

PAPER-8: INDIRECT TAX LAWS

QUESTIONS

- (1) All questions should be answered on the basis of position of (i) GST law as amended by the Finance Act, 2022 including significant notifications and circulars and other legislative amendments made, up to 30th April, 2023 and (ii) customs law as amended by the Finance Act, 2022 including significant notifications and circulars and other legislative amendments made, up to 30th April, 2023.
- (2) Unless otherwise specified, the section numbers and rules referred herein pertain to the Central Goods and Services Tax Act, 2017 and the Central Goods and Services Tax Rules, 2017 respectively.
- (3) The GST rates for goods and services mentioned in various questions are hypothetical and may not necessarily be the actual rates leviable on those goods and services. The rates of customs duty are also hypothetical and may not necessarily be the actual rates. Further, GST compensation cess should be ignored in all the questions, wherever applicable.

Infotel Ltd. (hereinafter referred to as Infotel) is a telecommunication company operating in India. The company has obtained registration in all the States in India and has its head office in Haryana. The invoice for telecommunication services in India is issued to the customer by head office located in Haryana for all the services.

During the month of January, following transactions were undertaken:

1. Receipts from post-paid mobile customers are ₹ 25,00,000 (₹ 5,00,000 is from customers located in Haryana and remaining amount is from customers located in rest of India).

Apart from this, Infotel collected an amount of ₹ 20,00,000 as subscription income (identifiable separately on the post-paid bill) from the customers (this amount is not included in the collection at point No. 1). The same was collected for payment to Cloudzone Ltd. (hereinafter referred to as Cloudzone), an online content provider [OTT Platform] located in Maharashtra. Full amount was remitted to Cloudzone by Infotel on behalf of the post-paid customers. Cloudzone issues invoice to the customers in its own name. As per the agreement, Infotel is not involved in any sort of facilitation or arrangement of supply from Cloudzone to the customers. The customers on their own availed the facility to pay for the services provided by Cloudzone by way of payment through Infotel. Subscription income is charged from the customers on actual basis and no fee is charged by Infotel from the customers for such payment facility.

Infotel receives an amount equivalent to 10% of the total amount collected from the customers as collection charges from Cloudzone.

2. Direct receipts from prepaid mobile customers are ₹ 50,00,000 (Entire payment is received from customers located outside Haryana).

3. Mobile telecommunication revenue received from Paykwik Ltd. (hereinafter referred to as Paykwik), a reseller/ selling agent of Infotel, is ₹ 30,00,000. The location of Paykwik is in Maharashtra. Commission paid to Paykwik is 10% of the revenue received.
4. Infotel collected an amount of ₹ 5,00,000 from the customers located in Haryana against the direct to home (DTH) service provided in Haryana. This amount includes a one-time installation charges of ₹ 50,000.
5. Infotel purchased certain equipment for installation of its towers in the State of Rajasthan. The goods were delivered and installed by the supplier (based in Rajasthan) at Infotel's site in Rajasthan and invoice was issued to Infotel at Haryana Head Office. Total amount charged was ₹ 75,00,000.
6. Infotel collaborated with Amaze Inc., a company based in USA, for receiving technological support in relation to provision of cloud storage services to its customers. The amount paid by Infotel to Amaze Inc. is ₹ 5,00,00,000 for technology support. Further, the cloud storage services were provided by Infotel to its unrelated premium customers on free of cost basis for the trial period. The open market value of such services is ₹ 75,00,000.
7. As per the agreement with Amaze Inc., in case of any failure in provision of cloud storage services to the customers by Infotel, Amaze Inc. shall provide the backup server access to Infotel's customers for data storage. The customer is not aware of the fact that data is being stored on Amaze Inc.'s server in case of failure at Infotel's end. Amaze Inc. charged an amount of ₹ 50,00,000 from Infotel for such instance in the month of January.

All the amounts given above are exclusive of GST unless otherwise provided. The opening balance of input tax credit for the relevant tax period of Infotel is Nil for all the registrations.

