

## THE INTEGRATED GOODS AND SERVICES TAX ACT, 2017

### Some important definition [Section 2]

**“continuous journey”** means a journey for which a single or more than one ticket or invoice is issued at the same time, either by a single supplier of service or through an agent acting on behalf of more than one supplier of service, and which involves no stopover between any of the legs of the journey for which one or more separate tickets or invoices are issued.

***Explanation.***— For the purposes of this clause, the term “stopover” means a place where a passenger can disembark either to transfer to another conveyance or break his journey for a certain period in order to resume it at a later point of time;

**“export of goods”** with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India;

**“export of services”** means the supply of any service when,—

- (i) the supplier of service is located in India;
- (ii) the recipient of service is located outside India;
- (iii) the place of supply of service is outside India;
- (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange; and
- (v) 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;

**“fixed establishment”** means a place (other than the registered place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services or to receive and use services for its own needs;

**“import of goods”** with its grammatical variations and cognate expressions, means bringing goods into India from a place outside India;

**“import of services”** means the supply of any service, where—

- (i) the supplier of service is located outside India;
- (ii) the recipient of service is located in India; and
- (iii) the place of supply of service is in India;

**“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;

**“location of the recipient of services”** means,—

- (a) where a supply is received at a place of business for which the registration has been obtained, the location of such place of business;
- (b) where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;

(c) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and

(d) in absence of such places, the location of the usual place of residence of the recipient;

**“location of the supplier of services”** means,—

(a) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;

(b) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;

(c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and

(d) in absence of such places, the location of the usual place of residence of the supplier;

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## NATURE OF SUPPLY

It is very important to determine the nature of supply – whether it is inter-State or intra-State. As the kind of tax to be paid depends on nature of supply.

### (i) Inter-State Supply: [Section 7]

**General provisions** - Subject to the place of supply provisions, where the location of the supplier and the place of supply are in:

- (a) Two different States;
- (b) Two different Union territories; or
- (c) A State and a Union Territory.

Such supplies shall be treated as the supply of goods or services in the course of inter-State trade or commerce.

### **Special provisions: Following shall always be treated as inter-state supply of goods or services**

- Any supply of goods or services in the taxable territory, not being an intra-State supply.
- Supplies to or by SEZs are defined as inter-State supply.
- the supply of goods imported into the territory of India till they cross the customs frontiers of India or
- the supply of services imported into the territory of India shall be treated as supplies in the course of inter-State trade or commerce.
- the supplies to international tourists are to be treated as inter-State supplies
- when the supplier is located in India and the place of supply is outside India:

**(ii) Intra State Supply [Section 8]** - any supply where the location of the supplier and the place of supply are in the same State or Union Territory.

Note 1- For the purposes of this Act, where a person has, (i) an establishment in India and any other establishment outside India; (ii) an establishment in a State or Union territory and any other establishment outside that State or Union territory; or (iii) an establishment in a State or Union territory and any other establishment ~~being a business vertical~~ registered within that State or Union territory, then such establishments shall be treated as establishments of distinct persons.

Note 2 - A person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory.

### **Note: Exemption**

Services supplied by an establishment of a person in India to any establishment of that person outside India, which are treated as establishments of distinct persons in accordance with Explanation 1 in section 8 of the Integrated Goods and Services Tax Act, 2017, shall be exempted. Provided the place of supply of the service is outside India in accordance with section 13 of Integrated Goods and Services Tax Act, 2017.

**Supplies in territorial waters [Section 9]**

Notwithstanding anything contained in this Act, —

- (a) where the location of the supplier is in the territorial waters, the location of such supplier; or
- (b) where the place of supply is in the territorial waters, the place of supply, shall, for the purposes of this Act, be deemed to be in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

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**Summary**

Intra-State supply

- Supply of goods /services within the State or Union Territory.

Inter-State supply

- Where location of supplier and place of supply are in two different states /Union Territory.
- Import of goods till they cross customs frontier
- Import of services
- Export of goods or services
- Supply of goods/services to/by SEZ
- Supplies of goods to international tourists
- Any other supply in the taxable territory which is not intra-State supply

**Location of supplier** - Normally, Location of Supplier is the registered place of business or the fixed establishment of the supplier from where the supply is made.

Sometimes, a service provider has to go to a client location for providing service. However, such place would not be considered as the location of the supplier. It has to be either a regular place of business or a fixed establishment, which is having sufficient degree of permanence and suitable structure in terms of human and technical resources

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## PLACE OF SUPPLY

### A. PLACE OF SUPPLY OF GOODS WITHIN INDIA [SECTION-10]

Particulars	Place of Supply
1. Where the supply involves the movement of goods, whether by the supplier or the recipient or by any other person	Location of the goods at the time at which, the movement of goods terminates for delivery to the recipient
2. Where the goods are delivered to the recipient, or any person on the direction of the third person by way of transfer of title or otherwise, it shall be deemed that the third person has received the goods	The principal place of business of such person
3. Where there is no movement of goods either by supplier or recipient	Location of such goods at the time of delivery to the recipient
4. Where goods are assembled or installed at site	The place where the goods are assembled or installed
5. Where the goods are supplied on-board a conveyance like a vessel, aircraft, train or motor vehicle	The place where such goods are taken onboard the conveyance
6. Where the place of supply of goods cannot be determined in terms of sub-sections (2), (3), (4) and (5)	It shall be determined in such manner as may be prescribed

### B. PLACE OF SUPPLY OF GOODS IN CASE OF IMPORT AND EXPORT [SECTION-11]

The place of supply of goods-	Place of supply
imported into India	the location of the importer
exported from India	the location outside India

**C. PLACE OF SUPPLY OF SERVICE WITHIN INDIA****[SECTION 12]**

Nature of service	Place of supply
<b>General provisions [for all services other than following specified services.]</b>	<p>(i) the location of the recipient/registered person where the address on record exists; and</p> <p>(ii) the location of the supplier of services in other cases.</p>
<p>Immovable property (and ancillary services) related to services, including hotel accommodation:-</p>	<p>the location at which the immovable property or boat or vessel, is located or intended to be located.</p> <p>If located outside India, then the Location of the recipient.</p> <p>If located in more than one state/UT, then each such state as per proportionate value of service received or value as per the contract.</p>
<p>Restaurant and catering services, personal grooming, fitness, beauty treatment and health service including cosmetic and plastic surgery training and performance appraisal services</p>	<p>the location where the services are actually performed.</p> <p>Made to a registered person: - the location of such person;</p> <p>Made to unregistered person, the location where the services are actually performed.</p>
<p><b>admission to a cultural artistic, sporting, etc event</b></p>	<p>the place where the event is actually held or where the park or such other place is located.</p>
<p><b>organisation of a cultural, artistic etc. event</b></p>	<p>Made to a registered person: the location of such person;</p> <p>Made to unregistered person - the place where the event is actually held and if the event is held outside India, the place of supply shall be the location of the recipient.</p> <p>Where the event is held in more than one state/UT, then each such state as per proportionate value of service received or value as per the contract.</p>
<p><b>transportation of goods, including by mail or courier</b></p>	<p>Made a registered person: the location of such person;</p>

