax within three months.	Collected 28% tax from customer instead of 18% and fails to deposit such excess deducted tax to the Government.
(iv)	Fails to deposit tax collected in contravention of this Act	The person opted for composition scheme charged tax from its customer.
(v)	TDS not deducted or not deposited	A person deducted tax under section 51 but fails to deposit the same.
(vi)	TCS not collected or not deposited	A person fails to collect the tax as specified under section 52.
(vii)	Claimed ITC without receipt of supply	A person claimed ITC on possession of invoice but the supply has not been received.
(viii)	Obtains refund fraudulently	A person claimed the refund of ITC on basis of wrong export documents which do not meet the conditions of export.
(ix)	Wrongly takes or distributes the ITC as an ISD	A person registered as ISD distributed amount of credit in excess of ITC available.
(x)	Produce or furnish any false information/return or fake accounts/documents	A person produces fake invoices for claiming ITC.
(xi)	Fails to obtain registration	A person making interstate taxable supplies fails to get registration.
(xii)	Furnished false details in registration or amendment thereof	A person provides wrong information while filing application for registration.
(xiii)	Obstructs or prevents any officer in discharge of his duties	A person obstructs any officer to having legal notice to conduct search
(xiv)	Transports goods without any documents	A person transporting the goods without delivery challan in case of supply to job worker.

(xv)	Suppression of turnover	A person has not shown some sale transactions to avoid tax
(xvi)	Fails to maintain or retain books of accounts	A person fails to retail the accounts and record for a specified period
(xvii)	Fails to furnish any information or furnishing any incorrect information	A person fails to furnish any document called for by the officer during proceedings.
(xviii)	Supplies, transports or store the goods liable for confiscation	A storekeeper stores the goods of other person in his warehouse which he knew were liable to be confiscated.
(xix)	Has issued an invoice under the GSTIN of other person	A person has mentioned the GSTIN of any other person as supplier.
(xx)	Destroys or tampers any evidence or documents	A person tampers with the invoices marked as evidence by the officer during inspection.
(xxi)	Disposes off or tampers the goods which are detained, seized or attached and not released	Where a person deals with the goods for which notice of attachment has been issued to the person.

Q2. What shall be the penalty in case of offences made under section 122(1)?

Ans- in case of offences made under section 122(1), he shall be liable to pay the penalty of an amount equivalent to the higher of the (a) and (b):

- (a) Ten thousand rupees, or
- (b) As the case may be, an amount equivalent to-
 - ❖ Amount of tax not deducted or short deducted under section 51 or deducted but not paid,
 - ❖ Amount of tax not collected or short collected under section 52 or collected but not paid,
 - ❖ Amount of tax evaded,
 - ❖ Amount of refund claimed by reason of fraud,
 - ❖ Amount of ITC wrongly availed or passed or distributed.

Q3. What shall be penalty imposed on tax not/ short paid or erroneously refunded?

Ans- Penalties in respect of tax not paid or short paid or an amount is erroneously refunded or ITC is availed or utilized in excess of ITC available to such person and these penalties are already mentioned in Section 73 and Section 74 which are discussed in chapter of "Demand and Recovery".

Tax not/short paid or erroneously refunded or ITC wrongly availed or utilized:

Reason	Penalty
For the reason other than fraud	Rs. 10,000/- Or 10% of amount of tax due
For the reason of fraud	Rs. 10,000/- Or 100% of amount of tax due

Whichever is

Whichever is

Q4. What shall be the offences under section 122(3) and penalty on the same?

Ans- In case where a person who:

- (a) Encourages or parts with in connivance with any person in offences specified in clause (i) to (xxi) of sub-section (1), or
- (b) Get the possession of goods or involves himself in storage, transportation or removal, depositing, keeping, concealing, supplying, or purchasing or in any other manner dealing with any goods which he knows or has reason to believe are liable for confiscation, or
- (c) Receives or supplies any services which he knows or has reasons to believe are in contravention to the act and rules made there under, or
- (d) Fails to appear before any officer in the act in response to summon raised by the officer to give evidence or produce a document in an inquiry,
- (e) Fails to issue or account for in the books a proper invoice as per the provisions and rules made there under,

Shall be liable to pay the penalty **not exceeding Rs. 25,000/-**

Q5. What shall be the Penalty for not filing of specified returns and reports ?

