

J.K. SHAH[®]

**TEST
SERIES**



SUGGESTED SOLUTION

CS PROFESSIONAL

Subject – Advanced Tax

Topic – GST II

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Answer to Q1.A.

- (i) As per section 31(1) of the CGST Act, 2017 a registered person supplying taxable goods required to issue the invoice before or at the time of removal of goods for supply to the recipient, where the supply involves movement of goods. Ritu Manufacturers in this case, where movement of goods is between Delhi and Gurugram is required to issue a tax invoice on or before removal of the goods from factory i.e. on or before 23rd September, 2019.
- (ii) As per section 31(2) of CGST Act, 2017 a registered person supplying taxable services shall before or after the provision of service but within a prescribed period of 30 days issue a tax invoice. Katyani Security Services Ltd needs to issue a tax invoice within days of supply of security services, i.e. on or before 4th November, 2019.
- (iii) As per provisions of section 31, invoice shall be issued before or at the time of removal of goods for supply to the recipient, where the supply involves movement of goods. Accordingly, the tax invoice must be issued by Sultan Industries Ltd. Delhi on or before 29th November, 2019.

(5 marks)

Answer to Q1.B.

The authority under section 130 of CGST Act, 2017 can confiscate the goods or the conveyances for levy of penalty, if any person:

- i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made there under with intent to evade payment of tax; or
- ii) does not account for any goods on which he is liable to pay tax under this Act; or
- iii) supplies any goods liable to tax under this Act without having applied for registration; or
- iv) contravenes any of the provisions of this Act or the rules made there under with intent to evade payment of tax; or
- v) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made there under unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, any, and the person in charge of the conveyance.

In such circumstances, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122 of the CGST Act, 2017.

(5 marks)

Answer to Q1.C.

LMN & Co. in the given case providing services of arranging/facilitating/ sourcing the supply of goods between the foreign customer and the Indian vendors which can be classified as intermediary services as per section 2(13) of the IGST Act, 2017.

Section 2(13) of the IGST Act, 2017 defines "intermediary" to mean 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.

The Place of Supply (POS) is to be determined as per section 13 of the IGST Act, 2017 where the location of the supplier of services or the location of the recipient of service is located outside India. Since, in the given case, the recipients of the supply are located outside India, in Sweden, the provisions of supply of intermediary services will be determined in terms of section 13 of the IGST Act, 2017.

The Place of Supply in case of intermediary services as per section 13(8)(b) of the IGST Act, 2017 is the location of the supplier i.e., the location of LMN & Co. which is in Kochi, Kerala in India. As per section 2(6) of the IGST Act, 2017, export of services means inter alia, the supply of any service when the place of supply is outside India.

Since, in the given case, Place of Supply (POS) as per section 13(8)(b) of IGST Act, 2017 is in Kochi, Kerala in India, the transaction does not tantamount to export of service by LMN & Co.

(5 marks)

Answer to Q2.A.

The advice given by tax manager is valid in law. Payment of taxes by the normal tax payer is to be done on monthly basis by the 20th of the succeeding month as specified in section 9 of the CGST Act, 2017.

Composition tax payers only required to pay tax on quarterly basis. Payment of taxes can be made either by Debit of :

- a) Electric Cash Ledger; or
- b) Electronic Credit Ledger.

Payment of taxes for the month of March shall be paid by the 20th of April.

(4 marks)

Answer to Q2.B.

Time of supply As per Section 12(1) of CGST Act, 2017, the time of supply of goods shall be the earlier of the following dates, namely:— (a) the date of issue of invoice by the supplier or the last date on which he is required to issue invoice under section 31CGST Act,2017; or (b) the date on which the supplier receives the payment with respect to the supply.

However, advance received in respect of supply of goods is not liable to be taxed at the time of receipt vide Notification No. 66/2017 CT dated 15.11.2017. Therefore, the date of payment in respect of supply of goods shall not be relevant for determining the time of supply.

Further, Section 31 of the CGST Act, 2017 provides that a registered person supplying taxable goods shall issue a tax invoice, before or at the time of, —

- (a) removal of goods for supply to the recipient, where the supply involves movement of goods; or
- (b) delivery of goods or making available thereof to the recipient, in any other case.

As per the above scenario, various dates are as under:

- Actual date of issue of invoice: September 18, 2020
- Due date for issue of invoice: September 9, 2020 (as supply involves movement of goods)
- Date of receipt of payment: September 19, 2020 (earlier of entry in books of accounts and credit made in the bank account)

Therefore, as per rule, the time of supply would be the earliest of the above dates, that is, September 9, 2020.

(4 marks)

Answer to Q2.C.

a) Transfer of right to use goods shall be treated as supply of service because there is no transfer of title in such supplies. Such transactions are specifically treated as supply of service in Schedule-II of CGST/SGST Act.

b) Works contracts and catering services shall be treated as supply of services as both are specified under Sl. No. 6 (a) and (b) in Schedule-II of the CGST Act, 2017.

c) Development, design, programming, customization, adaptation, upgradation, enhancement, implementation of information technology software shall be treated as supply of services as listed in Sl. No. 5 (2)(d) of Schedule –II of the CGST Act, 2017.

d) Supply of goods on hire purchase shall be treated as supply of goods as there is transfer of title, albeit at a future date.

(4 marks)

Answer to Q2.D.

- i) GST is payable as Religious pilgrimage organized by Ganjumaal Charitable Trust is taxable.
- ii) GST is not payable as the transportation of milk by goods transport agency is exempt.
- iii) GST is payable as the exemption is available for transportation of goods only where the consideration for transportation of goods on a consignment transported in a single goods carriage does not exceed Rs. 1,500.
- iv) GST is payable as the transportation of goods where consideration for transportation of all goods for a single consignee does not exceed Rs. 750 is exempt.