<p><b>passenger transportation service</b></p> <p>[the return journey shall be treated as a separate journey, even if the right to passage for onward and return journey is issued at the same time]</p> <p><b>supply of services on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle</b></p> <p><b>supply of telecommunication services including data transfer, broadcasting, cable and direct to home television services</b></p> <p><b>banking and other financial services, including stock broking services</b></p>	<p><b>Made to unregistered person</b> - the location at which such goods are handed over for their transportation.</p> <p><b>"Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods"</b> w.e.f 1.2.2019</p> <p>made to a registered person: the location of such person;</p> <p>made to unregistered person: the place where the passenger embarks on the conveyance for a continuous journey:</p> <p>where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined in as per the general rules.</p> <p>the location of the first scheduled point of departure of that conveyance for the journey.</p> <p>Services involving fixed line, circuits, dish etc., and place of supply is the location of such fixed equipment.</p> <p>In case of mobile/ Internet post-paid services, it is the location of billing address of the recipient.</p> <p>In case of sale of pre-paid voucher, the place of supply is the place of sale of such vouchers.</p> <p>In other cases, it is the address of the recipient in records If the address not available in the record, the place of supply shall be location of the supplier of services</p> <p>If pre-paid service is availed or the recharge is made through internet banking or other e-mode of payment, the location of the recipient on the record of the supplier of services shall be the place of supply of such services.</p> <p>the location of the recipient of services on the records of the supplier of services:</p> <p>if the location of recipient of services is not on the records of the supplier, the place of</p>
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**insurance services**

supply shall be the location of the supplier of services.

made to a registered person, be the location of such person;

made to unregistered person, be the location of the recipient of services on the records of the supplier of services.

**Advertisement services to the Government**

The place of supply shall be taken as located in each of such States Proportionate value in case of multiple States

## D. PLACE OF SUPPLY OF SERVICE FOR CROSS BORDER SUPPLIES [SECTION 13]

### WHERE LOCATION OF THE SUPPLIER OR RECIPIENT IS OUTSIDE INDIA

NATURE OF SERVICE	PLACE OF SUPPLY SHALL BE -
(1) <u>Default Rule</u> [for all services other than following specified services.]	The location of the recipient of services. If location of recipient is not available in the ordinary course of business, then location of the supplier.
(2) Performance based services	Place where actually performed. However, 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, default rule shall be applicable.[w.e.f 1.2.2019
(3) Services supplied directly in relation to an immovable property	the place where the immovable property is located or intended to be located.
(4) Services supplied by way of admission to, or organisation of event	the place where the event is actually held.
(5) If services covered in point (2),(3),(4) are provided in more than one country including India (taxable territory).	The place of supply shall be India (taxable territory). If provided in more than one State, then each such state as per proportionate value of service received or value as per the contract.
Banking , intermediary and hiring of means of transport.	the location of the supplier
(7) Services of transportation of goods, other than by way of mail or courier.	the place of destination of such goods



(8) Passenger transportation services	The place where the passenger embarks on the conveyance for a continuous journey.
(9) Services provided on board a conveyance during the course of a passenger transport operation, (including services intended to be wholly or substantially consumed while on board).	the first scheduled point of departure of that conveyance for the journey.
(10) The place of supply of online information and database access or retrieval services (OIDAR)	the location of the recipient of services.
(11) <u>For notified services</u> : In order to prevent double taxation or non-taxation of the supply of a service, or for the uniform application of rules, the Government shall have the power to notify any Services.	the place of effective use and enjoyment of a service.

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## THE QUESTION BANK

**Question 1:** Determine the place of supply in the following cases individually-

- i) A commission agent of India appointed by a Company of USA for sale of goods. Accordingly, the agent received fixed commission.
  - ii) An Importer of Haldia has temporarily imported certain goods from its customer for repairs and after repairs the said goods have been re-exported without being put to any use in Haldia.
  - iii) An assessee located in Kolkata has hired the followings from a foreign Co .-
    - Airlines for a period of 25 days.
    - vessels for a period of 20 days
    - Yachts for a period of 25 days
    - Yachts for a period of 45 days
    - Bus for a period of 35 days
    - Bus for a period of 15 days.
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**Question 2:** Determine the Place of supply in the following cases-

- (i) A modelling agency of Mumbai contracts with a beauty parlour of Mumbai for beauty treatment of say, 20 models at Kolkata.
- (ii) An Indian fashion design firm hosts a show at Toronto, Canada. The firm receives the services of a Canadian event organizer.
- (iii) An Indian firm provides a 'technical inspection and certification service' for a newly developed product of an overseas firm (say, for a newly launched motorbike which has to meet emission standards in different states or countries). Say, the testing is carried out in Maharashtra (45%) and an international location (say, Colombo 55%).
- (iv) A consignment of cut flowers is consigned from Chennai to Amsterdam through vessel.
- (v) A consignment of crystal ware is consigned from Paris to New Delhi through vessel.
- (vi) A goods transportation agency ABC located in Delhi transports a consignment of new motorcycles from the factory of XYZ in Gurgaon (Haryana), to the premises of a dealer in Bhopal, Madhya Pradesh. XYZ is a registered assessee and is also the person liable to pay freight.

(vii) A video game or a movie-on-demand is provided as on-board entertainment during the Kolkata-Delhi leg of a Bangkok-Kolkata-Delhi flight.

(viii) If the above service is provided on a Delhi-Kolkata-Bangkok-Jakarta flight during the Bangkok-Jakarta leg.

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**Question 3:** Determine the place of supply of construction service in the following cases:

(a) A Kolkata based builder provides construction services to Mumbai based company in respect of construction of its New building in Dubai.