Ans- There are some specified returns which are needed to be filed by specific person only to such authority as recommended, in case of such failure following **penalty shall be applicable:**

Specified Return	Section	Penalty
Information Return under section 150	123	Rs. 100 per day for the period of such failure Or Rs. 5,000/- Whichever is Higher.
Statistics report under section 151	124	For furnishing false statement penalty will be Rs. 10,000/- For late filing of report: Rs. 100 per day for the period of such failure

		Or Rs. 25,000/- Whichever is Higher.
--	--	--

Q6. What are the general disciplines of imposing penalty?

Ans- As per section 126, the general disciplines of imposing penalty is as follows:

❖ **Minor rectifiable mistakes**

The officer shall not impose any penalty on any person who:

- (a) Involved in **minor breaches** of regulations, documents, procedural requirements or any particular,
- (b) Has made any **omission or mistake** in documents which is **easily rectifiable**,

Provided that such breach or mistakes are not made with an intention of fraud and gross negligence.

Explanations:

- (a) Minor breaches means the breach in which amount of tax involved is less than Rs.5,000/-.
- (b) Omission or mistake shall be considered as easily rectifiable if such error is apparent on the face of record.

❖ **Severity of the breach**

The imposition of the penalty shall depend upon the degree of breach involved where the facts and circumstances are not too severe to impose the penalty then no penalty shall be imposed on such person.

❖ **Opportunity of being heard**

Every person liable to penalty shall be provided with an opportunity of hearing.

❖ **Speaking order**

The officer shall pass a speaking order for imposing any penalty for breach of any law, regulation or procedural requirement and the order must be speaking in respect to:

- (a) Nature of breach of applicable law, regulation or procedure, and
- (b) Amount of penalty involved.

❖ **Voluntary disclosure of breach**

Voluntary disclosure by the person, before noticed by the officer, in facts and circumstances of breach of law, regulation or procedural requirements may be considered as mitigating factor by the officer for quantifying the penalty. So, where a person himself discloses the breach then officer may impose lesser penalty on him.

❖ **Non availability of benefits**

Provisions for imposing lesser penalty whether on the basis of severity of breach or voluntary disclosure of the fact by person shall not apply where the amount of penalty is specified under the act as a fixed amount or as a fixed percentage.

Q7. what is the general penalty ?

Ans- As per section 125, in case a person contravenes any provision of the Act or rules made there under, for which no penalty has been specified in the act separately, he shall be liable to a penalty up to Rs. 25,000/-.

For Example: Penalty for issuing the tax invoice after the last date of issuing a tax invoice is not mentioned anywhere in the act. Therefore, penalty for the same shall be upto Rs. 25,000 under this section.

Q8. What is demand order?

Ans- As per section 127, a person on which penalty is leviable and the same is not provided for in assessment proceedings, determination of tax proceedings, penalty for detention and seizure and penalty for confiscation then the officer may issue him an order to levy such penalty after giving him the opportunity of hearing.

Q9. Who has the power to waive of the penalty or fee both?

Ans- The government has power to waive penalty or part thereof imposed in section 122 or section 123 or section 125 and any late fee payable under section 47 for a particular class of taxpayer and for such mitigating factors as will be notified by the government.

Q10. Under what circumstances, the detention of goods or conveyance can be made?

Ans- In case where a person is transporting any goods or stores the goods in transit in contravention to the provision of the act or rules then such goods and vehicle carrying such goods along with the documents of such goods and vehicles shall be liable to detention and seizure.

Q11. What is the amount which must be paid in order to get detained goods or vehicles released?

Ans- The goods and vehicles so detained shall be released on payment or on furnishing the security equivalent to:

- (a) Where the owner of the goods comes forward for payment of such tax and penalty-
 - ❖ The amount of applicable tax and penalty equal to 100% of the **tax payable** and
 - ❖ In case of exempted goods, on payment of an amount equal to 2% of the **value of goods** or Rs. 25,000/-, whichever is less.

(b) Where the owner of the goods does not come forward for payment of such tax and penalty-

- ❖ The applicable tax and penalty equal to the 50% of the value of the goods **reduced by** the tax amount paid thereon, and
- ❖ In case of exempted goods, on payment of an amount equal to 5% of the **value of goods** or Rs. 25,000/-, whichever is less.

