

CHAPTER - 6 COMPOSITION SCHEME

QUESTION 1

Balaji Traders, a retailer who keeps no inventories, presents the following expected information for the year :

Particulars	Amount (Rs.)
Purchase price of goods (GST @ 18%) [exclusive of GST]	70 lakhs
Sales (at fixed selling price inclusive of all taxes) (GST on sales@ 18%)	90 lakhs

As a GST expert, you are required to advise whether Balaji Traders should opt for composition scheme or pay normal tax.

Given that:

- (i) Rate of GST under composition scheme is 1% of turnover.
- (ii) Expenses of keeping detailed statutory records required under the GST Laws is Rs. 20,000 p.a. (if Balaji Traders opt composition scheme).
- (iii) Expenses of keeping detailed statutory records required under the GST Laws is Rs. 80,000 p.a. (if Balaji Traders opt normal scheme).
- (iv) Other business expenses are Rs. 5,00,000 p.a.

Answer :

To determine whether Balaji Traders should opt for Composition scheme or not, it is important to compare the cost of product to the ultimate consumer and profit earned by Balaji Traders under both the options.

Comparison of cost of product and profit

Particulars	Normal Tax	Composition Scheme
Cost of goods sold	70,00,000	82,60,000*
<i>Add:</i> Costs of maintaining records	80,000	20,000
<i>Add:</i> Normal Expenses	5,00,000	5,00,000
Total Costs	75,80,000	87,80,000
Sales (inclusive of all taxes)	90,00,000	90,00,000
<i>Less :</i> Tax (GST under Normal Tax = 90 lakhs × 18/118); (Composite Tax = 90 lakh × 1%)	(13,72,881)	(90,000)
Sales (Net of taxes)	76,27,119	89,10,000
Profit of the dealer (Sales, net of taxes – Total Costs)	47,119	1,30,000

[*Since, No input tax credit is available under composition scheme, hence, cost of goods sold shall include GST also]
As from the above comparison, it is apparent that while cost to ultimate consumer, in both the cases remains same, the profit of the dealer is higher if the dealer opts for composition scheme. Hence, it is advisable to opt for composition scheme.

QUESTION 2

Bansal and Chandiok is a partnership firm of Chartered Accountants in Jaipur (Rajasthan). The firm specialises in bank audits providing services to banks across India. It has an annual turnover of Rs. 60 lakh in the preceding financial year.

With reference to the provisions of the CGST Act, 2017, examine whether the firm can opt for the composition scheme. Will your answer change, if

- (a) The turnover of the firm is Rs. 40 lakhs?
- (b) Bansal and Chandiok is not a partnership firm of Chartered Accountants but a partnership firm providing support services to restaurants like booking tables, advertisement etc. ? **[Modified, RTP - May 2018]**

Answer :

Sec. 10(2A) of the CGST Act, 2017 provides for Composition Scheme for Supplier of Services, which a supplier of services can opt, subject to the following conditions :

Supplies are made by a registered person, –

- (i) whose aggregate turnover in the preceding financial year was fifty lakh rupees or below;
- (ii) who is not eligible to pay tax under sub-section (1) of section 10 of the said Act;
- (iii) who is not engaged in making any supply which is not leviable to tax under the said Act;
- (iv) who is not engaged in making any inter-State outward supply;
- (v) who is neither a casual taxable person nor a non-resident taxable person;
- (vi) who is not engaged in making any supply through an electronic commerce operator who is required to collect tax at source under section 52; and
- (vii) who is not engaged in making supplies of the following goods :

Tariff	Description
2105 00 00	Ice cream and other edible ice, whether or not containing cocoa
2106 90 20	Pan masala
2202 10 10	Aerated Water, containing added sugar or other sweetening matter or flavoured [Eg. Pepsi, Coca- cola, etc.] [inserted by NN 43/2019 - C.T., w.e.f. 01.10.2019
Chapter 24	All goods, i.e. Tobacco and manufactured tobacco substitutes
6815	Fly ash bricks; fly ash aggregates with 90% or more fly ash content; Fly ash blocks [omitted words, omitted by NN 16/2022 - CT, w.e.f. 18.07.2022]
6901 00 10	Bricks of fossil meals or similar siliceous earths
6904 10 00	Building bricks
6905 10 00	Earthen or roofing tiles

On the basis of the above provisions, Bansal and Chandio, firm of Chartered Accountants, is not eligible for the composition scheme because of the following both the reasons :

- (a) Its turnover in the preceding financial year was more than Rs. 50 lakhs (given turnover is Rs. 60 lakhs in the preceding financial year);
 - (b) It is engaged in making inter-State outward supply (given that it provide services to banks across India);
- Therefore, it has to discharge its tax liability under regular provisions at the applicable rates.
- (a) The answer will not change even if the turnover of the firm had been Rs. 40 lakh. Because, it is also engaged in making inter-State outward supply (given that it provide services to banks across India).
 - (b) The answer will not change even if the firm is providing support services to restaurants. Because, it is also engaged in making inter-State outward supply (given that it provide services to banks across India).

QUESTION 3

Examine whether the following statements are true or false giving brief reasons :

- (i) It is mandatory to issue a tax invoice in case a registered person has opted for composition levy scheme.
 - (ii) A composition tax payer, who has not rendered any taxable supply during a quarter, is not required to file any statement.
- (IPCC MTP May 2018, 2 × 2 = 4 Marks)**

Answer :-

- (i) The given statement is false. A registered person paying tax under the provisions of section 10 [composition levy] is required to issue, instead of a tax invoice, a bill of supply containing the specified particulars in the prescribed manner [Section 31(3)(c) read with Rule 49 of the CGST Rules].
- (ii) The given statement is false. Composition tax payer is required to furnish a statement in FORM GST CMP-08 for every quarter, even if no supplies have been effected during such period. In other words, filing of 'Nil' statement is also mandatory.