(b) A US based company has been awarded construction contract in respect of specific sites in Kenya by a Mumbai based corporation.

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**Question 4:** Determine the Place of Supply in the following individual cases-

(i) Goods are supplied on board an aircraft/(train), moving from Kolkata to Bangalore via Jaipur? The goods are taken on board in Jaipur.

(ii) Services are supplied on board an aircraft to Mr. X who boarded the flight from Jaipur? The flight moved from Kolkata to Bangalore via Jaipur.

(iii) A road is constructed from Patna to Mumbai covering multiple states.

(iv) Three Cheers Pvt. Ltd, a registered supplier of event management services has its head office located in Puri. It undertakes a contract to organize two ceremonies to be held in Kolkata and Puri respectively for Mr. X of Kolkata, an unregistered person for a certain consolidated amount.

(v) Mrs. Singhania, (registered under GST) gifts a beautiful red sweater to her niece (unregistered) in Burdwan. She makes a courier from Patna.

(vi) Sanskar & Sons, a registered firm of Gujarat exports goods to its branch in Australia.

(vii) Mr. Parveen Jajodia of Delhi takes a mobile post-paid connection from Vodafone in Goa. The hard copy of bills however is sent to his residence in Delhi.

(viii) A person in Hyderabad buys shares from a broker in Delhi on NSE (in Mumbai).

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**Question 5:** Determine the place of supply of passenger transportation services in the following cases -

- (i) If a person, registered under GST travels from Mumbai to Delhi and back to Mumbai.
- (ii) If a person, not registered under GST travels from Mumbai to Delhi and back to Mumbai.
- (iii) Vistara Airlines issues a ticket/pass for anywhere travel in India to its premium client Mr. Malhotra of Mumbai.

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### ANSWERS TO QUESTIONS

**Answer to Question 1:**

- (i) The place of supply shall be the location of the supplier i.e. India. [Section 13]
- (ii) In the case of a service provided in respect of goods that are temporarily imported into India for repairs and are exported after the repairs without being put to any use in the taxable territory, other than that which is required for such repair. The default rule will apply and the place of supply shall be the location of recipient of services. [Section 13]
- (iii) The place of supply of service consisting of hiring of all means of transport including yachts but excluding aircrafts, and vessels upto a period of one month, is the location of the supplier. Therefore, in relation to hiring of aircraft and vessels (except yachts) the default rule will apply i.e, the location of service recipient. [Section 13]

Accordingly. The place of provisions is determined as under –

For Aircraft and vessels: Location of service recipient.

For Yachts for a period of 25 days- Location of the Supplier.

For Yachts for a period of 45 days – Location of the Service recipient (more than one months).

For Bus for a period of 35 days - Location of the Service recipient (more than one months).

For Bus for a period of 15 days - Location of the Supplier.

**Answer to Question 2:**

- (i) As per section 12(4), the place of supply in relation to beauty treatment services shall be the location where the services are actually performed. Thus, the place of supply in the given case is Kolkata (West Bengal).
- (ii) As per section 13(5), the place of supply in relation to organisation of an event shall be the place where the event is actually held. Thus, in the given case, the place of supply of service is Canada.

(iii) As per section 13 (6), the place of supply in the given case is the location of taxable territory i.e Maharashtra.

(iv) The place of supply as per section 13(9) shall be the place of destination of such goods i.e Amsterdam.

(v) The place of supply as per section 13(9) shall be the place of destination of such goods i.e New Delhi.

(vi) The recipient of service in the given case is XYZ, a registered dealer. As per Section 12(8) the place of supply of GTA services, if provided to a registered person shall be the location of such person. In the given case, it is Haryana.

(vii) The place of supply of service on board shall be the first scheduled point of departure of that conveyance for the journey i.e in the given case Bangkok.

(ix) In such a case, the place of provision will be Delhi.

**Answer to Question 3:**

(a) As per section 12(3), since the location of the property is outside India, therefore the place of supply of construction service shall be the location of the recipient i.e Mumbai (Maharashtra).

(b) As per section 13(4), the place of supply of service in the given case shall be the place where the immovable property is located or intended to be located i.e Kenya

**Answer to Question 4:** The place of supply shall be -

(i) location at which such goods are taken on board i.e. Jaipur.

(ii) Kolkata i.e the first scheduled departure.

(iii) In each state where such immovable property is located in proportion of value for services based on contractual terms.

(iv) Both West Bengal and Odisha as per proportionate value of service

(v) Patna, Bihar.

(vi) Australia

(vii) Delhi

(viii) Hyderabad, Andhra Pradesh [The place of supply shall be the location of the recipient of services on the records of the supplier of services.]

**Answer to Question 5:** The Place of Supply Shall be -

(i) Mumbai, Maharashtra

(ii) For forward journey: Mumbai. For return journey: Delhi.

(iii) Mumbai, Maharashtra [as per general rule, the location of the recipient]

**ANTI-PROFITEERING MEASURE [SECTION 171]**

- (1) Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.
- (2) The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.
- (3) The Authority referred to in sub-section (2) shall exercise such powers and discharge such functions as may be prescribed.
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## INPUT TAX CREDIT

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### TRANSFER OF INPUT TAX CREDIT

#### [Section 53]

On utilisation of input tax credit availed under this Act for payment of tax dues under the Integrated Goods and Services Tax Act in accordance with the provisions of sub-section (5) of section 49, as reflected in the valid return furnished under sub-section (1) of section 39, the amount collected as central tax shall stand reduced by an amount equal to such credit so utilised and the Central Government shall transfer an amount equal to the amount so reduced from the central tax account to the integrated tax account in such manner and within such time as may be prescribed.

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### MANNER OF DISTRIBUTION OF CREDIT BY INPUT SERVICE DISTRIBUTOR [Section 20]

1. **“Input Service Distributor”** means an office of the supplier of goods or services or both which receives tax invoices issued under section 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office. [Section 2 (61)]

2. The Input Service Distributor shall distribute the credit of central tax as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit being distributed. Require to issue an ISD Invoice and furnish FORM GSTR-6. Credit distributed should not exceed the credit available. Credit shall be distributed in the same month. Credit shall be distributed separately for eligible ITC and ineligible ITC i.e block credit etc.

3. **Manner of distribution:**

Input service attributable to one recipient	Credit shall be distributed only to that recipient.
Input services attributable to more than one recipient	credit shall be distributed amongst them on <i>pro rata</i> on the basis:  <u>the turnover of such recipient</u> aggregate turnover of all recipients to whom input service is attributable and are operational.