(c) Provided that before such detention order shall be served on person doing the transportation of goods.

Q11. Under what circumstances seized goods are returned to the person from whom such goods are seized?

Ans- the goods or vehicle are seized and no notice has been served in respect thereof within six months then such goods or vehicle shall be returned to the person from whom such goods were seized. Such period of six months may be extended by the officer on sufficient cause shown to him.

Q12. What are legal proceedings in case Detention, seizure and release of goods and conveyances in transit?

Ans- Under section 129, In case where a person is transporting any goods or stores the goods in transit in contravention to the provision of the act or rules then such goods and vehicle carrying such goods along with the documents of such goods and vehicles shall be liable to detention and seizure.

- On detention or seizure of goods or vehicle so seized, the proper officer shall issue the notice for tax and penalty payable and later on shall pass the order for the payment of tax and penalty levied under this section. However, opportunity of hearing shall be provided to the concerned person before determining any tax, interest or penalty.
- All proceedings in respect of the notice served under this section shall be deemed to be concluded on payment of amount specified in the notice.
- In case the transporter or the owner of the goods fails to pay the amount of tax and penalty as specified in this section within a period of fourteen days from the detention or seizure of the goods and vehicle then further proceedings in respect to confiscation shall be initiated under the provisions of section 130.
- The period of fourteen days may be reduced by the proper officer in case where the goods so detained or seized are perishable or hazardous in nature or are highly depreciable in nature.

Q13. What are the offences punishable with imprisonment and penalty thereof?

Ans- Under section 132, In case where a person commits any of the following offences, namely:-

- (a) Has not issued any invoice or issued a false or incorrect invoice in respect to any supply,

- (b) Has issued an invoice or bill of supply without actual supply has been made in violation of the provisions of the Act or rules resulted in wrong availment or utilization of input tax or refund,
- (c) Has availed any input tax on the basis of invoices or bills mentioned in sub-clause (b)
- (d) Has charged any amount in excess of tax but fails to pay the same to the government beyond the period of three months from the due date of payment of such tax,
- (e) Has fraudulently avails input tax credit or obtains refund for the reasons other than clause (a) to (d),
- (f) Produce or furnish any false information or return or fake accounts or documents with the intention to evade the payment of tax,
- (g) Obstructs or prevents any officer in discharge of his duties under this Act,
- (h) Get the possession of goods or involves himself in storage, transportation or removal, depositing, keeping, concealing, supplying, or purchasing or in any other manner dealing with any goods which he knows or has reason to believe are liable for confiscation,
- (i) Receives or supply any services which he knows or has reason to believe are in contravention to the act and rules made there under,
- (j) Destroys or tamper any evidence or documents,
- (k) Fails to provide any information or provide any false information which he required to provide under this act or rules there under,
- (l) Attempts to commit or parts with in connivance with the any other person in any offence mentioned above.

Shall be punishable with—

- (i) Fine and imprisonment for a term not exceeding 5 Years where the amount of tax evaded or amount of ITC wrongly claimed or utilised or the amount of refund fraudulently obtained exceeds five crore rupees.
- (ii) Fine and imprisonment for a term not exceeding 3 Years where the amount of tax evaded or amount of ITC wrongly claimed or utilised or the amount of refund fraudulently obtained exceeds two crore rupees but does not exceed five crore rupees.
- (iii) Fine and imprisonment for a term not exceeding 1 Year where the amount of tax evaded or amount of ITC wrongly claimed or utilised or the amount of refund fraudulently obtained exceeds one crore rupees but does not exceed two crore rupees.
- (iv) In case where a person commits or abets with a person in any fraud mentioned in sub clause (f) or sub clause (g) or sub clause (j) above then he shall be punishable with imprisonment for a term not exceeding 6 months or fine or both.

Minimum period of imprisonment

The period of imprisonment specified in case of offences given in clauses (i), (ii) and (iii) of sub-section (1) and sub-section (2) shall not be less than a term of six months unless any special and adequate reason are not produced by such person in the court.

Q14. What are Cognizable and non-cognizable offences?