QUESTION 7

Determine whether the supplier in the following cases are eligible for composition levy provided their turnover in preceding year does not exceed Rs. 1.50 crore :

- (i) Mohan Enterprises is engaged in trading of pan masala in Rajasthan and is registered in the same State.
- (ii) Sugam Manufacturers has registered offices in Punjab and Haryana and supplies goods in neighbouring States.

Answer :

- (i) A supplier engaged in the manufacture of goods as notified under section 10(2)(e), during the preceding FY is not eligible for composition scheme. Ice cream and other edible ice, whether or not containing cocoa; pan masala; tobacco & manufactured tobacco substitutes; Aerated Water, containing added sugar or other sweetening matter or flavoured; Fly ash bricks; fly ash aggregates with 90% or more fly ash content; Fly ash blocks; Bricks of fossil meals or similar siliceous earths; Building bricks; Earthen or roofing tiles are hereby notified. However, in the given case, since Mohan Enterprises is engaged in trading of pan masala and not manufacture and his turnover does not exceed Rs. 1.50 crore, he is eligible for composition scheme subject to fulfilment of specified conditions.
- (ii) Since supplier of inter-State outward supplies of goods is not eligible for composition levy, Sugam Manufacturers is not eligible for composition levy.

QUESTION 8

M/s Heeralal and Sons registered in Karnataka has opted to avail the benefit of composition scheme. It has furnished the following details for the tax period ended on 30-06-2018.

S. No.	Items	Rs.
(i)	Taxable turnover of goods within the state	15,00,000
(ii)	Exempted turnover of goods within the state	17,00,000
	Total Turnover	32,00,000

Using the above information, calculate total GST (No need for bifurcation between CGST and SGST) to be paid by the firm for the tax period ended on 30-06-2018 in following independent situations :

(i)	M/s Heeralal and Sons is a Manufacturer
(ii)	M/s Heeralal and Sons is a Trader

(CA Final MTP Nov. 2021) (CA Final - Nov. 2018, Question 2(c) - New Syllabus) (3 Marks)

Answer :

Computation of amount payable under composition scheme

- (i) If M/s Heeralal and Sons is a manufacturer :

Tax is to be paid @ 1% (CGST + SGST) of the turnover in the State as under :

1% of Rs 32,00,000 [Rs 15,00,000 + 17,00,000] = Rs 32,000

- (ii) If M/s Heeralal and Sons is a trader :

Tax is to be paid @ 1% (CGST + SGST) of the turnover of taxable supplies of goods and services in the State as under:

1% of Rs 15,00,000 = Rs 15,000

QUESTION 9

MN Ltd. has two registered place of business in the State of Haryana. Its aggregate turnover during the previous financial year for both the places of business was Rs. 62 lakh. It wishes to opt for composition levy for one of the place of business in the current year and wants to continue with registration and pay taxes at the merit rate for the second place of business. Can MN Ltd. do so ? Explain with reason. **(CA Final - Nov. 2018, 3(b),- Old) (3 Marks)**

Answer :

As per proviso to section 10(2) of the CGST Act, 2017, where more than one registered persons are having the same PAN issued under the Income-tax Act, 1961, the registered person shall not be eligible to opt for the composition scheme unless all such registered persons opt to pay tax under composition scheme.

In the given case, since MN Ltd. has two places of business (they are not separate entities under Income-tax Act, 1961), they would be registered under the same PAN. Therefore, MN Ltd. cannot opt for composition levy for only one of the place of business and pay tax under regular scheme for other place of business.

QUESTION 10

Shubhlaxmi Foods is engaged in supplying restaurant service in Maharashtra. In the preceding financial year, it has a turnover of Rs. 140 lakhs from the restaurant service. You are required to advise Shubhlaxmi Foods whether it is eligible for composition scheme in the current year assuming that in the current financial year, his turnover is expected to be Rs. 130 lakh from supply of restaurant services and Rs. 10 lakh from the supply of farm labour in said State. Further, it also expects to earn bank interest of Rs. 20 lakh from the fixed deposits.

Also compute the estimated tax payable by Shubhlaxmi Foods in the current FY.

Answer :

As per section 10(1) of the CGST Act, 2017 read with Notification No. 14/2019 CT dated 7.03.2019, a registered person, whose aggregate turnover in the preceding financial year did not exceed Rs. 1.50 crore, may opt to pay, in lieu of the tax payable by him, an amount calculated at the specified rates if, *inter alia*, he is not engaged in the supply of services other than restaurant services.

However, the scheme permits supply of other marginal services for a specified value along with the supply of goods and restaurant service, as the case may be. Such marginal services can be supplied for a value up to 10% of the turnover in the preceding financial year or Rs. 5 lakh, whichever is higher.

It is important to note that the exempt services are included in the definition of aggregate turnover [Section 2(6) of the CGST Act, 2017]. However, as per explanations inserted in Section 10 of the CGST Act, 2017, the value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account –

- (i) for determining the eligibility for composition scheme under second proviso to section 10(1) i.e. supplying services of value not exceeding 10% of the turnover in a State in the preceding financial year or Rs. 5 lakh, whichever is higher;
- (ii) in computing aggregate turnover in order to determine eligibility for composition scheme.

Thus, exempt services shall also be considered for determining the eligibility for composition scheme under second proviso to section 10(1) and in computing aggregate turnover in order to determine eligibility for composition scheme. The only exception is interest received from deposits, loans, etc.

In the given case, the aggregate turnover of Shubhlaxmi Foods from restaurant services in the preceding FY is Rs. 140 lakh. Therefore, it is eligible to opt for composition scheme in the current FY.

Further, apart from restaurant services, it can provide services upto Rs. 14 lakh [i.e. (10% of Rs. 140 lakh) or Rs. 5 lakh, whichever is higher], in the current FY. As already discussed, bank interest of Rs. 20 lakh from fixed deposits will not be considered while determining this limit.

