



SUPPLY



Sec 7: Scope of Supply

(1) For the purposes of this Act, the expression “supply” includes—

(a) ----same as earlier-----;

(aa) *the activities or transactions, by a person, other than an individual, to its members or constituents or vice versa, for cash, deferred payment or other valuable consideration*

Explanation.—*For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;”*

(b) ----same as earlier-----;

(c) ----same as earlier-----;

Sec 7(1A) - Schedule II

S N	Transactions	Nature of Supply
7	Supply of goods by an unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration. Example: A local club supplies snacks etc. to its members during its monthly meeting for a nominal payment.	Supply of Goods





Sec 9(5): Notified supplies through ECO [N/N 17/2017]

Notified supplies are:

- (a) Services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motor cycle, **omnibus or any other motor vehicle;**
- (b) -----same as earlier-----.
- (c) -----same as earlier-----.
- (d) supply of **restaurant service** other than the services supplied by restaurant, eating joints etc. located at specified premises.”

[Specified premises means premises providing hotel accommodation service having declared tariff of any unit of accommodation above ₹ 7,500 per unit per day or equivalent.]

**GST on service supplied by restaurants through e-commerce operators
- Circular no. 167/23/2021 dt 17th Dec, 2021**

Issue 01: Would ECOs have to still collect TCS in compliance of Sec 52 of CGST Act, 2017?

As ECO is required to pay GST u/s 9(5), accordingly ECOs will no longer be required to collect TCS and file GSTR 8 in respect of restaurant services on which it pays tax u/s 9(5).

On other goods or services supplied through ECO, which are not notified u/s 9(5), ECOs will continue to pay TCS u/s 52.

Issue 02: Would ECOs have to mandatorily take a separate registration w.r.t supply of restaurant service [notified under 9(5)] through them even though they are registered to pay GST on services on their own account?

As ECOs are already registered in accordance with rule 8 (in Form GST-REG 01) (as a supplier of their own goods or services), there would be **no mandatory requirement of taking separate registration** by ECOs for payment of tax on restaurant service u/s 9(5).

Issue 03: Would the ECOs be liable to pay tax on supply of restaurant service made by unregistered business entities?

Yes. ECOs will be liable to pay GST on any restaurant service supplied through them including by an unregistered person.



Issue 04: What would be the aggregate turnover of person supplying 'restaurant service' through ECOs?

It is clarified that the aggregate turnover of person supplying restaurant service through ECOs shall be **computed u/s 2(6)** of CGST Act, 2017 and shall include the aggregate value of supplies made by the restaurant through ECOs. **Accordingly, for threshold consideration or any other purpose in the Act, the person providing restaurant service through ECO shall account such services in his aggregate turnover.**

Issue 05: Can the supplies of restaurant service made through ECOs be recorded as inward supply of ECOs (liable to reverse charge) in GSTR 3B?

No. ECOs are not the recipient of restaurant service supplied through them. Since these are not input services to ECO, these are not to be reported as inward supply (liable to RCM).

Issue 06: Would ECOs be liable to reverse proportional input tax credit on his input goods and services for the reason that ITC is not admissible on 'restaurant service'?

ECO's provide their own services as an electronic platform and an intermediary for which it would acquire inputs/input service on which ECOs avail ITC. The ECO charges commission/fee etc. for the services it provides. **The ITC is utilised by ECO for payment of GST on services provided by ECO on its own account (say, to a restaurant).** The situation in this regard remains unchanged even after ECO is made liable to pay tax on restaurant service. ECO would be eligible to ITC as before. **Accordingly, it is clarified that ECO shall not be required to reverse ITC on account of restaurant services on which it pays GST in terms of sec 9(5) of the Act. It may also be noted that on restaurant service, ECO shall pay the entire GST liability in cash (No ITC could be utilised for payment of GST on restaurant service supplied through ECO).**

Issue 07: Can ECO utilize its Input Tax Credit to pay tax w.r.t 'restaurant service' supplied through the ECO?