GST is applicable in the aforesaid case scenario at the following rates, unless otherwise specified:

- I. Intra-State supply – 9% CGST and 9% SGST
- II. Inter-State supply – 18% IGST

Assume that there is no other outward or inward supply transaction apart from aforesaid transactions, in the month of January.

Based on the facts of the case scenario given above, choose the most appropriate answer to Q. Nos. 1 to 5 below:-

1. The GST payable in cash for the month of January by the Head Office of Infotel in Haryana (assuming that no ITC is utilised by it) is _____.
- (a) ₹ 20,16,000
 - (b) ₹ 1,22,76,000

- (c) ₹ 29,16,000
(d) ₹ 1,19,16,000
2. The input tax credit available to Infotel in the month of January at its Head Office in Haryana is _____.
- (a) ₹ 99,54,000
(b) ₹ 1,13,04,000
(c) ₹ 54,000
(d) ₹ 14,04,000
3. In terms of GST Law, please select the correct statement for transaction between Infotel, Cloudzone and the subscribing customer:
- (a) Infotel is an agent of Cloudzone.
(b) Infotel is a pure agent of Cloudzone.
(c) Infotel is a pure agent of the subscribing customer.
(d) Infotel is an intermediary of Cloudzone.
4. The jurisdictional tax authorities are contemplating to bring Amaze Inc. under the tax net for the transaction related to cloud storage. Please choose the most appropriate statement:
- (a) Amaze Inc. is liable to obtain registration and pay GST in India on the said transaction as it is providing online information and database access or retrieval services to Infotel.
(b) Amaze Inc. is liable to obtain registration in India and pay tax as principal supplier since it is providing cloud storage services to the customers through its agent i.e., Infotel in India.
(c) Infotel is an intermediary of Amaze Inc. and therefore, the tax liability of Amaze Inc. shall be discharged by Infotel on behalf of Amaze Inc.
(d) Amazon Inc. is not liable to, obtain registration and pay tax in India, in respect of the said transaction.
5. For the direct to home services, Infotel is exploring the possibility of providing equipment like dish antenna and cables (liable to GST at 28%) to the customers at an additional charge of ₹ 2,000. Currently, the company collects ₹ 1,000 from new customers as installation and one-month charges for services (liable to GST at 18%). In case the dish antenna and cables are also provided, the combined charge would be ₹ 3,000. Please select the most appropriate statement.

- (a) GST on amount of ₹ 2,000 shall be charged at the rate of 28% and balance amount of ₹ 1,000 to be charged at 18%.
- (b) GST on amount of ₹ 3,000 shall be charged at the rate of 28%.
- (c) GST on amount of ₹ 3,000 shall be charged at the rate of 18%.
- (d) No GST on ₹ 2,000 and GST at the rate of 18% on ₹ 1,000.
6. Guruji & Associates is engaged in retail business of selling wedding outfits in the State of West Bengal. It has effected supplies to the customers in the State of Uttar Pradesh and Haryana. It's total turnover during the current financial year is ₹ 15,00,000. Owing to low profit margins in the business, it has decided to shut down the business in the next financial year.
- The proper officer has collected evidence of the inter-State supply of wedding outfits effected by Guruji & Associates during the current financial year. Now, the proper officer wants to make the assessment as it was liable to obtain registration but did not get itself registered under GST.
- You are required to assist the proper officer by determining which assessment can be done in this case under the CGST Act, 2017.
- (a) Self-assessment
- (b) Provisional Assessment
- (c) Assessment of unregistered persons
- (d) Special assessment
7. Lalla (Pedewala) owns a famous sweets shop located and registered under GST in Vrindavan, Uttar Pradesh. He received an order for 100 kg of sweets on 2nd May from Parindey Travels (P) Ltd., located in same locality of Vrindavan and registered under GST, for a total consideration of ₹ 50,000. Complete order of sweets was delivered to Parindey Travels (P) Ltd. on 5th May but without invoice, as accountant of Mr. Lalla was on leave on that day. However, the invoice was raised for the same on 6th May, when the accountant joined the office after leave. Payment in full was made on 7th May.
- Determine the time of supply of goods in this case.
- (a) 2nd May
- (b) 5th May
- (c) 6th May
- (d) 7th May
8. Countervailing duty under section 9 of the Customs Tariff Act, 1975 shall not be levied unless it is determined that the subsidy provided by the exporting country on manufacture of an article:

- (i) relates to export performance.
- (ii) relates to use of domestic goods over imported goods in export article.
- (iii) is conferred on all persons engaged in the manufacture of said article.