Further, Shubhlaxmi Foods is expected to provide the exempt services of supply of farm labour worth Rs. 10 lakh in current financial year. Thus, turnover of supply of farm labour [Rs.10 lakh] alongwith the turnover of restaurant services [Rs. 130 lakh] will be eligible for composition scheme, in the current financial year.

Tax rate applicable for restaurant services under composition scheme is 5% [2.5% CGST and 2.5% SGST]. Estimated tax payable by Shubhlaxmi Foods is as under :

= Rs. 140 lakh [Rs. 130 lakh + Rs. 10 lakh] × 5%

= Rs. 7 lakh [CGST Rs. 3.5 lakh and SGST = Rs. 3.5 lakh]

QUESTION 11

Mr. Rajbeer, a registered person at Delhi, is in the business of selling goods relating to interior decoration under the firm name M/s. Rajbeer & Sons. He has opted for composition scheme for the Financial Year (FY) 2018-19.

His turnover for FY 2018-19 is Rs. 80 lakh and is expected to achieve Rs. 130 lakh in FY 2019-20. Discuss whether M/s Rajbeer & Sons can still enjoy the benefits of composition scheme in FY 2019-20.

His son Karan wants to start business of providing services relating to interior decoration, after completing post-graduation course in interior decoration under same firm name M/s Rajbeer & Sons with effect from 01.04.2019 and wants to enjoy the benefits of composition scheme under GST.

Advise Mr. Rajbeer and his son Karan.

(CA Final Nov. 19, 5 Marks)

Answer :

As per section 10 of the CGST Act, 2017, a registered person, whose aggregate turnover in the preceding financial year did not exceed Rs. 1.5 crore in a State/UT may opt for composition scheme, provided he is, inter alia, engaged in supply of goods and/or restaurant service.

However, a person who opts for composition scheme is permitted to supply services other than restaurant service of value not exceeding 10% of turnover in a State/UT in the preceding financial year or Rs. 5 lakh, whichever is higher.

In the given case, M/s. Rajbeer & Sons, engaged in business of selling goods relating to interior decoration, is eligible for composition scheme in FY 2019-20 since its aggregate turnover in preceding FY (viz. Rs. 80 lakh) does not exceed Rs. 1.5 crore.

If Karan wishes to start the business of providing services relating to interior decoration under the same firm name M/s Rajbeer & Sons, the sole proprietorship needs to be first converted into a partnership firm. Further, new GST registration under the new PAN is required to be obtained.

In such a case, the firm can provide services relating to interior decoration up to a value of Rs. 5 lakh (10% of zero turnover of last year or Rs. 5 lakh, whichever is higher) to continue enjoying the benefit of composition scheme in FY 2019-20.

[It has been assumed that M/s Rajbeer & Sons is a sole proprietorship.]

QUESTION 12

- (i) Examine whether the suppliers are eligible for composition levy under section 10 of the CGST Act, 2017 in the following independent cases in the beginning of the current financial year.
- (a) Technology Enterprises, registered in Jalandhar, Punjab, is engaged in manufacturing computer systems. Its aggregate turnover in the preceding financial year is Rs. 125 lakh. Technology Enterprises supplies the computer systems manufactured by it within the State of Punjab only. With a view to expand its business operations, it will also start providing the repairing services of computer systems in the current financial year.
 - (b) M/s. Siddharth & Sons, registered in Delhi, owns a restaurant 'Tasty Foods' with a turnover of Rs. 112 lakhs in the preceding financial year. In view of the growing customer demand, it will also start intra-state trading of beverages in Delhi.
 - (c) Sitaram Associates, registered in Sikkin, is engaged in running a food chain 'Veg Kitchen' in the State. It has a turnover of Rs. 73 lakh in the preceding financial year. In the current financial year, it decides to shut down the food chain owing to huge losses being incurred in the said business. Instead, it will start providing intra-state architect services.
 - (d) Deepti Services Ltd., registered in Uttarakhand, is exclusively providing hair styling services. It has turnover of Rs. 34 lakh in the preceding financial year.
Will your answer be different, if Deepti Services Ltd. also starts supplying beauty products along with providing hair styling services in the current financial year ?
- (ii) Varun & Arun Associates started a partnership firm of architects in Bhopal (Madhya Pradesh) on 01.04.2020. The firm provides architecture services, in Madhya Pradesh. It provided the following details of its turnover.
- April – June Rs. 20 lakh
 - July – Sept Rs. 30 lakh
 - Oct – Dec. Rs. 20 lakh

The firm has obtained the registration under Section 22 of the CGST Act, 2017 and pays tax under composition scheme. Determine the tax liability of Varun & Arun Associates for the quarters : Apr-Jun, Jul-Sept and Oct-Dec.

Note : The rates of tax on architectural services are CGST - 9% and SGST - 9%.

(RTP Nov. 2020), (RTP Nov. 2019)

Answer :

- (i) As per section 10(1) of the CGST Act, 2017, the following registered persons, whose aggregate turnover in the preceding financial year did not exceed Rs. 1.5 crore, may opt to pay tax under composition levy:
- (i) Manufacturer,
 - (ii) Persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II (restaurant services), and
 - (iii) Any other supplier eligible for composition levy.

The composition scheme under sub-sections (1) and (2) of section 10 can essentially be availed in respect of goods and only one service namely, restaurant service. However, the scheme permits supply of other marginal services for a specified value along with the supply of goods and restaurant service, as the case may be. Such marginal services can be supplied for a value up to 10% of the turnover in the preceding year or Rs. 5 lakh, whichever is higher. Further, the registered person should not be engaged in making any inter-State outward supplies of goods.

Furthermore, newly inserted section 10(2A) of the CGST Act, 2017 provides an option to a registered person, who is not eligible to pay tax under section 10(1) and 10(2), of paying tax @ 6% (CGST-3% and SGST/UTGST-3%) provided his aggregate turnover in the preceding financial year is upto Rs. 50 lakh. Said person can pay tax @ 6% of the turnover in State or turnover in Union territory up to an aggregate turnover of Rs. 50 lakh, subject to specified conditions. One of such condition is that the registered person should not be engaged in making any inter-State outward supplies of goods or services.