No. As stated above, the liability of payment of tax by ECO as per section 9(5) shall be discharged in cash.

Issue 08: Would supply of goods or services other than 'restaurant service' through ECOs be taxed at 5% without ITC?

No. ECO is required to pay GST on services notified u/s 9(5), besides the services/other supplies made on his own account. **On any supply that is not notified u/s 9(5), that is supplied by a person through ECO, the liability to pay GST continues on such supplier and ECO shall continue to pay TCS on such supplies.** Thus, present dispensation continues for ECO, on supplies other than restaurant services. On such supplies (other than restaurant services made through ECO) GST will continue to be billed, collected and deposited in the same manner as is being done at present. ECO will deposit TCS on such supplies.



Issue 09: Would 'restaurant service' and goods or services other than restaurant service sold by a restaurant to a customer under the same order be billed differently? Who shall be liable for raising invoices in such cases?

Considering that liability to pay GST on supplies other than 'restaurant service' through the ECO, and other compliances under the Act, including issuance of invoice to customer, continues to lie with the respective suppliers (and ECOs being liable only to collect tax at source (TCS) on such supplies), **it is advisable that ECO raises separate bill on restaurant service in such cases where ECO provides other supplies to a customer under the same order.**

Issue 10: Who will issue invoice in respect of restaurant service supplied through ECO - whether by the restaurant or by the ECO?

The invoice in respect of restaurant service supplied through ECO u/s 9(5) **will be issued by ECO.**

Issue 11: Clarification may be issued as regard reporting of restaurant services, value and tax liability etc in the GST return.

A number of other services are already notified under section 9(5). In respect of such services, ECO operators are presently paying GST by furnishing details in GSTR 3B. The ECO may, on services notified u/s 9(5) including on restaurant service provided through ECO, may continue to pay GST by furnishing the details in GSTR 3B, reporting them as outward taxable supplies for the time being.

Sec 10(2)(e) read with Rule 5 of CGST Rules, 2017 - Manufactures ineligible for composition scheme

Following manufacturers are ineligible for Sec 10:

S.N	Tariff Item	Description
1	2105 00 00	Ice cream & other elidible ice, whether or not containing cocoa
2	2106 90 20	Pan Masala
2A	2202 10 10	Aerated Water
3	24	All Goods, i.e, Tobacco & Manufactured Tobacco substitutes
4	6815	Fly ash bricks or fly ash aggregate with 90%. or more fly ash content; Fly ash blocks
5	6901 00 10	Bricks of fossil meals or similar siliceous earths
6	6904 10 00	Building bricks
7	6905 10 00	Earthen or roofing tiles





EXEMPTION

[N/N 12/2017 CT]

Entry	Particulars
(3)	<p><u>Pure services provided TO Government:</u></p> <ul style="list-style-type: none"> → Pure services (excluding works contract service or other composite supplies involving supply of any goods) → provided to the CG, SG or UT or local authority or a Governmental authority or government entity → by way of any activity: <ul style="list-style-type: none"> • in relation to any function entrusted to a Panchayat under article 243G of the Constitution or • in relation to any function entrusted to a Municipality under article 243W of the Constitution
(3A)	<p><u>Composite Supply To Government:</u></p> <p>Composite supply of goods and services in which</p> <ul style="list-style-type: none"> → the value of supply of goods constitutes not more than 25 % of the value of the said composite supply → provided to CG, SG, UT, Local authority or a Governmental authority or government entity → by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.
(15)	<p><u>PASSENGER TRANSPORTATION SERVICES</u></p> <p>Transport of passengers, with or without accompanied belongings , by –</p> <ul style="list-style-type: none"> (a) air, embarking from or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal; (b) Non-Air conditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or (c) Stage Carriage other than air- conditioned stage carriage. <p><i>However nothing contained in items (b) and (c) above shall apply to services supplied through an ECO and notified u/s 9(5) of CGST Act, 2017</i></p>
(17)	<p><u>PASSENGER TRANSPORTATION SERVICE</u></p> <p>Service of transportation of passengers, with or without accompanied belongings, by—</p> <ul style="list-style-type: none"> (a) railways in a class other than –