4. Where excess credit is distributed wrongly by ISD, it shall be recovered from such recipients along with interest. [Section 21]

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## ACCOUNTS AND AUDIT

Particulars	Nature of Accounts/records
<p>(1) Every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account in manual/electronically. [Section 35]</p> <p>In case of more than one place of business, it shall be kept at such places of business:</p>	<p>(a) production or manufacture of goods;</p> <p>(b) inward and outward supply of goods or services or both;</p> <p>(c) stock of goods;</p> <p>(d) input tax credit availed;</p> <p>(e) output tax payable and paid; and</p> <p>(f) such other particulars as may be prescribed:</p>
<p>(2) Every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter, irrespective of whether he is a registered person or not.</p>	<p>shall maintain records of the consigner, consignee and other relevant details of the goods.</p>

### Note:

1. The Commissioner may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified therein.
2. Such accounts/records shall be kept for a minimum period of 72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records or 1 year from the final disposal of appeal/revision, whichever is later. [Section 36]



**AUDIT**

<b>Types of Audit</b>	<b>Procedures</b>
Annual Audit (based on turnover)	<p>Every registered person whose turnover during a financial year exceeds the prescribed limit (i.e ₹2 crores) shall get his accounts audited by a chartered accountant or a cost accountant and shall submit a copy of the audited annual accounts, the reconciliation statement and such other documents in such form and manner as may be prescribed. [Section 35(3)]</p> <p><b>However, NO audit shall be required for Govt./local authority Departments whose accountants are subjected to audit by CAG /auditor appointment for audit of accounts of local authority under any law. [w.e.f 1.2.2019]</b></p>
General Audit by Commissioner/ his authorised officer [Sec. 65]	<p>(1) May undertake audit for a financial year or <b>part thereof</b> or multiples thereof at the place of business of the registered person or in their office for such period, at such frequency and in such manner as may be prescribed. At least 15 days prior notice must be given.</p> <p>(2) The audit shall be completed within a period of 3 months from the date of commencement of the audit:</p>
Special Audit by chartered Accountant/ Cost Accountant nominated by Commissioner [Section 66]	<p>(1) At any stage of scrutiny, inquiry, investigation etc., the Asst. Commissioner of GST may direct a registered person to get his records including books of account examined and audited by a chartered accountant or a cost accountant as may be nominated by the Commissioner.</p> <p>(2) The audit report shall be submitted within 90 days/ may further extends to 90 days.</p>

## JOB WORK PROCEDURE

### [SECTION 143 AND SECTION 19]

Supply made by Principal to Job worker without paying GST	Option 1 [bring back without paying GST]	Option 2 [supply from job worker's place with payment of GST/export]
<b>Inputs</b>	Within 1 years of being sent out. Otherwise considered as deemed supply from the date of sending.	Within 1 years of their being sent
<b>Capital goods</b>	Within 3 years of being sent out [except moulds and dies, jigs and fixtures, or tools], otherwise considered as deemed supply from the date of sending.	Within 3 years of their being sent. [[except moulds and dies, jigs and fixtures, or tools]

**Note 1-** Provided further that the period of one year and three years may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding one year and two years respectively.

(1) For supplying inputs, capital goods and waste/scrap from job work's place, either the job worker is registered or the principal has declared such place as his additional place of business.

(2) The responsibility for keeping proper accounts for the inputs or capital goods shall lie with the principal.

(3) The principal shall, be allowed input tax credit on inputs sent to a job worker for job work, even if sent directly without being first brought to his place of business [Section 19]

**WHERE TRANSACTION VALUE IS NOT APPLICABLE****Chapter IV of the Central Goods and Services Tax Rules, 2017****DETERMINATION OF VALUE OF SUPPLY****Where Price is not the sole consideration****(1) Where consideration is not wholly in money [Rule 27]:**

The Value of Supply shall be –

- (a) be the open market value of such supply;
- (b) if the open market value is not available, then, sum total of money, and equivalent monetary value of non-monetary consideration, if such amount is known at the time of supply;
- (c) if the value of supply is not determinable as per point (a) or (b), the value of like kind and quality;
- (d) if the value is not determinable as per point (a) or (b) or (c), the same shall be determined as per rule 30 or rule 31 in that order.

Explanation. - For the purposes of the provisions of this Chapter, the expressions-

**(a) “open market value”** of a supply of goods or services or both means the full value in money, (excluding the integrated tax, central tax, State tax, Union territory tax and the cess payable by a person in a transaction), where the supplier and the recipient of the supply are not related and the price is the sole consideration, to obtain such supply at the same time when the supply being valued is made;

**(b) “supply of goods or services or both of like kind and quality”** means any other supply of goods or services or both made under similar circumstances that, in respect of the characteristics, quality, quantity, functional components, materials, and the reputation of the goods or services or both first mentioned, is the same as, or closely or substantially resembles, that supply of goods or services or both.

**Section 2 (73) “market value”** shall mean the full amount which a recipient of a supply is required to pay in order to obtain the goods or services or both of like kind and quality at or about the same time and at the same commercial level where the recipient and the supplier are not related;

**Illustration 1:** Where a new phone is supplied for ₹20,000 along with the exchange of an old phone and if the price of the new phone without exchange is ₹24,000, the open market value of the new phone is ₹24,000.

**Illustration 2:** Where a laptop is supplied for ₹40,000 along with the barter of a printer that is manufactured by the recipient and the value of the printer known at the time of supply is ₹4,000 but the open market value of the laptop is not known, the value of the supply of the laptop is ₹44,000.

## **Where Supplier and Recipient are distinct/related persons**

### **(1) Where supply is made between distinct or related persons, [other than through an agent] [Rule 28]**

(a) be the open market value of such supply;

[where the recipient is eligible for **full input tax credit**, the value declared in the invoice shall be deemed to be the open market value of the goods or services]

(b) if the open market value is not available, be the value of supply of goods or services of like kind and quality;

(c) if the value is not determinable under clause (a) or (b), the same shall be determined as per rule 30 or rule 31 in that order:

However, the value shall be at the option of the supplier, 90% of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person, if the goods are intended for further supply as such by the recipient.

### **(2) Where goods made or received through an agent [Rule 29]**

**The value of supply of goods between the principal and his agent shall-**

(a) be the open market value of the goods being supplied, or

at the option of the supplier, be 90% of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person, where the goods are intended for further supply by the said recipient.