(4 marks)

Answer to Q2.E.

	Particulars	Amount (Rs.)	Amount (Rs.)
	Price Charged		5,50,000
Add	Tax Charged by municipal authorities (Section 15(2)(a) of CGST, Act, 2017)	55,000	

	Packing Charges (Section 15(2)(c) of CGST, Act, 2017)	15,000	
	Subsidy from NGO (Section 15(2)(e) of CGST, Act, 2017)	25,000	
	Total		95,000
Less	Discount @1% (Section 15(3)(a) of CGST, Act, 2017)		(5,500)
	Value of Supply		6,39,500

Notes :

1. CGST and SGST is not included in the determination of value of supply, rather taxed post determination on the same.
2. Subsidy since received from a non-governmental body is added back to determine the value of supply .
3. Discount on basic price is an exclusion.

(4 marks)

Answer to Q3.A.

- a) Rule 33 of the CGST Rules 2017 provides that 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. In view of the same, GST is payable only on Rs. 15,000 and not on Rs. 3,000 which were paid by him while acting as a Pure Agent.
- b) As per the decision of AAR in Kerala, as also affirmed by the App. AAR, in the matter of M/s. Caltech Polymers Pvt. Ltd., the recovery of subsidized meal facility from the employees is chargeable to GST at market value. The Authority has held that even though there is no profit as claimed by the company on the supply of food to its employees, there is "supply" as provided in Section 7(1)(a) of the GST Act, 2017 and the applicant would definitely come under the definition of "Supplier" as provided in sub-section (105) of Section 2 of the GST Act, 2017. In view of the above, the company would be liable to pay GST on the subsidized meal provided to its employees.
- c) The answer of the question of taxability of free samples can be given after referring to Section 7 and Schedule I of the CGST Act, 2017. According to section 7 Supply includes "All forms of supply of goods or services or both made or agreed to be made for a consideration by a person in the course or furtherance of business; Schedule I specifies activities made or agreed to be made without a consideration and as per that supply made without consideration to unrelated person will not treated as supply. Therefore,

GST will not be levied on free samples distributed, because it is not considered as supply. However, ITC on such purchases are not allowed to supplier.

- d) Renting of community hall by Raghunath Temple Charitable Trust is exempt from GST, as rent is less than Rs.10,000 per day. The Exemption Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 and Notification No. 9/2017 Integrated Tax (Rate) dated 28.06.2017 has exempted the said service wholly from GST. The said notification provides exemption to services by a person inter alia by way of renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a trust or an institution under section 10(23C)(v) of the Income-tax Act, 1961 . However, this exemption does not apply where renting charges of premises, community halls, kalyanmandapam or open area are Rs. 10,000 or more per day.
- e) The Exemption Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017/ Notification No. 9/2017 Integrated Tax (Rate) dated 28.06.2017 provides exemption to services by way of giving on hire inter alia to a goods transport agency, a means of transportation of goods. In view of the above, GST is not payable in case of hiring of trucks to Jaggi Transporters.

(5 marks)

Answer to Q3.B.

Computation of eligible tax credit to M/s X Ltd. for the month of March, 2020

Sr. No.	Particulars	Amount (Rs.)
1	Purchase of iron which is used as a raw material (Refer Note (i))	90,000
2	Purchase of accessories which were delivered directly to the Dealers of the company. Only invoice was received by X Ltd.(ITC is allowed)	1,97,000
3	Purchase of Bus (seating capacity 15) for the transportation of employees from their residence to company and back (ITC is allowed)(Refer Note (ii))	Nil
4	Input tax credit on general insurance taken on a car used by Executives of the company for official purposes.	Nil
5	Payment made to M/s XYZ Caterers for providing daily breakfast & lunch to the employees of the company, as voluntary staff welfare measure. (Refer Note (iii))	Nil
	Total	2,87,000

Notes:

- (i) As per Section 16(2) of the CGST Act, 2017, If the goods are received in instalments, tax credit shall be allowed only when last instalment has been received. In the given case last instalment is received in April 2020 hence credit shall be allowed in the month of April.
- (ii) As per Section 17(5) of the CGST Act, 2017, ITC of motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver) is not allowed in the given case bus is of 15 seating capacity.
- (iii) As per Section 17(5) of the CGST Act, 2017, ITC of food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance is not allowed.

(5 marks)

Answer to Q3.C.

Supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes, etc. which are being printed with logo, design, name, address or other contents supplied by the recipient of such printed goods, are in the nature of composite supplies and the issue relating to whether such supplies constitute supply of goods or services under GST is to be determined on the basis of what constitutes the principal supply in such goods.

Principal supply has been defined in section 2(90) of the CGST Act, 2017 as supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

The issue in hand had been clarified by the Government vide Circular No. 11/11/ 2017-GST dated 20.10.2017.

In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied to the publisher by the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belongs to the printer. Supply of printing (of which the content supplied by the recipient of supply) is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services under GST.

In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. printed with design, logo etc. supplied by the recipient of goods made using physical inputs including paper belonging to the printer, fall under Chapter 48 or 49 of the Customs Tariff Act, 1975. The predominant supply is that of goods and the supply of printing and the contents for printing (though supplied by the recipient of supply) is ancillary to the principal supply of goods. Therefore such supplies would constitute supply of goods falling under respective headings of Chapter 48 or 49 of the Customs Tariff Act, 1975.

Modern Art & Printers Pvt. Ltd. is therefore advised to act accordingly by taking the supply of printing of various products as a supply under GST and to tax the same on the basis of Composite Supply.

(5 marks)