Choose the most appropriate option.

- (a) (i), (ii) or (iii)
 - (b) Only (iii)
 - (c) (ii) or (iii)
 - (d) (i) or (ii)
9. Swadeshi Enterprises exported goods having FOB value of ₹ 20 lakh. The All-Industry duty drawback on exports of these goods is 5%. Market price of the goods in India is ₹ 80,000. Calculate the duty drawback receivable by Swadeshi Enterprises.
- (a) ₹ 1,00,000
 - (b) ₹ 80,000
 - (c) Swadeshi Enterprises is not entitled to get any duty drawback since the market price of such goods is less than the amount of drawback.
 - (d) Either (a) or (b) at the option of the exporter
10. Which of the following statements is correct for destroyed goods under section 23 of the Customs Act, 1962?
- (a) It is applicable in case of total loss of goods even if same can be recovered.
 - (b) The provisions of this section are also applicable if goods are lost due to pilferage at any time before clearance for home consumption.
 - (c) The provisions of this section are also applicable even if the goods are destroyed at the warehouse.
 - (d) The importer need not prove the loss to the proper officer.
11. Sudarshan Ltd., a registered supplier under GST in the State of Kerala, is engaged in providing a bouquet of goods and services (other than renting of cars). It provides the following information for the month of January:

S. No.	Particulars	Amount (₹)
(i)	OUTWARD SUPPLY: Distributed 1,000 free gifts (electronic items worth ₹ 5,000 each purchased from unregistered local vendors) to its customers within Kerala in the month of January to promote sales	Nil

(ii)	Supplies a consignment of goods in the territorial waters to Dhruvtara Enterprises. The said territorial waters is located at a distance of 11 nautical miles from the baseline of State of Kerala and 12 nautical miles from the baseline of State of Tamil Nadu.	6,00,000
(iii)	Advance received during the month for future intra-State taxable supply [Advance of ₹ 2,10,000 was related to supply of goods and the rest was related to service]	7,00,000
(iv)	Provided pure labour services of construction of single commercial unit located in Mumbai not forming part of any residential complex to a customer in Mumbai (Maharashtra).	15,00,000
INWARD SUPPLY:		
(i)	Monthly rent paid to Kerala State Government for an office taken on rent	6,00,000
(ii)	Purchased raw material from Saksham Steels Ltd., registered in the State of Andhra Pradesh	15,00,000
(iii)	Purchased a new truck from a dealer in Cochin, Kerala for transport of materials	12,00,000

The company provided the following additional information:

- (i) During the course of arranging and filing documents, the accountant of Sudarshan Ltd. observed that an invoice for ₹ 96,000 (excluding GST) dated 2nd December of last year was omitted to be recorded in the books of accounts and no payment was made against the same till the end of January. This invoice was issued by Mr. Rishi of Kerala, from whom Sudarshan Ltd. had taken cars on rental basis. Invoice included cost of fuel also.
- (ii) Availed services of an arbitral tribunal in Kannur, Kerala worth ₹ 7,00,000 to settle a case relating to Companies Act.
- (iii) The company claimed depreciation under the Income-tax Act, 1961 on the new truck purchased including all applicable taxes.
- (iv) Saksham Steels Ltd. is mandatorily required to issue e-invoice. However, it did not issue e-invoice with invoice reference number (IRN). The invoice was reflected in GSTR-2B.
- (v) Turnover of Sudarshan Ltd. for the previous financial year was ₹ 180 lakh.
- (vi) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively for both inward and outward supply of goods and services.
- (vii) All the amounts given above are exclusive of taxes wherever applicable.

From the information given above, you are required to compute the minimum net GST liability payable in cash (CGST, SGST or IGST, as the case may be) for the month of January. Reason for treatment needs to be given.