(b) where the value of a supply is not determinable, the same shall be determined as per rule 30 or rule 31 in that order.

**Illustration 3:** A principal supplies groundnut to his agent and the agent is supplying groundnuts of like kind and quality in subsequent supplies at a price of ₹5000 per quintal on the day of the supply. Another independent supplier is supplying groundnuts of like kind and quality to the said agent at the price of ₹4550 per quintal. The value of the supply made by the principal shall be ₹4550 per quintal or where he exercises the option, the value shall be 90% ₹5000 i.e., ₹4500 per quintal.

### **Value based on 110% of Cost of Production/Acquisition [Rule 30]**

**Where the value of a supply of goods or services or both is not determinable by any of the preceding rules of this Chapter [Rule 30]**

the value shall be 110% of the cost of production or manufacture or the cost of acquisition of such goods or the cost of provision of such services.

### **Residual method [Rule 31]**

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 and the provisions of this Chapter:

However, in the case of supply of services, the supplier may opt for this rule, ignoring rule 30.

### **Value of supply in case of lottery [Rule 31A-w.e.f 23.1.2018]**

(1) Notwithstanding anything contained in the provisions of this Chapter, the value in respect of supplies specified below shall be determined in the manner provided hereinafter.

(2) (a) The value of supply of lottery run by State Governments shall be deemed to be 100/112 of the face value of ticket or of the price as notified in the Official Gazette by the organising State, whichever is higher.

(b) The value of supply of lottery authorised by State Governments shall be deemed to be 100/128 of the face value of ticket or of the price as notified in the Official Gazette by the organising State, whichever is higher.

Same rule was there before 23.1.2018 also as per Notification No. 11/2017

**Explanation:** – For the purposes of this sub-rule, the expressions-

(a) “lottery run by State Governments” means a lottery not allowed to be sold in any State other than the organizing State;

(b) “lottery authorised by State Governments” means a lottery which is authorised to be sold in State(s) other than the organising State also; and

(c) “Organising State” has the same meaning as assigned to it in clause (f) of sub-rule (1) of rule 2 of the Lotteries (Regulation) Rules, 2010.

### **Value of supply in case of betting, gambling and horse racing [Rule 31A(3)]**

The value of supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club shall be 100% of the face value of the bet or the amount paid into the totalisator.

### **Determination of value in respect of certain supplies [Rule 32]**

Notwithstanding anything contained in the provisions of this Chapter, the value in respect of supplies specified below shall, **at the option of the supplier**, be determined in the manner provided hereinafter.

#### **1. Purchase or sale of foreign currency including money changing**

##### Option 1

**(i) For a currency, when exchanged from, or to, Indian Rupees (INR),**

Value = [Buying rate/Selling rate (-) RBI reference rate for that currency at that time] x Total units of currency

**Example 1:** US\$1000 are sold by a customer at the rate of ₹60 per US\$.

RBI reference rate for US\$ is ₹65 for that day.

The taxable value = [1000 x (65 - ₹60)] = ₹5000.

**Example 2:** INR 70000 is changed into Great Britain Pound (GBP) and the exchange rate offered is ₹70, thereby giving GBP 1000. RBI reference rate for that day for GBP is ₹69.

The taxable value = [(1000 x (₹70 - ₹69))] = ₹1000.

**Where the RBI reference rate for a currency is not available:**

Value = 1% of the gross amount of Indian Rupees provided or received, by the person changing the money

**Example 3:** US\$1000 are sold by a customer at the rate of ₹45 per US\$. No RBI reference rate is available

The taxable value = 1% of ₹45,000 = ₹450.

**(ii) Where neither of the currencies exchanged is Indian Rupee,**

Value = 1% of the lower of the following two amounts –

- (a) Foreign Currency sold x RBI Reference rate of that currency to Indian rupee at that time.
- (b) Foreign Currency bought x RBI Reference rate of that currency to Indian rupee at that time.

**Example 4:** US\$ 10000 is sold to buy 5000 Great Britain Pound (GBP).

RBI reference rate for US\$ is ₹50 for that day.

RBI reference rate for that day for GBP is ₹60.

(a) US\$ 10,000 x ₹50 = ₹5,00,000  
 (b) GBP 5000 x ₹60 = ₹3,00,000  
 whichever is lower ₹3,00,000

Taxable value = 1% of ₹3,00,000 = ₹3,000.

**Option 2:**

The person providing the service shall exercise such option for a financial year and such option shall not be withdrawn during the remaining part of that financial year.

The value in relation to the supply of foreign currency, including money changing, shall be deemed to be -

Gross amount of currency exchanged [GACE]	Value of Service
Upto ₹ 1,00,000	1% or ₹ 250; higher
₹ 1,00,001 to ₹ 10, 00,000	₹ 1000 + 0.5% of GACE
Exceeding ₹ 10, 00,000	₹ 5500 + 0.1% of GACE
	<i>subject to maximum ₹60,000</i>

**Example 5:** The Gross amount of currency exchanged ₹70,00,000 [of one single transaction]. Compute GST liability if there are 12 such transactions. Assume Rate of GST 18%.

**Solution:**

First ₹ 1, 00,000 of currency exchanged @ 1% or 250, higher= ₹1000

Next ₹ 9, 00,000 of currency exchanged @ 0.5% = 4500

Balance of ₹ 60, 00,000 @ 0.1% 6000

11,500

Maximum Limit 60000

Lower of the above 11,500

**Taxable Value = 11,500 x 12 = 1,38,000**

CGST @9% = 12,420

SGST @9% = 12,420

**(2) Air Travel Agent**

Taxable Value =

(i) 5% of the basic fare in the case of domestic bookings, and

(ii) 10% Of the basic fare in the case of international bookings

**(3) Life insurance business**

Taxable Value shall be -

(a) Gross premium charged from a policy holder (-) amount allocated for investment, or savings on behalf of policy holder, if such amount is intimated to the policy holder at the time of providing of service;

(b) in case of single premium annuity policies other than (a), 10% of single premium charged from the policy holder; or

(c) In all other cases: [only if break up not known]

First year: @ 25% of the premium charged from policy holder

Subsequent year: @ 12.5 % of the premium charged from policy holder

(d) Provided that nothing contained in this sub-rule shall apply where the entire premium paid by the policy holder is only towards the risk cover in life insurance.