- (i) *first class; or*
- (ii) *an air conditioned coach;*

(b) metro, monorail or tramway;

(c) inland waterways;

(d) **public transport, other than predominantly for tourism purpose**, in a vessel between places located in India; and

(e) metered cabs, auto rickshaws (including e-rickshaws);

However nothing contained in item (e) above shall apply to services supplied through an ECO and notified u/s 9(5) of CGST Act, 2017





Input Tax Credit



Sec 16: INPUT TAX CREDIT - Eligibility & Conditions

5 Conditions for availing ITC -

(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless:

(a) -----;

(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies [GSTR-1] and such details have been communicated to the recipient [GSTR 2B] of such invoice or debit note in the manner specified u/s 37

(b) -----;

(c) -----; and

(d) -----.

Rule 36(4): Documentary requirements and conditions for claiming input tax credit

~~ITC to be availed by a registered person in respect of invoices or debit notes, the details of which have not been furnished by the suppliers u/s 37(1) in form GSTR-1, shall not exceed 5% of the eligible credit available in respect of invoices or debit notes the details of which have been furnished by the suppliers u/s 37(1) in form GSTR-1~~

Unmatched ITC

No input tax credit shall be availed by a registered person in respect of invoices or debit notes the details of which are required to be furnished u/s 37 unless,-

(a) the details of such invoices or debit notes have been furnished by the supplier in the statement of outward supplies in FORM GSTR-1 or using the invoice furnishing facility; and

(b) the details of such invoices or debit notes have been communicated to the registered person in FORM GSTR-2B



REGISTRATION



Sec 23: Persons not liable for registration

NOTIFIED PERSONS ARE:

(E) Person effecting exclusive supply of goods [N/N 10/2019]

As per the said notification, any person, who is engaged in **exclusive supply of goods** and whose aggregate turnover in the financial year does not exceed ₹ 40 Lakhs, except, -

- (a) persons required to take compulsory registration u/s 24 of the said Act;
- (b) persons engaged in making supplies of the following goods,;

S.N	Tariff Item	Description
1	2105 00 00	Ice cream and other elidible ice, whether or not containing cocoa
2	2106 90 20	Pan Masala
3	24	Tobacco & Manufactured Tobacco substitutes
4	6815	<i>Fly ash bricks or fly ash aggregate with 90% or more fly ash content; Fly ash blocks</i>
5	6901 00 10	<i>Bricks of fossil meals or similar siliceous earths</i>
6	6904 10 00	<i>Building bricks</i>
7	6905 10 00	<i>Earthen or roofing tiles</i>

Rule 10A: Furnishing of Bank Account Details

After a certificate of registration in FORM: GST REG-06 has been made available on the common portal and a GSTIN has been assigned, the registered person, *except those who have been granted registration for TDS/TCS purpose or, voluntarily registered, shall as soon as may be, but*

- not later than 45 days from the date of grant of registration or
 - the date on which the return required u/s 39 is due to be furnished,
- whichever is earlier,

furnish information with respect to details of bank account, or any other information, as may be required on the common portal in order to comply with any other provision.