In view of the above-mentioned provisions, the answer to the given independent cases is as under :-

- (a) The turnover limit for being eligible for composition scheme under sub-sections (1) and (2) of section 10 of the CGST Act, 2017 for Jalandhar (Punjab) is Rs. 1.5 crore in the preceding financial year. Thus, Technology Enterprises can opt for said composition scheme as its aggregate turnover is less than Rs. 1.5 crore in the preceding financial year and it is making intra-State supplies. Further, since the registered person opting for composition scheme can also supply services (other than restaurant services) for a value up to 10% of the turnover in the preceding year or Rs. 5 lakh, whichever is higher. Thus, Technology Enterprises can supply repair services up to a value of Rs. 12.5 lakh [10% of Rs.125 lakh] in the current financial year.
- (b) In the given case :-
- (i) the turnover in the preceding year is less than the eligible turnover limit under composition scheme under sub-sections (1) and (2) of section 10 of the CGST Act, 2017 for Delhi, i.e. Rs. 1.5 crore.
 - (ii) the supplier is engaged in providing restaurant service which is an eligible supply under said composition scheme.
 - (iii) the supplier wants to engage in trading of goods which is also an eligible supply under said composition scheme.

Thus, M/s. Siddharth & Sons is eligible for composition scheme under sub-sections (1) and (2) of section 10 of the CGST Act, 2017.

- (c) The turnover limit for being eligible for composition scheme under sub-sections (1) and (2) of section 10 of the CGST Act, 2017 for Sikkim is Rs. 75 lakh in the preceding financial year. However, a registered person who is exclusively engaged in supplying services other than restaurant services are not eligible for said composition scheme. Thus, Sitaram Associates cannot opt for composition scheme under sub-sections (1) and (2) of section 10.

However, the benefit of composition scheme under section 10(2A) of the CGST Act, 2017 is available in case of a registered person who is not eligible to pay tax under sub-sections (1) and (2) of section 10 provided its aggregate turnover in the preceding financial year does not exceed Rs. 50 lakh.

Thus, in view of the above-mentioned provisions, Sitaram Associates cannot avail the benefit of composition scheme under section 10(2A) also as its aggregate turnover in the preceding financial year is more than Rs. 50 lakh.

- (d) A service provider can opt for the composition scheme under sub-sections (1) and (2) of section 10 of the CGST Act, 2017 only if he is engaged in supply of restaurant services. Said scheme permits supply of marginal services for a specified value, but only when the same are supplied along with goods and/or restaurant service.

Since, Deepti Services Ltd. is exclusively engaged in supply of services other than restaurant services, it is not eligible for composition scheme sub-sections (1) and (2) of section 10 even though its turnover in the preceding year is less than Rs. 75 lakh, the eligible turnover limit for Uttarakhand.

However, since Deepti Services Ltd. is not eligible to opt for composition scheme under sub-sections (1) and (2) of section 10 and its aggregate turnover in the preceding financial year does not exceed Rs. 50 lakh, Deepti Services Ltd. is entitled to avail benefit of composition scheme under section 10(2A) of the CGST Act, 2017 in the current financial year.

Further, the answer will remain the same even if Deepti Services Ltd. also start supplying beauty products. alongwith providing hair styling services in the current financial year since it fulfils the conditions laid down for availing the benefit of composition scheme under section 10(2A) of the CGST Act. It can avail the benefit of composition scheme under section 10(2A) till the time its aggregate turnover in the current year doesn't exceed Rs. 50 lakh.

- (ii) The composition scheme under sub-sections (1) and (2) of section 10 of the CGST Act, 2017 is available in case of goods and restaurant service. Further, marginal services upto specified limit can be provided along with the supply of goods or restaurant service, as the case may be. Since, in the given case, Varun & Arun Associates is supplying services other than restaurant services, it is not eligible to pay tax under sub-sections (1) and (2) of section 10. However, section 10(2A) of the CGST Act, 2017 provides an option to a registered person, who is not eligible to pay tax under sub-sections (1) and (2) of section 10, of paying tax @ 6% (CGST-3% and SGST/UTGST-3%) provided his aggregate turnover in the preceding financial year is upto Rs. 50 lakh. Said person can pay tax @ 6% of the turnover in State or turnover in Union territory up to an aggregate turnover of Rs. 50 lakh, subject to specified conditions.

In the given case, Varun & Arun Associates has started the supply of services in the current financial year. Therefore, its aggregate turnover in the preceding financial year is Nil. Consequently, it is eligible to avail the benefit of composition scheme under section 10(2A) of the CGST Act in the current financial year. It becomes eligible for the registration when its aggregate turnover exceeds Rs. 20 lakh. While registering under GST, it has to opt for composition scheme under section 10(2A).

For determining its turnover of the State for payment of tax under composition scheme for services, turnover of April-June quarter [Rs. 20 lakh] shall be excluded as the value of supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act are to be excluded for this purpose.

On next Rs.30 lakh [turnover of July-Sept quarter], it shall pay tax @ 6% [3% CGST and 3% SGST], i.e. CGST Rs. 90,000 and SGST Rs. 90,000.

By the end of July-Sept quarter, its aggregate turnover reaches Rs. 50 lakh*.

Consequently, its option to avail composition scheme under section 10(2A) shall lapse by the end of July-Sept quarter and thereafter, it is required to pay tax at the normal rate. Thus, the tax payable for Oct-Dec quarter is Rs. 20 lakh × 9%, i.e. CGST - Rs. 1,80,000 and SGST - Rs. 1,80,000.

***Note** - While computing aggregate turnover for determining Varun & Arun Associates' eligibility to pay tax under composition scheme, value of supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act (i.e. turnover of April-June quarter), are included.