12. Gautam Pvt. Ltd., Coimbatore, Tamil Nadu, exclusively manufactures and sells product 'Alpha' which is exempt from GST vide notifications issued under relevant GST legislations. The company sells product 'Alpha' only within Tamil Nadu and it not registered under GST. Further, all the inward supplies of the company are taxable under forward charge. The turnover of the company in the previous year was ₹ 55 lakh. The company expects the sales to grow by 15% in the current year. Owing to the growing demand for the product, the company decided to increase its production capacity and purchased additional machinery for manufacturing 'Alpha' on 1st July. The purchase price of such capital goods was ₹ 30 lakh exclusive of GST @ 18%.

However, effective from 1st November, exemption available on 'Alpha' was withdrawn by the Central Government and GST @ 12% was imposed thereon. The turnover of the company for the half year ended on 30th September was ₹ 60 lakh.

- (a) The Board of Directors of Gautam Pvt. Ltd. wants to know whether they have to register under GST (after withdrawal of exemption notification)?
- (b) In case in the above question, Gautam Pvt. Ltd. is already registered with respect to certain taxable supplies being made by it along with manufacture of exempt product 'Alpha', other facts remaining the same, can it take input tax credit on additional machinery purchased exclusively for manufacturing 'Alpha'? If yes, then when and how much credit can be availed?

Advice Gautam Pvt. Ltd. on the above issues with reference to the provisions of GST law.

13. Advance Ruling once issued cannot be held to be void ab-initio under any circumstances. Discuss the correctness of the statement by explaining relevant provisions.
14. Pathan Vohra of Pune, Maharashtra enters into an agreement to sell goods to Sukumar Enterprises of Bareilly, Uttar Pradesh. While the goods were being packed in Pune godown of Pathan Vohra, Sukumar got an order from Sindhu Pvt. Ltd. of Shimoga, Karnataka for the said goods. Sukumar Enterprises agreed to supply the said goods to Sindhu Pvt. Ltd. and asked Pathan Vohra to deliver the goods to Sindhu Pvt. Ltd. at Shimoga.

You are required to determine the place of supply(ies) in the above situation.

15. Briefly explain the applicability of GST on the application fee charged for entrance or the fee charged for issuance of eligibility certificate for admission or for issuance of migration certificate by educational institutions.
16. Mouny Ltd. entered into a high sea sale transaction with Fuji Ltd. for certain goods. Mouny Ltd. wishes to understand the taxability of the high sea sales under GST law and Customs Act, 1962.

Examine whether the view taken by Mouny Ltd. is correct.

17. Discuss the precautions to be observed while issuing summons under GST law.
18. Ampine Ltd. imported a machine from UK in April. The details in this regard are as under:
- (i) FOB value of the machine: 9,800 UK Pound
 - (ii) Freight (Air): 3,000 UK Pound
 - (iii) Licence fee, the buyer was required to pay in UK: 600 UK Pound
 - (iv) Buying commission paid in India ₹ 15,000
 - (v) Date of filing bill of entry was 20th April and the rate of exchange notified by CBIC on this date was ₹ 99 per one pound. Rate of BCD was 7.5%.
 - (vi) Date of arrival of aircraft was 25th April and the rate of exchange notified by CBIC on this date was ₹ 98.50 per pound and rate of BCD was 10%.
 - (vii) Integrated tax was 12% and ignore GST Compensation Cess.
 - (viii) Insurance premium details were not available.

You are required to compute the total customs duty and integrated tax payable on the importation of machine. You may make suitable assumptions wherever required.

19. After visiting USA for a month, Mrs. and Mr. Rajesh Jain (Indian residents aged 35 and 40 years respectively) brought to India a laptop computer valued at ₹ 80,000, used personal effects valued ₹ 2,20,000 and a personal computer for ₹ 65,000.

Calculate the custom duty payable by Mrs. & Mr. Rajesh Jain, if any. Ignore Agriculture infrastructure and development cess.