Ans- An offence shall be a cognizable and non-bailable offence if the amount of tax evaded or the amount of input tax credit wrongly availed or utilized or the amount of refund wrongly taken exceeds five hundred lakh rupees for the offence where a person:

- (a) Has not issued any invoice or issued a false or incorrect invoice in respect to any supply,
- (b) Has issued an invoice or bill of supply without actual supply has been made in violation of the provisions of the act or rules resulted in wrong availment or utilization of input tax or refund,
- (c) Has availed any input tax on the basis of invoices or bills mentioned in sub-clause (b)
- (d) Has charged any amount in excess of tax but fails to pay the same to the government beyond the period of three months from the due date of payment of such tax

All other offences shall be non-cognizable and bailable offences.

Q15. What shall be the consequence of Repetition of offences under section 132?

Ans- If a person commits any of the offence under this section, repeats such offence or commits any other offence under this section then he shall be punishable with an imprisonment for term of 5 years with a fine for every subsequent offence.

Q16. What is the liability of officers and certain other person under section 133 in case of following:

- a. Disclosure of sensitive information
- b. Sanction for prosecution
- c. Cognizance of offences [Section 134]

Ans a. **Disclosure of sensitive information**

In case where a person is:

- (a) An officer engaged in collection of statistics under this act, or
- (b) Engaged in compilation or having access to information technology, or
- (c) An officer and is in possession of any information in respect to statistics, or
- (d) A person who is engaged in providing service on common portal,

Discloses any information or particulars of any return filed on common portal for a reason other than to meet his duties under this section or where such information is required in prosecution for an offence under this act or any other act then he shall be punishable with imprisonment for a term not exceeding 6 months or fine up to Rs. 25,000/- or both.

- b. **Sanction for prosecution**

No person shall be prosecuted for any offences made under this section without the prior sanction of the government if such person is a government servant. In any other case a prior sanction of the commissioner shall be required.

- c. **Cognizance of offences [Section 134]**

Every offence committed under this act or rules there under shall be judged by the court not lower than the court of a first class Magistrate and the sanction of the commissioner shall be mandatorily required before taking cognizance by the court.

Q17. What is the presumption made by the court for any offence?

Ans- As per section 135, Any proceedings for an offence under this act which require a culpable mental state on the part of person alleged with such offence and the court shall presume such mental state of the accused. If a person had no such mental state in respect to charges on him then the onus to prove the facts of the same shall lie with such person.

Explanation-

For the purposes of this section–

- (i) “Culpable mental state” includes intention, motive, knowledge of a fact, and belief in a fact, or reason to believe a fact,
- (ii) A fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

Q18. State the relevance of documented records.

Ans- As per section 136, In case where a statement is recorded by the officer at the time of inquiry or investigation proceedings and get it signed by the person during his appearance in response to summon made on him during such investigation then such statement shall be relevant and shall deemed to be true to prove the fact in prosecution where-

- (a) The person who signed such statement has died or cannot be found, or is not capable to give evidences, his presence is prevented by the adverse party, or the delay in his presence will cause any adverse impact or such circumstances which the court considers unreasonable,
- (b) The person who signed such statement has witnessed his presence during prosecution and the court has reason to believe that such statement can be accepted as an evidence for the justice.

Q19. Write a short note on compounding of offences?

Ans- As per section 138, A person alleged with offences may, either before or after the initiation of prosecution, furnish an application of compounding to the commissioner in **Form GST CPD-01**. On payment of tax, interest and penalty along with the compounding fee by the accused person to the appropriate government, the commissioner may, after examination of such application, grant him the immunity from the prosecution.

The commissioner shall not grant the immunity to a person where-

- (a) Such person has already took the benefit of compounding in respect of an offence specified in clauses (a) to clause (f) or clause (l) of section 132(1),

- (b) Such person has already took the benefit of compounding in respect of an offence under CGST or SGST or UTGST or IGST Acts other than specified in clause (a) of this act and the value of supplies involved in such offences exceeds one crore rupees,
- (c) Such person is alleged with an offence which is an offence in any other act also,
- (d) Such person at any time proved to be guilty for an offence under this act by the court,
- (e) The offence so committed is specified in clause (g) or clause (j) or clause (k) of section 132(1),
- (f) The government prescribes any class of person or any offence being non-compoundable.