QUESTION 13

Mr. Zaid, registered in Himachal Pradesh is engaged in making inter-State outward supplies of apparels. The aggregate turnover of Mr. Zaid in the financial year 2018-19 is Rs. 70 lakh. He opted for composition levy in the year 2019-20 and paid tax for the quarter ending June, 2019 under composition levy. The proper officer has levied penalty on Mr. Zaid in addition to the tax payable by him.

You are required to examine the validity of the action taken by proper officer.

[RTP - May 2018], [CA Final (old) - Nov. 18 - Q.4(b) - 4 Marks]

Answer :

The action taken by proper officer is valid in law. Section 10(1) of CGST Act, 2017 inter alia provides that the benefit of year composition levy can be availed by a registered person if the aggregate turnover in the preceding financial does not exceed Rs. 1.50 crore. However, the said threshold is reduced to Rs. 75 lakh in case of some special category states.

Further, section 10(2) inter alia specifies that registered person is eligible to opt for composition levy if he is not engaged in making any inter-state outward supplies of goods or services. In the present case, Mr. Zaid is engaged in making inter-State outward supplies of goods. So, he is not eligible to opt for composition levy irrespective of aggregate turnover in the preceding financial year. Moreover, section 10(5) provides that if a person who has paid tax under composition levy is found as not being eligible for composition levy, then, such person shall be liable to penalty to an amount equivalent to the tax payable by him under the provisions of the Act i.e., as a normal taxable person and that this penalty shall be in addition to the tax payable by him. Thus, levy of penalty on Mr. Zaid is valid in law in terms of section 10(5).

QUESTION 14

Ramaswamy, a registered supplier, is an interior decorator. His registered office is located in Gujarat and he is not engaged in making any inter-State supply of services. His aggregate turnover in the FY 2019-20 is Rs. 90 lakhs. With reference to the provisions of the CGST Act, 2017, examine whether Ramaswamy can opt for the composition scheme in the FY 2020-21 ?

Will your answer be different if Ramaswamy is engaged in supplying restaurant services and procures food items required for his restaurant from neighbouring State of Maharashtra? **(IPCC MTP May 2018, 4 Marks)**

Answer :

Section 10(2A) of the CGST Act, 2017 read with NN 02/2019 - CT (R) provides for Composition Scheme for service suppliers whose aggregate turnover in the preceding financial year was Rs. 50 lakhs or below. But, turnover of Ramaswamy during previous financial year was Rs. 90 lakhs (i.e. more than Rs. 50 lakhs). Therefore, Ramaswamy is not eligible to apply for composition scheme under section 10(2A) read with NN 02/2019-CT (R).

However, if Ramaswamy is engaged in supplying restaurant services, he will be eligible for composition scheme u/s 10(1) of the CGST Act, 2017 in the current financial year (2020-21). A registered person cannot opt for composition scheme if, *inter-alia*, he is engaged in making any inter-State outward supplies of goods or services, but there is no restriction on procurement of goods or services inter-State.

Hence, in this case, Ramaswamy (engaged in supplying restaurant services) is eligible for composition scheme u/s 10(1), as his turnover in the preceding FY 2019-20 does not exceed Rs. 1.50 crore, even though he procures food items required for his restaurant from neighbouring State of Maharashtra.

QUESTION 15

Prem is running a consulting firm and also a fancy store, registered under the same PAN number. Turnover of the fancy store is Rs. 65,00,000 and receipt of consultancy firm is Rs. 10,00,000 in the preceding financial year.

You are required to provide answers with supporting explanatory note for each answer to the following questions :

- (i) Is Prem eligible for composition scheme under CGST Act ?
- (ii) Whether is it possible for Prem to opt for composition scheme for Fancy store and consulting firm ?

- (iii) If Prem is running a restaurant with turnover of Rs. 95,00,000 instead of consultancy firm as well as a fancy store, would he be eligible for composition scheme ? **[CA Final, May 2018, Modified] (3 Marks)**

Answer :

- (i) Prem is running a consulting firm and also a fancy store. He, being a supplier of professional services (other than restaurant services), is not eligible to apply for composition scheme, but he can remain in composition scheme till his turnover of services crosses 10% of turnover in P.F.Y. (i.e., 10% of Rs. 75,00,000) or Rs. 5,00,000, whichever is higher, i.e., Rs. 7,50,000.
- (ii) Eligible to apply for composition scheme (as explained above).
- (iii) No, Prem is not eligible for composition scheme if he is running a restaurant with turnover of Rs. 95,00,000 instead of consultancy firm, as well as fancy store. Section 10(1) of CGST Act, 2017 provides that an eligible registered person whose aggregate turnover in the preceding financial year did not exceed Rs. 1.5 crore may opt to pay tax under composition scheme levy. Therefore, even though Prem provides restaurant service, which is an eligible service for composition levy, since his aggregate turnover [Rs. 65 lakh for fancy store + Rs. 95 lakh for restaurant service] in the preceding financial year exceeds Rs. 1.5 crore, Prem is not eligible for composition levy.

**May 23 CA Inter
Questions # 16**

- (i) *Who are not eligible to opt for composition scheme for goods under GST Laws?*

(5 Marks)

- (i) The registered person who is not eligible for composition scheme for goods under GST law are as under:
- (i) Supplier engaged in making any supply of goods or services which are not leviable to tax.
 - (ii) Supplier engaged in making any inter-State outward supplies of goods or services.
 - (iii) Person supplying any goods or services through an electronic commerce operator who is required to collect tax at source (under section 52).
 - (iv) Manufacturer of ice cream, panmasala, tobacco, aerated waters, fly ash bricks; fly ash aggregate, fly ash blocks, bricks of fossil meals or similar siliceous earths, building bricks, earthen or roofing tiles.
 - (v) Supplier who is either a casual taxable person or a non-resident taxable person
 - (vi) Supplier of services exceeding an amount which is higher of 10% of the turnover in a State/U.T. in the preceding financial year or ₹ 5 lakh.