20. Briefly explain duties which are exempted in case of imports under Advance Authorisation.

SUGGESTED ANSWERS

Question No.	Answer	
1	(d)	₹ 1,19,16,000
2	(a)	₹ 99,54,000
3	(c)	Infotel is a pure agent of the subscribing customer.
4	(d)	Amazon Inc. is not liable to, obtain registration and pay tax in India, in respect of the said transaction.
5	(c)	GST on amount of ₹ 3,000 shall be charged at the rate of 18%.
6	(c)	Assessment of unregistered persons
7	(b)	5 th May
8	(d)	(i) or (ii)
9	(c)	Swadeshi Enterprises is not entitled to get any duty drawback since the market price of such goods is less than the amount of drawback.
10	(c)	The provisions of this section are also applicable even if the goods are destroyed at the warehouse.

11. Computation of minimum net GST payable in cash by Sudarshan Ltd. for January

Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
GST payable under forward charge				
Free gifts to customers [Not a supply as it is made without consideration and is also not covered in Schedule I because free gifts have been distributed to an unrelated person (customers are not related persons) and ITC has also not been availed on the same.]	Nil	-	-	-
Supply of consignment in territorial waters [Where the supply is in the territorial waters, the place of supply is deemed to be in the coastal State where the nearest	6,00,000	54,000 [6,00,000 x 9%]	54,000 [6,00,000 x 9%]	

point of the appropriate baseline is located. Therefore, place of supply will be in Kerala being nearer to base line and hence, supply will be intra-State supply]				
Receipt of advance from customer [Tax will be payable only on advance for services. In case of goods, tax is payable at the time of issuance of invoice and not at the time of receipt of advance.]	4,90,000 (7,00,000 -2,10,000)	44,100 [4,90,000 x 9%]	44,100 [4,90,000 x 9%]	
Inter-State supply of pure labour services for construction of single commercial unit in Mumbai [Services by way of pure labour contracts of construction of original works pertaining to a single residential unit otherwise than as a part of a residential complex is exempt. Hence, such services in relation to a commercial unit shall be taxable.]				2,70,000 [15,00,000 x 18%]
Total output GST		98,100	98,100	2,70,000
Less: Input tax credit [Refer working note below] [CGST credit be first utilized for payment of CGST liability and then for payment of IGST liability in that order. Similarly, SGST credit be first utilized for payment of SGST liability and then for payment of IGST liability in that order. ITC of CGST cannot be utilized for payment of SGST and vice versa.]		98,100	98,100	18,900 (CGST)
		-	-	18,900 (SGST)
Net output GST payable in cash [A]		Nil	Nil	2,32,200
GST payable under reverse charge				
Tax on rent paid to State Government of Kerala by Sudharshan Ltd. (a registered	6,00,000	54,000	54,000	

person) is payable under reverse charge				
Tax on services provided by the arbitral tribunal is payable under reverse charge by the recipient of service.	7,00,000	<u>63,000</u>	<u>63,000</u>	
GST payable in cash under reverse charge [B] [Tax payable under reverse charge, being not an output tax, cannot be set off against ITC and thus, will have to be paid in cash.]		1,17,000	1,17,000	
Minimum net GST payable in cash [A] + [B]		1,17,000	1,17,000	2,32,200

Working Note:**Computation of ITC available with Sudarshan Ltd. for January**

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Monthly rent paid to Kerela State Government for an office taken on rent [Being services used in the course of furtherance of business, ITC shall be available thereon.]	54,000 [6,00,000 x 9%]	54,000 [6,00,000 x 9%]	
Cars taken on rental basis from Mr. Rishi [Tax on renting of motor car services wherein cost of fuel is included in consideration provided by a non-body corporate to a body corporate and invoice is issued charging CGST/SGST @ 2.5% is payable under reverse charge. Time of supply of such services is 1 st February being earlier of date of payment, or date immediately following 60 days since issue of invoice by the supplier. Since the time of supply of renting of motor car services in the given case does not fall in January, tax liability on the same does not arise in said month. Further, ITC on renting of motor car services received is blocked since the recipient - Sudarshan Ltd. is not in the same line of business.]	--	--	--