Where an offence is compounded under this section then it shall not prevent the person alleged with the offence from proceeding under any other law for the time being in force.

Note: A person shall not be eligible for compounding of an offence specified in clause (g) or clause (j) or clause (k) of section 132(1) even if he has committed such offence for the first time.

❖ **Compounding fee**

The compounding fees ordered by the commissioner shall not be less than higher of Rs. 10,000/- or 50% of the tax involved and shall not exceed higher of Rs. 30,000/- or 150% of the tax amount involved.

Minimum compounding amount	Rs. 10,000/- or Amount equivalent to 50% of tax involved.	Whichever is higher.
Maximum compounding amount	Rs. 30,000/- or Amount equivalent to 150% of tax involved.	Whichever is higher.

❖ **Conclusion of proceedings after compounding**

On payment of compounding fee determined by the commissioner, the proceedings shall deemed to be concluded in respect to such offence and where no such proceeding has been initiated on such person then no further proceedings shall be initiated on him for the offence which is compounded by the commissioner.

Q21. Write a short note on offences committed by companies under section 137?

Ans- In case where an offence is committed by the company under this Act then all the persons who were in charge of the business of the company or who were responsible for managing the business at the time of committing such offence and the company itself shall be deemed to be guilty of offence and the proceedings or punishment in respect to such offence shall be initiated accordingly against all such persons.

❖ **Offences committed by managerial person**

In case where an offence is committed by the company under this Act and it has been proved that such offence is:

- Attributable to the negligence, or
- Committed with the consent, or
- Committed along with or in connivance,

Of any director, manager, secretary or other officer of the company, then such person shall also deemed to be guilty of offence and the proceedings or punishment in respect to such offence shall be initiated accordingly against such persons.

❖ **Offences committed by partner/ karta/ trustee**

In case where an offence, under this Act, is committed by the partnership firm or limited liability partnership or Hindu undivided family or any trust then the 'partners of partnership firm or LLP' or 'Karta of the HUF' or the 'managing trustee of such trust' shall be deemed to be guilty of offence and the proceedings or punishment in respect to such offence shall be initiated accordingly against all such persons.

❖ **Prevention to the person**

If the person alleged with an offence under this section proves that offence so committed was without his knowledge or he had exercised all the preventive measures to avoid the occurrence of such offence.

Explanation

For the purposes of this section—

- (i) "Company" means a body corporate and includes a firm or other association of individuals; and
- (ii) "Director", in relation to a firm, means a partner in the firm.

Q22. Write a short note on Confiscation of goods and conveyances in transit?

Ans- As per section 130, the goods or the vehicle carrying such goods shall be liable for confiscation and penalty up to Rs. 25,000/- shall be levied on the person where such person-

- (i) Supplies or receives any goods in contravention to the provisions of this act or rules there under with an intention to defraud, evade tax,
- (ii) Fails to record or report any goods liable for tax,
- (iii) Supplies any goods liable for tax without having applied for registration,
- (iv) Contravenes any provision of this and rules made there under with an intention to evade tax,
- (v) Transports any goods by using any vehicle for transporting such goods in contravention to this act or rules there under, in such a case the vehicle shall be liable for confiscation.

However, such conveyance or vehicle shall not be confiscated where the owner of the conveyance proves that such consignment or transportation is made without the knowledge of the owner himself or his agent or the person in charge of conveyance i.e. driver of the conveyance.

Q23. What is the liability which may arise in lieu of confiscation?

Ans- If the goods or conveyance satisfy any of the condition liable for confiscation then the proper officer shall provide an option, to the owner of the goods or conveyance to pay an amount as fine in place of confiscation.

- ❖ The amount of fine levied by the officer shall not be less than the amount of penalty for detention and seizure of such goods and penalty so levied shall be to the maximum of value of goods detained reduced by tax chargeable thereon.
- ❖ In case where the conveyance is used for the transportation of goods or passenger then the owner of such conveyance shall be provided with an option to pay an amount of fine, in lieu of confiscation, equivalent to the amount of tax payable on goods carried by such conveyance
- ❖ In case where fine imposed on any person under sub-section (2) then such fine shall be payable in addition to tax, penalty and other charges payable in respect to such goods or conveyance.