“Provided that in case of a proprietorship concern, the Permanent Account Number of the proprietor shall also be linked with the Aadhaar number of the proprietor.”;





Rule 10B: Aadhaar authentication for registered person (Newly Inserted)

The registered person, other than a person notified u/s 25(D), who has been issued a certificate of registration shall, undergo authentication of the Aadhaar number of concerned person, in order to be eligible for the purposes as specified below:

- (1) For filing of application for revocation of cancellation of registration in FORM GST REG-21 under Rule 23
- (2) For filing of refund application in FORM RFD-01 under rule 89
- (3) For refund under rule 96 of the integrated tax paid on goods exported out of India

Provided that if Aadhaar number has not been assigned to the person required to undergo authentication of the Aadhaar number, such person shall furnish the following identification documents, namely: -

- (a) her/his Aadhaar Enrolment ID slip; and
- (b)
 - (i) Bank passbook with photograph; or
 - (ii) Voter identity card issued by the Election Commission of India; or
 - (iii) Passport; or
 - (iv) Driving license

Provided further that such person shall undergo the authentication of Aadhaar number within a period of 30 days of the allotment of the Aadhaar number.”;





INVOICING



Rule 48(4) : E-Invoicing

Notified Person:
Registered person

- other than 54(2)/(3)/(4)/(4A), SEZ, Government department & local authority and OIDAR service by registered to unregistered person (B2C),
- whose aggregate turnover in any preceding FY from 2017-18 onwards exceeds ₹ 50 20 crore in respect of supply of goods or services or both to a registered person or for exports.

Clarification in respect of applicability of Dynamic Quick Response (QR) code
 Circular no. 156/12/2021 GST dated 21.06.2021 & Circular No. 165/21/2021 GST dated 17.11.2021

Issues	Clarification
QR code applicability w.r.t an invoice to a person having UIN	Dynamic QR Code is required to be provided on an invoice, issued to a person, who has obtained a UIN. <i>Any person, who has obtained a Unique Identity Number (UIN), is not a “registered person” as per the definition of registered person provided in section 2(94). Therefore, any invoice, issued to such person having a UIN, shall be considered as invoice issued for a B2C supply and shall be required to comply with the requirement of Dynamic QR Code.</i>
QR code applicability where recipient is outside India	In cases, where an invoice is issued to a recipient located outside India, for supply of services, for which the <i>place of supply is in India</i> , as per the provisions of the IGST Act, and the payment is received by the supplier, in convertible FOREX or in Indian Rupees wherever permitted by the RBI (<i>such supply of services is not considered as export of services as per the IGST Act</i>), such invoice may be issued without having a Dynamic QR Code, as such dynamic QR code cannot be used by the recipient located outside India for making payment to the supplier.

CAPITAL GAINS

Computation of Fair Market Value of Capital Assets for section 50B [Rule 11UAE]

Fair market value (FMV) of capital assets would be **the higher of -**

- (i) **FMV 1**, being the **fair market value of capital assets transferred** by way of slump sale; and
- (ii) **FMV 2**, being the **fair market value of the consideration (monetary and non-monetary)** received or accruing as a result of transfer by way of slump sale

→ *ULIP related provisions u/s 2(14), 45(1B) and 112A (definition of equity oriented fund) are not applicable for Intermediate examinations.*

ASSESSMENT PROCEDURE

SECTION 140: SIGNING OF RETURNS

"Other person" prescribed in case of a company or firm

Person, appointed by the Adjudicating Authority (i.e., NCLT) for discharging the duties and functions of *an interim resolution professional, a resolution professional, or a liquidator*, as the case may be, under the Insolvency and Bankruptcy Code, 2016 and the rules and regulations made thereunder.

Requirement of filing return of income u/s 139(1) by certain persons

S.N	Case	Prescribed Transactions	Prescribed Monetary Limit during the PY
1	A person carrying on <i>business</i>	<i>Total sales, turnover or gross receipts</i>	<i>> ₹ 60 lakhs</i>
2	A person carrying on <i>profession</i>	<i>Total gross receipts</i>	<i>> ₹ 10 lakhs</i>
3	<i>Resident Senior Citizen</i>	<i>aggregate of TDS and TCS</i>	<i>≥ ₹ 50,000</i>
	<i>Others</i>	<i>aggregate of TDS and TCS</i>	<i>≥ ₹ 25,000</i>
4	A person having <i>savings bank account</i>	<i>deposit in one or more savings bank account of the person, in aggregate</i>	<i>≥ ₹ 50 lakhs</i>