Services of an arbitral tribunal [Services provided by an arbitral tribunal to a business entity with an aggregate turnover up to threshold limit of registration in the previous financial year are exempt from GST. Thus, services provided by the arbitral tribunal to Sudarshan Ltd., a business entity whose aggregate turnover in the previous financial year exceeds the applicable threshold limit for registration [viz. ₹ 20 lakh, being a supplier of goods and services in the State of Kerala] shall be liable to tax. Further, being services used in the course of furtherance of business, ITC shall be available thereon.]	63,000 [7,00,000 x 9%]	63,000 [7,00,000 x 9%]	
Purchase of raw material from Saksham Steels Ltd. [An e-invoice without IRN is not treated as invoice and hence, without a valid document, ITC cannot be claimed on such inputs]	-	-	
Purchase of truck [Motor vehicle used for transportation of goods is eligible for credit. However, since depreciation has been claimed on applicable taxes as well, ITC of tax paid on purchase of such truck cannot be claimed.]	-	-	
Total ITC	1,17,000	1,17,000	

12. (a) Section 22(1) of the CGST Act, 2017 read with *Notification No. 10/2019 CT dated 07.03.2019, inter alia*, provides that every supplier who is exclusively **engaged in intra-State supply of goods** is liable to be registered under GST in the State/ Union territory from where he makes the taxable supply of goods only when aggregate turnover in a financial year exceeds ₹ 40,00,000.

However, the above provisions are not applicable to few specified States, i.e. States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand.

Further, a person exclusively engaged in the business of supplying goods and/or services that are not liable to tax or are wholly exempt from tax is not liable to registration in terms of section 23(1)(a) of the CGST Act, 2017.

In the given case, the turnover of the company for the half year ended on 30th September is ₹ 55 lakh which is more than the applicable threshold limit of ₹ 40 lakh. Therefore, as per section 22 of the CGST Act, 2017, the company will be liable to registration. However, since Gautam Pvt. Ltd. supplied exempted goods till

31st October, it was not required to be registered till that day; though voluntary registration was allowed under section 25(3) of the CGST Act, 2017.

However, the position will change from 1st November as the supply of goods become taxable from that day and the turnover of company is above ₹ 40 lakh. It is important to note here that in terms of section 2(6) of the CGST Act, 2017, the aggregate turnover limit of ₹ 40 lakh includes exempt turnover also.

Therefore, turnover of 'Alpha' before 1st November will also be considered for determining the threshold limit even though the same was exempt from GST. Therefore, the company needs to register within 30 days from 1st November (the date on which it becomes liable to registration) in terms of section 25(1) of the CGST Act, 2017.

- (b) Rule 43(1)(a) of the CGST Rules, 2017 disallows input tax credit on capital goods used or intended to be used exclusively for effecting exempt supplies.

However, as per section 18(1)(d) of the CGST Act, 2017, where an exempt supply of goods and/or services by a registered person becomes a taxable supply, such person gets entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relating to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable.

Rule 40(1)(a) of the CGST Rules, 2017 lays down that the credit on capital goods can be claimed after reducing the tax paid on such capital goods by 5% per quarter of a year or part thereof from the date of the invoice.

Therefore, in the given case, Gautam Pvt. Ltd. could not claim credit on machinery till the time the supply of product 'Alpha' for which said machinery was being used was exempt. However, it can claim credit from 31st October - the day immediately preceding the date from which the supply of product 'Alpha' became taxable (1st November).

The credit will be available for the remaining useful life of the machinery and will be computed as follows:

Date of purchase of machinery	1 st July
Date on which credit becomes eligible	31 st October
Number of quarters for which credit is to be reduced	2 (including part of quarter)
GST paid on machinery [₹ 30,00,000 x 18%]	₹ 5,40,000
Credit to be reduced [₹5,40,000 x 5% x 2]	₹ 54,000
Amount of credit that can be taken [₹ 5,40,000 – ₹ 54,000]	₹4,86,000

13. The said statement is incorrect. Section 104 of the CGST Act, 2017 states the circumstances under which the advance ruling would be considered as void and hence would lose its binding value.

If the Authorities (AAR and Appellate Authority) find that the advance ruling pronounced has been obtained by the applicant/appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void *ab-initio*.