Q24. Whether the opportunity of being heard would be given to owner in case goods so seized or detained under this Act are liable for confiscation?

Ans- If the goods so seized or detained under this Act are liable for confiscation then the order of confiscation and order of imposition of penalty shall not be served without giving the opportunity of hearing to the owner of goods.

Q25. Who shall transfer the title or possess confiscated goods or conveyance?

Ans- If the goods or conveyance are confiscated in accordance with the provisions of this Act then the title of such goods or conveyance shall vest in the government and the proper officer shall hold the possession of such goods or conveyance on behalf of the government. The proper officer may request the police officer to assist him in taking and holding the possession of things so liable to confiscate.

Also, Where the proper officer is of the opinion that the goods or conveyance so confiscated are not required in any of the proceedings under this act then he may dispose such goods and shall deposit the amount of sale proceeds in the credit of government. The proper officer shall not dispose the goods without giving the reasonable time not exceeding three months, to the owner for payment of fine in lieu of confiscation.

Q26. Will penalty imposed on a person whose goods are confiscated would be saved from other penalty or punishment under this Act?

Ans- No, The person on which penalty is imposed or whose goods are confiscated under the provisions of this act then such penalty and confiscation will not safeguard him from any other penalty or punishments under this act or under any other law being in force at that time.

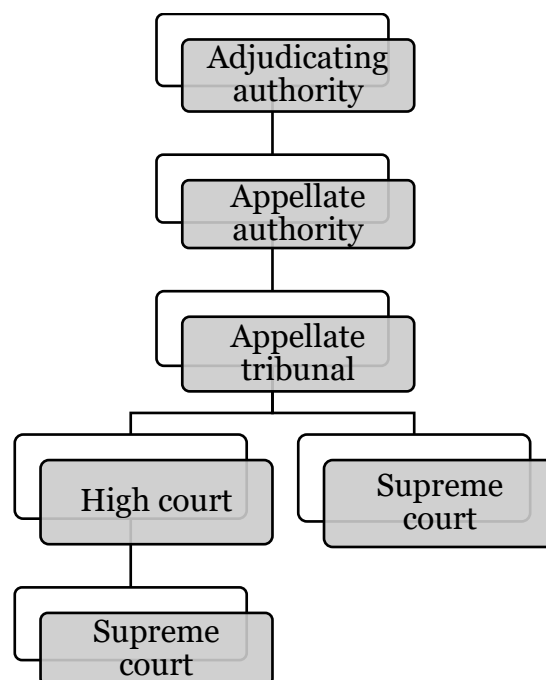
Appeals

Q1. What do you understand by the term appeal?

Ans- Appeal is the statutory right allowed to a person. A person aggrieved from any of the order or decision of any tax officer or any authority may appeal against such decision or order before the authority which is higher in rank from the authority passing order. Although it is a statutory right to file an appeal against an order but there is a time period in respect to time limits within which an appeal can be filed.

Q2. What is the hierarchy of filing an appeal?

Ans- The hierarchy of filing an appeal is as follows:



Q3. Who can file an appeal to an appellate authority?

Ans- As per Section 2(8) of CGST/SGST Act, “Appellate Authority” means an authority appointed or authorised to hear appeals as referred to in section 107.

As per section 107, Appeal can be filed by following to an appellate authority:

A) Appeal by aggrieved person

B) Appeal by department

A) Appeal by aggrieved person

- Where an order is passed by the adjudicating authority then the aggrieved person may file an appeal to appellate authority against the decision or order passed by such adjudicating authority.

- It shall be filed by the person within 3 months from the date on which order of adjudicating authority communicated to such person. This appeal shall be filed by the aggrieved person in Form GST APL-01.

For Example: Where adjudicating authority issued the order on 5th April 2018 & the same is received by the aggrieved person on 20th May 2018, and then 3 months shall be computed from 20th May 2018 i.e. the date on which order is communicated.

- This time limit of 3 months can be extended by the appellate authority for further period of 1 month on sufficient cause shown by the person.
- Before filing an appeal, appellant shall be required to pay pre-deposit equivalent to:
 - (a) The amount of tax, interest, fine, fee and penalty arising from the order in dispute to the extent admitted by him, and
 - (b) An amount equivalent to the 10% of the amount of tax in dispute, in relation to which the appeal has been filed subject to a maximum of twenty-five crore rupees.