Nov # 22 Questions 17

Answer the following, after reading the below given two paragraphs:

- (i) *Briefly discuss the relevant provision*
 - (ii) *decide the correct conclusion and*
 - (iii) *determine the validity of the given advice (Correct/Incorrect)*
- (I) *Raju is engaged in the manufacture of 'Fly ash Bricks' in the State of Kerala. He started his activity in the month of April 2022 and deals only in intra-State. His tax consultant advised him to register under composition levy under GST as Raju's turnover is expected to be below ₹ 1 crore for the said financial year.*

- (l) A registered person whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5 crore in a State/UT may opt for composition scheme subject to fulfilment of specified conditions.

One of these conditions is that he must not be engaged in the manufacture of notified goods including fly ash bricks.

Therefore, in the given case, since Raju is engaged in manufacture of fly ash bricks, he cannot opt for composition levy even though his aggregate turnover in the preceding financial year is nil.

Thus, the advice given by his tax consultant is not correct.

June 24 CMA Inter Questions 18

- (a) Mrs Pooja, running a fancy store and also a footwear showroom, is registered under GST in same PAN in the State of Uttarakhand. Mrs Pooja is not engaged in making any inter-State supply. Her aggregate turnover in the preceding financial year 2022-23 was ₹ 50 lakh from fancy store and ₹ 45 lakh from footwear showroom.

As per the provisions of GST law, **examine** the issue and provide the answers with supporting explanatory note to the followings:

- (i) Is Mrs Pooja eligible to opt composition scheme in the financial year 2023-24?
- (ii) Whether it is possible for Mrs Pooja to opt composition scheme only for fancy store and normal scheme for footwear showroom?
- (iii) Rework, if Mrs Pooja is running a restaurant as well as fancy store, whether she is eligible for composition scheme, if aggregate turnover in the preceding financial year 2022-23 was ₹ 30 lakh from fancy store and ₹ 35 lakh from the restaurant service.

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Questions 19 CMA Final Dec -23

- 1) Mr. Ram, a trader in Delhi has opted for composition scheme of taxation under GST. Determine the rate of total GST payable by him under composition scheme:
- (A) 0.5% CGST & 0.5% SGST
 - (B) 2.5% CGST & 2.5% UTGST
 - (C) 5% IGST
 - (D) 5% of UTGST

Questions 20 CMA Inter Dec -23

Mr. Ramasubbu registered under GST, has a repair centre of electronic products where electronic goods are repaired/serviced. His repair centre is located in the State of Tamil Nadu and he is not engaged in making any inter-State supply of services. His aggregate turnover in the preceding Financial Year (FY) 2022-23 was ₹ 47.25 lakh.

With reference to the provisions of the CGST Act, 2017, examine

- (i) Whether Mr. Ramasubbu can opt for the composition scheme under Section 10(1) & 10(2) for the current financial year 2023-24 ?
- (ii) Whether he is eligible to avail benefit of composition scheme under Section 10(2A)?

Considering the option of payment of tax available to Mr. Ramasubbu, compute the amount of total tax payable by him in the current F.Y. 2023-24 assuming that his aggregate turnover in the current financial year is ₹ 31.27 lakh.

Will your answer be different if Mr. Ramasubbu procures few items required for providing repair services from neighbouring State of Kerala?

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Answer

Section 10(1) provides that a registered person, whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5 crore (₹ 75 lakh in Special Category States except Assam, Himachal Pradesh and Jammu and Kashmir), may opt to pay, in lieu of the tax payable by him, an amount calculated at the specified rates.

However, as per proviso to section 10(1), person who opts to pay tax under composition scheme may supply services other than restaurant services, of value not exceeding 10% of the turnover in a State or Union territory in the preceding financial year or ₹ 5 lakh, whichever is higher.

In the given case, since Mr. Ramasubbu is an exclusive supplier of services other than restaurant services [viz. Electrical repair services], he is not eligible for composition scheme under section 10(1) & 10(2).

- (ii) However, section 10(2A) provides an option to a registered person (subject to certain conditions) whose aggregate turnover in the preceding financial year is upto ₹ 50 lakh and who is not eligible to pay tax under composition scheme under section 10(1) & 10(2), to pay tax @ 3% [Effective rate 6% (CGST+ SGST/UTGST)] of the turnover of supplies of goods and services in the State or Union territory.

Thus, in view of the above-mentioned provisions, Mr. Ramsubbu is eligible to avail the composition scheme under section 10(2A) as his aggregate turnover in the preceding FY does not exceed ₹ 50 lakh and he is not eligible to opt for the composition scheme under section 10(1) & 10(2).

Thus, the amount of tax payable by him as per the composition scheme under section 10(2A) is ₹ 1,87,620 [6% of ₹ 31.27 lakh] or ₹ 93,810 Each of CGST and SGST

A registered person cannot opt for composition scheme under section 10(2A), if, inter alia, he is engaged in making any inter-State outward supplies. However, there is no restriction on inter-State procurement of goods. Hence, answer will remain the same even if Mr. Ramsubbu procures few items from neighbouring State of Kerala.

QUESTIONS 21 Dec-19 CMA INTER

2. (a) What is GST? What are its advantages? 3+4=7

(b) From the following cases, you are required to suggest if the registered person can opt for composition scheme as per Section 10 of CGST Act for the Financial Year 2019-20. You are required to narrate relevant provision of the law with applicable composition tax rate, in each case, if the registered person can opt for the composition scheme. 2×4=8

(i) M/s. Rajesh Khanna Enterprises, Nagpur (Maharashtra), engaged in the business of manufacture of Tobacco products has shown an aggregate turnover of ₹ 90 Lakhs during the Financial year 2018-19.

(ii) M/s. Pramod & Co., Imphal (Manipur), engaged in the business of manufacture of textile carpets has shown an aggregate turnover of Rs. 85 Lakhs during the Financial year 2018-19.

(iii) M/s. Kwaliti Ice Cream Parlour, Bangalore (Karnataka), engaged in the business of trading of ice cream has shown an aggregate turnover of Rs. 60 Lakhs during the Financial year 2018-19.