Consequently, all the provisions of the CGST Act shall apply to the applicant as if such advance ruling had never been made (but excluding the period when advance ruling was given and up to the period when the order declaring it to be void is issued).

An order declaring advance ruling to be void can be passed only after hearing the applicant/ appellant. A copy of the order so made shall be sent to the applicant, the concerned officers and the jurisdictional officer.

14. The supply between Pathan Vohra (Pune) and Sukumar Enterprises (Bareilly) is a bill to ship to supply where the goods are delivered by the supplier [Pathan Vohra] to a recipient [Sindhu Pvt. Ltd. (Shimoga)] or any other person on the direction of a third person [Sukumar Enterprises]. The place of supply in case of domestic bill to ship to supply of goods is determined in terms of section 10(1)(b) of the IGST Act, 2017.

As per section 10(1)(b) of the IGST Act, 2017, where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person.

Thus, in the given case, it is deemed that the Sukumar Enterprises has received the goods and the place of supply of such goods is the principal place of business of Sukumar Enterprises. Accordingly, the place of supply between Pathan Vohra (Pune) and Sukumar Enterprises (Bareilly) will be Bareilly, Uttar Pradesh.

This situation involves another supply between Sukumar Enterprises (Bareilly) and Sindhu Pvt. Ltd. (Shimoga). The place of supply in this case will be determined in terms of section 10(1)(a) of the IGST Act, 2017.

Section 10(1)(a) stipulates that where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient.

Thus, the place of supply in second case is the location of the goods at the time when the movement of goods terminates for delivery to the recipient (Sindhu Pvt. Ltd.), i.e. Shimoga, Karnataka.

15. Educational services supplied by educational institutions to its students are exempt from GST vide Exemption *Notification No. 12/2017 CT (R) dated 28.06.2017*. As per said notification, services provided –
- (a) by an educational institution to its students, faculty and staff;
 - (aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee

are exempt from GST.

Therefore, it can be seen that all services supplied by an 'educational institution' to its students are exempt from GST. Further, consideration charged by the educational institutes by way of entrance fee for conduct of entrance examination is also exempt.

It has been clarified by CBIC vide *Circular No. 177/09/2022 GST dated 03.08.2022* that the exemption is wide enough to cover the amount or fee charged for admission or entrance, or amount charged for application fee for entrance, or the fee charged from prospective students for issuance of eligibility certificate to them in the process of their entrance/admission to the educational institution. Services supplied by an educational institution by way of issuance of migration certificate to the leaving or ex-students are also covered by the exemption.

In view of the same, GST is not payable on the application fee charged for entrance or the fee charged for issuance of eligibility certificate for admission or for issuance of migration certificate by educational institutions.

16. Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption (high sea sale) is neither treated as supply of goods nor supply of services in terms of paragraph 8(b) of Schedule III to the CGST Act. Thus, GST is not leviable on high sea sales at the time of making such sales.

As per section 14 of the Customs Act, 1962, the value for the purpose of charging customs duty on imported goods is the value at the time of importation, i.e. at the time of filing of the bill of entry. Further, IGST on imported goods is also levied at the time of filing of bill of entry. In case of high sea sales, the assessable value of imported goods for levying customs duty and IGST is determined on the basis of the price paid by the last high sea sales buyer who files the bill of entry for home consumption.

17. The following precautions should generally be observed when summoning a person under GST law: -
- (i) A summon should not be issued for appearance where it is not justified. The power to summon can be exercised only when there is an inquiry being undertaken and the attendance of the person is considered necessary.

- (ii) Normally, summons should not be issued repeatedly. As far as practicable, the statement of the accused or witness should be recorded in minimum number of appearances.
- (iii) Respect the time of appearance given in the summons. No person should be made to wait for long hours before his statement is recorded except when it has been decided very consciously as a matter of strategy.
- (iv) Preferably, statements should be recorded during office hours; however, an exception could be made regarding time and place of recording statement having regard to the facts in the case.