**(4) Person dealing in buying and selling of second hand goods****Optional Margin Scheme**

Person dealing in: - used goods as such or after such minor processing which does not change the nature of the goods and where no input tax credit has been availed on the purchase of such goods, the value of supply shall be the difference between the selling price and the purchase price and where the value of such supply is negative, it shall be ignored.

Provided that the purchase value of goods repossessed from a defaulting borrower, who is not registered, for the purpose of recovery of a loan or debt shall be deemed to be the purchase price of such goods by the defaulting borrower reduced by 5% points for every quarter or part thereof, between the date of purchase and the date of disposal by the person making such repossession.

**(5) The value of a token, or a voucher, or a coupon, or a stamp** (other than postage stamp) which is redeemable against a supply of goods or services or both shall be equal to the money value of the goods or services or both redeemable against such token, voucher, coupon, or stamp.

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**(6) The value of taxable services provided by such class of service providers as may be notified by the** Government, on the recommendations of the Council, as referred to in paragraph 2 of Schedule I of the said Act between distinct persons as referred to in section 25, where input tax credit is available, shall be deemed to be **NIL**.

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### **Value of supply of services in case of pure agent (Rule 33)**

Notwithstanding anything contained in the provisions of this Chapter, 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, -

- (i) 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;
- (ii) 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; and
- (iii) 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.

*Explanation.* - For the purposes of this rule, the expression “pure agent” means a person who-

- (a) enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;
- (b) neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;
- (c) does not use for his own interest such goods or services so procured; and
- (d) receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

*Illustration.* - Corporate services firm A is engaged to handle the legal work pertaining to the incorporation of Company B. Other than its service fees, A also recovers from B, registration fee and approval fee for the name of the company paid to the Registrar of Companies. The fees charged by the Registrar of Companies for the registration and approval of the name are compulsorily levied on B. A is merely acting as a pure agent in the payment of those fees. Therefore, A’s recovery of such expenses is a disbursement and not part of the value of supply made by A to B.

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### Rate of Exchange for determination of Value

**Rule 34:** (1) The rate of exchange for determination of value of taxable goods shall be the applicable rate of exchange as notified by the Board under section 14 of the Customs Act, 1962 for the date of time of supply of such goods in terms of section 12 of the Act.

(2) The rate of exchange for determination of value of taxable services shall be the applicable rate of exchange determined as per the generally accepted accounting principles for the date of time of supply of such services in terms of section 13 of the Act.

### Where Value of supply is inclusive of GST

**Rule 35:** Where the value of supply is inclusive of integrated tax or, as the case may be, central tax, State tax, Union territory tax, the tax amount shall be determined in the following manner, namely, -

Tax amount = (Value inclusive of taxes X tax rate in % of IGST/CGST/SGST/UTGST) ÷ (100+ sum of tax rates, as applicable, in %)

### VALUATION IN CASE OF CONSTRUCTION SERVICE

#### NOTIFICATION NO.11/2017

**Value of construction Service** (involving transfer of property in land or undivided share of land) =

The total amount charged for such supply (-) 1/3<sup>rd</sup> of the total amount charged for such supply (being deemed value of land).

“total amount” means the sum total of- (a) consideration charged for aforesaid service; and (b) amount charged for transfer of land or undivided share of land, as the case may be.

**Question 1:** Compute the GST liability of Mr. Saksham, an Air Travel Agent for the month ended 30-09-2019 using the following details: Assume rate of GST is 18%.

	Particulars	₹
(i)	Basic Air fare collected for Domestic booking of tickets	45,00,000
(ii)	Basic Air fare collected for International booking of tickets	90,00,000
(iii)	Commission received from the airlines towards the sale of above tickets	12,00,000

**Question 2:** Determine the GST liability from the following information -

Policy A – Total Premium ₹40,000 (wholly towards risk of the life)

Policy B – Total premium ₹30,000. (Out of which amount allocated for investment ₹25,000.)

Policy C – First year premium ₹80,000

Subsequent year premium ₹1,25,000

(No break up provided)

Policy D – Amount received ₹ 2,00,000 on account of single premium annuity plan (no break up provided)  
Assume rate is 18%.

**Question 3:** X Ltd. engaged in real-estate development has provided you details in relation construction of shopping mall -

(i) The total price charged from 10 clients ₹120 lakhs including the value for transfer of undivided share of land. The Market value of land is 50 lakhs. Advance was taken before the completion of the Project. It has paid CGST and SGST of ₹1,00,000 each for buying Cement and TMT bars.

(ii) Price charged ₹50 lakhs on one customer for which no advance has been taken before the completion. It has paid GST of ₹10,000 for buying Cement and TMT bars.

Determine his GST liability. Rate of GST is 12%

**Solution:**

Particulars	Taxable Value (₹)	
(i) Construction Works for which advance received before completion of project (Note 1)	80,00,000	
(ii) Construction works without taking any advance before Construction [neither supply of goods/services as per Schedule III, hence not liable for GST](Note 2)	Nil	
Total	80,00,000	
	CGST	SGST
Amount of GST @6%	4,80,000	4,80,000
Less: Input tax credit (since used for further supply)	1,00,000	1,00,000
Tax Payable	3,80,000	3,80,000

Note 1: The value of supply shall be total amount charged less  $\frac{1}{3}$ <sup>rd</sup> of the total amount (as value of land) i.e. 120 lakhs  $\times \frac{2}{3} = ₹ 80$  lakhs

Note 2: Further, no input tax credit is allowed since used exclusively for non-taxable supplies.

**Question 4: Determine the GST liability in the following cases**

Lottery Scheme	Face value	Price notified by the organising State	Rate of GST
Run by State Govt.	1000 lakhs	950 lakhs	12%
Authorised by State Govt.	750 lakhs	800 lakhs	28%

**Answer:**

Particulars	Taxable Value	GST liability
Lottery Scheme Run by State Govt.	$100/112 * 1000$ lakhs = 892.86 lakhs (Note 1)	CGST – 53.57 lakhs SGST – 53.57 lakhs
Lottery scheme Authorised by State Govt.	$100/128 * 800$ lakhs = 625 lakhs (Note 2)	CGST – 87.5 lakhs SGST – 87.5 lakhs

**Question 5: Discuss the GST liability in the following cases:**

(i) X Ltd., the manufacturer of machines has removed goods under replacement warranty valued at ₹50,000.