In case where the amount mentioned above has been deposited by the applicant then recovery proceedings in respect to balance amount shall be deemed to be stayed.

B) Appeal by department

- ❖ Where an order is passed by the adjudicating authority, then the commissioner may call for record of any proceedings in which an adjudicating authority has passed any order & may examine the same to check the correctness of such order.
- ❖ In case any commissioner is of the view that any point determined by adjudicating authority is not correct then he may file an appeal to appellate authority or may authorise any officer to do so.
- ❖ It shall be filed by the commissioner or authorized person within 6 months from the date on which order of adjudicating authority communicated to such person. This appeal shall be filed by the aggrieved person in **Form GST APL-03**.
- ❖ This time limit of 6 months can be extended by the appellate authority for further period of 1 month on sufficient cause shown by the person.
- ❖ There is no need to pay any pre-deposit by the department where the appeal is filed by the department itself.

Q4. What are the powers of revisional authority?

Ans- **As per Section 2(99) of CGST/SGST Act**, “Revisional Authority” means an authority appointed or authorised for revision of decision or orders as referred to in section 108.

As per section 108, the powers of revisional authority is as follows:

- ❖ A revisional authority may revise the orders passed by the officer subordinate to it:
 - ❖ Suo moto i.e. on its own motion, or
 - ❖ On the basis of information received by it, or
 - ❖ On the request of the commissioner.

- ❖ Revisional authority may call for & examine the records related to decision & order to observe the legality & propriety of the same.

- ❖ After examining the records, if revisional authority is of the view that order originally passed is:
 - ❖ Illegal or improper,
 - ❖ Erroneous & prejudicial to the interest of the revenue,
 - ❖ Not made on the basis of material facts whether available at the time of issue of order or not,

Then revisional authority may suspend/stay such order till such time as it may deem fit & after giving opportunity of being heard to the parties shall issue a fresh order by rejecting or modifying the original order.

Q5. Under what circumstances, revisional authority cannot exercise their powers?

Ans- Revisional authority shall not exercise its powers if:

- ❖ The order is pending for decision under appeal before appellate authority, appellate tribunal, high court, or supreme court,
or
- ❖ Where a period of:
 - Six months has not been expired from the date of order required to be revised,
or
 - Three years has been expired from the date of order required to be revised.

Q6. Can order given by revisional authority be revised?

Ans- Yes but Revisional authority cannot revise the order before the expiry of 6 months from the date of communication of order by adjudicating authority. This is due to the reason that up to 6 Months appeal can be filed to appellate authority by department. The order required to be revised is already taken for revision at earlier stage or is a revised order itself.

Q7. What is the time limit to revise an order of an appellate authority?

Ans- Revisional authority may revise an order of appellate authority, appellate tribunal, high court or supreme court in respect to only those points which are not

raised before authority/tribunal/court as the case may be. Such order can be revised before:

The expiry of 1 year from such order, or

Expiry of 3 years from the original order

Time period mentioned in above 2 points shall exclude:

1) Where the order needs to be revised involves a point which is already pending for decision before high court or supreme court in any other proceeding against the order of appellate tribunal or high court respectively then time period shall exclude the time spent between:

- a. The date of decision of appellate tribunal till the date of decision of high court, or
- b. The date of decision of high court till the date of decision of Supreme Court.

2) Where the issuance of order is stayed by appellate tribunal or court then the period of such stay shall be excluded from the calculation of time period in above two points.

Q8. What are the types of benches in appellate tribunal?

Ans- Appellate tribunal is further divided into two type of benches national/regional bench & state/area bench.

- ❖ A national/regional bench shall be situated in New Delhi & matters related to place of supply shall be entertained by national/regional bench.
- ❖ A state/area bench shall have office in respective state or union territory as the case may be & shall entertain the matters other than related to place of supply.

Q9. Who can file an appeal to appellate authority? Explain briefly.