18. Computation of assessable value and total customs duty and integrated tax payable by Ampine Ltd.

Particular	Amount (£)
FOB value	9,800
Add: License fee required to be paid in UK [Note – 1]	<u>600</u>
Customs FOB value	10,400
Exchange rate is ₹ 99 per £ [Note – 2]	
	₹
Value in rupees	10,29,600.00
Add: Air freight [Restricted to 20% of ₹ 10,29,600 (customs FOB value)] [Note – 3]	2,05,920.00
Insurance @ 1.125% of ₹ 10,29,600 [Note – 4]	11,583.00
Buying commission is not includible in the assessable value [Note – 5]	<u>-</u>
CIF Value	12,47,103.00
Assessable value	12,47,103.00
Rate of duty is 10% [Note – 6]	
Add: Basic custom duty @ 10% (₹ 12,47,103 × 10%) – rounded off (A)	1,24,710
Add: Social Welfare Surcharge (10% of ₹ 1,24,710) [rounded off] (B)	<u>12,471</u>
Value for integrated tax	13,84,284
Add: Integrated tax @ 12% -rounded off (C) [Note – 7]	<u>1,66,114</u>
Total customs duty and integrated tax payable [(A) + (B) + (C)]	3,03,295

Note:

1. Licence fee relating to imported goods payable by the buyer as a condition of sale is includible in the assessable value - Rule 10(1)(c) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 [hereinafter referred to as Customs Valuation Rules].
 2. Rate of exchange notified by CBIC on the date of filing of bill of entry has to be considered [Third proviso to section 14 of the Customs Act, 1962].
 3. In case of goods imported by air, freight cannot exceed 20% of FOB value [Fifth proviso to rule 10(2) of the Customs Valuation Rules].
 4. Insurance charges, when not ascertainable, have to be included @ 1.125% of FOB value of goods [Third proviso to rule 10(2) of the Customs Valuation Rules].
 5. Buying commission is not includible in the assessable value [Clause (a)(i) of sub-rule (1) of rule 10 of the Customs Valuation Rules].
 6. Rate of duty will be the rate in force on the date of presentation of bill of entry or on the date of arrival of the aircraft, whichever is later [Proviso to section 15 of the Customs Act, 1962].
 7. Integrated tax is levied on the sum total of the assessable value of the imported goods, customs duties and applicable social welfare surcharge.
- 19.** (1) As per the Baggage Rules, 2016, an Indian resident arriving from a country other than Nepal, Bhutan, or Myanmar, is allowed duty free clearance of-
- (i) Used personal effects and travel souvenirs without any value limit.
 - (ii) Articles [other than certain specified articles] up to a value of ₹ 50,000 carried as accompanied baggage [General duty free baggage allowance].
 - (iii) Further, such general duty free baggage allowance of a passenger cannot be pooled with the general duty free baggage allowance of any other passenger.
- (2) One laptop computer when imported into India by a passenger of the age of 18 years or above (other than member of crew) is exempt from whole of the customs duty [Notification No. 11/2004 Cus. dated 08.01.2004].
- (3) (i) Accordingly, there will be no customs duty on used personal effects (worth ₹ 2,20,000) of Mrs. and Mr. Rajesh Jain and laptop computer brought by them will be exempt from duty.
- (ii) Duty payable on personal computer after exhausting the duty free baggage allowance will be ₹ 65,000 – ₹ 50,000 = ₹ 15,000.

(iii) Effective rate of duty for baggage =38.50% [including Social Welfare Surcharge]

(iv) Therefore, total customs duty = ₹ 5,775.

20. Imports under Advance Authorisation are exempted from payment of:

- Basic Customs Duty,
- Additional Customs Duty,
- Education Cess,
- Anti- dumping Duty,
- Countervailing Duty,
- Safeguard Duty,
- Transition Product Specific Safeguard Duty, wherever applicable.

However, specified deemed exports as given under are not exempted from payment of applicable anti-dumping duty, countervailing duty, safeguard duty and transition product specific safeguard duty, if any:-

- Supply of capital goods against EPCG authorisation
- Supply to goods to UN or international organisations for their official use or supplied to projects financed by them.

It may be noted that imports under Advance Authorisation for physical as well as deemed exports are also exempt from whole of the Integrated Tax and Compensation Cess.