(iv) M/s. British Bakeries, Coimbatore (Tamilnadu) is engaged in the business of supply of bakery products, both in take away packs and/served in ready to eat containers in order to cater the needs of the customers who consume the products on the spot, has shown an aggregate turnover of Rs. 1.26 Crores during the Financial year 2018-19.

(i) As per Notification No. 8/2017 Central Tax dated 27.06.2017, a taxable person engaged in the manufacture of Tobacco (Tariff Heading 24) is not eligible to opt for composition scheme. Since, M/s. Rajesh Khanna Enterprises is engaged in manufacture of Tobacco products they cannot opt for the Scheme.

(ii) As per Notification No. 8/2017 Central Tax dated 27.06.2017, a taxable person situated in Manipur cannot opt for composition scheme if the aggregate turnover during the preceding financial year has exceeded Rs. 75 Lakhs. Since, the aggregate annual turnover of M/s. Pramod & Co., has exceeded the threshold limit of Rs. 75 Lakhs, they cannot opt for the Scheme.

(iii) As per Notification No. 8/2017 Central Tax dated 27.06.2017, a taxable person engaged in the manufacture of ice cream is not eligible to opt for composition scheme. Since M/s. Kwaliti Ice Cream is engaged only in trading of ice cream and since the aggregate annual turnover during the preceding financial year is below Rs.1.50 Crores, the threshold prescribed in the recent notification effective from 01.04.2019 (Refer Notification No.14/2019-Central Tax dated 07.03.2019), they can avail the composition scheme provided other conditions stipulated in the law are satisfied. The rate of tax applicable in the given case would be 5% (CGST 2.5%+ SGST 2.5%) considering the provisions of Clause (b) of Paragraph 6 of Schedule II of CGST Act, 2017. However, in the case of In re Arihant Enterprises, AAR Maharashtra has held that if the business model of the trader is such that the ice creams are sold in a take away pack on "as it is" basis or by way of scoops as prescribed in the franchisee model which is applicable to all retail outlets, the supply would be considered as "Sale of goods". In such case, the applicable tax rate under composition scheme would be 1% (CGST 0.5% + SGST 0.5%).

(iv) As per Notification No. 8/2017 Central Tax dated 27.06.2017 M/s. British Bakeries is eligible for composition scheme levy in the current year as the aggregate turnover during the preceding financial year is below Rs.1.50 Crores (the revised threshold prescribed replacing the earlier limit of Rs.1.00 Crores effective from 01.04.2019—vide Notification No.14/2019 — Central Tax dated 07.03.2019). As regard to the rate of tax is concerned, the applicable rate would be 5% (CGST 2.5% + SGST 2.5%) inasmuch as rule 7 of CGST Rules, 2017 provides that the rate of tax is 2.5% (with a similar provision in State GST Rules) in case of suppliers making supplies referred to in Clause (b) of paragraph 6 of Schedule II of CGST Act, 2017. The said clause (b) of paragraph 6 of Schedule II provides as follows:-

"Supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration".

It can be seen from the above discussion that there is no mention in the law that there need to be an element of service visible in such supply of food or any other article for human consumption. Since, in the given case supplies are made both in the form of take away packs and ready to eat containers, it would be considered as composite supply of service as per clause (b) of Paragraph 6 of Schedule II and hence attract GST @ 5%

QUESTIONS 22 CMA INTER DEC-19

(b) What are the primary conditions to be fulfilled by a person who wish to opt for the concessional rate of tax @ 6% as provided in Notification No. 02/2019 Central Tax (Rate) dated 07.03.2019?

Primary Conditions to be satisfied:

- (1) Supplies are made by a registered person:
 - a. Whose aggregate turnover in the preceding financial year was Rs. 50 Lakhs or below;
 - b. Who is not eligible to pay tax u/s 10(1)(i.e., composition levy);
 - c. Who is not engaged in making any supply which is not leviable to tax under the said Act;
 - d. Who is not engaged in making any inter-state outward supply;
 - e. Who is neither a casual taxable person nor non-resident taxable person;
 - f. Who is not engaged in making any supplies through an e-commerce operator who is required to collect tax at source u/s. 52; and
 - g. Who is not engaged in making supplies of the goods being (i) Ice Cream and other edible ice, whether or not containing cocoa; (ii) Pan Masala; and (iii) Tobacco and manufactured tobacco substitutes.
 - (2) The registered person shall not collect any tax from the recipient on supplies made by him not shall he be entitled to any credit of input tax.
 - (3) The registered person shall issue, instead of tax invoice, a bill of supply.
 - (4) The registered person shall mention the following words at the top of the bill of supply, namely:

"Taxable Person paying tax in terms of Notification No. 02/2019 – Central Tax (Rate) dated 07.03.2019, not eligible to collect tax on supplies".
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Questions 23 CMA Final Dec -23 Place of supply

In the following independent cases determine the place of supply along with reasons as per the provisions of GST law:

- (i) Mr. Manoj, who is registered under GST at Delhi, has availed land-line services from VGT Ltd. The telephone is installed in residential premises in Bengaluru.
- (ii) Mr. Mohit (registered person in Hyderabad) travels from Mumbai to Delhi by BCG Airlines. Mr Mohit has bought the tickets for the journey from BCG Airline's office registered in Chennai.
- (iii) ABC Ltd. an event management company (New Delhi) is hired by Mr. Varan (unregistered person based in Bangaluru) to plan and organise his marriage in Jaipur.
- (iv) Miss Saroj, an unregistered person of Delhi sends a courier to her friend in Jalandhar which was delivered going through Haryana.

(i) Bengaluru

The place of supply of services by way of fixed telecommunication line is the location where the telecommunication line is installed for receipt of service.

(ii) Hyderabad

In a case where recipient of service is registered, the place of supply of service is the location of recipient.

(iii) Jaipur

The recipient being an unregistered person and the event held in India, the place of supply is the location where the event is held.

(iv) Delhi

The recipient being unregistered person, the place of supply is the location where goods handed over for their transportation.