- (ii) A Ltd. has issued free samples to its customers (market price of similar goods ₹50,000)
- (iii) B Ltd. has manufactured Product Y from Product X and thereafter Product Y has been captively consumed for Manufacture of Product Z. The cost of production of Y is ₹ 1,00,00 and the market value is ₹1,50,000.
- (iv) C Ltd. has supplied goods to its branch outside the State cost ₹2,00,000 (Market Price 2,50,000). Such branch has sold the goods of like kind and quality for ₹2,00,000. The branch is eligible for ITC. The Price charged in the invoice is ₹1,90,000.
- (v) Mr. A, Chartered Accountant has charged ROC fees of ₹5000 and service charges of ₹ 1000 from its client.
- (vi) J Ltd. has sold goods to its customer for ₹1,00,000 inclusive of all taxes.
- (vii) X Ltd. a dealer of electronic goods has supplied new laptop for ₹50,000 at a reduced price of ₹10,000 under an Exchange Scheme of old laptop.
- (viii) X Ltd. a manufacturer and dealer of “Goods A” has supplied such goods to BPL card holder in rural areas for ₹10 per goods and ₹90 per goods has been received from CSR fund. Total number of Goods supplied during the month is 10,000.
- (ix) X Ltd. is a dealer of second hand goods has bought a second-hand motor car for ₹1,40,000. Determine the GST liability if it is sold –(i) for ₹1,50,000 –(ii) ₹1,20,000. Assuming he has bought such goods from unregistered person. Ignore compensation cess.
- (x) In above case, if the selling price is ₹1,50,000 and purchase price is ₹1,00,000 from a registered person. Rate of GST is 28%. Assuming the assessee wishes to claim Input tax credit. Ignore compensation cess. Determine the GST liability.
- (xi) X Ltd. has constructed shopping mall by taking advance from its customer before the completion of the construction. The total price charged for such construction services is ₹120 lakhs including the value for transfer of undivided share of land. The Market value of land is 50 lakhs.
- (xii) XYZ Financial Agency, during the month started recovery from default borrower. In one case, it has recovered on disposal of goods ₹2,80,000 on 15.9.2018. The cost of such goods in the hands of the borrower(unregistered) was ₹3,00,000 on 1.5.2018.

**Answer:**

- (i) As per section 9 the charge of GST is on supply of goods or services. As per section 7 one of the essential elements of supply is “consideration” unless specifically covered in Sch-I. Since, in case of free replacement warranty there is no consideration, therefore it cannot be construed as supply. Hence, not liable for GST.
- (ii) As per section 9 the charge of GST is on supply of goods or services. As per section 7 one of the essential elements of supply is “consideration” unless specifically covered in Sch-I. Since, in case of free sample no consideration has been charged, therefore it cannot be construed as supply. Hence, not liable for GST.
- (iii) Captive consumption within the factory does not amount to supply for the purpose of levy of GST.
- (iv) Branch transfer outside the State are considered as supply as per Section 7 read with Schedule -I even made for without consideration. Therefore, subjected to GST. The Value as per section 15 read with rule 28 shall be at the option lower of the following -
  - (a) the open market value ₹1,90,000 (i.e deemed to be the price declared in the invoice, as the branch is eligible for full ITC)
  - (b) 90% of the price charged by the branch to its customer for like goods i.e 1,80,000.

Hence, the taxable value is ₹1,80,000. IGST payable is 12% of 1,80,000 i.e, ₹21,600.

Assuming applicable rate of GST is 12%.

(v) The taxable value u/s. 15 read with rule 33 is ₹1,000. ₹5,000 being collected as pure agent shall not be part of value. Hence, GST payable shall be -CGST @ 9% of ₹500 and SGST @ 9% of ₹500.

(vi) As per section 15 read with rule 35, the tax amount shall be determined as under –

For CGST  $\text{₹}1,00,000/118\% \times 9\% = \text{₹}7627$  (rounded off)

For SGST  $\text{₹}1,00,000/118\% \times 9\% = \text{₹}7627$  (rounded off)

Assuming rate is 18%.

(vii) Since price is not the sole consideration therefore the value of taxable supply shall be the open market value of such supply (laptop) i.e. ₹ 50,000

(viii) As per section 15 transaction value shall include any subsidy received from other than Govt. Amount received from CSR fund is like a subsidy which is received from other than Govt., therefore it shall form part of transaction value. Hence, the value shall be ₹100 per goods.

Total taxable Value = ₹100 x 10000 pc = ₹ 10,00,000

Assuming the rate of goods is 12%. GST payable shall be CGST ₹60,000 and SGST ₹60,000.

(ix) Accordingly –

**If purchase from an unregistered person:** Since no credit is available it is better to opt margin scheme as per rule 32. Further, he is also not liable to pay tax u/s. 9(4) as per specific exemption.

The value as per rule 32 shall be difference between selling price and purchase price and if the value is negative, then it shall be ignored.

**Case 1-** Taxable value is ₹10,000. Assuming rate of GST is 18%. CGST & SGST shall be ₹900 each.

**Case 2** – Taxable value is – Nil. GST payable is Nil

(x) Since, the assessee wishes to claim input tax credit, therefore he cannot opt margin scheme under rule 32 of the CGST Rules, 2017. Hence, his tax liability shall be computed as per normal tax provisions -

<b>Taxable value</b>	<b>₹ 1,50,000</b>	
	<b>CGST</b>	<b>SGST</b>
<b>GST @ 14%</b>	<b>21,000</b>	<b>21,000</b>
<b>Less: Input tax credit</b>		
<b>[14% of 1,00,000]</b>	<b>14,000</b>	<b>14,000</b>
<b>Tax payable</b>	<b>7,000</b>	<b>7,000</b>

(xi) The value of supply shall be total amount charged less  $1/3^{\text{rd}}$  of the total amount (as value of land) i.e. 120 lakhs x  $2/3 = \text{₹} 80$  lakhs [Notification N0.11/2017]. The CGST and SGST shall be 6% of ₹ 80 lakhs i.e. ₹ 4.8 lakhs each. Assuming the rate of GST is 12%.

(xii) As per rule 32 of the CGST Rules, 2017 the value shall be the selling price less purchase price. The purchase price shall be determined as under -

Period between the date of purchase and disposal = 4 months and 14 days i.e. 2 quarter.

Purchase price = ₹ 3,00,000 – (5% \* 2 quarter x 3,00,000) = 2,70,000

Value = ₹ 2,80,000 – 2,70,000 = ₹ 10,000.

Assuming rate of GST is 12%. Therefore, CGST and SGST shall be ₹ 600 each.