Ans- following can file an appeal to an appellate authority:

A) Appeal by aggrieved person

- ❖ Where an order is passed by the appellate authority or revisional authority then the aggrieved person may file an appeal to appellate tribunal against the decision or order passed by such appellate or revisional authority.
- ❖ It shall be filed by the person within 3 months from the date on which order of appellate/revisional authority communicated to such person. This appeal shall be filed by the aggrieved person in Form GST APL-05.
- ❖ This time limit of 3 months can be extended by the appellate tribunal for further period of 3 months on sufficient cause shown by the person.

- ❖ Before filing an appeal, appellant shall be required to pay pre-deposit equivalent to:

(a) The amount of tax, interest, fine, fee and penalty arising from the order in dispute to the extent admitted by him, and

(b) An amount equivalent to the 20% of the disputed amount of tax in relation to which the appeal has been filed.

In case where the amount mentioned above has been deposited by the applicant then recovery proceedings in respect to balance amount shall be deemed to be stayed.

Every application made to appellate tribunal shall be accompanied with the fee as follows:

Type	Fee
Restoration of an appeal	Rs. 1,000/- for every one lakh rupees of tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined in the order appealed against & such fee shall not exceed twenty five thousand rupees.
Rectification of an appeal	No fee shall be made before appellate tribunal for rectification of any error in the order.

B) Appeal by department

- ❖ Where an order is passed by the appellate/revisional authority then the commissioner may call for record of any proceedings in which such authority has passed any order & may examine the same to check the correctness of such order.
- ❖ In case any commissioner is of the view that any point determined by appellate/revisional authority is not correct then he may file an appeal to appellate tribunal himself or may authorise any officer to do so.
- ❖ It shall be filed by the commissioner or authorized person within 6 months from the date on which order of appellate/revisional authority communicated to such person. This appeal shall be filed by the aggrieved person in **Form GST APL-07**.
- ❖ This time limit of 6 months can be extended by the appellate tribunal for further period of 3 months on sufficient cause shown by the person.
- ❖ There is no need to pay any pre-deposit by the department where the appeal is filed by the department itself.

Q10. when can an appeal be filed to the high court?

Ans- Where an order is passed by any of the bench of appellate tribunal then the aggrieved person may file an appeal to high court against the decision or order passed by appellate tribunal.

- ❖ It shall be filed by the person within 180 days from the date on which order of appellate Tribunal communicated to such person.
- ❖ High court may entertain the appeal after the expiry of 180 days also on sufficient cause shown by the aggrieved person.

- ❖ Appeal to high court can be filed only on the basis of question of law & appeal made on the question of facts shall not be entertained by high court. High court shall decide the question of law and deliver such judgment thereon.
- ❖ An appeal filed to high court shall be heard by at least 2 judges of high court & shall be decided by the majority opinion of judges.
- ❖ High court may determine any issue which are not determined by the bench of appellate tribunal or an issue which is wrongly decided by the appellate tribunal.

Q11. When can an appeal be filed to supreme court?

Ans- An appeal shall lie to supreme court:

- from any order passed by the national/regional bench of the appellate tribunal, or
- from any judgment or order passed by the high court in an appeal, on its own motion or on an application made by or on behalf of the party aggrieved, immediately after passing of the judgment or order, the high court certifies to be a fit one for appeal to the supreme court

Provisions of code of civil procedures 1908 shall apply to appeals to supreme court.

Q12. What is the meaning of Adjudicating Authority?

Ans- As per section 2(4) of CGST/SGST Act, “Adjudicating authority” means any authority, appointed or authorised to pass any order or decision under this Act, but does not include the Central Board of Indirect Taxes and Customs, the revisional authority, the authority for advance ruling, the appellate authority for advance ruling, the appellate authority and the appellate tribunal.

Q13. What is the time limit for Payment of sums due to be paid to the government as result of an order?

Ans- In case where an amount of tax, interest, late fee or penalty becomes payable to the government as a result of the order of appellate tribunal or high court shall be paid immediately even if the appeal has been filed against such order or decision before high court or supreme court respectively.

Q14. Under what circumstances, no appeal can be made?

Ans- No appeal can be filed where any decision or order relates to below mentioned matters:

- ❖ Order of the commissioner or other competent authority for transfer of proceeding from one officer to another officer;
- ❖ Order pertaining to the seizure or retention (related to books, register or other documents);
- ❖ Order sanctioning prosecution;
- ❖ Payment of tax in instalments under section 80.