SECTION 139AA: Quoting of AADHAR Number

- Last date: **31st March, 2022.**
- In case of failure to intimate the Aadhaar Number by 31.03.2022, the **PAN allotted to the person would be made inoperative.**

Consequences when PAN becomes inoperative:

- The person would not be able to file return using the inoperative PAN
- Pending returns will not be processed
- Pending refunds cannot be issued to inoperative PANs
- Pending proceedings as in the case of defective returns cannot be completed once the PAN is inoperative
- Tax will be required to be deducted at a higher rate as PAN becomes inoperative

In addition to the above, the tax payer might face difficulty at various other areas like banks and other financial portals, as PAN is one of the important KYC criterion for all kinds of financial transactions.

Sec 234H: Fee for default relating to Intimation of Aadhar

Where a person, who is required to intimate his Aadhar number u/s 139AA fails to do so on or before **31st March, 2022**, then, at the time of subsequent intimation of his Aadhaar number to the prescribed authority, **such person would be liable to pay, by way of fee, an amount equal to,—**

- (a) ₹ 500, in a case where such intimation is made within three months from the date referred in section 139AA(2) i.e., by 30.06.2022; and
- (b) ₹ 1,000, in all other cases.

TDS/TCS

Guidelines for the purpose of removing difficulties u/s 194Q

Applicability on transactions carried through various Exchanges

There are practical difficulties in implementing the provisions of TDS contained in section 194-Q in case of certain exchanges and clearing corporations. In these transactions, sometimes, there is no one to one contract between the buyers and the sellers. In order to remove such difficulties, it is provided that the provisions of section 194Q shall **not** be applicable in relation to,-

- (i) transactions in securities and commodities which are traded through recognized stock exchanges or clearing corporation, including recognized stock exchanges or recognized clearing corporation located in International Financial Service Centre (IFSC)
- (ii) transactions in electricity, renewable energy certificates and energy saving certificates traded through registered power exchanges.

Calculation of threshold for the F.Y. 2021-22

Section 194Q has come into effect from 1st July, 2021. And no TDS shall apply on any sum paid or credited before 1st July, 2021. **However for computation of threshold of ₹ 50 lakh it shall be computed from 1st April, 2021.**

Adjustment for GST or taxes other than GST, purchase returns

S.N	Conditions	Amount on which tax is to be deducted u/s 194Q
1	Where tax is deducted at the time of credit of amount in the account of the seller and component of GST/ VAT/Sales tax/etc is indicated separately in the invoice	Tax has to be deducted on the amount credited (without including such GST/VAT/ Sales tax/ Excise duty/CST)
2	Where tax is deducted on payment basis (if payment is earlier than the credit)	Tax has to be deducted on the whole amount (since it is not possible to identify the payment with the tax component to be invoiced in the future)
3	In case of purchase returns, where the money is refunded by the seller	Tax deducted earlier u/s 194Q on such purchase (which is now returned) may be adjusted against the next purchase from the same seller
4	In case of purchase returns, where goods are replaced by the seller	No adjustment is required.

Whether non-resident can be buyer under section 194Q?

No, provisions of section 194Q shall **not** apply to a non-resident whose purchase of goods from seller resident in India is not effectively connected with the permanent establishment of such non-resident in India.

Whether tax is to be deducted when the seller's income is exempt?

Provisions of section 194Q / 206C(1H) would **not apply** on purchase of goods from a person, being a seller, who as a person is exempt from income tax under the Act (like person exempt u/s 10) or under any other Act passed by the Parliament (Like RBI Act, etc.).

The above clarifications would not apply if only part of the income of the person (being a seller or being a buyer, as the case may be) is exempt.

Whether tax is to be deducted on advance payment?

Since the provisions of Sec 194Q apply on payment or credit whichever is earlier, TDS is to be deducted on advance payment.

