

| Sr. No.  | Question From | Title                                    | Question  | Selection by Faculty      | Short Answer (Referecne to Section, Notification, case law, etc may be added below.)  |
|--|---------------|--|---|---------------------------|---|
| <b>Questions for Answer by Panel on 30-Aug-2020. [GST Litigation Hub]</b>  |               |  |   |                           |   |
| <b>Disclaimer:</b> The answers given below are opinion of the individual panellist. Before taking or not taking any action, the concerned persons should verify all relevant information. The panellist or host of this program do not accept any liability for any loss, damage or cost incurred due to action taken / not taken based on these opinions. |               |  |   |                           |   |
| 1  | Pratik S Shah | <b>GST on OIDAR to Registered person</b> | a) My client (ABC LTD) wants to put advertisement on Facebook. Facebook is charging Rs 15000 for such advertisement<br>Are services provided by Facebook be deemed as OIDAR services provided by Non Resident Online Services Provider?<br>Will my client ABC Ltd be subjected to GST under Reverse Charge Mechanism? | CA Mukesh shah [Banglore] | Yes, OIDAR Services. Registered person is liable to pay under RCM (S. 5(3) read with NT-10/2017-CTR-SI NO 1).<br>As per Sec 14 of IGST Act, levy of GST is shifted to OIDAR supplier if supply is made to non-taxable online recipient. |
|  |               |  |   |                           |   |
|  |               |  |   |                           |   |
| 2  | Pratik S Shah | <b>GST on Unregister ed person</b>       | In the above case, what shall be answer if an individual ( Unregistered in GST) wants to put "PAID ADVERTISEMENT" on Facebook for his personal services<br>Will Facebook charge and collect GST? or   | CA Mukesh shah            | S.14 shifts liability to OIDAR supplier (forward charge). Levy will no more be governed by S. 9(3) or 5(3) and RCM definition will not be attracted. Section 24 will not get triggered.   |

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|         |               |                                  | An individual shall be required to get registered and pay GST under RCM?  |                      |  |
| 3       | Pratik S Shah | <b>GST on Liquidated Damages</b> | <p>My client had given a contract to builder for construction of immovable property. Builder could not complete the contract hence my client recovered Rs 50 Lakhs as LIQUIDATED DAMAGES or COMPENSATION from Builders.</p> <p>Will my client be subjected to GST on Rs 50 Lakhs or LIQUIDATED DAMAGES / COMPENSATION is outside definition of SUPPLY under GST LAW ? [Continued]</p> <p>My view is that as per schedule II of CGST ACT, Tolerance of an act and agreeing to do an act is supply of services</p> <p>However there was amendment in supply definition hence items mentioned in SCHEDULE II are just for classification</p> <p>Schedule II is not the basis for determination of transaction as a supply.</p> | CA Mukesh shah       | <p>The purpose of Schedule II is more of classification between goods and service. S. 7 defines supply. Do you agree it is a "supply" ? If yes, section 9 gets invoked followed by tariff entry (specific entry is prescribed). If no specific entry - residuary. However, evaluate S.7(1) more and not S. 7(2), you can get a relief.</p> <p>My point is on S 7(1)(a) - the moot question is whether we can call such activity "business"? Is the concern person said to be engaged in taking liquidated damages from builders? It will fail the definition of business and hence S 7(1)(a), levy itself fails. If levy fails, no need to proceed further for Sch-II entry.</p> |