**Question 6:** X Ltd. has supplied goods to B (outside the State). The cost of goods is ₹1,50,000. The market value of like kind and quality goods is ₹1,90,000. B sold like goods to its customer for ₹2,00,000. Compute the taxable value and GST liability if –

- (a) B is a sole distributor of X Ltd.
- (ii) B is an agent of X Ltd.
- (iii) B is an outside branch of X Ltd.

Assuming the rate of GST is 12% and B is eligible to get full input tax credit. The price declared in the invoice of X Ltd. is ₹ 1,50,000.

**Answer: GST liability in the hands of X Ltd.**

(i) transaction between related person (refer explanation to section 15). As per rule 28, the value shall be the open market value or 90% of price charged by B to its customer on like goods. Further the open market value shall be deemed to be the price declared in the invoice. Assuming option has been exercised.

Accordingly,

The taxable value shall be ₹ 1,50,000 or 90% of ₹ 2,00,000, lower = 1,50,000

IGST payable @ 12% = 18,000

(ii) If B is an agent of X Ltd. – Value shall be determined as per rule 29 of the CGST Rules, 2017. The value shall be lower of the following –

- (a) open market value i.e ₹ 1,90,000
- (b) 90% of 2,00,000 i.e 1,80,000 (assuming option exercised)

Taxable value = ₹1,80,000

IGST @ 12% = ₹ 21,600

(iii) same as point (i)

**Question 7:** Montex Forex Agency, provides you the following information to determine the value of supply as per rule 32(2)(a) and rule 32(2)(b) of the Central GST Rules, 2017:-

- (i) Purchase US\$ 5000 from Mr. Rahul @ ₹ 65/per USD. RBI reference rate is ₹ 65.70/per USD.
- (ii) Sale GBP 1000 to Mr. Ramesh @ ₹ 89/per GBP. The RBI reference rate on that date is not available.

**Solution:**

(1) As per Rule 32(2)(a), the value of supply of services in relation to the purchase or sale of foreign currency, including money changing, shall be determined by the supplier of services in the following manner, namely:-

(a) for a currency, when exchanged from, or to, Indian Rupees, the value shall be equal to the difference in the buying rate or the selling rate, and the Reserve Bank of India reference rate for that currency at that time, multiplied by the total units of currency:

Accordingly, in the given case, the value of supply shall be –

**RBI reference rate (-) buying rate x Total units of currency**

= 65.70 – 65 x 5000 = ₹3500

However, in case where the Reserve Bank of India reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received by the person changing the money.

Accordingly, the Value = 1% of the gross amount of Indian Rupees received

= 1% of (₹ 89 x 1000) = ₹ 890.

(2) The person providing the service shall exercise the option for a financial year and such option shall not be withdrawn during the remaining part of that financial year. The value in relation to the supply of foreign currency, including money changing, as per rule 32(2)(b) shall be deemed to be -

Gross amount of currency exchanged [GACE]	Value of Service
Upto ₹ 1,00,000	1% or ₹ 250; higher
₹ 1,00,001 to ₹10, 00,000	₹ 1000 + 0.5% of GACE
Exceeding ₹ 10, 00,000	₹ 5500+ 0.1% of GACE
<i>subject to maximum ₹ 60,000</i>	

Accordingly, in the given case, the value of supply is –

(i) Gross amount of currency exchanged - ₹ 65 x 5000 = 3,25,000

On First ₹ 1,00,000 of currency exchanged @ 1% or 250, higher= ₹ 1000

On bal. 2,25,000 of currency exchanged @ 0.5% = ₹ 1125

₹ 2125

(ii) Gross amount of currency exchanged - ₹ 89 x 1000 = 89000

The value shall be 1% of 89,000 or 250; higher = ₹ 890.

**Question 8:** Determine the GST liability of Mr. Raman, a registered dealer of West Bengal from the following supply made during the month -

Particulars	Amount (excluding GST)	Remarks
10,000 Gift Pack @ ₹ 20 each supplied to Mr. X of Assam	2,00,000	Gift Pack consists of – 1 chocolate + 1 bottle of fruit juice + 1 packet of toy balloons. Penalty charged ₹ 5000 for delay payment.
Hiring of 5 Generator to Mr. Y of Odisha.	1,00,000	Price includes cost of freight ₹ 5000 arranged through GTA who charged GST @ 12%.
Free catering services provided in West Bengal in birthday function of his brother.	Nil	Cost of providing service is ₹ 60,000. Open market value of such services is not available.
Free supply of 100 gift pack to its customers in West Bengal on the occasion of Durga Puja.	Nil	Cost per Pack ₹ 20. Gift Pack includes - 1 chocolate + 1 bottle of fruit juices.

**Assume the rates of GST:** Chocolates - 18%, Fruit juice bottles - 12%, Toy balloons -5%, Service of renting of generators and catering 18%

**Solution to Question 8:** Computation of GST liability

Particulars	Taxable Value	CGST	SGST	IGST
10,000 Gift Pack @ ₹ 20 each supplied to Mr. X of Assam (Note 1)	2,04,237	-	-	36,763
Hiring of 5 Generator to Mr. Y of Odisha (Note 2)	1,00,000	-	-	18,000

Free catering services provided in West Bengal in birthday function of his brother. [110% of 60000] (Note 3)	66,000	5940	5940	-
Free supply of 100 gift pack to its customers in West Bengal on the occasion of Durga Puja. (Note 3)	Nil	Nil	Nil	-
Total GST liability		5940	5940	54,763

## Notes-

- (1) Write the provisions of section 2(74) and section 8(b).

It is a case of mixed supply; therefore highest rate of GST shall be applicable. Further, delay payment charges also from part of value and is considered as inclusive of GST. Accordingly, the value shall be 2,00,000 plus  $(5000/118 \times 100)$  i.e. 4237.

- (2) Write the provisions of section 2(30) and section 8(a).

Renting of Generator along with transportation is a composite supply and therefore to be classified under principal supply i.e. hiring of generator. Further, services received from GTA shall not be fall under reverse charge mechanism as the GTA has paid GST @ 12%.

- (3) Write provisions of section 7(1)(c) read with Schedule 1.

Free supply to relative amounts to supply and therefore taxable. The value shall be the open market value, since it is not available. The value shall be determined as per 110% of cost i.e. ₹66000.

Further, Free services provided to customer (non-relative) shall not be considered as supply. Hence not liable for GST.