Whether provisions of section 194Q shall apply to buyer in the year of incorporation?

NO, as Sec 194Q is applicable on persons having turnover over 10 cr in immediately preceding FY in which goods are purchased

Whether provisions of section 194Q shall apply to buyer if the turnover from business is ₹ 10 crore or less?

For Sec 194Q sales or gross receipts or turnover from business carried on by him must exceed ₹10 crore. His turnover or receipts from non-business activity is not to be counted for this purpose.

Cross application of section 194-O, section 206C(1H) and section 194Q

- (i) **If tax has been deducted by the e-commerce operator on a transaction u/s 194-O [including transactions on which tax is not deducted if ECP is I/HUF, his sale/service through ECO does not exceed 5 lakhs and he furnishes his PAN/Aadhar], that transaction shall not be subjected to tax deduction u/s 194Q.**
- (ii) Though **section 206C(1H) provides exemption from TCS if the buyer has deducted tax at source** on goods purchased by him, to remove difficulties, it is clarified that **this exemption would also cover a situation where, instead of the buyer, the e-commerce operator has deducted tax at source on that transaction of sale of goods by seller to buyer through e-commerce operator.**
- (iii) **If a transaction is both within the purview of section 194-O as well as section 194Q, tax is required to be deducted u/s 194-O and not u/s 194Q.**
- (iv) **Similarly, if a transaction is both within the purview of section 194-O as well as section 206C(1H), tax is required to be deducted u/s 194-O.** TDS responsibility cannot be condoned if the seller has collected the tax u/s 206C(1H). This is for the reason that the rate of TDS u/s 194-O is higher than rate of TCS u/s 206C(1H).
- (v) **If a transaction is both within the purview of section 194Q as well as section 206C(1H), then, tax is required to be deducted u/s 194Q. However, if, for any reason, tax has been collected by the seller u/s 206C(1H), before the buyer could deduct tax u/s 194Q on the same transaction, such transaction would not be subjected to tax deduction again by the buyer.** This concession is provided to remove difficulty, since tax rate of deduction and collection are same in section 194Q and section 206C(1H).

Applicability of the provisions of section 194Q in case of department of Government not being a public sector undertaking or corporation

To be considered as a buyer for the purposes of 194Q, such person should be carrying out a business/commercial activity; and the total sales, gross receipts or turnover from such business/commercial activity should be more than ₹ 10 crore during the financial year immediately preceding the financial year in which goods are being purchased by such person.

S.N	Issue	Would TDS u/s 194Q be attracted?
1	Can Department of Government be a “buyer” for the purposes of section 194Q? - If it is carrying on business/ commercial activity - If it is not carrying on any business/commercial activity	YES (subject to fulfillment of other conditions) No, since it will not be considered as a buyer
2	Can Department of CG/SG be considered as “seller” for the purpose of section 194Q?	No
3	Is Sec 194Q applicable to PSUs or corporations established under central or state act	YES

Applicability of section 194Q in cases where exemption has been provided under section 206C(1A)

In accordance with section 206C(1A), tax is not required to be collected in the case of a resident buyer who furnishes declaration to the effect that the goods u/s 206C(1) are to be utilised for the purposes of manufacturing, processing or producing articles or things or for the purposes of generation of power and not for trading purposes.

- In case of goods which are covered u/s 206C(1) but exempted u/s 206C(1A), tax would not be collectible u/s 206C(1)/(1H).
- **It is clarified that the provisions of section 194Q will apply in such cases covered under section 206C(1A) and the buyer is to be liable to deduct tax u/s 194Q, if the conditions specified therein are fulfilled.**

Non-applicability of provisions of section 206C(1G) to a non-resident individual visiting India

TCS u/s 206C(1G) would **not** be applicable, if the buyer is an individual who:

- ➔ is **not a resident in India** [in terms of section 6(1) and (1A)]; and
- ➔ **who is visiting India.**