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|         |                    |  | or transaction as a supply   | CA Vipul khandhar [Ahmedabad] | Yes you are liable to pay GST on such liquidate damage. M/s. Maharashtra State Power Generation Co. Ltd (AAR Maharashtra)   |
|         |                    |  |  | CA(Dr)Shailendra Saxena       | In present case client recovered Rs 50 Lakhs as LIQUIDATED DAMAGES from a builder ,GST will be levied on that forfeited amount since it has 'tolerated of act' therefore, GST is liable to pay.View confirmed in In re M/s. North American Coal Corporation India Private limited (GST AAR Maharashtra); Advance Ruling No. GST-ARA-07/2018-19/B-63; 11/07/2018<br>In re Rashtriya Ispat Nigam Ltd (GST AAR Andhra Pradesh); Advance Ruling No. AAR 01/AP/GST/2019; 11/01/2019<br>In re M/s. Dholera Industrial City Development Project ltd. (GST AAR Gujarat) |
| 4       | CMA Anita Naik, VP | <b>Mistake in Comp-08, Correction in GSTR-4.</b> | In COMP- 08 of Dec-2019, the tax payer wrongly mention the Taxable Value. [Rs. 30,00,000 entered instead of 3,00,000 correct figure]. There was no difference in tax liability. Can we | CA Mukesh shah [Banglore]     |   |

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|         |                        |  | rectify the mistake in GSTR-4 for 2019-20 ?<br>All the values in GSTR-4 are auto populated from Comp-08. So how can it be corrected ?  |                               |   |
| 5       | CS Parvez Vasaya, Vapi | <b>Due Date for Inverted GST Structure</b> | What is relevant date in case of Refund for inverted duty structure? i.e. What shall be the due date for Refunds of inverted tax structure? For example, what shall be the last date to apply for Refund for the month of August-2018? | CA Vipul khandhar [Ahmedabad] | In re Bajaj Finance Limited (GST AAAR Maharashtra); Order No. MAH/AAAR/SS-RJ/24/2018-19; 14/03/2019   |
|         |                        |  |  | CA Anish Goyal [Surat]        | Replied Orally  |
|         |                        |  |  | CA(Dr)Shailendra Saxena       | In view of recent decision in case of VKC Footsteps India Pvt. Ltd. v. Union of India and others – Judgement dated July 24, 2020 in R/Special Civil Application No. 2792 of 2019 and others, Gujarat High Court] Those assesseees who had initially sought refund only for ITC on “inputs” Can they now file a fresh claim for refund of ITC on “input services”. |

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| 6  | CS Parvez Vasaya, Vapi |       | <p>Our registration was cancelled by Department due to non filing of Returns. we had applied revocation of cancellation in the month of March-20 but it was rejected.</p> <p>We had reapplied for revocation in August-20 and we were asked to file gst returns and pay taxes. But we could not reply to notice and application was rejected.</p> <p>Now when we try to reapply after filing returns the message comes as "you application is rejected twice". Now no option is available to apply again. Sir how do we reapply?</p> | <p>CA Vipul khandhar [Ahmedabad]</p> <p>Shailendraji</p> | <p>Now you can not apply revocation via gstn, you have to file appeal with appeal comissioner on their order you can get restored.</p> <p>Manually Replied</p> |
| <p><b>How to Join the Free QA Sessions: -</b></p> <p>The free Question-Answer Session is conducted at 11 AM every week. Our panel includes Dr. Adv CA Avinash Poddar [Surat], Dr. CA CMA CS Shailendra Saxena [Bharuch], CA Anish Goyal [Surat], CA Mukesh Shah [Banglore], CA Vipul khandhar [Ahmedabad], CMA Vijay Kumar [Chennai], CMA R M Kandoi [Vapi, Daman], CS Kaushik Nahar [Vapi], Adv Mayur Desai [Vapi]. To attend the session so that you can listen to the answers in more detail, click on the following Zoom link 10 minutes before this time. i.e. at 10.50 PM on Sunday, 30-Aug-2020</p> |                        |       |  |  |  |
| <p><a href="https://us02web.zoom.us/j/9825231592?pwd=a1Q2S3gwdlh3bEZrTDYvKzY3bUNXZz09">https://us02web.zoom.us/j/9825231592?pwd=a1Q2S3gwdlh3bEZrTDYvKzY3bUNXZz09</a></p>   |                        |       |  |  |  |
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