Questions 24 CMA Inter Dec -23 Place of supply

Where the supply of goods does not involve movement of goods, place of supply as per Section 10 of the IGST Act, 2017 will be:

- (A) Location of such goods at the time at which the movement of goods terminates for delivery to the recipient
- (B) Deemed that the third person has received such goods and principal place of business of such person shall be the place of supply
- (C) Location of such goods at the time of the delivery to the recipient
- (D) All of the above

DEC 23 CMA INTER

Questions 25

5 RCM AND PLACE OF SUPPLY QUESTIONS

- (a) Determine the place of supply with reason in the following independent cases:
- (i) Miss Chamko a registered person of Mumbai, went for a wedding in Udaipur and received beauty treatment in Udaipur from Miss Navya, who is registered at Delhi.
 - (ii) A movie on demand is provided as on-board entertainment during Kolkata leg of a Bangkok-Kolkata-Delhi flight.
 - (iii) Mr. Arunoday, an unregistered resident of Kolkata has a savings bank account with XYZ bank, Chennai branch. Mr. Arunoday availed certain banking services from this XYZ bank at Chennai. 2×3=6
- (b) Discuss the taxability or otherwise of the following independent supplies, and also mention the person liable to pay tax, if any:
- (i) M/s ABC and company, a registered dealer, in the State of Karnataka, has taken an immovable property on rent from State government of Karnataka to set up its office and is paying monthly rent of ₹ 75,000 (turnover of M/s ABC and company in the previous year was ₹ 38,00,000).
 - (ii) Aradhana Corporation is a sole proprietorship firm in the State of Gujarat. Its turnover in previous year was ₹ 12,00,000. It has paid ₹ 1,00,000 to Mr. Anubhav Mahapatra, an advocate, for legal services.
 - (iii) M/s PQR Ltd. sponsored ₹ 20,00,000 in respect of a cricket tournament organised by Dhanadhan Sports Academy (an unrecognised sports body). 3+3+3=9

6. (a)

- (i) For Services of beauty treatment the Place of supply will be location where the services are actually performed. Therefore in current case, place of supply will be Udaipur.
- (ii) For services provided on board conveyances the place of supply will be the first schedule point of departure of that conveyance for the journey. Therefore here place of supply will be Bangkok.
- (iii) For banking Services place of supply will be location of recipient of service on the records of the supplier of service. Therefore place of supply will be Kolkata.

6. (b)

- (i) This is a taxable supply.
as renting of immovable property for commercial purpose to any business entity by central government, state government and local authority is covered under RCM, is chargeable under RCM
M/s ABC and Co is liable to pay GST under RCM
- (ii) This is not a taxable supply.
When any legal services provided by any individual advocate or firm of advocates to any business entity with turnover up to ₹ 20,00,000(₹ 10,00,00 in special category status) in previous year then such services are exempt.
In this case, no one is liable.
- (iii) This is a taxable supply
as it is taxable under RCM.
The person liable is M/s PQR Ltd.

(a) Find out the place of supply and the tax to be levied (i.e., IGST or CGST & SGST) in the following cases: 2 × 4 = 8

- (i) Mr. Sathianarayan, an Architect situated at Kochi is engaged by M/s. ABC Builders, Kochi to draw building plan for a proposed building to be situated at Dubai to be owned by the overseas client of M/s. ABC Builders.**

- (ii) M/s. Adhithya Spinners Ltd., having its registered office at Bangalore (Karnataka) has engaged M/s. Texmac P. Ltd., Coimbatore (Tamilnadu), a company dealing in textile machineries, to supply blowroom machineries for the former's spinning unit to be set-up at Hosur (Tamilnadu). Machineries are supplied in completely knocked down condition at the Hosur unit and assembled by the technicians of M/s. Texmac P. Ltd. The Hosur unit is not yet registered under GST.**

- (iii) M/s. Kirlo India Ltd., Mumbai (Registered under GST) appointed M/s. Cunix Infotech P. Ltd., Delhi for conducting training to its employees in the Marketing Department and to appraise their performance on periodic basis. During the month of March 2019, Cunix conducted a training programme at the campus of Cunix at New Delhi.**

- (iv) Mr. Arnab, Calcutta (not registered under GST) booked air ticket in Jet Airways Ltd., Calcutta for travel to Mumbai. He embarks on the flight at New Delhi Airport.**

(a)

Sl. No.	Place of Supply	Tax to be levied	Remarks
(i)	Kochi (Kerala)	CGST + SGST	As per Clause (a) of sub-section 3 of Section 12 of IGST Act, 2017, place of supply of services directly in relation to immovable 'property, including services provided by architects shall be the location at which the immovable property is located or intended to be located. However, proviso to sub-section 3 provides that if the location of the immovable property is located or intended to be located outside India, the place of supply shall be the location of the recipient. In the given case, though the property is located at Dubai (outside india), place of supply shall be at Kochi (Kerala)being the location of the recipient.
(ii)	Hosur (Tamilnadu)	CGST + SGST	As per clause (d) of sub-section 1 of section 10 of IGST Act, 2017, Where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly. In the given case, since the machineries are supplied in completely knocked down condition at Hosur to be assembled at the site, place of supply is Hosur.
(iii)	Mumbai (Maharashtra)	IGST	As per Section 12(5) of IGST Act, 2017, the place of supply of services in relation of training and performance appraisal to (a) a registered person, shall be the location of such person; (b) a person other than a registered person, shall be the location where the services are actually performed. In the given case, since the service recipient is a registered person situated at Mumbai, the place of supply for GST levy is Mumbai even though the actual place of supply is New Delhi.
(iv)	New Delhi	IGST	As per Section 12(9) of IGST Act, 2017, the place of supply of passenger transportation service to (a) a registered person, shall be the location of such person; (b) a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey. In the given case, since the service recipient Mr. Amab is an un-registered person, the place of supply for GST levy is New Delhi where he embarked on the flight.